

<p style="text-align: center;">ACTIONS Board of Supervisors Meeting of June 2, 2021</p>		
		June 3, 2021
AGENDA ITEM/ACTION	ASSIGNMENT	VIDEO
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 2:30 p.m., by the Vice-Chair, Ms. Price. All BOS members were present except for Mr. Gallaway. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris. 		Link to Video
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> ADDED National Gun Violence Awareness Day Proclamation to item #6. ADDED Acquisition of Conservation Easements (ACE) program discussion as part of Budget Amendment public hearing. By a vote of 5:0 (Gallaway Absent), ADOPTED the final agenda as amended. 		
<p>5. Brief Announcements by Board Members.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Reported on Monday, May 31, 2021 a ceremony was held by American Legion Post 74 to add recognition plaques for local members of the armed services who had been awarded the Medal of Honor (General Alexander Archer Vandegrift and Technical Sergeant Frank D. Peregory (Peregoy)). Announced that the Crozet Fireman's Parade would be held on July 3rd and the Earlysville Community Parade would be held on July 3rd and again on July 4th at 10 am. <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Reminded community members that May 30th marked the centennial anniversary of the public library system in the Charlottesville area and in in July the central branch of JMRL would hold an exhibition about the history of their library system. <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Announced that the Batteau Festival would be returning to Scottsville on June 23, 2021. Announced that the Scottsville 4th of July parade would be held on Saturday July 3rd. Mentioned that several businesses in Scottsville had opened or moved to larger spaces; and noted that a DMV Select was opening in Scottsville's Victory Hall. <p><u>Bea LaPisto-Kirtley:</u></p> <ul style="list-style-type: none"> Announced that a Merrie Mill Farm winery had opened in Keswick. 		
<p>6. Proclamations and Recognitions.</p> <p>a. Proclamation Celebrating LGBTQ Pride Month.</p> <ul style="list-style-type: none"> ADOPTED proclamation and presented to Erin Buchanan. <p>b. Proclamation – National Gun Violence Awareness Day.</p> <ul style="list-style-type: none"> ADOPTED proclamation. 	<p>(Attachment 1)</p> <p>(Attachment 2)</p>	
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>Peter Krebs</u>, Piedmont Environmental Council (PEC), spoke towards item #8.7 on the consent agenda. <u>Vipul Patel</u>, Scottsville District, spoke towards item #10 on the agenda. 		

8.2	<p>Amendments to Personnel Policies P-81 and P-86.</p> <ul style="list-style-type: none"> ADOPTED resolution to amend Personnel Policies §P-81 and §P-86. 	<p><u>Clerk:</u> Forward copy of signed resolution to Human Resources Department and County Attorney's office. (Attachments 3-5)</p>
8.3	<p>Resolution to Request Split Precinct Waiver from State Board of Elections.</p> <ul style="list-style-type: none"> ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Office of Elections and County Attorney's office. (Attachment 6)</p>
8.4	<p>Approval of Underground Right-of-Way License Agreement.</p> <ul style="list-style-type: none"> ADOPTED resolution approving the Underground Right-of-Way License Agreement with Century Link Communications LLC for facilities at Darden Towe Park and AUTHORIZED the County Executive to execute the Agreement after approval as to form and content by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 7)</p> <p><u>County Attorney:</u> Provide Clerk with copy of executed agreement. (Attachment 8)</p>
8.5	<p>SE20200013 Homestay Special Exception Patterson Mill (John Howard).</p> <ul style="list-style-type: none"> ADOPTED resolution approving the special exception with the conditions contained therein. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)</p>
9.	<p>Fiscal Year 2022 (FY 2022) Resolution of Appropriations.</p> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED the annual resolution of appropriations. By a vote of 5:0, ADOPTED the resolution of official intent to reimburse expenditures with proceeds of a borrowing. By a vote of 5:0, ACCEPTED the recommended use of the fiscal year 2022 revenue update. 	<p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget and County Attorney's office. (Attachment 10 and 11)</p>
10.	<p>SE202100018 Beauchamps Homestay Special Exceptions.</p> <ul style="list-style-type: none"> DEFERRED by a vote of 5:0. 	<p><u>Community Development:</u> Notify Clerk when ready to schedule.</p>
11.	<p>Shenandoah National Park Report.</p> <ul style="list-style-type: none"> RECEIVED. 	
12.	<p>Board-to-Board, May 2021, a Quarterly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors.</p> <ul style="list-style-type: none"> RECEIVED. 	
	<p>Recess. The Board recessed at 5:48 p.m., and reconvened at 6:00 p.m.</p>	
16.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <u>Paul McArtor</u>, Scottsville District, spoke towards the overpopulation at Mountain View Elementary School. 	
17.	<p><u>Pb. Hrg.: FY 2021 Budget Amendment and Appropriations.</u></p> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED Resolution to approve appropriations #2021072; #2021073; #2021074; #2021075; #2021076; #2021077; #2021078; #2021079; #2021080; and #202108 for local government and school projects and programs. 	<p><u>Clerk:</u> Forward copy of signed resolution to Finance and Budget and County Attorney's office. (Attachment 12)</p>
	<p><u>Non-agenda:</u> Acquisition of Conservation Easements (ACE) Funding.</p> <ul style="list-style-type: none"> DISCUSSED. 	
18.	<p><u>Pb. Hrg.: Virginia Community Development Block Grant.</u></p>	<p><u>Clerk:</u> Schedule second public hearing on the August 4, 2021</p>

	<ul style="list-style-type: none"> By a vote of 5:0, SET the second required public hearing to review and approve the submission of any proposed applications to the DHCD for August 4, 2021. 	agenda.	
19.	<p><u>Pb. Hrg.: ZTA 201900008 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions.</u></p> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED Ordinance to approve ZTA 201900008 Section 33-Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 13)</p>	
20.	<p><u>Pb. Hrg.: Public Hearing to Consider Easements Adjacent to 999 Rio Road East.</u></p> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED Resolution to approve the proposed easements and to authorize the County Executive to sign the deed of easement and any other related documents on behalf of the County after those documents have been approved in substance and form by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 14)</p> <p><u>County Attorney:</u> Provide Clerk with copy of recorded deed. (Attachment 15)</p>	
21.	<p><u>Public Hearing to Consider Easement under Boulders Road.</u></p> <ul style="list-style-type: none"> By a vote of 5:0, ADOPTED Resolution to approve the requested lease and to authorize the County Executive to sign both a lease of the proposed easement and any other related documents on behalf of the County, after those documents have been approved in substance and form by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 16)</p> <p><u>County Attorney:</u> Provide Clerk with copy of recorded deed. (Attachment 17)</p>	
23.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p> <p><u>Jeff Richardson:</u></p> <ul style="list-style-type: none"> Provided Supervisors with an update of the cybercrime investigation that stemmed from the February 3, 2021 Board meeting disruption; and reported that investigation had concluded with a confession. <p><u>Doug Walker:</u></p> <ul style="list-style-type: none"> Announced the retirement of Amelia McCulley, Deputy Director of Community Development effective January 1, 2022. 		
22.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Announced that the State had added \$10MM into this year's budget for trail construction, which would impact local trail construction and alerted that there would be more information in the future. <p><u>Diantha McKeel:</u></p> <ul style="list-style-type: none"> Thanked the Albemarle County Police Department for working the cybercrime case. <p><u>Donna Price:</u></p> <ul style="list-style-type: none"> Commented on Amelia McCulley's retirement announcement. Thanked the Albemarle County Police Department for their work towards the cybercrime case. 		
13.	<p>Closed Meeting.</p> <ul style="list-style-type: none"> At 7:50 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: Under Subsection (1), to discuss and consider appointments to the Albemarle Broadband 		

Authority, the Piedmont Virginia Community College Board, and four advisory committees.		
Certify Closed Meeting. <ul style="list-style-type: none"> At 7:59 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
Vacancies and Appointments. <ul style="list-style-type: none"> APPOINTED, Mr. Andrew Baxter to the 5th and Avon Community Advisory Committee with said term to expire September 30, 2022. REAPPOINTED, Mr. Waldo Jaquith, Mr. William Walsh, Mr. Bill Fritz, and Mr. Trevor Henry to the Albemarle Broadband Authority with said terms to expire June 7, 2025. REAPPOINTED, Mr. Carter Montague, Mr. K. Edward Lay, and Ms. Betsy Baten to the Historic Preservation Committee with said terms to expire June 4, 2024. APPOINTED, Mr. Daniel Gidick to the Historic Preservation Committee with said term to expire June 4, 2024. REAPPOINTED, Ms. Ida Lee Wootten, Mr. Michael Spatz, Ms. Stephanie Lowenhaupt, and Mr. Anthony Arsali to the Pantops Community Advisory Committee with said terms to expire June 30, 2023. APPOINTED, Mr. Charles Dassance to the Piedmont Virginia Community College Board with said term to expire June 30, 2025. REAPPOINTED, Ms. Dottie Martin to the Village of Rivanna Community Advisory Committee with said term to expire March 31, 2023. 	<u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.	
24. Adjourn to June 16, 2021, 3:30 p.m., electronic meeting pursuant to Ordinance No. 20-A(16). <ul style="list-style-type: none"> The meeting was adjourned at 8:01 p.m. 		

ckb/tom

Attachment 1 – Proclamation Celebrating LGBTQ Pride Month

Attachment 2 – Proclamation Recognizing National Gun Violence Awareness Day

Attachment 3 – Resolution to Amend Personnel Policies §P-81 and §P-86

Attachment 4 - Personnel Policies §P-81

Attachment 5 - Personnel Policies §P-86

Attachment 6 – Resolution to Request Split Precinct Waiver from State Board of Elections

Attachment 7 – Resolution Approving the Underground Right-of-Way License Agreement with Century Link

Attachment 8 – Underground Right-of-Way License Agreement

Attachment 9 – Resolution to Approve Special Exception for SE2021-00013 Patterson Mill Homestay

Attachment 10 – Annual Resolution of Appropriations

Attachment 11 – Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing

Attachment 12 – Resolution to Approve Additional FY 2021 Appropriations

Attachment 13 – Ordinance No. 21-18(3)

Attachment 14 – Resolution Approving Deed of Easement between the County of Albemarle, Windmill Ventures

Attachment 15 – Proposed Deed of Easement

Attachment 16 – Resolution Approving Lease of Easement from the County of Albemarle to the USA

Attachment 17 – Lease for County Owned Property between the County of Albemarle and the USA

Proclamation Celebrating LGBTQ Pride Month

WHEREAS, Albemarle County's stated mission is to enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds; and

WHEREAS, the Board of Supervisors is committed to supporting through its actions and its partnerships the promotion of an equitable and inclusive Albemarle County that allows all members of our community to grow and thrive; and

WHEREAS, Lesbian, Gay, Bisexual and Transgender Pride Month (LGBT Pride Month) is celebrated annually in June to honor the 1969 Stonewall riots, and works to achieve equal justice and equal opportunity for lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) Americans; and

WHEREAS, on April 11, 2020, the Virginia Values Act was signed into law, making Virginia the first state in the South to protect LGBTQ people from discrimination in their daily lives, including discrimination in housing, public and private employment, public accommodations, and access to credit; and

WHEREAS, LGBTQ individuals have shaped, advanced, and enriched the fabric of Albemarle County and our nation by making immense contributions to all areas of life including government, business, arts and sciences, medicine, law enforcement, technology, and the military; and

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors continue to affirm our commitment to our stated mission to enhance the well-being and quality of life of all the members of our community, and recognize with pride the rich cultural diversity and contributions of lesbian, gay, bisexual, transgender, queer and questioning (LGBTQ) residents to the vibrancy of Albemarle County.

Signed this 2nd day of June 2021

**PROCLAMATION
NATIONAL GUN VIOLENCE AWARENESS DAY**

WHEREAS, every day, more than 100 Americans are killed by gun violence and on average there are more than 13,000 gun homicides every year and Americans are 25 times more likely to die by gun homicide than people in other high-income countries.

WHEREAS, Virginia has 992 gun deaths every year, with a rate of 11.4 deaths per 100,000 people and has the 34th highest rate of gun deaths in the US and communities across the nation, including Albemarle County, are working to end the senseless violence with evidence-based solutions; and

WHEREAS, protecting public safety in the communities they serve is local government's highest responsibility and support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories. Local officials and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, the pandemic facing America has drastically impacted communities and individuals sheltering in place which may result in situations where access to firearms results in increased risk in intimate partner violence gun deaths, suicide by gun and unintentional shootings; and

WHEREAS, anyone can join this campaign by pledging to Wear Orange on June 4th, the first Friday in June in 2021, to help raise awareness about gun violence. By wearing orange Americans will raise awareness about gun violence, honor the lives of gun violence victims and survivors, renew our commitment to reduce gun violence, pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE, BE IT PROCLAIMED, that we, the Albemarle County Board of Supervisors declare Friday, June 4, 2021, to be National Gun Violence Awareness Day and encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Signed this 2nd day of June 2021

RESOLUTION

WHEREAS, the Board of Supervisors has adopted County of Albemarle Personnel Policies pursuant to Albemarle County Code Section 2-901; and

WHEREAS, the Board desires to amend Section P-81, Holidays, and Section P-86, Leave Program, to update the list of County holidays.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia, hereby approves the changes to the County of Albemarle Personnel Policies, as described hereinabove, and as set forth on the attached documents, attached hereto and incorporated herein, which shall be effective as described hereinabove.

§P-81

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-81

HOLIDAYS

A. Holidays Observed

The County has established the following holiday schedule for County 12-month benefits-eligible employees.

1. New Year's Day – January 1
2. Martin Luther King, Jr. Day - Third Monday in January
3. Memorial Day – Last Monday in May
4. Juneteenth Day – June 19
5. Independence Day – July 4
6. Labor Day – First Monday in September
7. Veteran's Day – November 11
8. Thanksgiving Day – Fourth Thursday in November
9. Friday after Thanksgiving
10. Christmas Eve – December 24
11. Christmas Day – December 25
12. Floating Holiday – 1 day per fiscal year

Other holidays are granted by special proclamation of the Board of Supervisors. Holiday leave for qualified employees is paid.

Employees of departments who serve both the County and Albemarle County Public Schools as client groups may choose, with supervisor approval, which holiday leave schedule to follow each fiscal year. If the holiday schedules between the County and Albemarle County Public Schools do not equal the same number of days, County employees who choose to follow the Albemarle County Public Schools holiday schedule must be granted the same number of holidays as other County employees. If business needs necessitate a mid-year change, an employee's schedule shall be adjusted so that the employee receives no more than the Board approved number of holidays granted that fiscal year.

Under certain situations, due to coverage requirements or non-County building closures,

the holiday schedule for some departments or groups of employees within departments may fall on alternate dates within the fiscal year. Departments in these situations must receive Director of Human Resources/designee approval for designating alternate holiday schedules. These alternate holiday schedules must equal the number of approved County holidays.

Employees of offices that follow the State holiday schedule (such as the courts and constitutional offices) may be approved for an alternate holiday schedule matching the State's holiday schedule regardless if the schedule contains more, fewer, or the same number of days at the County's schedule.

B. Qualifying for Holiday Leave

1. Twelve (12)-month benefits-eligible employees qualify for holiday leave (except floating holiday) as soon as they begin working. New employees must physically work at least a day before a holiday to qualify for holiday leave.
2. Employees who are terminating employment with the County will not qualify for holiday leave unless they physically work a day after the holiday. Approved paid leave may be used in lieu of physically working following a holiday. If a holiday falls on the last day of the month or week, holiday leave may be granted by the department head/designee for retiring employees.
3. If a holiday falls within the employee's scheduled annual leave, holiday leave may be used in lieu of annual leave.

C. Working on Holidays

1. Due to coverage requirements, some employees may be required to work on a scheduled holiday. Any qualified non-exempt, employee who is required by the department head/designee to work on a scheduled holiday shall:
 - a. Be paid the hourly rate for the hours worked on the holiday plus the hours normally granted for the holiday; or
 - b. Substitute another day in the workweek / work cycle (for 28-day public safety employees) as holiday leave, including days in the workweek / work cycle (for 28-day public safety employees) before the established holiday.
2. Qualified exempt employees who work on a holiday may take the holiday on another day approved by the supervisor within the fiscal year. Employees may not take the holiday prior to the County designated holiday date, except within the workweek / work cycle (for 28-day public safety employees) in which the holiday falls. Unused holiday leave is never paid out and does not carry over fiscal years. Holiday leave does not transfer if an employee changes departments. It must be taken prior to transfer or it is forfeited.
3. Qualified employees who are scheduled to work, but fail to do so for any reason, are considered to have observed the holiday. Unworked scheduled work hours in excess of holiday hours must be covered by use of some other appropriate leave.

4. Alternative Work Schedules: A “day of holiday leave” is equivalent to a “day of leave” as defined in section I(B), above. Employees must discuss the impact of holiday leave on their alternative work schedules with supervisors. Employees are responsible for making up any hourly difference between the hours granted for the holiday and the employees’ work schedule by either using other applicable leave or working at another time during the workweek or work period. Fire Rescue employees on 12- or 24-hour shifts will receive 12 hours of a “day of holiday leave” regardless of their “day of leave” status.

Example: A non-exempt employee’s day of leave is 8 hours/day and the employee’s position is established at 8 hours/day, 5 days/week for a total of 40 hours/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40 hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working 2 additional hours within that workweek or using 2 hours of compensatory time leave or annual leave.

D. Floating Holiday

1. Employees who qualify for holiday leave as of July 1 of each year are granted one (1) day of floating holiday leave for that fiscal year. Qualified employees are granted the floating holiday leave based on their day of leave status on July 1 of each year.
2. Scheduling of a floating holiday shall follow the same approval procedures as annual leave. Floating holiday leave may be used in the same increments as annual leave.
3. Floating holidays do not rollover to the following fiscal year.
 - a. Non-exempt employees who have not taken the floating holiday by June 30 of each year will be paid out for any unused floating holiday leave at the employee’s hourly rate.
 - b. Exempt employees who have not taken the floating holiday by June 30 of each year will not receive additional pay.
 - c. Employees who move during a fiscal year from a non-exempt position eligible for the floating holiday to an exempt position eligible for the floating holiday (and vice versa) will receive/not receive for additional pay based upon their non-exempt/exempt status at the end of the fiscal year.
4. Upon transfer/hire from a 12-month position to any position that is not eligible for the floating holiday leave and upon separation of employment:
 - a. Non-exempt employees will be paid out for any unused floating holiday leave at the employee’s hourly rate.
 - b. Exempt employees will not receive additional pay for any unused floating holiday leave.
5. For the implementation year of floating holiday leave, employees who qualified for

holiday leave as of July 1, 2019 will be granted one (1) day of floating holiday leave on January 1, 2020 for the remainder of the FY2019-2020 fiscal year.

E. Half-day Holidays

The Board may grant half-day holidays to benefits-eligible 12-month employees. A “half-day” is defined as half of an employee’s day of holiday leave. Any non-exempt employee who receives approval not to work the other half of the day is responsible for taking compensatory time leave, annual leave, leave without pay, or arranging with his/her supervisor to work those hours within the workweek. An exempt employee who doesn’t work on the half-day may make arrangements with the supervisor to work the time missed on another day within the fiscal year or use annual leave for the half-day.

F. Religious Holidays

Any regular or temporary employee observing a religious holiday occurring on the employee’s workday may request time off. Supervisors should allow employees to take time off for such occasion if the time off can be accommodated without undue hardship to the department. Leave must be requested in advance in accordance with policy. Supervisors shall contact the Department of Human Resources prior to denying religious holiday leave requests. Applicable accrued leave shall be used. Leave without pay will be considered in the absence of accrued leave.

Amended: August 4, 1993; August 2, 2000; February 10, 2016; December 18, 2019; June 2, 2021

LEAVE PROGRAM

Consistent employee presence on the job promotes and maintains excellence in Albemarle County by providing continuity of service and reduced temporary staffing costs. The County recognizes that some absences are necessary. In such cases, the employee's return to work at the earliest time commensurate with good health, safety, and reasonable personal consideration is an expectation. The County expects that all employees shall strive to maintain an acceptable attendance record and that the occasional absences of employees shall not have an adverse effect on services.

Adopted: February 6, 2019 (Effective upon time and attendance system implementation (Kronos))
Amended: December 18, 2019; June 2, 2021

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I. General Information

A. Eligibility

All Albemarle County regular, benefits-eligible employees are eligible for the benefits and programs outlined in this policy. While non-benefits-eligible employees may not accrue paid leave as a benefit, they may be granted certain types of paid and unpaid leave under programs outlined in this policy. (See also § P-02, Definition of Employee Status.)

B. Definitions

Unless otherwise stated in policy or defined by law, the following definitions apply only to this policy.

Day of Leave or Day:

A “day of leave”, a “day”, or “daily” shall equal the total hours scheduled per year divided by the number of days established for an employee’s position and number of months worked in a year (i.e., 12-, 11-, 10-month employee). This will not necessarily be the same amount an employee works on a given day. Unless otherwise noted, this definition applies to all leave policies.

For example, a 12-month employee (260 days) scheduled for 2080 hours per year has an eight (8)-hour day of leave; an 11-month employee (220 days) scheduled for 1760 hours per year has an eight (8)-hour day of leave; a 10-month employee (200 days) scheduled for 1450 hours per year has a seven and one quarter (7.25)-hour day of leave.

Employee:

“Employee,” unless otherwise noted in this policy, means regular, benefits-eligible employees.

Fiscal Year:

“Fiscal Year” means the fiscal year adopted by the Board (July 1 to June 30).

Flex:

“Flex” means the ability of a supervisor to allow an employee to work an alternative schedule.

FTE:

“Full-Time Equivalency” or “FTE” describes the full- or part-time status of an employee.

Household Member:

“Household Member” means 1) any individual who cohabits or who, within the previous 12 months, cohabited with the employee, and any children of either of them then residing in the same home with the employee, 2) the employee’s former spouse, whether or not he/she resides in the same home with the employee, or 3) any individual who has a child in common with the employee regardless if the employee and individual have been married or have resided together at any time.

Immediate Family:

“Immediate family”, unless otherwise defined in policy or defined by law, means the employee’s spouse, children, parents, siblings, grandparents, or the employee’s spouse’s children, parents, siblings, grandparents (includes all direct lineage such as

great-grandparents, grandchildren, etc. and step-immediate family members).

Parents include persons standing *in loco parentis* and children include biological, adopted, or foster children, stepchildren, legal wards, or children of a person standing *in loco parentis*.

In loco parentis includes those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a physical or mental disability. A biological or legal relationship to the child is not necessary.

In Writing:

“In writing” mean generally any dated written statement including a leave slip, formal memo, or e-mail, unless otherwise noted or defined by law. Refer to specific policy sections or department requirements for specific forms that may be required.

Rolling Year:

“Rolling Year” means a rolling 12-month period measured backward from the date an employee uses leave.

Workday:

“Workday” specifically means a calendar day worked, as opposed to a “day of leave” or “day”.

C. General Leave Guidelines and Responsibilities

1. Leave under the Family Medical Leave Act (FMLA), Workers’ Compensation, Sick Leave Bank, Debilitating or Life-threatening Illness or Injury, and Income Replacement Program is managed by the Department of Human Resources for privacy reasons, with administrative support from the employee’s department. All other leave is managed and administered by the employee’s department with support from the Department of Human Resources.
2. Employees and supervisors should familiarize themselves with the types of leave available and the proper procedures for using each. Unless specifically stated, leave is used when an employee is absent from work, not as a means of additional compensation. Pay and leave for non-exempt employees are determined on a total workweek or work period basis, not a daily basis.
3. Leave is taken based on an employee’s schedule. Due to fluctuations in the day of leave and the varying base hours of different positions throughout the County, leave may be taken at a different rate from the rate at which it was accrued.
4. An employee with two or more regular positions (dual jobs) will have the FTEs for each position combined to determine eligibility for leave benefits. Leave will be held in a single account for all regular positions.
5. Employees are expected to only take leave for which they have sufficient leave balances. “Leave without pay” (LWOP) is not a leave type, but instead is a consequence of having insufficient applicable leave. Applicable types of accrued leave will be used before an employee may take LWOP. The Department of Human Resources will establish County-wide rules for the order in which different types of leave are used for different types of absences.

6. Employees may not borrow against future leave accruals. Paid leave may only be taken when the employee has earned enough leave to cover the absence or when provided by established County programs/practices.
7. When an employee performs no work or is not in a paid leave status in a calendar month, no accrued leave will be earned for that month.
8. Employees are responsible for notifying their departments as far in advance as possible whenever they will be absent. Employees are responsible for following their department's applicable guidelines when making leave requests. Employees are responsible for notifying their supervisors at least 30 minutes prior to their scheduled start time of unforeseeable delays and absences, unless the department has established other guidelines for notification. Employees should be aware of the notification requirements and procedures of their departments.
9. Employees are responsible for discussing workload/scheduling/coverage with their supervisors/designees when they need to be absent from work for any period either as a block of time or intermittently.
10. Both the department and the employee are responsible for tracking leave approvals and absences.
11. Employees should contact the Department of Human Resources for extended use or use of special leave types which require additional approval/administration as outlined in this policy such as leave under the FMLA, leave without pay (or LWOP), leaves of absence (LOA), Workers' Compensation, or military leave. Also, supervisors should notify the Department of Human Resources if an employee is out of work and may require extended use or use of special leave types which require additional approval/administration.
12. The department head/designee may approve leave that an employee has available as provided in this leave policy. The department head/designee, to the best of his/her ability, should ensure that processes/procedures are in place to prevent employees from taking unapproved or not yet accrued leave. Employees are responsible for being aware of their leave balances and usage and requesting leave use appropriately.
13. Any missed work that is not approved or foreseeable absences that are not requested in a timely manner may result in required leave use, denial of leave use, loss of pay, and/or disciplinary action. Failure to give proper notice or abuse of any of these policies may lead to disciplinary action up to and including termination.
14. Signs of leave abuse or excessive absenteeism will be examined, including looking at patterns such as Friday/Monday absences and/or frequency of occurrences. The Department of Human Resources staff shall provide guidance on initiating an investigation and any disciplinary action to be taken.
15. Employees must receive prior authorization to work with an outside entity while on paid or unpaid leave pursuant to § P-33, Outside Employment.
16. It will remain the right of the department head/designee to:
 - a. Authorize or refuse to authorize the advance request of an employee for permission to be absent.
 - b. Investigate absences.
 - c. Deny leave for absences in violation of any County policy.

- d. Impose reasonable disciplinary action upon employees who have been found by the department head/designee to have abused their leave privileges and/or violated the provisions of this policy.
 - e. Require written verification/proof of medical appointments or other types of absences, unless prohibited by policy or law.
17. The County Executive/designee may issue emergency regulations regarding employee work hours, absences, and leave usage in the event of a declared state of emergency, pandemic, or other crisis affecting the County's ability to operate under normal policies and procedures.
 18. Employees who are placed on administrative leave without pay for disciplinary reasons or other administrative reasons may not use other types of leave concurrently without permission from the Director of Human Resources/designee.
 19. Employees changing County positions and/or departments without breaks in service shall maintain accrued leave and accrual rates in accordance with policy.
 20. Employees changing employment between the County and Albemarle County Public Schools shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal. Employees of a Partner Agency changing employment to the County, Albemarle County Public Schools, or another Partner Agency shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal as agreed through a signed memorandum of understanding (MOU) or similar agreement.
 21. Although non-benefits-eligible employees are not eligible for some of the leave programs in this policy, they are required to follow procedures for requesting time off, recording time worked, and acceptable attendance. When flex time is not approved, these employees will be docked pay in accordance with § P-61 Staff Schedules, Time Tracking, and Compensation Policy, when applicable due to a lack of accrued paid leave.

D. Excused and Unexcused Absences

Acceptable attendance is a minimum expectation of all County employees. Absences will be classified as either excused or unexcused. Some types of leave may be either, depending on whether it was approved by the supervisor or not, regardless of whether it was paid. All unexcused absences are included into the acceptable attendance calculations. Sick leave is unexcused, except sick leave used concurrently with FMLA, Workers' Compensation, or Bereavement, which is excused. Any other paid or unpaid leave used in lieu of sick leave is also unexcused. Unapproved annual, personal, and compensatory time leave is unexcused even if the employee uses paid leave. Regardless of the leave type, an employee may be counseled or disciplined for failure to give proper notice or failure to receive prior approval.

E. Acceptable Attendance Standards

Generally, an employee's attendance is unacceptable when more than one (1) day of unexcused absences occurs per month, on average (10 days for 10-month, 11 days for 11-month, 12 days for 12-month per year). However, attendance should be examined, counseled, and disciplined by the supervisor on a case-by-case basis when appropriate. An employee may be disciplined for unacceptable attendance even if he/she has sick leave or other paid leave available.

F. Leave Usage

1. Exempt Employees

- a. Increments - Employees who are exempt from overtime provisions under the Fair Labor Standards Act (FLSA) (exempt employees) shall take leave in full-day increments.
 - b. Work Expectations - An exempt employee is expected to work his/her full schedule. When an exempt employee takes a leave day, the supervisor should respect the employee's time off. However, there may be occasions when the employee may need to respond to an emergency. An exempt employee who performs a minimal amount of work shall still use a day of leave. If more than a minimal amount of work is performed, the employee should work with his/her supervisor to flex the time on a later date or not take the day as leave.
 - c. Flex Time – Supervisors may approve exempt employees to work alternative schedules in lieu of using leave or in recognition of work above and beyond the employee's regular schedule. Time may be flexed outside of the workweek or work period for exempt employees.
2. Non-Exempt Employees
- a. Increments - Employees who are eligible for overtime under FLSA shall record leave in 15-minute increments.
 - b. Work Expectations – A non-exempt employee must not perform any work while on leave. Permission to work while out must be granted by the supervisor in advance and should be recorded as compensable time instead of leave.
 - c. Flex Time – Supervisors may approve non-exempt employees to work alternative schedules in lieu of using leave within the same workweek or work period. Pay and leave are determined on a total workweek or work period basis. Leave will only be used to supplement an employee's total weekly hours when the hours worked are less than his/her base hours. For example, if an employee misses two (2) hours of work for a doctor's appointment but works two (2) additional hours in the workweek with the supervisor's permission, no sick leave would be taken that week.
 - d. Special Flex Time Rules For Certain Public Safety Employees – Non-exempt employees who qualify for the public safety exemption may request flex time in lieu of leave use prior to the use of such leave. When these employees are in a paid status, all such time is considered time worked as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).

II. Administrative Leave

Administrative leave may be granted or required on a case-by-case basis, such as for investigations, suspensions, releases from work for safety, or recognition of service. Administrative leave may be paid or unpaid as appropriate. Administrative leave with pay is not an adverse personnel or employment action.

III. Annual Leave

A. Purpose

Annual leave is provided to regular, benefits-eligible 12-month employees to recognize service provided to the County, foster wellness, and encourage work-life balance.

B. Accrual Rates

12-month benefits-eligible employees shall begin to accrue annual leave based on the employee's hire date of regular, continuous employment. Employees accrue annual leave monthly in an amount based on the employee's day of leave at the time of distribution as follows.

1. One (1) day per month for each month employed during the first five (5) years of continuous employment.
2. One and one-quarter (1.25) days for each month employed during the sixth through the tenth (6-10) years of continuous employment.
3. One and one-half (1.5) days for each month employed during the eleventh through the fifteenth (11-15) years of continuous employment.
4. One and three-quarter (1.75) days for each month employed during the sixteenth through the twentieth (16-20) years of continuous employment.
5. Two (2) days for each month employed during the twenty-first through twenty-fifth (21-25) years of continuous employment.
6. Two and one-quarter (2.25) days for each month employed during the twenty-sixth (26+) and succeeding years of continuous employment.

An employee who changes from a 10-month or an 11-month to a 12-month schedule shall begin to accrue annual leave based on the date he/she commenced continuous employment as a regular employee to include benefits-eligible and non-benefits-eligible employment as a 10, 11, or 12-month regular employee.

With the approval of the Director of Human Resources/designee and the County Executive/designee, an employee's annual accrual rate may be negotiated at a rate other than the rate determined by years of service and/or an employee may be granted a negotiated amount of additional leave.

C. Accumulation Maximum Cap

Annual leave balances are subject to a maximum cap.

1. The annual leave maximum cap is 320 hours for employees, except as provided in subsection 2.
2. Partner Agency employees working for Constitutional Officers have a maximum cap of 6 weeks (240 hours or a fraction thereof for part-time employees) pursuant to state law, unless an agreement between the Constitutional Officer and the County includes such employees under this policy. If such an agreement exists, then employees of Constitutional Officers shall have an annual leave maximum cap of 320 hours.

D. Use of Annual Leave

1. An employee is required to obtain his/her department head's/designee's approval prior to taking annual leave.
2. Requests to use annual leave and approvals should be in writing. All requests should be made as far in advance as possible. Employees should also refer to department-specific requirements and procedures.
3. Annual leave use is granted at the discretion of the department head/designee.
4. The department head/designee must consider the workload and impact of leave on the County's service delivery when approving or denying annual leave requests.
5. The department head/designee must reasonably accommodate annual leave requests as staffing permits.

IV. Bereavement Leave

A. Purpose

The loss of an immediate family member or household member may deeply affect an employee. To allow an employee to grieve, tend to that person's estate, or other related matters, bereavement leave is available.

B. Bereavement Leave Days and Use

In the event of the death of a member of an employee's immediate family or a household member, any regular employee may use up to five (5) days of unpaid bereavement leave per occurrence. Accrued sick leave may be used concurrently for up to the first five (5) days of absence. Any additional time required by the employee shall be covered by other applicable leave in accordance with this policy. In the event of the death of a non-immediate family member or non-household member, employees may not use bereavement leave, but may use other applicable leave in accordance with this policy.

C. Extraordinary Circumstances

In the event of extraordinary circumstances, such as the death of a current colleague, the department head/designee may allow employees to attend services with approval from the County Executive/designee, so long as it does not cause an undue hardship on the department. Administrative leave with pay would be used in this situation for any regular employee.

V. Building Closure Leave

Paid leave and unpaid leave due to inclement weather and other County emergencies are addressed in § P-66, Coverage Due to Weather and/or Emergency.

VI. Compensatory Time Leave

A. Purpose

Because employees are paid with taxpayer dollars, to be good stewards of public money, public sector employers are able to offer employees compensatory time leave in lieu of money as compensation for overtime. Additionally, some non-exempt employees may value additional time off more than additional pay.

B. Accrual, Maximum Balance, and Payout

Please refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensatory time leave as it is earned for overtime work performed.

C. Use of Compensatory Time Leave

Accrued compensatory time leave may be used for any leave purpose. However, classified, non-exempt employees are required to arrange use of compensatory time leave in advance with their supervisors. Department heads/designees shall be responsible for allowing employees to use compensatory time leave within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the department, such as: (a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if the supervisor reasonably and in good faith anticipates that granting the request would impose

6. An employee has the right to ask for and receive an explanation for the denial of an annual leave request.
7. Once annual leave has been approved by the department head/designee, changes shall not be made to the approved annual leave use without notification in writing to the employee by the department head/designee.

In the interest of fostering wellness for employees, non-probationary employees are strongly encouraged to take at least five (5) days of annual leave per year. Department heads/designees shall work with their employees to ensure that time is made available for annual leave use. Employees are responsible for knowing their leave balances and usage and scheduling leave in a timely fashion.

8. Department heads/designees shall not approve more than three (3) consecutive weeks of paid annual leave if the employee is not planning to return to work (i.e., going to retire/resign). Any annual leave requested by a terminating employee beyond three (3) weeks must be approved by the County Executive/designee prior to use.

E. Conversion of Unused Annual Leave

1. At the end of the employee's birth month each year, any annual leave balance that is above the maximum accumulation cap will be converted as follows: 50% to the employee's own sick leave balance and 50% donated to the County Sick Leave Bank. The employee need not be a member of the Sick Leave Bank.
2. Employees are responsible for keeping track of their leave balances to avoid conversion of annual leave. Employees are also responsible for requesting time off as appropriate with as much advance notice as possible.
3. Employees and the department head/designee are encouraged to work together to facilitate leave use to avoid annual leave conversion.

F. Payout of Annual Leave

Payout of annual leave only occurs in the following situations:

1. Upon termination of regular employment, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.
2. Upon transfer/hire from a 12-month position to a 10-month or 11-month position, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap. The employee may request to convert up to five (5) days of accrued annual leave to personal leave to be available for his/her use in the new 10- or 11-month position. If an employee requests leave conversion, it will be taken from the balance subject to the maximum cap. Employees transferring to benefits-ineligible positions will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap prior to the transfer.
3. Upon transfer/hire from a 12-month position eligible for annual leave under this policy to a Partner Agency position who does not have a signed memorandum of understanding (MOU) to accept leave, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.
4. When an employee has two (2) regular 12-month positions (dual jobs), annual leave payout will be representative of the FTEs for each position. For example, a 0.60/0.40 employee would be paid 60% of the annual leave at the hourly rate of job A and 40% at the hourly rate of job B.

an unreasonable burden on the department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

VII. Court Duty

A. Purpose

The County recognizes the duty of employees to appear before a court of law when summoned or subpoenaed. These procedures outline leave usage. Refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on when an employee's appearance in court is considered compensable work time.

B. Eligibility

The County provides unpaid court duty leave for employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors in as far in advance as possible prior to using court duty leave. Supervisors may require verification that an employee has been called for court duty. Court duty leave does not apply to any employee who is the defendant in a criminal case for which the employee is summoned or subpoenaed.

C. Regulation

Employees who are summoned or subpoenaed to appear, except as defendants in criminal cases, in court proceedings which take place during their scheduled hours, are allowed unpaid court duty leave for such appearances. Such employees may use accrued leave as applicable, subject to supervisor approval.

VIII. Election Officer Leave (Polling Leave)

A. Purpose

The County recognizes that serving as an election official can provide a unique learning and community service experience.

B. Eligibility

Albemarle County offers paid polling leave for benefits-eligible employees and unpaid polling leave for benefits-ineligible employees consistent with Virginia Code § 24.2-100, et. seq.

C. Guidelines

1. Any employee who serves as an officer of election (defined under Virginia Code § 24.2-101) shall not have any adverse personnel action taken against him/her for such service provided. An employee is not required to use accrued paid leave to serve as an officer of election.
2. An employee must give reasonable notice to his/her supervisor and comply with established procedures when he/she needs to take time off to serve as an officer of election.
3. Hours worked as an officer of election shall not be counted as "hours worked" for purposes of overtime compensation. Employees are not required to volunteer as an officer of election.
4. Employees who serve as officers of election for any locality are eligible for polling leave.

5. Employees are also eligible for any standard poll worker stipend that may be provided by an Electoral Board.
6. Employees employed by an elected official, the Electoral Board, or General Registrar are not eligible for polling leave.
7. Employees who work four (4) or more hours as an officer of election, including travel time, are not required to report for any shift which begins between 5 p.m. and 3 a.m. and will be granted polling leave.

IX. Emergency Leave

A. Purpose

Emergency leave is for employees who need to address emergency or urgent circumstances beyond their control that affect their residences.

1. For example, emergency leave may be granted for situations similar to the following:

A disaster affecting the home or residence of the employee or his/her immediate family, including damage occurring during a declared a state of emergency or an employee's house burning down.

2. Examples of circumstances for which emergency leave should not be granted are the following:

- a. Animal/vehicle strikes and other car repair-related issues;
- b. Employee's water pump breaks during the normal course of wear and tear and other household repairs due to normal wear and tear; and
- c. Employee loses power due to a non-state of emergency

B. Eligibility and Days of Use

1. The department head/designee may grant up to two (2) days of emergency leave without loss of pay to any benefits-eligible employee per year.
2. These days do not accrue from year to year and are not paid out upon termination of employment.

C. Requesting and Using Emergency Leave

1. To the extent possible, employees should request emergency leave in writing from the department head/designee.
2. If the circumstances in a given case are unclear, the department head/designee shall confer with the Director of Human Resources/designee before granting approval.
3. Emergency leave is not intended and may not be used for absences covered by other types of leave, including sick, personal, or annual leave. In addition, emergency leave is not intended and may not be used as a substitute when other types of leave have been exhausted.

X. Employee Recognition Leave

Paid leave may be awarded to regular employees as recognition for extraordinary achievements and contributions to the County, including through the Employee Recognition Program.

XI. Employee's Debilitating or Life-Threatening Illness or Injury

An employee who has a debilitating or life-threatening illness or injury may be granted a reasonable period of unpaid leave for this purpose. The leave will be approved by the Department of Human Resources provided it does not cause an undue hardship to the County. This type of leave may be taken only in full-day increments and runs concurrently with paid leave, unpaid leave, any other leave program, and any reasonable accommodation if applicable.

An employee must submit medical documentation of his/her need for leave to the Department of Human Resources. Whenever possible, documentation must be provided prior to leave being taken. Approval from the Department of Human Resources must be obtained prior to leave being taken when foreseeable or as soon as possible.

XII. Family Medical Leave Act – Protected Leave Status

A. Purpose

This Family and Medical Leave ("FMLA") section is written to assist Albemarle County in complying with the provisions of the federal Family and Medical Leave Act of 1993, and its amendments. This section seeks to balance the needs of the County (the "employer") with the needs of its employees and their families. Any variation between this policy and the FMLA will be determined in favor of the Act.

B. Definitions

Definitions set forth below are applicable to FMLA only and may be different from general definitions listed elsewhere in this policy. If definitions in this FMLA section require clarification or conflict with, federal and/or state laws, those laws will prevail over this policy.

Child:

Means a biological, adopted, or foster son or daughter, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either i) under 18 years of age or ii) 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence.

For a covered service member or for covered active duty, a child may be any age.

Covered Active Duty:

In the case of a member of a regular component of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

In the case of a member of a Reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S. Code § 101(a)(13)(B).

Covered Service Member:

A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

A veteran who was undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Eligible Employee:

An eligible employee: 1) Has been employed at least 12 months or 52 weeks within the last seven years; 2) Has worked at least 1250 hours during the 12 months immediately preceding the proposed leave; 3) Has not used all available FMLA Leave in the current rolling year; and 4) Meets the conditions of the FMLA.

Employer:

For purposes of this section, "Employer" means the County and the Albemarle County Public Schools, as they are considered a single, integrated employer. See 29 C.F.R. §§ 825.104(2) and 825.108.

Family:

Family is defined as the employee's spouse, employee's children, and employee's parents.

Health Care Provider:

A licensed doctor of medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing health care service.

In Loco Parentis:

Persons who stand *in loco parentis* include those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a physical or mental disability. In the case of an employee, those who had such responsibility when the employee was a child also stand *in loco parentis*. A biological or legal relationship to the child or employee is not necessary.

Job-Protected:

The employee is guaranteed the right to return to his/her former position or to an equivalent position.

Next of Kin:

"Next of Kin" generally means the nearest blood relative of an individual when used in respect to that individual.

The "next of kin" of a current service member is the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:

1. A blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes,
2. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
3. Brothers and sisters,
4. Grandparents,

5. Aunts and uncles,
6. First cousins

When a service member designates in writing a blood relative as next of kin for FMLA purposes that individual is deemed to be the covered service member's *only* FMLA next of kin. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

Parent:

Includes biological, adoptive, step, foster, or any individual who stood *in loco parentis* when the employee was a child. This does not include parents-in-law.

Serious Health Condition:

An illness, injury, impairment, or physical or mental condition that involves the following:

1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
3. any period of incapacity due to pregnancy, or for prenatal care; or
4. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
5. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
6. any absences to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Serious Injury or Illness:

In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that may

render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S. Code § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Week:

A week is defined as the weekly authorized regular hours of the employee's position.

Year:

A rolling 12-month period measured backward from the date an employee uses FMLA leave.

C. Posting and General Notice

The employer shall post and keep posted, in a conspicuous place, on the premises where notices to employees and applicants for employment are customarily posted, a notice prepared or approved by the U.S. Secretary of Labor explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. This posting requirement may be satisfied by electronic posting if every employee has access to a computer at work.

Employees Rights and Responsibilities notification will be posted on the Department of Human Resources website.

D. Conditions of Leave

1. General Information

The Family and Medical Leave Act (FMLA) provides up to a combined total of 12 workweeks of unpaid job-protected leave per year to eligible employees for the birth of a child and to care for the newborn child, for the placement with the employee of a child for adoption or foster care, to care for the employee's spouse, child, or parent with a serious health condition, or because of the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

The FMLA also provides up to a combined total of 26 workweeks of unpaid job-protected leave per year to eligible employees because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status), or to care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered servicemember. Military caregiver leave is available to an eligible employee once per veteran, per serious injury or illness. However, an eligible employee may take an additional 26 weeks of leave in a different 12-month period to care for the same veteran if the veteran has another serious injury or illness.

2. Notification Requirements

a. Foreseeable

When the need for leave under FMLA is foreseeable, the employee is required to provide at least 30 days' advance notice to the Department of Human Resources either verbally or in writing. The employee shall make a reasonable effort to schedule the treatment, placement, or other foreseeable need for leave so as not to disrupt unduly the operations of the employer. In the event that it is not practicable to give such advance notice, the employee should give as much advance notice as is practicable, ordinarily within two (2) business days of when he/she learns of the need for the leave.

b. Unforeseeable

When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to his/her supervisor or the Department of Human Resources as soon as practicable based on the facts and circumstances of the particular case.

If an employee is absent for more than three (3) consecutive workdays or if the employee's supervisor has reason to believe that an employee's leave may be for an FMLA-qualifying reason, the supervisor must contact the Department of Human Resources and will remind the employee to contact Department of Human Resources to determine eligibility.

c. Employee Request and Eligibility Notice

The employee's notice or request should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave. When the employee requests FMLA leave or the Department of Human Resources has knowledge that an employee's leave may be for an FMLA-qualifying reason, the Department of Human Resources must notify the employee in writing of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one (1) reason why the employee is not eligible.

d. Employee Rights and Responsibilities Notice

The Department of Human Resources will provide the employee written notice detailing the specific expectations and obligations of the employee and explaining consequences of a failure to meet these obligations. If leave has already begun, the Department of Human Resources will mail the Notice to the employee's address of record.

e. Certification of Health Condition, Designation Notice, Second Opinion(s), Recertification, and Status Updates

The Department of Human Resources will provide the employee a Certification of Health Care Provider form that must be completed by the employee's physician and returned to the Department of Human Resources within 15 calendar days after the Eligibility Notice. If the employee fails to return a Certification of Health Care Provider form or does not provide sufficient or complete information to determine whether the leave is FMLA-qualifying, FMLA leave may be denied or delayed. It is the employee's responsibility to maintain up-to-date medical status while on FMLA leave.

The Department of Human Resources will give the employee written notice (Designation Notice) whether the leave will be designated and counted as FMLA leave within five (5) business days of when the Department of Human Resources has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

The employer may require a second opinion by a health care provider of its choice and at its expense if it has reason to doubt the validity of the medical certification. The designated health care provider shall not be employed by the employer or regularly utilized by the employer. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the employer. This third opinion, to be paid for by the employer, is final and binding. The employer shall provide the employee copies of the medical opinions within 5 days of the employee's request.

The employer may request recertification if it later has reason to question the appropriateness of the leave or its duration. The frequency for which the employer may request recertification is governed by federal regulation. The employee must provide a complete and sufficient certification within 15 calendar days after the Department of Human Resources' request. When the Department of Human Resources requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

The employer may also require periodic reports from the employee as to the employee's status and intent to return to work. If an employee gives unequivocal notice of intent not to return to work, the employer's obligations under FMLA to maintain health benefits (subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requirements) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

3. Spouses Both Working for the Employer

In cases where both spouses are employees, they may take a combined total of 12 weeks of FMLA leave for the birth, bonding, adoption, or foster care placement of a child, and the care of a parent with a serious health condition. They may each take 12 weeks for their own injury/illness or that of their spouse or child. An employee can at most take 12 weeks for FMLA purposes in a year (26 weeks for a service member covered by the FMLA).

4. Intermittent or Reduced Leave

While most FMLA occurrences will necessitate leave to be taken in a single block of several weeks, the employee may request "intermittent" leave or a "reduced leave schedule" to care for the serious health condition of a family member or for the employee's own serious health condition where the need for leave is foreseeable and based on planned medical treatment. In the case of the need for a reduced schedule or intermittent use of leave, a certification of medical necessity is required from the health care provider and an appropriate work schedule should be planned in advance with the supervisor, when possible. An employee may take intermittent or reduced leave for the birth, adoption or foster care placement of a child only if the employee and department head/designee agree to such an arrangement.

If the employee requests intermittent leave or reduced leave schedule, the employer may temporarily transfer the employee to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job. When a transferred employee no longer needs to continue on leave and is able to return to the prior position, the employee will be subject to restoration. See Section H(2) below.

E. Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the need for FMLA leave is because of a qualifying exigency arising because a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give notice to the employer as is reasonable and practicable. The employee's notice should be

sufficient to make the employer aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

F. Substitution of Paid Leave

Paid leave shall run concurrently with FMLA leave, as available. Employees should check with the Department of Human Resources to determine what types of leave will run concurrently with their FMLA leave. The type of leave taken must be in compliance with the provisions of the applicable leave addressed in this policy. Otherwise, FMLA leave is unpaid. Time will be charged concurrently against paid leave and FMLA leave for a period of up to 12 weeks or up to 26 weeks for certain covered service member conditions.

Time missed during Workers' Compensation related injuries, which otherwise meet the requirements of the FMLA, will run concurrently with FMLA leave as applicable.

G. Benefits

1. Insurance Continuation Privileges

Employees on FMLA leave will continue to receive the employer portion of the medical and dental insurance benefits up to the maximum 12 workweeks allowed or 26 workweeks for certain covered service member conditions. These benefits will continue on the same basis as an active employee during the FMLA period. Employees are responsible for paying the necessary premium for the employee portion to cover themselves and eligible dependents by continuing to take paid leave or by making other payment arrangements.

2. Other Employee Benefits

In all cases where an employee is using some type of paid leave, all employee benefits continue as long as the employee remains on the payroll through the use of such paid leave time. If leave without pay is taken for one (1) continuous calendar month, employee benefits will be discontinued for the duration of the unpaid leave status as follows:

- a. Employer and employee contributions will not be made on behalf of the employee to the Virginia Retirement System (VRS). Upon returning to work, the employee may be eligible to purchase this service through VRS, if the leave is necessitated by birth or adoption as defined by VRS policies.
- b. Employees will not be eligible for any employer-paid life insurance during this period.
- c. Medical, dental, and optional life insurance premium payment arrangements may be made through the Department of Finance's Payroll Division and/or the appropriate vendor when applicable.

H. Returning from FMLA Leave

1. Return to Work

- a. An employee returning from FMLA leave due to his/her own serious health condition must submit a medical release on the required return to work form to the Department of Human Resources. The medical release must be from the employee's health care provider certifying the employee's fitness-for-duty based upon the serious health condition that caused the employee's need to take FMLA leave.
- b. If an employee would like and is medically certified to return to work in a restricted capacity or through alternative schedule arrangements, supervisors and the Department of Human Resources will discuss possible options with the employee.

2. Restoration to Position

When an eligible employee is released to return to work following FMLA leave, he/she will be restored to the position held at the time the leave began or, with approval of the Department of Human Resources, to an equivalent position with equivalent benefits, compensation, and other terms and conditions of employment. However, in the event that the employer needs to make reductions in staff, employees on FMLA leave are subject to the procedures in § P-30, Employee Reduction in Force Procedures. If an employee was subject to a reduction-in-force during FMLA leave and is subsequently reinstated, any rights would be the same as if the employee had not been on FMLA leave.

"Key" employees may be denied job restoration. A "key" employee is defined as a salaried FMLA-eligible employee who is among the highest paid 10% of all employees. A key employee will be notified as soon as practicable after receipt of a request for FMLA leave that he/she qualifies as a key employee. The employer will also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer's operations will result if the employee is reinstated from FMLA leave.

I. Unable to Return to Work

If an employee is medically unable to return to work at the end of the 12 weeks of FMLA leave, the employee must request additional time off from his/her department head/designee or resign. Otherwise, employment may be terminated. Additional time is subject to approval.

J. Record Keeping and Anti-Retaliation

The Department of Human Resources shall maintain records necessary to demonstrate compliance with FMLA. FMLA requires also that no employee be subject to any penalty for seeking to enforce rights under FMLA or for testifying for or otherwise helping other employees seek rights under FMLA.

XIII. Holiday Leave

A. Holidays Observed

The County has established the following holiday schedule for County 12-month benefits-eligible employees. Other holidays are granted by special proclamation of the Board of Supervisors. Holiday leave for qualified employees is paid.

1. New Year's Day – January 1
2. Martin Luther King, Jr. Day - Third Monday in January
3. Memorial Day – Last Monday in May

4. Juneteenth Day – June 19
5. Independence Day – July 4
6. Labor Day – First Monday in September
7. Veteran’s Day – November 11
8. Thanksgiving Day – Fourth Thursday in November
9. Friday after Thanksgiving
10. Christmas Eve – December 24
11. Christmas Day – December 25
12. Floating Holiday – 1 day per fiscal year

Employees of departments who serve both the County and Albemarle County Public Schools as client groups may choose, with supervisor approval, which holiday leave schedule to follow each fiscal year. If the holiday schedules between the County and Albemarle County Public Schools do not equal the same number of days, County employees who choose to follow the Albemarle County Public Schools holiday schedule must be granted the same number of holidays as other County employees. If business needs necessitate a mid-year change, an employee’s schedule shall be adjusted so that the employee receives no more than the Board approved number of holidays granted that fiscal year.

Under certain situations, due to coverage requirements or non-County building closures, the holiday schedule for some departments or groups of employees within departments may fall on alternate dates within the fiscal year. Departments in these situations must receive Director of Human Resources/designee approval for designating alternate holiday schedules. These alternate holiday schedules must equal the number of approved County holidays. Employees of offices that follow the State holiday schedule (such as the courts and constitutional offices) may be approved for an alternate holiday schedule matching the State’s holiday schedule regardless if the schedule contains more, fewer, or the same number of days at the County’s schedule.

B. Qualifying for Holiday Leave

1. Twelve (12)-month benefits-eligible employees qualify for holiday leave (except floating holiday) as soon as they begin working. New employees must physically work at least a day before a holiday to qualify for holiday leave.
2. Employees who are terminating employment with the County will not qualify for holiday leave unless they physically work a day after the holiday. Approved paid leave may be used in lieu of physically working following a holiday. If a holiday falls on the last day of the month or week, holiday leave may be granted by the department head/designee for retiring employees.
3. If a holiday falls within the employee’s scheduled annual leave, holiday leave may be used in lieu of annual leave.

C. Working on Holidays

1. Due to coverage requirements, some employees may be required to work on a scheduled holiday. Any qualified non-exempt, employee who is required by the department head/designee to work on a scheduled holiday shall:
 - a. Be paid the hourly rate for the hours worked on the holiday plus the hours normally granted for the holiday; or
 - b. Substitute another day in the workweek / work cycle (for 28-day public safety employees) as holiday leave, including days in the workweek / work cycle (for 28-day public safety employees) before the established holiday.

2. Qualified exempt employees who work on a holiday may take the holiday on another day approved by the supervisor within the fiscal year. Employees may not take the holiday prior to the County designated holiday date, except within the workweek / work cycle (for 28-day public safety employees) in which the holiday falls. Unused holiday leave is never paid out and does not carry over fiscal years. Holiday leave does not transfer if an employee changes departments. It must be taken prior to transfer or it is forfeited.
3. Qualified employees who are scheduled to work, but fail to do so for any reason, are considered to have observed the holiday. Unworked scheduled work hours in excess of holiday hours must be covered by use of some other appropriate leave.
4. Alternative Work Schedules: A "day of holiday leave" is equivalent to a "day of leave" as defined in section I(B), above. Employees must discuss the impact of holiday leave on their alternative work schedules with supervisors. Employees are responsible for making up any hourly difference between the hours granted for the holiday and the employees' work schedule by either using other applicable leave or working at another time during the workweek or work period. Fire Rescue employees on 12- or 24-hour shifts will receive 12 hours of a "day of holiday leave" regardless of their "day of leave" status.

Example: A non-exempt employee's day of leave is 8 hours/day and the employee's position is established at 8 hours/day, 5 days/week for a total of 40 hours/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40 hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working 2 additional hours within that workweek or using 2 hours of compensatory time leave or annual leave.

D. Floating Holiday

1. Employees who qualify for holiday leave as of July 1 of each year are granted one (1) day of floating holiday leave for that fiscal year. Qualified employees are granted the floating holiday leave based on their day of leave status on July 1 of each year.
2. Scheduling of a floating holiday shall follow the same approval procedures as annual leave. Floating holiday leave may be used in the same increments as annual leave.
3. Floating holidays do not rollover to the following fiscal year.
 - a. Non-exempt employees who have not taken the floating holiday by June 30 of each year will be paid out for any unused floating holiday leave at the employee's hourly rate.
 - b. Exempt employees who have not taken the floating holiday by June 30 of each year will not receive additional pay.
 - c. Employees who move during a fiscal year from a non-exempt position eligible for the floating holiday to an exempt position eligible for the floating holiday (and vice versa) will receive/not receive for additional pay based upon their non-exempt/exempt status at the end of the fiscal year.
4. Upon transfer/hire from a 12-month position to any position that is not eligible for the floating holiday leave and upon separation of employment:
 - a. Non-exempt employees will be paid out for any unused floating holiday leave at the employee's hourly rate.

b. Exempt employees will not receive additional pay for any unused floating holiday leave.

5. For the implementation year of floating holiday leave, employees who qualified for holiday leave as of July 1, 2019 will be granted one (1) day of floating holiday leave on January 1, 2020 for the remainder of the FY2019-2020 fiscal year.

E. Half-day Holidays

The Board may grant half-day holidays to benefits-eligible 12-month employees. A “half-day” is defined as half of an employee’s day of holiday leave. Any non-exempt employee who receives approval not to work the other half of the day is responsible for taking compensatory time leave, annual leave, leave without pay, or arranging with his/her supervisor to work those hours within the workweek. An exempt employee who doesn’t work on the half-day may make arrangements with the supervisor to work the time missed on another day within the fiscal year or use annual leave for the half-day.

F. Religious Holidays

Any regular or temporary employee observing a religious holiday occurring on the employee’s workday may request time off. Supervisors should allow employees to take time off for such occasion if the time off can be accommodated without undue hardship to the department. Leave must be requested in advance in accordance with policy. Supervisors shall contact the Department of Human Resources prior to denying religious holiday leave requests. Applicable accrued leave shall be used. Leave without pay will be considered in the absence of accrued leave.

XIV. Income Replacement Program (IRP) – VRS Hybrid Plan members only

A. Purpose

Effective January 1, 2014, the Virginia Retirement System (VRS) created a new retirement plan called the Hybrid Plan. Part of the VRS Hybrid Plan includes the implementation of a Disability Program for Hybrid Retirement Program Participants. Albemarle County refers to this program as the Income Replacement Program (IRP). The IRP contains two components: Short-Term Disability (STD) and Long-Term Disability (LTD), which contain different eligibility requirements. IRP-STD occurs first. If an employee is not able to return to work after the IRP-STD period, he/she may move into the IRP-LTD portion of the benefit. These programs are outlined below.

This section is intended to fully implement the Disability Program for Hybrid Retirement Program Participants pursuant to Virginia Code § 51.1-1150, et seq.. Any variation between this policy and the Virginia Code will be determined in favor of the Virginia Code.

B. Definitions

Catastrophic Condition:

A catastrophic condition exists when an employee is unable to perform at least two (2) of the following six (6) activities of daily living:

1. Bathing
2. Transferring, such as getting in and out of bed
3. Dressing
4. Toileting (using the bathroom)
5. Continence
6. Eating (ability to feed oneself)

A condition may also be considered catastrophic if the employee has a severe cognitive impairment requiring substantial supervision to protect the employee from threats to health and safety.

Major Chronic Condition:

A major chronic condition is a life-threatening health condition that exists over a prolonged period of time and is not expected to improve. The employee must have been disabled with the condition within six (6) months of the date the claim is filed and be under the care of a licensed treating health care professional for the condition.

Disability:

A condition that prevents an employee from working or performing the full duties of the employee's job for a short or extended period. It may be non-work-related or work-related. A work-related disability is the result of an occupational illness or injury that occurs on the job and the cause is determined to be compensable under the Virginia Workers' Compensation Act.

Partial Disability:

An employee has a partial disability if the disability exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80% of his/her pre-disability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

C. IRP Third-Party Administrator

The IRP program is administered through a Third-Party Administrator. The Third-Party Administrator handles all employee claims after detailed consultation with the Department of Human Resources designee for IRP. Any variation between this policy and the Third-Party Administrator's interpretation of the Virginia Code will be determined in favor of the Third-Party Administrator.

D. Qualifying for Income Replacement Program – Short-Term Disability (IRP-STD)

1. An employee must be an active full-time VRS Hybrid Plan member to be eligible.
2. Waiting Period – Employees must be employed for one (1) continuous year of service as an active Hybrid Plan member with a single employer before receiving nonwork-related disability benefits. The Albemarle County Public Schools and Partner Agencies, which have different VRS employer codes from the County, are considered separate employers for the purposes of this benefit. If, for example, a County employee transfers to the Albemarle County Public Schools, the one (1)-year waiting period will begin again. This waiting period is waived for a work-related disability. For work-related disabilities, the effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the VRS Hybrid Plan, whichever is later.
3. Elimination Period – The elimination period is the period after any required waiting period and when an eligible employee is unable to work more than twenty (20) hours over seven (7) consecutive calendar days due to his/her total or partial disability. To begin an elimination period, an employee must have an approved claim of total or partial disability.

- a. The elimination period is waived for a catastrophic condition or as the result of a major chronic condition.
- b. The elimination period requirement may be met during non-contract/non-scheduled days (i.e. over holidays).
4. IRP-STD runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation. Receipt of other relevant benefits may offset IRP-STD benefits.
5. Once the waiting period and elimination period requirements have been met, Hybrid Plan members are eligible for the IRP-STD benefit. However, the IRP-STD benefit is only available when an employee would be actively working (i.e., during contract/scheduled work days).
6. IRP-STD benefits shall be payable for periods of:
 - a. total disability,
 - b. partial disability,
 - c. eligible maternity leave, or
 - d. periodic absences due to a major chronic condition

E. IRP-STD Benefit Amount

1. IRP-STD – Days of Income Replacement

The following charts show the number of days at the percentage of income replacement provided by the IRP-STD.

a. Days of Income Replacement: Non-Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
0 – 12	0	0	0	0
13 – 59	0	0	125	125
60 – 119	25	25	75	125
120 - 179	25	50	50	125
180 or more	25	75	25	125

b. Days of Income Replacement: Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
Less than 60	0	0	125	125
60 – 119	85	25	15	125
120 or more	85	40	0	125

2. Successive Periods of Short-Term Disability

- a. Within 45 consecutive calendar days. If an employee receiving IRP-STD returns to work with a release and then cannot continue to work for the same or a similar condition within 45 consecutive calendar days, the employee will be on the same IRP-STD claim. The employee does not have to fulfill another seven (7)-calendar day elimination period. The employee's income replacement will resume at the level he/she was receiving during the previous disability period. The number of days remaining on the 125-workday period for IRP-STD will also resume.
- b. On or After 45 consecutive calendar days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after the 45th consecutive calendar day, the subsequent period will be considered a new claim. The employee will need to satisfy a new elimination period. If approved, the employee will have up to 125 work days of IRP-STD.

3. Partial Disability

If an employee is able to work, earnings from the employee's job during a period of IRP-STD for an eligible partial disability will offset the IRP-STD benefits. The IRP-STD benefits will be applied to the non-worked time.

4. Catastrophic Condition

If an employee is eligible to receive/is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-STD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

5. IRP-STD and Workers' Compensation

If an employee is eligible for compensable Workers' Compensation and IRP-STD, the Workers' Compensation benefit will be paid first; if the employee is to receive any additional compensation under the IRP-STD days chart, the IRP-STD benefit will further supplement.

F. IRP-STD Supplementing Benefit Amount

1. Employees must use current balances of sick, annual, personal, and compensatory time leave to supplement IRP benefits up to 100% of the employee's pre-disability credible compensation.
2. The total leave hours (IRP plus supplement) shall not exceed the employee's normally scheduled work hours (full creditable compensation amount).
3. Participating employees enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the employee receives benefits pursuant to this program or has received benefits pursuant to this program for the same condition.

G. IRP-STD Effect on Benefits

1. Employees on IRP-STD will continue to receive the same benefits provided to active employees. Medical and dental insurance will continue to be available while on IRP-STD.
2. Life insurance through VRS paid for by the County will continue to be paid by the County.

3. Employees will continue to contribute their mandatory 5% VRS contributions while on IRP-STD. Retirement contributions will not be withheld from the employee's paycheck if an employee is only receiving Workers' Compensation and no supplemental pay. An employee may be eligible to purchase VRS service credit for the period if he/she is receiving only Workers' Compensation and retirement contributions are not being withheld from his/her Workers' Compensation payment.

H. Qualifying for Income Replacement Program – Long-Term Disability (IRP-LTD)

1. If an employee is unable to return to work after the IRP-STD period, a final interactive discussion on the likelihood of return and any additional reasonable accommodations that may help the employee reach full duty will occur. The employee will continue into the IRP-LTD period. If the employee is unlikely to return to full duty following the IRP-STD period and no additional reasonable accommodations are available to bring the employee back to full duty, the employee's position will no longer be held and the employee will no longer be considered an active employee and will be separated from service. The IRP-LTD benefit will continue in accordance with the terms outlined below and Virginia Code.
2. The IRP-LTD benefit runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation.
3. Employee eligibility for the IRP-LTD benefit is only available when an employee would be actively working (i.e., during contract/scheduled days).
4. IRP-LTD benefits shall be payable during periods of:
 - a. total disability, or
 - b. partial disability

I. IRP-LTD Benefit Amount

1. IRP-LTD Amount
 - a. After short-term disability income replacement, if the employee continues to be disabled he/she may be approved for IRP-LTD.
 - b. This is insurance coverage providing 60% of the employee's pre-disability creditable compensation.
 - c. Unless otherwise directed, to be eligible for IRP-LTD benefits, the employee must apply for Social Security Disability Insurance (SSDI) benefits or other relevant retirement benefits available to him/her.
 - d. If the employee reaches normal retirement age while on IRP-LTD, his/her benefit will stop. Normal retirement age is defined under the Hybrid Retirement Plan.
 - e. Employees continue to accrue VRS service credit while on long-term disability income replacement.
2. Successive Periods of Long-Term Disability
 - a. Within 125 consecutive work days. If an employee receives IRP-LTD, returns to work with a release, and then cannot continue to work for the same or a similar condition within 125 consecutive work days, the employee will be on the same IRP-LTD claim. Work days arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the employee's return to work period.

- b. On or After 125 consecutive work days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after 125 consecutive work days, the subsequent period will be considered a new claim for IRP-STD if still actively employed by the County. The employee will need to satisfy a new elimination period and if approved, will have up to 125 work days of IRP-STD before becoming eligible for IRP-LTD again.

3. Partial Disability

If an employee is able to work, earnings from an employee's job during a period of IRP-LTD for an eligible partial disability will offset the amount of his/her IRP-LTD benefit.

4. Catastrophic Condition

If an employee is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-LTD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

J. IRP-LTD Effect on Benefits

1. Life insurance through VRS paid for by the County will continue to be paid by the County.
2. Employees on IRP-LTD will receive medical and dental insurance coverage as provided to retirees.
3. Employees on IRP-LTD are not eligible to contribute to their VRS defined benefit component (4%) or their VRS defined contribution component (1%).
4. Employees on IRP-LTD will be considered inactive for benefit purposes and will not continue to accrue leave. Employees will be responsible for any applicable employee contributions to their benefits during this period.

K. Returning to Work After Illness

1. An employee must submit a medical release prior to or upon the employee's return to work. The release must be from and signed by the employee's health care provider certifying that he/she is able to return to work with or without restrictions.
2. Other return to work guidelines apply to leave taken concurrently under FMLA or Workers' Compensation. Supervisors should consult with the Department of Human Resources when an employee is on concurrent leave under FMLA or Workers' Compensation prior to requesting a medical release or other information.
3. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

L. End of IRP Benefit Coverage

1. Disability benefits shall cease to be paid to a participating employee upon the first of the following to occur:
 - a. The end of the period of disability coverage (e.g., return to work or no longer totally or partially disabled);
 - b. Voluntary separation or just cause termination from covered employment;

- c. The date of death of the participating employee;
 - d. The date that the participating employee attains normal retirement age;
 - e. The effective date of the participating full-time employee's service retirement under the Hybrid Retirement Program;
 - f. Employee is determined to be no longer medically eligible;
 - g. Employee takes a refund of his/her member contributions and interest in the defined benefit component of his/her plan; or
 - h. Employee does not cooperate or comply with the requirements of the IRP-LTD.
2. Maximum Length of the IRP Benefit at Age 60 or Older

If an employee is age 60 or older, he/she will be eligible for an IRP benefit according to the following schedule:

Age 60 – 64	Five (5) years from the date disability benefit begins
Age 65 – 68	Until age 70
Age 69 or older	One (1) year from the date disability benefit begins

XV. Jury Duty Leave

A. Purpose

The County recognizes the duty of citizens to serve on a jury when summoned. These procedures outline leave usage.

B. Eligibility

The County provides paid jury duty leave for benefits-eligible employees and unpaid jury duty leave for benefits-ineligible employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors as far in advance as possible prior to using jury duty leave. Supervisors may require verification that an employee has been called for jury duty.

C. Regulation

- 1. Employees may retain payment from the court for the daily rate of pay for each day of jury service in addition to jury duty leave provided by the County.
- 2. Employees are expected to report to work when jury is not in session, except:

If an employee has already been summoned for four (4) or more hours of jury duty, including travel time, on that day and starts his/her shift between 5 p.m. and 3 a.m., the employee is not required to report to work and will be granted jury duty leave.

XVI. Leave as a Reasonable Accommodation

Leave may be provided or used as a reasonable accommodation pursuant to the Americans with Disabilities Act, Title VII of the Civil Rights Act, or any other relevant statute. Leave granted as a reasonable accommodation will

be considered on a case-by-case basis, may run in concert with other reasonable accommodations, and/or may run concurrently with other available leave.

XVII. Maternity Leave

From the date of a child's birth, the County provides unpaid maternity leave to regular employee for up to six (6) weeks for natural birth and up to eight (8) weeks for Caesarian-section, regardless if an employee qualifies for FMLA leave. If an employee qualifies for FMLA leave, IRP, or any other benefit program, these leaves will run concurrently. If an employee has paid leave available, it will run concurrently with maternity leave. All paid leave shall be exhausted before taking leave without pay, excluding any rights permitted under the FMLA. Medical documentation regarding the length of recovery time shall be provided to the Department of Human Resources by the employee within 15 calendar days after the start of maternity leave.

XVIII. Military Leave

A. Purpose

Military leave is available to employees and candidates who have accepted offers of employment from the County and perform service in the uniformed services while employed by the County. This section is intended to fully implement the United States Employment and Reemployment Rights Act (USERRA, 38 U.S. Code § 43, et. seq.) and Virginia Code § 44-93, et. seq.. Any variation between this policy and law will be determined in favor of the law.

B. Definitions

<u>Federal Fiscal Year:</u>	The "Federal Fiscal Year" is October 1 through September 30 of every calendar year.
<u>Service in the Uniformed Services:</u>	"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as authorized by 10 U.S. Code § 12503 or 32 U.S. Code § 115.
<u>Uniformed Services:</u>	"Uniformed services" means any of the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency. "Uniformed services" shall also refer to former members of the armed services or members of the organized reserve forces of any of the armed services of the United States or National Guard.
<u>Workday of Military Leave:</u>	"Workday of military leave" means the period of time normally worked on approximately equal workdays on five or more days of each calendar week. If an employee does not normally work approximately equal workdays five or more days each calendar week, then "workday of military leave" means 1/260 of the total

working hours such employee would be scheduled to work during an entire federal fiscal year, not including holidays, annual leave, or other absences.

C. Advance Notice

An employee who is leaving to perform military service shall provide advance written notice of the need for military leave to his/her immediate supervisor (including the best approximation of the expected dates of the leave), unless it would be unreasonable to provide notice at that time or the employee is precluded by military necessity from providing notice. When available, employees must provide a copy of their military orders to their supervisors. Supervisors shall forward any notice of military service or military orders to the Department of Human Resources.

D. Paid Military Leave

Upon presentation of a copy of final orders or other equivalent notice, any employee who is a member of the uniformed services shall be entitled to up to 15 workdays of paid military leave for service in the uniformed services per federal fiscal year. If service in the uniformed services spans more than one (1) federal fiscal year, employees are not entitled to an additional 15 workdays of paid military leave in the second year for the same tour. Employees on paid military leave shall be paid their full gross salaries for regularly scheduled work hours during this period. Employees are requested to attempt to make arrangements for service in the uniformed services at times other than during scheduled work hours when possible.

E. Unpaid Military Leave and Supplemental Pay

1. An employee shall be placed on unpaid military leave for up to five (5) years while serving in the uniformed services after paid military leave is exhausted.
2. If a regular employee's uniformed services gross base salary is less than the employee's County gross base salary, the employee may request supplemental pay. Supplemental pay provides the amount necessary to bring the employee's monthly gross base salary to the gross base salary earned as a County employee at the time of recall to service in the uniformed services.
3. An employee must provide the Leave Earning Statement (or equivalent) in order to receive supplemental pay. An employee is entitled to receive a maximum total of two (2) years of supplemental pay. Employees who are receiving supplemental pay are on unpaid military leave for purposes of benefits under this policy.

F. Reinstatement

1. An employee who is entitled to military leave by reason of service in the uniformed services shall be restored to the same position, if it has not been abolished; to a position with like seniority, status, and pay; or to a comparable position if no like position exists, unless to do so would be unreasonable. Restoration is contingent on whether the employee:
 - a. Has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
 - b. Has not been absent from his/her job for more than five (5) years;
 - c. Provides documentation to the County from his/her respective military commands that indicates a release from this period of active duty and that the service was performed under honorable conditions; and

- d. Returns to work in the timeframes outlined below.
2. If the employee was absent from work for service in the federal military for:
 - a. Thirty (30) calendar days or less, he/she must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest, and report to work;
 - b. Thirty-one (31) calendar days to 180 calendar days, the employee must submit a notice of intent to return to work in writing within 14 calendar days after the completion of service; or
 - c. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days after the completion of service.
3. If the employee was absent from work for service in the Virginia military:
 - a. One hundred eighty (180) calendar days or less, the employee must submit a notice of intent to return to work in writing within 14 days of release from duty or from hospitalization, or
 - b. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days of his release from duty.
4. Upon returning from duty, a returning service member will be reinstated in the job that he/she would have attained had he/she not been absent for military service, (the “escalator principle”), with the same seniority, status and pay, as well as other rights and benefits determined by seniority, if the position exists, or to a comparable vacant position for which he/she is qualified, unless to do so would be unreasonable. The County is not obligated to reinstate persons returning from military leave in certain situations specified by state and federal law.

G. Benefits

During paid military leave, the employee will continue to accrue seniority and any other benefits available to him/her as if regularly employed by the County.

During unpaid military leave, the employee will continue to accrue seniority. Employees on unpaid military leave for more than one calendar month will be placed on a leave of absence (LOA) and will be eligible for benefits pursuant to the LOA policy.

H. Discrimination Against Members of the Uniformed Services Prohibited

Members of the uniformed services will not be denied initial employment, reinstatement, retention in employment, promotion, or any benefit of employment on the basis of that membership.

XIX. Personal Leave

A. Purpose

It is vital that staff are present at work to provide the quality services expected for the public. Personal leave is provided to allow 10- and 11-month employees time off from work to attend to personal matters that are not due to illness or injury. Personal leave accrues separately from sick leave, and sick leave is not to be used for personal reasons.

B. Accrual for 10- and 11-Month Employees

Regular, benefits-eligible 10- and 11-month employees accrue up to two (2) personal days of leave per year. Employees on Leave of Absences will not accrue personal leave. Personal days will be distributed on the following schedule:

New Hires

1. Employees who are hired into benefits-eligible positions effective between August 1st and October 1st will receive two (2) personal days granted on October 1st based on the day of leave as of October 1st.
2. Employees who are hired into benefits-eligible positions effective between October 2nd and December 31st will receive two (2) personal days at the time of hire or eligibility based on the day of leave at the time of distribution.
3. Employees who are hired into benefits-eligible positions effective between January 1st and June 30th will receive one (1) personal day at the time of hire or eligibility based on the employee's day of leave at the time of distribution.

Returning Employees

Employees who are employed with the County as of June 30th of the current year and return in August at the start of the new year, will receive two (2) personal days granted on October 1st based on the employee's day of leave as of October 1st as a benefits-eligible employee.

C. Accumulation Maximum Cap

Personal leave balances are subject to a maximum cap. Employees may accrue up to five (5) personal leave days.

D. Changes in Status

1. Personal leave is not paid out upon termination or transfer to a benefits-ineligible position and has no cash value. Employees who had breaks in service and are rehired will be treated as new hires per above. Balances are cleared upon termination of regular employment.
2. Employees transferring without breaks in service to 12-month positions may request to convert accrued personal leave to annual leave up to a maximum of five (5) days of leave of the new 12-month position.
3. Those employees changing to benefits-ineligible status will have their personal leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the personal leave balances will be re-activated for use and accrual will resume.
4. Employees who have increases in FTE during the year will not receive additional personal leave at the time of the increase. If an employee had an accrued personal leave balance of five (5) days and has an increase in the day of leave, the leave balance will be capped at the rate of the day of leave on the October 1st distribution.
5. Employees who change from regular benefits-ineligible to regular benefits-eligible positions will be treated as new hires per above.
6. If an employee who has a balance at the maximum cap has a decrease in FTE during the year, the balance will be capped at the rate of the new day of leave on October 1st.

E. Use of Personal Leave

Employees may use up to two (2) personal leave days per year. Personal leave requires approval from the department head/designee prior to the leave being taken. An employee must submit his/her request for personal leave to the department head/designee at least five (5) days in advance of the day or days to be taken. If it is necessary for an employee to request personal leave without five (5) days' notice, the department head/designee may require an explanation from the employee regarding the reason for the leave and the short notice.

Guidelines for granting personal leave for eligible personnel are as follows:

1. The department head/designee may limit the number of employees who may be granted personal leave on a given day in order to assure the orderly and efficient operation of the department.
2. Personal leave may be denied to an employee who has not met expectations for attendance during the current and/or previous year.

F. Exceptions

Department heads/designees may grant exceptions to the dates above when there is a bona fide reason for doing so. While two (2) days of personal leave is the standard allowance, they may approve up to five (5) days of personal leave for exceptional circumstances when an employee's personal leave balance permits.

XX. Professional Learning Leave

For information on compensation and leave options for professional learning, please refer to § P-87 Professional Learning Leave and Time.

XXI. Sick Leave

A. Purpose

The County recognizes that its employees may need time away from work due to personal health-related matters, health-related matters in their immediate families, and/or health-related appointments. The County provides a program of paid leave to benefits-eligible employees to cover such circumstances. Employees should schedule appointments and other health-related matters outside of regular work hours whenever possible to minimize the impact on the efficient operation and delivery of services to the public.

Employees and supervisors are encouraged to be flexible when employees or their immediate family members are sick or injured. Depending on the situation, a telework, alternate schedule, or restricted duty accommodation may be considered instead of, or in combination with, sick leave use.

Sick leave is for legitimate health-related matters and may run concurrently with other leave programs available by County policy. Other types of accrued leave may be used in lieu of sick leave when sick leave has been exhausted, but sick leave may not be used in lieu of other types of leave unless specifically stated in a policy. An employee who is unable to return to work due to his/her own or an immediate family member's health-related matter may be separated from employment, subject to applicable law, if it causes an undue hardship on the department, regardless of the employee's sick leave balance.

Accrued sick leave is not paid out upon termination. It has no cash value and may not be exchanged for pay; except for those grandfathered employees who elected for a retirement sick leave payout as outlined in that agreement. Employees who have breaks in service and are rehired will begin with zero balances.

Those employees changing to benefits-ineligible status will have their sick leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the sick leave balances will be re-activated for use and accrual will resume.

B. Accrual Rates

Employees accrue sick leave at the rate of one (1) “day” per month worked (10 days per year for 10-month positions, 11 days for 11-month positions, and 12 days for 12-month positions) based on the employee’s day of leave at the time of distribution.

Grandfathered Employees: County employees employed before November 1, 1989 accrue sick leave at a rate of 1.25 days per month (12.5 days per year for 10-month positions, 13.75 days per year for 11-month positions, and 15 days per year for 12-month positions).

An employee may be granted a negotiated amount of sick leave with the prior approval of the Director of Human Resources/designee and the County Executive/designee.

C. Accumulation Maximum Cap

1. There is no maximum cap on sick leave for employees not enrolled in the Virginia Retirement System (VRS) Hybrid Plan.
2. Employees enrolled in the VRS Hybrid Plan shall have a maximum cap of 720 hours.
3. Any employee who becomes eligible for the VRS Hybrid Plan may retain any accrued sick leave, even if it exceeds the maximum cap. However, the employee will not accrue sick leave until the balance is below the maximum cap and then will only accrue to the maximum cap.

D. Sick Leave Use

1. Sick leave may be used by employees for personal health-related matters, health-related matters in an employee’s immediate family, an employee’s health-related appointment, or health-related appointments in an employee’s immediate family.
2. Sick leave may run concurrently as paid leave with other types of leave as appropriate/applicable (e.g., FMLA leave, bereavement leave, income replacement, and Workers’ Compensation).

E. Medical Verification/Returning to Work

1. The County reserves the right to seek medical verification (i.e. a doctor’s note) and medical clearance for sick leave used by the employee for him/herself or immediate family member at any time.
 - a. When an employee has been absent for his/her own medical issue, a supervisor may require that an employee submit to the supervisor a medical release from the treating health care provider certifying that he/she is well enough to return to work. Requests to provide a medical release should be made prior to the employee’s return, when possible, so that the employee may obtain the medical release in a timely manner. If requested, an employee must provide the requested medical release to the supervisor within three (3) business days of the request or upon return to work, whichever comes later.
 - b. The department head/designee may create reasonable guidelines as to when a medical release is expected for employees who are out on sick leave (excluding when concurrent with FMLA leave).

use). Such guidelines must be approved by the Director of Human Resources/designee prior to becoming effective.

- c. A medical release should specify the name of the employee, the date on which the employee was seen, if the absence from work was medically necessary, and the date on which the employee is/was able to return to work. It may further stipulate any period of partial or total disability or incapacity to perform a job. If a medical release identifies any disability or incapacity, the department head/designee must contact the Department of Human Resources.
 - d. Supervisors may neither solicit information about the employee's underlying medical condition nor contact the employee's health care provider. If additional information is needed, the supervisor should contact the Department of Human Resources.
 - e. Other return to work guidelines apply to FMLA, Workers' Compensation, Sick Leave Bank, and IRP-STD. Supervisors should consult with the Department of Human Resources when an employee is on these types of leave prior to requesting a medical release or other information.
2. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

XXII. Sick Leave Bank

A. Purpose

The County authorizes the creation and maintenance of the Sick Leave Bank to be used when a member of the Sick Leave Bank becomes incapacitated by extended illness or injury (defined as more than 20 work days) as long as one-third (1/3) of the eligible members agree to participate in accordance with the terms contained herein.

B. Administration of the Sick Leave Bank

The Director of Human Resources/designee is designated as the administrator of the Sick Leave Bank. Members of the Sick Leave Bank will be assessed one (1) additional day of sick leave at such time as the Sick Leave Bank is depleted to 1600 hours, unless they choose not to participate further in the Sick Leave Bank.

C. Employee Membership in the Sick Leave Bank

Membership in the Sick Leave Bank shall be voluntary and open to all benefits-eligible employees.

An eligible employee may enroll within the first 30 calendar days of employment by donating one (1) day of sick leave. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by applying, providing satisfactory evidence of good health, and donating one (1) day of sick leave. One (1) additional day may be requested for continued membership in the Sick Leave Bank whenever an assessment is required. The donated days of leave will be deducted from the donor's accrued sick leave balance. Members who have no sick leave to contribute at the time of assessment will be assessed one (1) day at the next available accrual.

D. Requesting Use of Sick Leave Bank

- 1. Requests for use of leave time from the Sick Leave Bank must be made in writing by the member or his/her representative prior to use of any Sick Leave Bank leave.. Requests cannot be applied retroactively except in the case of absences that were presumed to be covered by Workers' Compensation but were subsequently denied.

2. Requests must be supported by appropriate medical documentation. The Department of Human Resources may require additional medical documentation to support the request. Failure to meet applicable requirements set forth in this policy will result in the denial of the members Sick Leave Bank usage request.
3. Members should also be aware of leave under the Family and Medical Leave Act (FMLA) and how it relates to the use of sick leave and Sick Leave Bank leave. Members should also be aware of their rights and responsibilities under the Americans with Disability Act (ADA).

E. Rules for Use

1. General Information

- a. For initial use of the Sick Leave Bank, a member of the Sick Leave Bank must miss scheduled work equivalent to 20 days of leave within 30 workdays for the same illness, injury, impairment, or physical or mental condition, and the member must also have exhausted all of his/her own sick leave. Members are responsible for using other available paid or unpaid leave for time not covered by the Sick Leave Bank.
- b. Eligible members may take a maximum of 45 days of leave from the Sick Leave Bank in any year (defined as a 365-day period beginning with the first day of Sick Leave Bank usage). For example, if an eligible member begins Sick Leave Bank usage on March 1st, he/she may take up to 45 days of leave from the Sick Leave Bank in the following 365-day period.
- c. Days drawn from the Sick Leave Bank for any one (1) period of eligibility must be consecutive, except recurrence or relapse of the original illness will be covered fully on a continuing basis up to the annual maximum of 45 days. There may be more than one period of eligibility (or qualifying illness) during the 365-day period, but only a maximum of 45 days total of Sick Leave Bank leave may be used in the 365-day period. Once a member has used all 45 days of Sick Leave Bank leave, he/she must return to work and must meet the requirements of Section XXI, E(1) before becoming eligible to utilize Sick Leave Bank benefits again.
- d. Sick Leave Bank time will run concurrently with FMLA leave or as part of an ADA reasonable accommodation where applicable and appropriate.
- e. Members using Sick Leave Bank days will not have to replace those days except as a regular contributing member of the Sick Leave Bank.
- f. The Sick Leave Bank request form must be signed by the member's health care provider. The Department of Human Resources reserves the right to require additional medical documentation supporting the request or documentation from a different health care provider.
- g. Participating members enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the member receives benefits pursuant to the Income Replacement Program or has received benefits pursuant to the Income Replacement Program for a same condition.

2. Termination

- a. Upon termination of employment or membership in the Sick Leave Bank, a member may not withdraw the days he/she contributed to the Sick Leave Bank.

- b. The Sick Leave Bank may be dissolved if less than one-third (1/3) of eligible employees agree to participate.

XXIII. Total Leave Exhaustion Guidelines

When an employee has exhausted all applicable paid leave types and wants additional time off from work, he/she should request short or long-term unpaid leave. If unpaid leave is not approved, he/she is obligated to report for work fit for duty. If an employee is unable to work due to injury or disability, he/she should discuss options with the Department of Human Resources prior to leave exhaustion. Employees who do not have approved paid or unpaid leave and do not come to work fit for duty may be disciplined up to and including termination.

XXIV. Unpaid Leave – Leave of Absence (Long-Term)

A. Purpose

An employee may need to request an unpaid long-term leave of absence from his/her regular employment. The County authorizes the County Executive/designee to consider all requests for unpaid long-term leaves of absence and will establish a procedure by which these requests may be processed in a fair and consistent manner. The County Executive/designee will, however, make decisions on granting or denying leave of absence requests based on the best interests of the County. The following procedure is intended to be utilized for leave requests not covered by other County policies.

B. Eligibility

To qualify, an employee must have completed at least six (6) months of continuous employment in a benefits-eligible position prior to commencement of a leave of absence.

C. Period of Leave of Absence

An unpaid long-term leave of absence is for a period of time from 28 consecutive calendar days to up to 12 consecutive months.

D. Requesting Unpaid Leave

1. Leave of absence requests must be submitted in writing to the employee's supervisor as soon as possible in advance of taking the leave; however, this requirement may be waived by the department head/designee based on the circumstances and/or immediate need of the request. The request must state the reason for the leave and the starting and ending dates of the leave. Generally, requests for leave to pursue other employment will not be approved.
2. The employee, supervisor, department head/designee, and County Executive/designee will work together to determine if the request creates a hardship for the County or impedes the County's ability to provide the necessary level of service to the public and any other relevant factors.
3. The County Executive/designee will make a decision to approve or deny the request.

E. Effect on Benefits

1. Employees on unpaid long-term leaves of absence will not accrue annual, personal, or sick leave and will not receive holiday leave or employer contributions to life insurance, VRS, medical insurance, or dental insurance.

2. If an employee has opted for any optional voluntary benefits, the employee must make additional arrangements with the Department of Finance's Payroll Division and/or the vendor providing the benefit/product (as applicable) to cover these obligations since he/she will not be paid salary or wages.
3. An employee requesting an unpaid long-term leave of absence should meet with the Department of Human Resources to discuss the effect of the leave on his/her benefit options.

F. Completion of Unpaid Leave of Absence

1. After completion of the unpaid leave of absence, an employee will be assigned to a similar position in the department from which he/she took leave. However, if the County needs to make reductions in staff, employees on a leave of absence are subject to the procedures outlined in § P-30, Employee Reduction in Force Procedures.

XXV. Unpaid Leave – Leave Without Pay (Short-Term)

A. Purpose

An employee's presence at work is essential. The County's Leave Program has been created to recognize that life circumstances do not always permit an employee to work. There may be unforeseeable circumstances when employees are unable to work and do not have paid leave available to them. The County authorizes the use of short-term leave without pay and to establish a procedure by which these requests may be processed in a fair and consistent manner. To use leave without pay, all other applicable leave options must be exhausted.

B. Period of Short-Term Leave Without Pay (LWOP)

LWOP may be requested and approved through the Time and Attendance System or other applicable process as follows. Requests should be reviewed to determine if they will create a hardship for the County, impede the County's ability to provide the necessary level of service to the public, and any other relevant factors.

1. A regular employee's supervisor may approve up to 10 days per rolling year. Supervisors must also notify the department head/designee of employee LWOP use. Departments may create notification procedures for when and how supervisors keep department heads/designee informed of such use. Department heads/designees are responsible for ensuring reasonable audit procedures for LWOP usage to occur.
2. Eleven (11+) or more days of LWOP per rolling year requires department head/designee approval in writing, as well as department heads/designees notification to the County Executive/designee. The County Executive/designee may create notification procedures. LWOP may not be approved for more than 27 consecutive calendar days.
3. The Department of Human Resources may approve LWOP regardless of the length when it runs concurrently with FMLA leave, Workers' Compensation, IRP, Maternity Leave, Military Leave, or during the Sick Leave Bank initial waiting period, when applicable.

C. Effect on Benefits

1. As long as the employee has income by working or using paid leave in a calendar month, employees on LWOP will continue to accrue and may continue to use holiday leave, annual leave, and sick leave, and may continue to participate in life insurance, medical insurance, dental insurance, and VRS contributions.
2. If an employee on LWOP does not work during a calendar month and does not use any paid leave during the month, the employee will not accrue holiday leave, annual leave, or sick leave and the County will not contribute to the employee's life insurance, medical insurance, dental insurance, or VRS.

3. Employees will be responsible for any applicable employee contributions to their benefits during this period of leave.
4. Employees should meet with the Department of Human Resources to discuss the effect of LWOP on benefits if taking leave for a block of longer than two (2) weeks.

XXVI. Workers' Compensation

For details on Albemarle County's Workers' Compensation Policy, see § P-90. Any additional types of applicable leave will run concurrently with Workers' Compensation when an employee is out for a Workers' Compensation-related injury/illness.

RESOLUTION TO REQUEST PERMISSION TO ADMINISTER SPLIT PRECINCTS

WHEREAS, Virginia Code § 24.2-307 mandates that "[e]ach precinct shall be wholly contained within a single congressional district, Senate district, House of Delegates district, and election district used for the election of one or more members of the governing body or school board for the county or city"; and

WHEREAS, Albemarle County (the "County") has four split precincts: Woodbrook, Jack Jouett, Stony Point, and Pantops (together, the "Split Precincts"); and

WHEREAS, only one split precinct, Pantops, will have a split ballot for the November 2021 election; and

WHEREAS, the Virginia Code requires that the Board of Supervisors (the "Board") establish precinct boundaries to be consistent with any congressional district, Senate district, House of Delegates district, and local election district by June 15, 2021; and

WHEREAS, due to the COVID-19 pandemic, the 2020 Census (the "Census") data has not been received by the County; and

WHEREAS, without updated Census data, the County was unable to establish precinct boundaries that eliminate the Split Precincts by June 15, 2021; and

WHEREAS, Virginia Code § 24.2-307 requires the Board apply for a waiver from the State Board of Elections to continue to administer the Split Precincts for any election held in 2021.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors authorizes the Director of Elections and General Registrar to submit a request for a waiver from the State Board of Elections pursuant to Virginia Code § 24.2-307 to administer Woodbrook, Jack Jouett, Stony Point, and Pantops as split precincts for elections held in 2021.

**RESOLUTION TO APPROVE AN UNDERGROUND RIGHT-OF-WAY LICENSE AGREEMENT WITH
CENTURYLINK COMMUNICATIONS LLC FOR UNDERGROUND FIBER OPTIC FACILITIES AT
DARDEN TOWE PARK**

WHEREAS, the County and the City of Charlottesville entered into 5-year license agreements with Qwest Communications Corporation (“Qwest”) or CenturyLink Communications LLC (Qwest’s legal successor) in 2006, 2011, and 2016 for the installation and maintenance of underground fiber optic facilities across a portion of Darden Towe Park, which is jointly owned by the County and the City; and

WHEREAS, the Board finds it is in the best interest of the County to enter into a new 5-year license agreement with CenturyLink Communications LLC for the continued operation of the underground fiber optic facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the Underground Right-of-Way License Agreement with CenturyLink Communications LLC for underground fiber optic facilities at Darden Towe Park and authorizes the County Executive to execute the Agreement after approval as to form and content by the County Attorney.

UNDERGROUND RIGHT-OF-WAY LICENSE

Permission is hereby granted by the **CITY OF CHARLOTTESVILLE** and the **COUNTY OF ALBEMARLE**, political subdivisions of the Commonwealth of Virginia and the joint owners of the property that is subject to this License (hereinafter referred to as "Licensors") to **CENTURYLINK COMMUNICATIONS, LLC**, a limited liability company authorized to transact business in Virginia (hereinafter referred to as "Licensee") to make excavation into the real property owned by Licensors and as described herein, under the terms and conditions set forth in this License.

1. Term:

This License shall be valid for a period of five (5) years beginning January 1, 2021 and ending December 31, 2025, unless this License is terminated as provided herein.

2. Rights Not Exclusive:

Nothing contained in this License shall ever be held or construed to confer upon Licensee, its successors and / or assigns, exclusive rights or privileges of any nature whatsoever.

3. Conditions of Use:

a. Prior to beginning any work on the property subject to this License, Licensee shall submit detailed engineering drawings to the County of Albemarle for approval, and obtain from the County any permits or approvals that may be required by the County or any other governing authority for the installation of a total of 4,500 linear feet of fiber optic cable at the location more specifically described in section 4 herein. Licensee is further required, before beginning any excavation on the property described herein, to contact all applicable utility companies for location of buried cable, water or sewer services or mains, electric lines, gas lines, and the like. All construction allowed under this License shall be accomplished under the supervision and direction of the County Engineer, or such other person as the County of Albemarle may designate. Licensee shall not unnecessarily obstruct or impair traffic upon any street, road or other public way within Albemarle County and shall comply with all of the County's rules and regulations designed to prevent damage to trees and shrubbery that may be caused by its installation hereunder.

b. Upon making an opening in any portion of the property subject to this License for the purpose of laying, constructing, repairing and/or maintaining Licensee's System, Licensee shall, without unnecessary delay, replace and restore the same to its former condition as nearly as possible, and in full compliance with the provisions of the County of Albemarle's policies, rules, regulations and / or ordinances. Licensee shall re-sod disturbed grassed areas and replace all excavated areas to their original or better condition in order to minimize the disruption of public property. Licensee shall, at its sole cost, repair paving cuts in a good workmanlike manner to specifications outlined by the County.

c. Licensee shall provide safe passageway for pedestrians and vehicles through, in and around the work site areas. Work shall be performed at night, if requested by the County, so as not to impede the regular use of Darden Towe Park. Licensee shall use directional boring in all areas where possible unless otherwise required or approved by the County of Albemarle. Licensee shall meet all local and State requirements for traffic control and notify the County at least 24 hours prior to the commencement of work or the accessing of conduit installed pursuant to this License, except in cases of emergency.

d. Licensee shall not cut or install any ditches or trenches within the root zone of any tree but rather shall bore under the same unless written permission to do otherwise is provided in advance by the County Engineer or his designee.

e. The work authorized by this License shall be the installation, repair, replacement and maintenance of two (2) two-inch (2") conduits containing fiber optic cable, as well as related other facilities and equipment (collectively, the "Facilities"). All such Facilities within Darden Towe Park shall be placed underground.

f. Licensee shall file with the County Engineer true and correct maps or plats of all existing and proposed installations and the types of equipment and facilities installed or constructed, properly identified and described as to the type of equipment and facility by appropriate symbols and marks and which shall include annotations of all public property, public ways, street, road and conduits where the work is to be undertaken. Maps shall be drawn in a scale and in such detail so as to allow proper review and interpretation by the County Engineer, and the same will be filed with the County not less than ten (10) working days before any excavation or installation of said cable or equipment or facilities commences.

g. If, at any time during the term of this Permit, Licensors shall determine, in their sole discretion, that the Facilities of Licensee installed pursuant to this License are in conflict with an intended use of Darden Towe Park by the City or County (and not, for example, to accommodate another private party or utility) and must be relocated, Licensee, upon reasonable notice from Licensors, shall remove, relay and relocate its Facilities at its own expense and within reasonable time schedules established by Licensors, to another location mutually agreeable to Licensors and Licensee. Should Licensee refuse or fail to remove its equipment or plant as provided for herein within 45 days after written notification, Licensors shall have the right to do such work or cause it to be done and the full cost thereof shall be chargeable to the Licensee, or in the alternative, to consider such failure by the Licensee to remove its equipment or plant as abandonment of all ownership rights in said property. Upon relocation, Licensee shall prepare at its own expense and provide to Licensors a revised survey plat that shows the new location of Licensee's wires, cables and equipment.

h. Licensee shall keep Licensors fully informed as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, operation and repair of Licensee's System installed hereunder. Licensee shall report to Licensors such other

information relating to the Licensee as Licensors may reasonably request in writing. Licensee shall respond to such inquiries on a timely basis.

i. Licensee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of all applicable County codes, ordinances and regulations, and in such a manner that they will not interfere with any existing installations of the County or of a public utility serving the residents of the County of Albemarle or the City of Charlottesville.

4. Permit Specifications; Payment:

a. The right-of-way occupancy permitted under this License shall be approximately 4,500 linear feet of Licensee's System, to be installed in Darden Towe Park in the location shown on the attached survey plat prepared by Thomas B. Lincoln Land Surveyor, Inc., and dated January 6, 2006, revised February 10, 2006, a copy of which is attached to this License as Exhibit A.

b. The granting of this License is conditioned upon the payment by Licensee to Licensors of the annual sum of One Thousand, Six Hundred Eighty and 00/100 Dollars (\$1,680.00), which represents the fee for the placement and occupation of the facilities for approximately 4,500 linear feet of property in Albemarle County that is subject to this License. Annual payments shall be due and payable on or before January 10th of each year commencing for the year 2021 and shall be due and payable at a like date each year during the term of the Permit. In the event that Licensee's payments are not timely made, a ten percent (10%) surcharge shall be due and payable to Licensors. All payments by Licensee pursuant to this License shall be made to the County of Albemarle, as agent of the Licensors.

5. Safety Requirements:

a. Licensee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injury to the public or to constitute a nuisance. Licensee shall install such equipment and employ such personnel to maintain its facilities so as to assure efficient service, and shall have the equipment and personnel necessary to make repairs promptly.

b. Licensee shall install and maintain its System in accordance with the requirements of applicable building codes and regulations of the County of Albemarle and the statutes and regulations of appropriate Federal and State agencies, including but not limited to the Federal Communications Commission and the U.S. Army Corps of Engineers, which may now be in effect or enacted, and in such a manner that will not interfere with any installations of the County of Albemarle or the City of Charlottesville or of any public utility serving residents of the County of Albemarle or the City of Charlottesville.

c. Licensee's System, wherever situated, or located, shall at all times be kept and maintained in a safe operating condition and in good order and repair.

6. Liability and Indemnification:

a. By acceptance of this License, Licensee agrees that it shall indemnify, protect, defend and hold forever harmless the Licensors, their elected officials, officers, agents, representatives and employees, and their successors, legal representatives and assigns, from any and all claims of every kind and nature whatsoever, and from liabilities, losses, costs, judgments, penalties, damages, and expenses, including reasonable attorney's fees and expenses of litigation incurred in the defense of any such claim arising out of or relating to the installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this License, including but not limited to claims for injury or death to any person or persons, or damages to any property, as may be incurred by or asserted against Licensors, or either of them, their elected officials, officers, agents, representatives and/or employees, directly or indirectly, by reason of the installation, operation or maintenance by the Licensee of the Licensee's System within the area subject to this License. Licensee shall pay, and by acceptance of this Permit, the Licensee specifically agrees that it will pay all damages and penalties which Licensors, or either of them, may legally be required to pay as a result of installation, operation or maintenance by the Licensee of the Licensee's System or the Licensee's failure to perform any of the obligations of this Permit. These damages or penalties shall include all damages arising from the installation, operation or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Permit, and Licensors shall not be responsible in any manner for any damage to the System and which may be caused by Licensee or other persons regardless of the cause of damage. Notwithstanding the foregoing, Licensee shall not be required to indemnify, protect, defend or hold harmless Licensor(s) for claims arising out of or relating, in whole or in part, to the negligence or willful conduct of either or both Licensor(s).

b. Licensee shall maintain, and by its acceptance of this License, specifically agrees that it will provide throughout the term of the Permit, workers compensation insurance in such amounts of coverage as required by the Commonwealth of Virginia and liability insurance coverage with regard to all damages mentioned in subsection (a) above in the following minimum amounts, whichever is greater:

1. General Liability Insurance- \$1,000,000 per occurrence, \$2,000,000 aggregate limits. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. The County of Albemarle and City of Charlottesville are to be included as additional insureds with respect to General Liability coverage.

2. Comprehensive Automobile Liability Insurance including owned, non-owned and hired vehicles. Minimum coverage of \$1,000,000 combined single limit for

each accident. The County of Albemarle and City of Charlottesville are to be included as additional insureds with respect to Auto Liability coverage.

c. Licensee agrees that all insurance contracts providing any of the above-required coverage will be issued by one or more insurance carriers duly authorized to do business in the Commonwealth of Virginia and will contain the following required provisions:

1. Both of the Licensors, their elected officials, officers, agents, employees and representatives shall be included as additional insureds (as the interests of each may appear) as to all applicable coverage:

2. The amount and conditions of said liability and comprehensive insurance may be increased upon sixty (60) days written notice by Licensors should the protection afforded by this insurance be deemed by Licensors to be insufficient for the risk created by this License. At no time, however, will any such increase in the amount of required liability and comprehensive insurance exceed that which is customarily required of other franchises or contractors of services for similar situations of risk.

3. Prior to the commencement of any work pursuant to this License and at least annually thereafter Licensee shall make available to Licensor evidence of such insurance coverage certifying that such coverage is in full force and effect. Evidence of Licensee's insurance is available at www.centurylink.com/moi.

7. Licensors' Rights in License:

a. Licensee shall construct, maintain and operate said System in the locations described in Exhibit A and will at all times comply with all reasonable requirements, regulations, laws and ordinances now in force, and which may hereafter be adopted by the County of Albemarle and be applicable to the construction, repair or maintenance of said system or use of the property subject to this License. Failure of the Licensee to comply with any of the terms of this License or failure to pay the License fees prescribed by this Agreement shall be cause for Licensors to revoke this License. Without limiting the generality of the foregoing, Licensors also reserve the right to terminate and cancel this License and all rights and privileges of the Licensee hereunder in the event that the Licensee: (1) violates any rule, order or determination of Albemarle County made pursuant to this License, except where such violation is without fault or through excusable neglect; (2) becomes insolvent, unable or unwilling to pay its legal debts, or is adjudged a bankrupt; (3) attempts to evade any of the provisions of this License; (4) practices any fraud or deceit upon the Licensors, or either of them or; (5) fails to begin construction of its System within one hundred eighty (180) days from the date this License is granted and to continue such construction without unreasonable delay or interruption until completed.

b. Licensors' right to revoke this License pursuant to section 7.a. may be exercised only after written notice of default and a thirty (30) day period for Licensee to cure such default except for any act of default involving the payment of money or failing to provide any insurance coverage required hereunder in which event said thirty (30) day period shall

be reduced to three (3) business days. The right is hereby reserved to the County of Albemarle to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations of general applications to all similarly situated Licensees as it shall find necessary in the exercise of its police power provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

8. Assignment:

The License granted pursuant to this Agreement shall not be assigned by the Licensee without the prior written consent of the Licensors, which consent may be granted or withheld in Licensors' sole discretion; provided, however, that Licensee may assign this License to a governmental entity without consent of the Licensors, and provided further that the sale or transfer of a controlling interest in Licensee shall not be considered an assignment within the meaning of this paragraph.

9. Notice:

For the purpose of giving notice as provided for in this Permit, the following addresses are provided:

For the Licensee:

CenturyLink Communications, LLC
1025 Eldorado Blvd
Broomfield, CO 80021
Attention: NIS ROW

For the Licensors:

Chip Boyles
City Manager
P. O. Box 911
Charlottesville, VA 22902

With a copy to:

Lisa A. Robertson
Acting City Attorney
P. O. Box 911
Charlottesville, VA 22902

And

Jeffrey B. Richardson
County Executive

401 McIntire Road
Charlottesville, VA 22902

With a copy to:
Greg Kamptner
County Attorney
401 McIntire Road
Charlottesville, VA 22902

Unless and until a different address is provided in writing by Licensee to Licensors, the placing of notices in the United States Mail addressed to the Licensee as set forth above by registered or certified mail, return receipt requested, shall constitute compliance with the provisions of this Section.

10. Miscellaneous:

If any section, subsection, sentence, clause, phrase or portion of this Permit is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent, and severable provision and such holding shall not affect the validity of the remaining portions hereof. This Permit shall be interpreted and construed in accordance with the laws of the Commonwealth of Virginia. All claims, disputes and other matters in question between the Licensee and Licensors, or either of them, arising out of or relating to this Permit, or the breach thereof, shall be decided in a state or federal court in the Commonwealth of Virginia that has subject matter jurisdiction over the claim or dispute. The Licensee, by accepting this Permit, specifically consents to venue in either state or federal court in Virginia and waives any right to contest venue in Virginia.

WHEREFORE, this Permit has been authorized by the City Council of the City of Charlottesville, Virginia in an open meeting on June 7, 2021 and by the Board of Supervisors of Albemarle County, Virginia in an open meeting on June 2, 2021, and each governing body has authorized the execution of this License by the City Manager and County Executive, respectively, as attested by the Clerk of each governing body, and the Licensee has accepted the terms and conditions of this License as evidenced by its corporate presents which have been executed by and through its authorized officers and the seal of the corporation affixed.

This 15th day of JUNE, 2021.

Licensee:

CenturyLink Communications, LLC

Danett Kennedy
Danett Kennedy (Apr 25, 2021 17:33 MDT)

By: Danett Kennedy
Title: Senior Manager

Licensors:

City of Charlottesville

Chip Boyles
By: Chip Boyles
Title: City Manager

Attest: *Kyna Thomas*
By: Kyna Thomas
Title: Clerk of Council

Approved as to form:

Lisa A. Robertson
By: Lisa A. Robertson
Title: City Attorney

County of Albemarle

Jeffrey B. Richardson
By: Jeffrey B. Richardson
Title: County Executive

Attest: *Claudette Borgersen*
By: Claudette Borgersen
Title: Clerk to the Board of Supervisors

Approved as to form:

Greg Kamptner
By: Greg Kamptner
Title: County Attorney

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR SE2021-00013 PATTERSON MILL HOMESTAY**

WHEREAS, upon consideration of the Memorandum prepared in conjunction with the SE2021-00013 Patterson Mill Homestay application and the attachments thereto, including staff's supporting analysis, any comments received, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-5.1.48 and 18-33.49, the Albemarle County Board of Supervisors hereby finds that the requested special exceptions would cause (i) no detriment to any abutting lot and (ii) no harm to the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED that in association with the homestay at 198 Patterson Mill Way, the Albemarle County Board of Supervisors hereby approves the special exception to modify the minimum 125 foot front, southwestern, and western yards otherwise required for a homestay in the Rural Areas zoning district, subject to the conditions attached hereto.

* * * * *

SE 2021-00013 Patterson Mill Homestay Special Exception Conditions

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the House and Parking Location Exhibit dated May 11, 2021.
2. Homestay ~~rental~~ use is limited to the existing house, as currently configured and depicted on the House and Parking Location Exhibit dated May 11, 2021.
3. The existing screening, as depicted on the House and Parking Location Exhibit dated May 11, 2021, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

**ANNUAL RESOLUTION OF APPROPRIATIONS
OF THE COUNTY OF ALBEMARLE
FOR THE FISCAL YEAR ENDING JUNE 30, 2022**

A RESOLUTION making appropriations of sums of money for all necessary expenditures of the COUNTY OF ALBEMARLE, VIRGINIA, for the fiscal year ending June 30, 2022; to prescribe the provisions with respect to the items of appropriation and their payment; and to repeal all previous appropriation ordinances or resolutions that are inconsistent with this resolution to the extent of such inconsistency.

BE IT RESOLVED by the Albemarle County Board of Supervisors:

SECTION I - GENERAL GOVERNMENT

That the following sums of money be and the same hereby are appropriated from the GENERAL FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2022:

Paragraph One: ADMINISTRATION

Board of Supervisors	\$710,197
Executive Leadership	\$2,983,199
Human Resources	\$884,460
County Attorney	\$1,150,073
Finance & Budget	\$6,787,114
Information Technology	\$4,540,639
Voter Registration and Elections	<u>\$1,132,700</u>
	\$18,188,382

Paragraph Two: JUDICIAL

Clerk of the Circuit Court	\$930,453
Commonwealth's Attorney	\$1,569,290
Sheriff	\$3,018,121
Circuit Court	\$183,005
General District Court	\$40,800
Magistrate	\$4,575
Juvenile Court	\$127,769
Public Defender's Office	<u>\$84,371</u>
	\$5,958,384

Paragraph Three: PUBLIC SAFETY

Police Department	\$20,082,975
Fire Rescue Department (including City Fire Contract, System-wide Fleet Mgmt., and Forest Fire Extinction)	\$17,643,060
Charlottesville Albemarle Rescue Squad	\$58,150
Crozet Volunteer Fire Department	\$169,040
Earlysville Volunteer Fire Company	\$167,294
East Rivanna Volunteer Fire Company	\$222,062
North Garden Volunteer Fire Company	\$136,664
Scottsville Volunteer Fire Department	\$164,906
Seminole Trail Volunteer Fire Department	\$287,286
Stony Point Volunteer Fire Company	\$144,441
Western Albemarle Rescue Squad (WARS) (including Contingency: WARS MOU)	\$407,565
Volunteer Fire Rescue Tax Credit	\$75,000
Emergency Communications Center	\$3,058,829
Albemarle Charlottesville Regional Jail	\$4,216,703
Blue Ridge Juvenile Detention Center	\$535,234
Charlottesville Albemarle SPCA	\$652,550

Paragraph Four: PUBLIC WORKS

Facilities and Environmental Services	\$5,073,213
Rivanna Solid Waste Authority (RSWA)	<u>\$1,705,559</u>
	\$6,778,772

Paragraph Five: HEALTH AND WELFARE

Department of Social Services	\$18,719,899
Albemarle Housing Improvement Program (AHIP)	\$412,000
Boys & Girls Club	\$56,650
Charlottesville Free Clinic	\$116,699
Charlottesville/Albemarle Health Department	\$821,999
Child Health Partnership	\$319,861
Computers4Kids	\$14,193
Foothills Child Advocacy Center	\$44,791
Georgia's Friends	\$24,560
Jefferson Area Board for Aging (JABA)	\$377,985
Legal Aid Justice Center	\$39,435
Light House Studio	\$16,642
Literacy Volunteers	\$26,827
Local Food Hub	\$10,000
Meals on Wheels	\$10,000
Monticello Area Community Action Agency (MACAA)	\$44,500
Offender Aid and Restoration (OAR)	\$218,805
On Our Own	\$13,179
PACEM	\$946
Piedmont Court Appointed Special Advocates	\$9,500
Piedmont Family YMCA	\$10,000
Piedmont Housing Alliance (PHA)	\$60,757
ReadyKids	\$72,450
Region Ten	\$813,260
Sexual Assault Resource Agency (SARA)	\$21,855
Shelter for Help in Emergency (SHE)	\$93,443
The Bridge Line	\$15,914
The Haven	\$15,813
Thomas Jefferson Area Coalition for the Homeless (TJACH)	\$5,500
United Way	\$173,978
Women's Initiative	<u>\$14,853</u>
	\$22,596,294

Paragraph Six: EDUCATION

Piedmont Virginia Community College	\$24,529
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Paragraph Seven: PARKS, RECREATION AND CULTURE

Parks & Recreation	\$3,144,920
Charlottesville/Albemarle Convention and Visitor's Bureau	\$606,281
Charlottesville Symphony Society	\$2,500
The Front Porch	\$2,500
Jefferson-Madison Regional Library	\$4,717,255
Jefferson School African American Heritage Center	\$10,000
Live Arts	\$2,500
Municipal Band	\$8,000
Paramount Theater	\$2,500
Sin Barreras - Sabroso Festival	\$2,500
Virginia Discovery Museum	\$2,500
Virginia Festival of the Book	\$10,000

Virginia Film Festival	<u>\$10,000</u>
	\$8,521,456

Paragraph Eight: COMMUNITY DEVELOPMENT

Department of Community Development	\$6,769,589
Office of Economic Development	\$572,273
Central Virginia Partnership for Economic Development	\$54,861
Central Virginia Small Business Development Center (CVSBDC)	\$36,000
Virginia Career Works - Piedmont Region	\$16,458
Central Shenandoah Planning District Commission	\$6,137
Charlottesville Area Transit	\$1,000,000
Jaunt	\$2,179,308
Regional Transit Partnership	\$68,750
Rivanna Conservation Alliance - Streamwatch	\$15,000
Thomas Jefferson Planning District Commission	\$133,353
Thomas Jefferson Soil and Water Conservation	\$123,200
Virginia Cooperative Extension Service	<u>\$221,675</u>
	\$11,196,604

Paragraph Nine: REVENUE SHARING AGREEMENT

Revenue Sharing Agreement	\$15,411,834
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Paragraph Ten: TAX REFUNDS, ABATEMENTS, & OTHER REFUNDS:

Refunds, Abatements, and Tax Relief	\$1,314,000
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Paragraph Eleven: OTHER USES OF FUNDS

Transfer to School Operations	\$141,108,965
Formula Transfer to Capital Projects and Debt Service Funds	\$30,142,066
One-Time Transfer to Capital Projects	\$405,542
Transfer to Water Resources Fund	\$1,456,448
Transfer to Economic Development Authority Fund	\$305,000
Board's Strategic Priorities Support	\$665,000
Reserve for Contingencies	\$615,708
Salary and Benefits Reserve	\$215,000
Minimum Wage Reserve	\$280,000
Training Pool	\$60,000
Cigarette Tax Reserve	\$516,000
Pandemic Reserve	\$350,000
Early Retirement	<u>\$691,100</u>
	\$176,810,829

Total GENERAL FUND appropriations for the fiscal year ending June 30, 2022: \$314,875,074

To be provided as follows:

Revenue from Local Sources	\$277,220,952
Revenue from the Commonwealth	\$24,802,726
Revenue from the Federal Government	\$7,135,311
Transfers In from Other Funds	\$2,780,227
Use of Fund Balance	\$2,935,858

Total GENERAL FUND resources available for fiscal year ending June 30, 2022: \$314,875,074

SECTION II: GENERAL FUND SCHOOL RESERVE FUND

That the following sums of money be and the same hereby are appropriated for GENERAL FUND SCHOOL RESERVE FUND purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: GENERAL FUND SCHOOL RESERVE FUND

Transfer to the School Fund	\$5,221,040
Total GENERAL FUND SCHOOL RESERVE FUND appropriations for fiscal year ending June 30, 2022:	\$5,221,040

To be provided as follows:

Use of Fund Balance	\$5,221,040
Total GENERAL FUND SCHOOL RESERVE FUND resources available for fiscal year ending June 30, 2022:	\$5,221,040

SECTION III: REGULAR SCHOOL FUND

That the following sums of money be and the same hereby are appropriated for SCHOOL purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: REGULAR SCHOOL FUND

School Fund Expenditures	\$211,246,077
Total REGULAR SCHOOL FUND appropriations for fiscal year ending June 30, 2022:	\$211,246,077

To be provided as follows:

Revenue from Local Sources (General Fund Transfer)	\$141,108,965
Revenue from Other Local Sources	\$1,860,657
Revenue from the Commonwealth	\$59,345,179
Revenue from the Federal Government	\$3,682,761
Transfers	\$27,475
Transfer from General Fund School Reserve Fund	\$5,221,040
Total REGULAR SCHOOL FUND resources available for fiscal year ending June 30, 2022:	\$211,246,077

SECTION IV: OTHER SCHOOL FUNDS

That the following sums of money be and the same hereby are appropriated for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: OTHER SCHOOL FUNDS

Other School Funds	\$19,207,068
Total OTHER SCHOOL FUND appropriations for fiscal year ending June 30, 2022:	\$19,207,068

To be provided as follows:

Revenue from Local Sources	\$6,601,829
Revenue from the Commonwealth	\$1,495,855
Revenue from the Federal Government	\$6,101,506
Transfers	\$5,007,878
Use of Fund Balance	\$0

Total OTHER SCHOOL FUND resources available for fiscal year ending June 30, 2022: **\$19,207,068**

SECTION V: OTHER GENERAL GOVERNMENT FUNDS

That the following sums of money be and the same hereby are appropriated for OTHER PROGRAM purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: OTHER GENERAL GOVERNMENT FUNDS

Computer Maintenance and Replacement	\$675,355
Yancey Strengthening Systems Grant	\$100,000
Commonwealth's Attorney Delinquent Fines and Fees	\$60,000
Victim-Witness Grant	\$181,111
Regional Firearms Training Center - Operations	\$206,420
Regional Firearms Training Center - Capital	\$90,000
Criminal Justice Grant	\$731,081
FEMA SAFER Grant	\$592,140
Water Resources	\$1,456,448
Courthouse Maintenance	\$31,392
Old Crozet School Operations	\$119,006
Vehicle Replacement	\$1,270,955
Bright Stars Program	\$1,552,037
Children's Services Act	\$10,344,679
Martha Jefferson Health Grant	\$4,000
Housing Assistance Fund	\$4,053,426
CACVB Fund	\$1,553,129
Darden Towe Memorial Park	\$309,402
Tourism	\$1,054,914
Economic Development Authority	\$427,993
Economic Development Fund	\$1,617,883

Total OTHER GENERAL GOVERNMENT FUNDS appropriations for fiscal year ending June 30, 2022: **\$26,431,371**

To be provided as follows:

Revenue from Local Sources	\$2,682,554
Revenue from the Commonwealth	\$7,738,271
Revenue from the Federal Government	\$4,744,661
Transfers In from Other Funds	\$3,964,962
Use of Fund Balance	\$7,300,923

Total OTHER GENERAL GOVERNMENT FUNDS resources available for fiscal year ending June 30, 2022: **\$26,431,371**

SECTION VI - GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND

That the following sums of money be and the same hereby are appropriated from the GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND to be apportioned as follows for the purposes herein specified for the fiscal year ending June 30, 2022:

Paragraph One: COURTS & JUDICIAL

Court Facilities Addition/Renovation	\$25,171,089
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Paragraph Two: PUBLIC SAFETY

Fire Rescue Apparatus Replacement Program	\$2,411,004
Police County 800Mhz Radio Replacements	\$994,912
Police Mobile Data Computers Replacement	\$524,831
Police Patrol Video Cameras Replacement	\$89,610
Police Technology Upgrade	<u>\$203,000</u>
	\$4,223,357

Paragraph Three: PUBLIC WORKS

General Government Maintenance Programs	\$2,431,000
Ivy Landfill Remediation	\$567,000
Moore's Creek Septage Receiving Station	\$109,441
Ivy Fire Station 15 Maintenance Obligation	\$50,000
Regional Firearms Training Center Capital Reserve - County Share	<u>\$39,600</u>
	\$3,197,041

Paragraph Four: COMMUNITY DEVELOPMENT

Economic Development Funding for Public-Private Partnerships	\$1,000,000
Transportation Leveraging Program	<u>\$3,000,000</u>
	\$4,000,000

Paragraph Five: HEALTH AND WELFARE

The Center at Belvedere	\$500,000
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Paragraph Six: PARKS, RECREATION & CULTURE

Moore's Creek Trail and Trailhead Park Projects	\$86,108
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Paragraph Seven: TECHNOLOGY AND GEOGRAPHIC INFORMATION SYSTEMS (GIS)

County Server/Infrastructure Upgrade	\$490,932
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Paragraph Eight: OTHER USES OF FUNDS

Cost of Issuance	\$634,515
Administrative Services	\$451,777
Project Management Services	\$1,363,291
Borrowed Proceeds Transfer	<u>\$12,060,295</u>
	\$14,509,878

Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2022:	\$52,178,405
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To be provided as follows:

Revenue from Local Sources (General Fund Transfer)	\$2,899,961
Revenue from Local Sources (Other Transfers)	\$31,392
Revenue from Other Local Sources	\$6,575,124
Revenue from the Commonwealth	\$122,500
Borrowed Funds	\$32,360,283
Use of Fund Balance	<u>\$10,189,145</u>

Total GENERAL GOVERNMENT CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2022:	\$52,178,405
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SECTION VII: SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND

That the following sums of money be and the same hereby are appropriated from the SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: EDUCATION (SCHOOL DIVISION)

Mountain View Expansion and Site Improvements	\$6,247,576
School Bus Replacement	\$1,500,000
School Maintenance/Replacement	\$7,500,000
State Technology Grant	\$700,000
School Technology Replacement Program	\$988,000

Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND appropriations for fiscal year ending June 30, 2022: \$16,935,576

To be provided as follows:

Revenue from Local Sources (General Govt Capital Programs Transfer)	\$12,060,295
Revenue from Other Local Sources	\$1,269,517
Revenue from the Commonwealth	\$960,000
Use of Fund Balance	\$2,645,764

Total SCHOOL DIVISION CAPITAL IMPROVEMENTS FUND resources available for fiscal year ending June 30, 2022: \$16,935,576

SECTION VIII: DEBT SERVICE

That the following sums of money be and the same hereby are appropriated for the function of DEBT SERVICE to be apportioned as follows from the GENERAL GOVERNMENT DEBT SERVICE FUND and the SCHOOL DIVISION DEBT SERVICE FUND for the fiscal year ending June 30, 2022:

Paragraph One: SCHOOL DIVISION DEBT SERVICE FUND

Debt Service - School Division	<u>\$18,331,729</u>
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Total SCHOOL DIVISION DEBT SERVICE appropriations for fiscal year ending June 30, 2022: \$18,331,729

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$17,873,916
Revenue from the Commonwealth	\$378,423
Revenue from the Federal Government	<u>\$79,390</u>

Total SCHOOL DIVISION DEBT SERVICE resources available for fiscal year ending June 30, 2022: \$18,331,729

Paragraph Two: GENERAL GOVERNMENT DEBT SERVICE FUND

Debt Service - General Government	<u>\$9,971,049</u>
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Total GENERAL GOVERNMENT DEBT SERVICE appropriations for fiscal year ending June 30, 2022: \$9,971,049

To be provided as follows:

Revenue from Local Sources (Transfer from General Fund)	\$9,773,731
Revenue from Local Sources (Transfer from Stormwater Fund)	<u>\$197,318</u>

Total GENERAL GOVERNMENT DEBT SERVICE resources available for fiscal year ending June 30, 2022:	\$9,971,049
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GRAND TOTAL - DEBT SERVICE FUNDS	\$28,302,778
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**TOTAL APPROPRIATIONS INCLUDED IN
SECTIONS I - VIII OF THIS RESOLUTION
FOR THE FISCAL YEAR ENDING JUNE 30, 2022**

RECAPITULATION:

Appropriations:

Section I	General Fund	\$314,875,074
Section II	General Fund School Reserve Fund	\$5,221,040
Section III	School Fund	\$211,246,077
Section IV	Other School Funds	\$19,207,068
Section V	Other General Government Funds	\$26,431,371
Section VI	General Government Capital Improvements Fund	\$52,178,405
Section VII	School Division Capital Improvements Fund	\$16,935,576
Section VIII	Debt Service	\$28,302,778
		\$674,397,389

Less Inter-Fund Transfers	(\$206,908,801)
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GRAND TOTAL - ALBEMARLE COUNTY APPROPRIATIONS	\$467,488,588
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SECTION IX: EMERGENCY COMMUNICATIONS CENTER

That the following sums of money be and the same hereby are appropriated from the EMERGENCY COMMUNICATIONS CENTER FUND for the purposes herein specified to be apportioned as follows for the fiscal year ending June 30, 2022:

Paragraph One: EMERGENCY COMMUNICATIONS CENTER FUND

Emergency Communications Center	<u>\$7,358,179</u>
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Total EMERGENCY COMMUNICATIONS CENTER FUND appropriations for fiscal year ending June 30, 2022:	\$7,358,179
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To be provided as follows:

Albemarle County	\$3,060,027
City of Charlottesville	\$1,679,076
University of Virginia	\$1,589,088
Revenue from Other Local Sources	\$422,363
Revenue from the Commonwealth	\$579,180
Revenue from the Federal Government	\$28,445

Total EMERGENCY COMMUNICATIONS CENTER FUND resources available for fiscal year ending June 30, 2022:	\$7,358,179
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SECTION X

All of the monies appropriated as shown by the contained items in Sections I through IX are appropriated upon the provisos, terms, conditions, and provisions herein before set forth in connection with said terms and those set forth in this section. The Chief Financial Officer and Clerk to the Board of Supervisors are hereby designated as authorized signatories for all bank accounts.

Paragraph One

Subject to the qualifications in this resolution contained, all appropriations are declared to be maximum, conditional, and proportionate appropriations - the purpose being to make the appropriations payable in full in the amount named herein if necessary and then only in the event the aggregate revenues collected and available during the fiscal year for which the appropriations are made are sufficient to pay all of the appropriations in full.

Otherwise, the said appropriations shall be deemed to be payable in such proportion as the total sum of all

realized revenue of the respective funds is to the total amount of revenue estimated to be available in the said

fiscal year by the Board of Supervisors.

Paragraph Two

All revenue received by any agency under the control of the Board of Supervisors included or not included in its estimate of revenue for the financing of the fund budget as submitted to the Board of Supervisors may not be expended by the said agency under the control of the Board of Supervisors without the consent of the Board of Supervisors being first obtained, nor may any of these agencies or boards make expenditures which will exceed a specific item of an appropriation.

Paragraph Three

No obligations for goods, materials, supplies, equipment, or contractual services for any purpose may be incurred by any department, bureau, agency, or individual under the direct control of the Board of Supervisors except by requisition to the purchasing agent; provided, however, no requisition for items exempted by the Albemarle County Purchasing Manual shall be required; and provided further that no requisition for contractual services involving the issuance of a contract on a competitive bid basis shall be required, but such contract shall be approved by the head of the contracting department, bureau, agency, or individual, the County Attorney, and the Purchasing Agent or Chief Financial Officer. The Purchasing Agent shall be responsible for securing such competitive bids on the basis of specifications furnished by the contracting department, bureau, agency, or individual.

In the event of the failure for any reason of approval herein required for such contracts, said contract shall be awarded through appropriate action of the Board of Supervisors.

Any obligations incurred contrary to the purchasing procedures prescribed in the Albemarle County

Purchasing Manual shall not be considered obligations of the County, and the Chief Financial Officer shall not

issue any warrants in payment of such obligations.

Paragraph Four

Allowances out of any of the appropriations made in this resolution by any or all County departments, bureaus, or agencies under the control of the Board of Supervisors to any of their officers and employees for expense on account of the use of such officers and employees of their personal automobiles in the discharge of their official duties shall be paid at the rate established by the County Executive for its employees and shall be subject to change from time to time.

Paragraph Five

All travel expense accounts shall be submitted on forms and according to regulations prescribed or approved by the Chief Financial Officer.

Paragraph Six

Any funds appropriated herein to recipients who are not directly governed by the Board of Supervisors ("External Recipients") may be used only for the exclusive and singular purpose for which the funds are appropriated, subject to any additional conditions as stated in the Approved Budget, County policies, County agreement with the External Recipient, or as otherwise required or proscribed by law or ordinance. External Recipients have an affirmative fiscal duty to account for the appropriate and most responsible use of the funds and, as an express condition of the appropriation and in addition to other reporting requirements, must provide an accounting upon request by the County within 30 days in a form determined by the Department of Finance and Budget. External Recipients must be able to at all times account for any County funds appropriated to them separate from donations from any other source. Failure to adhere to these conditions or to the purposes for which the appropriations are made may, among other things, affect future appropriations. The Department of Finance and Budget is authorized to withhold transfers of appropriated funds to any External Recipient until any pending requests for reporting and accounting have been met to the County's satisfaction. If any funds allocated to an External Recipient remains unused at the end of FY 22, the unspent balance must be returned to the County unless a County agreement with the External Recipient, an agreement to which the County is a party pertaining to the funding terms of the External Recipient, or the applicable law, provides otherwise.

Paragraph Seven

The County Executive is authorized to:

- 1) administratively approve budget transfers of unencumbered funds of up to \$500,000.00 per fund in the fiscal year from one classification, department, or project to another within the same fund;
- 2) allocate funding to and from the below identified classifications to appropriate budget line-items for expenditure:

Expenditure Classifications Eligible for Transfer Under this Resolution:

General Fund

- Salary and Benefits Reserve
- Board of Supervisors Strategic Priority Support Reserve
- Business Process Optimization Reserve
- Pandemic Reserve
- Cigarette Tax Reserve
- Climate Action Pool
- Training Pool
- Minimum Wage Reserve
- Reserve for Contingencies

Capital Funds

- Transportation Leveraging Fund
- NIFI Contingency
- Sidewalk Program Contingency
- Advancing Strategic Priorities Reserve in CIP
- Economic Development Funding for Public-Private Partnerships (P3s)
- Capital Budget Stabilization Reserve

- 3) allocate salary lapse between department budgets; and
- 4) administratively approve the carry forward of outstanding grants and capital projects and programs from year to year.
- 5) close out Capital projects and transfer any unencumbered residual funds to the Capital Improvement Fund fund balance.
- 6) close out grant funds.

Paragraph Eight

The Chief Financial Officer is hereby authorized to transfer monies from one fund to another, from time to time as monies become available, sums equal to, but not in excess of, for the appropriations made to these funds for the period covered by this resolution of appropriations.

Paragraph Nine

All resolutions and parts of resolutions inconsistent with the provisions of this resolution shall be and the same are hereby repealed.

Paragraph Ten

This resolution shall become effective on July 1, 2021.

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the Albemarle County Board of Supervisors, Virginia (the "Borrower") has or intends to acquire, construct and equip the items and projects set forth in Exhibit A hereto (collectively, the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both.

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt to pay the costs of the Project in an amount not currently expected to exceed \$45,439,184.
2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure); (b) a cost of issuance with respect to the Bonds; (c) a nonrecurring item that is not customarily payable from current revenues; or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.
4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.
5. The Borrower intends that the adoption of this Resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
6. This Resolution shall take effect immediately upon its passage.

**RESOLUTION TO APPROVE
ADDITIONAL FY 2021 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That the FY 21 Budget is amended to increase it by \$15,375,983.13;
- 2) That Appropriations #2021072; #2021073; #2021074; #2021075; #2021076; #2021077; #2021078; #2021079; #2021080; and #2021081 are approved;
- 3) That it hereby authorizes the County Executive to allocate funding to and from the Capital Budget Stabilization Reserve to the proper budget line-items for expenditure; and
- 4) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2021.

ORDINANCE NO. 21-18(3)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions

By Repealing:

- Sec. 33.1 Introduction.
- Sec. 33.2 Initiating a zoning text amendment.
- Sec. 33.3 Work sessions, stakeholder meetings, community meetings, and other public engagement.
- Sec. 33.4 Public hearings; notice.
- Sec. 33.5 Recommendation by the Planning Commission.
- Sec. 33.6 Action by the Board of Supervisors.
- Sec. 33.7 Introduction.
- Sec. 33.8 Initiating a zoning map amendment.
- Sec. 33.9 Work sessions, stakeholder meetings, community meetings, and other public engagement.
- Sec. 33.10 Public hearings; notice.
- Sec. 33.11 Recommendation by the Planning Commission.
- Sec. 33.12 Action by the Board of Supervisors.
- Sec. 33.13 Introduction.
- Sec. 33.14 Pre-application meeting.
- Sec. 33.15 Application for a zoning map amendment.
- Sec. 33.16 Information submitted with application; all applications.
- Sec. 33.17 Information submitted with application; conventional districts.
- Sec. 33.18 Information submitted with application; planned development districts, including neighborhood model districts.
- Sec. 33.19 Information submitted with applications; neighborhood model districts.
- Sec. 33.20 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.21 Studies identifying potential impacts of zoning map amendment.
- Sec. 33.22 Proffers.
- Sec. 33.23 Work sessions.
- Sec. 33.24 Community meetings.
- Sec. 33.25 Public hearings; notice.
- Sec. 33.26 Recommendation by the Planning Commission.
- Sec. 33.27 Action by the Board of Supervisors.
- Sec. 33.28 Effect of approval of zoning map amendment; effect of proffers once accepted.
- Sec. 33.29 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.30 Introduction.
- Sec. 33.31 Pre-application meeting.
- Sec. 33.32 Application for a special use permit.
- Sec. 33.33 Information the Director of Planning may require to be submitted with application.
- Sec. 33.34 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.35 Studies identifying potential impacts of special use permit.
- Sec. 33.36 Work sessions.
- Sec. 33.37 Community meetings.
- Sec. 33.38 Public hearings; notice.
- Sec. 33.39 Recommendation by the Planning Commission.
- Sec. 33.40 Action by the Board of Supervisors.
- Sec. 33.41 Revoking a special use permit for noncompliance with conditions.
- Sec. 33.42 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.43 Introduction.
- Sec. 33.44 Application for a special exception.
- Sec. 33.45 Filing the application; determining completeness of the application; paying fees; resubmitting an application originally determined to be incomplete.
- Sec. 33.46 Studies identifying potential impacts of special exception.

- Sec. 33.47 Public hearings; when required; notice.
- Sec. 33.48 Recommendation by the Planning Commission when required.
- Sec. 33.49 Action by the Board of Supervisors.
- Sec. 33.50 Revoking a special exception for noncompliance with conditions.
- Sec. 33.51 Resubmitting a similar denied application within one year is prohibited.
- Sec. 33.52 Deferring action.
- Sec. 33.52 Requesting action after deferral.
- Sec. 33.54 Withdrawing an application.

By Adding:

- Sec. 33.1 Purpose and Intent.
- Sec. 33.2 Uniform Requirements for County Initiation of Zoning Text Amendments and Zoning Map Amendments.
- Sec. 33.3 Uniform Procedures for Zoning Text Amendments and County Initiated Zoning Map Amendments.
- Sec. 33.4 Uniform Requirements for Owner Initiation of Zoning Map Amendments and Special Use Permits.
- Sec. 33.5 Uniform Procedures for Special Exceptions.
- Sec. 33.6 Zoning Text Amendments and Zoning Map Amendments; Relevant Factors to be Considered; Effect of Approval.
- Sec. 33.7 Owner-Initiated Zoning Map Amendments; Authority to Accept Proffers.
- Sec. 33.8 Special Use Permits; Relevant Factors to be Considered; Conditions; Revocation.
- Sec. 33.9 Special Exceptions; Relevant Factors to be Considered; Conditions; Revocation
- Sec. 33.10 Public Notice.
- Sec. 33.11 Deferring Action and Withdrawing an Application.

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions.

* * * * *

Resubmission. For the purposes of calculating fees, "resubmission" means the submittal of additional information for review by the County in response to review comments from the County. The review comments will clearly indicate if responses to the comment constitute a resubmission. The Agent may determine whether submission of items such as additional copies of information, recorded documents, photographs, minor amendments to previously submitted items or other information constitutes a resubmission.

* * * * *

[(§ 3.1: 20-3.1, 12-10-80, 7-1-81, 12-16-81, 2-10-82, 6-2-82, 1-1-83, 7-6-83, 11-7-84, 7-17-85, 3-5-86, 1-1-87, 6-10-87, 12-2-87, 7-20-88, 12-7-88, 11-1-89, 6-10-92, 7-8-92, 9-15-93, 8-10-94, 10-11-95, 11-15-95, 10-9-96, 12-10-97; § 18-3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01; Ord. 01-18(9), 10-17-01; Ord. 02-18(2), 2-6-02; Ord. 02-18(5), 7-3-02; Ord. 02-18(7), 10-9-02; Ord. 03-18(1), 2-5-03; Ord. 03-18(2), 3-19-03; Ord. 04-18(2), 10-13-04; 05-18(2), 2-2-05; Ord. 05-18(7), 6-8-05; Ord. 05-18(8), 7-13-05; Ord. 06-18(2), 12-13-06; Ord. 07-18(1), 7-11-07; Ord. 07-18(2), 10-3-07; Ord. 08-18(3), 6-11-08; Ord. 08-18(4), 6-11-08; Ord. 08-18(6), 11-12-08; Ord. 08-18(7), 11-12-08; Ord. 09-18(3), 7-1-09; Ord. 09-18(5), 7-1-09; 09-18(8), 8-5-09; Ord. 09-18(9), 10-14-09; Ord. 09-18(10), 12-2-09; Ord. 09-18(11), 12-10-09; Ord. 10-18(3), 5-5-10; Ord. 10-18(4), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 11-18(5), 6-1-11; Ord. 11-18(6), 6-1-11; Ord. 12-18(3), 6-6-12; Ord. 12-18(4), 7-11-12; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13; Ord. 13-18(1), 4-3-13; Ord. 13-18(2), 4-3-13; Ord. 13-18(3), 5-8-13; Ord. 13-18(5), 9-11-13; Ord. 13-18(6), 11-13-13, effective 1-1-14; Ord. 13-18(7), 12-4-13, effective 1-1-14; Ord. 14-18(2), 3-5-14; Ord. 14-18(4), 11-12-14; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(4), 6-3-15; Ord. 15-18(5), 7-8-15; Ord. 15-18(10), 12-9-15; Ord. 16-18(1), 3-2-16; Ord. 16-18(7), 12-14-16; Ord. 17-18(1), 1-18-17; Ord. 17-18(2), 6-14-17; Ord. 17-18(4), 8-9-17; Ord. 17-18(5), 10-11-17; Ord. 18-18(1), 1-10-18; Ord. 18-18(4), 10-3-18; Ord. 19-18(3), 6-5-19) (§ 4.15.03: 12-10-80; 7-8-92, § 4.15.03, Ord. 01-18(3), 5-9-01; Ord. 05-18(4), 3-16-05; Ord. 10-18(1), 1-13-10; Ord. 10-18(3), 5-5-10; Ord. 10-18(5), 5-12-10; Ord. 11-18(1), 1-12-11; Ord. 12-18(2), 3-14-12; Ord. 14-18(3), 6-4-14; Ord. 15-18(3), 5-6-15; § 4.15.3; Ord. 15-18(11), 12-9-15; Ord. 17-18(4), 8-9-17) (§ 4.17.3: Ord. 98-18(1), 8-12-98; Ord. 01-18(8), 10-17-01; Ord. 17-18(5), 10-11-17) (§ 4.18.2: Ord. 00-18(3), 6-14-00; Ord. 13-18(4), 9-4-13) (§ 10.3.3.1: § 20-10.3.3.1, 11-8-89; § 18-10.3.3.1, Ord. 98-A(1), 8-5-98; Ord. 01-18(6), 10-3-01) (§ 30.2.4: § 30.2.4, 12-10-80) (§ 30.3.5: § 30.3.02.1 (part), 12-10-80; 6-10-87; Ord. 05-18(1), 1-5-05, effective 2-5-05; § 30.3.5; Ord. 14-18(1), 3-5-14; Ord. 17-18(4), 8-9-17; § 3.1, Ord. 19-18(3), 6-5-19; Ord. 19-18(6), 8-7-19; Ord. 20-18(2), 9-2-20; Ord. 20-18(3), 9-16-20; Ord. 21-18(3), 6-2-21]

Article IV. Procedure

Sec. 33 Zoning Text Amendments, Zoning Map Amendments, Special Use Permits, and Special Exceptions

Sec. 33.1 Purpose and Intent.

The purpose and intent of section 33 is to establish the procedural and substantive requirements and criteria for considering and acting on zoning text amendments, zoning map amendments, special use permits (except for those delegated to the Board of Zoning Appeals), and special exceptions. These provisions are intended to support and promote the Comprehensive Plan, the purpose and intent of the Zoning Ordinance, and to promote equity in all decisions.

(§ 33.1, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A)(3), (4), (7), 15.2-2303.

Sec. 33.2 Uniform Requirements for County Initiation of Zoning Text Amendments and Zoning Map Amendments.

The Board of Supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires, subject to the following initiation process:

- A. Initiation of a zoning text amendment.
 - 1. *By the Board of Supervisors.* The Board of Supervisors may initiate a zoning text amendment by adopting a resolution. Any County resident may request any Board member to ask the Board to initiate a zoning text amendment or may directly request the Board to initiate a zoning text amendment.
 - 2. *By the Commission.* The Commission may initiate a zoning text amendment by adopting either a motion or a resolution.
- B. Initiation of a County initiated zoning map amendment. Any proposed zoning map amendment is initiated: (i) by resolution of the Board of Supervisors; (ii) by motion or resolution of the Commission.

(§ 33.2, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A) (4), (7), 15.2-2302.

Sec. 33.3 Uniform Procedures for Zoning Text Amendments and County Initiated Zoning Map Amendments.

Each zoning text amendment and each county-initiated zoning map amendment is subject to the following provisions:

- A. The Agent may schedule work sessions before the Board of Supervisors, the Commission, and the Architectural Review Board, if applicable. The Agent may also hold stakeholder meetings, community meetings, and other forms of public engagement, as the Agent determines to be appropriate or as directed by the Board of Supervisors or the Commission, to consider any proposed zoning text amendment or zoning map amendment.
- B. *Public hearings.* Before the Board of Supervisors acts on a zoning text amendment or a zoning map amendment, the Commission will hold at least one public hearing before making its recommendation to the Board on each application. The Board also will hold at least one public hearing before acting on a zoning text amendment or a zoning map amendment.
- C. Notice of the public hearing will be provided pursuant to section 33.10.
- D. Recommendation by the Planning Commission.

The Commission will act on a proposed zoning text amendment or zoning map amendment under the following provisions:

1. *Recommendation.* The Commission will recommend either approval as proposed, approval with recommended changes, or denial.
2. *Factors to be considered.* In making its recommendation, the Commission will consider the factors listed in section 33.6(B).

E. Action by the Board of Supervisors.

The Board of Supervisors will act on a proposed zoning text amendment or zoning map amendment under the following provisions:

1. *Action.* The Board may either adopt the proposed amendment, deny the proposed amendment, or refer the matter back to the Commission for further consideration and recommendation. The Board may not adopt a zoning map amendment allowing a more intensive use, or including more land, than was contained in the public notice without an additional public hearing after notice is provided pursuant to Virginia Code §§ 15.2-2204 and 15.2-2285 (C).
2. *Factors to be considered.* In acting on a zoning text amendment or zoning map amendment, the Board will consider the factors listed in section 33.6(B).

F. *Judicial review.* Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § 15.2-2285(F).

(§ 33.3, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(4), (7).

Sec. 33.4 Uniform Requirements for Owner Initiation of Zoning Map Amendments and Special Use Permits.

The Board of Supervisors reserves the power to consider and approve or deny all applications for special use permits except where that power has been delegated to the Board of Zoning Appeals as provided in sections 4.15.7 or 34. The Board may approve special use permits for those use classifications identified in the district regulations allowing identified uses by special use permit.

The owner may initiate a zoning map amendment or special use permit application, subject to the following provisions:

- A. *Pre-application meeting.* Each prospective applicant (the “applicant”) must both complete and submit information on County-provided forms and attend a pre-application meeting (collectively, the “pre-application meeting”) before submitting an application, subject to the following provisions:
 1. *Submitting information.* The applicant must complete and submit information on County-provided forms before or during the pre-application meeting.
 2. *Purposes of a meeting.* The purposes of a pre-application meeting are to: (i) provide the applicant and the County a common understanding of the proposed project; (ii) broadly identify the Comprehensive Plan designation of the property; (iii) broadly identify issues generated by the project that should be addressed by the applicant; and (iv) notify the applicant of special studies or documentation and any other information that must be submitted in order for an application to be considered complete, including the form and the required content of any study or documentation. Information may be provided to the applicant during the pre-application meeting or in writing following the meeting.
 3. *Factors to consider in requiring meeting.* A pre-application meeting is required unless the Agent decides that the meeting would not achieve the purposes for the meeting upon considering the following factors: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, the proposed district, and other considerations the Agent determines relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (E) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established for the proposed application; or (iv) whether the application raises any complex issues that create the need for the meeting.

- B. *Who may file an application.* An owner, a contract purchaser with the owner's consent, or the owner's authorized agent may file an application for a zoning map amendment or special use permit (collectively in this section, the "owner" or the "applicant"). In addition:
1. *Amendments to existing proffers.* Proffers that have been accepted by the Board of Supervisors in conjunction with a zoning map amendment may be amended by a later zoning map amendment. An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely to that owner's parcel. An application to amend proffers is subject to the procedures and requirements of this section, provided that the requirements of this subsection may be waived if (i) the proposed amendment solely pertains to proffers that do not affect conditions of use or density, and (ii) following consultation with the Agent, the applicant submits a request to the Clerk of the Board before submitting its application for a zoning map amendment:
 - a. *Waiving the requirement for public hearings.* The Board may waive the requirement for a public hearing by the Commission or by the Board, or both, and the associated notice requirements, as otherwise required by this section. If the Board waives the requirement for a public hearing by the Commission, it also may waive the requirement for a recommendation from the Commission.
 - b. *Waiving procedural requirements.* The Board may waive one or more of the procedural requirements of subsections (A) and/or (N) and/or of section 33.10.
 - c. *Waiving application requirements.* The Board may waive any supplemental information that may otherwise be required with an application under subsection (E) and determine the number of copies of the application that must be filed.
 2. *Amendments to existing planned developments.* An owner within an existing planned development may apply for a zoning map amendment applicable solely to that owner's parcel if it would not result in or require: (i) a change in use, density, or intensity on any other parcel in the planned development; (ii) a change to any regulation in a code of development that would apply to any other parcel in the planned development; (iii) a change to any other owner's express obligation under a regulation in a code of development; or (iv) a change to the application plan that would apply to any other parcel in the planned development.
 3. *Application for a special use permit.* An eligible easement holder or an electric cooperative may file an application for a special use permit. An "eligible easement holder" is a holder of an easement for which the special use permit is sought for a use allowed by the deed of easement or equivalent instrument. For the purposes of this article, "electric cooperative" means (i) a utility consumer services cooperative formed under or subject to the Utility Consumer Services Cooperatives Act (Virginia Code § 56-231.15 *et seq.*) or (ii) a distribution cooperative formed under the former Distribution Cooperatives Act (Virginia Code § 56-209 *et seq.*)
- C. *Submitting an application.*
1. *Who must sign an application.* The application must be signed by the owner of each parcel that is subject to the proposed zoning map amendment or special use permit. In addition:
 - a. *Amendments to existing proffers.* The signatures of the owners of any other parcels subject to the same proffers are not required when an owner applies to amend the proffers applicable solely to its parcel.
 - b. *Amendments to existing planned developments.* The signatures of any other owners within an existing planned development are not required if the owner-applicant may apply for a zoning map amendment applicable solely its parcel as provided in subsection (B)(2).
 - c. *Application for a special use permit.* The application must be signed by the owner or the eligible easement holder of each parcel that is the subject of the special use permit, or by any duly authorized agent of an electric cooperative.

- d. *Documentation regarding the authority to apply.* The Agent may require the applicant to submit documentation establishing ownership of, or the easement interest in, any parcel that is the subject of the application, the electric cooperative's signatory's authority, and the authority of each signatory to sign the application on behalf of an eligible applicant.
2. *Application forms.* The Agent may establish appropriate application forms for zoning map amendments or special use permits.
3. *Where to file.* The application must be filed in the Department of Community Development.
4. *Number of copies to file.* For each class of application, the Agent may establish the number of collated copies of the application to be filed, may accept electronic applications for filing, or both.
5. *When to file.* The Agent may establish application deadlines for each class of application
- D. *Information submitted with an application.* Each application must include all information required by this section, provided that on the owner's written request, the Agent may waive the requirement for certain information, depending on: (i) the nature or extent of the proposed zoning map amendment or special use permit; (ii) the proposed use; (iii) the proposed density; (iv) the proposed district; (v) whether the application is to establish or amend a planned development district, including a neighborhood model district; and (vi) other considerations the Agent determines relevant when applying sound zoning principles.
- E. The following information must be provided unless the Agent or Board of Supervisors determines that the information is not required:

	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
A narrative of the project proposal, including its public need or benefit	X	X	X	X
A narrative of the proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area	X	X	X	X
A narrative of the proposed project's impacts on public facilities and public infrastructure.	X	X	X	X
A narrative of the proposed project's impacts on environmental features.	X	X	X	X
One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions	X	X	X	X
The most recently recorded plat of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which must include a metes and bounds description of the boundaries.	X	X	X	X
Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.	X	X	X	X
The name, address, telephone number and e-mail address of a single contact person for communications between the County and the applicant.	X	X	X	X

	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
For zoning map amendments or special use permits that propose new residential development or new residential uses as defined in and subject to Virginia Code § 15.2-2303.4, the Agent may require studies that identify the impacts of the project on public transportation facilities, public safety facilities, public school facilities, and public parks.	X	X	X	X
Other special studies or documentation, if applicable, and any other information identified as necessary by the County on the pre-application comment form. The pre-application comment form will specify the form and the required content of any study or documentation.	X	X	X	X
Studies identifying cultural, historical or archeological resources potentially impacted by the proposed use.	X	X	X	X
For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.	X	X	X	X
If private streets are proposed, the applicant must submit a request for private streets compliant with section 14 234.	X	X	X	X
A conceptual plan showing, as applicable, the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project	X	X		
A conceptual plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation	X	X		
A conceptual plan showing the general location of any pedestrian and bicycle facilities	X	X		
A conceptual plan showing any building envelopes	X	X		
A conceptual plan showing any parking envelopes	X	X		
A conceptual plan showing any public spaces and amenities	X	X		
A conceptual plan showing any areas to be designated as conservation and/or preservation areas	X	X		
A conceptual plan showing any conceptual stormwater detention facility locations	X	X		
A conceptual plan showing any conceptual grading.	X	X		
A narrative of any proffers proposed to address impacts from the proposed project	X		X	X
If the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant must submit a			X	X

	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply				
An application plan showing, as applicable, the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project;			X	X
An application plan showing, as applicable, typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation.			X	X
An application plan showing the general location of any pedestrian and bicycle facilities			X	X
An application plan showing any building envelopes			X	X
An application plan showing any parking envelopes			X	X
An application plan showing any public spaces and amenities			X	X
An application plan showing any areas to be designated as conservation and/or preservation areas;			X	X
An application plan showing any conceptual on-site stormwater detention facility locations			X	X
An application plan showing any conceptual grading			X	X
An application plan showing, as applicable, a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features			X	X
An application plan showing, as applicable, topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing steep slopes;			X	X
An application plan showing, as applicable, the general layout for water and sewer systems;			X	X
An application plan showing, as applicable, the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas;			X	X

	Conventional Rezoning	Special Use Permit	Planned Development Districts	Neighborhood Model District
An application plan showing, as applicable, standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district			X	X
An application plan showing, as applicable, a conceptual lot layout			X	X
An application plan showing, if the application is to establish a neighborhood model district, the location of any proposed green spaces and amenities as provided in section 20A.9.			X	X
A narrative as to the project's consistency with the neighborhood model principles				X
If any characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant must justify why any characteristics cannot or should not be provided				X
A statement describing how the proposed district satisfies the intent of section 20A				X
A code of development satisfying the requirements of section 20A.5				X
A parking and loading needs study that demonstrates parking needs and requirements and includes strategies for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8, and transportation demand management strategies as provided in section 4.12.12; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.				X
Strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities				X

- F. *Payment of delinquent taxes.* The applicant must demonstrate that any taxes or other charges constituting a lien on the subject property have been paid; provided that the payment of such taxes or other charges is not required when the applicant for a special use permit is an easement holder.
- G. *Determining completeness of the application; rejecting incomplete applications.* An application that includes all required information is complete and will be accepted for review and decision. An application omitting any required information will be deemed incomplete and not be accepted.
1. *Timing of determination of completeness.* The Agent will determine the completeness of an application within ten (10) days after the first application deadline following receipt of the application.

2. *Procedure if application is incomplete.* The Agent will inform an applicant by letter of the reasons why an application was rejected as incomplete. The letter will be sent by first class mail, be personally delivered, or (with an applicant's written consent) by fax or e-mail. The applicant has 90 days after the letter was sent or personally delivered to submit all of the information identified in the letter. The Agent will review the information submitted to determine whether the application is complete as provided in this subsection. An incomplete application will be void if the applicant fails to submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. If the applicant fails to timely submit the information identified in the letter, the applicant may proceed only by filing a new application.
3. *Effect if timely determination not made.* If the Agent does not send or deliver a notice of an incomplete application within ten (10) days after the first application deadline following receipt of the application, the application will be deemed complete, provided that the Agent may require the applicant to later provide the omitted information within a period specified by the Agent, and further provided that the Agent may reject the application as provided herein if the applicant fails to timely provide the omitted information.

H. *When an application is determined to be complete; effect.*

1. When the Agent determines that the applicant has submitted all required information, the Agent will determine the application to be complete. On that date (or 10 days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application), the application is deemed referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to subsection (O), except as provided in subsection(H)(3).
 2. *Notification of Applicant.* The Agent will notify the applicant by letter or by e-mail when the application has been determined to be complete.
 - a. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment will be provided to each owner subject to the same proffers, as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.
 - b. *Notice to owner of application for special use permit filed by easement holder or electric cooperative when application determined to be complete.* Within ten (10) days after an application for a special use permit filed by an easement holder is determined to be complete, written notice of the proposed special use permit will be provided to each owner of the property for which the special use permit is sought, as required by Virginia Code § 15.2-2204(H).
 - c. *Notice of completed applications to holders of open-space or conservation easements.* For zoning map amendments or special use permits pertaining to a parcel subject to an open-space easement or a conservation easement, the Agent will provide written notice within 10 days after the application is determined to be complete to each holder of the open-space easement, other than the County, or the conservation easement. The notice will be sent by first class mail. The notice will inform the recipient that the application has been filed and describe the nature of the application. An action on an application will not be invalidated solely because of a failure to timely mail this notice.
 3. *Paying fees.* The applicant must pay the fees required by section 35.1 when the application is determined to be complete or if the Agent fails to make a timely determination on the completeness of the application. The application will not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors does not begin, until the applicant pays the fees. An application is void if the applicant fails to pay the fees either (a) within 10 days of the notice that the application is determined to be complete or (b) within twenty (20) days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection (O) only after the required fees have been paid.
- I. *Resubmittal of application originally determined to be incomplete.* Within six (6) months of the sending of a notice of an incomplete application, as provided in subsection (G)(2), the applicant may

resubmit the application with all of the information required by subsections (B)-(F) for a new determination of completeness under subsection (G).

- J. *Work sessions.* For any application, the Agent may schedule work sessions before the Board of Supervisors, the Commission, and/or the Architectural Review Board, if applicable, as the Agent determines appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following provisions:
1. *Purposes for a work session.* The purposes for a work session are to present the proposed project to the Board or the Commission with the Department of Community Development's analysis of the major issues, to seek direction from the Board or Commission on those issues, and to allow the Board or Commission to receive public comments.
 2. *When applicant's consent required.* The applicant's consent to a work session is required if the work session would extend the time for action by the Commission or the Board beyond the deadlines in subsection (O).
- K. *Community meetings.* A community meeting will be held for each application, subject to the following provisions:
1. *Purposes for a meeting.* The purposes for a community meeting are to: (i) provide interested members of the public the opportunity to receive information about the proposed project, the applicable procedure, the policies of the comprehensive plan, other relevant policies, and regulations applicable to the proposed project; and (ii) to allow the public to ask questions about the proposed project.
 2. *Factors to consider in requiring meeting.* A community meeting will be held unless the Agent determines that the meeting would not achieve its purposes, considering the following factors: (i) whether the application would be unlikely to generate any public concerns because of the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and the potential impacts; (ii) any other factors deemed relevant upon applying sound zoning principles; and (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting unnecessary.
 3. *Guidelines.* The Agent may establish written guidelines about which applications should have community meetings, and when and how to conduct community meetings, including (but not limited to): how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.
 4. *When applicant's consent required.* The applicant's consent to a community meeting is required if the community meeting would extend the time for action by the Commission or the Board beyond the deadlines in subsection (O).
 5. *Holding in conjunction with a citizen advisory committee meeting.* A community meeting may be held during a citizen advisory committee meeting.
 6. *When community meeting is to be held.* A community meeting will be held prior to the first public hearing on the application for a zoning map amendment.
 7. *Additional community meetings.* The Agent may require that an additional community meeting be held prior to a public hearing if a deferral has been requested and a project is resubmitted that is substantially different than the original project.
- M. *Public hearings.* Before the Board of Supervisors acts on a zoning map amendment or a special use permit, the Commission will hold at least one public hearing before making its recommendation to the Board on each application. The Board will hold at least one public hearing before approving an application.
- N. Notice of the public hearing will be provided pursuant to section 33.10.
- O. *Time for decision.* Action on each application is subject to the following provisions:

1. *By the planning Commission.* The Commission will act on each application within ninety (90) days of the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent. The failure of the Commission to make a recommendation on the application within the ninety (90) day period will be deemed a recommendation of approval unless the applicant requests or consents to an extension of that period.
 2. *By the Board of Supervisors.* The Board of Supervisors will act on each application within a reasonable period not to exceed twelve (12) months following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, unless the applicant requests or consents to an extension of that period.
 3. *Tolling.* The period for action by the Commission or the Board of Supervisors is tolled during any time(s) when the applicant has requested that the review of the application be suspended, or that the public hearings or action thereon be deferred or continued.
 4. *Referral.* The Board of Supervisors may refer an application to the Commission after the Commission has made a recommendation or the application has been deemed recommended for approval, provided that further action by the Commission and action by the Board of Supervisors is within twelve (12) months following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, unless the applicant requests or consents to an extension of that period.
- P. *Recommendation by Commission.* The Commission will recommend either approval of the application as proposed, approval subject to changes prior to action by the Board of Supervisors, or disapproval. Alternatively, the Commission may defer a pending application pursuant to section 33.11. For any application for a zoning map amendment, the Commission's recommendation also should include its recommendations on any proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception(s) requested by the applicant under section 8.2. For any application for a special use permit, the Commission's recommendation should include its recommendations on any proposed conditions.
- Q. *Action by the Board of Supervisors.* The Board of Supervisors may either approve or deny the application or may defer action to allow for changes prior to final action. In approving an application for a zoning map amendment, the Board may accept any proposed proffers as provided in section 33.7. In approving an application for a special use permit, the Board may impose conditions as provided in section 33.8.
- R. *Intensification of use classification prohibited without additional notice and hearing.* No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).
- S. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as a denied application within one (1) year of its denial.
- T. *Judicial review.* Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § 15.2-2285(F).

(§ 33.4, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (7), (B).

Sec. 33.5 Uniform Procedures for Special Exceptions.

This section establishes the regulations and safeguards for filing, reviewing, and acting on applications for special exceptions.

Each application for a special exception is subject to the following provisions:

- A. *Power to grant special exceptions is reserved by the Board of Supervisors.* The Board of Supervisors reserves the power to consider and approve or deny all applications for special exceptions.

- B. Matters eligible for a special exception. The Board may approve special exceptions to waive, modify, vary, or substitute any requirement of this chapter that is expressly authorized to be waived, modified, varied, or substituted.
- C. Variations and exceptions distinguished. A special exception is not required for any matter that may be varied or excepted under section 32 or chapter 14, or for developing and constructing residential dwellings at the use, height, and density permitted by right in the applicable district as provided by Virginia Code § 15.2-2288.1.
- D. Application. Each application for a special exception must be made as provided by the applicable section of this chapter authorizing the waiver, modification, variation or substitution, and must include both the information required by that section and any studies that the Agent may require identifying the nature and extent of potential impacts resulting from the proposed special exception.
- E. Submitting an application.
1. Who must sign an application The application may be filed only (a) by the owner, the contract purchaser with the owner's consent, or the owner's agent for the purpose of the special exception, or (b) by the easement holder of an easement where the waiver, modification, or variation for which the special exception is sought pertains to a use allowed by the deed of easement or equivalent instrument..
 2. Documentation regarding the authority to apply. The Agent may require the applicant to submit documentation establishing ownership of, or the easement interest in, any parcel that is the subject of the application.
 3. Application forms. The Agent may establish appropriate application forms for special exceptions.
 4. Where to file. The application must be filed in the Department of Community Development.
 5. Number of copies to file. The Agent may establish the number of collated copies of the application to be filed, may accept electronic applications for filing, or both.
 6. When to file. The Agent may establish application deadlines for special exception applications.
- F. Payment of delinquent taxes. The applicant must demonstrate that any taxes or other charges constituting a lien on the subject property have been paid; provided that the payment of such taxes or other charges is not required when the applicant for a special exception is an easement holder.
- G. Determining completeness of the application; rejecting incomplete applications. An application that includes all required information will be determined to be complete and be accepted for review and decision. An application omitting any required information will be deemed incomplete and will not be accepted.
1. Timing of determination of completeness. The Agent will determine the completeness of an application within ten (10) days after the first application deadline following receipt of the application.
 2. Procedure if application is incomplete. The Agent will inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter will be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or e-mail. If an application is incomplete, the applicant may submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. The Agent will review the information submitted to determine whether the application is complete as provided in this subsection. An incomplete application is void if the applicant fails to submit all of the information identified in the letter within 90 days after the letter was sent or personally delivered. If the applicant fails to timely submit the information identified in the letter, the applicant may proceed only by filing a new application.
 3. Effect if timely determination not made. If the Agent does not send or deliver a notice of an incomplete application within ten (10) days after the first application deadline following receipt of the application, the application will be deemed complete, provided that the Agent may require the applicant to later provide the omitted information within a period specified by the Agent, and

further provided that the Agent may reject the application as provided herein if the applicant fails to timely provide the omitted information.

H. *When an application is determined to be complete; effect.*

1. When the Agent determines that the applicant has submitted all required information, the Agent will determine the application to be complete. On that date (or 10 days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application), the application is deemed referred to the Commission for the purpose of calculating the time in which action must be taken pursuant to subsection (G), except as provided in subsection (D)(3).
2. *Notification of Applicant.* The Agent will notify the applicant by letter or by e-mail when the application has been determined to be complete.
 - a. *Notice to owner of application for special exception filed by easement holder when application determined to be complete.* Within ten (10) days after an application for a special exception filed by an easement holder is determined to be complete, written notice of the proposed special exception will be provided to each owner of the property for which the special exception is sought as required by Virginia Code § 15.2-2204(H).
 - b. *Notice of completed applications to holders of open-space or conservation easements.* For special exception applications pertaining to a parcel subject to an open-space easement or a conservation easement, the Agent will provide written notice within 10 days after the application is determined to be complete to each holder of the open-space easement, other than the County, or the conservation easement. The notice will be sent by first class mail. The notice will inform the recipient that the application has been filed and describe the nature of the application. An action on an application will not be invalidated solely because of a failure to timely mail this notice.
3. *Paying fees.* The applicant must pay the fees required by section 35.1 when the application is determined to be complete or if the Agent fails to make a timely determination on the completeness of the application. The application will not be reviewed, and any time by which action must be taken by the Commission or the Board of Supervisors will not begin, until the applicant pays the fees. An application is void if the applicant fails to pay the fees either (a) within 10 days of the notice that the application is determined to be complete or (b) within twenty (20) days after the first application deadline following receipt of the application, if the Agent fails to make a timely determination on the completeness of the application. The application is determined to be complete for the purpose of calculating the time in which action must be taken pursuant to subsection (G) only after the required fees have been paid.

I. Public hearings on an application for a special exception are subject to the following provisions:

1. *When public hearings are required.* The Commission and the Board of Supervisors will each hold at least one public hearing on any application for a special exception that would increase by greater than 50 percent the bulk or height of an existing or proposed building within one-half mile of an adjoining locality.
2. *When the Board of Supervisors may elect to have the Commission make a recommendation on the application and to hold one or more public hearings.* When public hearings are not required under subsection (E)(1), the Board may elect, either by policy or for an individual application, to have the Commission first make a recommendation on the application for a special exception and for either the Commission or itself to hold one or more public hearings.

J. Notice of the public hearing will be as provided in section 33.10.

K. *Time for decision.* Each application for a special exception will be acted on by the Board of Supervisors within ninety (90) days following the first meeting of the Commission after it was referred to the Commission, according to the schedule established and administered by the Agent, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.

L. The Commission will act on an application for a special exception under the following provisions:

1. When a Commission recommendation is required. The Commission is required to act on an application for a special exception only if (a) a public hearing on the application is required by subsection (E)(1) or (b) the Board of Supervisors elects to have the Commission consider the application under subsection (E)(2).
 2. Recommendation. The Commission will recommend either approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the Board, or denial of the application. Alternatively, the Commission may defer a pending application pursuant to section 33.11.
 3. Factors to be considered. In making its recommendation, the Commission will consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter.
 4. Conditions. The Commission's recommendation should include its recommendations on any proposed conditions.
 5. Time for a recommendation. The Commission will make its recommendation on the application within 45 days after the application is determined to be complete. The failure of the Commission to make a recommendation on the matter within that period will be deemed a recommendation of approval. The 45-day period may be extended if the applicant requests a deferral pursuant to section 33.11.
- M. Action. The Board may either approve the application, deny the application, defer action to allow for changes prior to final action, or refer the application to the Commission for further consideration and recommendation within the time for an action provided in subsection (G).
- N. Resubmittal of similar denied application. An applicant may not submit an application that is substantially the same as a denied application within one (1) year of its denial.
- O. Judicial review. Any action contesting a decision of the Board of Supervisors under this section must comply with Virginia Code § 15.2-2285(F).

(§ 33.5, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

Sec. 33.6 Zoning Text Amendments and Zoning Map Amendments; Relevant Factors to be Considered; Effect of Approval.

A zoning text amendment or a zoning map amendment is subject to the following provisions:

- A. *Basis to act.* The Board of Supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The Commission will consider these bases when making a recommendation on an application.
- B. *Factors to be considered when acting.* The Commission and the Board of Supervisors will reasonably consider the following factors when reviewing and acting upon zoning text amendments and zoning map amendments: (i) the existing use and character of property; (ii) the comprehensive plan; (iii) the suitability of property for various uses; (iv) the trends of growth or change; (v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies; (vi) the transportation requirements of the community; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services; (viii) the conservation of natural resources; (ix) the preservation of flood plains; (x) the protection of life and property from impounding structure failures; (xi) the preservation of agricultural and forestal land; (xii) the conservation of properties and their values; (xiii) the encouragement of the most appropriate use of land throughout the county; and (xiv) equity.
 1. *Additional factors to be considered when acting on applications to establish planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, the Commission and the Board of Supervisors will consider the following factors when reviewing an application to establish a planned development district: (i) whether the proposed planned development satisfies the purpose and intent of the planned development district; (ii) whether the area proposed to be rezoned is appropriate for a planned

development under the comprehensive plan; and (iii) the relation of the proposed planned development to major roads, utilities, public facilities and services.

2. *Additional factors to be considered when acting on applications to amend existing planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, including those in subsections (B) and (B)(1), the Commission and the Board of Supervisors will consider the following factors when reviewing an application to amend an existing planned development district: (i) whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section 8.3; and (ii) the extent to which the proposed amendment impacts the other parcels within the planned development district.
- C. *Effect of approval.* The Board of Supervisors' approval of a zoning map amendment constitutes acceptance of any proffers and (for any application to establish or amend a planned development district) approval of the application plan, all standards of development, the code of development, and any waivers or modifications approved by special exception as provided under section 8.2. The district designation, any accepted proffers, an approved application plan, standards of development, a code of development, and any special exception(s) are all included among the zoning regulations applicable to the property subject to a zoning map amendment.

(§ 33.6, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286(A)(7).

Sec. 33.7 Owner-Initiated Zoning Map Amendments; Authority to Accept Proffers.

The Board of Supervisors may accept proffers pursuant to Virginia Code §§ 15.2-2303 and 15.2-2303.4 in conjunction with zoning map amendments, subject to the following provisions:

- A. *Purpose.* Proffers are reasonable conditions proposed by the applicant governing the use of parcels being rezoned. Unless expressly provided otherwise in the approved proffers, proffer conditions are in addition to the regulations in this chapter that apply to the district.
- B. *Form.* Proffers must be in writing and in a form approved by the County Attorney. The Agent may provide a proffer statement form.
- C. *Proffers addressing impacts from new residential development uses.* For zoning map amendments that propose new residential development or new residential uses as defined in and subject to Virginia Code § 15.2-2303.4 , any proposed proffers addressing the impacts resulting from the new residential development or new residential uses must comply with Virginia Code § 15.2-2303.4 .
- D. *Time to submit.* The applicant must submit proffers by the following deadlines:
 1. *Before the Commission's public hearing.* Proposed proffers, regardless of whether they are signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development at least 14 days before the Commission's public hearing on the zoning map amendment.
 2. *Before the Board of Supervisors' public hearing.* Proposed proffers, signed by the owners of all parcels subject to the zoning map amendment, must be submitted to the Department of Community Development before the Board's public hearing on the zoning map amendment. The Agent may establish written guidelines that require signed proffers to be submitted a reasonable time prior to the public hearing to allow for review by County officers and employees and by the public.
 3. *Amendments to proposed proffers after the public hearing has begun.* The Board may accept, in its sole discretion, amended proffers after a public hearing on the zoning map amendment has begun if the Board concludes that the amended proffers do not materially affect the overall proposal. If amended proffers are submitted after the public hearing is closed, the Board may accept, in its sole discretion, the amended proffers after holding another public hearing.
- E. *Effect of proffers once accepted.* The Board of Supervisors' adoption of a zoning map amendment constitutes (i) acceptance of the proffers and (ii) for any application to establish or amend a

planned development district, approval of the application plan, all standards of development, and the code of development. In addition:

1. *Become part of zoning regulations.* The district designation, the accepted proffers, the approved application plan, the standards of development, and the code of development are all among the zoning regulations applicable to the property subject to a zoning map amendment.
 2. *Effect of proffers once accepted.* Once accepted by the Board in conjunction with an adopted zoning map amendment, the proffers continue in effect until a subsequent zoning map amendment (other than a comprehensive implementation of a new or substantially revised zoning ordinance) changes the zoning of the property subject to the proffers.
- F. *Subsequent amendments to proffers.* Once accepted by the Board of Supervisors in conjunction with an approved zoning map amendment, proffers may be amended by an owner-initiated zoning map amendment

(§ 33.7, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2296, 15.2-2302, 15.2-2303.

Sec. 33.8 Special Use Permits; Relevant Factors to be Considered; Conditions; Revocation.

Special use permits are subject to the following provisions:

- A. *Factors to be considered when acting.* The Commission and the Board of Supervisors will consider the following factors when reviewing and acting on an application for a special use permit:
1. *No substantial detriment.* Whether the proposed special use will be a substantial detriment to adjacent parcels.
 2. *Character of the nearby area is unchanged.* Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.
 3. *Harmony.* Whether the proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the applicable provisions of section 5, and with the public health, safety, and general welfare (including equity).
 4. *Consistency with the Comprehensive Plan.* Whether the proposed special use will be consistent with the Comprehensive Plan.
- B. *Conditions.* The Commission may recommend, and the Board of Supervisors may impose, conditions upon the special use to address impacts arising from the use, in order to protect the public health, safety or welfare. The conditions may pertain (but are not limited) to:
1. The prevention or minimization of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substances or conditions.
 2. The provision of adequate police and fire protection.
 3. The provision of adequate improvements pertaining to transportation, water, sewage, drainage, recreation, landscaping and/or screening or buffering.
 4. The establishment of special requirements relating to building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building heights, and other particular aspects of occupancy or use.
 5. The period by which the use must begin or the construction of any structure required for the use must commence.
 6. The materials and methods of construction or specific design features, provided such a condition for residential uses complies with subsection (C).

- C. *Conditions related to residential uses.* Any conditions imposed in connection with residential special use permits should: (i) be consistent with the objective of providing affordable housing if the applicant proposes affordable housing; and (ii) consider the impact of the conditions on the affordability of housing where the conditions specify the materials and methods of construction or specific design features.
- D. *Conditions deemed essential and non-severable.* Except as the Board of Supervisors may specify in a particular case, any condition imposed on a special use will be deemed essential and non-severable from the permit itself, and the invalidation of any condition will invalidate the entire special use permit.
- E. *Revocation for non-compliance with conditions.* A special use permit may be revoked by the Board of Supervisors after a public hearing if the Board determines that there has not been compliance with the conditions of the permit. Notice of the public hearing will be provided pursuant to section 33.10.

(§ 33.8, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code §§ 15.2-2286(A)(3), 15.2-2309(7).

Sec. 33.9 Special Exceptions; Relevant Factors to be Considered; Conditions; Revocation

Special exceptions are subject to the following provisions:

- A. *Factors to be considered when acting.* In acting upon a special exception, the Board of Supervisors will consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter. The Board is not required to make specific findings in support of its decision.
- B. *Conditions.* In approving a special exception, the Board of Supervisors may impose reasonable conditions to address any possible impacts of the special exception. Except as the Board may specify in a particular case, any condition imposed on a special exception will be deemed essential and non-severable from the special exception itself, and the invalidation of any condition will invalidate the entire special exception.
- C. The Board of Supervisors may revoke a special exception if the Board determines, after a public hearing, that the permittee or any successor has not complied with any conditions of the special exception. Notice of the public hearing will be provided pursuant to section 33.10.

(§ 33.9, Ord. 21-18(3), 6-2-21)

State law reference – Va. Code § 15.2-2286(A)(3).

Sec. 33.10 Public Notice.

Notice of public hearings. The following notice of public hearings will be provided:

- A. For zoning text amendments, the following notice will be provided:
 - 1. The Department of Community Development will provide notice of public hearings before the Commission and the Board pursuant to Virginia Code § 15.2-2204 .
 - 2. *Notice of public hearings, imposing or increasing fees.* The Department of Community Development will provide notice of public hearings before the Commission and the Board of Supervisors pursuant to Virginia Code §§ 15.2-107 and 15.2-2204 if the proposed zoning text amendment would impose or increase fees under this chapter.
- B. For zoning map amendments and special use permits, the following notice will be provided:
 - 1. *Published and mailed notice.* Notice of the public hearing before the Commission and the Board of Supervisors on an application will be provided in all cases as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2-2285(C). For zoning map amendments seeking to amend an existing planned development district, written notice also will be provided to the owner of each parcel within the planned development district, and the substance of that notice will be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.

2. *Posted notice.* Notice of the public hearing before the Commission and the Board of Supervisors on each application will be posted, subject to the following provisions:
 - a. *When sign will be posted.* The sign will be posted at least twenty-one (21) days before the Commission's public hearing on the application and will remain posted until either the Board of Supervisors has acted on the application or the application has been withdrawn.
 - b. *Where sign to be located.* The sign is to be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and should be clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign will be erected in the same manner as above for each abutting street; or (ii) if the area of the parcel(s) to be used if the application was granted is confined to a particular portion of the parcel(s), a sign will be erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs are to be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application is deemed to grant consent to the Zoning Administrator to enter the parcel(s) to erect the signs.
 - c. *Content of sign.* Each sign will state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.
 - d. *Maintaining the sign.* The applicant must diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the Commission or the Board of Supervisors to defer action on an application until there is reasonable compliance with this subsection.
 - e. *Ownership of sign; violation for removing or tampering with sign.* Each sign is the property of the County. It is unlawful for any person to remove or tamper with any sign, provided that the applicant, the County or the County's employees or authorized agents may perform required maintenance.
 - f. *Effect of failure to comply.* If any notice sign is not posted as specified in subsection (B)(2):
 1. *Prior to action by Board.* The Board of Supervisors may defer action on an application if it finds that the failure to comply with subsection (B)(2) materially deprived the public of reasonable notice of the public hearing.
 2. *Action is not invalid.* Neither the Commission's recommendation nor the Board's approval of a zoning map amendment or special use permit will be invalidated solely because of a failure to post notice as specified in subsection (B)(2).
- C. Notice for revocation of a special use permit or special exception will be provided pursuant to Virginia Code § 15.2-2204, provided that written notice to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to a special use permit may be given by first-class mail rather than by registered or certified mail.
- D. The following notice of special exceptions will be provided:
 1. When public hearings are required under section 33.5(E)(1), the Department of Community Development will provide notice of those public hearings pursuant to Virginia Code § 15.2-2204 .
 2. For all other public hearings, public notice will be given as provided in the applicable sections of this chapter.
- E. A party's actual notice of, or active participation in, proceedings requiring written notice waives the right of that party to challenge the validity of the proceeding due to an alleged failure to receive the required written notice.

(§ 33.10, Ord. 21-18(3), 6-2-21)

Sec. 33.11 Deferring Action and Withdrawing an Application.

After submitting an application but before action by the Board of Supervisors, an applicant for a zoning map amendment, special use permit, or special exception may request a deferral or withdraw an application, subject to the following provisions.

A. *To whom the request is to be sent.*

1. The written request must be sent to the Agent. If the application is pending before the Board of Supervisors at the time the request is received, the Agent will immediately inform the Clerk of the Board of the request.
2. Notwithstanding subsection (A)(1), the applicant may make a request for deferral directly to the Planning Commission during a public hearing on the application.

B. *When the request must be received.* The request must be received by the Agent or the Clerk before action by the Board of Supervisors

C. *Effect of timely receipt of request to defer or withdraw.* The County is not obligated to accept a request for deferral. If the County accepts a request for deferral: (i) neither the Commission nor the Board will act on the application, and (ii) all time periods for review will be tolled. The Agent will determine whether to accept a request for deferral submitted pursuant to subsection (A)(1). The Planning Commission will determine whether to accept a request for deferral submitted pursuant to subsection (A)(2). If the application is withdrawn the application will not be further processed or reviewed by County staff,

D. *Limitations on deferral.* No application may be in a state of deferral after 32 months from when the application was deemed complete under section 33.4(O), provided that the Agent may extend the time for action beyond the end of the deferral period if there are extenuating circumstances that include (but are not limited to): inclement weather, civil emergencies, or errors in providing public notice as required by State law.

E. *Reactivating a deferred application.* An applicant may reactivate an application by submitting new information or by requesting that the application be scheduled for public review.

F. *Effect of reactivating an application.*

1. The Agent may determine the appropriate procedure to review a reactivated application. The procedure to review may not exceed the procedure for a new application and may require a new submittal fee.
2. All time periods for action in section 33.4(O) will be calculated from the reactivation of an application and not from its original submittal.

G. *Resubmitting a similar withdrawn application within one year prohibited.* An applicant may not submit an application that is substantially the same as a withdrawn application for the same parcel(s) within one year of the withdrawal without authorization by the Board of Supervisors.

H. *When an application is deemed withdrawn.* An application is deemed voluntarily withdrawn if a request for deferral is accepted pursuant to this section and the applicant fails to reactivate the application either:

1. within six months of the request for deferral, or
2. within 32 months from the time the application was determined or deemed complete.

(§ 33.11, Ord. 21-18(3), 6-2-21)

**RESOLUTION APPROVING DEED OF EASEMENT
BETWEEN THE COUNTY OF ALBEMARLE, WINDMILL VENTURES LLC, AND THE ALBEMARLE
COUNTY SERVICE AUTHORITY (ACSA)
FOR SERVICE TO 999 RIO ROAD EAST**

WHEREAS, the County of Albemarle owns an emergency access (Parcel 062F0-00-00-000E2) adjacent to 999 Rio Road East; and

WHEREAS, an easement across this County-owned property is necessary for the Albemarle County Service Authority (ACSA) to extend water and sewer service to the neighborhood model development at 999 Rio Road East.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the granting of a temporary construction easement to Windmill Ventures LLC, and a permanent water and sewer line easement to the Albemarle County Service Authority, and authorizes the County Executive to sign, in a form approved by the County Attorney, a Deed of Easement and any other related documents for easements across Parcel 062F0-00-00-000E2 in order to provide water and sewer service to 999 Rio Road East.

Prepared by and upon recordation return to:
 Nicole M. Scro, Esq. (VSB #90239)
 912 East High Street
 Charlottesville, VA 22902

Albemarle County Tax Map Parcel ID No.: 62F-E2

This deed is exempt from taxation under Virginia Code § 58.1-811(A)(3).

DEED OF EASEMENT
 (for Water and Sanitary Sewer)

THIS DEED OF EASEMENT is made as of this ____ day of _____, 20____ by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("County"), the Grantor for indexing purposes, **WINDMILL VENTURES, LLC**, a Virginia limited liability company, its successors and/or assigns ("First Grantee" whether one or more), and the **ALBEMARLE COUNTY SERVICE AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("Service Authority" or "Second Grantee"), whose address is 168 Spotnap Road, Charlottesville, Virginia 22911.

WITNESS:

WHEREAS, the County is the owner of that certain real property located in Albemarle County, Virginia defined as the Property (hereinafter, the "Property") in that certain Deed of Dedication from Bondstone Ventures, LLC, a Virginia limited liability company, successor by virtue of change of name and by conversion of entity to Robert Hauser Homes, Inc., to the County, dated October 3, 2016, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 4830, page 20; and

WHEREAS, the First Grantee is the owner of that certain parcel located adjacent to the Property, designated on County tax maps as parcel 61-154B, and having an address of 999 Rio Road East (the "999 Rio Property"); and

WHEREAS, for the purposes of redeveloping the 999 Rio Property, the First Grantee, its successors and/or assigns, desires to construct and install a water and sanitary sewer line to be dedicated to the Service Authority across a portion of the Property; and

WHEREAS, the Service Authority is willing to accept such water line(s) and sanitary sewer line(s), after the same have been constructed in a lawful manner to its specifications, but not before; and

WHEREAS, the County desires to convey a temporary construction, landscaping and grading easement to the First Grantee, its successors and/or assigns, for the construction and installation of such water and sanitary sewer line(s) on such portion of the Property that is within the area shown and designated as “New Variable Width ACSA Water & Sewer Easement” (the “Easement Area”) on Exhibit A attached hereto and incorporated herein (the “Easement Plat”); and

WHEREAS, it is the desire and intent of the County to dedicate, grant and convey all rights, title and interest in all ditches, pipes and other improvements and appurtenances within the Easement Area established for the purpose of the water and sanitary sewer line(s) (hereinafter collectively referred to as the “Improvements,” whether referring to existing Improvements or those to be established in the future by the Service Authority), excluding building connection lines, to the Service Authority, which is to be accepted by it in accordance with the usual and customary practices of the Service Authority.

NOW, THEREFORE, in consideration of the premises and the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, the County does hereby GRANT and CONVEY unto the First Grantee, its successors and assigns, a temporary right-of-way and construction easement, over, under and across the Easement Area (the “Temporary Construction Easement”), to construct, install, maintain, repair, replace and extend water and sanitary sewer lines, consisting of pipes and appurtenances thereto. This temporary construction easement and temporary right of way shall expire upon the completion of the construction and acceptance of the water and sanitary sewer line(s) into the Service Authority’s system.

FURTHERMORE, for and in consideration of the premises and the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledge, the County does hereby GRANT and CONVEY unto the Second

Grantee, its successors and assigns, perpetual rights-of-way and easements to construct, install, maintain, repair, replace and extend the water and sanitary sewer line(s) consisting of pipes and appurtenances thereto on, over, under and across the Easement Area (the "Water and Sewer Easement" and together with the Temporary Construction Easement, the "Easements"); PROVIDED, HOWEVER, that (i) all such water and sewer line facilities shall be installed underground except for such above-ground meter boxes, manholes and other accessories typically installed above-ground, and (ii) it is expressly understood and agreed that the Service Authority shall not be deemed to have accepted the conveyance set forth herein until such time as the same have been evidenced by the affirmative acceptance thereof in accordance with the usual and customary practices of the Service Authority.

Reference is made to the Easement Plat for the exact location and dimensions of the Easement Area as they cross the Property.

The Temporary Construction Easement conveyed herein shall terminate upon the completion of water and sanitary sewer facilities as evidenced by the release of any bond associated with such improvements. Grantor shall have the right to review and approve any material changes to the approved Plans, such review and approval shall not be unreasonably withheld or delayed. Prior to commencement of any construction activities, the First Grantee shall provide Grantor with a construction schedule and at least five (5) days prior notice of the commencement of construction. Construction activities shall be limited to the hours of 7:30 a.m. to 5:00 p.m., Monday through Friday, completed in a diligent manner, and all areas of active construction shall be kept in neat and clean condition.

Upon request, the First Grantee, and/or its successors and assigns, shall promptly execute documentation of dedication that may be required by the Service Authority on the Service Authority's standard agreement form for dedication and as may be required for recordation among the land records. Said Service Authority forms provide, in part, that the Grantor gives permission to Service Authority, including its authorized agents and employees, to have access and to enter upon the property to inspect the water and sewer facilities whenever the Service Authority deems necessary. All landowner obligations in such agreement shall become the obligations of the First Grantee. The Service Authority Dedication Agreement will provide that the Grantor is not obligated under the Agreement, except to provide the permitted and required access matters stated therein.

Prior to acceptance of the utilities by the Service Authority, the First Grantee agrees to indemnify, defend and hold Grantor harmless from any liability, liens, loss or damage, including damages or injury to any person or to real or personal property, together with reasonable attorney's fees and related costs and expenses, arising out of, or resulting from the exercise of the easement rights granted herein, including any entry upon the Property by First Grantee, its agents, employees, contractors, guests or invitees, arising in connection with the construction activities within the Easement Area. This indemnification shall not cover the conduct of Grantor, its subcontractors, employees, agents, guests or invitees on the property in or around the easement area. Prior to utility acceptance by Service Authority, the First Grantee, its successors and assigns, shall maintain in full force and effect liability insurance, in commercially reasonable amounts, covering damage to property and persons arising out of the exercise of the rights granted by these Easements until the same is turned over to the Service Authority. First Grantee shall have Grantor named as a certificate holder/additional insured on the First Grantee's policy or insurance prior to the commencement of any construction activity within the Easement Area.

The County, First Grantee and Second Grantee, their successors or assigns, agree that trees, shrubs, fences, buildings, overhangs or other improvements or obstructions shall not be placed within the Easement Area, provided that any and all improvements associated with the Grantor's emergency access may be installed, repaired, and maintained.

As a part of these Easements, the First Grantee and Second Grantee shall have the right to enter upon the Easement Area for the purpose of constructing, installing, maintaining, repairing, replacing and extending water and sewer lines and appurtenances thereto, and the right to ingress and egress thereto as reasonably necessary. If the First Grantee and Second Grantee are unable to reasonably exercise the right of ingress and egress over the Easement Area, the First Grantee and Second Grantee shall have the right of ingress and egress over the Property adjacent to the Easement Area.

Whenever it is necessary to excavate earth within the Easement Area, the First Grantee and Second Grantee agree to backfill such excavation in a proper and workmanlike manner so as to restore surface conditions as nearly as practical to the same condition existing prior to the excavation. In the event that any damage results from said access, the First Grantee and Second Grantee agree to correct and repair such damage in a proper and workmanlike manner, including the restoration of any such damaged or disturbed grass or paved surfaces. Notwithstanding

anything herein to the contrary, the Service Authority shall not be held responsible for restoring permeable pavers in the future, as applicable, if excavation over the water and sanitary sewer is required. Restoration of pavers shall be the responsibility of the First Grantee.

The Easements shall include the right of the First Grantee and Second Grantee to cut any trees, brush, shrubbery, remove obstructions and take other similar action reasonably necessary to provide economical and safe water and sewer installation, operation and maintenance, provided that the First Grantee and Second Grantee may not remove any improvements associated with the Grantor's emergency access. The Service Authority shall have no responsibility to the County or the First Grantee, their successors or assigns, to replace or reimburse the cost of said trees, brush, shrubbery or obstructions (other than improvements associated with the Grantor's emergency access) if cut, removed or otherwise damaged.

The facilities constructed within the Easement Area shall be the property of the Service Authority which shall have the right to inspect, rebuild, remove, repair, improve and make such changes, alterations and connections to or extensions of its facilities within the Easement Area as are consistent with the purposes expressed herein.

The Easements are exclusive easements. Neither the County nor any person acting under the County's express or implied consent shall modify, alter, reconstruct, interfere with, disturb or otherwise change in any way the Easement Area or any Improvement located within the Easement Area; and further such persons shall not erect any building, fence, retaining wall or other structure within the Easement Area, provided that any and all improvements associated with the Grantor's emergency access may be installed, repaired, and maintained.

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

WITNESS the following duly authorized signatures and seals:

THE COUNTY OF ALBEMARLE, VIRGINIA,
a political subdivision of the Commonwealth of
Virginia

By: _____

Printed Name: _____

Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
20__ by _____, as _____ of the County of Albemarle, Virginia,
a political subdivision of the Commonwealth, on its behalf.

My commission expires: _____.

Notary Public

Notary Registration No.: _____

[SIGNATURE PAGES CONTINUE ON THE FOLLOWING PAGE]

WINDMILL VENTURES, LLC,
a Virginia limited liability company

By Elizabeth Shan Hawbler

Printed Name: Elizabeth Shan Hawbler

Title: manager

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle, to-wit:

The foregoing instrument was acknowledged before me this 12 day of May,
2021 by Elizabeth Shan M. Hawbler, as manager of Windmill Ventures, LLC, a
Virginia limited liability company, on its behalf.

My commission expires: 9/30/23.

James L. Bishop
Notary Public

Notary Registration No.: 324578



EXHIBIT A

the Easement Plat

[attached]

**RESOLUTION APPROVING LEASE OF EASEMENT FROM THE COUNTY OF ALBEMARLE TO THE
UNITED STATES OF AMERICA FOR SERVICE TO THE NATIONAL GROUND INTELLIGENCE
CENTER (NGIC)**

WHEREAS, the federal government has requested an easement under the Boulders Road public right-of-way to maintain telecommunications service to the National Ground Intelligence Center.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the leasing of an easement to the United States of America, and authorizes the County Executive to sign, in a form approved by the County Attorney, a lease and any other related documents for an easement under or across Boulders Road in order to provide and/or maintain telecommunications service to the National Ground Intelligence Center.

Lease No. DACA-31-5-21-302

LAND LEASE**For****COUNTY-OWNED PROPERTY****BETWEEN****The COUNTY OF ALBEMARLE****AND****THE UNITED STATES OF AMERICA**

AUTHORITY: This lease is being acquired under the authority of Title 10 United States Code Section 2661.

I. This **LEASE**, made and entered into this 10th day of June in the year of 2021.

by: County of Albemarle

Address: 401 McIntire Road, Charlottesville, Virginia 22902

and whose interest in the property is that of the owner, hereinafter called the **Lessor**, and the UNITED STATES OF AMERICA, hereinafter called the **Lessee**.

In consideration for **RENT** the parties promise and agree as follows:

2. **PROPERTY:** The Lessor leases to the Lessee a below-grade portion of the Boulders Road Right of Way, identified in the local land records as Parcel ID No. 03200-00-00-005C3, for the purpose of maintaining a system of fiber communication conduits and appurtenances, herein after referred to as "the system", as they are currently situated, further described in Schedule A. Lessee will maintain surface rights as necessary to maintain the system.

3. **LEASE TERM:** The Lessee shall have the right to have and to hold the said premises, or any portion thereof, for a period of one (1) year period beginning upon the date of executing of this lease. This lease may be renewed for one (1) additional one (1) year period, for a total of two (2) one (1) year periods, provided that the Lessee gives the Lessor a thirty (30) day written notice to renew, and provided further, that the renewal of this lease is subject to adequate appropriations being made available year to year for the payment of rentals.

4. **PROMPT PAYMENT:** The Lessee will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

a. When the date for commencement of rent falls on the 15th day of the month or earlier, the initial rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

b. When the date for commencement of rent falls after the 15th day of the month, the initial rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

5. **RENTAL:** The Lessee shall pay the Owner rent at the following rate: **Two Thousand Two Hundred Forty-Two Dollars** (\$2,242.00) per year in arrears on or about the first date of the first month after completion of the rental period. Rent for a lesser period shall be prorated. Rent payments shall be made by Check, payable to the Lessor, by USACE Baltimore District, RSFO, PO Box 548, Annapolis Junction, MD 20701-0548.

6. **OWNERSHIP:** The Lessor warrants that it is the rightful and legal owner of the property, subject to all easements and encumbrances of record, and has the legal right to enter into this lease. If the title of the Lessor shall fail, or it be discovered that the Lessor did not have authority to lease to the property, the lease shall terminate. To the extent permitted by law, the Lessor, the Lessor's heirs, executors, administrators, successors, or assigns agree to indemnify the Lessee by reason of such failure and to refund all rentals paid.

7. **TERMINATION:**

a. The Lessee may terminate this lease at any time in whole or in part, by giving thirty (30) days notice in writing to the Lessor and no rental shall be due for payment after the effective date of termination. Said notice shall be the day after the date of mailing, or hand delivery.

b. Termination in whole or in part shall be effective upon written notice, however, the parties may enter into a supplemental agreement to resolve certain issues arising from the tenancy and its termination, in whole or in part.

c. The Lessor has no termination rights.

8. **ALTERATIONS/RESTORATION/RELEASE OF LIABILITY:**

All installations placed in said right-of-way by the lessee shall remain the property of the lessee and may be removed therefrom by the lessee at any time. The construction, operation, and maintenance, renewal, and removal of the said installation shall be accomplished by the Lessee at its sole cost and expense and in such a manner as will at times enable the lessor to use the surface of the right-of-way. The Lessor may, upon not less than 30 days' written notice to the Lessee, and before termination of the lease, require restoration of the leased premises, subject to exceptions to restoration stated below of all alterations. In this event, prior to the expiration or termination of this lease, or prior to relinquishment of possession, whichever first occurs, the Lessee shall, at its sole election, either (1) restore the premises to the same condition as that existing at the time of entering into the lease or; (2) make appropriate settlement to the Lessor representing either the diminution in the fair market value of the property due to the failure to restore, or the actual cost of restoration, whichever is the lesser amount. The Lessee

shall not restore the premises, either physically or by payment in lieu thereof, for damages as a result of reasonable and ordinary wear and tear, the elements or circumstances over which the Lessee has no control, or for alterations, or damage thereto, which the Lessee installed at its expense or the Lessor installed and was reimbursed by the Lessee through payment thereof. Should a mutually acceptable settlement be made hereunder, the parties shall enter into a Supplemental Agreement at the termination of the lease hereto effectuating such settlement.

9. **PROPERTY INVENTORY:** As of the starting date of this lease, a joint inventory and condition report of all personal property of the Lessor included in this lease, and also a joint physical survey and inspection report of the real property shall be made, said reports to reflect the then present condition, and to be signed on behalf of the parties.

10. **TAXES:** The Lessor accepts full and sole responsibility for the payment of all taxes and other charges of a public nature which may arise in connection with this lease or which may be assessed against the property. This includes registration of the lease and payment of related charges.

11. **NOTICE:** Any notice under the terms of this lease shall be in writing signed by a duly authorized representative of the party giving such notice, and if given by the Lessee shall be addressed to the Lessor at:

County Executive
County of Albemarle
401 McIntire Road
Charlottesville, Virginia 22902

and if given by the Lessor shall be addressed to the Lessee at:

Commander, U.S. Army Engineer District, Baltimore
P.O. Box 548
Annapolis Junction, Maryland 20701-0548
ATTN: CENAB-RS-R

12. **LESSOR'S SUCCESSORS:** The terms and provisions of this lease and the conditions shall bind the Lessor, and the Lessor's heirs, executors, administrators, successors, and assigns.

13. **COVENANT AGAINST CONTINGENT FEES:** The Lessor warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or a contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessor for the purpose of securing business. For breach or violation of this warranty the Lessee shall have the right to annul this lease without liability or in its discretion to deduct from the lease price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

14. **OFFICIALS NOT TO BENEFIT:** No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this lease if made with a corporation for its general benefit.

15. GRATUITIES:

a. The Lessee may, by written notice to the Lessor, terminate the right of the Lessor to proceed under this lease if it is found, after notice and hearing, by the Secretary of the Army or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Lessor, or any agent or representative of the Lessor, to any officer, or employee of the Lessee with a view toward securing a lease or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such lease; provided, that the existence of facts upon which the Secretary of the Army or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this lease is terminated as provided in paragraph (a) hereof, the Lessee shall be entitled (i) to pursue the same remedies against the Lessor as it could pursue in the event of a breach of the lease by the Lessor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of the Army or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Lessor in providing any such gratuities to an such officer or employee.

c. The rights and remedies of the Lessee provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this lease.

16. EXAMINATION OF RECORDS: The Lessor agrees that any duly authorized representatives shall have the right until the expiration of three (3) years after final payment of the agreed rental, have access to and the right to examine any directly pertinent books, documents, papers and records of the Lessor involving transactions related to this lease.

17. MODIFICATION: No Change or modification of this lease shall be effective unless it is in writing and signed by both parties to this lease.

18. DISPUTES:

a. This lease is subject to the Contract Disputes Act of 1978 (41 USC 601-613).

b. Except as provided in the Contract Disputes Act ("Act"), all disputes arising under or relating to this lease shall be resolved under this clause.

c. "Claim" as used in this clause, means a written demand or written assertion by one of the leasing parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under a lease, unlike a claim relating to that lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Lessor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d) (2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

- d. (1) A claim by the Lessor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Lessee against the Lessor shall be subject to a written decision by the Contracting Officer.
- (2) For Lessor claims exceeding \$100,000, the Lessor shall submit with the claim a certification that:
- (i) The claim is made in good faith;
 - (ii) Supporting data are accurate and complete to the best of the Lessor's knowledge and belief; and
 - (iii) The amount requested accurately reflects the contract adjustment for which the Lessor believes the Lessee is liable.
- (3) (i) If the Lessor is an individual, the certification shall be executed by that individual.
- (ii) If the Lessor is not an individual, the certification shall be executed by:
- (A) A senior company official in charge at the Lessor's plant or location involved; or
 - (B) An officer or general partner of the Lessor having overall responsibility for the conduct of the Lessor's affairs.
- e. For Lessor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Lessor, render a decision within 60 days of the request. For Lessor certified claims over \$100,000, the Contractor Officer must, within 60 days, decide the claim or notify the Lessor of the date by which the decision will be made.
- f. The Contracting Officer's decision shall be final unless the Lessor appeals or files a suit as provided in the Act.
- g. At the time a claim by the Lessor is submitted to the Contracting Officer or a claim by the Lessee is presented to the Lessor, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternative dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph (d)(2) of this clause, and executed in accordance with paragraph (d)(3) of this clause.
- h. The Lessee shall pay interest on the amount found due and unpaid from: (1) the date the Contracting Officer receives the claim (properly certified is required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6 month period as fixed by the Treasury Secretary during the pendency of the claim.
- i. The Lessor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

19. **SEVERABILITY:** If any provision of this lease or the application thereof to any person, or if any circumstance is held invalid for any reason, such invalidity shall not affect the other provisions, or any other application of this lease which can be given effect without the invalid provision or application, and to this end, all the provisions of this lease are hereby declared to be severable.

20. **ANTI-DEFICIENCY ACT:** Any expenditure by the United States of federal funds under this Lease is subject to the lawful availability of such funds for the purposes described in this Lease. Nothing in this Lease will require a violation of the Anti-Deficiency Act (31 U.S.C. 1341(a)(1)(A)), or any other law or regulation relating to appropriated funds of the United States, nor shall this Lease require a violation of any law or regulation relating to the leasing of real property by the United States.

21. **COUNTERPARTS:** If this Lease shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Agreement.

22. **NO WAIVER:** No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

23. **INTEGRATED AGREEMENT:** This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

24. **ASSIGNMENT OF CLAIMS:** Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this lease provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Lessor from the Lessee under this contract may be assigned to a bank, trust company, or other financial institution, including any Federal lending agency, and may thereafter be further assigned or reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Notwithstanding any provisions of this contract, payments to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off.

IN WITNESS WHEREOF, the parties have subscribed their names as of the date first above written.

Witnesses:

COUNTY OF ALBEMARLE, LESSOR:



JEFFREY B. RICHARDSON
County Executive
Albemarle County

Witnesses:

THE UNITED STATES OF AMERICA, LESSEE:

GRAHAM.STANLEY
Y.H.1249739509

Digitally signed by
GRAHAM.STANLEY.H.1249739509
Date: 2021.06.10 13:32:52 -04'00'

STAN H. GRAHAM
Chief, IIES Branch
Real Estate Contracting Officer
Real Estate Division
Baltimore District
U.S. Army Corps of Engineers

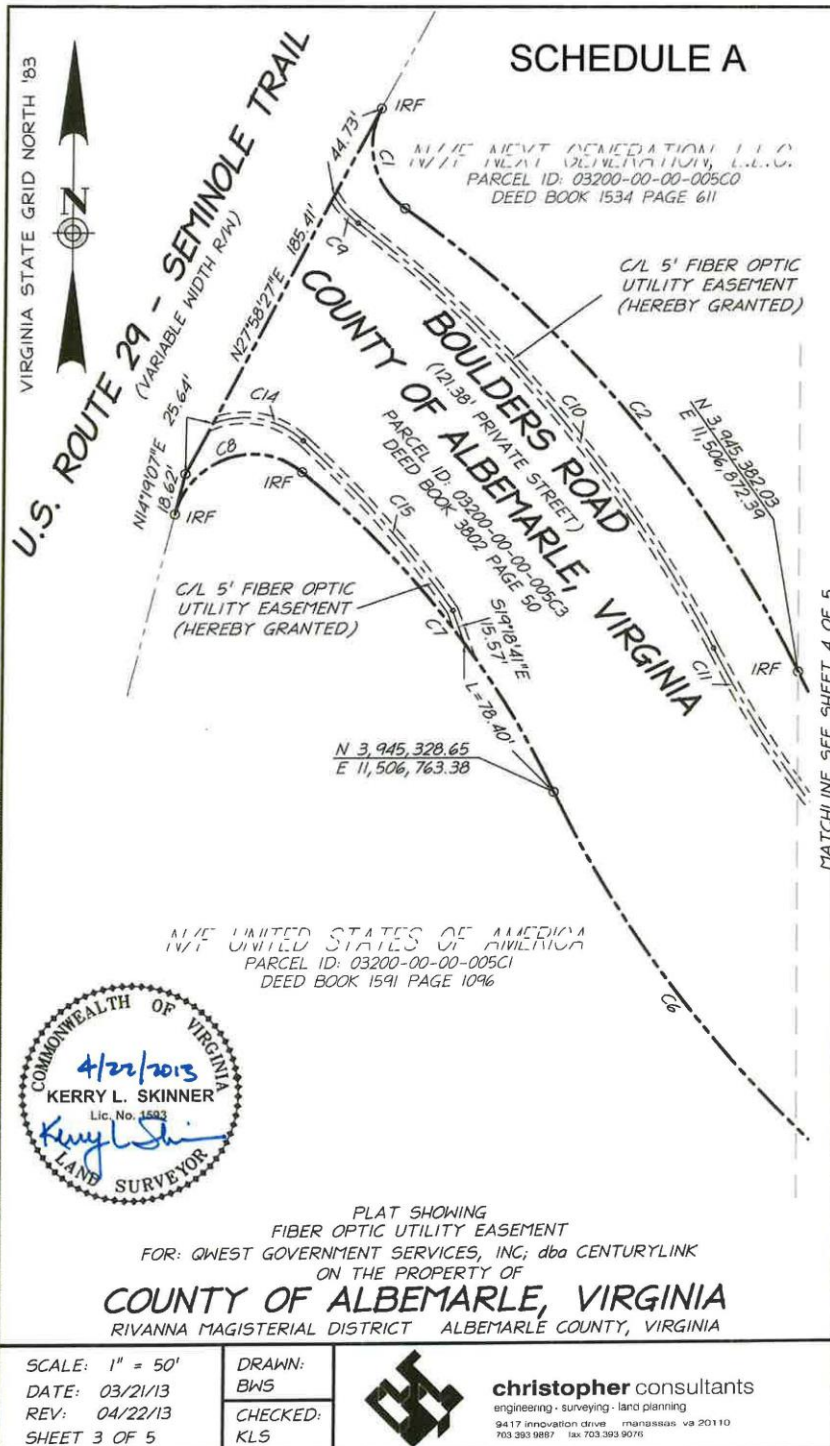
CERTIFICATE

I, Claudette Borge certify that I am the Clerk of the County of Albemarle; that Jeffrey B. Richardson, who signed the foregoing instrument on behalf of the County was then County Executive of the County. I further certify that the said officer was acting within the scope of the powers delegated to this officer by the governing body of the County in executing said instrument.

Date June 22, 2021
Claudette K Borge

Secretary or other appropriate officer
(Excluding the officer executing the instrument)

{Seal}



100978

826001

EXHIBIT A CONTD.

N/E NEXT GENERATION, L.L.C.
 N/E NEXT GENERATION, L.L.C.
 PARCEL ID: 03200-00-00-005C0
 DEED BOOK 1534 PAGE 611

C/L 5' FIBER OPTIC
 UTILITY EASEMENT
 (HEREBY GRANTED)

VIRGINIA STATE GRID NORTH '83



MATCHLINE SEE SHEET 3 OF 5

BOULDERS ROAD
 (121.38' PRIVATE STREET)
 COUNTY OF ALBEMARLE, VIRGINIA
 PARCEL ID: 03200-00-00-005C3
 DEED BOOK 3802 PAGE 50

18.91'
 S80°11'05"E

MATCHLINE SEE SHEET 5 OF 5



N/E UNITED STATES OF AMERICA
 N/E UNITED STATES OF AMERICA
 PARCEL ID: 03200-00-00-005C1
 DEED BOOK 1591 PAGE 1096

PLAT SHOWING
 FIBER OPTIC UTILITY EASEMENT
 FOR: QWEST GOVERNMENT SERVICES, INC; dba CENTURYLINK
 ON THE PROPERTY OF
COUNTY OF ALBEMARLE, VIRGINIA
 RIVANNA MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VIRGINIA

SCALE: 1" = 50'
 DATE: 03/21/13
 REV: 04/22/13
 SHEET 4 OF 5

DRAWN:
 BWS
 CHECKED:
 KLS



christopher consultants
 engineering - surveying - land planning
 9417 innovation drive manassas va 20110
 703 393 9907 fax 703 393 9076

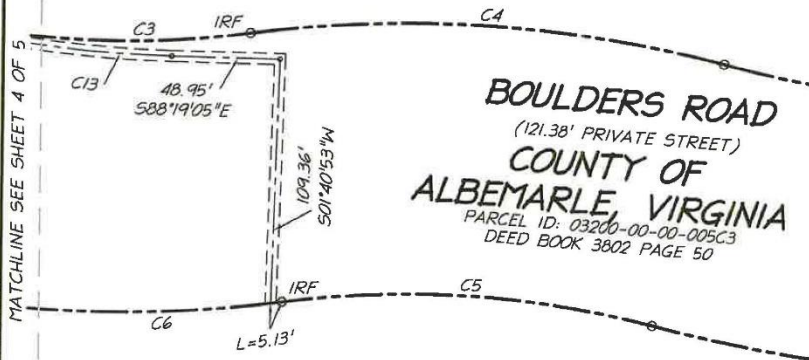
100978

EXHIBIT A CONTD.

VIRGINIA STATE GRID NORTH '83



ALICE MONT DEMEDIATIONS, L.L.C.
 1771 WEST DEMEDIATIONS, L.L.C.
 PARCEL ID: 03200-00-00-005C0
 DEED BOOK 1534 PAGE 611



PLAT SHOWING
 FIBER OPTIC UTILITY EASEMENT
 FOR: QWEST GOVERNMENT SERVICES, INC; dba CENTURYLINK
 ON THE PROPERTY OF
COUNTY OF ALBEMARLE, VIRGINIA
 RIVANNA MAGISTERIAL DISTRICT ALBEMARLE COUNTY, VIRGINIA

SCALE: 1" = 50'
 DATE: 03/21/13
 REV: 04/22/13
 SHEET 5 OF 5

DRAWN:
 BWS
 CHECKED:
 KLS



christopher consultants
 engineering - surveying - land planning
 8417 innovation drive manassas, va 20110
 703.303.9887 fax 703.303.9075