4-B

MOTION: **February 2, 2021**
Regular Meeting
SECOND: **Res. No. 21-**

RE: **APPROVE – MINUTES – JANUARY 12, 2021**

ACTION:

WHEREAS, on January 12, 2021, at 2:00 p.m., the Prince William Board of County Supervisors convened its regular meeting in the Board's chamber, located in the James J. McCoart Administration Building, One County Complex Court, Prince William, Virginia; and

WHEREAS, the Prince William Board of County Supervisors conducted business in accordance with a published agenda dated January 12, 2021;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves the minutes of January 12, 2021.

Votes:
Ayes:
Nays:
Absent from Vote:
Absent from Meeting:

ATTEST: _____

Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-001**

RE: **APPROVE REQUEST TO PARTICIPATE REMOTELY THROUGH ELECTRONIC COMMUNICATION MEANS**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors (Board) adopted a policy in its Rules of Procedure pursuant to Section 2.2-3708.2, VA Code Ann., to allow for remote participation by Members of the Board; and

WHEREAS, in accordance with the Board's policy, Supervisor Lawson notified the Chair that the Member is requesting permission from the Board to electronically participate at the Board's January 12, 2021, meeting; and

WHEREAS, Supervisor Lawson certified that she is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents her physical presence; and

WHEREAS, the remote location from which Supervisor Lawson plans to electronically participate is her Magisterial District Office, located at 9400 Innovation Drive, Manassas; and this remote location will not be open to the public; and

WHEREAS, Supervisor Lawson verified that her participation in any closed session of the meeting shall remain confidential and not be disclosed to any unauthorized persons or entities; and

WHEREAS, pursuant to the Board's policy, a request for electronic participation from a remote location shall be approved unless participation violates the Board's policy or any provisions of the Virginia Freedom of Information Act;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves the request to participate in the meeting through electronic communication means in accordance with the Board's policy; a quorum of the Board was physically assembled at one primary or central location; and arrangements were made for the voice of Supervisor Lawson to be heard by all persons at the primary or central meeting location.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Vega, Wheeler
Nays: None
Absent from Vote: Lawson
Absent from Meeting: None

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BODDYE** **January 12, 2021**
Regular Meeting
SECOND: **CANDLAND** **Res. No. 21-002**

RE: **APPROVE AND FIND FOR THE JANUARY 12, 2021, BOARD MEETING THAT DUE TO THE PUBLIC HEALTH THREAT AND THE NEED FOR PREVENTION AND CONTROL OF THE SPREAD OF COVID-19, INCLUDING THE NEED FOR MEASURES SUCH AS SOCIAL DISTANCING WHICH MAY LIMIT THE NUMBER OF INDIVIDUALS PERMITTED IN SPACES WHERE FUTURE BOARD MEETINGS MAY BE HELD, THE USUAL BOARD MEETING PROCEDURES CANNOT BE IMPLEMENTED SAFELY OR PRACTICALLY; AND (A) ALL AGENDA ITEMS ARE NECESSARY AND ESSENTIAL TO ASSURE THE CONTINUITY OF COUNTY GOVERNMENT; AND/OR (B) THE NATURE OF THE DECLARED EMERGENCY MAKES IT IMPRACTICABLE OR UNSAFE FOR THE BOARD TO ASSEMBLE IN A SINGLE LOCATION, AND THE PURPOSE OF THE MEETING IS TO DISCUSS OR TRANSACT THE BUSINESS STATUTORILY REQUIRED OR NECESSARY TO CONTINUE OPERATIONS OF THE BOARD AND THE DISCHARGE OF ITS LAWFUL PURPOSES, DUTIES, AND RESPONSIBILITIES**

ACTION: **APPROVED**

WHEREAS, Novel Coronavirus disease 2019 (COVID-19) is a serious public health threat, for which there is currently no proven vaccination, that is believed to be mainly spread by person to person contact; and

WHEREAS, on January 31, 2020, the United States Health and Human Services Secretary declared a public health emergency for the entire United States to aid the healthcare community in responding to COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic; and

WHEREAS, in response to COVID-19, the President has declared a National Emergency, the Governor has declared a State Emergency, and the County Executive has declared a Local Emergency, which was subsequently confirmed and amended by the Board to find the effects of COVID-19 constitute a disaster by Resolution Number (Res. No.) 20-307; and

WHEREAS, the Center for Disease Control (CDC), the Virginia Department of Health, the Governor of Virginia, and other federal and State authorities have provided guidelines for the prevention and control of the spread of COVID-19, and have advised that to prevent and slow the spread of COVID-19 people should avoid large gatherings, should practice social distancing and implement other health and safety measures to include, but not limited to: avoiding non-essential public and private gatherings and spaces when possible; avoiding close contact with those who are sick; staying home if the person is sick or believes they are sick unless they are seeking medical treatment; avoiding frequently touched public surfaces; practicing good personal and household hygiene; and complying with the Governor's Executive Orders; wash hands frequently; wear face coverings; and

WHEREAS, the Board's priority is protecting the health, safety, and general welfare of the public; and

WHEREAS, to address the health threat posed by COVID-19 the Board intends to continue to follow appropriate health guidance, which may continue to require social distancing and may limit the number of individuals permitted in spaces where future Board meetings may be held; and

WHEREAS, on March 31, 2020, in response to the COVID-19 emergency/disaster, the Board adopted and invoked the provisions of the Continuity of Government Ordinance, (Ord. No.) 20-10, providing for the continuity of County government, including, but not limited to, establishing public safety measure and alternative Board meeting procedures; and

WHEREAS, on or about April 10, 2020, the Governor proposed Amendment 28 to HB29/2018-2020 Biennium Budget Bill and Amendment 137 to HB 30/2020-2022 Biennium Budget Bill, which were adopted by the General Assembly during the 2020 Reconvened Session and subsequently approved and signed by the Governor; and

WHEREAS, the initial invocation of the Continuity of Government Ordinance expires on September 30, 2020; because the public health threat of COVID-19 still exists, the Board re-invoked the Continuity of Government Ordinance on September 22, 2020; and

WHEREAS, the recording of the meeting shall be made available on the County website in accordance with the timeframes established in Virginia Code Sections 2.2-3707 and 2.2-3707.1; and

WHEREAS, notice of the meeting was provided to the public using the best available method given the nature of the COVID-19 emergency, which notice was given contemporaneously with the notice provided to the Board members; and

WHEREAS, arrangements were made for public access to, and public comment during, the meeting through electronic means, including to the extent practicable, videoconferencing; and

WHEREAS, the Board has otherwise complied with Virginia Code Section 2.2-3708.2;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves and finds for the January 12, 2021, Board meeting that due to the public health threat and the need for prevention and control of the spread of COVID-19, including the need for measures such as social distancing which may limit the number of individuals permitted in spaces where future Board meetings may be held, the usual Board meeting procedures cannot be implemented safely or practically; and (a) all agenda items are necessary and essential to assure the continuity of County government; and/or (b) the nature of the declared emergency makes it impracticable or unsafe for the Board to assemble in a single location, and the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the Board and the discharge of its lawful purposes, duties, and responsibilities;

BE IT FURTHER RESOLVED that the Board Clerk shall note in the meeting minutes that the meeting was held by electronic communication means and the type of electronic communications means by which the meeting was held, including for each Board member, as applicable.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **CANDLAND** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Res. No. 21-003**

RE: **APPROVE PROPOSED SEATING ARRANGEMENT AT THE DAIS**

ACTION: **APPROVED**

WHEREAS, Chair Wheeler proposed a new seating arrangement at the dais for the Prince William Board of County Supervisors, effective January 12, 2021; and

WHEREAS, the seating arrangement at the dais, from left to right, is as follows: Michelle Robl, County Attorney; Supervisor Vega, Coles District; Supervisor Franklin, Woodbridge District; Chair Wheeler, At-Large; Supervisor Bailey, Potomac District; Supervisor Boddye, Occoquan District; Supervisor Lawson, Brentsville District; Supervisor Candland, Gainesville District; Supervisor Angry, Neabsco District; and Christopher Martino, County Executive;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves the proposed seating arrangement at the dais.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BODDYE** **January 12, 2021**
Regular Meeting
SECOND: **ANGRY** **Res. No. 21-004**

RE: **ELECT – VICE CHAIR – BOARD OF COUNTY SUPERVISORS – FOR THE YEAR 2021**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors' Rules of Procedure provide for the annual election of a Vice Chair;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby elects Supervisor Andrea O Bailey as Vice Chair, Prince William Board of County Supervisors, for the year 2021.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **VEGA** **January 12, 2021**
Regular Meeting
SECOND: **LAWSON** **Res. No. 21-005**

RE: **ELECT – CHAIR PRO-TEM – PRINCE WILLIAM BOARD OF COUNTY SUPERVISORS – FOR THE YEAR 2021**

ACTION: **FAILED**

WHEREAS, the Prince William Board of County Supervisors' Rules of Procedure provide for the annual election of a Chair Pro-Tem;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby elects Supervisor Pete Candland as Chair Pro-Tem, Prince William Board of County Supervisors, for the year 2021.

Votes:
Ayes: Lawson, Vega
Nays: Angry, Bailey, Boddye, Franklin, Wheeler
Absent from Vote: None
Absent from Meeting: None
Abstain from Vote: Candland

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **BAILEY** **Res. No. 21-006**

RE: **ELECT – CHAIR PRO-TEM – PRINCE WILLIAM BOARD OF COUNTY SUPERVISORS – FOR THE YEAR 2021**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors' Rules of Procedure provide for the annual election of a Chair Pro-Tem;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby elects Supervisor Margaret Angela Franklin as Chair Pro-Tem, Prince William Board of County Supervisors, for the year 2021.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None
Abstain from Vote: Franklin

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BODDYE** **January 12, 2021**
Regular Meeting
SECOND: **BAILEY** **Res. No. 21-007**

RE: **ADOPT – PRINCE WILLIAM BOARD OF COUNTY SUPERVISORS' 2021 MEETING CALENDAR**

ACTION: **APPROVED**

WHEREAS, both the Code of Virginia and the Rules of Procedure of the Prince William Board of County Supervisors require that the Board, at its annual meeting, shall adopt a schedule of the times, dates, and places of its regular meetings for the ensuing calendar year; and

WHEREAS, the 2021 annual meeting is the January 12, 2021 meeting of the Prince William Board of County Supervisors; and

WHEREAS, meetings are scheduled to be at 2:00 p.m. in the Board Chamber of the James J. McCoart Administration Building, One County Complex Court, Prince William, Virginia, unless otherwise stated or specified; and

WHEREAS, the Prince William Board of County Supervisors may recess following the afternoon regular session and reconvene at 7:30 p.m., as needed; and

WHEREAS, public hearings may be advertised for the afternoon legislative session at 2:00 p.m. or for the evening legislative session at 7:30 p.m. or as otherwise may be specified by the Board; and

WHEREAS, ***SECTION A: MEETINGS 1. (a)*** of the Board's Rules of Procedure as Amended on November 21, 2017, requires that "There must be at least one scheduled meeting per month that occurs in the evening."; and

WHEREAS, The Board of County Supervisors is desirous of not having an evening session on August 3, 2021;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby waives ***SECTION A: MEETINGS 1. (a)*** of their Rules of Procedure to eliminate an evening session requirement for the month of August, 2020;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby adopts the attached schedule of meetings for 2021.

ATTACHMENT: Board of County Supervisors' 2021 Meeting Schedule and Calendar

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

Prince William Board of County Supervisors
2021 Meeting Dates

January
12 – Organizational and Regular Meeting
2:00 p.m. 7:30 p.m.

19 – Regular Meeting
2:00 p.m. 7:30 p.m.

February
02 – Regular Meeting
2:00 p.m. 7:30 p.m.

09 – Regular Meeting / Work Session
2:00 p.m. 7:30 p.m.
Proposed CIP Presented at 7:30 p.m.

16 – Regular Meeting
2:00 p.m. 7:30 p.m.
CXO Proposed Budget Presented at 7:30 p.m.

March
02 – Regular Meeting
2:00 p.m. 7:30 p.m.

09 – Work Session
2:00 p.m.

16 – Regular Meeting
2:00 p.m. 7:30 p.m.
Budget Public Hearing at 7:30 p.m.

April
06 – Regular Meeting
2:00 p.m. 7:30 p.m.
School Board Budget Presentation at 7:30 p.m.

13 – Regular Meeting
2:00 p.m. 7:30 p.m.
Budget Recap Presented at 7:30 p.m.
Budget Public Hearings Begin at 7:30 p.m.

20 – Regular Meeting
7:30 p.m.
Budget Markup

27 – Regular Meeting
7:30 p.m.
Budget Adoption

May
04 – Regular Meeting
2:00 p.m. 7:30 p.m.

11 – Work Session
2:00 p.m.

18 – Regular Meeting
2:00 p.m. 7:30 p.m.

June
08 – Regular Meeting
2:00 p.m. 7:30 p.m.

15 – Work Session
2:00 p.m.

22 – Regular Meeting
2:00 p.m. 7:30 p.m.

July
13 – Regular Meeting
2:00 p.m. 7:30 p.m.

20 – Regular Meeting
2:00 p.m. 7:30 p.m.

August
03 – Regular Meeting
2:00 p.m.

September
07 – Regular Meeting
2:00 p.m. 7:30 p.m.

14 – Work Session
2:00 p.m.

21 – Regular Meeting
2:00 p.m. 7:30 p.m.

October
05 – Regular Meeting
2:00 p.m. 7:30 p.m.

12 – Work Session
2:00 p.m.

19 – Regular Meeting
2:00 p.m. 7:30 p.m.

November
16 – Regular Meeting
2:00 p.m. 7:30 p.m.

23 – Regular Meeting
2:00 p.m. 7:30 p.m.

December
07 – Regular Meeting
2:00 p.m.

7:00 p.m. – State Delegation Meeting*****

14 – Work Session
2:00 p.m.

7:00 p.m. – Joint School Board Meeting*****

*******Location TBD*

Unless otherwise specified, all meetings of the Board of County Supervisors will be held in Board Chambers at the McCoart Administration Building, located at 1 County Complex Court, Prince William, Virginia, 22192

Adopted: January 12, 2021, Resolution No. 20-007

Tentative January 2022 Meeting Dates: *January 11, 2022 at 2:00 p.m. and 7:30 p.m.*
January 18, 2022 at 2:00 p.m. and 7:30 p.m.

2021 Board of County Supervisors Meeting Calendar

Board of County Supervisors Meetings
Board Work Sessions
Prince William County Holidays

Regular meetings of the PWC BOCS shall be held on Tuesdays and will generally occur on the first, second, and third Tuesday of each month. Meetings shall begin at 2:00 p.m. and may reconvene at 7:30 p.m. or other convenient time for public hearings. There must be at least one evening meeting each month. Unless otherwise noticed, meetings will be held in Board Chambers at the PWC **McCoart Administration Building:**

1 County Complex Court
Prince William, VA 22192

PWCPS Spring Break: March 29 - April 2
NACo: July 16 - 19
VACo: November 8 - 10

Adopted: January 12, 2021
Res. No. 21-007

Prepared by A. Madden, Clerk to the BOCS

JANUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

FEBRUARY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

MARCH

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

APRIL

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20*	21	22	23	24
25	26	27*	28	29	30	

MAY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

***Budget Items Only**

JULY

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

AUGUST

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

SEPTEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

OCTOBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

NOVEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Holidays & Observances

January 1	New Year's Day
January 18	Martin Luther King Day
May 31	Memorial Day
June 18 (Observed)	Juneteenth
July 5 (Observed)	Independence Day
September 6	Labor Day
November 11	Veterans Day
November 25 & 26	Thanksgiving Holiday
December 23 & 24	Christmas Holiday
December 31	New Year's Day

Key Election Date

Primary - Date to be determined by the 2021 General Assembly.
November 2 General Election

ATTACHMENT
January 12, 2021
Res. No. 21-007
Page 2 of 2

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-008**

RE: **AMEND – BOARD OF COUNTY SUPERVISORS' RULES OF PROCEDURE – SECTION C: QUORUM AND ACTIONS**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors reviews its adopted Rules of Procedure periodically to determine the necessity to make amendments or modifications;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby amends its Rules of Procedures as follows:

SECTION C: QUORUM AND ACTIONS

…

5. *Proposal of Policy and Appointment Resolution by an Individual Supervisor*.

(iii) Unless the membership of a board, committee or commission is comprised of one at-large member and one member from each magisterial district appointed by the Board of County Supervisors, Supervisors will consult with the Chair first before proposing an at-large nomination of an appointment to the board, committee or commission.; and

BE IT FURTHER RESOLVED that the Clerk to the Board is instructed to provide public notice of this requirement as appropriate.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **FRANKLIN** **January 12, 2021**
Regular Meeting
SECOND: **BAILEY** **Res. No. 21-009**

RE: **AMEND – BOARD OF COUNTY SUPERVISORS' RULES OF PROCEDURE – SECTION G: ORDER IN CONDUCT OF BUSINESS**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors reviews its adopted Rules of Procedure periodically to determine the necessity to make amendments or modifications;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby amends its Rules of Procedures as follows:

SECTION G: ORDER IN CONDUCT OF BUSINESS

…

5. *Questions* – Questions by members of the Board shall be reserved for the end of a presentation to avoid interrupting the speaker, disrupting the time-keeping process, and duplicating ground the speaker may cover. Questions by members of the Board regarding the presentation or item of business pending will not be counted toward the time for discussion and debate as discussed below. Statements regarding the presentation or item of business pending shall be reserved for Board Discussion as discussed below.

…

7. *Board Discussion* – Discussion and debate by the Board shall be conducted following the presentation of testimony on the item of business pending. Supervisors shall not speak to the item until recognized by the Chair. A Supervisor who has spoken to the item shall not again be recognized until each other member desiring to speak shall have had an opportunity to speak. A Board member may only speak twice in discussion and debate of an item of business pending and may speak up to three minutes each time; merely asking a question or making a brief suggestion is not counted as speaking in debate, nor is the making of a secondary motion counted as speaking in debate, so long as in making the motion the Board member makes no comment on the then-pending question. Board members may not save time for another item, or transfer (yield) time to another Board member. Discussion and debate by the Board shall be germane to the item of business pending.;

…

BE IT FURTHER RESOLVED that the Clerk to the Board is instructed to provide public notice of this requirement as appropriate.

Votes:
Ayes: Angry, Boddye, Franklin, Vega, Wheeler
Nays: Candland, Lawson
Absent from Vote: None
Absent from Meeting: None
Abstain from Vote: Bailey

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **January 12, 2021**
Regular Meeting
SECOND: **Res. No. 21-010**

RE: **AMEND BOARD OF COUNTY SUPERVISORS' RULES OF PROCEDURE – SECTION F: ORDER OF BUSINESS, CONSENT AGENDA**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors reviews its adopted Rules of Procedure periodically to determine the necessity to make amendments or modifications;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby amends it Rules of Procedures as follows:

SECTION F: ORDER OF BUSINESS

...

3. *Consent Agenda* – The Chair is authorized and directed, in consultation with the County Executive, to prepare a consent agenda for regular Board meetings, for matters of a routine, non-controversial nature. Motions to approve the consent agenda shall not be debatable, and shall be adopted only by unanimous consent of all Board members present at the meeting. Matters may be removed from the consent agenda and placed on the regular agenda after Public Comment Time for presentation, questions, or debate, and vote at the request of any Board member, the County Executive, or the County Attorney.

...

BE IT FURTHER RESOLVED that the Clerk to the Board is instructed to provide public notice of this requirement as appropriate.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY**

SECOND: **ANGRY**

January 12, 2021
Regular Meeting
Res. No. 21-011

RE: **APPROVE – MINUTES – DECEMBER 8, 2020**

ACTION: **APPROVED**

WHEREAS, on December 8, 2020, at 2:00 p.m., the Prince William Board of County Supervisors convened its special meeting at Simmons Hall at Buckhall Volunteer Fire Station, located at 7190 Yates Ford Road, Manassas, Virginia; and

WHEREAS, the Prince William Board of County Supervisors conducted business in accordance with a published agenda dated December 8, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves the minutes of December 8, 2020.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-012**

RE: **ENDORSE AND AUTHORIZE APPLICATIONS TO THE GROWTH AND ACCESSIBILTY PLANNING TECHNICAL ASSISTANCE PROGRAM FOR STATE FUNDING FROM THE VIRGINIA OFFICE OF INTERMODAL PLANNING AND INVESTMENT – VARIOUS MAGISTERIAL DISTRICTS**

ACTION: **APPROVED**

WHEREAS, the Virginia Office of Intermodal Planning and Investment (OIPI) is part of the Office of the Secretary of Transportation established by 2.2-229 of the Code of Virginia to support and advise the Secretary; and

WHEREAS, goals of the OIPI include promoting a multimodal network, supporting economic development, enhancing coordination between transportation and land use planning, environmental quality, and use of innovation and best practices to improve the transportation network; and

WHEREAS, the Growth and Accessibility Planning (GAP) Technical Assistance program seeks to further the goals of the OIPI by providing State funded technical assistance for the development of plans and policies that enable data-driven, replicable, and saleable approaches to mobility projects; and

WHEREAS, County staff have identified and recommended two projects for submission to the GAP program that meet eligibility requirements and support shared mobility goals of Prince William County and the OIPI; and

WHEREAS, the first project is a planning effort for retrofitting legacy roads in the County with modern traffic control measures and pedestrian access improvements to improve safety and address current and projected mobility needs with cost effective implementation recommendations; and

WHEREAS, the second project is the development of a systematic approach and framework to identify and develop the pedestrian and bicycle network in the County using performance-based planning processes and measures; and

WHEREAS, these projects support the Mobility Strategic Goal and Comprehensive Plan mobility; and

WHEREAS, application to the GAP program will allow the County to pursue external funding to enhance mobility for Prince William residents and visitors;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby authorizes the County Executive, or his designee, to submit the applications and to execute all other documents necessary to secure funding from the Virginia Office of Intermodal Planning and Investment through the Growth and Accessibility Planning Technical Assistance program for the projects identified herein by the Department of Transportation staff.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Director of Transportation

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-013**

RE: **AUTHORIZE A PUBLIC HEARING TO CONSIDER ENDORSING THE FINAL DESIGN OF THE SUMMIT SCHOOL ROAD AND TELEGRAPH ROAD IMPROVEMENT PROJECT – OCCOQUAN MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, the Summit School Road and Telegraph Road Improvement Project (Project) involves the extension, widening, and construction of a section of State Route 2190 (Summit School Road) from its terminus point at Kinnicutt Drive on a new alignment to connect with Telegraph Road north of the Horner Road Park and Ride lot entrance, a distance of approximately 0.77 mile. In addition, the Project also includes the widening and improvement of the section of existing Telegraph Road between its intersection with Caton Hill Road to the existing intersection with Prince William Parkway, a distance of approximately 0.17 mile; and

WHEREAS, this Project is currently funded by the Northern Virginia Transportation Authority (NVTA) as part of the Fiscal Year (FY) 2018-2023 Six-Year Program and has initially approved $11,000,000 in funding. The project is also funded by $45,108 in proffer funding. The Prince William Board of County Supervisors (Board) authorized the execution of a Standard Project Agreement, via Resolution Number (Res. No.) 18-480, with NVTA at the September 4, 2018, Board Meeting; and

WHEREAS, on December 3, 2019, via Res. No. 19-575, the Board awarded the Design Contract to Kimley-Horn and Associates and the notice to proceed was provided shortly after; and

WHEREAS, a virtual presentation for public information and comments was held on June 30, 2020, to present the design and solicit public input; and

WHEREAS, the Project is supported by $11,000,000 in NVTA funding and $45,108 in proffer funding. This is adequate to cover the completion of the design and a significant portion of the right-of-way phase. An additional $24,000,000 has been approved towards the completion of the Project as part of NVTA's adopted FY 2020-2025 Six-Year Program. These funds have been programmed and will be available starting in FY 2024; and

WHEREAS, this is a County-managed project and the purpose is to relieve existing and projected traffic congestion as well as improve safety by including pedestrian infrastructure;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby authorizes a public hearing to consider endorsing the final design of the Summit School Road and Telegraph Road Improvement Project in the Occoquan Magisterial District.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Director of Transportation
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **VEGA** **Res. No. 21-014**

RE: **AUTHORIZE EXECUTION OF A LEASE RENEWAL WITH THE LAKE RIDGE PARKS AND RECREATION ASSOCIATION FOR THE PARCEL OF LAND LOCATED AT 13251 STURBRIDGE ROAD, KNOWN AS THE K9 GUNNER DOG PARK – OCCOQUAN MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, in 2012, the Department of Parks, Recreation, and Tourism (DPRT) entered into a seven-year Lease with the Lake Ridge Parks and Recreation Association (LRPRA) to utilize their property at 13251 Sturbridge Road, Woodbridge, VA, 22192, for the County's first stand-alone, off-leash dog park, known as K9 Gunner Dog Park; and

WHEREAS, Prince William Dogs Inc. provides maintenance and operational support for the dog park through a Memorandum of Understanding with DPRT; and

WHEREAS, the current lease expired December 31, 2020; and

WHEREAS, a new Lease Agreement has been reviewed and approved by the LRPRA, DPRT staff, and County Attorney's office; and

WHEREAS, The K9 Gunner Dog Park is a well-used facility, attracting residents from all areas of eastern Prince William County; and

WHEREAS, renewing the Lease will ensure the continued operation of the only currently active public dog park in Prince William County; and

WHEREAS, the land acreage of K9 Gunner Dog Park contributes to the County Comprehensive Plan Level of Service Standard for Parkland;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby authorizes execution of a Lease Agreement with Lake Ridge Parks and Recreation Association for the parcel of land located at 13251 Sturbridge Road, known as K9 Gunner Dog Park;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby authorizes the Director of Parks, Recreation, and Tourism to execute such documents necessary to affect the intent of this resolution and approved as to form by the County Attorney's Office;

BE IT FURTHER RESOLVED that the Director of Parks, Recreation, and Tourism is authorized to renew this Lease Agreement with Lake Ridge Parks and Recreation Association for seven additional one-year terms through December 31, 2028.

ATTACHMENT: Deed of Lease between Lake Ridge Parks and Recreation Association, Inc. and Prince William County Department of Parks, Recreation, and Tourism

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

DEED OF LEASE

THIS DEED OF LEASE (this "Lease") is made and entered into this _____ day of _____, 2021 between LAKE RIDGE PARKS AND RECREATION ASSOCIATION, INC., a Virginia non- stock corporation ("Association" or the “Lessor”) and the PRINCE WILLIAM COUNTY DEPARTMENT OF PARKS, RECREATION, & TOURISM (“DPRT” or the “Lessee”).

WITNESSETH

NOW, THEREFORE, for and in consideration of and subject to the terms and conditions hereinafter set forth, Lessor hereby lets, leases, and demises unto Lessee and Lessee hereby rents, leases and accepts as tenant from Lessor, the property located at 13000 Minnieville Rd, Lake Ridge, VA 22192, identified as Prince William Dog Park, generally described for the purposes hereinafter stated and subject to the following terms and conditions:

1. PREMISES. In consideration of the rents hereinafter reserved, and all of the terms, conditions, covenants and agreements hereinafter contained, Association does hereby lease and demise to DPRT, and DPRT hereby hires and takes from the Association, that certain piece or parcel of land, located at 13251 Sturbridge Road, Prince William County, Virginia, containing approximately 8.5129 acres (the "Premises"), with a tax map parcel number of 044-07-000-000 A, and with the GPIN of 8292-88-8374.

2. TERM. The Premises are demised for a term of one year commencing January 1, 2021 and continuing through December 31, 2021. Thereafter, the Lease may be renewed by the parties annually upon the same terms and conditions, except as otherwise negotiated by the parties in writing. Either party can cancel the Lease at the end of the initial term or at the end of any additional annual renewal by giving written notice of its intention to terminate at least one hundred eighty (180) days prior to the expiration of such term. The DPRT Director will have signing authority on behalf of the BOCS to renew this lease annually for 7 years, through December, 31 2028.

3. RENT. DPRT shall pay to the Association a fixed annual rent of One Dollar ($1.00) payable due on the first day of the term and on the first day of each year thereafter. All payments of rent shall be made payable to the Association and mailed or delivered to the Association at: Lake Ridge Parks and Recreation Association, Inc., 12350 Oakwood Drive, Lake Ridge, Virginia 20814-1928, Attention: Ike Mutlu, Chief Operating Officer/General Manager or such other address specified by the Association.

4. USE OF PREMISES. The Premises shall be used by DPRT solely as a dog park and such other purposes as approved by the Association and DPRT. The term "dog park" as used in this Lease shall mean a facility set aside for dogs to exercise and play off-leash in a controlled, enclosed environment under the continuous supervision of the dog owners. DPRT, at its expense, shall be responsible for obtaining all permits necessary to operate and maintain the dog park facilities and to permit the Premises to be used as a dog park. The Association will cooperate with DPRT in obtaining such permits. DPRT agrees that DPRT will continuously operate and

maintain the dog park throughout the initial term and any additional term of this Lease, subject to the terms of this Lease.

DPRT shall establish rules regarding the use of the dog park as are typical for dog parks and shall diligently enforce these rules. These rules shall be clearly posted at the entrance of the dog park facility. The design, size and location of the rule signage shall be acceptable to the Association in the reasonable discretion of the Association. Such rule signage shall remain erected through the entire term of the Lease, including any additional terms. The dog park shall be available for use only from dawn to dusk.

5. ASSOCIATION'S RESERVATIONS. In addition to the other rights of the Association, the Association reserves to itself the right to dedicate, grant and/or convey any portion(s) of the Premises for the dedication of right-of-way for road improvements, conveyance of permanent or temporary utility easements, or other public improvements and reserves to itself, its members and invitees the right to enjoy the Premises. However, the Association will work with DPRT so that any such conveyances or improvements which may be necessary will not unreasonably negatively impact DPRT's use of the Premises and in no event shall such conveyances or improvements materially interfere with the use of facilities which have been constructed by DPRT on the Premises prior to such conveyances or improvements. If the Association's activities (pursuant to this Section 5) are likely to materially detrimentally impact DPRT's intended use of the Premises, the Association shall notify DPRT in writing ninety (90) days prior to exercising its rights hereunder. DPRT shall have the right to terminate this Lease immediately if it determines, in its reasonable discretion, that any action by the Association pursuant to this section will materially detrimentally impact DPRT's use of the Premises or increase the potential liability of DPRT.

6. IMPROVEMENTS BY DPRT. After securing the prior written approval of the Association, which may be withheld or conditioned at the Association's sole discretion, DPRT, at DPRT's expense, may make such other improvements to the Premises throughout the term of this Lease provided the same do not impair the value of the Premises, such improvements to be limited to maintenance of existing areas and other similar items appropriate for DPRT's intended purposes. All improvements made by DPRT shall be completed in a first-class, workmanlike manner and in compliance with all applicable laws, ordinances and governmental regulations. This shall include a site Master Plan and a Public Facilities Review by the Prince William County Office of Planning. Any operation, maintenance, repair, replacement, removal or other activity permitted to be performed by DPRT pursuant to this Lease shall be so performed as to interfere as little as possible with use and enjoyment of the Premises by the Association. DPRT shall discharge any mechanic's liens filed against the Premises as a result of labor or materials provided to DPRT for improvements to the Premises within thirty (30) days after DPRT shall receive notice of such lien.

7. DPRT'S PERSONAL PROPERTY. DPRT shall remove, at its expense, all fencing, lights, fixtures, and other personal property which it owns or has installed on the Premises within one hundred eighty (180) days of the expiration or termination of this Lease. After removing

such property, DPRT, at its expense, shall restore, as nearly as possible, the Premises to their original condition. Any pavement installed by DPRT shall not be removed.

8. SIGNAGE. At the entrance to the parking area to the Premises, DPRT, at DPRT's expense, erected a sign acknowledging that the Premises are owned and made available for use by the Association; the sign shall remain erected through the entire term of the Lease, including any additional terms.

9. UTILITIES. DPRT shall pay the cost of electricity and any other utilities furnished to the Premises and utilized by DPRT for park operations. The Association shall cooperate reasonably in the granting of any easement which may be necessary to obtain electricity, water, or sewer for the Premises, the location and conditions of such easements to be subject to the Association's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

10. INSURANCE. DPRT acknowledges that it has and shall maintain in full force and effect during the term and all additional terms of the Lease general liability insurance of up to Five Hundred Thousand Dollars ($500,000.00) in combined limit coverage through the Prince William Self-Insurance Group and that it has and will maintain excess general liability coverage of up to Five Million Dollars ($5,000,000.00) in combined limit coverage. The Association shall be named as an additional insured on both policies to the extent of any and all vicarious liability but not for independent negligent acts or omissions of the Association. Copies of such policies shall be promptly provided to the Association.

11. MAINTENANCE. DPRT shall repair and maintain the Premises and all improvements on the Premises in good and safe condition; such responsibilities include, but are not limited to, regular mowing of all areas, provision of trash receptacles and refuse removal, removal of fallen branches and trees. This maintenance obligation began with the original lease with DPRT and shall cease upon termination of this Lease.

12. NOTICES. Notices required to be sent pursuant to the provisions hereof shall be in writing and shall be deemed duly given if delivered in person or upon receipt or refusal by registered or certified U.S. Mail, return receipt requested, first class, postage prepaid, and addressed as follows, except as otherwise specified in writing by either party:

To the Association: Lake Ridge Parks and Recreation Association
Attn: Ike Mutlu, Chief Operating Officer/General Manager
12350 Oakwood Drive
Lake Ridge, Virginia 22192-1928

To DPRT: PRINCE WILLIAM COUNTY DEPARTMENT OF PARKS, RECREATION, & TOURISM
Attn: Executive Director
14420 Bristow Road
Manassas, VA 20112-3932

13. INDEMNITY. To the extent permitted by law, DPRT shall protect, indemnify, defend and hold harmless the Association from and against all losses, costs, damages, penalties, judgments, expenses and liabilities, including, without limitation, reasonable attorney's fees, which the Association may incur or pay out by reason of (i) any accidents, damages or injuries to persons or property occurring in, on or about the Premises during the term of this Lease, as a result of any act, omission or negligence on the part of DPRT and/or its employees, agents, contractors, guests and/or invitees, (ii) any breach or default hereunder on DPRT's part, (iii) any work done on or to the Premises by or at the direction of DPRT during the term of this Lease, or (iv) any act, omission or negligence on the part of DPRT and/or its employees, agents, contractors, guests and/or invitees, or any person claiming through or under DPRT during the term of this Lease. Notwithstanding the foregoing, DPRT shall not be obligated to indemnify and hold harmless Lessor from any losses, costs, damages, penalties, judgments, expenses or liabilities to the extent such matter arises out of or results from the negligent acts or omissions or willful misconduct of the Association, its employees, agents, contractors, guests or invitees.

14. CONDEMNATION. If the Premises, or so much of such land that DPRT cannot reasonably continue to use the Premises, shall be taken or condemned for public use under power of eminent domain, then DPRT shall have the right to terminate this Lease by giving written notice to the Association, effective on the date of transfer of title to the condemning authority. Regardless of whether this Lease is terminated by DPRT because of a condemnation or taking, any and all condemnation award(s) shall be paid to the Association and this Lease shall not be used in the calculation of the fair market value of the Premises.

15. DEFAULT. If DPRT (a) shall fail to pay the rent when due and shall fail to pay the same within thirty (30) days after receipt of written notice thereof from the Association, or (b) shall fail promptly to perform any of the other covenants and agreements in this Lease on its part to be done and performed, and shall fail to cure the same after thirty (30) days' notice in writing to DPRT by the Association, or if such breach cannot reasonably be cured within such period, if DPRT shall fail to commence and diligently pursue the cure of such breach within such thirty (30) day period, then DPRT shall be in default and this Lease may, at the option of the Association, be terminated as though it were the end of the term and the Association shall have the right at any time thereafter, after proper notice, to re-enter and repossess the Premises.

16. NONDISTURBANCE. The Association shall request, from any lender currently having a lien against the Premises, a non-disturbance agreement in form and substance reasonably acceptable to Lessee to the effect that so long as DPRT is not in default hereunder, after the expiration of all applicable cure periods, the lender shall not disturb this Lease, or DPRT's use or occupancy hereunder. DPRT shall subordinate this Lease to the lien of any deed of trust subsequent to this Lease, upon the condition that the Association shall request that the party secured by such deed of trust shall provide a non-disturbance agreement as described above.

17. BINDING EFFECT. The provisions contained in this Lease shall bind and inure to the benefit of the Association, DPRT, and their respective successors and assigns.

18. INVALIDITY OF PARTICULAR PROVISIONS. If any provisions of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the full extent permitted by law.

20. HEADINGS. Captions and headings are for convenience of reference only.

21. RECORDATION OF LEASE. The Association may, in its sole discretion, record this Lease or a Memorandum of Lease. DPRT shall, at the request of the Association, execute and deliver a Memorandum of Lease in recordable form. DPRT shall not record such a Memorandum of Lease or this Lease without the Association's written consent. If DPRT requests recordation of this Lease or a Memorandum of this Lease, DPRT shall be obligated to pay all costs, fees and taxes, if any, associated with such recordation. If the Lease or Memorandum of Lease is recorded, upon the expiration or termination of the Lease, DPRT shall promptly execute and deliver to the Association the instruments necessary to evidence the expiration or termination of the Lease, at the Association's request.

22. GOVERNING LAW. This Lease and the performance thereof shall be interpreted and governed by the laws of the Commonwealth of Virginia.

23. ENTIRE AGREEMENT; COUNTERPARTS. This Lease contains the entire agreement between the parties. No oral statement or prior agreement shall have any effect. This Lease shall not be modified or amended except by writing signed by all the parties. This Lease may be executed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the parties have hereunto, in duplicate originals, set their hands and seals as of the date set forth above.

ATTEST: LESSOR: LAKE RIDGE PARKS AND RECREATION ASSOCIATION, INC.

_____	_____	_____
Title	Authorized Signature	Date

ATTEST: LESSEE: PRINCE WILLIAM COUNTY

_____	_____	_____
Title	Director Parks, Recreation and Tourism	Date

#178168.3

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **VEGA** **Res. No. 21-015**

RE: **ADOPT THE HISTORIC PRESERVATION FOUNDATION ANNUAL WORK PLAN FOR CALENDER YEAR 2021 – COUNTYWIDE**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors (Board) established the Prince William County Historic Preservation Foundation (Foundation) in January 2002 to raise funds for County-owned historic preservation efforts; and

WHEREAS, the Foundation is a not-for-profit 501(c)(3) charitable organization and is therefore eligible to solicit tax-exempt private donations and apply for grants; and

WHEREAS, the partnership between the Board and the Foundation was ratified in an Operating Agreement (Agreement) in December 2002, which among other things, authorizes the Foundation to raise funds for historic preservation purposes on behalf of the Board; and

WHEREAS, as part of the Agreement, the Foundation is required to submit an Annual Work Plan to the Board for consideration; and

WHEREAS, the proposed 2021 Annual Work Plan involves raising funds to complete the following initiatives:

1. Brentsville Jail Exhibit
2. Prince William Museum at Rippon Lodge Historic Site
3. Bushy Park Site Interpretation
4. Signal Hill Cultural Resource Identification Study
5. Rippon Lodge Interpretation Project
6. Bristoe Station Battlefield Heritage Park Cultural Resource Identification Study
7. Williams Ordinary Interpretation Project; and

WHEREAS, the Foundation's efforts will allow the County to build-upon existing projects and evaluate new preservation opportunities;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby adopts the Prince William Historic Preservation Foundation Annual Work Plan for 2021.

ATTACHMENT: Historic Preservation Foundation Annual Work Plan

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Finance Director

ATTEST: Andrea P. Madden
Clerk to the Board

Historic Preservation Foundation Annual Work Plan for 2021

The Foundation is tasked with creating an Annual Work Plan for adoption by the Prince William County Board of Supervisors. This work plan was adopted by the Board _____, 2021 by RES. NO. 21 – XXX

Brentsville Jail Exhibit – The Brentsville Jail Restoration Project, 16C15023, was completed and dedicated in May 2017. The Foundation has since raised over $66,770 for a new exhibit project through prior work plans. Additional funds will be raised to complete the fabrication and installation of exhibits which will be completed over the winter of 2020-2021. Grand opening of exhibit will be in May 2021.

Williams Ordinary Interpretation Project- Fabrication of new interior exhibit for Williams Ordinary exhibition space.

Rippon Lodge Interpretation Project –Construction of new interior exhibits that will replace current exhibit that needs to be replaced. Renovate historic cabin to create additional exhibit space and fabricate and install King's Highway exhibit.

Bushy Park Site Interpretation – The site has had exterior restoration completed and interior restoration is expected to be completed by summer, 2023. Once these are completed, interior interpretative exhibits will be next phase. The Foundation has received donations of $1,220 for Bushy Park interpretation. This funding is expected to cover the production cost of interior exhibit panels.

Signal Hill Cultural Resource Identification Study – The completion of a cultural resource study to identify cultural resources and interpretive themes for the Civil War era site. Project to be completed in conjunction with the Prince William County Planning Office and the City of Manassas Park, Parks and Recreation Department.

Bristoe Station Battlefield Heritage Park Cultural Resource Identification Study – This project will allow the Foundation to fundraise for archaeological surveys to better identify cultural resource areas at the Bristoe Station Battlefield Heritage Park.

Prince William Museum at Rippon Lodge Historic Site Fundraising - Preliminary plans for this project include the design and construction of a museum focusing on the history of Prince William County that will include exhibits on the history of the entire county. The Museum will also include visitor services amenities, office space for staff, collections storage and enhanced meeting/event facilities for rent.

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-016**

RE: **AUTHORIZE AN EASEMENT AND RIGHT OF WAY AGREEMENT WITH THE NORTHERN VIRGINIA ELECTRICAL COOPERATIVE TO ESTABLISH ELECTRICAL SERVICE AT ROLLINS FORD PARK – BRENTSVILLE MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors (BOCS) owns the parcel of land located at 14500 Rollins Ford Road, Nokesville, Virginia, 20181, GPIN 7396-20-4987, known as Rollins Ford Park; and

WHEREAS, in July 2016, the BOCS approved the construction of Rollins Ford Park via Resolution Number (Res. No.) 16-600; and

WHEREAS, the construction documents are complete, all permits have been issued, and staff is preparing to bid the project; and

WHEREAS, the project requires a transformer in order the establish electrical service to the Park from the Northern Virginia Electrical Cooperative (NOVEC); and

WHEREAS, NOVEC's policy requires a dedicated Easement and Right of Way Agreement for the installation of the transformer in order to ensure perpetual access for maintenance; and

WHEREAS, the attached deed and plat, dated 10-20-2020, were prepared by NOVEC and reviewed by the County Attorney's Office and depicts the location of the proposed transformer; and

WHEREAS, upon approval of the deed, NOVEC will install the transformer to establish electrical service at Rollins Ford Park and assume all maintenance responsibility for the transformer;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby approves the plat and an accompanying Easement and Right of Way Agreement for the installation of a transformer at Rollins Ford Park;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby authorizes the Department of Parks, Recreation, and Tourism Director to execute the Easement and Right of Way Agreement, plat, and any other documents necessary, approved as to form by the County Attorney's Office, to create the required easement areas as depicted on the Plat.

ATTACHMENTS: Easement and Right of Way Agreement and Plat Dated October 30, 2020

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

WO # 164409

NORTHERN VIRGINIA ELECTRIC COOPERATIVE

EASEMENT AND RIGHT-OF-WAY AGREEMENT

THIS EASEMENT AND RIGHT-OF-WAY AGREEMENT is made **October 30, 2020** between **PWC BOARD OF COUNTY SUPERVISORS**, hereinafter called "Owner" and **NORTHERN VIRGINIA ELECTRIC COOPERATIVE**, a Virginia corporation, hereinafter called "Cooperative."

Prepared by and Return to:
Northern Virginia Electric Cooperative
5399 Wellington Branch Drive
Gainesville, Virginia 20155-1616
Attn: Right of Way Department
703-754-6700

WITNESSETH:

That for the sum of One Dollar ($1.00), and other valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, Owner grants unto Cooperative, its successors and assigns, a perpetual easement and right of way to install, lay, construct, operate, repair, alter and maintain underground conduit and cable lines for transmitting and distributing electric power, and for telephone, television and other communication purposes, including all cables, switchgear, transformer enclosures, meters, ground connections and supports and poles for lights and streetlights, and accessory equipment desirable in connection therewith ("Facilities"), under and/or upon and across the lands of Owner situated in **Prince William** County, Virginia, (the "Property") as shown on Plat Number **2020-0442**, dated **10/30/2020**, being attached hereto and hereinafter known as the "Easement." The location and width of the Easement shall be as shown on said plat.

Owner further grants to Cooperative, a perpetual "Service Easement" to the proposed improvement on each lot now or hereafter created on the Property. The Cooperative may select one location on each lot for the Service Easement. The Service Easement shall be fifteen (15) feet in width, the center line of which shall be the Facilities as installed.

TAX MAP# / GPIN# 7396-20-4987

The Facilities erected hereunder shall remain the property of Cooperative. Cooperative shall have the right to inspect, rebuild, remove, repair, improve and relocate within the Easement and Service Easement, and to make such changes, alterations, substitutions, additions in and to or extensions of its Facilities as Cooperative may from time to time in its sole discretion deem advisable, including but not limited to the right to increase or decrease the number of cables, switchgear, transformer enclosures and accessory equipment, and to increase or decrease the size of the cables and voltage carried by said cables.

Cooperative shall at all times have the right to keep the Easement and Service Easement clear of all trees, limbs, shrubbery and undergrowth, and to keep the Easement and Service Easement clear of all buildings and structures, except fences. Cooperative shall have the right to cut all trees and limbs outside of the Easement and Service Easement that may, in falling, endanger the safe, proper and efficient operation of Cooperative's Facilities. All trees and limbs cut and/or chipped by the Cooperative at any time, shall remain the property of Owner. Trees shall be cut into lengths of not less than four feet and shall be placed in piles along said Easement and Service Easement.

Owner, his successors and assigns, may use the land within the Easement and Service Easement for any purpose not inconsistent with the rights hereby granted and provided such use does not interfere with, or endanger the construction, operation, or maintenance of Cooperative's Facilities. Sidewalks, driveways, private streets and parking lots may be constructed on the underground Easement and Service Easement if Cooperative's Facilities are installed in conduit, or if not installed in conduit, may cross the underground Easement or Service Easement at an angle of no less than forty-five degrees and in a manner that does not interfere with the exercise of the rights granted to Cooperative and provided no excavations shall exceed six (6) inches, no fills shall exceed six (6) inches and no storage of water may be made thereon.

Cooperative shall have the right of ingress to and egress from the Easement and Service Easement over the lands of Owner adjacent to the Easement and Service Easement, such right to be exercised in such manner as shall occasion the least practicable damage or inconvenience to Owner.

Cooperative shall repair damage to roads, fences, and other such improvements which are not inconsistent with the rights granted hereto. Cooperative shall repair or shall pay Owner, at Cooperative's discretion, for other physical damage done in the process of the construction, inspection, or maintenance of Cooperative's Facilities, or in the exercise of its right of ingress or egress provided Owner gives written notice thereof to Cooperative within thirty days after such damage occurs.

Notice to Landowner: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

Owner covenants that it is seized of and has the right to convey said Easement and Service Easement. Cooperative shall have quiet and peaceable possession, use and enjoyment of the Easement and Service Easement, rights and privileges hereby granted.

IN WITNESS WHEREOF, the following signature(s) and seal(s).

PWC Board of County Supervisors

Signature: _____

Print name: _____

Print title: _____

STATE OF _____

COUNTY OF _____

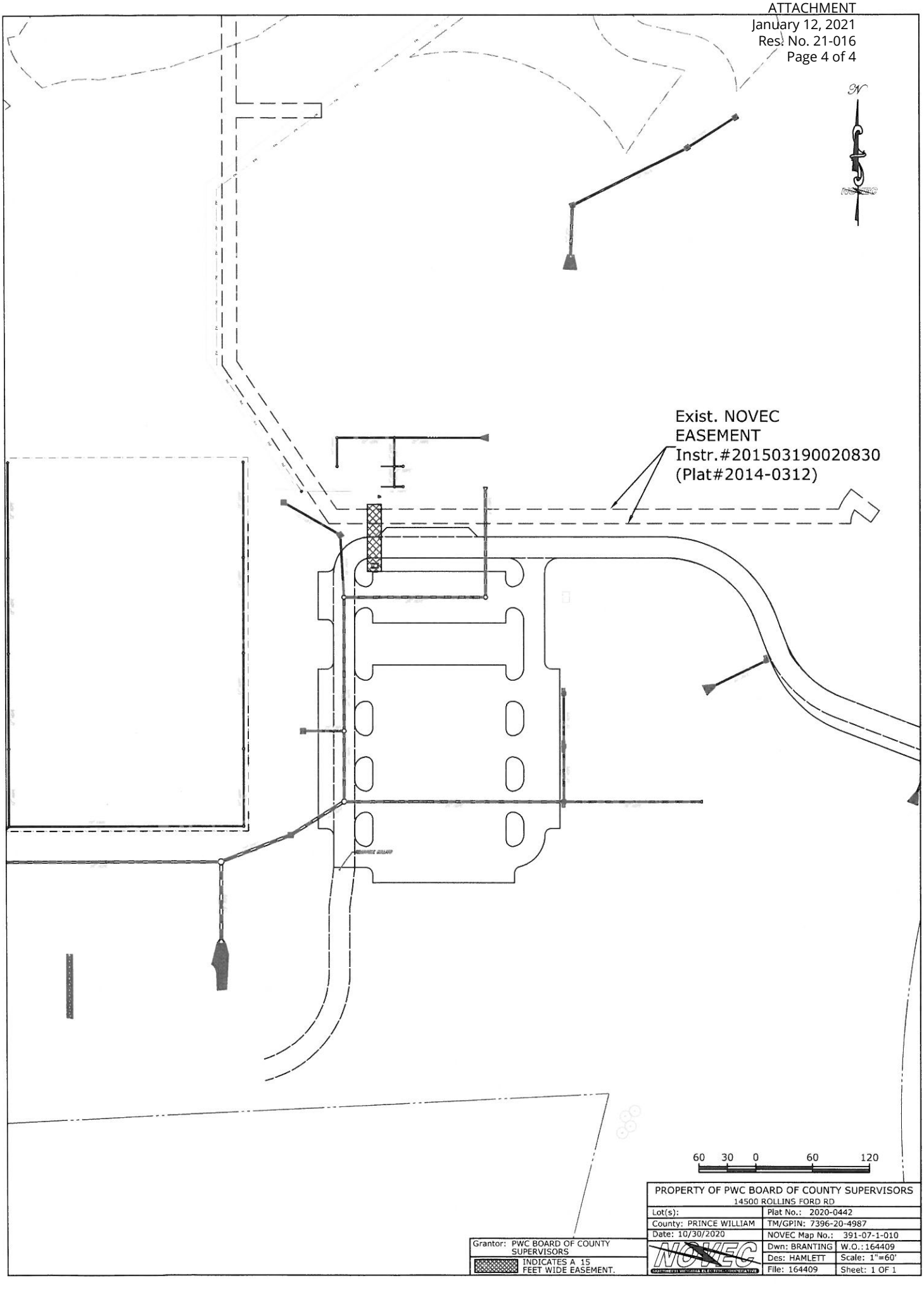
The foregoing instrument was acknowledged before me this ____ day of

_____, 2020, by _____ as
(Name)
_____, for PWC Board of County Supervisors.
(Title)

_____
Notary Public (Signature and Seal)

My Commission expires _____

_____
Notary Public (Printed Name)


Exist. NOVEC
EASEMENT
Instr.#201503190020830
(Plat#2014-0312)
60 30 0 60 120
PROPERTY OF PWC BOARD OF COUNTY SUPERVISORS
14500 ROLLINS FORD RD
Lot(s):
Plat No.: 2020-0442
County: PRINCE WILLIAM
TM/GPIN: 7396-20-4987
Date: 10/30/2020
NOVEC Map No.: 391-07-1-010
Dwn: BRANTING
W.O.: 164409
Des: HAMLETT
Scale: 1"=60'
File: 164409
Sheet: 1 OF 1
Grantor: PWC BOARD OF COUNTY SUPERVISORS
INDICATES A 15 FEET WIDE EASEMENT.

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **VEGA** **Res. No. 21-017**

RE: **AUTHORIZE THE EXECUTION OF A PERFORMANCE AGREEMENT WITH TRAXYL, INC. AND THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF PRINCE WILLIAM AND BUDGET AND APPROPRIATE $25,000 FROM THE ECONOMIC DEVELOPMENT OPPORTUNITY FUND TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF PRINCE WILLIAM AS A GRANT TO TRAXYL, INC., LOCATED AT 7669 LIMESTONE DRIVE, SUITE 115, GAINESVILLE, VIRGINIA, 20155 – BRENTSVILLE MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, Prince William County has identified information and communication technology as one of its targeted industries for economic development attraction; and

WHEREAS, the County's 2017-2020 adopted Strategic Plan lists a number of economic development strategies, four of which are addressed by this request: increase total at-place employment, increase annual growth of jobs in small businesses (1-99 employees), increase growth in targeted jobs as a result of the Department of Economic Development's efforts, increase in private sector investment; and

WHEREAS, TRAXyL, Inc., an information and communication technology company, plans to occupy 7669 Limestone Drive, Suite 115, Gainesville, Virginia, 20155, for its headquarters and manufacturing facility; and

WHEREAS, TRAXyL, Inc., plans to invest $750,000 in capital investment at 7669 Limestone Drive, Suite 115, Gainesville, Virginia, 20155 and employ at least fifteen people by June 30, 2024; and

WHEREAS, the Board of County Supervisors (BOCS) has determined that it may be necessary from time to time to provide financial incentives to assist information and communication technology companies to expand with the objective of supporting targeted sectors in Prince William County; and

WHEREAS, the BOCS and the Industrial Development Authority of the County of Prince William (IDA) have entered into an agreement in which the IDA will act as the BOCS' agent in the implementation of these incentives; and

WHEREAS, the BOCS is interested in providing funds for this incentive program administered by the IDA to TRAXyL Inc.;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby authorizes the execution of a Performance Agreement with TRAXyL, Inc. and the Industrial Development Authority of the County of Prince William and budgets and appropriates $25,000 from the Economic Development Opportunity Fund to the Industrial Development Authority of the County of Prince William as a grant to TRAXyL, Inc., located at 7669 Limestone Drive, Suite 115, Gainesville, Virginia, in a form approved by the County Attorney's Office;

BE IT FURTHER RESOLVED that should TRAXyL Inc. be unable to satisfy the conditions of its performance agreement with the Industrial Development authority of the County of Prince William within the current fiscal year, the Prince William Board of County Supervisors authorizes the transfer, budget, and re-appropriation of approved Economic Development Opportunity Fund funds for the project in subsequent fiscal years.

ATTACHMENT: Performance Agreement

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Department of Economic Development

ATTEST: Andrea P. Madden
Clerk to the Board

PERFORMANCE AGREEMENT

THIS PRINCE WILLIAM COUNTY ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT (herein referred to as "Agreement"), made this _____ day of _____, 2021 by and among the **PRINCE WILLIAM COUNTY BOARD OF SUPERVISORS,** a body corporate and politic (the "County Board"), the **INDUSTRIAL DEVELOPMENT AUTHORITY OF THE COUNTY OF PRINCE WILLIAM**, (hereinafter referred to as "IDA"), a political subdivision of the Commonwealth of Virginia, and **TRAXyL, INC.** ("TRAXyL"), a Delaware Corporation, registered to do business in the Commonwealth of Virginia, individually a "Party" and collectively the "Parties."

WITNESSETH:

WHEREAS, the IDA has been created to promote the economic development of Prince William County, Virginia (the "County") pursuant to enabling legislation under Section 15.2-4900 *et seq*., VA Code Ann.; and

WHEREAS, the IDA has the authority to make grants of money or property for economic development pursuant to Section 15.2-4905, VA Code Ann.; and

WHEREAS, TRAXyL, Inc., a fiber optic connectivity company, is planning to occupy 7669 Limestone Drive, Suite 115, Gainesville, VA 20155 for its headquarters facilities to manufacture and distribute its FiberTrax equipment; and

WHEREAS, TRAXyL, Inc., plans to install equipment valued at $750,000 to 7669 Limestone Drive, Suite 115, Gainesville, VA 20155, and employ 15 people by June 30, 2024; and

WHEREAS, it is necessary from time to time to provide financial assistance to assist in the expansion of information communication technology industry as targeted sectors in Prince William County, Virginia, as an essential part of the County's economic development effort; and

WHEREAS, this Agreement is consistent with the Agreement entered by and between the IDA and the County Board for granting assistance to expand targeted industries in the County to promote long-term economic development in the County; and

WHEREAS, upon execution of this Agreement, and a written request from TRAXyL, .containing any necessary bank wiring instructions, TRAXyL, Inc., will receive the proceeds of an Economic Development Opportunity Fund (EDOF) Grant in the amount of Twenty-Five Thousand and 00/100 Dollars ($25,000) in accordance with the schedule contained in this Agreement; and

WHEREAS, the Board of County Supervisors has duly authorized in Resolution #20-xxx and committed the EDOF Grant the proceeds of which are to be provided to the IDA for use as a grant to TRAXyL for the establishment of their headquarters in Prince William County according to Resolution #20-xxxx , and has approved and requested the IDA to enter into this agreement to facilitate the grant; and

WHEREAS, the County Board, the IDA and TRAXyL, Inc., desire to enter into this Agreement to memorialize the understandings and conditions under which financial incentives will be provided to TRAXyL, to use in connection with its work in Prince William County, Virginia and to set forth the obligations and responsibilities of the parties in connection therewith;

NOW, THEREFORE, in consideration of the mutual promises of the parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby state and agree as follows:

1) **Incorporation of Recitals** – The recitals above are an integral part of the Agreement and set forth the intentions of the Parties and the premises on which the Parties have entered into this Agreement. Accordingly, the recitals are fully incorporated into this Agreement by this reference as if fully set forth herein.

2) **Definitions** – In addition to any other capitalized term for which meaning is expressly defined in this Agreement, the following terms shall be defined as follows:

   a) "Effective Date" means February 1, 2021.
   b) "County Executive" means the County Executive of Prince William County or designee.

3) **TRAXyL Covenants and Obligations**

   a) TRAXyL covenants and agrees to timely completion of all required tax forms and remain current on all applicable property, business, professional, and occupational license taxes assessed to TRAXyL by Prince William County.

   b) TRAXyL acknowledges and agrees that the EDOF Grant are County funds for which the IDA is serving as a conduit and that the IDA's obligation to disperse the EDOF Grant and Credits to TRAXyL is wholly contingent upon the IDA's receipt of the EDOF Grant funds from the County in the first instance.

   c) TRAXyL shall provide a yearly written report beginning on June 30, 2021 through June 30, 2026 detailing milestones.

   d) TRAXyL represents that it is a Delaware Corporation. It is authorized to conduct business in Virginia, that its Board of Directors has approved the transaction contemplated by this Agreement under its corporate policies and procedures through formal resolution, that the undersigned is authorized to sign this Agreement on behalf of TRAXyL and that this Agreement will be binding on TRAXyL and its successors and assigns. TRAXyL agrees to provide proper documentation of the preceding to the County Board and the IDA before the disbursement of the EDOF Grant funds to TRAXyL.

   e) TRAXyL acknowledges and agrees that the IDA has designated the County Executive to administer the Agreement for the IDA in all respects, including, but not limited to, making determinations as to TRAXyL' s compliance with the Disbursement Prerequisites in Section 5 and enforcing the IDA's repayment rights in Section 7.

4) **IDA Covenants and Obligations**

   a) Upon receipt of the requisite monies from the County Board to fund the EDOF Grant payment to TRAXyL, the IDA shall, subject to the Disbursement Prerequisites in Section 5, disburse the EDOF Grant payment to TRAXyL pursuant to Section 6.

5) **Disbursement Prerequisites** – The IDA's obligation to disburse an EDOF Grant in the amount of Twenty-Five Thousand and 00/100 Dollars ($25,000) to TRAXyL is subject to and conditioned upon TRAXyL's fulfillment of the following pre-conditions ("Disbursement Prerequisites"):

a) **Receipt of Notarized Affidavit**. TRAXyL must have provided the County Executive or designee with a notarized affidavit by June 30, 2021, a sample of which is attached as **Exhibit A**, declaring, among other things:

i) TRAXyL has received a Certificate of Occupancy at 7669 Limestone Drive, Suite 115, Gainesville, VA 20155.
ii) Employ one person at 7669 Limestone Drive, Suite 115, Gainesville, VA 20155

If the above pre-condition and all other applicable Disbursement Prerequisites are met, and upon receipt of the County Executive's written instructions, the IDA shall disburse Fifteen Thousand and 00/100 Dollars ($15,000.00) to TRAXyL. The IDA shall disburse the EDOF Grant funds within 30 days after the County Executive complies with Subsection 5f).

b) **Receipt of Notarized Affidavit**. TRAXyL must have provided the County Executive or designee with a notarized affidavit by June 30, 2024, a sample of which is attached as **Exhibit A**, declaring among other things:

i) TRAXyL employees 15 people at the 7669 Limestone Drive, Suite 115 Gainesville, VA 20155.

If the above pre-condition and all other applicable Disbursement Prerequisites are met, and upon receipt of the County Executive's written instructions, the IDA shall disburse Ten Thousand and 00/100 Dollars ($10,000.00) to TRAXyL. The IDA shall disburse the EDOF Grant funds within 30 days after the County Executive complies with Subsection 5f).

c) **Business License** – TRAXyL must provide to the County Executive or designee a copy of TRAXyL' s Prince William County Business License.

d) **Release of Tax Information** – Prior to the disbursement of any EDOF Grant funds or credits, TRAXyL must sign the Authorization to Release Confidential Tax Information (attached as **Exhibit B**) to authorize the Prince William County, VA Finance Department to release TRAXyL' s business license tax (BPOL) and business tangible personal property tax information to Prince William County Department of Economic Development beginning with tax year 2022 and continuing for five years. The County will treat the tax information as confidential and will not release it to the public, except as required by applicable law, or as part of composite real estate and employee-related revenue data in accordance with Section 8i.

e) **Payment of Taxes** – Prior to any disbursement according to the schedule, TRAXyL must be current on all applicable property, business, professional, and occupational license taxes assessed to TRAXyL by Prince William County.

f) **County Executive's Verification –** Before the IDA disburses any EDOF Grant funds or transfers any credits, the County Executive or designee will

i) Confirm and verify all the information in the Subsection a) with Notarized Affidavits, and

ii) Confirm and verify, where applicable, that TRAXyL has complied with the Subsections b) through e) pre-conditions, and

iii) Send a written notice, specifying that the Subsections a) through e) information, where applicable, has been confirmed and verified, and directing the IDA to disburse the applicable EDOF Grant funds and transfer to TRAXyL.

6) **Disbursement of EDOF Grants** - The IDA shall disburse the applicable EDOF Grant funds, according to Section 5) Subsections a) through e) schedules, to TRAXyL upon completion or receipt of the following:

a) TRAXyL's satisfaction of Section 5) Disbursement Prerequisites

b) The County Board's transmission of the applicable EDOF Grant funds

c) The County Executive's Section 5) Subsection e) iii) notice, including written EDOF Grant funds disbursement instructions

d) TRAXyL's written request, containing any necessary bank wiring instructions

7) **Repayment of EDOF Grant and Credits**

a) If TRAXyL meets the requirements contained in this Agreement and receives payment of the EDOF Grant, but TRAXyL fails to maintain its operations at 7669 Limestone Drive, Suite 115, Gainesville, VA 20155 within the next five (5) years, ending March 2026, of receiving the EDOF Grant then TRAXyL shall reimburse the IDA 100% of any grant funds received from the IDA. Any refund paid by TRAXyL to the IDA under this provision shall be repaid to the County Board within sixty (60) days of receipt of the funds from TRAXyL.

8) **Miscellaneous Provisions**

a) **Notices** – Demands and Communications between the Parties. Formal notices, demands, and communications between the Parties shall be given by (i) personal service; (ii) reputable document delivery service, such as Federal Express, with a receipt showing date and time of delivery; or (iii) certified or first-class United States mail, postage prepaid, with a receipt showing date and time of delivery:

To the County: Prince William County
Office of the County Executive
Attn: Chris Martino, County Executive
Fax: (703) 792-4225
Email: cmartino@pwcgov.org

With Copies to: Prince William County
Office of the County Attorney

Attn: Rob Skoff, Title

Prince William Department of Economic Development
13575 Heathcote Blvd, Ste 240
Gainesville, VA 20155
Attn: Christina Winn, Executive Director
Fax (703) 792-5502
Email: cmwinn@pwcgov.org

To TRAXyL, INC:

TRAXyL, Inc
Attn: Daniel Turner
7669 Limestone Drive
Suite 115
Gainesville, VA 20155
Email: daniel@traxyl.com

To the IDA:

Industrial Development Authority of the County
Of Prince William
PO Box 2636
Manassas, VA 20108
Email: idaofpwc@pwcida.org

b) **Entire Agreement Amendments** – This Agreement constitutes the full agreement between the parties, and neither party shall be bound by any terms, conditions, or representations not contained herein. This Agreement may be modified only by written agreement signed by both parties hereto with the same formality, and with the consent of the County.

c) **Assignment** – This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The County must approve in writing the assignment of this Agreement to any entity which does not own or control TRAXyL or is not owned or controlled by TRAXyL. Such County approval shall not be unreasonably withheld for an assignment which does not deviate from the maintenance of TRAXyL's headquarters and telecommunications work in Prince William County.

d) **Governing Law; Venue** – This Agreement is made and is intended to be performed in Prince William County, Virginia, and shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia.

e) **Determination; Disbursements**

i) Any determination by the County Executive of fulfillment or non- fulfillment of the terns of this Agreement by TRAXyL shall be binding on the IDA. The IDA may request such determinations by the County Executive, as necessary.

ii) The IDA shall have no responsibility to disburse any funds to TRAXyL beyond the amount that the IDA has received from or on behalf of the County Board for the purpose.

f) **Non-Liability of Officials. Employees and Agents** – No member, official, employee or agent of the County Board or of the IDA shall be personally liable to TRAXyL in the event of any default or breach by the County Board or by the IDA or for any amount that may become due to TRAXyL or its successors or assigns under the terms of this Agreement.

g) **Business Day Convention** – If the date of any required action falls upon a weekend day or a holiday or other day when the Prince William County, VA government is not open for business, the required action may be deferred to the next business day.

h) **Force Majeure** – If any Party is delayed in the performance of its obligations hereunder, and such delay is due to Force Majeure, defined as acts of nature, fire, catastrophic weather, explosion, riot, war or labor strike or any other cause beyond the Party's control and this (these) event(s) impact the ability of the Party to complete its performance obligations under this Agreement and only if the Party gives prompt notice of such Force Majeure event(s) and has made reasonable efforts to mitigate the impact of such event(s), then the Party may in writing request an extension of the performance commitments from the Parties. Such extension shall not exceed six (6) months, and such extension shall not be unreasonably withheld.

i) **Confidentiality** – Unless otherwise required by applicable law or regulation, the County Board and the IDA will use reasonable efforts to keep all proprietary reports and other information submitted by TRAXyL confidential and will not make such reports available publicly, except that the County may include in periodic reporting to the County Board TRAXyL's reported information concerning jobs added, square feet leased, incentives that the County has paid to TRAXyL and composite tax and revenue data. If TRAXyL's confidential reports and information are otherwise required to be made public or disclosed, the County Board or the IDA will notify TRAXyL and will cooperate with TRAXyL to redact any information that is legally permitted to be redacted.

j) **Counterparts** – This Agreement may be signed in duplicate, and each of said duplicates shall constitute an original.

IN WITNESS WHEREOF, the parties hereto have hereafter set their signatures and seals by their respective duly authorized representatives.

Approved as to form:

_____

_____
Ann Wheeler, Chair
Prince William County Board of Supervisors

_____
Date

ATTEST:

INDUSTRIAL DEVELOPMENT AUTHORITY OF
THE COUNTY OF PRINCE WILLIAM

_____
Bobbie Long
Secretary/Treasurer

BY: _____

DATE: _____

TRAXyL, INC.

BY: Daniel Turner

DATE: 01/05/2021

_____
Daniel Turner
President, TRAXyL, Inc.

EXHIBIT A

SAMPLE OF THE REQUIRED NOTARIZED AFFIDAVIT
AFFIDAVIT OF TRAXyL, INC.
COMMONWEALTH OF VIRGINIA, PRINCE WILLIAM COUNTY

Subscribed and sworn before me this ____day of ____, 20##. **TRAXyL, Inc.,** a Delaware corporation authorized to transact business in the Commonwealth of Virginia, after first being duly sworn, appeared before the undersigned authority and affirmed the following facts under oath:

Daniel Turner as President of TRAXyL Inc. (TRAXyL) has been dulyauthorized to execute and deliver this Affidavit for and on behalf of TRAXyL. The Affidavit is a requirement of the Prince William Economic Development Opportunity Fund Grant dated _____, 2021, by and among the County Board of Prince William County, Virginia, the Industrial Development Authority of Prince William County and TRAXyL, Inc. **("Agreement").** All actions required under TRAXyL organizational documents and applicable governing law for the authorization, execution, and delivery of this Affidavit have been duly taken (to the extent required) as of the date of execution and delivery of this Affidavit. All terms in this Affidavit are defined as in the Grant Agreement.

1) As of June 30, 2021**:**
   a) TRAXyL currently leases 7,800 square feet of space at 7669 Limestone Drive, Gainesville, Suite 115, VA 20155 has fulfilled the milestones set forth in Section 5(a) of the Grant Agreement.
   b) TRAXyL employs one person at 7669 Limestone Drive, Suite 115, Gainesville, VA 20155.

2) As of June 30, 2024**:**
   a) TRAXyL employs 15 people at 7669 Limestone Drive, Suite 115, Gainesville, VA 20155.
   b) TRAXyL currently leases 7,800 square feet of space at 7669 Limestone Drive, Gainesville, Suite 115, VA 20155 has fulfilled the milestones set forth in Section 5(a) of the Grant Agreement.

I,_____, a notary public, do hereby certify that _____the affiant whose name is subscribed to the foregoing affidavit duly swore and made oath that the facts contained therein are true and correct to the best of his/her information, knowledge and belief, before me in the said Prince William County, Commonwealth of Virginia, this _____day of _____, 20__.

My Commission expires:

Notary Public_____

Notary Registration No._____

[Reproducible Notarial Seal]

EXHIBIT A
NOTARIZED AFFADAVIT

Cumulative new jobs created and maintained at (7669 Limestone Drive, Suite 115, Gainesville, VA 20155)

Employee Number	Salary	Start Date
Total Average Salary		

EXHIBIT B
AUTHORIZATION TO RELEASE CONFIDENTIAL TAX INFORMATION

Name of taxpayer end (please give the corporate or personal name which is used for the tax accounts): TRAXyL, Inc. Trade name _____

Last of taxpayer number CTTN, EIN, or SS to help locate the records: 47-5611796

The above-named taxpayer gives the Prince William County Finance Department permission to share the following confidential tax information with:

(Enter the names of persons or entities allowed to receive the information)

This permission is effective for the following types of taxes:

- [X] All information about taxes assessed by Prince William County
  OR
- [ ] Only the following specific tax information (initial each that apply);
- [ ] BPOL Tax information, including gross receipts and BPOL taxes assessed
  Meals Taxes collected and remitted
- [ ] Transient Occupancy Taxes collected and remitted
- [ ] Information about personal property taxes assessed. (Note, the tax amount of personal property tax assessed to any taxpayer *is* already public information.)

This permission is for tax years.

- [ ] All tax years OR
- [ ] The following specific tax years: 2021, 2022, 2023, 2024, 2025, 2026

This permission:

- [ ] Includes future tax years until revoked, or
- [X] Does not include future tax years

Read before Daniel Turner. The person signing this form affirms that she/he is authorized to waive tax confidentiality for the named taxpayer and is acting with the explicit authorization of the taxpayer. Fraudulent use of this form could subject the signer to civil and criminal liability.



Signature of authorized representative

Daniel Turner
Print Name of authorized representative

CEO
Title

01/05/2021
Date

Telephone: 703-869-7100

Email: daniel@traxyl.com

MOTION: **CANDLAND** **January 12, 2021**
Regular Meeting

SECOND: **BAILEY** **Res. No. 21-018**

RE: **ACCEPT, BUDGET, AND APPROPRIATE $265,313 IN ONE-TIME FEDERAL STATE OPIOID RESPONSE REVENUES TO RECONCILE THE FISCAL YEAR 2021 COMMUNITY SERVICES BOARD'S COUNTY BUDGET TO ANTICIPATED REVENUES AND REALLOCATE $89,993 IN CONTRACT FUNDS**

ACTION: **APPROVED**

WHEREAS, Community Services (CS) is required to reflect accurate revenue projections; and

WHEREAS, CS must request an increase in budget authority so that additional funds can be expended; and

WHEREAS, the Substance Abuse and Mental Health Services Administration (SAMHSA), operating under the U.S. Department of Health and Human Services (HHS), has provided funding to states to address the opioid crisis by increasing access to medication-assisted treatment, reducing unmet treatment need, and reducing opioid overdose related deaths through the provision of prevention, treatment and recovery activities for individuals with an opioid use disorder; and

WHEREAS, the Department of Behavioral Health and Developmental Services (DBHDS) has allocated two time-limited SAMHSA State Opioid Response (SOR) awards to Community Services (CS); and

WHEREAS, DBHDS has awarded CS $70,000 in SOR–Prevention funds to CS to pursue various strategies to prevent opioid misuse and abuse, as well as methamphetamines and stimulant use; and

WHEREAS, CS recommends using the $70,000 to develop and air public service announcements; for medication disposal pouches and locking pill caps; for print materials to be included in pharmacy bags and meal distribution boxes with information about safe use of prescriptions and over the counter drugs; and other one-time purchases; and

WHEREAS, DBHDS requested CS submit a two-year application for SOR Grant II – Peer Recovery funding and has awarded CS $195,313 for the period October 1, 2020, through September 30, 2021, and CS anticipates receiving a second year for the period October 1, 2021, through September 30, 2022, also in the amount of $195,313; and

WHEREAS, this reconciliation item requests approval of the first year of SOR Grant II – Peer Recovery funding; and

WHEREAS, due to the time-limited nature of the SOR Grant II – Peer Recovery funding, CS recommends hiring two temporary peer support specialists to be linked with the Adult Substance Abuse program and work with referred clients on increased engagement and retention activities; and

WHEREAS, DBHDS has agreed to management fees for the Northern Virginia Regional Projects Office (NVRPO) and CS for the management of state-funded crisis stabilization contracts; and

WHEREAS, CS recommends reallocating $89,993 in existing contract funding for the creation of a full-time quality improvement specialist to improve documentation requirements stemming from the ongoing DBHDS response to the federal Department of Justice Settlement agreement; and

WHEREAS, the Prince William Community Services Board recommended approving these items at its November 19, 2020, and December 17, 2020, meetings; and

WHEREAS, there are no local funds required in accepting these funds or creating the Full-Time Quality Improvement Specialist;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby accepts, budgets, and appropriates $265,313 in one-time federal state opioid response revenues to reconcile the Fiscal Year 2021 Community Services' County budget to anticipated revenues and reallocates $89,993 in contract funds;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby approves a one-time increase for the Department of Information Technology in the amount of $10,212 related to the two temporary peer support specialists and an ongoing increase of $5,106 related to the Quality Improvement Specialist;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby adds the following full-time position:

Add Permanent Position:

Quality Improvement Specialist	Grade C43	TBD	1.0 FTE

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Community Services Board, Executive Director

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **VEGA** **January 12, 2020**
Regular Meeting

SECOND: **CANDLAND** **Res. No. 21-019**

RE: **AUTHORIZE AWARD OF A $40,954,459.25 PUBLIC-PRIVATE TRANSPORTATION ACT COMPREHENSIVE AGREEMENT AND CONTRACT TO WAGMAN HEAVY CIVIL, INC., TO DESIGN AND CONSTRUCT THE ROUTE 234 BRENTSVILLE INTERCHANGE PROJECT – COLES MAGESTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, the Public-Private Transportation Act (PPTA), now codified as Virginia Code Section 33.2-1800 et seq., grants the Prince William Board of County Supervisors (Board) the authority to allow private entities to design, construct qualifying transportation facilities, if the Board determines there is a need for the facility and the private involvement would be in the best interest of the public; and

WHEREAS, the Route 234 Brentsville Interchange Project (Project) includes the construction of an interchange at the intersection of Route 234 (Prince William Parkway/Dumfries Road) and Brentsville Road. Additionally, the Project realigns a section of Brentsville Road and constructs a bridge crossing to grade separate the intersection of Prince William Parkway and Route 234 Business to eliminate the existing traffic signal. The new bridge and Interchange will provide free-flow movements across the Prince William Parkway to eliminate delays. The design introduces a continuous Green-T intersection on Prince William Parkway (State Route 294) and Bradley Cemetery Way, that will improve operations at this intersection; and

WHEREAS, on October 29, 2018, the County received an Unsolicited PPTA Proposal for the Project from Wagman and Heavy Civil, Inc. (Wagman), in association with Rinker Design Associates, P.C. for the completion of this Project; and

WHEREAS, in accordance with the PPTA and its Procurement Regulations, the County duly posted and published notice of receipt of the initial conceptual proposal. Two additional conceptual proposals were received in response to the notice by the April 2019 deadline; and

WHEREAS, the three firms were invited to respond to the Request for Detailed Proposal (RFDP) and submitted their technical and price proposals to the County on October 16, 2020; and

WHEREAS, based on the combined evaluation results of the technical and price proposals, the review committee determined that Wagman presented the Best Value Proposal and thus selected as the best design-builder to enter into a contract for the Project with a total contract amount of $40,954,459.25; and

WHEREAS, an amount of $54,474,058 is currently available for completion of the Project, which is sufficient to award the comprehensive agreement and contract of $40,954,459.25 to Wagman; and

WHEREAS, a public hearing has been duly advertised for this purpose and was conducted on January 12, 2021, pursuant to Virginia Code § 33.2-1820 and all interested citizens were heard; and

WHEREAS, County staff recommends approval of the comprehensive agreement and contract with Wagman based on the following findings:

- There is a public need for this transportation project.
- The Project, and its interconnections with existing transportation facilities, are reasonable and compatible with the State transportation plan and with local comprehensive plans.
- The estimated cost of the Project is reasonable in relation to similar facilities.
- Wagman plans will result in the timely development and completion of the Project.
- There is no future operational cost to the County, as the Project, once completed, will be turned over to the Commonwealth of Virginia for maintenance and ownership as a part of the State road system.
- The design, construction and warranting of the Project as provided by the contract documents meet the public purpose of the PPTA.
- The terms and conditions of the comprehensive agreement and the other contract documents serve the public purpose of the PPTA.
- The contract price, as the same, may be adjusted pursuant to the design-build contract and reflects a reasonable price for the completion of this Project within the available project budget.
- No user fees are being provided with respect to the Project as the Project is fully funded by the County.
- This Project secures and promotes the public health, safety and general welfare of the County and its citizens.
- The plan for development of the Project is anticipated to have significant benefits, including improved person throughput, congestion mitigation, enhanced public safety, increased economic development, improved environmental quality and appropriate land use.
- The risks, liabilities and responsibilities transferred, assigned or assumed by Wagman will provide sufficient benefits to the public as it will fast track the completion of the project and its delivery to the public.
- The requirements of Virginia Code Section 33.2-1803(C)(1) – (5) have been met, and this agreement and the Project are in the best interest of the public.
- The County expects to realize significant benefits through the use of the PPTA compared with the development of the Project through other options available to the County.

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby concurs with the staff recommendation and awards a $40,954,459.25 Public-Private Transportation Act Comprehensive Agreement and contract to Wagman Heavy Civil, Inc., for the design and construction of the Route 234 Brentsville Interchange Project in the Coles Magisterial District;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors hereby authorizes the Director of Transportation, or his designee, to sign the comprehensive agreement and contract with Wagman Heavy Civil, Inc., which includes all terms negotiated between the parties, in a form approved by the County Attorney's Office;

BE IT FURTHER RESOLVED that the Director of Transportation, or his designee, is authorized to execute such other documents as necessary and/or appropriate to affect the intent of this resolution and are approved as to form by the County Attorney's Office.

ATTACHMENT: Comprehensive Agreement Design and Construct the Route 234 Brentsville Interchange Project

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Director of Transportation

ATTEST: Andrea P. Madden
Clerk to the Board

PRINCE WILLIAM COUNTY

Department of Finance
Procurement Services

COMPREHENSIVE AGREEMENT
DESIGN AND CONSTRUCT
ROUTE 234 BRENTSVILLE ROAD INTERCHANGE

CONTRACT NO. 5062336

Between:

THE BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, VIRGINIA,

And

WAGMAN HEAVY CIVIL, INC.
3290 N. SUSQUEHNA TRAIL
YORK, PA 17406-9754

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COMPREHENSIVE AGREEMENT TO DESIGN AND CONSTRUCT BRENTSVILLE ROAD INTERCHANGE

This **COMPREHENSIVE AGREEMENT TO DESIGN AND CONSTRUCT BRENTSVILLE ROAD INTERCHANGE** ("Agreement") is made **in three (3) original counterparts**, by and between the **BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY** ("County"), the governing body of Prince William County, Virginia, a political subdivision of the Commonwealth of Virginia, whose address is 1 County Complex Court, Prince William, Virginia 22192, and **WAGMAN HEAVY CIVIL, INC.** ("Wagman "), a Pennsylvania company, whose address is 3290 N. Susquehanna Trail, York, PA 17406.

ARTICLE I

RECITALS

Section 1.1. On March 25, 1995 the Governor of Virginia signed into law, effective July 1, 1995, the Public-Private Transportation Act (as amended, the "PPTA"), currently codified at Virginia Code § 33.2-1800 *et seq*.

Section 1.2. In enacting the PPTA, the Virginia General Assembly found and declared, among other things, that:

(a) there is a public need for timely development and/or operation of transportation facilities within the Commonwealth that address the needs identified by the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof and that such public need may not be wholly satisfied by existing methods of procurement in which qualifying transportation facilities are developed and/or operated;

(b) such public need may not be wholly satisfied by existing ways in which transportation facilities are developed and/or operated; and

(c) authorizing private entities to develop and/or operate one or more transportation facilities may result in the development and/or operation of such transportation facilities to the public in a timelier, more efficient, or less costly fashion, thereby serving the public safety and welfare.

Section 1.3. The PPTA grants the County the authority to allow private entities to design, construct and/or operate qualifying transportation facilities if the County determines there is a need for the facilities and private involvement would provide the facilities to the public in a timely and cost-effective fashion.

Section 1.4. The PPTA allows for both solicited and unsolicited project proposals.

Section 1.5. The County adopted Implementation Guidelines, effective July 1, 2003, currently Section 1000.00 *et seq*. of the County Purchasing Regulations, based upon the guidelines promulgated by the State for the receipt, review, and selection of solicited and unsolicited proposals for negotiation under the PPTA.

Section 1.6. Pursuant to the PPTA, on October 29, 2018, (Design-Builder) submitted an unsolicited conceptual proposal ("Initial Conceptual Proposal") to the County Finance Director to design and construct the Route 234 Brentsville Road Interchange.

Generally, the Route 234 Brentsville Road Interchange project consists of:

> The Design-Builder shall perform all design and construction at this location as generally depicted on the STARS study design with modifications to remove the at-grade intersection and the second signal at Route 234 business. Design-builder shall provide all materials, equipment, tools, and labor necessary to design and construct final Improvement at the existing at-grade intersection of Prince William Parkway (Route 234) with Dumfries Road (Route 234 Business) and at the Brentsville Road intersection to remove the signals at the at grade status of these two intersections. Major project features include: 1) roadway improvements, 2) storm drainage improvements, 3) storm water management facilities, 4) no, or minimum traffic signals, and 5) utility improvements.

The County Executive authorized a PPTA Review Committee ("Review Committee") to review (Design-Builder) Conceptual Proposal and recommend whether the County should accept it for further conceptual-phase consideration. The Review Committee recommended the County accept for consideration (Design-Builder) Initial Conceptual Proposal for the Route 234 Brentsville Road Interchange project. In accordance with Prince William County Purchasing Regulations §1000.04(c)(3) and Virginia Code § 33.2-1820 the County advertised for forty-five (45) Days acceptance of competing proposals from interested parties.

Section 1.7. Two teams responded to the County's advertisement for competing proposals. The Review Committee recommended advancing all three proposals to the detailed proposal phase.

Section 1.8. Based on the review and results of the evaluation committee, the County entered into negotiations with (Design-Builder) for consideration of award for the Route 234 Brentsville Road Interchange project.

Section 1.9 The proposed transportation facilities are included in the Prince William County Comprehensive Plan and Transportation Plan. Based upon successful negotiations between the County and Design-Builder the parties agree to enter into this Agreement, which is in the best interest of the citizens of the County and was approved by the Board on (insert date of award by BOCS).

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the County and (Design-Builder) agree as follows:

ARTICLE II

DEFINITIONS

All capitalized terms used in this Agreement, but not expressly defined in this Agreement, shall have the respective meanings set forth in Exhibit A attached to this Agreement.

ARTICLE III

ESTABLISHMENT OF PUBLIC-PRIVATE TRANSACTION

Section 3.1. Basic Agreement.

(a) The County and (Design-Builder) agree that the Project, as generally shown on the map attached as Exhibit B and as more particularly identified in the Scope of Work, shall be designed, constructed, and warranted in a transaction involving this Agreement, the Design-Build Contract, and the other Contract Documents setting forth the distinct roles and responsibilities of the public and private sector participants.

(b) This Article III identifies and establishes the basic roles and responsibilities of such participants. This Article III is not intended, and shall not be construed, to impose any obligations on any Party, or provide any Party with any rights, that are in addition to any rights or obligations set forth elsewhere in this Agreement and the other Contract Documents.

Section 3.2. Parties to Transaction; Roles and Responsibilities.

(a) The parties to the transaction and this Agreement and the other Contract Documents, under which the Project shall be designed, constructed, and warranted, are the County and Design-Builder (the "Parties").

(b) The County:

(i) shall establish, pursuant to the Contract Documents, the terms and conditions under which the Project will be implemented;

(ii) grants (Design-Builder) the right and obligation to design, develop, and construct the Project on the terms and conditions set forth in the Contract Documents;

(iii) may perform Oversight Services with respect to Project implementation;

(iv) shall approve the design, shall perform duties associated with the acquisition and condemnation of all necessary Project Right of Way, and shall perform duties associated with Utility Relocation, as provided in the Contract Documents;

(v) shall take acceptance of the Work upon Final Acceptance thereof;

(vi) shall turn over the Project to VDOT for operation and maintenance as a part of the State road system following its completion;

(vii) shall provide funds to the Project and make payments to (Design-Builder), as specified in this Agreement, the Design-Build Contract, and any other Contract Document; and

(viii) shall arrange to finance the costs of the Project in a manner that results in the availability of funds in the amounts and at the times required to meet the projected needs for the Project.

(c) (Design-Builder):

(i) shall have the right and obligation to design, develop, construct, and perform all Work respecting the Project as and when provided in the Contract Documents;

(ii) shall cause the Project to be insured, as and when provided in the Contract Documents;

(iii) shall provide the Payment Bond and the Performance Bond for the Work (excluding the amount attributable to the allowances for right of way and utilities as defined in the Contract Documents), as and when provided in the Contract Documents;

(iv) shall comply with and perform all the duties and obligations of a private entity under the PPTA, this Agreement, and the other Contract Documents, including, to the extent applicable, the duties under Virginia Code § 33.2-1807;

(v) shall perform duties associated with the acquisition of all necessary Project Right of Way and shall perform duties associated with Utility Relocation and Environmental Mitigation as provided in the Contract Documents;

(vi) shall perform duties associated with the acquisition of all Regulatory Approvals as provided in the Contract Documents;

(vii) shall perform or caused to be performed the Work for the Project as stated in the Contract Documents;

(viii) shall provide sufficient personnel who are suitably qualified and experienced to perform the Work in an efficient and timely manner;

(ix) represents that it is capable in all respects (including the possession of sufficient financial resources to provide fully for the payment of its employees, Contractors, and Subcontractors) to fully perform the requirements of the Contract Documents and shall provide the Work in accordance with generally accepted and currently recognized industry best practices, procedures, and principles, and it shall exercise the same professional

standard of care and of quality as is customarily exercised by entities providing similar services in the Northern Virginia area;

(x) shall diligently and conscientiously devote its resources to the performance of the Work during the term of this Agreement in accordance with the requirements of the Contract Documents; and

(xi) shall fulfill its obligations to have VDOT accept the Project as part of the State road system.

Section 3.3. Contract Documents.

The Contract Documents and their content are briefly described below. The Contract Documents are to be read and construed together, and together constitute the comprehensive agreement under the PPTA (notwithstanding the fact that this Agreement is entitled "Comprehensive Agreement").

(a) Comprehensive Agreement. The County and Design-Builder are entering into this Agreement to establish the general structure and arrangements for implementing the Project in accordance with the PPTA and the Implementation Guidelines.

(b) Design-Build Contract. Concurrently with execution of this Agreement, the County and Design-Builder are entering into the Design-Build Contract, in the form attached to this Agreement as Exhibit C, pursuant to which (i) the Project shall be designed and constructed by Design-Builder, and (ii) each of (Design-Builder) and the County shall have rights and obligations relating to the Project as set forth therein.

Section 3.4. Nature of Parties' Interests Under Certain Project Agreements

The County and (Design-Builder) intend and agree that:

(a) (Design-Builder) has no fee title, leasehold estate, easement, or other real property interest of any kind in or to the Project or the Project Right of Way by virtue of this Agreement, any of the other Contract Documents, or otherwise; and

(b) the County will be the sole owner of fee simple title to the Project and the Project Right of Way and all improvements constructed, all tangible personal property installed, with full power and authority to possess, control, and utilize the Project and Project Right of Way, subject only to the terms and conditions of the Contract Documents, however, the County may convey fee simple title to all or any portion of the Project or Project Right of Way to the State, VDOT, and/or the CTB.

ARTICLE IV

REGULATORY APPROVALS

Section 4.1. Regulatory Approvals.

The Parties shall have obligations for securing any necessary Regulatory Approvals as provided in the Contract Documents.

Section 4.2. No Federal or State Funds.

The Parties acknowledge that no federal funds or State funds are being used for the construction of any portion of this Project. The County covenants that it will not use federal funds or State funds for construction of any portion of the Project or take any action that would subject any portion of the Project to federal requirements due to the use of federal funds thereon.

ARTICLE V

DESIGN, ACQUISITION AND CONSTRUCTION

Section 5.1. (Design-Builder) Obligation to Design.

(Design-Builder) shall design the Project in accordance with the terms, conditions, standards, requirements, and schedule set forth in the Contract Documents.

Section 5.2. (Design-Builder) Obligation to Construct.

(a) (Design-Builder) shall construct the Project in accordance with the terms, conditions, standards, requirements, and schedule set forth in or provided by the Contract Documents.

(b) (Design-Builder) shall not commence construction within a Construction Segment until all conditions precedent thereto, as set forth in the Contract Documents, have been satisfied. Notwithstanding the foregoing, if all necessary interests in land have been obtained, the County shall, upon receipt of proper plans, agreements, or other appropriate documentation, issue "early grading" and other permits or approvals to allow (Design-Builder) to begin clearing, grubbing, grading, and excavation, and to perform other appropriate work on any phase of the Project prior to the final approval of the final design in order to expedite the Project.

Section 5.3. Right of Way Acquisition.

Each of the Parties shall have obligations relating to the acquisition of the Project Right of Way in accordance with the provisions of the Contract Documents. Such property(ies)

or property interest(s) acquired by (Design-Builder) shall be titled in the name of the "Board of County Supervisors of Prince William County, Virginia."

Section 5.4. Utility Relocation.

Each of the Parties shall have obligations relating to the relocation of utilities in accordance with the provisions of the Contract Documents.

Section 5.5 Wetlands and Environmental Mitigation

(Design-Builder) shall have obligations relating to required wetlands, assessments, archaeological studies, environmental assessments, or other Environmental Mitigation in accordance with the provisions of the Contract Documents.

Section 5.6. (Design-Builder) Payment Draws

(a) (Design-Builder) shall have no right to any draws for payment of costs until all conditions precedent to such draws, as set forth in the Design-Build Contract, have been satisfied.

(b) No draws from the County for design, construction, or any other Work shall be permitted or valid unless and until the County has received and approved a properly completed draw request, in the form attached to the Design-Build Contract.

ARTICLE VI

RESERVED

ARTICLE VII

DIRECTED CHANGES

The Parties agree that Directed Changes may be undertaken with respect to the Project only in accordance with the provisions of the Design-Build Contract under Section II.2.

ARTICLE VIII

COUNTY AND VDOT OVERSIGHT

Right to Oversee Construction. The County and VDOT shall have the right to carry out Oversight Services respecting the design and construction of the Project as set forth in the Contract Documents. (Design-Builder) shall fully cooperate with the County to facilitate its conduct of such Oversight Services as set forth in the Contract Documents.

ARTICLE IX

CONTRACTING PRACTICES - DISCRIMINATION PROHIBITED

(Design-Builder) shall not discriminate and it shall require that all Contractors not to discriminate against any person, or group of persons, on account of age, sex, marital status, race, creed, color, national origin, religion, status as a service disabled veteran, disability, or any other basis prohibited by federal or State law relating to discrimination in the permitting, design, acquisition, construction, maintenance, operation, or management of the Project, nor shall (Design-Builder) establish or permit any such practice or practices of discrimination or segregation with reference to the selection, use, hiring, firing, promotion, or termination of employees, contractors, subcontractors, and vendors or with reference to the use, occupancy or enjoyment of or access to the Project except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Design-Builder.

(Design-Builder) shall conduct its activities in connection with the Project in compliance with all other requirements imposed pursuant to Virginia Code §§ 2.2-4310 and 2.2-4311; Titles VI and VII of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; and the Americans With Disabilities Act of 1990, as amended, and any other Laws, Regulations, and Ordinance regarding discrimination in employment or public accommodation.

The County does not discriminate against faith-based organizations.

ARTICLE X

INTERRELATIONS AMONG TRANSPORTATION FACILITIES

Coordination Regarding Certain Transportation Facilities. Subject to provisions of the Contract Documents, the County and VDOT shall have the right at any time to modify existing facilities, to construct new facilities, and to perform planned and emergency maintenance, renewal and replacement, safety and repair activities on existing and new facilities adjacent to or near the Project regardless of the impact of such activities on the Project. Should any such efforts by the County and/or VDOT impact (Design-Builder's) Work, (Design-Builder) shall promptly notify the County, in writing, and request a Change to the Contract time and/or Contract Price under the terms of Article 18 of the Design-Build Contract.

ARTICLE XI

RELIANCE, INDEMNIFICATION, AND INSURANCE

Section 11.1. Limitations on (Design-Builder's) Right to Rely.

(a) (Design-Builder) expressly acknowledges and agrees that the County's rights under this Agreement include the rights to reasonably (i) review, comment on, approve, disapprove, and/or accept designs, plans, specifications, work plans, construction, equipment, installation, plans for maintenance, traffic management, policing, and/or Project management, books, records, reports, or statements, (ii) review, comment on and approve or disapprove qualifications and performance of, and to communicate with, Contractors, Subcontractors, architects, engineers, or other consultants of (Design-Builder), and (iii) perform Oversight Services, and that such rights (A) exist solely for the benefit and protection of the County, (B) do not create or impose upon the County any standard or duty of care toward (Design-Builder) or any of its Subcontractors, all of which are hereby disclaimed, (C) may not be relied upon, nor may the County's exercise or failure to exercise any such rights be relied upon, by Design-Builder in determining whether (Design-Builder) has satisfied the standards and requirements set forth in this Agreement or any other Contract Document, and (Design-Builder) may not be asserted, nor may the County's exercise or failure to exercise any such rights be asserted, against the County by (Design-Builder) as a defense, legal or equitable, to (Design-Builder's) respective obligations to fulfill the standards and requirements of the Contract Documents by which (Design-Builder) is bound. Regardless of the County's exercise or failure to exercise any such rights, regardless of the issuance of permits or certificates of completion or acceptance, and regardless of Final Acceptance, (Design-Builder) at all times shall have an independent duty and obligation and otherwise manage the Project and Project Right of Way in accordance with the standards and requirements set forth in the Contract Documents.

(b) To the maximum extent permitted by law, (Design-Builder) releases and discharges the County from any and all duty and obligation to cause design, construction, or other management of or for the Project or Project Right of Way by (Design-Builder) to satisfy the standards and requirements set forth in the Contract Documents. (Design-Builder) knowingly and voluntarily grants this release and discharge with the full understanding of the risks involved and the potential consequences.

(c) No rights of the County described in subsection (a) above, no exercise or failure to exercise such rights, no failure of the County to meet any standard of care in the exercise of such rights, or certificates of completion or acceptance and no Final Acceptance shall:

(i) relieve (Design-Builder) of its responsibility for the selection and the competent performance of all Contractors, Subcontractors, architects, engineers, and other consultants (except those hired by, and in direct privity with, the County);

(ii) relieve (Design-Builder) of any of its obligations or liabilities under the Contract Documents;

(iii) be deemed or construed to waive any of the County's rights and remedies under the Contract Documents; or

(iv) be deemed or construed as any kind of representation or warranty, express or implied, by the County.

(d) Notwithstanding subsections (a), (b), and (c) above, (i) (Design-Builder) Contracting shall be entitled to rely on specific written deviations and written interpretative engineering decisions the County gives under the Contract Documents, respectively, (ii) the County is not relieved from any liability arising out of a knowing, intentional misrepresentation under any written statement the County delivers, and (iii) the County is not relieved of its obligations under the Design-Build Contract or any other Contract Documents.

Section 11.2. Indemnities.

(a) (Design-Builder) shall indemnify, defend at (Design-Builder's) expense, and hold harmless the County to the extent provided in the Design-Build Contract.

(b) The indemnities of (Design-Builder) shall survive the expiration or earlier termination of this Agreement and the Design-Build Contract.

Section 11.3. Responsibilities Regarding Insurance.

(a) (Design-Builder) shall carry or cause to be carried the insurance policies and satisfy or cause to be satisfied the insurance covenants set forth in the Contract Documents.

(b) The County may, but is not obligated to, purchase other and additional policies of insurance respecting the Project.

ARTICLE XII

REPRESENTATIONS, WARRANTIES, AND FINDINGS

Section 12.1. County Representations and Warranties.

The County represents and warrants to the (Design-Builder) as follows:

(a) The County is a political subdivision of the Commonwealth of Virginia and has full power, right, and authority to execute, deliver and perform its obligations under, in accordance with and subject to the terms and conditions of this Agreement and other Contract Documents to which the County is a Party.

(b) Each Person executing this Agreement, the Design-Build Contract, or any other Contract Document on behalf of the County to which the County is a Party has been or at such time will be duly authorized to execute each such document on behalf of the County.

(c) Neither the execution and delivery by the County of this Agreement, the Design-Build Contract, and any other Contract Documents executed concurrently herewith to which the County is a Party, nor the consummation of the transactions contemplated hereby or thereby, is in conflict with or will result in a default under or violation of any other agreements or instruments to which it is a party or by which it is bound.

(d) There is no action, suit, proceeding, investigation, or litigation pending and served on the County which challenges the County's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement and the other Contract Documents to which the County is a Party, or which challenges the authority of the County official executing this Agreement or the other Contract Documents, and the County has disclosed to (Design-Builder) any pending and unserved or threatened action, suit, proceeding, investigation or litigation with respect to such matters of which the County is aware.

(e) When executed by the County the Contract Documents will be valid and binding agreements of the County and enforceable against it in accordance with the terms thereof.

(f) The County has complied with the provisions of the PPTA and the Implementation Guidelines applicable to (Design-Builder's) proposal, the Project and the Contract Documents.

Section 12.2. (Design-Builder's) Representations and Warranties.

Design-Builder represents and warrants to the County as follows:

(a) (Design-Builder) is a duly organized corporation created under the laws of the State, licensed to transact business in the Commonwealth of Virginia, and has the requisite power and all required licenses to carry on its present and proposed activities, and has full power, right, and authority to execute and deliver this Agreement, the Design-Build Contract, and the other Contract Documents to which (Design-Builder) is a Party and to perform each and all of the obligations of Design-Builder provided for herein and therein.

(b) Design-Builder has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under this Agreement, the Design-Build Contract, and the other Contract Documents to which it is a Party.

(c) Each Person executing this Agreement, the Design-Build Contact, or any other Contract Document on behalf of Design-Builder has been or will at such time be duly authorized to execute each such document on behalf of Design-Builder.

(d) Neither the execution and delivery by Design-Builder of this Agreement and the other Contract Documents to which Design-Builder is a Party, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or will result in a default under or a violation of the governing instruments of Design-Builder or any other agreements or instruments to which it is a party or by which it is bound.

(e) There is no action, suit, proceedings, investigation, or litigation pending and served on Design-Builder which challenges Design-Builder's authority to execute, deliver, or perform, or the validity or enforceability of, this Agreement, the Design-Build Contract, and the other Contract Documents to which Design-Builder is a Party, or which challenges the authority of the Design-Builder official executing this Agreement, the Design-Build Contract, or the other Contract Documents; and Design-Builder has disclosed to the County any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which Design-Builder is aware.

(f) Design-Builder is in material compliance with all Laws, Regulations, and Ordinances applicable to Design-Builder or its activities in connection with this Agreement, the Design-Build Contract, and the other Contract Documents.

(g) Design-Builder has complied with the provisions of the PPTA and the Implementation Guidelines applicable to its proposal, the Project, and the Contract Documents

Section 12.3. Survival of Representations and Warranties.

The representations and warranties of the County and Design-Builder contained in this Agreement and the other Contract Documents shall survive for one (1) year beyond the later of the expiration or earlier termination of this Agreement and the other Contract Documents.

Section 12.4. County's Findings Under PPTA.

The County, as the Responsible Public Entity with respect to the Project under the PPTA, makes the following findings:

(a) the actions taken by the County pursuant to the PPTA facilitate the timely construction and operation of the Project;

(b) there is a public need for the transportation facility of the type of the Project;

(c) the estimated cost of the Project is reasonable in relation to similar facilities;

(d) Design-Builder plans will result in the timely development of the Project;

(e) the Project will be owned by the County as a public road and it will be turned over to the Commonwealth of Virginia for maintenance as a part of the State road system;

(f) the design, construction, and warranting of the Project as provided by the Contract Documents serves the public purpose of the PPTA;

(g) the terms and conditions of this Agreement and the other Contract Documents serve the public purpose of the PPTA;

(h) the Contract Price, as the same may be adjusted pursuant to the Design-Build Contract, reflects a reasonable maximum rate of return on investment for Design-Builder for the purpose of the PPTA;

(i) no user fees are being provided with respect to the Project;.

(j) this Project secures and promotes the public health, safety, and general welfare of the County and its citizens;

(k) the plan for development of the Project is anticipated to have significant benefits, including person throughput, congestion mitigation, safety, economic development, environmental quality, and land use;

(l) the risks, liabilities, and responsibilities transferred, assigned, or assumed by Design-Builder provide sufficient benefits to the public to not proceed with the development of the Project through other means of procurement available to the County; and

(m) the requirements of Virginia Code § 33.2-1803(C)(1)–(5) have been met, and this Agreement and the Project are in the best interest of the public.

ARTICLE XIII

TERMINATION

Section 13.1. Termination for Convenience.

(a) The County may at any time after the execution of this Agreement, when the County determines in its sole discretion that such action is in the best interests of the County, terminate Design-Builder rights and obligations under this Agreement and the other Contract Documents, subject to subsection (b) below.

(b) If the County exercises its right of termination under subsection (a) above, the County shall deliver to Design-Builder a Notice of Termination and thereafter the County and Design-Builder shall comply with the provisions of Article 25 of the Design-Build Contract.

Section 13.2. Other Unilateral Rights to Terminate.

(a) The County shall have the right to terminate this Agreement and the Design-Build Contract due to an Event of Default by Design-Builder as set forth in the Design-Build Contract. Upon any such termination, Design-Builder's rights under this Agreement shall automatically terminate. The County's remedies against Design-Builder following any such termination are fully set forth in the Design-Build Contract.

(b) If the County exercises its right of termination under subsection (a) above, then the County shall deliver to Design-Builder the notice set forth in Section II.6 of the

Design-Build Contract and thereafter the County and Design-Builder shall comply with the provisions of Section II.6.

Section 13.3. Liability After Termination.

(a) In the event this Agreement and/or the Design-Build Contract is terminated by reason of a material default, such termination shall not excuse the defaulting party from any liability arising out of such default as provided in the Contract Documents.

(b) In the event this Agreement and/or the Design-Build Contract is terminated by reason other than a default, no party shall have any further obligation or liability except for performance of their respective obligations which are either expressly stated in the Contract Documents survive termination or by their sense and context are intended to survive termination.

Section 13.4. Exclusive Termination Remedies.

This Article XIII, together with the express provisions on termination set forth in the Design-Build Contract, set forth the entire and exclusive provisions and rights of the County and Design-Builder regarding termination of this Agreement and/or the Design-Build Contract, and any and all other rights to terminate at law or in equity are waived to the maximum extent permitted by law.

ARTICLE XIV

DEFAULTS AND REMEDIES

Section 14.1. Design-Builder Defaults.

Each of the following events shall constitute a Design-Builder Default under this Agreement:

(a) any event of Default by Design-Builder under this Agreement, the Design-Build Contract, or any other Contract Documents; and

(b) any representation or warranty made by Design-Builder herein or in any other Contract Documents which is inaccurate or misleading in any material respect on the date made and a material adverse effect upon the Project or the County's rights or obligations under the Contract Documents results therefrom; and

(c) Design-Builder shall fail to timely observe or perform any covenant agreement, term, or condition required to be observed or performed by Design-Builder under the Contract Documents or anyone providing any of the Work under this Agreement through Design-Builder shall cause Design-Builder to do so.

Section 14.2. Design-Builder Cure Periods.

The Design-Builder shall have the following cure periods with respect to the following Design-Builder Defaults:

(a) respecting any Design-Builder Default under Section 14.1(a), the cure period, if any, in the Contract Documents; and

(b) respecting any Design-Builder Default under Section 14.1(b), a period of 30 Days after Design-Builder receives written notice of the Design-Builder Default, provided that if the Design-Builder Default is of such a nature that the cure cannot with diligence be completed within such time period and Design-Builder has commenced meaningful steps to cure immediately after receiving the default notice, then Design-Builder shall have such additional period of time, up to a maximum cure period of 180 Days, as is reasonably necessary to diligently effect cure.

Section 14.3. County Remedies for Design-Builder Default.

Upon the occurrence of any Design-Builder Default and expiration, without full cure, of any applicable cure period, the County may exercise any one or more of the following remedies as the County, in its sole and absolute discretion, shall determine:

(a) in the event of any Design-Builder Default under Section 14.1(a), any applicable remedies set forth in the Contract Documents.

(b) in the event of a Design-Builder Default under Section 14.1(b), any and all remedies available at law or in equity, including, but not limited to, recovery of damages to the extent provided by law, but excluding consequential damages.

(c) the County may offset any sums the County owes to Design-Builder by any sums owing to the County from Design-Builder, including, but not limited to, Liquidated Damages or undisputed or finally adjudicated monetary damages owing the County under the Contract Documents.

Section 14.4. County Defaults.

(a) Each of the following events shall constitute a County Default:

(i) the County shall fail to observe or perform any covenant, agreement, term, or condition required to be observed or performed by the County under this Agreement;

(ii) any representation or warranty made by the County herein or in any other Contract Documents shall be inaccurate or misleading in any material respect on the date made and a material adverse effect upon the Project or Design-Builder's rights or obligations under the Contract Documents results therefrom;

(iii) an event of Default by the County occurs under any other Contract Documents; or

(b) Except as set forth and described in the definition of Force Majeure, Design-Builder acknowledges that no act or omission of any federal, State, regional, or other local government or agency thereof, other than the County, shall constitute a County Default hereunder.

Section 14.5. County Cure Periods.

The County shall have the following cure periods with respect to the following County Defaults:

(a) respecting a County Default under Section 14.4(a)(i) or (ii), a period of 30 Days after the County receives written notice of the County Default, provided that if the County Default is of such a nature that the cure cannot with diligence be completed within such time period and the County has commenced meaningful steps to cure immediately after receiving the default notice, the County shall have such additional period of time, up to a maximum cure period of 180 Days, as is reasonably necessary to diligently effect cure; and

(b) respecting a County Default under Section 14.4(a)(iii), the cure period, if any, set forth in the relevant Contract Document.

Section 14.6. Design-Builder Remedies for County Default

Upon the occurrence of any County Default and expiration, without full cure, of any applicable cure period, Design-Builder may exercise any one or more of the following remedies as Design-Builder, in its sole and absolute discretion, shall determine, provided that there is no material breach, without full cure within any applicable cure period, on the part of Design-Builder under any of the Contract Documents:

(a) In the event of any County Default under Section 14.4(a)(i) or (ii), any and all remedies available at law or in equity including, but not limited to, recovery of damages to the extent provided by law, but excluding consequential damages.

(b) In the event of any County Default under Section 14.4(a) (iii), any applicable remedies set forth in the Design Build Contract or the relevant Contract Documents.

Section 14.7. Dispute Resolution

(a) All disputes, claims, and other matters in question between the Parties arising out of or in relation to this Agreement, the Design-Build Contract, and any other Contract Documents shall be resolved in accordance with the terms thereof.

(b) The Parties shall attempt to mutually resolve any dispute that may arise under this Agreement through reasonable and good faith negotiations between the Authorized County Representative and Authorized Contractor Representative. The Parties recognize that in drafting this Agreement, it is impractical to make provisions for every contingency that may arise during its term. Accordingly, in order to achieve resolution of any Dispute concerning matters for which the Agreement provides no clear guidance, the Parties concur in the principle

that this Agreement is intended to operate between them in fairness. Nonetheless, if no resolution is achieved pursuant to the terms of this subsection (b), the Parties shall have full rights to resolve Disputes in accordance with the remaining terms of this Section 14.7.

(c) In accordance with Virginia Code § 2.2-4363, this provision shall be followed for consideration and handling of all claims by the Contractor under this contract. Virginia Code § 2.2-4365is not applicable to this Agreement, the Design-Build Contract, or any other Contract Documents. Under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by Virginia Code § 2.2-4365.

(d) Notice of the intent to submit a claim setting forth the basis for any claim shall be submitted in writing within thirty (30) Days after the occurrence of the event giving rise to the claim, or within thirty (30) Days of discovering the condition giving rise to the claim, whichever is later. In no event, shall any claim arising out of this Agreement, the Design-Build Contract, or any other Contract Documents be filed after the submission of the request for Final Payment by Design-Builder.

(e) Claims by Design-Builder with respect to this Agreement shall be submitted in writing including sufficient detail and accompanied by supporting documentation in the first instance for consideration by the Director of Transportation for Prince William County. The decision of the Director of Transportation for Prince William County shall be rendered in writing within forty-five (45) Days from the receipt of the claim from Design-Builder and shall be final and binding on behalf of the County, unless Design-Builder submits the claim for determination by the County Executive by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with a request for determination by the County Executive within thirty (30) Days of the Director of Transportation's decision. The final decision of the County Executive shall be signed by the County Executive and rendered in writing within forty-five (45) Days from the receipt of the claim from Design-Builder, and shall be final and binding on behalf of the County, unless Design-Builder submits the claim for determination by the Board by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with a request for determination by the Board within thirty (30) Days of the County Executive's decision. The Board shall consider a claim that includes sufficient detail and is accompanied by supporting documentation within sixty (60) Days of receipt and render a decision within forty-five (45) Days of the date on which the Board hears the claim in open meeting; provided, however that in no event shall the decision of the Board be rendered more than one hundred fifty (150) Days after a claim that includes sufficient detail and is accompanied by supporting documentation was submitted by Design-Builder for determination by the Board. The Board's procedure in considering claims under this Agreement shall be the same as that for other decisions of the Board on claims made under Section 15.2-1245 et seq., VA Code Ann. The decision of the Board shall be final.

(f) Should any decision-maker designated under this procedure fail to make a decision within the time period specified, then the claim is deemed to have been denied by the decision-maker.

(g) Pending a final determination of a claim, Design-Builder shall proceed diligently with the performance of the Work under this Agreement, the Design-Build Contract, and the other Contract Documents.

(h) In accordance with the provisions of Virginia Code § 2.2-4363, full compliance with this procedure set forth in the provision shall be a precondition to the filing of any lawsuit by Design-Builder against the Board arising out of this Agreement. If Design-Builder is dissatisfied with the decision of the County and Design-Builder has fully complied with this Section 14.7 and Virginia Code § 15.2-1245 *et seq*., Design-Builder may institute a civil action as to such portion of the claim as is denied by the County to the extent permitted by law and the Contract Documents.

Each Party shall bear its own attorneys' fees and costs in any dispute or litigation arising out of or pertaining to this Agreement or any other Contract Document, and no Party shall seek or accept an award of attorneys' fees or costs.

ARTICLE XV

RECORDS, REPORTS AND WORK PRODUCT

Section 15.1. Maintenance of Records.

Design-Builder shall file and maintain a complete set of all books, records, documents, and information prepared or used by Design-Builder related to this Project as provided in the Design-Build Contract.

Section 15.2. Public Records and Protection of Design-Builder Confidential Records.

(a) Any Work Product the County owns or possesses pursuant to this Agreement, the Design-Build Contract, or any other Contract Document, and any record of which the County obtains a copy, may be considered public records under the Virginia Public Records Act, Virginia Code § 42.1-76 *et seq*., Virginia Code, Virginia Code § 33.2-1820, or the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq*., and as such may be subject to public disclosure. The County recognizes that certain Work Product the County owns or possesses pursuant to the Design-Build Contract and other Contract Documents of which the County obtains a copy may contain information exempt from disclosure under Section 2.2-4342(F) or 2.2-3705.6(11) of the Virginia Code, may constitute trade secrets as defined in Section 59.1-336 of the Virginia Code, and may include confidential information which is otherwise subject to protection from disclosure. Should such records become the subject of a request for public disclosure, the County shall respond as follows:

(i) The County will use reasonable efforts to promptly notify Design-Builder of such request and the date by which it anticipates responding.

(ii) Design-Builder must then assert, in writing to the County, any claim that such records contain information that is exempt from disclosure.

(iii) If Design-Builder fails to make such assertion within three (3) Business Days after the date the County notifies it of its intended response, the County shall have the right to make such disclosure.

(iv) If Design-Builder makes a timely and reasonable assertion that the requested records contain trade secrets or financial records exempt from disclosure or otherwise protected under State law, the County will deny the request for disclosure of such records or, upon consultation with Design-Builder, to agree upon a reasonable effort and legal cost, at the expense of Design-Builder seek judicial declaration of the rights of the parties.

(v) If the County's denial of a request for disclosure of records is challenged in court and the County agrees to a request by Design-Builder to defend its position, then Design-Builder shall assist the County in its defense and shall indemnify and hold harmless the County for any and all damages assessed and reasonable costs (including, but not limited to, the fees and costs of the County's attorneys) the County incurs in such defense, including any attorneys' fees assessed against the County under Virginia Code § 59.1-338.1 or any civil penalty assessed under Virginia Code § 2.2-3714.

(vi) If at any time, including prior to, during or after judicial consideration, provided that such judicial consideration did not grant an injunction against such disclosure, or is still pending and being diligently prosecuted to enjoin such disclosure, the County determines that Design-Builder does not have a valid claim that the requested records contain trade secrets or financial records exempt from disclosure or otherwise protected under State law, it shall so notify Design-Builder by email or facsimile, no less than three (3) Business Days prior to the date the County intends to make the disclosure to allow it to take such action as it deems appropriate prior to disclosure. In no event shall the County be liable to Design-Builder as a result of any disclosure of such records by the County pursuant to this Section 15.2 if Design-Builder fails to file or otherwise initiate and diligently pursue an appropriate action to enjoin such disclosure in a timely manner.

(b) If Design-Builder believes that any Work Product or any document subject to transmittal to or review by the County under the terms of this Agreement or any other Contract Documents contain information or trade secrets that are exempt or protected from disclosure pursuant to State law, Design-Builder shall use diligent efforts to clearly and properly identify such information prior to such transmittal or review, and the County shall confer on appropriate means of ensuring compliance with applicable laws prior to transmittal or review. Upon the written request of any party, Design-Builder and the County shall mutually develop a protocol for the transmittal, review, and disclosure of Work Product or other documents produced or obtained by Design-Builder, as the case may be, so as to avoid violations of any applicable State law.

Section 15.3. Reporting Requirements, and Inspection and Audit Rights.

(a) Design-Builder shall deliver to the County financial and narrative reports, statements, certifications, budgets, and information as and when required under the Design-Build Contract.

(b) The County shall have audit rights respecting Design-Builder as set forth in Section 12.1 of the Design-Build Contract.

(c) Nothing contained in this Agreement or any other Contract Document shall in any way limit the constitutional and statutory powers, duties, and rights of elected or appointed State officials, including the independent rights of the State Auditor of Public Accounts, in carrying out his or her legal authority. Design-Builder shall require each of its Contractors and Subcontractors to comply the requirements of this Section 15.3(c).

ARTICLE XVI

RESERVED RIGHTS

Section 16.1. Exclusions from Design-Builder Interests.

Design-Builder rights and interests in the Project and Project Right of Way shall be specifically limited only to such rights and interests which are necessary and required for design and construction of the Project and any other elements of the Work, pursuant to the Contract Documents. Design-Builder's rights and interests specifically exclude all Reserved Rights.

Section 16.2. County Reservation of Rights.

All rights to own, lease, sell, assign, transfer, utilize, develop, or take advantage of the Reserved Rights are reserved to the County; and Design-Builder shall not engage in any activity infringing upon the Reserved Rights. The County at any time may devote, use or take advantage of the Reserved Rights for any public purpose without any participation whatsoever by Design-Builder. The County reserves to itself all ownership, development, maintenance, repair, replacement, operation, use, and enjoyment of, and access to, the Project, Project Rights of Way, and Reserved Rights. No County activity or improvement respecting Reserved Rights shall materially interfere with the design, construction, or warranting of the Project.

ARTICLE XVII

MISCELLANEOUS

Section 17.1. Assignment.

(a) Except as otherwise provided in the Design-Build Contract, Design-Builder may not, without the prior written consent of the County, voluntarily or involuntarily assign, convey, transfer, pledge, mortgage, or otherwise encumber its rights or interests under this Agreement or the other Contract Documents.

(b) Any transfer of the right or practical ability to control the policies and decisions of Design-Builder (except transfers occurring after the Final Acceptance Date) whether due to transfer of partnership or membership interests, shares, beneficial interests, or otherwise, shall constitute an assignment prohibited under subsection (a) above without the County's prior written consent.

(c) The County may transfer and assign its interests in the Project, this Agreement, and any other Contract Document to any other public agency or public entity as permitted by law, provided that the successor or assignee has assumed all of the County's obligations, duties, and liabilities under this Agreement and the Contract Documents then in effect, and has provided Design-Builder with reasonable assurance of its legal and financial authority to honor and perform the same.

(d) If any Party changes its name, such Party agrees to promptly furnish the other Party with written notice of change of name and appropriate supporting documentation.

Section 17.2. No Gift or Dedication.

Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Project, Project Right of Way, or Work Product to the County or the general public or for any public use or purpose whatsoever, or be deemed to create any rights in the Project, Project Right of Way, or Work Product except as expressly set forth herein.

Section 17.3. Notices.

(a) Whenever under the provisions of this Agreement or the Design-Build Contract it shall be necessary or desirable for one Party to serve any notice, request, demand, report, or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until received by the addressee or unless served:

(i) personally;

(ii) by independent, reputable, overnight commercial courier;

(iii) by facsimile transmission:

(A) where the transmitting Party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page),

(B) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device, and

(C) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a)(i), (a)(ii), or (a)(iv) of this subsection; or

(iv) by deposit three (3) Business Days in advance in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to Design-Builder:

Gregory Andricos, P.E.
President and Chief Operating Officer
3290 N. Susquehanna Trail
York, PA 14606
Fax: (717) 767-5457

If to the County:

Christopher E. Martino
County Executive
1 County Complex Court
Prince William, Virginia 22192
Fax: (703) 792-4225

And to:

Michelle L. Attreed
Director of Finance
1 County Complex Court
Prince William, Virginia 22192
Fax: (703) 792-6882

Adam Manne
Prince William County Assistant Director of Finance
4360 Ridgewood Center Drive
Woodbridge, Virginia 22192
Fax: (703) 792-6411

Ricardo Canizales
Prince William County Department of Transportation
Director
5 County Complex Court
Prince William, Virginia 22192
Phone: (703) 792-6825
Fax: (703) 792-6885

With a copy to:

Michelle R. Robl
County Attorney
1 County Complex Court
Prince William, Virginia 22192
Fax: (703) 792-6633

(b) Either Party may, from time-to-time, by notice in writing served upon the other Party, designate an additional and/or a different mailing address in Virginia or an additional and/or a different person to whom all such notices, requests, demands, reports and communications are thereafter to be addressed. Any notice, request, demand, report, or other communication served personally shall be deemed delivered upon receipt, if served by mail or independent courier shall be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the U.S. Postal Service or independent courier, and if served by facsimile transmission shall be deemed delivered on the date of receipt as shown on the received facsimile (provided the original is thereafter delivered as aforesaid).

Section 17.4. Binding Effect.

Subject to the limitations of Section 17.1 of this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors, and permitted assigns, and wherever a reference in this Agreement is made to any of the Parties, such reference also shall be deemed to include, wherever applicable, a reference to the legal representatives, successors, and permitted assigns of such Party, as if in every case so expressed.

Section 17.5. Relationship of Parties; No Partnership.

(a) The relationship of Design-Builder to the County shall be one of independent contractors, not an agent, partner, joint venture, or employee, and the County shall have no rights to direct or control the activities of Design-Builder or any Person related to Design-Builder.

(b) Officials, employees, and agents of the County shall in no event be considered employees, agents, partners, or representatives of Design-Builder.

(c) Design-Builder shall pay and comply with, and hold the County harmless against, the payments of all Design-Builder employee payroll-related contributions,

premiums, and taxes of whatever nature, including any interest or penalties, which may be payable by Design-Builder under Laws, Regulations, and Ordinances.

Section 17.6. No Third-Party Beneficiaries.

Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits, or remedies upon, or creating any obligations of the Parties toward, any person or entity that is not a Party to this Agreement.

Section 17.7. Waiver.

(a) No waiver by any Party of any right or remedy under this Agreement or the other Contract Document shall be deemed to be a waiver of any other or subsequent right or remedy under this Agreement or the other Contract Document. The consent by one Party to any act by the other Party requiring such consent shall not be deemed to render unnecessary the obtaining of consent to any subsequent act for which consent is required, regardless of whether similar to the act for which consent is given.

(b) No act, delay, or omission done, suffered, or permitted by one Party or its agents shall be deemed to waive, exhaust, or impair any right, remedy, or power of such Party under this Agreement or any other Contract Document, or to relieve the other Party from the full performance of its obligations under this Agreement and the other Contract Documents.

(c) No waiver of any term, covenant, or condition of this Agreement shall be valid unless in writing and signed by the obligee Party.

(d) The acceptance of any payment or reimbursement by a Party shall not: (i) waive any preceding or then-existing breach or default by the other Party of any term, covenant or condition of this Agreement, other than the other Party's prior failure to pay the particular amount or part thereof so accepted, regardless of the paid party's knowledge of such preceding or then-existing breach or default at the time of acceptance of such payment or reimbursement; or (ii) continue, extend or affect (A) the service of any notice, any suit, arbitration or other legal proceeding or final judgment, (B) any time within which the other Party is required to perform any obligation or (C) any other notice or demand.

(e) No custom or practice between the parties in the administration of the terms of this Agreement shall be construed to waive or lessen the right of a Party to insist upon performance by the other Party in strict compliance with the terms of this Agreement.

Section 17.8. No Brokers.

Each Party represents and warrants that it has not dealt with any real estate or business opportunity broker or agent or any finder in order to secure this Agreement.

Section 17.9. Governing Law and Venue.

This Agreement shall be governed and construed in accordance with the Constitution and laws of the Commonwealth of Virginia applicable to contracts executed and to be performed within the Commonwealth. The exclusive venue for any legal action arising out of or related to this Agreement, the Design-Build Contract, and any other Contract Documents shall lie in the Circuit Court for Prince William County, Virginia.

Section 17.10. Use of Police Power.

Nothing in this Agreement limits the authority of the County to exercise its regulatory and police powers granted by law, including, but not limited to, its powers of condemnation with respect to all or any part of the Project, the Project Right of Way, and any of Design-Builder rights hereunder. The Parties waive any requirement by the State Corporation Commission to issue a declaratory judgment regarding condemnation pursuant to Virginia Code § 33.2-1814 of the Virginia Code.

Section 17.11. Survival.

All covenants, agreements, representations, and warranties made in or pursuant to this Agreement shall be deemed continuing and made at and as of the date of this Agreement and at and as of all other applicable times during the Term. All covenants, agreements, representations and warranties made in or pursuant to this Agreement shall survive for one (1) year beyond the later of the expiration or earlier termination of this Agreement and shall not be waived by the execution and delivery of this Agreement, by completion of construction, by any investigation by the County, or by any other event except a specific written waiver by the party against whom waiver is asserted unless otherwise provided herein.

Section 17.12. Construction and Interpretation of Agreement.

(a) The language in all parts of this Agreement shall in all cases be construed simply, as a whole, and in accordance with its fair meaning and not strictly for or against any party. The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm's length and careful negotiation, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

(b) If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by either party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties to this Agreement, and the Parties agree, that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, the parties in good faith shall supply as a part of this

Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

(c) The captions of the articles, sections, and subsections in this Agreement are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

(d) References in this instrument to this "Agreement" mean, refer to, and include this instrument as well as any riders, exhibits, addenda, and attachments (which are incorporated by reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation and/or undertaking "herein," "hereunder" or "pursuant hereto" (or language of like import) mean, refer to and include the covenants, conditions, obligations and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, attachments or other documents affixed to or expressly incorporated by reference in this instrument. All terms defined in this instrument shall be deemed to have the same meanings in all riders, exhibits, addenda, attachments, or other documents affixed to or expressly incorporated by reference in this instrument unless the context clearly requires the contrary. Unless expressly provided otherwise, all references to Articles and Sections refer to the Articles and Sections set forth in this Agreement. Unless otherwise stated in this Agreement or the other Contract Documents, words which have well-known technical or construction industry meanings are used in this Agreement or the Contract Documents in accordance with such recognized meaning. All references to a subsection “above” or “below” refer to the denoted subsection within the Section in which the reference appears.

(e) As used in this Agreement and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

(f) This Agreement, its Exhibits, and the other Contract Documents are intended to be complementary and consistent with each other and shall, to the maximum extent possible, be construed according to such intent. In the event of an irreconcilable conflict or inconsistency between the terms and conditions of this Agreement, the Exhibits to this Agreement and/or the executed Project Agreements, the conflict or inconsistency shall be resolved by applying the following order of document precedence:

1. This Contract No. 5062336 inclusive of all Exhibits and Attachments;

2. General Conditions of Contract (Part 4);

3. County’s Request for Detailed Proposals (RFDP) dated October 23, 2019, including all Addenda, inclusive of Part 1-Instructions to Offerors, Part 2 Project Technical Information and Requirements, including RFDP Information Package, Exhibits, Sections, and Addenda;

4. Division I Amendments (Part 5) to Standard Specifications, dated November 2016, as amended by the County;

5. Construction Documents prepared and approved in accordance with Article 2.4 of the General Conditions of Contract; and

6. Design Builder's Detailed Proposal dated, October 16, 2020, including all final modifications, Proposal modifications and approved alternative technical concepts established herein, as accepted by the County on November 24, 2020.

Section 17.13. Counterparts.

This instrument is executed in three (3) counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 17.14. Entire Agreement; Amendment.

(a) This Agreement and the Project Agreements constitute the entire and exclusive agreement between the Parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are superseded, revoked, and rendered ineffective for any purpose. This Agreement may be altered, amended, or revoked only by an instrument in writing signed by each party hereto, or its permitted successor or assignee.

(b) This Agreement and the other Contract Documents attempt to set forth in full all requirements applicable under the PPTA as to the design, construction, and warranting of the Project and attempt to define in full the rights and responsibilities of each Party in connection therewith. To the extent requirements and rights and responsibilities have not been addressed in this Agreement and the other Contract Documents, the Parties agree to carry out their respective responsibilities in the spirit of cooperation contemplated by the PPTA, recognizing that they may not have defined in a sufficient detail or anticipated fully all activities necessary for the full implementation of the Project.

(c) If any provision(s) of this Agreement is rendered obsolete or ineffective in serving their purpose by change in law, passage of time, financing requirements, or other future events or circumstances, the Parties agree to negotiate in good faith appropriate amendments to or replacements of such provisions in order to restore and carry out the original purposes thereof to the extent practicable; provided, however, that neither Party is obligated to agree to any amendment or replacement which would reduce its rights or enlarge its responsibilities under this Agreement in any material respect.

(d) At any time during the Term, any Party (i) shall apply to the other Party for any explanation as may be necessary with respect to the provisions of any Project Agreement, and (ii) shall promptly notify the other Party of all errors, omissions, inconsistencies, or other defects (including inaccuracies) which it may discover in the Project Agreements, shall provide written recommendations regarding changes or corrections to resolve any such error, omission, inconsistency, or other defect.

Section 17.15 Virginia State Police Funding for Adequate Staffing.

Pursuant to Virginia Code § 33.2-1808(I), the Parties, in consultation with the Virginia State Police, will provide for funding for adequate staffing by the Virginia State Police for general law enforcement services during both development and operation of the Project. As used in this subsection, "adequate staffing" means a level of staffing in accordance with the September 2003 report, "A Review of the Patrol Staffing Formula" as developed pursuant to Item 459(g) of Chapter 1042 of the Acts of Assembly of 2003.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement on the date first written above.

BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, VIRGINIA

By:_____
Ricardo Canizales, Director of Transportation

_____
Date Signed (Effective Date of Agreement)

WAGMAN HEAVY CIVIL, INC.

By:_____
Gregory Andricos, P.E.
President & Chief Operating Officer

Attest:

_____
Adam Manne
Assistant Director of Finance

Approved as to form:

_____
Alan Smith, Assistant County Attorney

Exhibit A

DEFINITIONS

Agreement Date means the later of the date written on the cover page of the Comprehensive Agreement and the date at which time both parties to the Comprehensive Agreement have executed and delivered both the Comprehensive Agreement and the Design-Build Contract.

Allowance means an amount of money, as provided in accordance with the Design-Build Contract, to pay certain Environmental Costs.

Approved Plans means the design and/or the construction plans and specifications for the Project that have been approved by VDOT and the County, including, but not limited to, all plans, elevations, sections, details, and diagrams furnished by Contractor showing the sizes, shapes, and location of component elements comprising the Project and all specifications, reports, calculations, records, and submittals necessary for design of the Project furnished by Contractor as described in the Design-Build Contract.

ASTM means the America Standard Testing Materials.

Authorized County Representative means any person designated to act on behalf of the County by the Contract Documents or a certificate signed by the County Executive and filed with Design-Builder.

Authorized Contractor Representative means any person designated to act on behalf of Design-Builder by the Contract Documents or a certificate signed by its President and filed with the County.

Board means the Board of County Supervisors as the governing body of the County.

Business Day means any Day other than a Saturday, Sunday or other day on which the New York Stock Exchange or banks are authorized or required to close in New York, New York, or Richmond, Virginia.

Change in Law means any change in Laws, Regulations, and Ordinances including Regulatory Approvals, but not including Regulatory Approvals taking effect (a) after the Agreement Date with respect to the Work initially authorized in the Design-Build Contract; or (b) after execution of a Change Order with respect to other Work. Change in law shall not include changes in Regulatory Approvals relating to the corporate existence or maintenance of Design-Builder.

Change Order means a written amendment to the terms and conditions of the Contract Documents issued in accordance with Section II.2 of the Design-Build Contract.

Claims means any and all claims, disputes, disagreements, causes of action, demands, suits, proceedings, damages, injuries, liabilities, obligations, losses, costs, and expenses.

Comprehensive Agreement means the Comprehensive Agreement to Design and Construct the Route 234 Brentsville Road Interchange Project between Design-Builder and the County dated as of the Agreement Date, and all exhibits thereto, as supplemented or amended from time-to-time.

Construction Documents means all Approved Plans, Shop Drawings and Working Drawings, catalog cuts, and samples necessary for construction of the Project in accordance with the Contract Documents and to inspect that construction.

Construction Traffic Management Plan means the plan for traffic management submitted and approved in accordance with the Design-Build Contract.

Contract Documents means the Comprehensive Agreement and the Design-Build Contract, including all appendices and exhibits to each, the Scope of Work, the applicable Standard Specifications issued by VDOT, the Approved Plans, the CPM Payment Schedule, Contract Special Provisions, Special Provision Copied Notes, the Plans, Prince William County Purchasing Regulations, Design-Builder Proposal, General Conditions, Plans, Insurance coverages/policies, bonds, Specifications, and including all amendments and modifications to any of the foregoing, and all Change Orders issued.

Contractor means (Design-Builder) and its permitted successors and assigns.

Contractor Claim means a separate demand by Design-Builder for (a) a time extension which is disputed by the County, or (b) payment of money or damages arising from work done by or on behalf of Design-Builder in connection with the Design-Build Contract which is disputed by the County. A Contractor Claim will cease to be a Contractor Claim upon resolution thereof, including resolution by withdrawal or release thereof or delivery of a Change Order or Design-Build Contract amendment signed by all parties.

Contractor Party means and includes (Design-Builder), any related party thereto, including its parent, affiliate and subsidiary companies, and any member company, manager, partner, director, officer, employee, agent, contractor (other than the County), subcontractor (other than the County) at any tier, or any representative of (Design-Builder) or any such related party.

Contract Price shall have the meaning set forth in the Design-Build Contract.

County means Prince William County, Virginia.

County Default shall have the meaning set forth in Section 14.4 of the Comprehensive Agreement.

County Indemnitee means and includes the County, the Board, and all elected representatives, appointed officials, officers, members, employees, authorized agents and authorized representatives of any of them.

CPM/Payment Schedule means the most current schedule for the Project approved by the County.

Critical Path means the longest non-intermittent path between the first and the last event of the Project shown on the CPM Payment Schedule (or, if more than one such path exists, each such path).

CTB means the Commonwealth Transportation Board, a state board of the State.

Cultural Resources means historic buildings, structures, physical remains of a people's way of life, and any significant archaeology sites.

Days mean calendar days, unless otherwise designated.

Defect means, with respect to each element or aspect of the Work for which acceptable tolerances are specified in the Contract Documents or Reference Documents, any such element or aspect as of the Final Acceptance Date not conforming to such specified tolerances, and with respect to each element or aspect of the Work for which acceptable tolerances are not specified in the Contract Documents or Reference Documents, any such element or aspect not conforming to VDOT standards applicable thereto as of the time such element or aspect of the Work is undertaken; provided that in all instances "Defect" includes any element or aspect of the Work not conforming to the Design-Build Contract, Plans and Specifications, federal, State, or County laws, regulations, and ordinances or Regulatory Approvals.

Department means the Virginia Department of Transportation ("VDOT"), a department of the State, and any other State agency succeeding to the powers, authorities, and responsibilities of VDOT invoked by or under the Comprehensive Agreement.

Department Standards means the VDOT requirements applicable to performance of the Work contained in the manuals, standards and procedures set forth in the Reference Documents.

Design-Build Contract or **Contract** means the Design-Build Contract between the County and Design-Builder dated as of the Agreement Date, a copy of which is attached to the Comprehensive Agreement as Exhibit C, and any and all amendments and supplements thereto.

Developer shall have the meaning assigned to the term "private entity" in Virginia Code Section 33.2-1800 and, for purposes of the Comprehensive Agreement, means (Design-Builder).

Developer Indemnitee means and includes (Design-Builder).

Developer Party means and includes (Design-Builder) and any director, officer, employee, agent, contractor (other than the County), subcontractor (other than the County) or any authorized representative Design-Builder.

Differing Site Condition shall have the meaning set forth in Article 4 of the General Conditions of the Contract.

Directed Change means any change in the Work (including changes in the standards applicable to the Work) which the County has directed Contractor to perform pursuant to Article 9 of the General Conditions of the Contract Between Department and (Design-Builder).

Dispute means a controversy, matter in question, or difference of opinion that remains unresolved following good faith negotiations between representatives of the County and (Design-Builder).

Disputes may include, but shall not be limited to, such matters as Change Orders, interpretation of the Contract Documents, costs, time for performance, and Differing Site Conditions.

Draft Plans and Specifications means all drawings (including plans, elevations, sections, details and diagrams) furnished by Design-Builder showing the sizes, shapes and location of component elements comprising the Project and all specifications, reports, calculations, records and submittals necessary for design of the Project furnished by Design-Builder as described in Article 3 of the Design-Build Contract.

Draw Request means a draw request Design-Builder on the Draw Request and Certificate form attached as Appendix 1 to the Design-Build Contract.

Environmental Laws means all Laws, Regulations and Ordinances now or hereafter in effect relating to the environment or to emissions, discharges, releases, or threatened releases of Hazardous Substances into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances or otherwise relating to the protection of public health, public welfare, or the natural environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the statutes listed in the definition of Hazardous Substances; the National Environmental Protection Act, as amended, 42 U.S.C. § 4321 et seq. the Occupational Safety and Health Act, as amended, 29 U.S.C. § 651 et seq. the Hazardous Materials Transportation Act, as amended, 49 App. U.S.C. §S 1801 et the Endangered Species Act, as amended, 16 U.S.C. § 1531 et seq. the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq. and the Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.

Environmental Monitoring Program means the Contractor's environmental monitoring program meeting the requirements set forth in the Design-Build Contract.

Event of Default shall have the meaning set forth in Article 11 of the General Conditions of the Contract.

Final Acceptance means the occurrence of the events described in General Conditions of the Contract.

Final Acceptance Date means the date on which Final Acceptance occurs under the Design-Build Contract.

Governmental Person means any federal, state, local, or foreign government, and any political subdivision or any governmental, quasi-governmental, judicial, public, or statutory instrumentality, or any administrative agency, authority, body, or entity.

Hazardous Substance means (a) any substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et the Hazardous Materials Transportation Act, 49 U.S .C. Section 1801 q, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 the Clean Water Act, 33 U.S.C. Section 1251 etç., the Clean Air Act, 42 U.S.C. Section 7401 et , the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136 et Virginia Waste Management Act, § 10.1-1400 et q., Code of Virginia (1950) as amended, all as

amended or as may be amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum or crude oil or products thereof other than petroleum and petroleum products which are contained within regularly operated motor vehicles, (d) asbestos and (e) radioactive wastes and substances.

Implementation Guidelines means the Implementation Guidelines under the PPTA adopted by the County as Section 1000.00 et seq., of its Procurement Regulations, as amended.

Inspection means the act of viewing or looking carefully at construction, manufacturing, and design and maintenance practices, processes and products, including document control and Shop Drawing review, to ensure the practices, processes and products comply with the quality requirements contained in the Contract Documents; provided, however, that any such acts shall be performed by the County or any Governmental Person in a manner that does not interfere with the Contractor's performance of the Work or result in a County-Caused Delay and further provided the work is being performed in accordance with the Contract Documents.

Laws, Regulations, and Ordinances means all applicable laws, codes, rules, ordinances, restrictions and regulations of the federal, State, regional, or any local government (including those resulting from the initiative or referendum process), and judicial or administrative orders applicable to the work.

Lien means any pledge, lien, security interest, mortgage, deed of trust, or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument, and the filing of or agreement to file any financing statement under the Virginia Uniform Commercial Code).

Liquidated Damages shall have the meaning set forth in Section I.6.5 of the Design-Build Contract.

Lump Sum Fixed Price shall have the meaning set forth in Section I.8 of the Design-Build Contract.

Notice of Termination means a notice issued by the County to terminate the Design-Build Contract and the performance of the Work by the Contractor pursuant to Section II.6 of the Design-Build Contract.

Notice to Proceed means the date the Design-Builder is authorized to begin Design-Build services.

Oversight Services means those services and functions the County has the right or obligation to perform or to cause to be performed under the Laws, Regulations, and Ordinances or any Contract Document in order to monitor, review, manage, or administer the Project Agreements or the work or performance of the Developer under the Project Agreements; provided, however, that such services and functions must be performed by the County or any Governmental Person in a manner

that does not interfere with the Contractor's performance of the Work or result in a County-Caused Delay.

Party(ies) means the parties to the Contract Documents, which are Design-Builder and the County.

Payment Bond means the payment bond described in Section 103.5 of the General Conditions of the Contract.

Performance Bond means the performance bond described in Section 103.5 of the General Conditions of the Contract.

Person means any individual, public or private corporation, county, district, authority, municipality, political subdivision, or other entity of the State or the United States of America, and any corporation, limited liability company, partnership, association, firm, trust, estate, or any other legal entity whatsoever.

Plans and Specifications means the 100% completed maps, plans, drawings, and specifications for different components of the Work, as approved by VDOT and the County, and bearing the seal of a Virginia licensed engineer.

PPTA means the Public-Private Transportation Act of 1995, which is codified as Title 32, Chapter 18, Section 33.2-1800 et seq., of the Virginia Code.

Pre-Existing Hazardous Substances means any Hazardous Substance that was present within the Project Right of Way limits prior to acquisition or use of the property for the Project, and which was not placed or deposited there by the Contractor.

Project means (a) all improvements constituting the Route 234 Brentsville Road Interchange Project as generally shown on the map attached as Exhibit B to the Comprehensive Agreement and as more particularly identified in the Contract Documents, (b) all other improvements and other Work Product which may be provided by the Contractor in accordance with the Contract Documents, and (c) all other improvements and other Work Product to be provided by Contractor as a condition to Final Acceptance in accordance with the Contract Documents.

Project Construction Permit is a permit issued by VDOT through its offices in Manassas, Virginia, for the construction of the project whenever construction is to be performed within VDOT maintained right-of-way.

Project Right of Way or Right of Way means, with respect to the Project, all real property (which term is inclusive of all estates and interests in real property) which is necessary for the ownership, construction, and operation of the Project by the County, and its acceptance by VDOT into the State Road System. The term specifically excludes any real property interests which Design-Builder deems convenient in connection with construction of the Project.

Punch List means incidental items of Work necessary to correct imperfections or seasonal or weather-sensitive items which have no adverse effect on the safety or operability of the Project.

Qualifying Transportation Facility shall have the meaning assigned to such term in Virginia Code Section33.2-1800.

Quality Assurance (QA) means all those planned and systematic actions necessary to provide confidence that all Work fully complies with the Contract and that all materials incorporated in the Work, all equipment and all elements of the Work will perform satisfactorily for the purpose intended. Actions include design checks and reviews; document control; Shop Drawing review and approval; materials sampling and testing at the production site and the Project site; inspection of manufacturing/processing facilities and equipment; inspection of onsite equipment, calibration of test equipment, and documentation of QA activities.

Quality Assurance Manager or QA Manager means the Party responsible for inspecting and testing in accordance with the Quality Assurance and Control Inspection Program as described in the General Conditions of the Contract.

Quality Control (QC) means the total of all activities performed by the Contractor, designer, producer, or manufacturer to ensure that a product meets requirements of the Contract Documents. For highway design, construction, and maintenance, QC includes design procedures and checking, materials handling and construction procedures, calibration and maintenance of equipment, Shop Drawing review, document control, production process control, and any sampling, testing, and inspection done for these purposes. QC also includes documentation of QC efforts.

Reference Documents means those documents listed in the Project Technical Information & Technical Requirements.

Regulatory Approvals means all local, regional, state, and federal agreements, studies, findings, permits, approvals, authorizations, certifications, consents, decisions, exemptions, filings, leases, licenses, registrations, rulings and other governmental authorizations required to be obtained or completed under applicable Laws, Regulations and Ordinances prior to undertaking any particular activity contemplated by the Comprehensive Agreement or the Design-Build Contract.

Reserved Rights means all of the following:

(a) in accordance with Article XVI of the Comprehensive Agreement, the County's right to use, possess and enjoy any real and personal property over, on, under or adjacent to the Project Right of Way for other transportation and transit facilities, including, but not limited to, tunnels, flyovers, interchanges and fixed guideways; and

(b) all right to use, and use of:

(i) all electrical, fiber optic, and wireless conduit, cable, capacity, towers, antennas, and associated equipment or other telecommunications equipment, hardware, and capacity existing over, on, under or adjacent to any Project Right of Way installed by anyone, whether before or after the Agreement Date;

(ii) any area or space over, on, under or adjacent to the Project Right of Way for development and operation of any office, commercial, industrial or mixed use real estate project, such as but not limited to revenue-generating service or rest areas;

(iii) any equipment, facilities or capabilities for ITS studies or applications installed by the County or VDOT and the right to install any such equipment, facilities, or capabilities; and

(iv) any area or space over, on, under or adjacent to the Project Right of Way for any other commercial or non-commercial development or use.

Responsible Public Entity shall have the meaning assigned to such term in Virginia Code Section 33.2-1800, for purposes of the Comprehensive Agreement, means the County.

Retainage shall have the meaning set forth in Section I.10 of the Design-Build Contract.

Right of Way see "Project Right of Way."

Safety Program means Contractor's approved safety program meeting the requirements set forth in the Design-Build Contract.

Scope of Work means the description of the Work as set forth in the Contract Documents and contemplates the Work authorized or planned to be authorized under the Design-Build Contract.

Segment means a discrete portion of an element of a Phase of the Project; such as, clearing and grubbing, grading, drainage, paving, foundations, pier, column, decking, seeding, striping, electrical, etc.

Design-Builder means (Design-Builder.

Shop Drawings means drawings showing the sizes, shapes, and locations of component elements comprising the Project.

Site means those areas designated in writing by the County for performance of the Work and such additional areas as may, from time-to-time, be designated in writing by the County for Contractor's use in performance of the Work. The Site initially includes the area within the Project Right of Way limits. For purposes of insurance, indemnification, safety, and security requirements and payment for use of equipment the term "Site" also includes any areas on which Utility Relocation Work is performed and any property being temporarily used by Contractor for storage of equipment and/or construction Work.

Standard Specifications means the VDOT Specifications stated in the General Conditions of the Contract.

State means the Commonwealth of Virginia.

Substantial Completion means the time at which the Project, or an agreed upon portion thereof is sufficiently complete so that the County can use the facility for the intended purpose in accordance with the contact documents, so that the County may occupy the opened roadways for the intended purpose.

Substantial Completion Date means the date by which the Contractor shall have achieved Substantial Completion of the Project or an agreed upon portion thereof, which date shall be subject to extensions of time as provided in the Design-Build Contract.

Subcontract means any agreement by Design-Builder with any other Person to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement at a lower tier, between a Subcontractor and its lower tier Subcontractor.

Subcontractor means any Person with whom Design-Builder has entered into any Subcontract to perform any part of the Work or provide any materials, equipment, labor, or supplies for the Project on behalf of Design-Builder (and any other Person with whom any Subcontractor has further subcontracted any part of the Work).

Supplier means any Person not performing Work at the Site that supplies machinery, equipment, materials or systems in connection with the performance of Work. Persons who merely transport, pick up, deliver, or carry materials, personnel, parts, or equipment, or any other items or persons to or from the Site shall not be deemed to be performing Work at the Site.

Surety means each properly licensed surety company, insurance company, or other Person approved by the State Corporation Commission to do business in the State, listed in the U.S. Treasury Department Circular 570 and with an A.M. Best and Company rating level of A or better, Class VII or better, and as approved by the County, at its sole discretion, which has issued the Payment Bond or Performance Bond.

Utility or utility means a public, private, cooperative, municipal, political subdivision, and government line, facility, or system used for the carriage, transmission, and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, storm water not connected with the highway drainage, and similar substances that directly or indirectly serve the public. The term "Utility" specifically excludes (a) storm water lines connected with the highway drainage, and (b) traffic signals, street lights, and electrical systems for roadways unless installed or maintained by a utility owner.

Utility Owner or utility owner means the owner or developer of any Utility (including both privately held and publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

Utility Relocation means the removal, relocation and/or protection in place (including provision of temporary services as necessary) of any and all utility facilities that have to be removed, relocated and/or protected in place in order to permit construction of the Project.

Virginia Code means the Code of Virginia of 1950, as amended from time-to-time.

VDOT means the Virginia Department of Transportation, a department of the State, and any other State agency succeeding to the powers, authorities, and responsibilities of VDOT invoked by or under the Comprehensive Agreement.

Warranties mean the warranties made by Contractor in Section 2.9 of the General Conditions of the Contract.

Wetland and Environmental Mitigation means the wetland and environmental mitigation work necessary to fulfill federal and State requirements of the governing federal and State agencies as required by the Contract Documents.

Wet Soil means soil which cannot be conditioned to meet contract requirements by using normal industry standards within a reasonable time period.

Work means all of the administrative, design, engineering, Utility Relocation, procurement, professional, manufacturing, supply, installation, construction, supervision, management, testing,

verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve Final Acceptance except for those efforts which such Contract Documents specify will be performed by Persons other than a Contractor Party.

Working Drawings means drawings needed to show things associated with the construction of something to be constructed, but which will not be part of the permanent construction, e.g. formwork.

Work Product means all the data, information, documentation, reports, and other work product, whether in paper, electronic, or some other format, produced, prepared, obtained, possessed, or deliverable by or on behalf of any Contractor Party and in any way related to the Project or Project Right of Way, including, but not limited to, Shop Drawings, Working Drawings, Draft Plans and Specifications, Plans and Specifications, record and as-built plans and specifications, calculations, engineering documents, geotechnical soils and soil boring data, analyses, reports and records, the Right of Way Plan, property acquisition files, agreements and documents (including records of payment and related correspondence, title policies, parcel diaries and all other documents relating to the acquisition of Right of Way), engineers' and inspectors' diaries and reports, utility relocation plans and agreements, right of way record maps and surveys, Change Orders, final quantities, pile driving records, records of accidents and traffic management, field test records and reports, concrete pour records, surfacing depth check records, grade and alignment books, cross-section notes, drainage notes, photographs, false work and form plans, records of construction materials, and any other documents which can be reasonably described as technical or engineering documents. Work Product expressly excludes, however, documents and information which Design-Builder and the County mutually agree in writing, or which a court determines, to be exempted or protected from public disclosure under Section 15.2 of the Comprehensive Agreement and which is not conceived or first reduced to practice for the Project, such as but not limited to, financial or pricing information or trade secrets of any Contractor Party.

EXHIBIT B

MAP OF THE PROJECT TO BE INSERTED

EXHIBIT C

PRINCE WILLIAM COUNTY

FINANCE DEPARTMENT|PROCUREMENT SERVICES DIVISION
1 County Complex Court, Prince William, Virginia 22191-9201
(703) 792-6770 Metro 631-1703, Ext. 6770 Fax (703) 792-4611)

CONTRACT TITLE: **DESIGN BUILD SERVICES FOR THE PRINCE WILLIAM ROUTE 234 BRENTSVILLE ROAD INTERCHANGE PROJECT**

CONTRACT NUMBER: **5062336**

Between:

PRINCE WILLIAM COUNTY
1 COUNTY COMPLEX COURT (MC460)
PRINCE WILLIAM, VA 22192-9201

(703) 792-6770 METRO 631-1703 EXT 6770

And the Design-Builder:

WAGMAN HEAVY CIVIL, INC.
3290 N. Susquehanna Trail
York, PA 17406
Phone: (717) 764-8521 Fax: 717-767-5457
Contact: Gregory Andricos, P.E/President & COO
Email: gmandricos@wagman.com

This Contract is prepared in accordance with Part 4 (General Conditions of Contract between the County and Design-Builder), and Part 5 (2016 Division I Amendments to Standard Specifications General Provisions for Design-Build Contracts Between the County and Design-Builder as supplemented by Prince William County) of the RFDP, and Procurement Regulations of Prince William County, which are incorporated into this Contract by reference.

This Contract made in two (2) original counterparts is entered into on this **Day of_____2021**, by and between the Board of County Supervisors of Prince William County, Virginia, or its authorized agents, or assignee, hereinafter called the party of the first part (Owner or County) and Wagman Heavy Civil, Inc.**,** hereinafter called the party of the second part (Contractor) for the project entitled: **Design-Build Services for Route 234 Brentsville Road Interchange Project** identified herein, on the following terms and conditions.

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Attachment(s) as stated below:

ATTACHMENTS TO CONTRACT (as negotiated)

SECTION I

SPECIAL PROVISIONS

I.1 Scope of Work

The Design-Builder shall perform all design and construction services, and provide all materials, equipment, tools, and labor necessary to complete the Work described in and reasonably inferable from the Contract Documents.

I.2 Contract Definitions

Terms, words and phrases used in the Contract Documents, including this Contract, shall have the meanings given them in this Contract and the General Conditions of the Contract.

The Parties to this Contract under which the Project shall be designed, constructed, and warranted, are the County and [Insert Contractor Name], and referred to as the "Parties" to the Contract. Below provided are definitions of certain related parties:

"County" shall mean the Board of County Supervisors of Prince William County, Virginia, or the using department identified below and authorized by the Procurement Regulations or other law to enter into Contracts.

"Using Department" for the purpose of this Contract shall mean Department of Transportation.

"Contract Administrator" assigned to administer this Contract for the County is Contract Administrator, Director of Transportation.

"Design Builder/Contractor/Engineer shall mean: [Insert Contractor Name and Address]. The authorized representative of the Design Builder is [Insert Representatives Name and Title], who is responsible for the performance obligations of the Design Builder under this Contract.

Contract: The written instrument used for signature and execution which binds the County and the Design-Builder and is evidence of mutual understanding and agreement between the Parties. The Contract expressly incorporates and enumerates any documents therein and referred to as the "Contract Document".

Contract Documents: The Contract Documents are complimentary, and what is required by one shall be binding as if required by all. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work, including without limitation, all labor, materials, equipment, and furnishing required in connection therewith. Such incorporated documents customarily include but not limited to; Contract Special Provisions, Special Provision Copied Notes, the Plans, Prince William County Procurement Regulations, Design-Builder Proposal, General Conditions, Plans, Insurance coverages/policies, bonds, Specifications, and all Modifications, including Addenda and subsequent Change Orders.

I.3 Incorporation and Order of Precedence of Documents

The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in Section

This Contract is consistent with Code of Virginia and Prince William County Procurement Regulations. In the event of an inconsistency between or conflict among documents, the inconsistency shall be resolved by giving first precedence to the Code of Virginia, then to the Procurement Regulations.

Each of the Contract Documents is an essential part of this Contract, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to describe and provide for a complete contract.

In the event of any conflict among the Contract Documents, this Contract and any attachments thereto including subsequent Change Orders, Change Order Directives and/or Modifications shall in all events control.

With respect to the other Contract Documents the order of precedence shall be as set forth below.

1. All written modifications, amendments and Change Orders to this Contract Agreement issued in accordance with *2016 General Conditions of Contract Between the County and Design-Builder* ("General Conditions of Contract");
2. This Contract Agreement No. 5062336 (Part 3) executed by the County and Design-Builder, inclusive of all Exhibits and Attachments;
3. General Conditions of Contract (Part 4)
4. County's Request for Proposal (RFDP) dated October 23, 2018, including all Addenda inclusive of Part 1- Instructions for Offerors, Part 2, Project Technical Information and Requirements, including RFDP Information Package, Exhibits, Sections, and Addenda;
5. 2016 Division I Amendments (Part 5) to Standard Specifications, dated November 2016 ("Division I Amendments") as amended by the County;
6. Released for Construction Plans prepared and approved in accordance with Article 2.4 of the General Conditions of Contract, and
7. Design-Builder's Detailed Proposal submitted in response to RFDP, including all final modifications, Proposal modifications and approved alternative technical concepts established herein.

Unless otherwise specified by County any reference in the Contract Documents to a described publication affecting any portion of the Project shall be deemed to mean the latest edition or revision thereof and amendments and supplements thereto in effect on the date of this Design Build Contract. Referenced standards and Regulatory Approvals which constitute Contract requirements shall have the same order of precedence as the Contract Document which references them.

Special Provisions included in this Contract Document or other Special Provisions selected for use in design and construction of this Project that have been approved by VDOT shall govern over the VDOT specifications, design standards and manuals. Special Provision Copy Notes approved by VDOT and requirements specified within the text of the RFDP shall govern over both the Special Provisions and VDOT specifications, design standards and manuals.

I.4 Entire Agreement

The Contract Documents form the entire agreement between the County and Design-Builder with respect to its subject matter and by incorporation herein are as fully binding on the parties as if repeated herein. The parties have made no oral representations or other agreements, except as specifically stated in the Contract Documents.

I.4.1 Except as specifically set forth in this Section I.3, and notwithstanding anything to the contrary in Design Builder's Proposal, Design-Builder is obligated to perform the Work in full compliance with the RFDP Documents. The parties agree, however, that:

a. Betterments and higher and/or more stringent standards or specifications and design construction criteria, concepts, and drawings set forth in Design-Builder's Proposal (collectively referred to as "Enhancements") shall supersede the minimum requirements of the minimum requirements of the RFDP Documents and Design-Builder is obligated to perform the Work in compliance with the Enhancements.
b. Those ATCs identified herein have been approved, either fully or conditionally, by the County and supersede the Work in accordance with such ATCs, subject to Section 2.1.10 of the General Conditions of the Contract.

I.5 Contract Time

I.5.1 Notice to Proceed. The Design-Builder agrees to begin site work no later than thirty (30) calendar days after the written Notice-to-Proceed. The County will issue a Notice to Proceed within fifteen days after the Contract date, unless the parties mutually agree otherwise in writing.

I.5.2 Completion Dates.

I.5.2.1 Final Completion Date. The Design-Builder shall finally complete the Work in accordance with the Contract Documents no later than **May 24, 2024 (the "Final Completion Date")**. The Final Completion Date is the date the project has achieved Final Acceptance.

I.5.3 Adjustments. All of the scheduled completion dates set forth in Section I.6.2 above (collectively referred to as **"Contract Times"**) shall be subject to adjustment in accordance with the General Conditions of Contract.

I.5.4 Time is of the Essence. The County and Design-Builder mutually agree that time is of the essence with respect to the Contract Times.

I.5.5 Liquidated Damages. Design-Builder understands that if the Final Completion Date or any Interim Milestone Dates are not attained, the County will suffer damages which are difficult to determine and accurately specify. To compensate the County for such damages, Design-Builder hereby agrees as follows:

I.5.5.1 If Final Acceptance of the Work is not attained by the Final Completion Date, Design-Builder shall pay the Five Thousand Seven Hundred Thirty Dollars ($5,000.00) per day as liquidated damages for each day the actual that actual Final Acceptance of the Work extends beyond the Final Completion Date.

I.5.6 Liquidated Damages Not Penalty. The parties acknowledge, recognize and agree on the following:

(a) that because of the unique nature of the Project, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by the County as a result of Design-Builder's failure to complete the Work on or before the applicable Contract Time(s);

(b) that any sums which would be payable under this Section I.6 are in the nature of liquidated damages, and not a penalty, and are fair and reasonable and such payment represents a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failure; and

(c) that any sums which would be payable herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages, whether special or consequential, and of whatsoever nature incurred by the County which are occasioned by any delay in achieving the applicable Contract Times for the above-referenced Work. Notwithstanding the above, liquidated damages are not intended to excuse Design-Builder from liability for any other breach of its obligations under the Contract Documents.

I.6 Ownership of Work Product

I.6.1 Work Product Defined. The term **"Work Product"** is intended to include all drawings, specifications, calculations, reports, and documentation, whether in paper copy or electronic format, produced by or through the Design-Builder that is furnished to the County.

I.6.2 Ownership of Work Product. The County shall own all rights, title, and interest in the Work Product upon its receipt of such Work Product. The County's ownership rights include without restriction or limitation, the right of the County, and anyone contracting with the County, to incorporate any ideas or information from the Work Product into: (a) any other contract awarded in reference to the Project; or (b) any subsequent procurement by the County on another

project. In receiving all rights, title and interest in the Work Product, the County is deemed to own all intellectual property rights, copyrights, patents, trade secrets, trademarks, and service marks in Work Product and Design-Builder agrees that it shall, at the request of the County, execute all papers and perform all other acts that may be necessary (if any) to ensure that the County's rights, title and interest in the Work Product are protected. The rights conferred herein to the County include, without limitation, the County's ability to use the Work Project without the obligation to notify or seek permission from the Design-Builder.

I.6.3 Use of Work Product at County's Risk. The County's use of the Work Product on any subsequent procurement by the County on another project shall be at the County's sole risk, and Design-Builder neither warrants nor represents that the Work Product is suitable for use on another project without modification. The County waives any rights to seek recovery from Design-Builder for any claims, damages, liabilities, losses and expenses arising out of or resulting from the County's use of the Work Product on another project.

I.7 Contract Price

In return for the services the County certifies funds are budgeted and appropriated and shall pay the Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of: Forty Million Nine Hundred Fifty-Four Thousand Four Hundred Nine Dollars and Twenty-Five Cents ($40,954,459.25) ("Contract Price"), subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

I.7.1 Markups for Changes

If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Section 9.4.1 of the General Conditions of Contract, markups shall be allowed on such changes in accordance with the requirements of Section 109.05 of the Division I Amendments to the Standard Specifications.

I.7.2 Adjustments to Asphalt

The County and Design-Builder agree to adjust prices for items, in accordance with the County's pertinent special provisions, attached hereto as Exhibits 6.3(a), provided Design-Builder declares its intent, in the Price Proposal, to use the provisions for price adjustments, and also submits the information required in the pertinent special provisions with its Proposal. Notwithstanding the special provisions, price adjustment for the items listed will be based on quantities identified in the Schedule of Items in Design-Builders Proposal, which quantities shall be specifically summarized and provided in Design-Builder's price Proposal. Actual quantities shall be monitored and documented by Design-Builder and submitted to the County in the monthly report required by Section II.20.8 below, on forms provided by the County.

I.8 Payment Draws and Invoicing (Application for Payment)

I.8.1 Progress Payments

The Design-Builder shall submit to the County on the 10th day of each month, beginning with the first month after Design-Builders receipt of County's Notice to Proceed, Design Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract. Invoices shall be submitted based upon the percentage of work/services completed. Invoices shall cite the Purchase Order number, Contract number and date/period of services.

The County shall make payment within thirty (30) calendar days after the County's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Article 6.3 of the General Conditions of the Contract. The County's payment shall comply with Virginia Code § 2.2-4347 et seq., which addresses prompt payment.

I.8.1.1 The Design-Builder agrees no draws for payment from the County for design, construction or any other Work shall be permitted or valid unless and until the County has received and approved satisfactory draw request in (application for payment) acceptable format provided as an attachment and made a part of RFDP7108113 Part 1 by reference.

In the event that the Design-Builder utilizes a Subcontractor for any portion of the work under this Contract, the Design Builder hereby agrees to the following:

1) The Design-Builder shall take one (1) of the two (2) following actions within seven (7) days after receipt of amounts paid to the Design Builder by the County for work performed by a Design Builder under the Contract.

    a) Pay the Subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by that Subcontractor under the Contract; or

    b) Notify the County and any Subcontractors, in writing, of Design-Builder's intention to withhold all or a part of a Subcontractor's payment, specifying the reason for non-payment.

2) The Design-Builder also agrees that it shall include in all of its subcontract a provision that: a) obligates the Design to pay interest to a Subcontractor on all amounts owed by the Design-Builder that remain unpaid after seven (7) days following receipt by the Design-Builder of payment from the County for work performed by any Subcontractor, except for amounts withheld as allowed in the preceding sentence; b) states, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month."; and c) obligates each Subcontractor to include or otherwise be subject to the same payment and interest requirements as specified in this Section I.9.1.1 with respect to each lower-tier Sub-subcontract.

I.8.1.2 The Design Builder's obligation to pay an interest charge to a Subcontractor pursuant to

Section I.9.9.1 above shall not be construed to be an obligation of the County, nor shall any modification to this Contract be allowed for the purpose of providing reimbursement for the interest charge. Cost reimbursement claims shall not include any amount for reimbursement for the interest charge.

I.8.1.3 If the Design-Builder fails to make payment to the Subcontractor within the time frame and provisions specified in Section I.9.1.1 and I.9.1.2 above, the Subcontractor shall notify the County and Design-Builder's bonding company in writing. Design-Builder's bonding company shall be responsible for insuring payment to the Subcontractor.

I.8.1.4 Pursuant to VA CODE §2.2-4354, Design-Builder agrees to provide the County within five (5) days of Contract Date, its federal employer identification number.

I.8.2 Interest

Payments due and unpaid by the County to Design-Builder, whether progress payments or Final Payment, shall bear interest commencing seven (7) days after payment is due in accordance with VA. CODE §2.2-4355.

I.8.3 Retainage

Retainage – The County reserves the right to hold in retainage 5% of the Lump Sum Fixed Price including Change Orders. The County shall pay Design-Builder the first 95% of the Lump Sum Fixed Price when payment is due. The County shall retain the remaining 5% of the Lump Sum Fixed Price until Design-Builder has obtained Substantial Completion. Upon Design-Builder's achievement of Substantial Completion the County shall increase payments to 98% of the Lump Sum Fixed Price following submission of an Application for Payment. The County shall retain the remaining 2% of the Lump Sum Fixed Price until Design-Builder has achieved Final Acceptance.

I.8.4 Final Payment - The Design-Builder shall submit its Final Application for Payment to the County in accordance with Article 6.6 of the General Conditions of Contact. The County shall make payments on Design-Builder's properly submitted and accurate Final Application for payment within (30) calendar days after the County's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for Final Payment as set forth in Article 6.6.2 of the General Conditions of Contract. The County's payment shall comply with VA. CODE §2.2-4347 et seq. dealing with prompt payment.

I.9 Inspection and Acceptance and County Oversight

Right to Oversee Construction. The County shall have the right to carry out Oversight Services respecting the design and construction of the Project as set forth in the Design-Build Contract. The Design-Builder shall fully cooperate with the County to facilitate its conduct of such Oversight Services as set forth in the Design-Build Contract.

All Work, Services, Tasks and Reports, shall be conducted and completed in accordance with recognized and customarily accepted industry practices, and shall be considered complete when the such final product and deliverables are approved as acceptable by the Contract Administrator

in writing.

In the event of rejection of any report or deliverable, the Design-Builder shall be notified in writing and shall have five (5) calendar days from date of issuance of notification to correct the deficiencies and resubmit the final plans/specifications/report/deliverable. Failure to submit acceptable work within the five (5) calendar days shall constitute a breach of the contract for which the Design -Builder may be held in default.

I.10 Notices

Whenever under the provisions of this Contract it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served:

(i) personally;
(ii) by independent, reputable, overnight commercial courier; or
(iii) by facsimile transmission:

(A) where the transmitting Party includes a cover sheet identifying the name, location and identity of the transmitting party, the phone number of the transmitting device, the date and time of transmission and the number of pages transmitted (including the cover page);
(B) where the transmitting device or receiving device records verification of receipt and the date and time of transmission receipt and the phone number of the other device; or
(C) where the facsimile transmission is immediately followed by service of the original of the subject item in the manner provided in subsections (a)(i), (ii), or (iv) hereof; or

(iv) by deposit three (3) business days in advance in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to the Design Builder:

Gregory M. Andricos, PE
President/Chief Operating Officer
Wagman Heavy Civil, Inc.
3290 N. Susquehanna Trail
York, PA 17406-9754
Phone: (717)-764-8521
Fax: (717)-764-5457

If to Prince William County:

Adam Manne
Assistant Director of Finance for Procurement Services
Prince William County Government
4360 Ridgewood Center Drive
Woodbridge, Virginia 22192
Phone: (703) 792-6774
Fax: (703) 792-4611

And to:

Ricardo Canizales
Department of Transportation Director
Prince William County Government
5 County Complex Court
Prince William, Virginia 22192
Phone: (703) 792-6825
Fax: (703) 792-6885

(D) Either Party may, from time to time, by notice in writing served upon the other party as aforesaid, designate an additional and/or a different mailing address in Virginia or an additional and/or a different person to whom all such notices, requests, demands, reports, and communications are thereafter to be addressed. Any notice, request, demand, report or other communication served personally shall be deemed delivered upon receipt, if served by mail or independent courier shall be deemed delivered on the date of receipt as shown by the addressee's registry or certification receipt or on the date receipt at the appropriate address is refused, as shown on the records or manifest of the U.S. Postal Service or independent courier, and if served by facsimile transmission shall be deemed delivered on the date of receipt as shown on the received facsimile (provided the original is thereafter delivered as aforesaid).

I.11 Key Personnel

During the period of performance, the Design-Builder shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. All substitutions are subject to the final approval of the County. The Design-Builder shall notify the Contract Administrator within 5 calendar days after the occurrence of any these events and provide the information required by the paragraph below.

The Design Builder shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contract Administrator. Proposed substitutes should have comparable qualifications to those of the persons being replaced.

I.12 The County's Representatives

The Contract Administrator assigned on behalf of the County is Ricardo Canizales, Director of Transportation. The Contract Administrator shall have authority and responsibility for all avoiding and resolving disputes under Section 10.2.2 of the General Conditions of the Contract including, but not limited to, approval of plans and designs, determinations regarding Final Acceptance of a Phase or the entire Project, decisions that involve changes to the Contract Documents, change orders, extensions of the Substantial Completion Date, Final Acceptance Date, and any change that would result in an increases in cost to the County.

On behalf of the County, **Khattab Shammout, Assistant Director of Transportation** shall have the authority and responsibility for avoiding and resolving disputes under Section 3.4 of the General Conditions of the Contract including, but not limited to, act upon Field Changes, and day to day operational decisions relating to the construction of the project that do not involve a change to

the scope of work, a change order, an extension of time or any increase in cost to the County.

During Construction the following persons are assigned accordingly under this Contract:

Ricardo Canizales
Transportation Director
Transportation Department
Prince William County Government
5 County Complex Court, Suite 290
Woodbridge, VA 22192
Phone: (703) 792-5985
E-mail: rcanizales@pwcgov.org

Khattab Shammout, PE DBIA
Assistant Director of Transportation
Transportation Department
Prince William County Government
5 County Complex Court, Suite 290
Woodbridge, VA 22192
Phone: (703) 792-6826
E-mail: kshammout@pwcgov.org

Elnour Adam, CCM, PMP
Alternative Delivery Projects - Engineering Manager
Transportation Department
Prince William County Government
5 County Complex Court, Suite 290
Woodbridge, VA 22192
Phone: (703) 792-8469
E-mail: EMAdam@pwcgov.org

I.13 Design-Builder's Representatives

The Design-Builder designates the individual listed below as its Senior Representative which shall have the authority and responsibility set for in Section 10.2.2 of the General Conditions of the Contract including, but not limited to, On-site Field Changes, and day to day operational decisions relating to the construction of the project that do not involve a change to the scope of work, an extension of time or any increase in cost chargeable to the County.

For Design Builder:

Gregory M. Andricos, PE
President/Chief Operating Officer
Wagman Heavy Civil, Inc.
3290 N. Susquehanna Trail
York, PA 17406-9754
Phone: (717)-764-8521
Fax: (717)-764-5457

The Design-Builder designates the individual listed below as its Representative which shall have the authority and responsibility set for in Section 2.1.1 of the General Conditions of the Contract including, but not limited to, all other decisions including, but not limited to, decisions that involve changes to the Contract Documents and change orders.

Jerry Whitlock, P.E., DBIA, PMP, CCM
Design-Build Project Manager
26000 Simpson Road
North Dinwiddie, VA 23803
Phone: 717-471-1219
Fax: 717-767-5457

The County and Design-Builder shall, in the spirit of cooperation, exchange information in a timely manner. While the Contract Documents establish a timeline and process for making decisions and managing communications on the Project, the parties recognize it is not possible to specify processes for all activities that may occur. The parties shall communicate in a manner consistent with the Special Provision for Project Communication and Decision Making for Design-Build Projects included in the RFDP Information Package.

SECTION II GENERAL PROVISIONS

II.1 Assignability of Contract

Neither this Contract, nor any part hereof, may be assigned by the Design Builder to any other party without the prior express written permission of the County.

II.2 Modifications or Changes to the Contract

All modifications and changes to the Contract shall be in writing.

Prince William County Department Transportation Director, with the concurrence of the Purchasing Manager (except as otherwise provided by the Procurement Regulations), shall, without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a "Change Order." Such orders shall be limited to reasonable changes in the services to be performed or the time of performance; provided that the Design-Builder shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.

The Design-Builder need not perform any work described in any change order unless it has received a certification in form of a Purchase Order from the County that funds budgeted and appropriated sufficient to cover the cost of such changes.

The Design-Builder shall make a demand for payment for completed changed work within 30 days of receipt of a change order, unless such time period is extended in writing, or unless the Purchasing Manager requires submission of a cost proposal prior to the initiation of any changed work or supplies. Later notification shall not bar the honoring of such claim or demand unless the County is prejudiced by such delay.

No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

II.3 Equal Employment Opportunity

Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the Design-Builder's project activities under this Contract.

(a) The Design-Builder will work with the County in carrying out EEO obligation and in their review of his/her activities under the contract;

(b) The Design Builder will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or

disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on the job training."

1. **EEO Officer:** The Design-Builder will have designated who will have the responsibility for and must be capable of effectively administering and promoting an active program of EEO and who must be assigned adequate authority and responsibility to do so.

2. **Dissemination of Policy:** All members of the Design-Builder's staff who are to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the EEO.

II.4 Drug-free Workplace

During the performance of this Contract, the Design-Builder agrees to (i) provide a drug-free workplace for the Design-Builder's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Design-Builder's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Design-Builder that the Design-Builder maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every Subcontract or purchase order over $10,000.00, so that the provisions will be binding upon each Subcontractor or Design-Builder.

A "drug-free workplace" means a site for the performance of work done in connection with this Contract award to the Design-Builder in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of this Contract.

II.5 Claims/Disputes

In accordance with Section 2.2-4363, VA Code Ann., this provision shall be followed for consideration and handling of all claims by the Design- Builder under this contract. Section 2.2-4365, VA Code Ann., is not applicable to this Contract, and under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by Section 2.2-4365, VA Code Ann.

Notice of the intent to submit a claim setting forth the basis for any claim shall be submitted in writing within ten (10) days after the occurrence of the event giving rise to the claim, or within ten (10) days of discovering the condition giving rise to the claim, whichever is later. In no event,

shall any claim arising out of this Contract be filed after the submission of the request for Final Payment by the Design-Builder.

Claims by the Design-Builder with respect to this Contract shall be submitted in writing in the first instance for consideration by the Contract Administrator.

The decision of the Contract Administrator shall be rendered in writing within forty-five (45) days from the receipt of the claim from the Design-Builder. If the Design-Builder is not satisfied with the decision or resolution of the Contract Administrator, the Design-Builder may file a formal dispute with regards to the claim with the Prince William County Director of Finance, which claim shall be received within thirty (30) days of the date of decision of the Contract Administrator.

The Director of Finance shall reduce his or her decision to writing and shall mail or otherwise furnish a copy of this decision to the Design-Builder within forty-five (45) days of the receipt of the claim from the Design-Builder. The decision of the Director of Finance shall be final on behalf of Prince William County unless the Design-Builder submits the claim to the County Executive within thirty (30) days of the Director of Finance's decision. The Design-Builder may submit the claim to the County Executive by mailing or otherwise furnishing the Purchasing Manager a copy of the claim and a request for the County Executive's determination.

The County Executive's decision on the claim shall be rendered in writing to the Design-Builder within forty-five (45) days of the Purchasing Manager's receipt of the request from the Design-Builder, and shall be final and binding on behalf of Prince William County, unless the Design-Builder submits the claim for determination by the Board of County Supervisors by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with a request for determination by the Board within thirty (30) days of the County Executive's decision. The Board shall consider the claim and render a decision within forty-five (45) days of the date on which the Board hears the claim in open meeting.

The Board's procedure in considering claims under this Contract shall be the same as that for other decisions of the Board on claims made under Section 15.2-1245 et seq., VA Code Ann. The decision of the Board shall be final.

Should any decision-maker designated under this procedure fail to make a decision within the time period specified, then the claim is deemed to have been denied by the decision-maker.

Pending a final determination of a claim, the Design-Builder shall proceed diligently with the performance of the Work under the Contract.

In accordance with the provisions of Section 2.2-4363, VA Code Ann., full compliance with this procedure set forth in the provision shall be a precondition to the filing of any lawsuit by the Design-Builder against the Board of County Supervisors of Prince William County arising out of this Contract.

II.6 Termination for Convenience of the County

The parties agree the County may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or in part, whenever the County Executive of Prince William County shall determine that such termination is in the best interests of the County.

Termination, in whole or in part, shall be effected by delivery of a ten (10) days written notice Notice of Termination signed by the County Executive or his designee, mailed or delivered to the Design-Builder, and specifically setting forth the effective date of termination.

If the County terminates all of the Work for convenience before issuing a Notice to Proceed, Design-Builder agrees that it shall have no right to recover any monies from the County. Design-Builder specifically waives any and all rights to claim from the County any cost, profit, overhead contribution or any other monetary relief associated with the Contract Documents or Project, including but not limited to bid and proposal costs, or any services that might have constituted Work under the Contract Documents.

Upon receipt of such Notice, the Design-Builder shall:

1. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
2. Place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
3. Terminate all subcontracts except those made with respect to Contract performance not subject to the Notice;
4. Assign to the County or its designee in the manner, at the times, and to the extent directed by the County, all of the right, title, and interest of Design-Builder under the Subcontracts so terminated, in which case the County will have the right, in its sole discretion, to accept performance, settle or pay any or all claims under or arising out of the termination of such Subcontracts.
5. Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Purchasing Manager of Prince William County; and
6. Use its best efforts to mitigate any damages which may be sustained by it as a consequence of termination under this clause.
7. Transfer and deliver to the County or its designee, as directed by the County; (1) possession and control of the Project; and (2) all right, title and interest of Design-Builder in and to: (i) the Work in process, completed Work, supplies and other materials produces or acquired for the Work terminated;
   (ii) the Construction Documents and all other completed or partially completed drawings (including plans, elevations, sections, details and diagrams), specifications, records, reports, books, samples, information and other Work Product that would have been required to be furnished to the County if the Work had been completed; and (iii) all intellectual property developed specifically for the Project; provided, however, that in the event of such transfer, the Design-Builder shall not be liable for any warranties for Work which has not achieved Final Acceptance, nor shall the Design-Builder have any liability with respect to any design materials produced with respect to the Project;

8. Complete performance in accordance with the Contract Documents of all Work not terminated;
9. Take all action that may be necessary, or that the County may direct, for the protection and preservation of the property related to the Contract Documents that is in the possession of Design- Builder and in which the County has or may acquire an interest; and
10. As authorized by the County, use its best efforts to sell at fair market value any property of the types referred to in Section II.6.1; provided, however, that Design-Builder: (1) shall not take any such action with respect to any items for which title has previously transferred to the County; (2) is not required to extend credit to any purchaser; and (3) may acquire the property itself, under the conditions prescribed and at prices approved by the County. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the County under the Contract Documents or paid in any other manner directed by the County.

II.6.1 Inventory. Design-Builder shall submit to the County a list of termination inventory not previously disposed of and excluding items authorized for disposition by the County; and within thirty (30) days of receipt of the list, Design-Builder shall deliver such inventory to the County and the County shall accept title to such inventory as appropriate.

II.6.2 Settlement Proposal. After termination, the Design-Builder shall submit a final settlement proposal to the County in the form and with the certification prescribed by the County. Design-Builder shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination unless Design-Builder has requested a time extension in writing within such 30-day period and the Purchasing Manager has agreed in writing to allow such extension.

II.6.3 Amount of Termination Settlement. The Design-Builder and the County shall negotiate in good faith to reach agreement on the settlement amount to be paid to Design-Builder by reason of the termination of Work pursuant to this Article II.6 and any such settlement shall be subject to the provisions of the Code of Virginia §2.2-514. Such negotiated settlement shall include an allowance for profit solely on Work that has been performed as of the termination date. Such agreed amount or amounts payable for the terminated Work, exclusive of demobilization costs and other shut-down costs, shall not exceed the total Contract Price as reduced by the Contract Price of Work not performed. Upon determination of the settlement amount, this Agreement will be amended accordingly, and Design-Builder will be paid the agreed amount from the Prince William County Transportation Department's budget as described in this Section II.6. The County's execution and delivery of any settlement agreement shall not be deemed to affect any of its rights with respect to compliance of the Work which has achieved Final Acceptance with all applicable Contract requirements or any of its rights under payment and performance bonds or any of its rights against Subcontractors.

II.6.4 No Agreement as to Amount of Claim. In the event of failure of the Design-Builder and the County to agree upon the amount to be paid to the Design-Builder by reason of termination of Work pursuant to this Section II.6, the amount payable (exclusive of interest charges) shall be determined in accordance with the dispute resolution procedures of the General Conditions.

II.6.5 Reduction in Amount of Claim. The amount otherwise due the Design-Builder under Article II.6 shall be reduced by: (a) the amount of any valid claim which the County may have against the Design-Builder connection with this Contract Agreement; and (b) the agreed price for, or the proceeds of sale of, materials, supplies or other things previously paid for by the County and to be retained by Design-Builder or sold by the Design-Builder (with the proceeds being retained by the Design-Builder), pursuant to the provisions of this Section II.6

II.6.6 Payment. The County may, from time-to-time, under such terms and conditions as it may be prescribed and in its sole discretion, make partial payments on account against costs incurred by Design-Builder in connection with the terminated portion of this Contract Agreement, whenever in the opinion of the County the aggregate of such payments shall be within the amount to which the Design-Builder will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Section II.6, such excess shall be payable by Design-Builder to the County upon demand together with interest at a variable rate per annum equal to the reference rate announced by Bank of America, N.A., from time-to-time, plus one percent (1%).

II.6.7 Inclusion in Subcontracts. The Design-Builder shall insert in all Subcontracts that the Subcontractor shall stop Work on the date of and to the extent specified in a Notice of Termination form the County and shall require that Subcontractors insert the same provision in each Subcontract at all tiers. The Design-Builder shall communicate, immediately upon receipt thereof, any Notice of Termination issued by the County to all affected Subcontractors.

II.6.8 No Consequential Damages. In the event of a termination for convenience under this Section II.6, Design-Builder acknowledges and agrees that it shall not be entitled to any compensation in excess of the value of the Work performed plus its settlement and closeout costs. Under no circumstances shall the Design-Builder or any Subcontractor be entitled to anticipatory or unearned profits, unabsorbed overhead, opportunity costs, or consequential or other damages as a result of a termination for convenience under this Section II.6. The payment to Design-Builder determined in accordance with this Section II.6 constitutes the Design-Builder's exclusive remedy for a termination hereunder.

II.6.9 No Waiver. Anything contained in this Contract to the contrary notwithstanding, a termination under this Section II.6 shall not waive any right or claim to damages which the County may have with respect to Work which has achieved Final Acceptance prior to the date of termination, and the County may pursue any cause of action which it may have by law or under this Contract Agreement on account of such completed Work. The Design-Builder makes no warranties with respect to Work which has not achieved Final Acceptance prior to the date of termination. The County's termination of this Contract Agreement shall not relieve any rights the County has under any performance bonds issued on the Project.

II.6.10 Dispute Resolution. The failure of the parties to agree on amounts due under Article II.6 shall be resolved in accordance with the requirements of the "Claims/Disputes" clause of this Contract.

II.6.11 Right to Use Work Product. If the County terminates this Contract Agreement pursuant to this Section II.6, the County's rights to use the Work Product shall be as set forth in Section I.7.

II.7 Americans Disabilities Act Provision

Design Builder agrees to comply with the Americans with Disabilities Act (ADA) and all related regulations. Upon request, Prince William County will provide reasonable accommodations for persons with disabilities for County programs, services, and activities. The County will observe and implement all equal employment opportunity laws and regulations and will continue to make concerted efforts to assure its work environment is free of discrimination, including sexual

harassment.

The ADA guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Prince William County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy.

II.8 Termination for Default

Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

II.9 Termination for Non-Appropriation of Funds

If funds are not appropriated for any succeeding fiscal year subsequent to the one in which this Contract is entered into, for purposes of this Contract, then the County may terminate this Contract upon thirty (30) calendar days prior to written notice to the Contractor. Should termination be accomplished in accordance with this section, the County shall be liable only for payments due through the date of termination.

II.10 Governing Law and Choice of Forum

This Contract and any disputes hereunder shall be governed by the Constitution and laws of the Commonwealth of Virginia. It is further agreed that all disputes and matters whatsoever arising under, in connection with, or incident to this Contract, shall be litigated, if at all, in and before a state Court located in the County of Prince William in the Commonwealth of Virginia or a federal Court located in the Eastern District of Virginia, Alexandria Division, and any appropriate appellate Court thereof, to the exclusion of the courts of any other state, territory, country or other jurisdiction.

II.11 Immigration Reform and Control Act of 1986

The Design-Builder certifies that it does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986 which prohibits knowing employment of unauthorized aliens. The Design-Builder agrees that its employment of any person without legal status may subject it to termination of this contract for default and agrees to include a similar provision in any subcontract.

II.12 Indemnification and Hold Harmless

The Design-Builder hereby agrees to indemnify, defend at its own expense, and hold harmless the Board of County Supervisors Prince William County, Virginia, and their officers, agents, employees, and volunteers, from any and all claims for property damage, personal injuries and bodily injuries, of any kind whatsoever, including cost of investigation, all reasonable attorney's fees, and the cost of appeals arising out of any such claims or suits, because of any and all acts, errors, and omissions of the Design-Builder, including its agents, Subcontractors, employees, and volunteers, in connection with Work under this Contract.

II.13 Record Maintenance, Retention and Examination of Records

The Design-Builder shall keep full and detailed accounts and exercise such control as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of five (5) years after Final payment, the County and the County's accountants shall be afforded access from time-to-time, upon reasonable notice, to Design-Builder's records, books, and correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data, including but not limited to electronic schedules and other electronic data (all collectively referred to as "Books and Records") relating to: (a) changes in the Work performed on a cost basis; or (b) any request by Design-Builder for an adjustment in the Contract Price or Contract Times. Design-Builder shall preserve all of its Books and Records for a period of five (5) years after Final Payment.

The Design-Builder further agrees to include in any subcontract for more than $10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the County or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any directly pertinent books, documents, papers and records of such Design-Builder involved in transactions related to such subcontract, or this Contract.

The term "subcontract" as used herein shall exclude subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. The period of access provided herein for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this Contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

II.14 Ethics in Public Contracting

The Design Builder hereby certifies that it has familiarized itself with Article 6 of Title 2.2 of the Virginia Public Procurement Act, Sections 2.2-4367 through 2.2-4377, VA Code Ann., and that all amounts received by it, pursuant to this Procurement, are proper and in accordance therewith.

II.15 County Reservation of Rights

All rights to own, lease, sell, assign, transfer, utilize, develop or take advantage of the Reserved Rights are hereby reserved to the County; and the Design-Builder shall not engage in any activity infringing upon the Reserved Rights. The County at any time may devote, use or take advantage of the Reserved Rights for any public purpose without any participation whatsoever by Design-Builder. The County hereby reserves to itself all ownership, development, maintenance, repair, replacement, operation, use and enjoyment of, and access to, the Reserved Rights. No County activity or improvement respecting Reserved Rights shall materially interfere with the design, construction or warranting of the Project.

II.16 Binding Effect

Subject to the limitations of this Contract, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective legal representatives, successors and permitted

assigns, and wherever a reference in this Agreement is made to any of the parties hereto, such reference also shall be deemed to include, wherever applicable, a reference to the legal representatives, successors and permitted assigns of such Party, as if in every case so expressed.

II.17 Assignment

The Design-Builder may not, without the prior written consent of the County, voluntarily or involuntarily assign, convey, transfer, pledge, mortgage or otherwise encumber its rights or interests under this Contract Agreement or the other Project Agreements.

Any transfer of the right or practical ability to control the policies and decisions of the Design Builder (except transfers occurring after the Final Acceptance Date) whether due to transfer of partnership or membership interests, shares, beneficial interests or otherwise, shall constitute an assignment prohibited under paragraph above without the County's prior written consent.

The County may transfer and assign its interests in the Project, this Contract Agreement and to any other public agency or public entity as permitted by law, provided that the successor or assignee has assumed all of the County's obligations, duties and liabilities under this Contract Agreement then in effect, and has provided the Design Builder with reasonable assurance of its legal and financial authority to honor and perform the same.

If any party changes its name, such party agrees to promptly furnish the other parties with written notice of change of name and appropriate supporting documentation.

II.18 Bonds and Insurance

II.18.1 Insurance

The Design-Builder shall procure and maintain insurance in accordance with the Contract Documents, including Article 5 of the General Conditions of the Contract and Division I Amendments.

II.18.2 Performance and Payment Bonds

Design-Builder shall procure and maintain performance and payment bonds executed by a surety acceptable to the County, each in the amount of one hundred percent (100%) of the Contract Price, and in accordance with all other requirements of the Contract Documents, including Division I Amendments.

II.19 Integration and Signatory

(a) This Design-Build Contract Agreement constitutes the entire and exclusive agreement between the Parties relating to the specific matters covered herein and therein. All prior or contemporaneous verbal or written agreements, understandings, representations and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose. This Agreement may be altered, amended or revoked only by an instrument in writing signed by each party hereto, or its permitted successor or assignee.

(b) This Design-Build Contract Agreement attempts to set forth in full all requirements applicable to design, construct, and warrant the Project and attempts to define in full the rights and responsibilities of each Party in connection therewith. To the extent requirements and rights and responsibilities have not been addressed in this Design-Build Contract Agreement, the Parties agree to carry out their respective responsibilities in the spirit of cooperation recognizing that they may not have defined in a sufficient detail or anticipated fully all activities necessary for the full implementation of the Project.

(c) If any provisions of this Design-Build Contract Agreement are rendered obsolete or ineffective in serving their purpose by change in law, passage of time, financing requirements or other future events or circumstances, the Parties agree to negotiate in good faith appropriate amendments to or replacements of such provisions in order to restore and carry out the original purposes thereof to the extent practicable; provided, however, that neither Party is obligated to agree to any amendment or replacement which would reduce its rights or enlarge its responsibilities under this Agreement in any material respect.

(d) At any time during the Term, any Party hereto:
(i) shall apply to the other Party hereto for any explanation as may be necessary with respect to the provisions of any Project Agreement, and
(ii) shall promptly notify the other Party hereto of all errors, omissions, inconsistencies or other defects (including inaccuracies) which it may discover in the Project Agreements, and shall provide written recommendations regarding changes or corrections to resolve any such error, omission, inconsistency or other defect.

II.20 Other Provisions

II.20.1 Project Management and Reporting Requirements

II.20.1.1 Preliminary Schedule. Unless otherwise stated in this Contract, within fifteen (15) days of the Design-Builder's receipt of the County's Notice to Proceed, the Design-Builder shall submit to the County, for its review and approval, a Preliminary Schedule in accordance with Exhibit 11.1 (Special Provisions for Design-Build Schedules). The Preliminary Schedule shall be the basis for monitoring the Design-Builder's performance of the Work until such time as a Baseline Schedule has been approved by the County in accordance with Section II.20.1.2 below. The County reserves the right to withhold approval for all or part of the Design-Builder's Applications of Payment until such time the Design-Builder furnishes an approved Preliminary Schedule.

II.20.1.2 Baseline Schedule. Unless otherwise stated in this Contract, within ninety (90) calendar days of the Design-Builder's receipt of the County's Notice to Proceed, the Design- Builder shall submit to the County, for its review and approval, a Baseline Schedule in accordance with Exhibit 11.1. The County reserves the right to withhold approval for all or part of the Design-Builder's Applications for Payment until such time Design-Builder furnishes an approved Baseline Schedule.

II.20.1.3 Schedule Updates. The Design-Builder shall submit Schedule Updates in accordance with Exhibit 11.1. The County reserves the right to withhold approval for all or part of the Design-Builders Applications for Payment until such time Design-Builder furnishes an approved Schedule Update.

II.20.1.4 Revised Baseline Schedule. The Design-Builder shall submit a Revised Baseline Schedule when required in accordance with Exhibit 11.1. The County reserves the right to withhold approval for all or part of the Design-Builder's Applications for Payment until such time Design-Builder furnishes an approved Revised Baseline Schedule.

II.20.1.5 Final As-Built Schedule. The Design-Builder shall submit a Final As-Built Schedule in accordance with Exhibit 11.1. The County reserves the right to withhold approval for all or part of the Design-Builder's Applications for Payment until such time Design-Builder furnishes an approved Final As-Built Schedule.

II.20.1.6 Other Information and Alternation. The Design-Builder shall, whenever required by the County, provide in writing a general description of the arrangements and methods which Design-Builder proposes to adopt for the execution of the Work. No significant alteration to the Baseline Schedule, or to such arrangements and methods, shall be made without informing the County and any alterations made shall reflect the requirement for coordination of the Work with the actions and obligations of the County and the work to be carried out by the County's Separate Contractors. If any alteration affects any such actions, obligations or Work, it shall not be made without the prior approval of the County. If the progress of the Work does not conform to the Baseline Schedule, as updated herein, the County may instruct Design-Builder to revise the Baseline Schedule, showing the modifications necessary to achieve completion within the Contract Times.

II.20.1.7 County's Separate Contractors. Design-Builder agrees to include the activities of the County's Separate Contractors into the Baseline Schedule. Design- Builder shall reasonably cooperate with the County's Separate Contractors and coordinate its activities with those of such Separate Contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

II.20.1.8 County's Review and Approval of Schedule Submissions. The County's review and approval of the Preliminary, Baseline Schedule or subsequent Schedule Updates and Revised Baseline Schedule shall not be construed as relieving Design-Builder of its complete and exclusive control and responsibility over the means, methods, sequences and techniques for executing the Work and does not constitute approval or acceptance of Design-Builder's ability to complete the Work within the Contract Time(s).

II.20.1.9 Monthly Reports. Monthly reports shall be prepared by the Design-Builder and submitted to the County in six (6) copies. The first report shall cover the period up to the end of the calendar month after that in which the Agreement Date occurred; reports shall be submitted monthly thereafter, on or before the tenth (10th) day of each month. Reporting shall continue until the County's determination that the Project has achieved Final Acceptance. Each report shall include:

.1 Photographs and detailed descriptions of progress, including each stage of design, right-of-way acquisition, Governmental Approvals (including but not limited to permit acquisition), procurement, delivery to Site, and construction;

.2 Charts showing the status of all design documents, purchase orders, right-of- way acquisition, Governmental Approvals (including but not limited to permit acquisition) and construction;

.3 Records of personnel and Design-Builder's equipment;

.4 Copies of quality assurance documents, and test results;

.5 Safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations;

.6 Status of approvals for Governmental Approvals, as required by Section 2.6.1 of the General Conditions of Contract;

.7 Monthly updates to the Baseline Schedule and narrative;

.8 Unresolved claims or disputes that involve requests for extension to the Contract Time(s) or adjustment to any other date or milestone set forth in the Contract Documents or increases in the Contract Price;

.9 All required EEO documentation for federal-aid projects;

.10 Weekly work zone safety reviews, on the County-provided forms;

.11 Erosion & Sediment Control Reports, on the County-provided forms; and

.12 Actual quantities for fuel, asphalt and steel on County-provided forms.

Failure of the Design-Builder to provide complete monthly reports, including but not limited to the monthly schedule updates, shall be grounds for the County to withhold approval for all or part of Design-Builder's Applications for Payment until such time the Design- Builder furnishes such complete reports.

II.20.1.10 Project Records. The Design-Builder shall organize and maintain its project records in a manner that allows such project records to be filed by work packages, as applicable. Additionally, Design-Builder shall develop a tracking log wherein the project records are provided chronologically, with the file type, description, date received/sent, entity the documentation is from/to, pay package reference, status and electronic location. The Project Record Tracking Log shall be developed in accordance with the format outlined in Attachment 11.1.10. If the project record relates to changes in the Work, preferably only one work package shall be referenced in such project record. If a project record relates to multiple work packages, then all related work packages shall be referenced in such project record. As a condition of Final Payment, Design-Builder shall provide the County with a complete set of all project records by and between Design-Builder and the County exchanged on the Project.

II.20.2 Exhibits

II.20.2.1 The following exhibits, as well as any other exhibits specifically set forth in this Contract are made part of and incorporated into this Contract Agreement and are included in the RFDP:

EXHIBIT 6.3(a) – ADJUSTMENT FOR ASPHALT
EXHIBIT 6.3(b) – FORM C-16a (PRICE ADJUSTMENT FOR ASPHALT)
EXHIBIT 11.1 – SPECIAL PROVISION FOR DESIGN-BUILD SCHEDULES

EXHIBIT 11.1.8 – EXAMPLE CORRESPONDENCE TRACKING LOG

(Signatures on following page)

BY:

BOARD OF COUNTY SUPERVISORS **PRINCE WILLIAM COUNTY, VA.**	**[INSERT DESIGN-BUILDER]**
_____	_____
County Representative **Signature** **RICARDO CANIZALEZ** **Transportation Director**	**Authorized Signature** **Typed / Printed Name** **Title**

ATTEST:

Adam Manne, Assistant Director of Finance
For Procurement Services

County Attorney Affix To Form

APPROVED AS TO FORM

County Attorney

Date

SP109-000100-00

Exhibit 6.3(a)

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
ASPHALT MATERIAL PRICE ADJUSTMENT

January 5, 2016; Reissued July 12, 2016

All asphalt material contained in the attached master listing of eligible bid items and designated by pay items in the contract will be price adjusted according to the provisions as set forth herein. Other items will not be adjusted, except as otherwise specified in the contract. If new pay items which contain asphalt material are established by Work Order, they will not be subject to Price Adjustment unless specifically designated in the Work Order to be subject to Price Adjustment.

Each month, the Department will publish an average state-wide PG 64S-22 f.o.b. price per ton and an average PG 64E-22 f.o.b. price per ton developed from the average terminal prices provided to the Department from suppliers of asphalt cement to contractors doing work in Virginia. The Department will collect terminal prices from approximately 12 terminals each month. These prices will be received once each month from suppliers on or about the last weekday of the month. The high and low prices will be eliminated and the remaining values averaged to establish the average statewide price for the following month. The monthly state-wide average price will be posted on the Construction Division website on or about the first weekday of the following month. In the event the average prices were to change by 10 percent or more of the Base Index during the middle of the month the Contractor can submit a letter to the Department and supplier that provides evidence of the difference in price. Upon receipt of the letter consideration will be given to extend additional adjustments as deemed necessary.

This monthly statewide average price will be the Base Index for all contracts on which bids are received during the calendar month of its posting and will be the Current Index for all asphalt placed during the calendar month of its posting. In the event an index changes radically from the apparent trend, as determined by the Engineer, the Department may establish an index which it determines to best reflect the trend.

The amount of adjustment applied will be based on the difference between the contract Base Index and the Current Index for the applicable calendar month during which the work is performed. The quantity of asphalt cement for asphalt concrete pavement to which adjustment will be applied will be the quantity based on the percent of asphalt cement shown on the appropriate approved job mix formula.

Adjustment of any asphalt material other than PG 64S-22 and PG 64E-22 will be based on the indexes for PG 64S-22.

The quantity of asphalt emulsion for surface treatments to which adjustment will be applied will be the quantity based on 65 percent residual asphalt.

Price adjustment will be shown as a separate entry on the monthly progress estimate; however, such adjustment will not be included in the total cost of the work for progress determination or for extension of contract time.

Any apparent attempt to unbalance bids in favor of items subject to price adjustment or failure to submit required cost and price data as noted hereinbefore may result in rejection of the bid proposal.

VIRGINIA DEPARTMENT OF TRANSPORTATION
MASTER LISTING OF
ASPHALT MATERIAL ITEMS ELIGIBLE FOR PRICE ADJUSTMENT

ITEM	DESCRIPTION	UNITS	SPECIFICATION
10062	Asphalt-Stab. Open-Graded Material	Ton	313
10416	Liquid Asphalt	Gal	311 312
10420	Blotted Seal Coat Ty. B	SY	ATTD
10422	Blotted Seal Coat Ty. C	SY	ATTD
10423	Blotted Seal Coat Ty. C-1	SY	ATTD
10424	Blotted Seal Coat Ty. D	SY	ATTD
10598	Ns Asphalt Concrete	Ton	315
10603	Asphalt Concrete Ty. SM-19.0A	Ton	315
10604	Asphalt Concrete Ty. SM-19.0D	Ton	315
10605	Asphalt Concrete Ty. SM-19.0E (76-22 or 64E)	Ton	315
10606	Asphalt Concrete Ty. SM-9.5	Ton	315
10607	Asphalt Concrete Ty. SM-12.5A	Ton	315
10608	Asphalt Concrete Ty. SM-12.5D	Ton	315
10609	Asphalt Concrete Ty. SM-12.5E (64E-22)	Ton	315
10610	Asphalt Concrete Ty. IM-19.0A	Ton	315
10611	Asphalt Concrete Ty. IM-19.0D	Ton	315
10612	Asphalt Conc. Base Cr. Ty. BM-25.0	Ton	315
10613	Asphalt Concrete Ty. BM-37.5	Ton	315
10614	Asphalt Concrete Ty. IM-19.0E (76-22 or 64E)	Ton	315
10635	Asphalt Concrete Ty. SM-9.5A	Ton	315
10636	Asphalt Concrete Ty. SM-9.5D	Ton	315
10637	Asphalt Concrete Ty. SM-9.5E (64E-22)	Ton	315
10639	Asphalt Concrete Ty. SM-19.0	Ton	315
10642	Asphalt Concrete Ty. BM-25.0A	Ton	315
10643	Asphalt Concrete Ty. BM-25.0D	Ton	315
10650	Stone Matrix Asphalt SMA-9.5(64H-22)	Ton	317
10651	Stone Matrix Asphalt SMA-9.5(64E-22)	Ton	317
10652	Stone Matrix Asphalt SMA-12.5(64H-22)	Ton	317
10653	Stone Matrix Asphalt SMA-12.5(64E-22)	Ton	317
10654	Stone Matrix Asphalt SMA-19.0(64H-22)	Ton	317
10655	Stone Matrix Asphalt SMA-19.0(64E-22)	Ton	317
10701	Liquid Asphalt Coating	SY	ATTD
12505	Asphalt Concrete Curb Backup Material	Ton	315
13240	Asphalt Concrete Sidewalk	Ton	504
16110	Emul. Asph. Slurry Seal Type A	SY	ATTD

16120	Emul. Asph. Slurry Seal Type B	SY	ATTD
16130	Emul. Asph. Slurry Seal Type C	SY	ATTD
16144	Latex Mod. Emul. Treat. Type B	Ton	ATTD
16145	Latex Mod. Emul. Treat. Type C	Ton	ATTD
16146	Latex Mod. Emul. Treat. Rutfilling	Ton	ATTD
16161	Modified Single Seal	SY	ATTD
16162	Modified Double Seal	SY	ATTD
16249	Nontracking Tack Coat	Gal.	ATTD
16250	Liquid Asphalt Matl. CMS-2 (Mod)	Gal	ATTD
16251	Liquid Asphalt Matl. CMS-2	Gal	ATTD
16252	Liquid Asphalt Matl. CRS-2	Gal	ATTD
16253	Liquid Asphalt Matl. CRS-2H	Gal.	ATTD.
16254	Liquid Asphalt Matl. RC-250	Gal	ATTD
16256	Liquid Asphalt Matl. RC-800	Gal	ATTD
16257	Ns Liquid Asphalt Matl.	Gal	ATTD
16260	Liquid Asphalt Matl. CRS-2L	Gal	ATTD
16325	NS Asphalt Concrete	Ton	N/A
16330	Asphalt Concrete Ty. SM-9.0A	Ton	315
16335	Asphalt Concrete Ty. SM-9.5A	Ton	315
16337	Asph. Conc. Ty. SM-9.5ASL (Spot Level)	Ton	315
16340	Asphalt Concrete Ty. SM-9.5D	Ton	315
16342	Asph. Conc. Ty. SM-9.5DSL (Spot Level)	Ton	315
16345	Asphalt Concrete Ty. SM-9.5E (64E-22)	Ton	315
16350	Asphalt Concrete Ty. SM-12.5A	Ton	315
16352	Asph. Con. Ty. SM-12.5ASL (Spot Level)	Ton	315
16355	Asphalt Concrete Ty. SM-12.5D	Ton	315
16357	Asph. Con. Ty. SM-12.5DSL (Spot Level)	Ton	315
16360	Asphalt Concrete Ty. SM-12.5E (64E-22)	Ton	315
16362	Asphalt Concrete Ty. SM-19.0A	Ton	315
16363	Asphalt Concrete Ty. SM-19.0D	Ton	315
16364	Asphalt Concrete Ty. SM-19.0E (76-22 or 64E)	Ton	315
16365	Asphalt Concrete Ty. IM-19.0A	Ton	315
16370	Asphalt Concrete Ty. IM-19.0D	Ton	315
16371	Asphalt Concrete Ty. IM-19.0E (76-22 or 64E)	Ton	315
16373	Asphalt Concrete Ty. IM-19.0A (T)	Ton	315
16374	Asphalt Concrete Ty. IM-19.0D (T)	Ton	315
16377	Asphalt Concrete Ty. BM-37.5	Ton	315
16379	Asphalt Concrete Ty. IM-19.0T	Ton	315
16390	Asphalt Concrete Ty. BM-25.0A	Ton	315
16392	Asphalt Concrete Ty. BM-25.0D	Ton	315
16395	Asphalt Concrete Ty. BM-25.0A (T)	Ton	315
16397	Asphalt Concrete Ty. BM-25.0D (T)	Ton	315
16400	Stone Matrix Asphalt SMA-9.5(64H-22)	Ton	ATTD
16401	Stone Matrix Asphalt SMA-9.5(64E-22)	Ton	ATTD
16402	Stone Matrix Asphalt SMA-12.5(64H-22)	Ton	ATTD
16403	Stone Matrix Asphalt SMA-12.5(64E-22)	Ton	ATTD
16404	Stone Matrix Asphalt SMA-19.0(64H-22)	Ton	ATTD

16405	Stone Matrix Asphalt SMA-19.0(64E-22)	Ton	ATTD
16490	Hot Mix Asphalt Treatment	Ton	ATTD
16500	Surf.Preparation & Restoration Type I	Ton	ATTD
16502	Surf.Preparation & Restoration Type II	Ton	ATTD
16504	Surf.Preparation & Restoration Type III	Ton	ATTD
67201	NS Asphalt Concrete Overlay	Ton	315
67210	NS Asphalt Concrete	Ton	315
68240	NS Asphalt Concrete	Ton	315

Exhibit 6.3(b)

Form C-16a
August 9, 2013

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
ASPHALT PRICE ADJUSTMENT (PG76-22 or PG 70-28)
DESIGN-BUILD PROJECTS

INSTRUCTIONS - This form is to be completed and returned ONLY when asphalt concrete items containing PG 76-22 or PG 70-28 is being utilized on the project.

PROJECT NUMBER:

DISTRICT:

Bid Prices in this contract for items containing PG 76-22 or PG 70-28 asphalt cement were developed using an f.o.b. price of $_____ per **IMPERIAL** ton for **PG 76-22 or PG 70-28**. This quote is project specific.

Price quotes signed by each supplier from which the Design-Builder proposes to obtain PG 76-22 or PG 70-28 shall be maintained by the Design-Builder. These quotes shall be retained on site during the life of the Contract for review by the Engineer upon request.

DATE:_____

SIGNATURE:_____

_____
(Firm or Corporation)

_____
(Vendor No.)

PRINCE WILLIAM COUNTY DEPARTMENT OF
TRANSPORTATION SPECIAL PROVISION FOR
Design-Build Project Schedule

April 15, 2014

Exhibit 11.1

1. General

Design-Builder shall develop and maintain a project schedule, which shall be used by all involved parties to plan and execute all work required to complete the project. The project schedule will be used by the County to monitor the project, assess progress, and evaluate the effects of time-related issues on the project. The project schedule shall be prepared, maintained, and submitted in accordance with this provision, unless otherwise directed in writing by the County.

A. Scheduling Conference – At the meeting held after the Date of Commencement, Design-Builder shall attend a Scheduling Conference with the County to discuss Design-Builder's overall plan to accomplish the Work; the detail work plan for the initial one hundred and twenty (120) calendar days; and scheduling information, project specific requirements, and other key issues necessary for the preparation, maintenance and submittal of the project schedule.

B. Project Scheduler – For projects with awarded Contract Price of $35 million or more, Design-Builder shall designate a Project Scheduler for the project and shall submit his/her qualifications for the County's written approval prior to submission of the Preliminary or Baseline Schedule. The Project Scheduler must have at least three (3) years of verifiable experience in successfully preparing and maintaining schedules on large scale projects of similar type and complexity. Design-Builder shall provide current contacts for verification of the Project Scheduler's qualifications and experience. The Project Scheduler shall be primarily responsible for the development and maintenance of the project schedule and shall be present in all scheduling meetings and discussions on major issues concerning the project schedule.

2. Schedule Submission Requirements

A. Preliminary Schedule – Unless otherwise stated in Exhibit 1, within fifteen (15) days of Design-Builder's receipt of the County's Notice to Proceed, Design-Builder shall submit to the County, for its review and approval, a Preliminary Schedule. At its discretion, Design-Builder may submit in lieu of the Preliminary Schedule, a Baseline Schedule according to Section 11.1.4 of the Agreement and Section 2.B below. Until such time as a Baseline Schedule has been approved by the County, Design-Builder shall provide an update of the Preliminary Schedule every month. The Preliminary Schedule will be used

to monitor and assess progress of the Work until a Baseline Schedule is approved by the

County. The Preliminary Schedule submission shall consist of:

1. **Preliminary Schedule**: A Preliminary Schedule prepared and submitted in the form of a Baseline Schedule as defined herein, showing at a minimum:

    i) The detailed activities depicting the sequence and dates for any work planned during the first one-hundred and twenty (120) calendar days, including as applicable project milestones, review by the County, FHWA, and other regulatory agencies; as well as environmental, permits, scope validation period, design, right-of-way, utility, and construction activities.

    ii) Summary level activities depicting the sequence and general timing for work planned after the first one-hundred and twenty (120) calendar days. At Design-Builder's discretion, detailed activities may be shown in lieu of summary level activities.

    iii) Quantities and dollar value of work associated with each activity for which Design-Builder expects to receive payment.

    iv) The project critical path (based on the longest path).

2. **Preliminary Schedule Narrative**: A Preliminary Schedule Narrative describing the Design-Builder's overall plan to accomplish the entire scope of Work and the detailed plan for work planned during the initial one-hundred and twenty (120) calendar days. The narrative shall describe the sequence of work, means and methods, productivity, and other significant scheduling assumptions on which the Preliminary Schedule is based. The narrative shall also describe the project critical path (longest path), work planned during each construction season, and any known or foreseeable issues that may impact the schedule.

3. **Preliminary Earned Value Schedule**: A Preliminary Earned Value Schedule showing Design-Builder's anticipated monthly earnings for the entire Project. The Preliminary Earned Value Schedule shall be prepared using VDOT's Form C-13CPM, which shall be based on monthly costs data generated from the Preliminary Schedule. The Preliminary Earned Value Schedule submission shall include:

    i) An Activity Cost-loading Report (ACR), showing a breakdown of the quantities and costs for each activity. The ACR shall be grouped by pay items and sorted by activity ID showing:

        a) For each activity the Activity ID, Activity Name, Price/Unit, Budgeted Unit (quantity), Budgeted Cost, Actual Cost, Remaining Cost, and At Completion Cost.

b) Pay item sub-totals of the budgeted units and costs for associated activities.

c) The overall total budgeted cost for the Project.

ii) An Earned Value Schedule using the VDOT Form C-13CPM.

B. Baseline Schedule – Unless otherwise stated in Exhibit 1, within ninety (90) days of Design-Builder's receipt of the County's Notice to Proceed, Design-Builder shall submit to the County, for its review and approval, a Baseline Schedule showing the Design-Builder's initial detailed plan to accomplish the entire scope of the Project according to the Agreement. If the County does not approve such submission, Design-Builder shall revise and resubmit a Baseline Schedule to the County within seven (7) calendar days of its receipt of the County's comments on such submission. This process shall continue until such time as the County approves a Baseline Schedule. Upon approval of the Baseline Schedule, it will be the established as the Project "**Schedule of Record (SOR)**". The SOR is the official and only schedule with which all parties will plan and execute all work required to complete the Project and against which progress of the Project and the Design-Builder's performance will be assessed. The Baseline Schedule submission shall consist of:

1. **Baseline Schedule**: A Baseline Schedule depicting the detailed activities required to complete the entire scope of the Project, including as applicable, work to be performed by subcontractors, the County, and other involved parties. The Baseline Schedule shall be prepared according to the following:

   i) Design-Builder shall prepare and maintain the Baseline Schedule using scheduling software that is capable of meeting all requirements of this provision. Design-Builder's scheduling software shall be wholly compatible with the County's scheduling software system and shall have the capability of creating a back-up copy of the working schedule in "XER" format. the County's scheduling software system is the latest version of Primavera's Project Management software (currently P6 version 7.0). At the Design-Builder's request, secured access via the internet may be granted to allow the Design-Builder to develop and maintain its schedule in the County's scheduling software system. Submission of data from another software system where data conversion techniques or software is used to import into Primavera's scheduling software is not acceptable and will be cause for rejection of the submitted schedule.

   ii) For each schedule submission, the Project ID shall be unique and shall be defined using the Contract ID as a prefix followed by the submission number (i.e. C00012345DB12_B01, C00012345DB12_U01, etc.).

iii) The project "Must Finish By" date shall be defined with a specified date equal to the "Final Completion" date of the Contract.

iv) The Baseline Schedule shall be developed using a hierarchical WBS, broken down by major phases of the Project, as applicable (i.e. project milestones, project management, design, public involvement, environmental, right-of-way, utility, and construction, etc.). Each major phase of the Project shall be broken down by phase, stage, or feature, as applicable. Each phase, stage, or feature shall then be further broken down into rational work packages, as applicable.

v) Each work package shall be broken down into discrete and definable activities, with activity durations generally twenty (20) working days or less. Longer durations may be allowed as approved by the County for certain administrative or level of effort activities that are typically performed over longer periods of time. The Work shall be broken down in sufficient details to identify the phase, stage, feature, type of work, deliverable, and specific location in which the work occurs, including as applicable:

a) Project milestones;

b) Administrative activities such as key submittals, notifications, and review by the County, FHWA, and other regulatory agencies. Activity durations for submissions and approvals or consents required by the County shall be no less than the County's minimum review duration identified in Section 3.1 of the General Conditions of Contract;

c) Design activities showing all work required to complete each stage of design and deliverable;

d) Public involvement activities;

e) Scope Validation Period;

f) Environmental and permitting activities;

g) Right-of-way acquisition activities showing all lots/parcels;

h) Utility relocations and adjustments activities broken down by type and specific location;

i) Procurement, fabrication, delivery activities of materials;

j) Construction start-up activities such as mobilization, staging area, surveying, clearing and grubbing, construction access, etc.;

k) Maintenance of Traffic activities;

l) Construction activities broken down by phase, stage, feature, type of work, and specific location, as applicable;

m) Other necessary miscellaneous activities that consume time such as installation and removal of temporary systems or structures such as causeways, shoring, etc.; as well as settlement period, load test, curing, demolition, testing and acceptance period, punch list, clean-up, demobilization, etc.

vi) Each activity shall be named to identify the phase, stage, feature, type of work, and specific location in which the work occurs, as applicable.

vii) Activity calendars shall be assigned using project-level calendars. Use of global calendars is not allowed and shall be cause for rejecting the schedule.

viii) Activity codes shall be defined and assigned to the individual activities to allow for filtering, grouping, and sorting of activities by project phase, responsibility, area, phase, stage, feature, work type, Work Orders, DBE, and other major work category, as applicable. Activity codes shall be assigned using project-level activity codes. Use of global activity codes is not allowed and shall be cause for rejecting the schedule.

ix) Constraints shall be used sparingly and on a case by case basis, as necessary. Constraints such as "Mandatory Start" or "Mandatory Finish" that violate network logic are not allowed and shall be cause for rejecting the schedule. If the Contract includes a specified start-no- earlier- than milestone, then the Contract milestone activity shall be constrained with a "Start On or After" constraint, with a date equal to the date specified in the Contract. If the Contract includes a specified Interim Milestone or Substantial Completion Milestone, then the Contract interim completion milestone activity or substantial completion milestone activity shall be constrained with a "Finish On or Before" constraint, with a date equal to the date specified in the Agreement.

x) The Baseline Schedule shall be cost-loaded and shall be the basis for the monthly progress payments as well as for assessing progress. Each activity associated with a pay item for which Design-Builder expects to receive payment shall be cost-loaded, using the scheduling software "Material" resource type and according to the following:

a) A material resource shall be defined for each pay item shown in the

Schedule of Items submitted in the Proposal, or a subsequently revised Schedule of Items approved by the County. Pay item ID codes shall be congruent to the extent possible with the VDOT five-digit standard and non-standard pay item numbers (for example: 00100 – Mobilization).

b) Each proposed pay item material resource shall indicate the Resource ID, Resource Name, Unit of Measure, and Price/Unit as shown in the Schedule of Items. The pay item material resource ID shall be unique and shall be defined using the Contract ID as a prefix followed by the pay item number (i.e. C00012345DB12.00100).

c) The "Auto Compute Actuals" and "Calculate costs from units" boxes for each pay item material resource shall be marked.

d) A project-specific 20-80 resource curve shall be defined in the scheduling software using the Contract ID as a prefix and assigned to each assigned pay item resource to allocate costs to each associated activity over its duration based on the 20-80 earned value progress payment rules, according to Part 4, Article 6, and Section 6.2.

e) The budgeted units and cost for each assigned pay item resource shall be defined to indicate the quantity and dollar value of work that the activity represents.

f) The aggregate budgeted units and costs for all activities associated with a pay item shall equal the total quantity and value of the proposed pay item as shown in the Schedule of Items.

g) The aggregate budgeted costs for all activities shall equal the current total Contract Price. Current total Contract Price will be considered to mean the current Contract amount including the original Contract Price and any approved adjustments for authorized changes to the Work. Anticipated payments or payments for adjustments such as asphalt, fuel, steel, retainage, incentives, disincentives, etc., shall not be included.

xi) For projects with awarded Contract Price of $35 million or more, the Baseline Schedule shall be resource-loaded to indicate the labor (manpower), material (re-usable materials), and equipment (machinery or equipment) required to accomplish each activity that represents a major operation. The Baseline Schedule shall be resource-loaded according to the following:

a) Project-specific labor resources using "Labor" resource type as

defined in the scheduling software shall be defined and assigned to indicate labor classification, trade, or crew that will perform the work. The labor Resource ID shall be unique and shall be defined using the Contract ID as a prefix followed by a unique code (e.g. C00012345C01.Pipe – Drainage Pipe Crew). Also, the Max Units/Time shall be defined for each labor resource to establish the daily availability limits. Budgeted Units shall be defined for each assignment to establish the total units of time required to perform the activity.

b) Project-specific material resources using "Material" resource type as defined in the scheduling software shall be defined and assigned to indicate re-usable material that will be used to perform the work. The material Resource ID shall be unique and shall be defined using the Contract ID as a prefix followed by a unique code (e.g. C00012345C01.CF1 – Column Forms Set #1). Also, the Max Units/Time shall be defined for each material resource to establish the daily availability limits. Budgeted Units shall be defined for each assignment to establish the total units of time required to perform the activity.

c) Project-specific equipment resources using "Non-Labor" resource type as defined in the scheduling software shall be defined and assigned to indicate equipment or machinery that will be used to perform the work. The non-labor Resource ID shall be unique and shall be defined using the Contract ID as a prefix followed by a unique code (e.g. C00012345C01.CRN – Crane). Also, the Max Units/Time shall be defined for each non- labor resource to establish the daily availability limits. Budgeted Units shall be defined for each assignment to establish the total units of time required to perform the activity.

d) Assigned resource calendars shall be defined using the Contract ID as a prefix.

xii) The project schedule software settings shall be defined according to the following Primavera P6 settings:

a) Schedule dates shall be shown in the "Month-Day-Year" date format, with 2-digit numbers for the month, day, and year (e.g. 05-01-13).

b) Duration type for all activities shall be specified as "Fixed Duration & Units".

c) The "Drive activity dates by default" checkbox in the Project Details Resources tab shall be marked.

d) The "Link Budget and At Completion Cost for not started activities" checkbox in the Project Details Calculation tab shall be marked.

e) The "Reset Remaining Cost and Units to Original" in the Project Details Calculation tab shall be specified.

f) The "Subtract Actual from At Completion" under "When updating actual units or costs" in the Project Details Calculation tab shall be specified.

g) The "Recalculate Actual Units and Cost when duration % complete changes" checkbox in the Project Details Calculation tab shall be marked.

h) The "Update units when costs changes on resource assignments" checkbox in the Project Details Calculation tab shall be marked.

i) The "Link Actual and Actual This Period Units and Cost" checkbox in the Project Details Calculation tab shall be marked.

j) Specify "Retained Logic" in the Scheduling Options dialog box for scheduling progressed activities.

k) Specify "Longest Path" in the Scheduling Options dialog box for defining critical activities.

l) Specify "Finish Float = Late Finish – Early Finish" in the Scheduling Options dialog box as the schedule calculation option to compute total float.

xiii) The project schedule shall be calculated using the precedence diagram network logic method (PDM) and the Critical Path Method (CPM). The use of resource-leveling to determine sequence, order, or timing of the activities is not allowed and shall be cause for rejecting the schedule.

2. **Baseline Schedule Narrative**: A Baseline Schedule narrative describing Design-Builder's overall plan to accomplish the Work, as reflected on the Baseline Schedule including, as applicable:

i) Project milestones including, as applicable Contract milestones and other key events such as start/finish dates for each major phase or stage of the project, major traffic switches, etc.

ii) Work to be performed by the County and other involved parties, including when the work must be performed.

iii) The proposed overall sequence of Work, including where the work will begin and how the work will progress.

iv) A description of the project critical path (based on the longest path).

v) Scheduling assumptions including, the proposed means and methods, anticipated daily production rates, and general procedures for accomplishing major operations that are expected to drive the schedule.

vi) A log identifying the schedule constraints used in the Baseline Schedule and reason for using each constraint.

vii) A description of the project calendar(s) used in the Baseline Schedule, identifying the Calendar ID, standard number of work days per week, number of shifts per day, and number of hours per day as well as the anticipated number of non-working days per month for each calendar with considerations, as applicable, for holidays, normal weather conditions; as well as for seasonal or other known or specified restrictions (i.e. traffic, local events, environmental, permits, utility, etc.).

viii) The Contractor's resource plan indicating the number of crews, crew make-up, and major equipment needed to accomplish the Work as planned. The resource plan shall also describe how Design-Builder plans on meeting the resource requirements.

ix) A log of the applicable DBE participation activities in the schedule for which the Design-Builder intends to claim credit for attaining the DBE goal required in the Contract. The list shall indicate the proposed start/finish dates and durations of the DBE participation activities.

x) Any known or foreseeable issues that may impact the schedule. Also, describe how the issues will impact the schedule and any actions taken or needed to avoid or mitigate the impact.

3. **Baseline Earned Value Schedule**: A Baseline Earned Value Schedule showing Design-Builder's anticipated monthly earnings for the entire Project. The Baseline Earned Value Schedule submission shall include:

i) An Activity Cost-loading Report (ACR) generated from the Baseline Schedule, showing a breakdown of quantities and costs for each activity. The ACR shall be grouped by pay item and sorted by activity ID showing:

a) For each activity the Activity ID, Activity Name, Price/Unit,

Budgeted Unit (quantity), Budgeted Cost, Actual Cost, Remaining Cost, and At Completion Cost.

b) Pay item sub-totals of the budgeted units and costs for associated activities.

c) The overall total budgeted cost for the Project.

ii) An Earned Value Schedule using the VDOT Form C-13CPM, which shall be based on monthly costs data generated from the Baseline Schedule.

C. Schedule Updates – On or before the tenth (10^{th}) day of each month and as part of the monthly reports required by Section 11.1.9 of Part 3 of the Agreement, Design-Builder shall submit to the County, for its review and approval, an update of the Baseline Schedule (**"Schedule Update"**). The Schedule Update shall reflect the current status of the Project and the plan to complete the remaining work as of the first (1^{st}) day of the month (data date). If the County does not approve such submission, Design-Builder shall revise and resubmit a Schedule Update to the County within seven (7) calendar days of its receipt of the County's comments on such submission. The Schedule Update submission shall consist of:

1. **Schedule Update**: A Schedule Update showing the as-built status of completed and ongoing activities; as well as the sequence and dates during which the remaining activities are scheduled to be completed as of the data date. The Schedule Update shall be based on the most recent approved Schedule and shall be prepared according to the following:

i) All activities that are completed prior to the current data date shall show actual start and finish dates. All on-going activities shall show actual start dates and remaining duration to indicate the amount of time required to complete the remaining work as of the current data date.

ii) Activity percent complete for on-going activities shall be based on amount of work completed as of the current data date relative to the total amount of work planned.

iii) Actual units and cost for each assigned work item resource shall be updated based on the 20-80 earned value progress rules (i.e. 20% at initiation and 100% at completion), in accordance with Part 4, Article 6, and Section 6.2.

iv) Activity logic shall be modified as necessary to correct out-of-sequence progress for on-going and remaining activities to reflect the Design- Builder's current plan for completing the remaining work.

v) The project schedule shall be calculated using the current data date.

2. **Schedule Update Narrative**: A Schedule Update Narrative describing the current status of the project, any deviations from scheduled performance, and any changes in Design-Builder's work plan, and the current work plan for accomplishing the remaining work as of the data date. The Schedule Update Narrative shall include a description of:

   i) The current status of project milestones including a description of any deviations from the date(s) specified in the Contract. If a milestone activity is scheduled to occur later than the date specified in the Contract, provide an explanation stating why the milestone date is forecasted to occur late and any actions taken or proposed to correct the delay.

   ii) The current status of the Project in terms of progress earnings percent complete based on the actual total earnings to date relative to the current approved Contract value; as well as any progress deficiencies relative to planned progress as indicated on the SOR. If progress is falling behind, describe reasons for the deficiency and any actions taken or proposed to correct the progress deficiency.

   iii) The project critical path and any deviations from the SOR.

   iv) The work performed since the previous Schedule Update and any deviations from the work scheduled.

   v) Any major changes in the Contractor's work plan in terms of sequence of construction, shifts, means and methods, manpower, equipment, or materials.

   vi) Any changes made to the SOR since the previous submission. A Claim Digger report (or equivalent) may be used to identify the changes.

   vii) Number of days lost due to adverse weather or other factors during the current update period. Provide a list of the lost days, including a description and start/finish times of the weather event or factor; activities affected and how the activities were affected, and any impacts on the critical path or project milestones. Also, describe any actions taken or proposed to mitigate any resulting delays.

   viii) The status of pending issues such as access, permits, conflicts with other related or adjacent work, Work Orders, time extension requests, etc.

   ix) Any problems encountered or anticipated since the previous submission, including an explanation of any corrective actions taken or required to mitigate or avoid the effects.

x) Work planned for the next update period and any actions needed to be taken by the County or other involved parties.

2. **Schedule Update Earned Value**: A Schedule Update Earned Value showing the actual progress earnings to date and the projected earnings for each remaining month, as of the data date. The Schedule Update Earned Value submission shall include:

   i) An Activity Cost-loading Report (ACR) showing the updated cost data in the current Schedule Update as of the data date.

   ii) An updated Form C-13CPM showing the actual earnings to date and projected monthly earnings for the remaining periods as of the data date based on cost data generated from the current Schedule Update.

D. Revised Baseline Schedule – If the County believes that the Work is being performed significantly different from the SOR, or major modifications in logic, activity duration, manpower, or cost are necessary, or are required to incorporate approved changes in the Work, it will submit a written request to Design-Builder. Design-Builder shall respond in writing within seven (7) days, either agreeing with the County's proposed revision, and henceforth providing a **"Revised Baseline Schedule"**, as required by the County, or providing justification why the requested revisions should not be accomplished. If revisions cannot be agreed upon either through written correspondence or subsequent meetings, the County and Design-Builder shall agree to attempt to resolve the issues through the dispute resolution process of Article 10 in the General Conditions of Contract. If the County and the Design-Builder cannot agree on the proposed revisions, the Design-Builder shall proceed under the previously approved Baseline Schedule. At no time shall Design-Builder continue to reflect items of non-concurrence from the County in the Schedule Updates. The Revised Baseline Schedule shall be prepared and submitted in the form of a Baseline Schedule, according to Section 2.B above, except it shall reflect the current status of the completed and on-going activities and actual earnings to date as of the current data date. Upon approval by the County, the Revised Baseline Schedule shall replace any previously approved Baseline Schedule as the SOR for the remainder of the Project.

E. Final As-built Schedule – As part of its submission of Final Application for Payment, Design-Builder shall submit the final Schedule Update **(Final As-built Schedule)**. The Final As-built Schedule shall show the actual start and finish dates for all activities in the schedule. Design-Builder shall certify in writing that the Final As-built Schedule accurately reflects the dates on which all activities contained in the schedule were actually performed. The Final As-built Schedule shall be submitted in the form of a Schedule Update according to Section 11.1.5 above.

3. Schedule Submittal Format and Reports

Unless otherwise approved in writing by the County, the Design-Builder shall submit for each Preliminary Schedule, Baseline Schedule, Schedule Update, or Baseline Revision Schedule submission, the following submittal items and reports, in the formats specified below. Each electronic file submittal shall have a unique file name prefixed by the Contract ID to identify the Contract and type, number, item, and data date of the submission (e.g. C00012345DB01_B01_01-01-13.xer, C00012345DB01_B01_Narrative_01-01-13.pdf, C00012345DB01_B01_FormC-13CPM_01-01-13.xlsx, etc.). The submittals shall include.

1. A transmittal letter to the County, identifying the date of submittal and which Schedule is being submitted for review.

2. Two (2) sets of data compact disks ("CD") containing a backup copy of the working schedule in the Primavera proprietary exchange format ("XER") file format; as well as other required electronic file submittals as defined in Section 11.1.8.4 below. Each CD shall be labeled to indicate the Contract ID, type of submission, filename, and data date.

3. Two (2) sets of paper copies of the following schedule reports:

    i) Schedule calculation log.

    ii) A legible time-scaled bar-chart plot of the Schedule, organized by WBS, to show for each activity the Activity ID, Activity Name, Original Duration, Remaining Duration, Start and Finish dates, Activity Percent Complete, and Total Float. The bar-chart plot shall identify the project critical path (longest path).

4. Electronic file copies by email of the following:

    i) A backup copy of the working schedule in "XER" file format.

    ii) A copy of the time-scaled bar-chart plot of the project schedule in "PDF" file format.

    iii) A tabular Predecessor and Successor Report (PSR) in "PDF" file format to show the predecessors and successors for each activity. The PSR shall be sorted by WBS and in ascending order by Activity ID and shall show for each activity:

        a) Activity ID;
        b) Activity Name;
        c) Original Duration;
        d) Remaining Duration;
        e) Early Start;

f) Early Finish;
g) Late Start;
h) Late Finish;
i) Free Float;
j) Total Float;
k) Critical ("Yes" or "No");
l) For each predecessor/successor activity, show the Activity ID, Activity Name, Relationship Type, Lag, Free Float, Total Float, Driving ("Yes" or "No"), and Critical ("Yes" or "No").

iv) A copy of the schedule narrative in "PDF" file format.

v) A copy of the Activity Cost-loading Report ("ACR") in "PDF" file format.

vi) A working file copy of the Earned Value Schedule (Form C-13CPM) in "xls" or "xlsx" file format.

vii) A copy of the Earned Value Schedule S-Curve in "PDF" file format.

4. Monitoring the Work and Assessing Progress

The County will monitor the Work regularly and assess progress of the Work monthly relative to the SOR to identify deviations from Design-Builder's scheduled performance and to determine if progress is satisfactory according to the following:

A. Monthly Progress Meetings – At the monthly progress meeting held in accordance with Part 4 General Conditions, Article 2, Section 2.1.8, Design-Builder shall furnish a detailed 4-week look-ahead schedule based on the current schedule update and shall discuss the current status of the project, on-going work, and work planned for the following four (4) weeks.

B. Progress Evaluation – Progress will be evaluated by the County at the time of the monthly progress pay application on the basis of the Design-Builder's latest approved Schedule Update. The Design-Builder's actual progress will be considered unsatisfactory if any of the following conditions occur:

i) The actual total earnings percentage for work completed to date, based on the current Pay Application, falls behind the anticipated cumulative late earnings percentage indicated in the SOR by one (1) percent or more.

ii) The current projected completion date of a Contract milestone is more than fourteen (14) days after the milestone completion date specified in the Agreement, as applicable.

iii) The current calculated completion date of the project is more than thirty (30) days after the lattermost of the Final Completion date or its extension.

C. Progress Deficiency and Schedule Slippage – When a monthly progress evaluation shows that the actual progress of the Work is unsatisfactory, the County will issue a written notice of unsatisfactory performance to the Design- Builder. Within 14 days from the date of receipt of the County's notice, Design-Builder shall respond by submitting a written statement describing any actions taken or proposed by the Design-Builder to correct the progress deficiency. If the Design-Builder's response includes a proposed recovery plan, the current progress schedule update shall be modified accordingly to show the Design-Builder's proposed recovery plan. Design-Builder may submit to the County a written explanation and supporting documentation to establish that such delinquency is attributable to conditions beyond its control. If the County approves the Design-Builder's recovery plan, the modified progress schedule update showing the recovery plan will be treated as the current update and will not replace the SOR.

If the Design-Builder fails to respond within the time required, or the response is unacceptable, its prequalification status may be changed as provided in Section 102.01 of Part 5, and the Design-Builder may be temporarily disqualified from bidding on contracts with the County as provided in Section 102.08 of Part 5, if progress remains unsatisfactory at the time of preparation of the next monthly progress estimate. The County may postpone taking these actions when a time extension is under consideration.

5. Schedule Impact Analysis (SIA)

In the event of an excusable delay that extends the completion date of the project beyond the Final Completion date, for which Design-Builder is seeking an extension of the contract time limit, it shall submit a request for an adjustment to the Agreement within the time period specified in Article 8 of Part 4 – General Conditions, unless directed otherwise in writing by the County. For requests for prospective changes or delays Design-Builder shall prepare and submit a SIA based on the TIA method. For requests for other delays Design-Builder shall prepare and submit a SIA based on the Contemporaneous Impact Analysis method. The Design-Builder shall submit along with its request for an adjustment to the Contract a SIA statement and applicable SIA schedules in accordance with the following:

1. **SIA Statement** – The SIA statement shall include the following.

    i) A description of the delay event, including time, date, and location of the event, if appropriate.

    ii) An explanation of why the delay constitutes a change to the Agreement, including references to applicable portions of the Contract.

    iii) A description of the activities or work items affected and any impact on the

project critical path, milestones, or completion date of the project, as applicable.

iv) A description and reasons for any shifts in the project critical path relative to the preceding schedule update for each schedule update contemporaneous with the delay event, as applicable.

v) A description and reasons for any revisions made to the SIA schedules since the previous submission, including added or deleted activities, and changes in logic, activity durations, calendars, and constraints.

vi) A SIA summary showing for each SIA schedule as described herein, the data date and calculated completion dates for all applicable milestones and the project completion date. The SIA summary shall also show any differences in the calculated finish dates for each successive SIA schedule relative to the previous SIA schedule. Any schedule slippages shall be categorized appropriately as excusable compensable, excusable non-compensable, or non-excusable.

vii) Any actions taken or needed to avoid or mitigate the delay impacts.

viii) Any additional information needed to justify the request or facilitate timely resolution of the issue.

2. **SIA Schedules** – The SIA submission shall include as applicable:

i) The SOR in place prior to the date the delay event started, showing the project critical path, affected activities, and any applicable milestones.

ii) The most recently accepted project schedule update in place prior to the date the delay event started, showing the affected activities, project critical path, and any applicable milestones, including any variances in the durations and completion dates relative to the SOR.

iii) A pre-delay schedule update showing the current status of the affected activities, project critical path, and any applicable milestones, including any variances in the durations and completion dates relative to the most recently accepted project schedule update in place prior to the date the delay event started.

iv) Any contemporaneous project schedule updates submitted during the delay event showing the current status of the delay event, affected activities, project critical path, and any applicable milestones, including any variances in the durations and completion dates relative to the previous submission.

v) A post-delay impacted schedule, showing the current status of the delay event, affected activities, project critical path, and any applicable milestones, including any variances in the durations and completion dates relative to the previous submission.

Date: 10/28/2016

Exhibit 11.1.10

Correspondence Tracking Log for Project Records

Project: XYZ Project
Project:
CONTRACT ID #:

CORR	Correspondence
EMAIL	Email
MEET	Meeting Minutes
MEMO	Memo (Internal)
MISC	Miscellaneous Files

ID Number	Process	Description / Issue	Pay Package Reference	Date Received or Sent	From	To	Status (Open/ Closed	Record File Location Or Insert Hyperlink (ctrl + k)
C00011111DB00-1	CORR	VDOT to Design-Builder - Notice of Intent Letter	n/a	5/9/2007	VDOT	Design-Builder	Closed	
C00011111DB00-2	CORR	Performance and Payment Bonds	n/a	5/11/2007	Design-Builder	AAA	Closed	
C00011111DB00-3	CORR	Certificate of Insurance	n/a	5/15/2007	Design-Builder	CCC	Closed	
C00011111DB00-4	CORR	SWPP Certification Permit	n/a	5/15/2007	Design-Builder	Design-Builder	Closed	
C00011111DB00-5	CORR	C112 - Binding Agreements	n/a	5/17/2007	Design-Builder	BBB	Closed	
C00011111DB00-6	CORR	VDOT Request for Design-Builder Preconstruction Meeting	n/a	6/9/2007	VDOT	Design-Builder	Closed	
C00011111DB00-7	CORR	Design-Builder to VDOT - Escrow Document Review Meeting	n/a	6/15/2007	Design-Builder	VDOT	Closed	
C00011111DB00-8	CORR	VDOT to Design-Builder - CTB Award	n/a	6/21/2007	VDOT	Design-Builder	Closed	
C00011111DB00-9	MISC	Design-Builder Questions Regarding Final Contract Document Timeline	n/a	6/22/2007	Design-Builder	VDOT	Closed	
C00011111DB00-10	CORR	Design-Builder to VDOT - Preconstruction Meeting	n/a	7/17/2007	Design-Builder	VDOT	Closed	
C00011111DB00-11	CORR	VDOT to Design-Builder - Final Contract Documents	n/a	7/18/2007	VDOT	Design-Builder	Closed	
C00011111DB00-12	MEET	Preconstruction Meeting Minutes	n/a	7/23/2007	Design-Builder	VDOT	Closed	
C00011111DB00-13	CORR	VDOT to Design-Builder - Notice to Proceed	n/a	8/2/2007	VDOT	Design-Builder	Closed	
C00011111DB00-14	CORR	Design-Builder to VDOT Permit Application Request	1	8/2/2007	Design-Builder	VDOT	Closed	
C00011111DB00-15	EMAIL	Geotechnical Investigations - Preliminary Data	2	8/8/2007	Design-Builder	Design-Builder	Closed	
C00011111DB00-16	CORR	Design-Builder to VDOT - Flood Plain Study Inquiry	3	8/9/2007	Design-Builder	VDOT	Closed	
C00011111DB00-17	CORR	Payment Requisition # 1 - First submission	1,2,3	8/10/2007	Design-Builder	VDOT	Closed	
C00011111DB00-18	CORR	Payment Requisition # 1 - Second submission	1,2,3	8/13/2007	Design-Builder	VDOT	Closed	
C00011111DB00-19	MEMO	VDOT Acknowledgement of Receipt of Preliminary Roadway Plans	4	8/14/2007	VDOT	Design-Builder	Closed	
C00011111DB00-20	MEMO	VDOT to Design-Builder - ROW Plan Submittal 1 Comments	5	8/22/2007	VDOT	Design-Builder	Closed	
C00011111DB00-21	CORR	VDOT ID Outstanding Issues to Design-Builder	5	8/24/2007	VDOT	Design-Builder	Closed	
C00011111DB00-22	CORR	VDOT to Design-Builder - Comments Regarding Preliminary Roadway Plans	4	9/5/2007	VDOT	Design-Builder	Closed	
C00011111DB00-23	CORR	Payment Requisition # 2	4,5	9/10/2007	Design-Builder	VDOT	Closed	
C00011111DB00-24	MEMO	NVRPA Comments - Bridge Details	6	9/16/2007	NVRPA	Design-Builder	Closed	
C00011111DB00-25	CORR	Design-Builder to VDOT - Outstanding Issues	n/a	9/18/2007	Design-Builder	VDOT	Closed	
C00011111DB00-26	CORR	FWD: FOIA Request Mrs. Smith	n/a	9/20/2007	VDOT	Design-Builder	Closed	
C00011111DB00-27	CORR	FOIA Response to Mrs. Smith	n/a	9/23/2007	Design-Builder	VDOT	Closed	
C00011111DB00-28	MEMO	Memo to File - Reporting Requirements	n/a	9/25/2007	DDD	File	Closed	
C00011111DB00-29	CORR	Conflict of Interest Request for Determination	n/a	9/27/2007	OAG	VDOT	Closed	
C00011111DB00-30	CORR	VDOT Acknowledgement of Receipt of Final Roadway Plans	7	10/4/2007	VDOT	Design-Builder	Closed	
C00011111DB00-31	CORR	Payment Requisition # 3	6,7	10/10/2007	Design-Builder	VDOT	Closed	
C00011111DB00-32	CORR	VDOT to Design-Builder - Comments Regarding Final Roadway Plans	7	10/17/2007	VDOT	Design-Builder	Closed	
C00011111DB00-33	MEET	Permit Coordination Meeting Minutes	8	10/26/2007	VDOT	Design-Builder	Closed	
C00011111DB00-34	CORR	Town of Leesburg Comment - Utililty Relocation Plans	9	10/27/2007	Design-Builder	VDOT	Open	

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-020**

RE: **AUTHORIZE CLOSED MEETING**

ACTION: **APPROVED**

WHEREAS, the Board of County Supervisors desires to consult with legal counsel and staff and discuss in Closed Meeting the following matters:

- Personnel discussion relating to the appointments to the Metropolitan Washington Council of Governments committees and boards, the Virginia Railway Express Operations Board, the Virginia Association of Counties Steering Committees and Operational Committees, (§2.2-3711(A) (1)); and
- Consultation and discussion with legal counsel and briefings by staff members pertaining to the legal advice on actual litigation regarding Environmental Cost Recovery and Contribution Related to 714 Gil Harbin Industrial Boulevard, Valdosta, Lowndes County, Georgia, CARE, where such consultation or briefing in open meeting would adversely affect the bargaining position, negotiating strategy or litigating posture of the public body, (§2.2-3711(A) (7)); and
- Consultation with legal counsel and briefings by staff members pertaining to legal advice regarding Rezoning #REZ2019-00038, 3716 Pennington Lane, and Special Use Permit #SUP2019-00045, 316 Pennington Lane, requiring the provision of legal advice, where such consultation, discussion or briefing in open meeting would adversely affect the bargaining position, negotiating strategy or litigating posture of the public body, along with the related consultation and discussion with legal counsel and briefings by staff members pertaining to the legal advice on actual litigation in the matter of Matthew Dennis and Shyni Dennis v. Board of County Supervisors of Prince William County, VA; Circuit Court Case No. CL18-3370, where such consultation or briefing in open meeting would adversely affect the bargaining position, negotiating strategy or litigating posture of the public body, (§2.2-3711(A) (7) and (§2.2-3711(A) (8)); and

WHEREAS, pursuant to §2.2-3711(A) (1), (7), and (8) VA Code Ann., such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Board of County Supervisors of Prince William County hereby authorizes discussion of the above specified matters in Closed Meeting.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
County Attorney

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-021**

RE: **APPOINT – MAUREEN BRENNAN, ASAD CHAUDHRY, BRYAN DOLIESLAGER, JIM LARKIN, AND CATHERINE MADIGAN TO THE TOURISM INDUSTRY ADVISORY BOARD**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors authorized creation of a Tourism Industry Advisory Board via Resolution Number17-365 on December 31, 2017; and

WHEREAS, the terms of office for five (5) board member ended on December 31, 2020; and

WHEREAS, the Tourism Industry Advisory Board Charter requires the Prince William County Department of Parks, Recreation, and Tourism Director to recommend prospective appointees to the Prince William Board of County Supervisors for consideration and appointment; and

WHEREAS, the Department of Parks, Recreation, and Tourism Director recommends that Maureen Brennan, Asad Chaudhry, Bryan Dolieslager, Jim Larkin, and Catherine Madigan be appointed to serve another term; and

WHEREAS, a Notice of Intent to Appoint Maureen Brennan, Asad Chaudhry, Bryan Dolieslager, Jim Larkin, and Catherine Madigan to the Tourism Industry Advisory Board was offered by Chair Wheeler at the meeting of the Prince William Board of County Supervisors on December 8, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints Maureen Brennan, Asad Chaudhry, Bryan Dolieslager, Jim Larkin, and Catherine Madigan to the Tourism Industry Advisory Board.

NAME	**TYPE**	**MEMBERSHIP**	**TERM**
Maureen Brennan Prince William Ice Center 5180 Dale Boulevard Woodbridge, VA 22193	REG	Attractions	12/31/2022
Asad Chaudhry Comfort Inn Dumfries 16931 Old Stage Road Dumfries, VA 22025	REG	Lodging	12/31/2022

NAME	TYPE	MEMBERSHIP	TERM
Bryan Dolieslager Inn at Evergreen B&B 15890 Berkeley Drive Haymarket, VA 20169	REG	Lodging	12/31/2022
Jim Larkin MurLarkey Distilled Spirits 7961 Gainsford Court Bristow, VA 20136	REG	Non-Lodging Brewer/Distiller/Winery	12/31/2022
Cathy Madigan Madigan's Waterfront 201 Mill Street Occoquan, Virginia 22125	REG	Non-Lodging Restaurant	12/31/2022

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointee
Tourism Industry Advisory Board Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 21, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-022**

RE: **APPOINT – MONICA HARMISON TO THE TOURISM INDUSTRY ADVISORY BOARD**

ACTION: **APPROVED**

WHEREAS, Claudia Friar was reappointed to the Tourism Industry Advisory Board on June 2, 2020, via Resolution Number 20-416; and

WHEREAS, Claudia Friar resigned her position on December 31, 2021, thereby creating a vacant position with a term ending December 31, 2021; and

WHEREAS, Monica Harmison has expressed interest in filling the vacancy and serving the remainder of Claudia Friar's term; and

WHEREAS, the Department of Parks, Recreation, and Tourism Director recommends that Monica Harmison be appointed to serve the unexpired term of Claudia Friar; and

WHEREAS, a Notice of Intent to Appoint Monica Harmison to the Tourism Industry Advisory Board was offered by Chair Wheeler at the meeting of the Prince William Board of County Supervisors on December 8, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints Monica Harmison to the Tourism Industry Advisory Board.

NAME	**TYPE**	**MEMBERSHIP**	**TERM**
Monica Harmison Uptown Alley 8300 Sudley Road Manassas, VA 20109	REG	Attractions	12/31/2021

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointee
Tourism Industry Advisory Board Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-023**

RE: **APPOINT – DENISE MCPHAIL – HYLTON PERFORMING ARTS CENTER EXECUTIVE BOARD**

ACTION: **APPROVED**

WHEREAS, due to an expired term, a vacancy exists for a Regular At-Large Representative to the Hylton Performing Arts Center Executive Board; and

WHEREAS, Chair Wheeler desires to appoint Denise McPhail as a Regular At-Large Representative to the Hylton Performing Arts Center Executive Board; and

WHEREAS, a Notice of Intent to Appoint Denise McPhail as a Regular At-Large Representative to the Hylton Performing Arts Center Executive Board was offered at the meeting of the Prince William Board of County Supervisors on December 8, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints Denise McPhail as a Regular At-Large Representative to the Hylton Performing Arts Center Executive Board.

NAME	**TYPE**	**REP**	**TERM**
Denise McPhail 4391 Decatur Drive Woodbridge, VA 22193	REG	ATL	12/31/2024

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointee
Hylton Performing Arts Center Executive Board Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY**

SECOND: **VEGA**

January 12, 2021
Regular Meeting
Res. No. 21-024

RE: **APPOINT – RONALD D. YOHO – BOARD OF EQUALIZATION**

ACTION: **APPROVED**

WHEREAS, the term of Ronald D. Yoho as a Regular At-Large Representative to the Board of Equalization expired December 31, 2020; and

WHEREAS, Supervisor Angry desires to appoint Ronald D. Yoho as a Regular At-Large Representative to the Board of Equalization; and

WHEREAS, a Notice of Intent to Appoint Ronald D. Yoho as a Regular At-Large Representative to the Board of Equalization was offered at the meeting of the Prince William Board of County Supervisors on December 15, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints Ronald D. Yoho as a Regular At-Large Representative to the Board of Equalization;

BE IT FURTHER RESOLVED that the term of office for this appointment is one year and the appointee shall serve at the pleasure of the Board during that term.

NAME	**TYPE**	**REP**	**TERM**
Ronald D. Yoho 3248 Cismont Court Woodbridge, VA 22192	REG	ATL (NE)	12/31/2021

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointee
Board of Equalization Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-025**

RE: **APPOINT – JASON WILLIAMS – PRINCE WILLIAM COUNTY TRAILS AND BLUEWAYS COUNCIL**

ACTION: **APPROVED**

WHEREAS, due to a vacancy on the Prince William County Trails and Blueways Council; and

WHEREAS, Supervisor Angry desires to appoint Jason Williams as a Regular Neabsco Magisterial District Representative to the Prince William County Trails and Blueways Council; and

WHEREAS, a Notice of Intent to Appoint Jason Williams as a Regular Neabsco Magisterial District Representative to the Prince William County Trails and Blueways Council was offered at the meeting of the Prince William Board of County Supervisors on December 15, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints Jason Williams as a Regular Neabsco Magisterial District Representative to the Prince William County Trails and Blueways Council;

BE IT FURTHER RESOLVED that the term of office for this appointment is coterminous with that of the Board of County Supervisor which appointed them and they shall serve at the pleasure of the Board during that term.

NAME	**TYPE**	**REP**	**TERM**
Jason Williams 5256 Quebec Place Woodbridge, VA 22193	REG	NE	12/31/2023

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointee
Prince William County Trails and Blueways Council Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting

SECOND: **VEGA** **Res. No. 21-026**

RE: **APPOINT – WILLIAM J. DEUTSCH – BOARD OF EQUALIZATION**

ACTION: **APPROVED**

WHEREAS, the term of William J. Deutsch as a Regular At-Large Representative to the Board of Equalization expired December 31, 2020; and

WHEREAS, Supervisor Vega desires to appoint William J. Deutsch as a Regular At-Large Representative to the Board of Equalization; and

WHEREAS, a Notice of Intent to Appoint William J. Deutsch as a Regular At-Large Representative to the Board of Equalization was offered at the meeting of the Prince William Board of County Supervisors on December 15, 2020;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints William J. Deutsch as a Regular At-Large Representative to the Board of Equalization;

BE IT FURTHER RESOLVED that the term of office for this appointment is one year and the appointee shall serve at the pleasure of the Board during that term.

NAME	**TYPE**	**REP**	**TERM**
William J. Deutsch 8832 Middleburg Court Manassas, VA 20109	REG	ATL (CO)	12/31/2021

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Appointees
Board of Equalization Liaison
BCC Manual

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Res. No. 21-027**

RE: **CREATE AND ESTABLISH THE PRINCE WILLIAM COUNTY VETERANS COMMISSION**

ACTION: **APPROVED**

WHEREAS, at Supervisor Victor Angry's request, the Board of County Supervisors (Board) issued Directive Number 4970 on January 21, 2020, directing County staff and the County Attorney's Office to work with his office to bring a proposal before the Board for the creation of a County Veterans Commission; and

WHEREAS, Directive Number 4970 states that, "this Commission should be representative of the veterans community in the County, including the different branches of the armed forces, different eras of the service in the armed forces, different ranks and areas of service, including officers and enlisted members, and relatives of veterans;" and

WHEREAS, Directive Number 4970 states that, "the Commission is intended to provide an additional opportunity for veterans and their relatives to discuss and consider issues and concerns of importance to the Veterans community, and then share these issues and concerns with the Board, including any Commission recommendations on potential action for the Board's consideration;" and

WHEREAS, several organizations currently serve veterans of the United State's armed forces in the County; however, there is no single group that brings these organizations together or that advises the Board on issues related to veterans; and

WHEREAS, the Board fully supports veterans of the U.S. armed forces and their families, and recognizes their service and sacrifice to our country, and the serious and unique issues facing veterans and their families; and

WHEREAS, the creation of a Veterans Commission would create an advisory group to the Board that advocates for issues related to veterans of the U.S. armed forces and their families, and exemplifies the Board's and the County's commitment to veterans and their families;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby creates and establishes the Prince William County Veterans Commission (Commission) to work with veterans of the U.S. armed forces and their families, members of the community interested in veterans' issues, and other veterans organizations working with and serving veterans of the U.S. armed forces to identify areas or issues of importance and/or concerns to the veterans community, and make such reports and recommendations to the Board as the Commission deems necessary and/or appropriate on how to address veterans' issues and concerns;

BE IT FURTHER RESOLVED that the Commission will consist of eight (8) member appointed by the Board, one member representing each magisterial district and one member appointed At-Large, such members to be appointed by the Board at a future Board meeting(s);

BE IT FURTHER RESOLVED that the Commission should be made of up veterans who are honorably discharged from the U.S. armed forces (as shown on the DD 214) and represent the different branches of the U.S. armed forces (to include, but not limited to Army, Navy, Air Force, Marine Corps, Coast Guard, The Reserves and National Guard), all ranks and areas of service, officers and enlisted members; relatives of veterans of the U.S. armed forces; individuals interested in veterans' issues; and veterans organizations;

BE IT FURTHER RESOLVED that Commission members shall serve at the pleasure of the Board and have terms coterminous with the Board;

BE IT FURTHER RESOLVED that the Commission will elect a Chair and Vice Chair, and may adopt a charter, by-laws, and rules of procedure as the Commission deems necessary or appropriate;

BE IT FURTHER RESOLVED that the Commission will hold an annual meeting and such other meetings as it deems necessary or appropriate;

BE IT FURTHER RESOLVED that the County Executive is directed to provide a County staff liaison to the Commission;

BE IT FURTHER RESOLVED that the Commission will, as it deems necessary or appropriate, coordinate with other veterans organizations, and the federal and state governments, to help provide information to veterans of the U.S. armed forces and their families about information, resources, and services.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **VEGA** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-028**

RE: **CERTIFY CLOSED MEETING**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors has this day adjourned into Closed Meeting in accordance with a formal vote of the Board, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby certifies that to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applies, and ii) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed or considered by the Board. No member dissents from the aforesaid certification.

- Adjourned into Closed Meeting at	6:06 P.M.
- Reported out from Closed Meeting at	7:02 P.M.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **BAILEY** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Res. No. 21-029**

RE: **APPROVE SETTLEMENT AGREEMENT FOR FORMER CARE ENVIROMENTAL SITE IN VALDOSTA, GEORGIA**

ACTION: **APPROVED**

WHEREAS, CARE Environmental was a Prince William County (PWC) contracted vendor that provided waste recycling and disposal services for Household Hazardous Waste (HHW) collected by Solid Waste, and regulated hazardous waste generated by County departments and facilities from 1993 to 2011; and

WHEREAS, the federal Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) set a "cradle-to-grave" level of responsibility for hazardous waste generators and management facilities, who must track waste from the moment it enters the site as a hazardous material to the eventual treatment or disposal of that material; and

WHEREAS, on October 30, 2020, the County Executive's Office received notification from the Georgia Department of Natural Resources (GA-DNR) that Prince William County was identified as a potential responsible party for cleanup and site mitigation for a warehouse located in Georgia where CARE Environmental improperly and illegally stored hazardous waste; and

WHEREAS, a settlement offer has been received from the site owner's legal counsel for a release of claims against Prince William County for any costs or fees for the remediation or restoration of the site;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors herby authorizes a settlement payment, not to exceed $20,000, and further authorizes the Director of Public Works to sign the settlement agreement, subject to the approval of the County Attorney's Office, and to implement the agreement terms.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
County Attorney
Public Works Director
Finance Director

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Res. No. 21-030**

RE: **RECOMMEND – APPOINTMENTS TO THE VIRGINIA RAILWAY EXPRESS OPERATIONS BOARD**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors desires to update representation on the Virginia Railway Express (VRE) Operations Board;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby recommends the following regular (voting) and alternate representative appointments to the Virginia Railway Express Operations Board:

NAME	**REP**	**TYPE**
Supervisor Andrea O. Bailey Potomac Magisterial District 15941 Donald Curtis Drive, Suite 145 Woodbridge, VA 22191	REG	BOCS
Supervisor Margaret Angela Franklin Woodbridge Magisterial District 15941 Donald Curtis Drive, Suite 140 Woodbridge, VA 22191	REG	BOCS
Supervisor Jeanine M. Lawson Brentsville Magisterial District 9440 Innovation Drive Manassas, VA 20109	REG	BOCS
Supervisor Victor S. Angry Neabsco Magisterial District 2700 Neabsco Common Place, Suite 125 Woodbridge, VA 22191	ALT	BOCS
Supervisor Pete Candland Gainesville Magisterial District 7001 Heritage Village Plaza, Suite 210 Gainesville, VA 20155	ALT	BOCS
Chair Ann B. Wheeler At-Large 1 County Complex Court Prince William, VA 22192	ALT	BOCS

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Maddux
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-031**

RE: **RECOMMEND 2021 STEERING AND OPERATIONAL COMMITTEE APPOINTMENTS TO THE VIRGINIA ASSOCIATION OF COUNTIES**

ACTION: **APPROVED**

WHEREAS, the Virginia Association of Counties exists to support county officials and to effectively represent, promote, and protect the interests of counties to better serve the people of Virginia; and

WHEREAS, the Prince William Board of County Supervisors is an active participant in the Virginia Association of Counties (VACo); and

WHEREAS, on January 12, 2021, the Prince William Board of County Supervisors considered various appointments to VACo's Steering and Operational Committees;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby recommends the following members to serve on the following Committees of the Virginia Association of Counties:

MEMBER	**STEERING COMMITTES**
Pete Candland	Economic Development and Planning
Margaret Angela Franklin	Education
Jeanine M. Lawson	Environment and Agriculture
Michelle Attreed	Finance
Victor S. Angry	General Government
Elijah T. Johnson	Health and Human Resources
Ann B. Wheeler	Transportation

MEMBER	**OPERATIONAL COMMITTES**
None	Budget and Finance
None	Conference Planning
Ann B. Wheeler	Nominating

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting
SECOND: **BODDYE** **Res. No. 21-032**

RE: **APPOINT – METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS APPOINTMENTS TO THE COUNCIL OF GOVERNMENTS BOARD AND POLICY COMMITTEES FOR THE 2021 CALENDAR YEAR**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors is an active participant in the Metropolitan Washington Council of Governments (COG); and

WHEREAS, on January 12, 2021, the Prince William Board of County Supervisors made the following appointments to the Council of Government's Independent Policy Boards and Committees;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby appoints the following members to serve on the Metropolitan Washington Council of Governments Board and Policy Committees:

MEMBER	**INDEPENDENT POLICY BOARD**
Ann B. Wheeler Andrea O. Bailey	Board of Directors
Ann B. Wheeler Victor S. Angry *Ricardo Canizales** *Paolo Belita**	Northern Capital Region Transportation Planning Board (TPB)
Kenny A. Boddye *Robert Burkhart** *Paolo Belita**	Metropolitan Washington Air Quality Committee
MEMBER	**POLICY COMMITTEES**
Margaret Angela Franklin *Jeanine M. Lawson**	Region Forward Coalition
Andrea O. Bailey Yesli Vega *Courtney Tierney**	Human Services Policy Committee
Ann B. Wheeler *Tom Smith**	Climate Energy and Environment Policy Committee

MEMBER	**POLICY COMMITTEES**
Kenny A. Boddye	Chesapeake Bay and Water Resources
*Marc Aveni**	Policy Committee

*Board / Staff Alternate

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board

MOTION: **FRANKLIN** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Ord. No. 21-01**

RE: **SPECIAL USE PERMIT #SUP2021-00006, KURDEE FAMILY DAY HOME**
WOODBRIDGE MAGISTERIAL DISTRICT

ACTION: **APPROVED**

WHEREAS, this is a request to allow a Special Use Permit (SUP) for a family day home with up to seven children and one non-resident employee in a single-family attached dwelling; and

WHEREAS, the subject site is located at 16761 Capon Tree Lane, which is in the River Oaks Community Association. The site is identified on County maps as GPIN 8289-79-6176; and

WHEREAS, the site is zoned R-6, Suburban Residential; and

WHEREAS, the site is designated SRM, Suburban Residential Medium, in the Comprehensive Plan, and is located in the Potomac Communities Revitalization Plan; and

WHEREAS, staff has reviewed the subject application and recommends approval, as stated in the staff report; and

WHEREAS, the Planning Commission, at its public hearing on November 18, 2020, recommended approval, as stated in Resolution Number 20-083, on the Expedited Agenda; and

WHEREAS, a Board of County Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on January 12, 2021, and interested citizens were heard; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, convenience, general welfare, and good zoning practice are served by the approval of the request;

NOW, THEREFORE, BE IT ORDAINED that the Prince William Board of County Supervisors hereby approves Special Use Permit #SUP2021-00006, Kurdee Family Day Home, subject to the conditions dated November 25, 2020;

BE IT FURTHER ORDAINED that the Prince William Board of County Supervisors' approval and adoption of any proffered conditions does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

ATTACHMENT: Conditions, dated November 25, 2020

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For information:
Planning Director

Ms. Alexandra Kurdee
16761 Capon Tree Lane
Woodbridge, Virginia 22191

ATTEST: Andrea P. Madden
Clerk to the Board

Conditions
Applicant/Owner: Alexandra Kurdee
Zoning: R-6, Suburban Residential
Acreage: ±0.0434 acres
GPIN: 8289-79-6176 ("Property")
District: Woodbridge
#SUP2021-00006, Kurdee Family Day Home
November 25, 2020

The following conditions are intended to offset the impacts of the proposal and to render the application consistent with the applicable chapters of the Comprehensive Plan and the surrounding areas. If the conditions of this Special Use Permit (SUP) are in conflict with the Zoning Ordinance, and/or the Design and Construction Standards Manual (DCSM), the more restrictive standards shall apply, except as specifically allowed by this SUP. The Applicant shall obtain Zoning Permit approval for a family day home within two (2) years of the family day home use.

1. Use Parameters:

    a. Use & Area Limitations – The family day home shall be limited to a maximum of seven (7) non-resident children and one (1) non-resident employee. The family day home area shall be limited to the residence and backyard area of the subject property.

    b. Hours of Operation – 6:00 AM – 6:30 PM Monday through Friday.

    c. Child drop-off/pick-up – Arrival and departure times shall be staggered. There shall be no more than one family dropping off or picking up children within the townhouse unit at a time.

    d. Loading Zones – The site's two designated parking spaces shall be kept clear for the arrival and departure of children during the hours of operation. The arrival and departure of children shall occur only in the parking areas in front of the Applicant's townhouse unit. Vehicles associated with this use shall never block drive aisles or pedestrian walkways.

    e. School-Aged Children – All school aged children in the Applicant's care shall be accompanied to and from the public school and/or community bus stop by the applicant or non-resident employee.

    f. Compliance – The family day home shall maintain compliance with all County, State, and Federal laws, ordinances, codes, requirements, and regulations.

2. Safety:

    a. State license – Prior to commencement of this family day home use for a maximum of seven (7) children, the Applicant shall acquire and provide proof of a state childcare license from the Virginia Department of Social Services and provide proof of such to

Zoning Administration staff prior to requesting zoning approval for the family day home (HOC2) and the occupancy permit approval. The Applicant has up to six (6) months to acquire the state childcare license upon Special Use Permit Approval.

b. The Applicant shall ensure childcare operations adhere to all federal, state, and local COVID-19 guidelines and regulations, including but not limited to social distancing, masks, cleaning, and disinfecting.

3. Community Design

a. Signs – Signage associated with this family day home shall be prohibited.

b. Exterior – The exterior of the residential dwelling shall not indicate that the residence is also being utilized as a family day home business.

MOTION: **LAWSON** **January 12, 2021**
Regular Meeting

SECOND: **ANGRY** **Ord. No. 21-02**

RE: **REZONING #REZ2020-00011, GAINESVILLE TECH PARK – BRENTSVILLE MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, this is a request to rezone ±136.41 acres from A-1, Agricultural, to M-2, Light Industrial, to develop flex industrial and data center uses, along with associated modifications for increased building height and additional signage; and

WHEREAS, the site is located at the southwestern intersection of Wellington Road and Devlin Road, southeast of the intersection of Wellington Road and Piney Branch Lane, and north of Chris Yung Elementary School; and

WHEREAS, the subject property is currently addressed as 8008 Devlin Road, and is identified on County maps as GPIN 7496-78-6326; and

WHEREAS, the site currently zoned A-1, Agricultural, and is located within the Data Center Opportunity Zone Overlay District and Airport Safety Overlay District; and

WHEREAS, the site is designated FEC, Flexible Use Employment Center, ER, Environmental Resource, and SRL, Suburban Residential Low, in the Comprehensive Plan; and

WHEREAS, staff has reviewed the subject application and recommends approval, as stated in the staff report; and

WHEREAS, the Planning Commission, at its public hearing on December 9, 2020, recommended approval, as stated in Resolution Number 20-093, on the Regular Agenda; and

WHEREAS, a Board of County Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on January 12, 2021, and interested citizens were heard; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, convenience, general welfare, and good zoning practice are served by the approval of the request;

NOW, THEREFORE, BE IT ORDAINED that the Prince William Board of County Supervisors hereby approves Rezoning #REZ2020-00011, Gainesville Tech Park, subject to the proffers dated January 4, 2021;

BE IT FURTHER ORDAINED that the Prince William Board of County Supervisors' approval and adoption of any proffered conditions does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

ATTACHMENT: Proffer Statement, dated January 4, 2021

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For information:
Planning Director

Ms. Marian Harders
Walsh, Colucci, Lubeley & Walsh, PC
4310 Prince William Parkway, Suite 300
Prince William, VA 22192

ATTEST: Andrea P. Madden
Clerk to the Board

PROFFER STATEMENT

RE: REZ2020-00011, Gainesville Tech Park

Record Owner: Edith H. Rameika, Trustee

Applicant: St. John Properties

Property: ±136.4114 acres A-1, Agricultural to M-2, Light Industrial
G.P.I.N. 7496-78-6326 (the "Property")
Brentsville Magisterial District

Date: January 4, 2021

The undersigned hereby proffers that the use and development of the subject Property shall be in strict conformance with the following conditions. In the event the above-referenced rezoning is not granted as applied for by Applicant, these proffers shall be withdrawn and are null and void.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. Any improvements proffered herein shall be provided at the time of development of that portion of the site served by the improvement, unless otherwise specified. The term "Applicant" as referenced herein shall include within its meaning all future owners and successors in interest.

For purposes of reference in this Proffer Statement, the General Development Plan (GDP) shall be the plan prepared by christopher consultants entitled "General Development Plan, Gainesville Tech Park," (Sheets 1-3), dated December 12, 2019, revised January 4, 2021.

COMMUNITY DESIGN

1. Development of the Property shall be in substantial accordance with the GDP.

2. The primary materials utilized for the front façade of any building facing and within 200 feet of Wellington Road shall be constructed of brick, stone,

architectural concrete masonry unit (e.g. regal stone, split face, precision, ground face), stucco, architectural poured-in-place or precast concrete panels or architectural metal panels, but not plain concrete block. Compliance with this proffer shall be evidenced with the submission of building elevations for review and approval at least two weeks prior to the issuance of the building permit release letter. Any substantive changes to the design and/or materials shall be submitted to the Planning Director for review and approval. Such approval shall be based on a determination that the changes result in a building of similar or greater quality.

3. Any data center use shall be designed in accordance with the data center design standards and design guidelines set forth in Section 32-509.02.4.(A) – (F) of the Zoning Ordinance.

4. In addition to screening and landscaping requirements set forth in Section 32-400.08 of the Zoning Ordinance, all loading and service areas located within 200 feet of and visible from Wellington Road shall be screened with plantings or other methods acceptable to Prince William County to mitigate visibility from Wellington Road to the extent reasonably practical.

5. The Applicant shall provide a residential buffer area having a minimum width of fifty feet (50') of undisturbed buffer area, plus a twenty foot (20’) wide planted evergreen buffer as substantially shown on the GDP. The buffer areas combined shall provide a seventy foot (70’) buffer area adjacent to the common property boundary with the residential lots located on the eastern property line of the Property. The 20’ evergreen buffer shall be planted with native evergreen trees and shrubs at a rate of one hundred thirty (130) plant units per 100 linear feet as plant units are defined in Table 8-3 of the Design and Construction Standards Manual (DCSM). In the event Area B, as shown on the GDP, is developed with a data center use then in that case the Applicant shall further expand the 20’ evergreen buffer to 30’, and the 30’ evergreen buffer shall be planted with native evergreen trees and shrubs at a rate of 195 plant units per 100 linear feet. Compliance with this proffer shall be demonstrated on the final site plan.

6. Within the 20' landscape strip adjacent to Wellington Road and Devlin Road, the landscape strips shall be planted at a rate of one hundred and thirty (130) plant units per 100 linear feet, and shall include trees, shrubs, ornamental grasses, and perennials. If a data center use is developed in either Area A or Area B, as shown on the GDP (the "Development Area(s)"), then in that case the Applicant shall provide in that area with the data center use, either Area A and/or Area B, an additional 10' evergreen landscape strip adjacent to the initial 20' landscape strip within that portion of the Development Area. The additional 10' evergreen strip shall be planted with native evergreen trees and shrubs at a rate of 65 plant units per 100 linear feet.

7. Outside Storage – Notwithstanding Section 32-400.12 of the Zoning Ordinance, Outside Storage associated with a flex industrial use shall not be allowed on the Property within 500 feet of a residentially zoned property.

ENVIRONMENT

8. The Applicant shall make a monetary contribution to the Prince William Board of County Supervisors in the amount of $75.00 per acre for water quality monitoring, drainage improvements and/or stream restoration projects. Said contribution shall be made prior to and as a condition of final site plan approval with the amount to be based on the acreage reflected on the site plan.

9. Stormwater Management Facilities (SWM) and Best Management Practices (BMP) for the Property shall be provided for each phase as the site is developed. Final location of said facilities shall be determined at the time of final site plan approval.

10. The Applicant agrees that fuels, oils, anti-freeze, solvents, or other pollutants or flammable substances shall be properly disposed of or recycled and shall not be discharged into the storm water system, sanitary sewer, on the ground or surface water.

11. In the event motor vehicle service and/or maintenance facilities are provided on the Property, said facilities shall be equipped with a water quality inlet

and/or pretreatment device; type(s) and location(s) of said pretreatment device shall be determined at each final site plan.

12. The Applicant shall limit clearing and grading to within those areas depicted on the GDP subject to minor revisions in accordance with final engineering considerations at the time of final site plan review and approval. Those areas outside the limits of clearing and those areas identified on the GDP as Natural Open Space Areas shall remain in their natural undisturbed condition with the exception of clearing, grading and other land disturbing activity required for the pedestrian easement (as further described below), the installation and maintenance of crossings for: utility points, electric lines running to/from the electric transmission lines, sanitary and storm outfalls, and supplemental planting as approved by the County. Clearing allowed pursuant to the Proffer shall be kept to a minimum. The foregoing restrictions shall not preclude the Applicant from utilizing the Natural Open Space Areas for stormwater management/BMP calculations and credits. The Property owner shall have the right to prune and remove objectionable vegetation, such as poison ivy, poison oak, etc., as well as damaged and/or diseased vegetation.

FIRE AND RESCUE

13. The Applicant shall make a monetary contribution to the Prince William Board of County Supervisors in the amount of $0.61 per square foot of building area constructed on the Property. Said contribution shall be used for fire and rescue purposes and shall be paid prior to and as a condition of the issuance of a building permit release letter for each building constructed on the Property.

TRANSPORTATION

14. Access to the Property may be provided via up to three entrances: one entrance from Devlin Road, one entrance from Wellington Road, and one entrance from Piney Branch Lane, as generally shown on the GDP. The final location and design of the entrances shall be shown on the applicable final site plan proposing such entrance(s).

15. The Applicant shall dedicate, at no cost to the County, right-of-way, up to 64 feet from the existing center line along Wellington Road, as shown on the GDP. Said dedication shall be made at the time of and in connection with the first final site plan approval for the Property.

16. Piney Branch Lane Entrance – On the first final site plan that shows the Piney Branch Lane entrance, the Applicant shall provide, at no cost to the County, left and right turn lanes from Wellington Road to Piney Branch Road, as generally identified on the GDP, subject to obtaining necessary right of way, and subject to County and VDOT approval. Said turn lane improvements shall include:

    a. Construct an eastbound right turn lane with 100' storage bay and 100' taper.

    b. Restripe the existing eastbound left/thru/right lane to provide an eastbound left turn lane with 100' storage bay and 100' taper.

    c. Construct a west bound right turn lane with 100' storage bay and 100' taper.

    d. Restripe existing westbound left/thru lane to provide a westbound left turn lane with 100' storage bay and 100' taper.

    e. Construction of a northbound left turn lane with 100' storage bay and 100' taper from Piney Branch Lane onto Wellington Road.

17. Wellington Road Entrance - On the first final site plan that shows the Wellington Road entrance, the Applicant shall provide, at no cost to the County, left and right turn lane from Wellington Road and Gainsford Court, as generally identified on the GDP, subject to County and VDOT approval. Said turn lane improvements shall include:

    a. Construct an eastbound right turn lane with 100' storage bay and 100' taper.

b. Restripe existing painted median to provide a westbound left turn lane with 100' storage bay and 100' taper.

18. Devlin Road Entrance - On the first final site plan that shows the Devlin Road entrance, the Applicant shall construct, at no cost to the County, a right turn lane with 100' storage bay and 100' taper from Devlin Road at the eastern site access, as generally identified on the GDP, subject to County and VDOT approval. Said Devlin entrance shall be limited to a right-in/right-out movement.

19. In the event the County constructs road widening improvements along Wellington Road, between University Boulevard and Balls Ford Road, the Applicant shall provide, at the request of the County and at no cost to the County, utility easements and temporary construction easements as needed along the Property frontage for the widening of Wellington Road, and the Devlin Road improvements associated with Prince William County project #21C17001.

20. The Applicant shall provide at least one bike rack in each land bay to be developed. The location and design of the bike rack(s) shall be determined at first final site plan for the respective land bay.

WATER AND SANITARY SEWER

21. All development on the Property shall be connected to public water and sewer service and the Applicant shall be responsible for the costs and construction of those on and off-site improvements required in order to provide such service for the demand generated by the development on the Property as determined in consultation with the Prince William County Service Authority.

PARKS AND RECREATION

22. Pedestrian Trail Easement. As part of the first final site plan approval for the Property, and at no cost to the County, the Applicant shall provide, to the Board of County Supervisors, for parks and recreational uses, an 18 foot wide permanent trail easement on the Property (the "Pedestrian Easement"),

and a 30 foot wide temporary construction easement ("Construction Easement"), (collectively the "Easement(s)"). The purpose of the Pedestrian Easement is to provide a natural surface pedestrian connection between Wellington Road and the southern property line of the Property, and GPIN 7496-47-2202 or GPIN 7496-63-4377. The Pedestrian Easement and Construction Easement shall be located principally within the natural open space area of the Property, with reasonably limited access through the high voltage transmission easement, as generally shown on sheet 3 of the GDP. The final alignment and location of the Pedestrian Easement and Construction Easement shall be determined by the Applicant, in consultation with the County's Department of Parks, Recreation and Tourism; provided, that neither Easement(s) will extend east of the high voltage transmission easement located on Area B, as shown on the GDP. The obligation to construct and maintain the Pedestrian Easement and Construction Easement will be the responsibility of the Grantee of the Easement(s).

MISCELLANEOUS

23. For purposes of this Proffer Statement, "final rezoning" shall be defined as that zoning which is in effect on the day following the last day upon which the Prince William Board of County Supervisors' decision granting the rezoning may be contested in the appropriate court or, if contested, the day following entry of a final court order affirming the decision of the Board of Supervisors which has not been appealed, or if appealed, the day following which the decision has been affirmed on appeal.

24. In the event the monetary contributions set forth in the Proffer Statement are paid to the Prince William Board of County Supervisors ("Board") within eighteen (18) months of the approval of this rezoning, as applied for by the Applicant, said contributions shall be in the amounts as stated herein. Any monetary contributions set forth in this Proffer Statement which are paid to the Board after eighteen (18) months following the approval of this rezoning shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, such that at the time contributions are paid they shall be adjusted by the percentage change in the CPI-U from that date eighteen (18) months after the approval

of this rezoning to the most recently available CPI-U to the date the contributions are paid, subject to a cap of 6 percent (6%) per year, non-compounded.

WAIVERS/MODIFICATIONS

25. Pursuant to Section 32-400.03.2 of the Prince William County Zoning Ordinance, the building height, shall not exceed 80 feet for each individual building located on the Property.

26. Pursuant to Section 32-250.23.6 of the Prince William County Zoning Ordinance, the Applicant is allowed a maximum of two (2) freestanding signs on the Wellington Road frontage, and one (1) freestanding sign on the Devlin Road frontage, in locations as generally shown on the GDP. Said signs shall be either single-tenant or multi-tenant freestanding signs and shall be in general conformance with those signs shown on the sign exhibit entitled "Entrance Sign Elevation and Typical Entrance Sign Planting," (Sheets 1 and 2), prepared by St. John Properties, dated November 24, 2020. Sign height shall not exceed 12' as measured from finished grade. Minor modifications to said signs and sign landscaping may be approved by the Planning Director, or his designee, at the time of site plan due to final design and engineering details.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE

EDITH H. RAMEIKA, TRUSTEE

_____

By: _____

Name:_____

Title: _____

MOTION: **LAWSON** **January 12, 2021**
Regular Meeting
SECOND: **BAILEY** **Ord. No. 21-03**

RE: **REZONING #REZ2020-00017, REPUBLIC SERVICES MANASSAS FACILITY**
BRENTSTVILLE MAGISTERIAL DISTRICT

ACTION: **APPROVED**

WHEREAS, this is a request to rezone ±25.65 acres from M-1, Heavy Industrial, to M/T, Industrial/Transportation, to allow a trash and refuse removal service and regional headquarters along with associated modifications and waivers, to include use modifications; and

WHEREAS, the subject properties are located northeast of the intersection of the JD Reading Drive and Wellington Road. The site is identified on County maps as the following GPINs: 7596-95-2913 and 7596-94-8048; and

WHEREAS, the site is zoned M-1, Heavy Industrial; and

WHEREAS, the site is also located within the Technology Overlay District (TeOD); Commerce Office/R&D High Profile and Commerce Transit Station subdistricts of the TeOD; Data Center Opportunity Overlay District; and Airport Safety Overlay District; and

WHEREAS, the site is designated EI, Industrial Employment, in the Comprehensive Plan, and is located within the Innovation Park Small Area Plan; and

WHEREAS, staff has reviewed the subject application and recommends approval, as stated in the staff report; and

WHEREAS, the Planning Commission, at its public hearing on October 21, 2020, recommended approval, as stated in Resolution Number 20-070, on the Regular Agenda; and

WHEREAS, a Board of County Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on January 12, 2021, and interested citizens were heard; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, convenience, general welfare, and good zoning practice are served by the approval of the request;

NOW, THEREFORE, BE IT ORDAINED that the Prince William Board of County Supervisors hereby approves Rezoning #REZ2020-00017, Republic Services Manassas Facility, subject to the proffers dated December 17, 2020;

BE IT FURTHER ORDAINED that the Prince William Board of County Supervisors' approval and adoption of any proffered conditions does not relieve the applicant, and/or subsequent owners, from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

ATTACHMENT: Proffers, dated December 17, 2020

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For information:
Planning Director

Ms. Jessica Pfeiffer
Walsh, Colucci, Lubeley & Walsh, PC
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192

ATTEST: Andrea P. Madden
Clerk to the Board

PROFFER STATEMENT

RE: #REZ2020-00017, Republic Services Manassas Facility

Applicant:	Republic Services of Virginia, LLC
Owners:	Williams Family Limited Partnership
	WII Realty Management, Inc.
Property:	7596-94-8048 and 7596-95-2913 (the "Property")
	Brentsville Magisterial District
	Approximately 25.6576 acres
	M-1, Heavy Industrial to M/T, Industrial/Transportation

Date: December 17, 2020

The undersigned hereby proffers that the use and development of the subject Property shall be in strict conformance with the following conditions. In the event the above-referenced rezoning is not granted as applied for by the Applicant, these proffers shall be withdrawn and are null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. Any improvements proffered herein below shall be provided at the time of development of the portion of the site served by the improvement, unless otherwise specified. The terms "Applicant" and "Developer" shall include all future owners and successors in interest.

For purposes of reference in this Proffer Statement, the "GDP" shall be that plan prepared by Larson Design Group entitled, "Republic Services Manassas Facility - General Development Plan", dated September 14, 2020.

USE AND DEVELOPMENT

1. General Development Plan: The subject Property shall be developed in substantial accordance with the GDP, subject to changes approved by the County.

2. Existing Buildings: The existing buildings along the northeastern property boundary may remain, as shown on the GDP, provided that upon removal, any future buildings constructed shall comply with all applicable development standards of the Zoning Ordinance and the Design and Construction Standards Manual.

3. Uses: The following uses may be permitted on the Property:

   a. Those uses permitted as by right uses, secondary uses, accessory uses, and/or with a special use permit in the M/T, Industrial/Transportation zoning district, and the following uses (in accordance with Proffer 19 below):

i. Trash and refuse removal service;
ii. Truck wash (as an accessory use);
iii. Motor vehicle repair (as an accessory use);
iv. Welding or machine shop (as an accessory use);
v. Outdoor storage of equipment, materials and products (as an accessory use); and
vi. Motor vehicle fuel station, nonretail (as a secondary use).

COMMUNITY DESIGN

4. Architecture: The design of the shop and office / support building, as shown on the GDP, shall be in substantial conformance with the building elevations entitled "Building Elevations for Office/Support and Shop," prepared by Larson Design Group, and dated April 21, 2020, subject to changes approved by the Planning Director or designee. Compliance with this proffer shall be evidenced with the submission of building elevations to the Development Services Land Development Division at least two weeks prior to the request for a building permit release letter.

5. Building Materials: The primary building material for the façade of the shop and office / support building, as shown on the GDP, shall be stone, wood, brick, architectural concrete masonry unit (e.g. regal stone, split face, precision ground face), precast concrete panels, EIFS (exterior installation and finish systems), or metal panel of architectural grade and quality. Changes to allow additional building materials shall be approved by the Planning Director or designee. Compliance with this proffer shall be evidenced with the submission of building elevations to the Development Services Land Development Division at least two weeks prior to the request for a building permit release letter.

6. Landscaping: Landscaping and buffers shall be provided in substantial conformance with the GDP. All new landscaping/plantings shall be indigenous, native species, in accordance with the Design and Construction Standards Manual.

   a. To facilitate adequate expansion of tree and shrub roots to support healthy plants, all new landscaping, parking lot islands and buffers, which have been subject to pavement and/or compaction shall have, prior to new planting: a) all foreign materials (asphalt, concrete, rock, gravel, debris, etc.) removed and the soil loosened to a depth of a minimum of 3', and b) a top dressing of 4" to 6" of clean topsoil provided. This topsoil shall be a loam, sandy loam, clay loam, silt loam, or sandy clay loam. The topsoil shall not be a mixture of or contain contrasting textured subsoils. The topsoil shall contain less than 5% by volume of cinders, stones, slag, coarse fragments, sticks, roots, trash, or other materials larger

than 1" in diameter and shall not contain gravel. The topsoil shall contain a minimum of 5% natural fine organic matter, such as leaf mold, peat moss, etc.

7. Lighting: All freestanding parking lot lights shall have a maximum height of thirty feet (30') and shall have fixtures which direct light downward and inward. In addition, all building-mounted lighting, if any, shall be directed or shielded in such a manner to prevent glare from projecting onto adjacent properties or public rights of way.

8. Signage: Any freestanding sign shall be monument style. The freestanding sign, as shown on the GDP, shall be provided in substantial conformance with the sign elevations entitled "Monument Sign for Republic Services," prepared by Larson Design Group, dated September 16, 2020 ("Sign Elevations"), subject to changes approved by the Planning Director or designee. Landscaping shall be provided around the base of the freestanding sign, in accordance with the Sign Elevations.

ENVIRONMENT

9. Monetary Contribution: The Applicant shall make a monetary contribution to the Prince William Board of County Supervisors in the amount of $75.00 per acre (± 25.6576 acres) for water quality monitoring, drainage improvements and/or stream restoration projects. Said contribution shall be made prior to and as a condition of final site plan approval with the amount to be based on the acreage reflected on the site plan.

10. Pretreatment Device: As a condition of any final site plan approval, an appropriately sized and designed pretreatment device shall be installed on-site for any vehicle fueling or vehicle service / repair facility uses that may located on the Property.

11. Limits of Disturbance: No land disturbance will occur outside the approximate limits of disturbance, as shown on the GDP, except as may be needed for the installation and maintenance of landscaping, utilities, and the removal of existing dead or diseased vegetation, noxious plants and invasive species.

FIRE AND RESCUE

12. Monetary Contribution: The Applicant shall make a monetary contribution to the Prince William Board of County Supervisors in the amount of $0.61 per square foot of gross building floor area for any new building(s) constructed on the Property to be used for fire and rescue services. Said contribution shall be based on the size of the new building(s) shown on the

applicable site plan(s) (excluding any structured parking) and shall be paid prior to and as a condition of the issuance of a building permit for such building.

13. Emergency Spill Contingency/Notification: Prior to final site plan approval, the Applicant shall prepare and submit an emergency spill notification contingency plan and shall have the same approved by the Fire Marshal and posted on the premises before the issuance of any occupancy permits. The Applicant shall be responsible for notifying the Fire Marshal's Office immediately in the event of a spill of any petroleum or chemical waste on the Property.

TRANSPORTATION

14. Access: Access to the Property shall be provided from JD Reading Drive as shown on the GDP.

15. Improvements: Subject to County and VDOT approval, the Applicant shall provide the transportation improvements, as shown on the Transportation Plan entitled "Republic Services Transportation Improvement Exhibit," prepared by Gorove Slade, dated September 11, 2020, (the "Transportation Plan"), subject to modifications as may be approved by County Department of Transportation and/or VDOT.

16. Sidewalk along JD Reading Drive: If requested in connection with the first final site plan approval, the Applicant shall provide a 5' concrete sidewalk along the northeast side of JD Reading Drive. If requested, the final location shall be shown on the first final site plan.

17. Virginia Railway Express (VRE) Right-of-Way Reservation: If requested by County Transportation in connection with the first final site plan approval for the Property, the Applicant shall reserve land up to thirty feet (30') in width along the northern Property line (adjacent to the existing railroad tracks), as shown on the GDP, as may be necessary for the construction (by others) of future track improvements for VRE service. If so requested, the County or VRE may request a future dedication from the Applicant for the right-of-way provided that: (i) the Applicant receives just compensation for the right of way (to be determined at the time of the dedication); (ii) the Applicant shall not be responsible for the preparation of plans, plats, deeds and related documents necessary for the dedication; and (iii) the party requesting the dedication shall replant, at its cost, any landscaping taken by said dedication in a suitable replacement location on the Property.

WATER AND SEWER

18. The Property shall be served with public water and public sewer. The Applicant shall plan, design, and construct all on-site and off-site water and sanitary sewer utility improvements

necessary to provide service for the demand generated by development on the Property in accordance with applicable Service Authority, Prince William County, and Virginia laws, ordinances, requirements, and regulations.

MISCELLANEOUS

19. In the event the monetary contributions set forth in the Proffer Statement are paid to the Prince William County Board of County Supervisors ("Board") within eighteen (18) months of the approval of this rezoning, as applied for by the Applicant, said contributions shall be in the amounts as stated herein. Any monetary contributions set forth in this Proffer Statement which are paid to the Board after eighteen (18) months following the approval of this rezoning shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, such that at the time contributions are paid they shall be adjusted by the percentage change in the CPI-U from that date eighteen (18) months after the approval of this rezoning to the most recently available CPI-U to the date the contributions are paid, subject to a cap of 6 percent (6%) per year, non-compounded.

WAIVERS AND MODIFICATIONS

20. Pursuant to Section 32-506.09.1 of the Zoning Ordinance, approval of the subject rezoning shall approval of waivers and/or modifications in accordance with the following sections of the Zoning Ordinance:

    a. Waiver of Section 32-506.04 (ww) to permit trash and refuse removal service as a principal use on the Property;

    b. Waiver of Section 32-506.04 (c) to permit welding or machine shop as an accessory use on the Property;

    c. Waiver of Section 32-506.04 (v) to permit motor vehicle fuel station, nonretail (limited to vehicles associated with the primary business or use), as a secondary use on the Property;

    d. Waiver of Section 32-506.04.1 (aa) to permit motor vehicle repair (limited to vehicles associated with the primary business or use) as an accessory use on the Property;

    e. Waiver of Section 32-506.04 (gg) to permit outside storage of equipment, materials and products as an accessory use;

f. Waiver of Sec. 32-506.04 (zz) to permit truck wash (limited to vehicles associated with the primary business or use) as an accessory use on the Property;

g. Modification of Sec. 32-506.07.1 (c) to permit lighting for open, off-street parking areas to exceed 24 feet in height to allow a maximum of 30 feet in height;

h. Modification of Sec. 32-506.08 (c) (1) to permit the freestanding sign area to exceed 32 square feet to allow a maximum area of 50 square feet; and

i. Waiver of Sec. 32-506.08.2 (e) (1) to reduce the setback requirements for the freestanding sign to approximately two feet to permit a freestanding sign on the Property, as shown on the GDP.

21. Pursuant to Sec. 32-250.23.6 of the Zoning Ordinance, approval of the subject rezoning shall be an approval of a waiver and/or modification of Sec. 32-250.27.18 to reduce the sign setback requirements to approximately two feet to permit a freestanding sign on the Property, as shown on the GDP.

SIGNATURE PAGE

WILLIAMS FAMILY LIMITED PARTNERSHIP

BY: _____

NAME: _____

TITLE: _____

SIGNATURE PAGE

WII REALTY MANAGEMENT, INC.

BY: _____

NAME: _____

TITLE: _____

P1049805.DOCX

MOTION: **BODDYE** **January 12, 2021**
Regular Meeting

SECOND: **BAILEY** **Ord. No. 21-04**

RE: **REZONING #REZ2019-00038, 3716 PENNINGTON LANE – OCCOQUAN MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, this is a request to rezone ±6.84 acres from A-1, Agricultural, to R-4, Suburban Residential, to allow a total of six single-family detached dwelling units; and

WHEREAS, this request is concurrently being processed with #SUP2019-00045, 3716 Pennington Lane; and

WHEREAS, the site is located on the east side of Pennington Lane, ±760 feet southeast of its intersection with Route 294, and ±887 feet northwest of its intersection with Elm Farm Road. The property is identified on County maps as GPIN 8192-86-8788; and

WHEREAS, the site is zoned A-1, Agricultural, without proffers, and is partially located in the Minnieville Road (Davis Ford Road) Highway Corridor Overlay District (HCOD); and

WHEREAS, the site is designated SRR, Semi-Rural Residential, and is located in the Dale City Small Area Plan, in the Comprehensive Plan;

WHEREAS, staff has reviewed the subject application and recommends approval, as stated in the staff report; and

WHEREAS, the Planning Commission, at its public hearing on March 3, 2020, recommended approval, as stated in Resolution Number 20-015; and

WHEREAS, a Board of County Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on January 12, 2021, and interested citizens were heard; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, convenience, general welfare, and good zoning practice are served by the approval of the request;

NOW, THEREFORE, BE IT ORDAINED that the Prince William Board of County Supervisors hereby approves Rezoning #REZ2019-00038, 3716 Pennington Lane, subject to Proffers dated December 21, 2020;

BE IT FURTHER ORDAINED that the Prince William Board of County Supervisors' approval and adoption of any proffers does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

ATTACHMENT: Proffers, dated December 21, 2020

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Planning Director

Mr. Sherman Patrick, Jr., A.I.C.P.
Compton & Duling
12701 Marblestone Drive, Suite 350
Prince William, Virginia 22192

:

ATTEST: Andrea P. Madden
Clerk to the Board

PROFFER STATEMENT

#REZ2017-00010, 3716 Pennington Lane Property
Record Owners: Mathew & Shyni Dennis
Property: G.P.I.N: 8192-86-8788 (the "Property")
Acreage: ±6.84 acres, Occoquan Magisterial District
Current Zoning: A-1, Agricultural
Proposed Zoning: R-4
Date: December 21, 2020

The undersigned hereby proffers that the use and development of the subject Property shall be in substantial conformance with the following conditions. In the event the above-referenced rezoning is not granted as applied for by the Applicant, these proffers shall be withdrawn and are null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. Any improvements proffered herein below shall be provided at the time of development of the portion of the site adjacent to the improvement, unless otherwise specified. The terms "Applicant" and "Developer" shall include all future owners and successors in interest.

For purposes of reference in this Proffer Statement, the General Development Plan ("GDP") shall be the plan prepared by Archive Surveying, LLC entitled "Generalized Development Plan, 3716 Pennington Lane" Sheets 1 and 2, dated February 11, 2020, however, minor plan modifications shall be permitted including adjustments to the internal road alignment and intersection, lot boundaries and the number of lots, and stormwater management improvements as may be necessary to comply with final engineering requirements at the time of final subdivision plan review and approval.

1. USES AND DEVELOPMENT

A. Residential development on the Property shall not exceed a maximum of six (6) lots for the development of single-family detached dwelling units. Except for lots necessary for stormwater management or public use (if required), the minimum lot size shall be 1 acre.

B. Development of the Property shall be in substantial conformance with the GDP. However, lot lines, the house location footprints, road alignment, and driveway locations are intended to be illustrative and not exact, and may be subject to modification due to final engineering considerations, subject to County review and approval.

2. COMMUNITY DESIGN

A. Open Space Trail. A 6-foot-wide wood chip hiking trail (HT-1, Design and Construction Standards Manual) and bench shall be provided as depicted on the GDP on Parcel A, Common Area, for recreational use by residents of the community. The final location of the trail and bench shall be shown on the final subdivision plan.

B. Architectural Design. The exterior of the proposed homes shall include architectural detailing and materials including brick, masonry or cultured stone, cementitious siding, vinyl siding, wood, and similar materials commonly used in residential construction. The Applicant shall submit the architectural elevations for the dwellings proposed to the Planning Director for review and approval of consistency with this provision a minimum of two weeks prior to a request for building permit for each new dwelling unit.

C. Screening Fence. A 6-foot-tall, solid fence approximately 350 feet in length shall be provided along the common property lines separating proposed Lots 5 and 6 from the existing property known as GPIN 8192-86-7858. The fence material may be wood or a wood appearing material and shall be a wood tone color, white, or a shade of beige or gray commonly used for residential structures and consistent within the adjoining residential area. The fence shall be shown on the final subdivision plan.

D. Courtesy Review. The Applicant shall present the final subdivision plan for the community to LOCCA/PELT for a courtesy review at least two (2) weeks prior to the first submission of the final subdivision plan to Prince William County for review. A letter to LOCCA/PELT, a LOCCA/PELT agenda, or similar evidence of the Applicant's provision of the final subdivision plan for the courtesy review shall be provided to the County prior to approval of the final subdivision plan.

3. LANDSCAPING

A. Entrance Landscaping along North side of Private Street. The Property landscaping shall include street trees planted along the northern side of the private street serving the lots on proposed Lot 1 for a distance of 240 feet from the existing right-of-way of Pennington Lane and shall consist of a minimum of 8 medium evergreen trees spaced 30 feet on center. The species/variety of evergreen plantings and exact planting location(s) within this area shall be shown on the final subdivision plan and as determined at the time of final subdivision plan review based on final grading for any required improvements to Pennington Lane and the private street serving the lots, the final grading on Lot 1, the surrounding preserved trees and canopy, the proximity of utilities (overhead or underground), and after consultation with a certified landscape

designer and/or the County arborist.

B. Entrance Landscaping along Pennington Lane. The Property landscaping shall include street trees planted along the east side of Pennington Lane on proposed Lot 6 for a distance of 135 feet and shall consist of a minimum of 7 medium evergreen trees spaced approximately 30 feet on center. The species/variety of evergreen plantings and exact planting location(s) within this area shall be shown on the final subdivision plan and as determined at the time of final subdivision plan review based on final grading for any required improvements to Pennington Lane, the final grading on Lot 6, the proximity of preserved trees and tree canopy, the proximity of utilities (overhead or underground), and after consultation with a certified landscape designer and/or the County arborist.

C. All Property landscaping shall include drought tolerant, indigenous species, and shall be shown on the final subdivision plan.

4. ENVIRONMENTAL

A. Prior to and as a condition of final subdivision plan approval, the Applicant shall provide final "limits of clearing and grading" that are not in excess of the proposed clearing limits identified on the GDP. Said limits of clearing and grading shall also be shown on any lot grading plans for said lots, and vegetation outside the limits of clearing and grading shall be protected with appropriate fencing during construction of said lots. Said limits of clearing and grading shall be complied with during clearing and construction even if performed on a lot-by-lot basis. No clearing or improvements shall be made during construction in the area outside of the clearing and grading limits, with the exception of the following:

1. Removal of noxious vegetation, such as poison ivy, poison oak, etc., as well as damaged, dead, dying, or diseased trees or shrubbery, at the option of the land owners.

2. The installation and maintenance of infrastructure improvements for sanitary sewer are aligned to minimize land disturbance and impacts to existing vegetation and adjoining properties.

3. Where existing utility easements are currently located outside the proposed clearing limits, it is recognized that the area within those existing utility easements may be disturbed for utility line maintenance or replacement by the utility companies in the future.

B. Prior to and as a condition of final subdivision plan approval, the Applicant shall satisfy the tree canopy coverage requirements in the Design and Construction

Standards Manual (DCSM) to the extent reasonably practicable by saving existing trees on the Property.

C. Stormwater Management/Best Management Practices. SWM/BMP shall be provided on the Property and in accordance with the DCSM and shall be provided in the location shown on the GDP as "Parcel A", subject to minor changes as may be approved by the County in connection with the final subdivision plan review.

1. The stormwater run-off from the portion of Lot 3 beginning at the rear building line of the future dwelling, and ending at the front lot line shall drain to the SWM/BMP Area shown on the GDP

D. Tree Preservation Requirements. A tree survey shall be submitted as part of the final subdivision plan. The tree survey shall be submitted in plan format. A narrative may be submitted in either a plan or booklet format. At a minimum, the tree survey shall include the following elements:

1. A tree survey which describes the location, species, size based on the tree diameter at breast height (DBH), accurate dripline and condition of all existing trees 12 inches or greater in DBH, that are located on the Property on Lots 2 and 3 as identified on the GDP, and are 20 feet outside the clearing limits (the area where trees are being preserved) or 20 feet inside the clearing limits on Lots 2 and 3 identified on the GDP. The condition analysis shall be prepared by a certified arborist using the eighth edition of The Guide for Plant Appraisal.

2. A tree preservation narrative, which at a minimum includes the following:

   a. Preconstruction treatments, including crown pruning and root pruning (may also include protective fencing enclosing trees being preserved).

   b. Clearing operation measures (i.e., felling techniques and stump removal, when proposed) for trees being removed.

   c. Active project, ongoing measures, including tree protection, erosion controls, and mulching.

   d. Project completion work, including pruning, soil inoculation, and aeration (may also include removals, vertical mulching, fertilization, watering, etc.).

3. Conservation Area. A BMP conservation area shall be established as conceptually depicted on the GDP and in accordance with all applicable minimum County standards. The conservation area shall be recorded as an

easement, with appropriate restrictions as to use, to a bona fide homeowners association and/or the County with the appropriate requirements to maintain the conservation area in perpetuity. The BMP conservation area shall be delineated on the final subdivision plan and plat. The final dimensions and area of the conservation area shall be determined by the SWM/BMP design at the time of final subdivision plan approval. Said conservation area shall be recorded to the HOA prior to issuance of a building permit for a dwelling unit other than the existing dwelling on Lot 1 shown on the GDP.

5. TRANSPORTATION

Access to the Property shall be as shown on the GDP using a modified RL-1 private street as indicated on the GDP. The directional median shown on the GDP shall be required to limit turning movements to right-in/right-out if the sight distance requirements necessary for left turns at the access to the property cannot be met until and unless the minimum requirements for full turning movements can be met at the intersection of Pennington Lane and the private street serving the lots proposed herein.

6. WATER AND SEWER

The Property shall be served by public sanitary sewer and water when service is made available. The Applicant shall be responsible for those improvements required in order to provide such service for the demand generated by the development of the Property.

7. HOMEOWNERS ASSOCIATION

A. The Applicant shall create a homeowners' association ("HOA") that shall be responsible for the maintenance of private street depicted on the GDP, common open space, landscaping in open spaces, and any structures or other common area amenities that may be constructed.

B. To the extent required by applicable law, the Applicant shall incorporate into the HOA documents, budget, and reserve funding supported by a reserve study for the long term viability of all HOA maintained infrastructure. The Applicant shall provide the HOA documents and budget to each purchaser of any portion of the Property as required by law at the time the purchase contract is signed.

Property Owners:

_____

Mathew Dennis (date)

_____

Shyni Dennis (date)

MOTION: **ANGRY** **January 12, 2021**
Regular Meeting

SECOND: **BODDYE** **Ord. No. 21-05**

RE: **SPECIAL USE PERMIT #SUP2019-00045, 3716 PENNINGTON LANE – OCCOQUAN MAGISTERIAL DISTRICT**

ACTION: **APPROVED**

WHEREAS, this is a request to allow the development of residential lots in the R-4, Suburban Residential, district with frontage on a private road. As proposed, the private street shall be designed with a modified street section; and

WHEREAS, this request is concurrently being processed with #REZ2019-00038, 3716 Pennington Lane; and

WHEREAS, the site is located on the east side of Pennington Lane, ±760 feet southeast of its intersection with Route 294, and ±887 feet northwest of its intersection with Elm Farm Road; is identified on County maps as GPIN 8192-86-8788; and

WHEREAS, the site is zoned A-1, Agricultural, without proffers, and is partially located in the Minnieville Road (Davis Ford Road) Highway Corridor Overlay District (HCOD); and

WHEREAS, the site is currently designated SRR, Semi-Rural Residential, and is located in the Dale City Small Area Plan, in the Comprehensive Plan; and

WHEREAS, staff has reviewed the subject application and recommends approval, as stated in the staff report; and

WHEREAS, the Planning Commission, at its public hearing on March 4, 2020, recommended approval, as stated in Resolution Number 20-016; and

WHEREAS, a Board of County Supervisors' public hearing, duly advertised in a local newspaper for a period of two weeks, was held on January 12, 2021, and interested citizens were heard; and

WHEREAS, the Prince William Board of County Supervisors finds that public necessity, convenience, general welfare, and good zoning practice are served by the approval of the request;

NOW, THEREFORE, BE IT ORDAINED that the Prince William Board of County Supervisors hereby approves Special Use Permit #SUP2019-00045, 3716 Pennington Lane, subject to Conditions dated December 21, 2020;

BE IT FURTHER ORDAINED that the Prince William Board of County Supervisors' approval and adoption of any proffers does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

ATTACHMENT: Conditions, dated December 21, 2020

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

For Information:
Planning Director

Mr. Sherman Patrick, Jr., A.I.C.P.
Compton & Duling
12701 Marblestone Drive, Suite 350
Prince William, Virginia 22192

ATTEST: Andrea P. Madden
Clerk to the Board

CONDITION STATEMENT
Applicant/Owners: Mathew & Shyni Dennis
Special Use Permit: #SUP2019-00045, 3716 Pennington Lane
Prince William County GPIN 8192-86-8788
Special Use Permit Area: ±6.84 Acres
Current Zoning: A-1, Agricultural
Proposed: R-4, Suburban Residential
Magisterial District: Occoquan
Date: December 21, 2020

The following conditions are intended to offset the impacts of the proposal and to render the application consistent with the applicable chapters of the Comprehensive Plan and the surrounding areas. If the conditions of this Special Use Permit (SUP) or the Special Use Permit Plan (the "Plan") are in conflict with the Zoning Ordinance, and/or the Design and Construction Standards Manual (DCSM), the more restrictive standards shall apply, except as specifically allowed by this Special Use Permit.

The Applicant shall submit a final subdivision plan within one (1) year of approval of this Special Use Permit by the Board of County Supervisors and diligently pursue approval of such final subdivision plan. Failure to submit the subdivision plan within one (1) year of the SUP approval date shall result in this SUP being deemed void.

1. Site Development: The subject site located at 3716 Pennington Lane, hereinafter referred to as the “Property” shall be developed in substantial conformance with the Generalized Development Plan entitled, "3716 Pennington Lane" prepared by Archive Surveying, LLC, dated February 11, 2020, and hereinafter referred to as the “Plan”. The Plan may be subject to minor changes that do not increase the intensity of the proposed use, and as determined appropriate and permitted by the County.

2. Use Parameters: The use approved with this Special Use Permit shall be limited to a maximum of six (6) single-family detached dwellings, served by a private street with a modified RL-1 street section. Said street section shall be subject to minor changes approved by the County at time of final site plan approval.

3. Driveways: Each lot developed on the Property shall have an individual driveway. Said driveways shall have their own access points and shall not be a shared driveway with neighboring lots.

4. Frontage Requirements: The lots developed on the Property shall demonstrate the minimum frontage requirements along the private street.

5. On-Street Parking Prohibited:

    a. On-street parking shall be prohibited along the private street and in the turnaround area.

b. The Homeowners Association Documents shall stipulate that parking along the private street shall not be permitted. Four *No Parking* signs shall be installed along the length of the private street (two facing traffic entering the community and two facing traffic exiting the community). No parking signs shall also be installed in the turn-around area for the private street.

MOTION: **BAILEY**

SECOND: **BODDYE**

January 12, 2021
Regular Meeting
Res. No. 21-033

RE: **ADJOURN MEETING**

ACTION: **APPROVED**

WHEREAS, the Prince William Board of County Supervisors has completed all items on the agenda for January 12, 2021;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby adjourns the meeting of January 12, 2021 at 8:32 p.m.

Votes:
Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler
Nays: None
Absent from Vote: None
Absent from Meeting: None

ATTEST: Andrea P. Madden
Clerk to the Board