



BOARD OF COUNTY COMMISSIONERS

November 13, 2018

OPEN SESSION AGENDA

- 08:00 A.M. INVOCATION AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Terry L. Baker*
APPROVAL OF MINUTES – October 23, 2018 and October 30, 2018
- 08:05 A.M. CLOSED SESSION
(To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals; to consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State; to consult with counsel to obtain legal advice on a legal matter; to consult with staff, consultants, or other individuals about pending or potential litigation; and to conduct or discuss an investigative proceeding on actual or possible criminal conduct.)
- 10:00 A.M. RECONVENE IN OPEN SESSION
- 10:05 A.M. COMMISSIONERS' REPORTS AND COMMENTS
- 10:15 A.M. REPORTS FROM COUNTY STAFF
- 10:25 A.M. CITIZENS PARTICIPATION
- 10:35 A.M. NATIONAL APPRENTICE WEEK (November 12th – 19th)
PROCLAMATION – *Dan DiVito, Director, Division of Environmental Management, and Board of County Commissioners*
- 10:45 A.M. PRESENTATION OF CERTIFICATE FOR PALMYRA FARM – *Leslie Hart, Agricultural Business Specialist, Department of Business Development, and Susan Small, Director, Department of Business Development*
- 10:55 A.M. MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM (MALPP)
60/40 MATCH FOR FY2019 – *Eric Seifarth, Rural Preservation Administrator, Department of Planning & Zoning*
- 11:00 A.M. APPROVAL OF CLOTHING AND SHOE COLLECTION PROGRAM – *David A. Mason, P.E., Deputy Director, Department of Solid Waste and Watershed Programs*
- 11:10 A.M. ENHANCED NUTRIENT REMOVAL AT WASHINGTON COUNTY'S
WASTEWATER TREATMENT PLANT – *Mark D. Bradshaw, P.E., Deputy Director, Division of Environmental Management, Engineering Services*

- 11:20 A.M. PROPERTY ACQUISITION FOR MOUSETOWN ROAD CULVERT PROJECT –
Todd Moser, Real Property Administrator, Division of Engineering
- 11:25 A.M. PROCESS FOR COLLECTION OF TAP FEES ASSOCIATED WITH PERMITS – *Tim Lung, Director, Division of Plan Review & Permitting, Sara Greaves, Chief Financial Officer, and Dan DiVito, Director, Division of Environmental Management*
- 11:35 A.M. REVISIONS TO THE WASHINGTON COUNTY, MARYLAND’S AMERICANS WITH DISABILITIES ACT (ADA) GRIEVANCE PROCEDURE– *Deb Peyton, Director, Division of Health and Human Services*
- 11:40 A.M. SPIRIT SERVICES LEASE AMENDMENT – *Dan DiVito, Director, Division of Environmental Management and Kirk C. Downey, Interim County Attorney*
- 11:50 A.M. FORT RITCHIE – CONVEYANCE OF HISTORIC PRESERVATION EASEMENT – *James L. Sterling, Director, Public Works, and Kirk C. Downey, Interim County Attorney*
- 12:00 P.M. ADJOURNMENT



Open Session Item

SUBJECT: Proclamation recognizing National Apprentice Week

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Dan DiVito, Director, Division of Environmental Management

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: The week of November 12, 2108 to November 19, 2018 is recognized by the Department of Labor as National Apprentice Week. As part of that celebration and in recognition of the importance of training our local workforce to promote economic development in Washington County, the Board of County Commissioners proclaim this week as Registered Apprentice Week throughout the county.

DISCUSSION: Youth Apprenticeship Maryland is a program formed under Governor Hogan to aid in creating a pipeline of skilled qualified labor in both traditional and nontraditional fields by combining on-the-job training and related classroom instruction to eligible high school students. Washington County was chosen to pilot this program The Washington County Public Schools Career Technology Education in conjunction with DLLR administers this program allowing eligible students to learn skills by working directly with a professional mentor. The Washington County Division of Environmental Management has recognized the increasing need for a highly skilled workforce and identified this program as a proven method to meet this demand and prepare for the future economic growth in the county. The division has recently been approved by the Maryland Apprentice Training Council to conduct a three year Waste Water Operator Apprentice training program. This program is 6,000 hours of a rigorous combination of both hands on and classroom education culminating in the issuance of a Waste Water Operators license by the Maryland State Board of Waterworks and Wastewater Operators. Our Youth Apprentices will be able to apply the 450 hours of training directly to this full program.

The Division of Environmental Management is a sponsor and participant of both programs and is proud to join in recognizing WCPS and DLLR in reaching the goal of 10,000 active apprentices in the State of Maryland.

FISCAL IMPACT: N/A

CONCURRENCES: Robert Slocum, County Administrator, James B. Hovis, Chief Operations Officer, Kirk C. Downey, Deputy County Attorney, and Dan DiVito, Director, Division of Environmental Management

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: None

PROCLAMATION

Registered Apprentice Week

WHEREAS as the demand/or skilled workers continues to increase, the modern Registered Apprenticeship system is a proven method to meet this demand and helps Washington County prepare for economic development and economic growth: and

WHEREAS, apprenticeship is a unique, flexible training system that combines job related technical instruction with structured, paid, on-the-job learning experience contributed to increased hiring rates and lower unemployment by adding to the number of trained workers: and

WHEREAS, Registered Apprenticeship training programs prepare workers to compete in our changing economy, and the training keeps pace with advancing technologies and work-based innovations: and

WHEREAS, There are approximately 10,000 active apprentices training in the State of Maryland sponsored by employers, businesses and unions; and

WHEREAS, Washington County employers, Washington County Division of Environmental Management, and Washington County Public Schools are participating in both Registered Apprenticeship and Junior Apprentice Programs teaching skills that result in rewarding careers and licenses to earn a livable wage.

NOW THEREFORE, we, the Board of County Commissioners of Washington County Maryland do hereby proclaim November 12 -18, 2018 Registered Apprentice Week in Washington County and do encourage our citizens to join in the observance.



Open Session Item

SUBJECT: Presentation of Certificate for Palmyra Farm

PRESENTATION DATE: Tuesday, November 13, 2018

PRESENTATION BY: Leslie Hart, Agricultural Business Specialist, Department of Business Development, and Susan Small, Director, Department of Business Development

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: Palmyra Farm continues to be internationally and nationally recognized as the leader in Aryshire cattle breeding and performance. Additionally, family members have been nationally recognized for accomplishments and their commitment to the dairy industry.

DISCUSSION: N/A

FISCAL IMPACT: N/A

CONCURRENCES: Susan Small, Director, Department of Business Development

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: Photo will be taken with Palmyra Family members and the BOCC.



Agenda Report Form

Open Session Item

SUBJECT: Maryland Agricultural Land Preservation Program (MALPP) 60/40 Match for FY 2019

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Eric Seifarth, Rural Preservation Administrator, Department of Planning & Zoning

RECOMMENDED MOTION: Move to approve a \$280,000 commitment from the local share of the Agricultural Transfer Tax (\$80,000) and Real Estate Transfer Tax (\$200,000) to the 60/40 match component of the MALPP easement program for FY 2019 Cycle.

REPORT-IN-BRIEF: Each year MALPP asks counties if they want to obligate funds to the 60/40 match portion of the Land Preservation Easement Program. Land Preservation staff is recommending that Washington County designate \$280,000 as its 40% local match in order to receive the 60% State match of \$420,000. This is consistent with the Commissioners approval on March 7, 2017 of a change in funding strategy to use a portion of the local Real Estate Transfer Tax (RETT) for this program instead of exclusively for the local Installment Purchase Program (IPP).

The commitment requested today will result in total funding of about \$1,650,000 for easement purchases in FY 19 (including \$950,000 of general allotment funds that all counties receive). Agricultural Transfer Taxes and the first \$400,000 of the Real Estate Transfer Tax collected each year are designated for use in preservation programs and are not General Fund dollars.

DISCUSSION: To clarify, State funding contributions to the Ag Preservation Program result from the following distributions. The entire MALPP fund is divided in half. One half is divided equally among all Maryland counties which will result in an FY 2019 "General Allotment" of approximately \$950,000 for each County. The remaining half is divided among only those Counties that make local commitments to the 60/40 matching program. The County may add General Funds dollars to its 40% match which would result in additional matching funds from the State and an increase in the total amount available for easement purchases.

FISCAL IMPACT: This 60/40 match commitment and General Allotment money results in funds for land preservation easement purchases on 4 farms. There are no General Funds involved.

CONCURRENCES: The Agricultural Advisory Board and Planning Commission have endorsed the use of the above funding sources for the 60/40 match.

ALTERNATIVES: Approve the use of only the Agricultural Transfer Tax for the 60/40 match or make no commitment to the matching program.

ATTACHMENTS: Excerpt from County Commissioners 3/7/2017 meeting minutes

AUDIO/VISUAL NEEDS: N/A

Excerpt from Board of County Commissioners of Washington County minutes, 3/7/2017:

**“COUNTY INSTALLMENT PAYMENT PROGRAM AND MARYLAND
AGRICULTURAL LAND PRESERVATION PROGRAM PROPOSAL**

Eric Seifarth, Rural Preservation Administrator, and Chris Boggs, Land Preservation Planner, Planning and Zoning, presented the proposal to use a portion of the local Real Estate Transfer Tax (RETT) for the combined Maryland Agricultural Land Preservation Program (MALPP) Fiscal Year 2017 and 2018 funding cycles. The Washington County Agricultural Advisory Board is recommending the use of RETT to supplement the County’s contribution to the 60/40 matching mechanism of the MALPP.”

“Commissioner Cline, seconded by Myers, moved to approve using a portion of the local Real Estate Transfer Tax for the combined Maryland Agricultural land Preservation Program Fiscal YEAR 2017 AND 2018 funding cycles as presented. The motion passed unanimously. (4-0, Commissioner Barr was absent.)”



Open Session Item

SUBJECT: Approval of Clothing and Shoe Collection Program

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: David A. Mason, P. E., Deputy Director, Department of Solid Waste and Watershed Programs

RECOMMENDED MOTION: Motion to approve the Clothing and Shoe Collection Program

REPORT-IN-BRIEF: In an effort to reduce the amount of material being landfilled, Staff has developed a program to allow Vendors to place collection boxes at the 40 West Landfill and the Transfer Stations. This program will count towards the County's Maryland Recycling Act (MRA) Rates as a Diversion Program. The County's current MRA Rate (2016) is 52.51%. This program will be free to all citizens of Washington County.

It is anticipated during the first year we will collect 10-15 tons of clothing and shoes through the program.

DISCUSSION: Staff has compiled a list of non-profit organizations, Thrift Stores and Consignment Shops in Washington County; the list consists of fourteen (14) businesses and organizations. These stores will be visited in person by Solid Waste Personnel to explain the program and answer any questions. The Department of Solid Waste will allow up to five (5) Vendors at the 40 West Landfill, Two (2) Vendors at each of the Greensburg and Hancock Transfer Stations and one (1) Vendor at each of the Kaetzel and Dargan Transfer Stations. We will reserve two (2) spots at the 40 West Landfill Location for Non-Profit organizations. A deadline will be set for Vendors to submit the required paperwork; Vendors meeting said deadline will be considered first. Vendors not chosen will be placed on a waiting list. Staff will try to accommodate the Vendors requests for a specific location; however, space at most locations is limited. If interest in the program is higher than expected, the Department may choose to expand the programs at 40 West, Greensburg and Hancock. Vendors must be a Washington County Business. Vendors will be chosen by the Deputy Director of Solid Waste and the Recycling Coordinator.

The Clothing and Shoe Collection Program will specify the size of containers allowed, the frequency the containers are emptied and the expectations of the vendors. The Vendors will be required to provide a certificate of insurance and sign a contract with the County. Vendors chosen for the program will have the option to renew the contract on a yearly basis. If a Vendor violates the terms of the contract and the issue(s) is not corrected, the Vendor's collection box will be removed from the site and the next Vendor from the waiting list will be given the opportunity to place a collection box at the vacated location.

FISCAL IMPACT: N/A

CONCURRENCES: Dan Divito, Director, Division of Environmental Management

ALTERNATIVES: Reject Program

ATTACHMENTS: Proposal Letter to Vendors

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Enhanced Nutrient Removal at Washington County's Wastewater Treatment Plant (WwTP)

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Mark D Bradshaw, P.E., Deputy Director, Division of Environmental Management, Engineering Services

RECOMMENDED MOTION: Approve Change Order for Buchart-Horn, Inc. in the amount of \$140,126.00 and the attached Budget Adjustment Form in the amount of \$150,000.00.

REPORT-IN-BRIEF: Buchart Horn, Inc's contract for project management and inspection services for the Conococheague WwTP was for eighteen (18) months. Due to the construction duration being extended by four (4) months, Buchart Horn is requesting an additional four (4) months of project management and inspection services be added to their contract. For a breakdown of the hours associated with this work please refer to Buchart Horn's letter dated September 24, 2018. Increase contract amount by \$140,126.00.

DISCUSSION: N/A

FISCAL IMPACT: The project does not have funds available to pay for this change order. However, existing 2016 bond funds remain as a result of bond premium. Bond premium occurs when bonds are issued for an amount greater than their face amount. This is caused by the bonds having a stated interest rate that is higher than the market interest rate for similar bonds. Using bond premium is limited to original projects associated with the 2016 issue, which limits the use of these funds. The total amount of the adjustment will be for \$150,000.

CONCURRENCES: Dan Divito, Director, Division of Environmental Management

ALTERNATIVES: N/A

ATTACHMENTS: Change Order #14 and Buchart-Horn's letters dated 9/24/18 and Budget Adjustment form.

AUDIO/VISUAL NEEDS: N/A

**BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY MARYLAND
100 WEST WASHINGTON STREET, HAGERSTOWN, MARYLAND 21740-4735
CHANGE ORDER**

TO: Buchart Horn, Inc
 Consultant: PO Box 15040
 Contractor: York, PA 17405
 Vendor:

Change Order No. 14 Purchase Order No. WASHCO 23792

Contract No. PUR - 977 Oracle Account No. 515000-32-42010-TRP018-INSP00000

Project Title: Enhanced Nutrient Removal @ Washington County's WwTP Date: Oct 5, 2018

The contract time will: increase decrease remain the same by: 120 calendar days working days

Description of Change:

Add an additional four (4) months of project management services to the contract.

Reason for Change:

Buchart Horn was under contract to provide construction services for a period of eighteen (18) months which corresponded to the construction contract but the construction contract was extended through change order by four (4) months. Buchart Horn provided construction services during this period, thus they are requesting an additional four (4) months of project management services be added to the contract. Buchart Horn is giving the County a credit of \$3,100.00 for a design issues associated with HRI's change order #5. For more detailed information please refer to Buchart Horn's letter dated September 24, 2018. Increase contract amount by \$140,126.00.

The completion date, incorporating the changes included in this change order, is:	July 2018
The original contract sum was:	\$3,638,300.00
Net changes by previous change orders:	\$417,300.26
Contract sum prior to this change order:	\$4,055,600.26
By this Change Order, the contract sum will be changed by:	\$140,126.00
The new contract sum including this change order will be:	\$4,195,726.26

The Consultant/Contractor/Vendor shall not commence with the work described hereon until this form is executed by all agents.

Consultant: Jeffrey S Culton Digitally signed by Jeffrey S Culton
Date: 2018.10.08 15:36:15-04'00'

Finance:

Contractor/Vendor:

Purchasing:

Approving Agency: Mark D Bradshaw Digitally signed by Mark D
Bradshaw
Date: 2018.10.09 09:17:15 -04'00'

County Administrator:

Outside County Entities: Please email the signed form to ChangeOrder@washco-md.net.

September 24, 2018

Mark D. Bradshaw, P.E.
Deputy Director
Washington County
Department Of Water Quality
Public Works Annex
16232 Elliott Parkway
Williamsport MD 21795-4083

**Reference: Conococheague BNR Upgrade
Construction Inspection Services
BH No. 76436-02**

Dear Mr. Bradshaw:

As a follow-up to our recent meeting and conversations, Buchart Horn is requesting to supplement our Fee Proposal for the Conococheague BNR Upgrade Project. Due to the complexity of the design the construction period schedule has continued to be delayed.

Our original contract included a construction period of one year for the Conococheague Upgrade and that schedule was subsequently updated to extend the completion date an additional six months, or March 20, 2018. Buchart Horn, Inc. has continued to provide construction phase services, that includes Project Administration and a Resident Representative beyond this projected completion date. Resident representative services were provided through July 2018 and ongoing contract administration services will continue through project close out, which is anticipated to extend to the end of August into September.

The following is a breakdown of the additional fee requested with estimated hours and rates by pay grade.

<u>Title</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Fee</u>
Project Manager	384 hrs.	\$134	\$ 51,456
Inspector	880 hrs.	\$ 99	\$ 87,120
Administrative Secretary	93 hrs.	\$ 50	<u>\$ 4,650</u>
			\$143,266

Please note that the Project Manager grade includes hours for both myself and Matt Todaro.

We are also in receipt of your most recent request related to Contract Change Order No. 5. In an effort to resolve this matter, BH is willing to adjust this supplement request in the amount of \$3,100. Considering the adjustment, the requested supplement for these additional services would be reduced to \$140,126.

If you do have any questions regarding this request please let us know. We enjoy working with Washington County and look forward to continue to work with you toward the completion of this project.

Regards,

BUCHART HORN, INC.



Jeffrey S. Culton, P.E.
Project Manager



Washington County, Maryland
Budget Adjustment Form

Print Form

- Budget Amendment - Increases or decrease the total spending authority of an accounting fund or department
- Budget Transfer - Moves revenues or expenditures from one account to another or between budgets or funds.

Transaction/Post - Finance _____
 Deputy Director - Finance _____
 Preparer, if applicable _____

Department Head Authorization

Mark D Bradshaw

Digitally signed by Mark D Bradshaw
Date: 2018.10.30 07:15:10 -0400

Required approval with date

Oct 30, 2018

Division Director / Elected Official Authorization

If applicable with date

Budget & Finance Director Approval

Required approval with date

County Administrator Approval

Required approval with date

County Commissioners Approval

Required > \$ 25,000 with date

Expenditure / Account Number	Fund Number	Department Number	Project Number	Grant Number	Activity Code	Department and Account Description	Increase (Decrease) +/-
498012	32	42010	TRP018			Bond Fund - 2016	150,000
XXXXXX	32	42010	TRP018			Conococheague WWTP ENR Upgrades	150,000

Explain Budget Adjustment

Required Action by County Commissioners

No Approval Required

Approval Required

Approval Date if Known



Agenda Report Form

Open Session Item

SUBJECT: Property Acquisition for Mousetown Road Culvert Project

PRESENTATION: November 13, 2018

PRESENTATION BY: Todd Moser, Real Property Administrator, Division of Engineering

RECOMMENDED MOTION: Move to approve the option agreements for a fee simple and easement acquisition of 20815, 20912, and 20977 Mousetown Road and to approve an ordinance approving said purchase and to authorize the execution of the necessary documentation to finalize the acquisition.

REPORT-IN-BRIEF: Option agreements have been executed for the three above stated properties. Both the fee simple and easement acquisitions are shown in table below.

Address	Fee Simple Area	Easement Area	Purchase Amount
20815	449 SF	198 SF	\$450.00
20912	2,522 SF	3,832 SF	\$750.00
20977	1,060 SF	2,509 SF	\$300.00

DISCUSSION: The Mousetown Road Culvert Project will replace existing culverts with a new concrete box culvert and pipe culvert. The road culverts will be constructed to carry two lanes of traffic. Replacement of the culverts at this time is the most cost effective and practical alternative. The structures are in poor condition and need of replacement. Both temporary construction easements and fee simple acquisitions are needed for the project.

FISCAL IMPACT: \$1,500 CIP Budgeted Project

CONCURRENCES: Scott Hobbs, Director, Division of Engineering

ALTERNATIVES: N/A

ATTACHMENTS: Aerial Map, Ordinance

AUDIO/VISUAL NEEDS: N/A

Mousetown Road Culvert Property Aquisition



AN ORDINANCE TO APPROVE THE PURCHASE OF REAL PROPERTY

Part of 20815 Mousetown Road, Boonsboro, Maryland (Map 73, Parcel No. 266)

Part of 20912 Mousetown Road, Boonsboro, Maryland (Map 73, Parcel No. 6)

Part of 20977 Mousetown Road, Boonsboro, Maryland (Map 73, Parcel No. 17)

RECITALS

1. The Board of County Commissioners of Washington County, Maryland (the "County") believes that it is in the best interest of the citizens of Washington County to purchase certain real property identified on the attached Schedule A (the "Property") to be used for public purposes.

2. The County approved the purchase of the Property during its regular meeting on November 13, 2018. A public hearing was not required by Section 1-301, Code of the Public Local Laws of Washington County, Maryland as the funds utilized to purchase the Property are not to be expended from the General Fund of the County.

3. The purchase of the Property is necessary to allow for the Mousetown Road Culvert Replacement Project.

THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland that the purchase of the Property be approved and that the President of the Board and the County Clerk be and are hereby authorized and directed to execute and attest, respectively, all such documents for and on behalf of the County relating to the purchase of the Property.

ADOPTED this ____ day of _____, 2018.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, Clerk

BY: _____
Terry L. Baker, President

Approved as to legal sufficiency:

Mail to:
Office of the County Attorney
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740

SCHEDULE A--DESCRIPTION OF PROPERTY

PROPERTY ACQUISITION NO. 1:

Part of 20815 Mousetown Road, Boonsboro, MD (Map 73, Parcel No. 266)

All that parcel of land consisting of 449 square feet or 0.0103 acres of land, more or less, situate along the northerly side of Mousetown Road approximately 2,500 feet northerly from its intersection with Old National Pike or U.S. Alt. 40 in Election District No. 6 of Washington County, Maryland.

Being part of the land conveyed by Jacqueline C. Russell to Donald G. Russell and Jacqueline C. Russell by deed dated October 23, 1992 and recorded among the Land Records of Washington County, Maryland, in Liber 1064, folio 447.

PROPERTY ACQUISITION NO. 2:

Part of 20912 Mousetown Road, Boonsboro, MD (Map 73, Parcel No. 6)

All that parcel of land consisting of 1,616 square feet or 0.0371 acres of land, more or less, situate along the northerly side of Mousetown Road approximately 2,500 feet northerly from its intersection with Old National Pike or U.S. Alt. 40 in Election No. 6 of Washington County, Maryland.

Being part of the land conveyed by Laura Jane Lake Mathias Revocable Trust to Teresa A. Simpson by deed dated August 21, 2015 and recorded among the Land Records of Washington County, Maryland, in Liber 5053, folio 29.

PROPERTY ACQUISITION NO. 3:

Part of 20977 Mousetown Road, Boonsboro, MD (Map 73, Parcel No. 17)

All that parcel of land consisting of 1,060 square feet or 0.0243 acres of land, more or less, situate along the southerly side of Mousetown Road approximately 2,500 feet northerly from its intersection with Old National Pike or U.S. Alt. 40 in Election District No. 6 of Washington County, Maryland.

Being part of the land conveyed by Arthur Clifton Houghton, a/k/a Arthur Clifton Houghton, II unto Charles E. Levy and Lisa S. Tatum by deed dated July 31, 2012 and recorded among the Land Records of Washington County, Maryland, in Liber 4339, folio 480.



Open Session Item

SUBJECT: Process for collection of tap fees associated with permits

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Tim Lung, Director, Division of Plan Review & Permitting, Sara Greaves, Chief Financial Officer, and Dan DiVito, Director, Division of Environmental Management

RECOMMENDED MOTION: For informational purposes

REPORT-IN-BRIEF: The County Permitting office processes permits for certain incorporated towns in the County including the Town of Williamsport. The County requires that a permit application involving property in a town be signed by the Town manager or other designated town official prior to the County Permitting office accepting a permit application. For those permits that involve water/sewer allocation provided by Town utilities it has historically been considered the Town's responsibility to collect any applicable utility allocation/tap fees.

In the case of permits involving property in the County, outside of the municipalities, the permit application must be accompanied by allocation receipts from the service provider at the time of permit application. Applications without these receipts are not accepted

DISCUSSION: Consistent with the direction of the Board of County Commissioners on October 30, 2018, staff will confirm payment of any applicable tap fees prior to the acceptance of town permit applications. This would be accomplished via attachment of a paid receipt or letter of acknowledgment from the town or service provider. This method is consistent with the long established practice for assuring payment of tap fees associated with permits issued in the County.

FISCAL IMPACT: None

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: None

AUDIO/VISUAL TO BE USED: N/A



Open Session Item

SUBJECT: Revisions to the Washington County, Maryland's Americans with Disabilities Act (ADA) Grievance Procedure

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Deb Peyton, Director, Health & Human Services; Kendall McPeak, Assistant County Attorney; and Scott Hobbs, Director, Division of Engineering

RECOMMENDED MOTION: The Board is presented with revisions to the 1992 adoption of the Washington County, Maryland's Americans with Disabilities Act (ADA) Grievance Procedure for approval.

REPORT-IN-BRIEF: Pursuant to requirements of applicable federal regulations, on January 14, 1992, the County adopted the Washington County, Maryland's Americans with Disabilities Act Grievance Procedure. The Procedure has been revised to update contact information, to provide complainants with specific information required for filing complaints, and to detail timelines for filing and response.

DISCUSSION: Section A – ADA Title II Coordinator has been revised to reflect the contact information of Deb Peyton, 240-313-2356, at dpeyton@washco-md.net. Section B – Complaints has been revised to include a list of required information needed to file a complaint. Section C – Filing Time Frame and Procedure has been revised to reflect the new ADA Title II Coordinator's contact information and the increased amount of time from 30 days to 180 days for filing complaints. Section E – Disposition and Records Retention has been revised to reflect the increased amount of time from 15 days to 30 days in which the ADA Title II Coordinator has to respond to complaints. In instances where a complainant is dissatisfied with resolution of a complaint, the amount of time in which a complainant has to file a request for reconsideration has increased from 15 business days to 30 business days. A provision has been included for the ADA Title II Coordinator's retention of copies of all written ADA complaints, appeals, and responses for at least three years.

FISCAL IMPACT: None

CONCURRENCES: Rob Slocum, County Administrator

ALTERNATIVES: None

ATTACHMENTS: Revised Washington County, Maryland's American with Disabilities Act (ADA) Grievance Procedure and Title II of the Americans with Disabilities Act Complaint Form

AUDIO/VISUAL NEEDS: N/A



**WASHINGTON COUNTY, MARYLAND'S
AMERICANS WITH DISABILITIES ACT (ADA)
GRIEVANCE PROCEDURE**

Pursuant to requirements of applicable federal regulations, the Board of County Commissioners of Washington County, Maryland, has adopted this grievance procedure to provide for prompt and equitable resolution of complaints under section 504 of the Rehabilitation Act of 1973 and amendments (the “Rehabilitation Act”), and the Americans with Disabilities Act of 1990 and amendments (the “ADA”). It is intended for use by any individual who wishes to file a complaint alleging discrimination on the basis of disability in the access of facilities or provision of services, activities, programs, or benefits by the Board of County Commissioners of Washington County, Maryland. The Board of County Commissioners of Washington County, Maryland’s Personnel Policy PR-31 governs employment-related complaints of disability discrimination.

A. ADA Title II Coordinator

The ADA Title II Coordinator for Washington County, Maryland, is Deb Peyton Director of Health and Human Services, 100 West Washington Street, Hagerstown, Maryland 21740, telephone (240) 313-2356, email dpeyton@washco-md.net.

B. Complaints

1. A complaint must be in writing and should contain the following minimum information:
 - a. Name, address, and telephone number of the complainant on whose behalf the complaint is filed.
 - b. Location, date, and description of the alleged violation.
 - c. A complete statement of the nature of the grievance and the facts upon which it is based.
 - d. The complainant’s desired remedy or solution requested.

- e. The names, addresses, and telephone numbers of any witnesses who can provide supportive or relative information.
2. Alternative means to the filing of a written complaint, such as personal interview or a taped recording of the complaint, will be made available, upon request, for persons with disabilities.

C. Filing Time Frame and Procedure

1. The complaint should be filed with the ADA Title II Coordinator for Washington County, Maryland, Deb Peyton, Director of Health and Human Services, 100 West Washington Street, Hagerstown, Maryland 21740, telephone (240) 313-2356, email dpeyton@washco-md.net
2. The complaint must be filed with the ADA Title II Coordinator for Washington County, Maryland, no later than one hundred eighty (180) days from the date of the alleged violation.
3. The filing deadline of one hundred eighty (180) days may be extended upon written request to the ADA Title II Coordinator for Washington County, Maryland, if good cause is shown for the extension.

D. Assessment, Determination, and Investigation

1. The ADA Title II Coordinator will assess the complaint and determine which County function is at issue, i.e., facilities, programs, services, benefits, or activities.
2. An investigation by the ADA Title II Coordinator or designee, as may be appropriate, will follow a complaint filing. This investigation is contemplated to be an informal but thorough fact-finding process, the intent being to afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
3. Any specifically named individual who is charged with alleged discriminatory conduct in the complaint shall not be designated to conduct an investigation or any part thereof.
4. The investigation will include, at a minimum, review of the complaint with the complainant in a format that reasonably accommodates the complainant and interview of any witnesses who can provide supportive or relative information to complete informal but thorough fact-finding.

E. Disposition and Records Retention

1. The ADA Title II Coordinator or designee will provide a response in writing, or in an alternative format if requested, to the complainant within thirty (30) business days after the complaint is received. This response will either bring the complaint to closure due to legal deficiency or will establish a course of action to resolve the complaint if found to be legally sufficient.
2. The complainant may request reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made in writing, or in an alternative format upon request, to the County Administrator within thirty (30) business days of receiving the ADA Title II Coordinator's decision.
3. The County Administrator or designee will review the complaint, conduct an additional investigation if appropriate, and respond to the complainant in writing, or in an alternative format upon request, within thirty (30) business days after receipt of the request for reconsideration. A copy of the County Administrator's response will be forwarded to the ADA Title II Coordinator.
4. The ADA Title II Coordinator will maintain copies of all written ADA complaints, appeals to the County Administrator, and responses from these two offices for at least three (3) years.

F. Miscellaneous

1. These rules will be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that Washington County complies with the ADA and implementing regulations.
2. Use of this grievance process does not preclude the complainant from filing an administrative complaint with the designated federal agency or filing a lawsuit for injunctive relief and damages. An individual may choose to pursue any or all of these methods.

Original Adoption: January 14, 1992
First Amendment: September 11, 2018

Describe any accommodations that you believe would minimize or eliminate the barriers to your participation in the County's services, activities, programs, or benefits.

I will need an accommodation to meet with the ADA Coordinator: Yes No

If "Yes," the accommodation I will need is:

Signature:

Date:



Open Session Item

SUBJECT: Spirit Services Lease amendment

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: Dan DiVito, Director, Division of Environmental Management and Kirk C. Downey, Interim County Attorney

RECOMMENDED MOTION: Move to approve the Second Amendment to Lease and the Leachate Agreement.

REPORT-IN-BRIEF: In 2006, the County and Spirit Services entered into a lease/purchase agreement to operate the County's pre-treatment facilities. The facilities included the abandoned Nicodemus treatment plant as well as the Conococheague Industrial Pre-treatment Facility (CIPF). According to the agreement, after the first year, the Nicodemus Plant ownership was to transfer to Spirit at Spirit's request with the CIPF remaining in the ownership of the County with operations provided by Spirit. Spirit is currently in the process of transferring ownership of the Nicodemus Plant from the County to Spirit. In conjunction with that transfer, Spirit is asking for an amendment to the lease agreement to clarify the provisions for the acceptance of leachate generated by the County's solid waste facility and septage.

The amendment extends the current leachate agreement past the purchase option date contained in the current lease and expands the agreement to include a guaranteed minimum and maximum amount of capacity allocated to leachate. Spirit is also asking for relief from the required \$300,000 pledge agreement or indemnity of trust that is currently included in the original lease agreement to be executed at the time of transfer of Nicodemus. The pledge was included in the original lease agreement as protection for the County at the time of transfer of Nicodemus in the event that Spirit was unable to perform as prescribed by the agreement. Since the inception of this agreement, the County and Spirit have enjoyed a very positive productive relationship and Spirit now has a 12-year performance record making the performance pledge unnecessary. The amendment also extends rate protection for both County leachate and septic from commercial haulers.

In return for approving the amendment, Spirit agrees to complete the transfer of the Nicodemus facility, discount the cost to the County for processing leachate for a period of six months retroactive to July 1, 2018, and participate both monetarily and informationally in the County's septic tank pumping promotional program. This program will include Spirit's offer of discounts for citizens to pump their septic tanks and then provide the information to the County to be used to help the County comply with the State's MS4 program.

DISCUSSION: The Division of Environmental Management has conferred with the Deputy Director of Solid Waste and the County Attorney and has determined the approval of the amendment will benefit the County by;

1. Relieving any liability concerns resulting from the County's ownership of the Nicodemus Plant;
2. Utilizing the information provided by Spirit to produce significant amount of MS4 credits; and
3. Temporarily reducing the cost to the County of processing leachate.

Staff believes that the changes are a positive benefit the County.

FISCAL IMPACT: As of September 30, 2018 the County has transported approximately 5 million gallons of leachate to Spirit for treatment. If the remaining 3 months are equal, the discount proposed by Spirit would amount to $10,000,000 \times 0.002$ per gallon = \$20,000. In addition, Spirit agrees to provide up to \$50,000 in credit vouchers in support of the county's Septic Tank Pumping initiative. The information concerning the septic tank pumping can produce 0.035 acres of credit for each tank pumped. These credits can be used to significantly help the County comply with the state MS4 requirements.

CONCURRENCES: Robert Slocum, County Administrator, James B. Hovis, Chief Operations Officer, Kirk C. Downey Interim County Attorney, and Dan DiVito, Director, Division of Environmental Management

ALTERNATIVES: Do not amend lease agreement and continue under current lease provisions.

ATTACHMENTS: Second Amendment to Lease; Leachate Agreement

AUDIO/VISUAL NEEDS: None

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE (this "**Second Amendment**"), dated this ___ day of October 2018, is executed by and among **THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND** (the "**County**" or "**Landlord**"), a body corporate and politic and a subdivision of the State of Maryland, and **SPIRIT SERVICES, INCORPORATED OF WASHINGTON COUNTY**, a Maryland corporation ("**Spirit**" or "**Tenant**").

RECITALS

A. Tenant is currently the lessee of the Premises and Personalty commonly known collectively as the Conococheague Industrial Pretreatment Facility which is located at 16232 Elliott Parkway, Williamsport, Washington County, Maryland (the "**CIPF**" or "**Demised Property**") pursuant to the terms of a Lease entered into as of January 1, 2006, as amended by First Amendment to Lease dated October 1, 2014 (collectively, the "**Lease**").

B. The parties are desirous of (i) clarifying and confirming several provisions of the Lease as set forth and provided for herein; and (iii) entering into a separate agreement with regard to Spirit's treatment of leachate, raw sewage, septage and chemical toilet waste which shall replace and supersede Sections 5.3.1 and 5.3.2 of the Lease.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

1. Incorporation of Recitals. The parties hereto acknowledge and agree that the recitals hereinabove set forth are true and correct in all respects and that the same are incorporated herein and made a part hereof.

2. Representations. The parties represent and warrant to each other the following facts with respect to the Lease and the Demised Property:

(a) The Lease is in full force and effect and constitutes the entire rental agreement between Landlord and Tenant for the Demised Property;

(b) The Lease has not been modified or amended prior to the date hereof except as otherwise set forth above;

(c) Tenant is in full and complete possession of the Demised Property;

(d) The Term of the Lease is currently scheduled to expire on February 1, 2105;

(e) There are no existing defaults on the part of either Landlord or Tenant under the Lease;

(f) The amount of the current Fixed Rent (as defined in the Lease) payable by Tenant to Landlord is THREE HUNDRED FORTY-FIVE THOUSAND SIX HUNDRED AND 00/100 DOLLARS (\$345,600.00) per annum; and

(g) Tenant currently does not have or hold any claim against Landlord, including without limitation, any claim that might be offset or credited against future accruing rents.

3. Perpetual Rail Siding Pipeline Easement. Notwithstanding anything to the contrary stated in the Lease, it is the intent of the County and Spirit that any user fees, assessments or charges of any kind assessed, levied, or imposed upon the County by CSX Transportation or other operator of the subject rail line related to or arising from Spirit's non-exclusive use of the "Perpetual Rail Siding Pipeline Easement", as provided for and contemplated by the definition of "Premises" in Section 1 of the Lease, shall be and hereby are expressly included within the definition of "Impositions" also provided for in Section 1 of the Lease.

4. Utilities. As provided for in Section 4.5 of the Lease, Tenant shall be responsible for direct payment to the utility providers or if required, reimbursement to the Landlord, of all charges for all utilities serving the Demised Property. As further provided for in Section 4.5 of the Lease, Landlord shall, at Landlord's expense, install sub-meters to measure Tenant's utility consumption. However, notwithstanding anything to the contrary stated in the Lease, in lieu of requiring Landlord to install sub-meters, the parties shall also have the right and ability to mutually agree upon an alternative means of allocating and assessing Tenant's utility consumption.

5. Security for Performance. Notwithstanding anything to the contrary stated in the Lease, including but in no way limited to Section 18, neither Tenant nor any designated affiliate of Tenant shall be required to execute, as a condition to the conveyance of the Nicodemus Facility, a collateral pledge agreement or indemnity deed of trust pledging the Nicodemus Facility to Landlord as surety for Tenant's performance of its obligations under the Lease prior to its exercise of the Purchase Option. Nor shall Tenant be required, as a condition to the conveyance of the Nicodemus Facility, to grant to Landlord, pursuant to a UCC-1 Financing Statement or otherwise, a security interest in its current or after-acquired assets as further security for the full and faithful performance of Tenant's obligations under the Lease.

6. Leachate and Septage Treatment. Simultaneous with the execution of this Second Amendment, Spirit and the County shall enter into the separate agreement attached hereto as **Exhibit A** with regard to the processing of leachate from the County and its agencies and instrumentalities and raw

sewage from holding tanks, septage and chemical toilet waste generated in the County (the “**Leachate Agreement**”). Immediately upon execution by the parties, the Leachate Agreement will replace and supplant Sections 5.3.1 and 5.3.2 of the Lease which shall thereafter be considered deleted and of no further force or effect.

7. Assignment. Notwithstanding anything to the contrary stated in the Lease, including but in no way limited to Sections 16.2 and Section 19, Tenant shall be permitted to sublet the Demised Property or assign this Lease to (i) an affiliated or subsidiary entity of Tenant; (ii) an entity resulting from a merger or consolidation with Tenant; or (iii) an entity to which all or substantially all of Tenant’s assets are transferred (collectively, “**Permitted Sublease or Assignment**”). In the event of a Permitted Sublease, Tenant shall at all times remain primarily liable upon the terms of the Lease. Tenant shall also have the right and ability to make changes to its form of organization, composition of its current executive management, and/or its equity ownership (“**Permitted Change of Control**”). Neither a Permitted Sublease or Assignment nor a Permitted Change of Control shall have the effect of delaying the Purchase Option until the thirty-first (31st) anniversary of the Commencement Date as provided in Section 16.2 of the Lease. To ensure continued operation of the Demised Property in compliance with the Washington County Pretreatment Program and regulations, the subtenant or assignee of any such Permitted Sublease or Assignment shall automatically assume the rights and responsibilities of Tenant with respect to Industrial Waste Discharge Permit Number 004-4 issued by the Washington County, Maryland Division of Environmental Management provided said subtenant or assignee could independently qualify as permittee and has the requisite qualifications to operate the CIPF.

8. Continuing Agreements; Novation. Except as expressly modified hereby, the parties hereto ratify and confirm each and every provision of the Lease as if the same were set forth herein. In the event that any of the terms and conditions in the Lease conflict in any way with the terms and provisions hereof, the terms and provisions hereof shall prevail. Capitalized terms used in this Second Amendment and not otherwise defined shall have the meaning ascribed to them in the Lease. The parties hereto covenant and agree that the execution of this Second Amendment is not intended to and shall not cause or result in a novation with regard to the Lease.

9. Captions. The captions herein set forth are for convenience only and shall not be deemed to define, limit, or describe the scope or intent of this Second Amendment.

10. Governing Law. The provisions of this Second Amendment shall be construed, interpreted, and enforced in accordance with the laws of the State of Maryland as the same may be in effect from time to time.

11. Successors and Assigns. This Second Amendment shall be binding upon and shall insure to the benefit of the parties hereto and their heirs, personal representatives, successors, and assigns.

12. Counterparts. This Second Amendment may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original. It shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on more than one counterpart.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment under seal as of the date first above written.

ATTEST:

LANDLORD:

**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

Vicki C. Lumm, Clerk

BY: _____ (SEAL)
Terry L. Baker, President

ATTEST:

TENANT:

**SPIRIT SERVICES, INCORPORATED OF
WASHINGTON COUNTY**

By: _____ (SEAL)
Name: _____
Title: _____

Approved as to legal sufficiency:

Kirk C. Downey
Deputy County Attorney

LEACHATE AGREEMENT

This **LEACHATE AGREEMENT** (this “**Agreement**”) dated this ___ day of October 2018 (the “**Effective Date**”), is executed by and among **THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND** (the “**County**”), a body corporate and politic and a subdivision of the State of Maryland, and **SPIRIT SERVICES, INCORPORATED OF WASHINGTON COUNTY**, a Maryland corporation (“**Spirit**”).

RECITALS

WHEREAS, Spirit is currently the lessee of the Premises and Personalty commonly known collectively as the Conococheague Industrial Pretreatment Facility which is located at 16232 Elliott Parkway, Williamsport, Washington County, Maryland (the “**CIPF**”) pursuant to the terms of a Lease entered into as of January 1, 2006, as amended by First Amendment to Lease dated October 1, 2014 (collectively, the “**Lease**”);

WHEREAS, Sections 5.3.1 and 5.3.2 of the Lease currently address and govern Spirit’s processing and treatment at the CIPF of leachate from the County and its agencies and instrumentalities (collectively, the “**Leachate**”) and raw sewage from holding tanks, septage and chemical toilet waste generated in the County (collectively, “**Septage**”);

WHEREAS, the County and Spirit are desirous of having this Agreement replace and supersede Sections 5.3.1 and 5.3.2 of the Lease and of modifying the terms and conditions of Spirit’s processing and treatment at the CIPF of Leachate and Septage.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Incorporation of Recitals and Defined Terms.** The parties agree that the foregoing Recitals are true and complete and are hereby incorporated by reference.
2. **Term.** The “**Term**” of this Agreement shall be for an initial period of FIVE (5) years (the “**Initial Term**”), beginning on the Effective Date and shall continue for THREE (3) additional renewal periods of ONE (1) year (each a “**Renewal Term**”). However, either the County or Spirit shall have the right and option to terminate the Agreement at the end of the Initial Term or any Renewal Term by providing the other party with ninety (90) days advance written notice prior to the end of the Initial Term or then current Renewal Term, as the case may be, of its election **not** to so extend the Agreement.
3. **Treatment Rate.**
 - a. ***2018 Discount.*** Spirit hereby agrees that retroactive to July 1, 2018 and continuing through December 31, 2018 the rate charged for processing Leachate from the County and its agencies and instrumentalities shall be \$0.047/gallon. The County shall receive a partial credit against its account for any payment(s) made prior to the date of this Agreement at the higher rate of \$0.049/gallon in order to reflect the retroactive treatment rate change provided for herein.
 - b. ***Temporary Rate Freeze.*** Beginning January 1, 2019 and continuing through at least June 30, 2020, the rate charged for processing leachate shall remain fixed at \$0.049/gallon.

- c. **Rate Increases.** Beginning July 1, 2020 and continuing on an annual basis thereafter Tenant shall be entitled to increase, as of said date, the treatment rate for processing Leachate from the County and its agencies and instrumentalities by a percentage equal to the greater of (i) the percentage change, rounded to the nearest one hundredth of one percent, in the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics for the immediately preceding June 30th – July 1st TWELVE (12) month period; and (ii) the percentage change in the County’s sewer usage rate applicable and charged to Spirit. Provided, however, that for any such increases to be effective, Spirit shall provide the County with written notice and the supporting data therefor on or before the September 1st preceding the July 1st effective date. For illustration purposes: Tenant shall provide Landlord with advance written notice of any increased treatment rate to become effective on July 1, 2020 no later than September 1, 2019 based upon either the change in the County’s sewer usage rate applicable as of that date or CPI-U data for the June 30, 2018 – July 1, 2019 period.
4. **Minimum Leachate Capacity Reservation and Commitment.** In each calendar year of the Term, Spirit shall accept and the County shall deliver for processing a minimum of TEN MILLION (10,000,000) gallons of Leachate (the “**Committed Capacity**”). Tenant shall ensure that sufficient capacity is reserved and set aside at the CIPF at all times in connection with the requirements of this subsection. If the amount of Committed Capacity is exceeded in a calendar year of the Term, then additional volume shall not be counted in calculations regarding available capacity, flow limitations, or allocation increases for Tenant’s operation of the CIPF. In the event the County delivers less than the Committed Capacity for processing in a calendar year, then the County shall remit payment to Spirit no later than THIRTY (30) days immediately following the end of said calendar year in an amount equal to the difference between the Committed Capacity and the number of gallons delivered for processing times the applicable treatment rate. By providing written notice to Spirit no later than September 1st of the preceding calendar year, the County shall have the right to increase the Committed Capacity to up to THIRTY MILLION (30,000,000) gallons per calendar year. Any increase in the Committed Capacity in excess of THIRTY MILLION (30,000,000) million gallons shall require the mutual agreement of the parties and an Amendment to this Agreement which may also include additional changes to the rate charged for processing the leachate or other terms and provisions of the Agreement.
5. **Processing of Septage.**
- a. **Septic Tank Information.** Spirit shall continue to treat Septage generated in the County and in so doing agrees to exercise commercially reasonable efforts, in cooperation with the County, to obtain and provide or cause to be obtained and provided to the County, on a monthly basis, the following information (i) number of pumped septic tanks delivered to Spirit for processing; and (b) the address location for said tanks. The County, for its part, will require the County licensed septic haulers to provide the above information with regard to each load of material delivered to the CIPF as a condition of their septic haulers license. Spirit will agree to keep the provided information strictly confidential and provide only to the County.
- b. **Incentive Program.** The County intends to embark upon a public outreach program to encourage single family homeowners to pump their septic systems more frequently. Because this program will presumably result in increased septage volumes delivered to the CIPF for processing, Spirit shall cooperate in good faith with the County in developing and participating in the program which shall include *inter alia* an annual commitment by Spirit to honor discount vouchers in an amount equal to the lesser of: (i) FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00); or (ii) 20% of the demonstrated increase in septage processing revenue to Spirit at the CIPF. The

terms, conditions and additional details of the “Septic Care Incentive Program” shall be mutually agreed upon by Spirit and the County.

6. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transferees and shall be recorded among the land records of Washington County and become a covenant running with the land upon which the CIPF is located for the duration of the Term.
7. **Governing Law.** This Agreement shall be governed by the laws of the State of Maryland as to interpretation, construction and performance.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties, there being no other terms, oral or written, except as herein expressed.
9. **Counterparts.** This Agreement (i) may be executed in two (2) or more counterparts, each of which shall be deemed an original, and all such counterparts shall together constitute one and the same instrument; (ii) may be executed by facsimile signatures (or by copies of physically signed documents exchanged via email attachment in PDF format or equivalent).
10. **Amendments.** This Agreement may be amended, changed or modified only by written amendment executed by the parties hereto. No waiver of any provision of this Agreement shall be valid unless in writing signed by the party charged.
11. **Further Agreements.** The parties shall at any time and from time to time after the date of this Agreement, upon request of the other, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, conveyances and assurances as may reasonably be required to complete the transaction(s) contemplated herein.
12. **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.
13. **Waiver.** Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the date set forth above.

[SIGNATURES ON FOLLOWING PAGE]

ATTEST:

COUNTY:

**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

Vicki C. Lumm, Clerk

BY: _____ (SEAL)
Terry L. Baker, President

ATTEST:

SPIRIT:

**SPIRIT SERVICES, INCORPORATED OF
WASHINGTON COUNTY**

By: _____ (SEAL)
Name: _____
Title: _____

Approved as to legal sufficiency:

Kirk C. Downey
Deputy County Attorney



Open Session Item

SUBJECT: Fort Ritchie – Conveyance of Historic Preservation Easement

PRESENTATION DATE: November 13, 2018

PRESENTATION BY: James L. Sterling, Director, Public Works, and Kirk C. Downey, Interim County Attorney

RECOMMENDED MOTION: Move to approve conveyance of a historic preservation easement at Fort Ritchie to the Maryland Historical Trust and an Ordinance authorizing same; and to authorize the execution of all documents necessary to effectuate the conveyance.

REPORT-IN-BRIEF: The Maryland Historical Trust desires a preservation easement over a portion of the Fort Ritchie property (essentially, the parade ground and surrounding buildings).

DISCUSSION: The Fort Ritchie property includes the Camp Ritchie Historic District, which is listed in the Maryland Register of Historic Properties and is eligible for listing in the National Register of Historic Places. The Deed to the property contains a Historic Property and Preservation Covenant in the favor of the State Historic Preservation Officer (the Director of the Maryland Historical Trust) that places certain restrictions upon development and alteration of the property. The State Historic Preservation Officer, the Trust, and the County agree that redevelopment of the property and interest in long-term preservation of the Historic District will be best served by (i) conveyance of a historic preservation easement to MHT and (ii) subsequent waiver by the SHPO of rights and responsibilities contained in the Covenant.

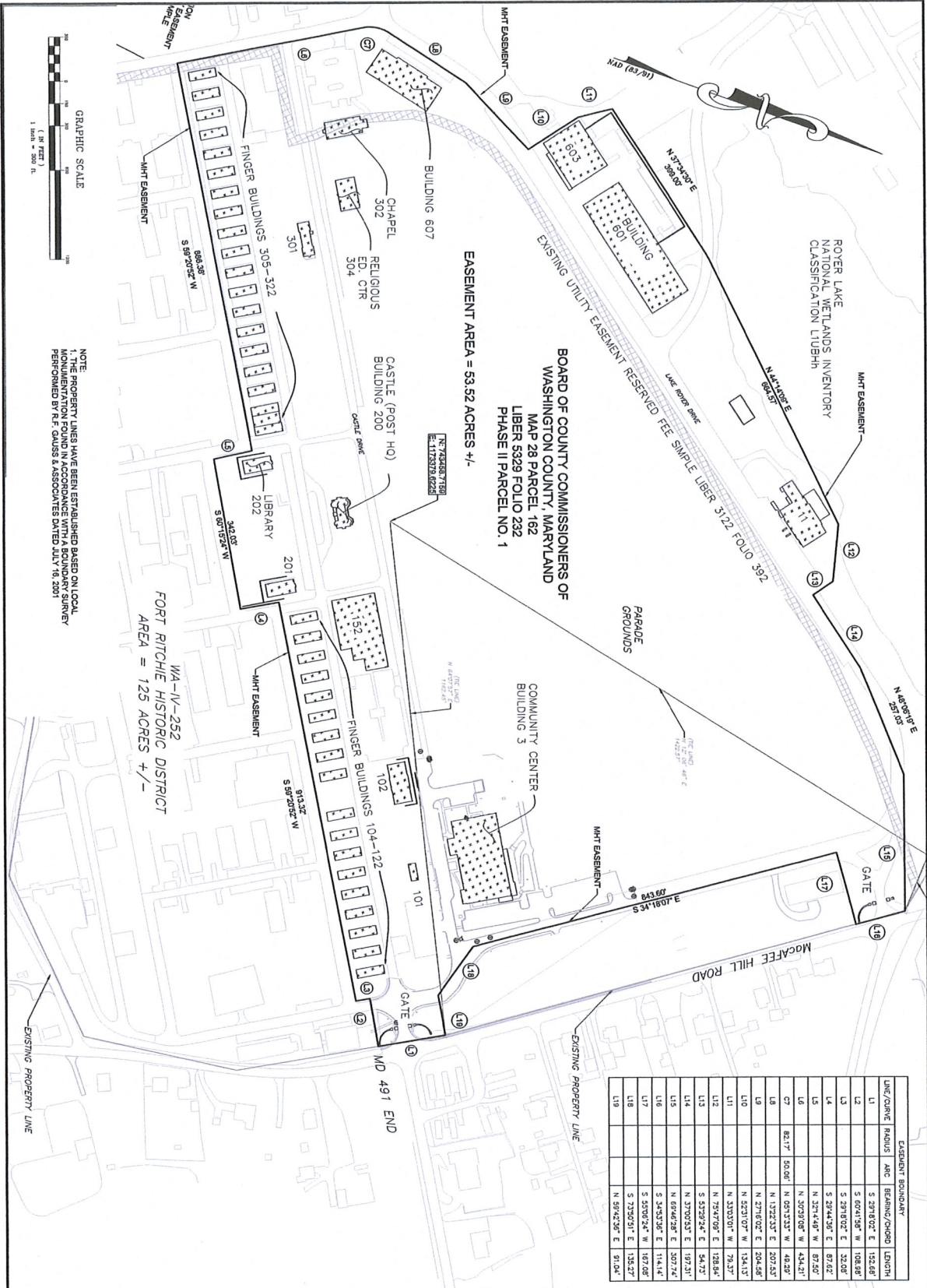
FISCAL IMPACT: None

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: MHT Easement Plat

AUDIO/VISUAL NEEDS: N/A



NOTE:
 1. THE PROPERTY LINES HAVE BEEN ESTABLISHED BASED ON LOCAL MONUMENTATION FOUND IN ACCORDANCE WITH A BOUNDARY SURVEY PERFORMED BY R.F. GAUSS & ASSOCIATES DATED JULY 18, 2001

WA-IV-252
 FORT RITCHIE HISTORIC DISTRICT
 AREA = 125 ACRES +/-

BOARD OF COUNTY COMMISSIONERS OF
 WASHINGTON COUNTY, MARYLAND
 MAP 28 PARCEL 182
 LIBER 5329 FOLIO 232
 PHASE II PARCEL NO. 1
 EASEMENT AREA = 53.52 ACRES +/-

LINE/CURVE	RADIUS	ARC	BEARING/CURVE	LENGTH
L1			S 20°18'02" E	152.66'
L2			S 60°14'37" W	108.84'
L3			S 29°18'02" E	32.05'
L4			S 20°44'38" E	97.82'
L5			N 30°14'49" W	97.50'
L6			N 30°29'32" W	43.21'
C7	82.17'	50.00'	N 05°13'33" W	48.20'
L8			N 13°22'33" E	207.25'
L9			N 27°16'02" E	204.48'
L10			N 52°31'07" W	134.13'
L11			N 33°03'07" W	79.27'
L12			N 79°47'08" E	128.84'
L13			S 53°28'24" E	54.73'
L14			N 37°00'53" E	197.21'
L15			N 69°46'28" E	307.74'
L16			S 34°53'27" E	114.14'
L17			S 55°05'24" W	187.08'
L18			S 73°50'51" E	155.27'
L19			N 99°42'38" E	91.04'

SCALE
 1"=600'
 SHEET NO.
 1 OF 1
 PROJECT NO.

FORT RITCHIE
 WASHINGTON COUNTY, MARYLAND
 MARYLAND HISTORIC TRUST
 PRESERVATION EASEMENT

WASHINGTON COUNTY, MARYLAND
 DIVISION OF ENGINEERING &
 CONSTRUCTION MANAGEMENT
 Washington County Administrative Annex, Building
 69 W. Baltimore St., Negotiation, MD 21748
 Phone: 240-313-2400 Fax: 240-313-2401

DESIGNED BY	NO.	REVISION DESCRIPTION	BY	DATE
XXX	1	REMOVE MENTION OF EXISTING MHT COVENANTS	ZMS	AUG. 10, 2015
DRAWN BY				
CHECKED BY				
DATE				