



100 West Washington Street, Suite 1101 | Hagerstown, MD 21740-4735 | P: 240.313.2200 | F: 240.313.2201
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BOARD OF COUNTY COMMISSIONERS
June 9, 2020
OPEN SESSION AGENDA

The meeting of the Board of County Commissioners of Washington County will be held at 100 West Washington Street, Suite 1113, Hagerstown. Due to Governor Hogan's Executive Order and gathering restrictions, Board members will be practicing social distancing. County buildings remain closed to public access except by appointment. Therefore, there will be no public attendance in the meeting chambers. The meeting will be live streamed on the County's YouTube and Facebook sites.

- 10:00 AM** **MOMENT OF SILENCE AND PLEDGE ALLEGIANCE**
CALL TO ORDER, *President Jeffrey A. Cline*
- 10:05 AM** **APPROVAL OF MINUTES:** *May 5, 2020, May 12, 2020, and May 19, 2020*
- 10:10 AM** **COMMISSIONERS' REPORTS AND COMMENTS**
- 10:20 AM** **RESCIND BID AWARD PUR1464 – GROUNDS MAINTENANCE CHEMICALS –**
Brandi Naugle, Buyer, Purchasing; George Sweitzer, Superintendent Black Rock Golf Course
- 10:30 AM** **2020 HOUSING BOND ALLOCATION TRANSFER –** *Jill Baker, Director, Planning & Zoning*
- 10:35 AM** **BLACK ROCK AGRICULTURAL LEASE –** *Todd Moser, Real Property Administrator; Andrew Eshleman, Director, Public Works*
- 10:40 AM** **AGRICULTURAL LAND PRESERVATION DISTRICT APPLICATIONS –** *Chris Boggs, Land Preservation Planner, Planning & Zoning*
- 10:45 AM** **BOARD OF HEALTH, HEALTH OFFICER, AND GOVERNOR'S EXECUTIVE ORDER –** *Kirk Downey, County Attorney*
- 10:55 AM** **ADJOURNMENT**



Agenda Report Form

Open Session Item

SUBJECT: Rescind Bid Award (PUR-1464) – Grounds Maintenance Chemicals

PRESENTATION DATE: June 9, 2020

PRESENTATION BY: Brandi Naugle, CPPB, Buyer, Purchasing Department and George Sweitzer, Superintendent at Black Rock Golf Course

RECOMMENDED MOTION: Move to relieve Synatek Solutions of Souderton, PA from the bid without prejudice for Item No. 31 (Signature XTRA) and award to the next lowest responsive, responsible bidder based upon drawing lots in public, pursuant to Section 2.9 of the Washington County Procurement Policy Manual.

REPORT-IN-BRIEF: The County accepted bids on April 29, 2020. The Invitation to Bid (ITB) was advertised on the State of Maryland's (eMMA) "eMaryland Marketplace Advantage" web site, on the County's web site, and in the local newspaper. Fifteen (15) persons/companies registered/downloaded the bid document on-line. Five (5) bids were received. This contract provides the needed chemicals for the Black Rock Golf Course, County Highway Department and Department of Water Quality; the City of Hagerstown may utilize the contract. The contract term is one (1) year tentatively commencing July 1, 2020 and ending June 30, 2021.

DISCUSSION: N/A

FISCAL IMPACT: Funds are budgeted for the chemicals in various expense operating accounts

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: Bid Matrix Tabulation.

AUDIO/VISUAL NEEDS: N/A

PUR-1464
Grounds Maintenance Chemicals
for Black Rock Golf Course

				Nutrien Ag Solutions Rosedale, MD	Helena Agri Enterprises, LLC Knoxville, MD	SiteOne Landscape Supply Frederick, MD	Genesis Turfgrass, Inc. Glen Rock, PA	Synatek Solutions Souderton, PA
Item No.	Item Description / Formulation	Estimated Annual Usage / Case Type	Unit of Measure	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
1	Acclaim Extra	2-Gallons	Gallon	\$493.45	\$505.00	\$540.00	\$526.00	\$555.56
2	Aqua Shade	5 Cases / 4 x 1 Gallon 4 Gallons per Case	Gallon	\$44.00	\$49.00	\$43.00	\$45.85	\$64.30
3	Propiconazole 14.3%	3 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$43.00	\$49.75	\$68.00 *	\$49.80	\$52.34
4	Propamocarb Hydrochloride 66.2%	8 Cases / 2 x 1 Gallon 2 Gallons per Case	Gallon	\$296.94	\$302.00	\$350.00 *	\$330.00	\$300.00
5	Bensumec – 4LF	5 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$124.30	\$115.00	\$141.25	\$120.00	\$151.45
6	Thiophonate Methyl 46.2%	40 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$39.99	\$41.50	\$42.00 *	\$43.60	\$47.69
7	Aluminum Tris WDG 80%	10 Cases / 4 x 5.5 lbs. 22 lbs. per Case	Pound	NO BID	\$13.50	\$13.25 *	\$13.10	\$16.60
8	Crossbow	12 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$45.90	\$41.00	\$41.70 *	\$41.60	\$51.34
9	Chlorothalonil 54% 720 SFT	12 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$37.23	\$40.80	\$40.40 *	\$39.50	\$41.00
10	Chlorpyrifos 4E 42.5%	2 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$48.49	\$46.00	\$64.00	\$43.00	\$55.82
11	Dylox 420 SL	4 Cases / 2 x 2.5 Gallons 5 Gallons per Case	Pound	\$71.89	\$64.00	\$74.21	\$69.60	\$77.47
12	Fore WSP	9-Cases / 8 x 4 x 1.5 lbs. 48 lbs. per Case	Pound	\$7.42	\$7.70	\$34.65	\$7.25	\$9.87
13	Head Way	4-Cases / 2 x 1 Gallon 2 Gallons per Case	Gallon	\$438.00	\$438.00	\$438.00 *	\$438.00	\$438.00
14	Tebuconazole 38.7%	23-Gallons / 4 x 1 Gallon 5 3/4 Gallons per Case	Gallon	\$61.73	\$49.75	\$74.38	\$61.95	\$65.70
15	Imidacloprid 75%	2-Cases / 88 x 1.6 oz per Case	Case	\$370.48	\$385.00	\$77.25 *	\$347.00	\$359.10
16	PCNB 40%	6-Cases / 2 x 2.5 Gallons 5 Gallon Case	Gallon	NO BID	\$57.06	\$55.45 *	\$57.06	NO BID
17	Pendulum Aqua Cap	6-Cases / 2 x 2.5 Gallons 5 Gallon Case	Gallon	\$48.88	\$56.00	\$68.92	\$59.00	\$68.92
18	Trinexapac – Ethyl 11.3%	2-Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$101.00	\$102.00	\$132.88 *	\$103.60	\$110.00
19	Prograss	9-Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$132.00	\$140.00	\$157.28	\$146.80	NO BID
20	Provaunt	2-Cases 8 x 12 oz.	Case	\$1,526.40	\$1,526.40	\$2,556.00 *	\$1,526.40	\$1,526.40
21	Glyphosate 41%	4-Cases / 2 x 2.5 Gallons 5 Gallons per Case	Gallon	\$12.99	\$14.00	\$17.92 *	\$12.60	\$14.88
22	Mefenoxam 22.5%	2.5 Cases / 2 x 1 Case 2 Gallon Cases	Gallon	\$354.15	\$337.80	\$414.88	\$365.00	\$350.00
23	Talstar	4 x 1-Gallon 4 Gallons per Case	Gallon	\$49.00	\$51.00	\$57.81	\$50.00	\$52.50
24	Trimec Classic	20-Gallons / 2 x 2.5 Gallons / 5 Gallons per	Gallon	\$20.88	\$36.00	\$46.00	\$38.90	\$42.10
25	Paclobutrazol 22.3%	3-Gallons 2 x 1 Gallon Cases	Gallon	\$148.77	\$144.00	\$220.00 *	\$161.50	\$181.23
26	Phosguard	200-Gallons 2 x 2.5 Gallon Cases	Gallon	\$13.77	NO BID	\$20.00 *	\$18.00	NO BID
27	Bayleton FLO	36-Gallons / 2 x 2.5 Gallons / 5 Gallons per	Gallon	\$554.00	\$554.00	\$554.00 *	\$488.00	\$488.00

PUR-1464
Grounds Maintenance Chemicals
for Black Rock Golf Course

				Nutrien Ag Solutions Rosedale, MD	Helena Agri Enterprises, LLC Knoxville, MD	SiteOne Landscape Supply Frederick, MD	Genesis Turfgrass, Inc. Glen Rock, PA	Synatek Solutions Souderton, PA
Item No.	Item Description / Formulation	Estimated Annual Usage/Case Type	Unit of Measure	Unit Price	Unit Price	Unit Price	Unit Price	Unit Price
28	Dismiss NXT	5-Gallons / 60 Ounce Bottles 40 Ounces / 2 x 2.5	Gallon	\$2,596.00	\$2,596.00	\$649.00 *	\$649.00	\$1,384.53
29	Fluazinam 40SC	Gallons / 5 Gallons per	Gallon	\$335.45	\$368.80	NO BID	\$359.00	\$373.09
30	Poa Constrictor	7-Gallons / 96 Ounce Bottles	Gallon	\$129.40	\$118.80	NO BID	\$149.00	NO BID
31	Signature XTRA	75 lbs. / 5.5 Pound Bags	Pound	\$31.82	\$31.81	\$175.00 *	\$31.82 *	\$30.00
32	Barricade	10-Gallons 4 x 1 Gallon Case	Gallon	\$143.00	\$143.00	\$143.00 *	\$143.00	\$143.00
33	Mancozeb	450 lbs. 12 lb. bags	Pound	\$4.05	\$3.95	\$4.88	\$4.58	\$5.49
34	Fairway Select	50 Gallon / 2 x 2.5 Gallon / 5 Gallons per Case	Gallon	\$212.80	NO BID	NO BID	\$157.50	\$167.06

Remarks / Exceptions:
Helena Item 28 Case
Item No. 28 - Case

Remarks / Exceptions:
Genesis Turfgrass, Inc.
Item No. 31 Signature XTRA - Cost per lb is 31.818181 rounding up to 31.82 (Agency Price Cost)

Remarks / Exceptions:
SiteOne Landscape Supply
Item No. 3 - Lesco Spectator
Item No. 4 - Proplant
Item No. 6 - Lesco T-Storm
Item No. 7 - Fosetyl-al
Item No. 8 - Candor
Item No. 9 - Manicure 6FL
Item No. 13 - Agency
Item No. 15 - Lesco Bandit 75WSP (4x4x1.6oz/Case)
Item No. 16 - Turf Cide
Item No. 18 - T-Nex
Item No. 20 - (24x12oz)
Item No. 21 - Lesco Prosecutor
Item No. 25 - Pac-Low
Item No. 26 - Brandt Liqui-Phi 0-0-25
Item No. 27 - (Agency)
Item No. 28 - (Agency)
Item No. 31 - (Agency) 5.5 lb Container
Item No. 32 - (Agency)

Alternates are clearly written out. Labels / Specifications are enclosed.
Agency - Pricing strictly set by manufacturers.
#28 Dismiss NXT & #31 Signature XTRA - Unit of measure changed to
Container size due to Agency pricing not evenly broken down to units of measure.



Agenda Report Form

Open Session Item

SUBJECT: 2020 Housing Bond Allocation Transfer

PRESENTATION DATE: June 9, 2020

PRESENTATION BY: Jill Baker, Director, Department of Planning and Zoning

RECOMMENDED MOTION: Move to approve the transfer of Washington County's 2020 Housing Bond Allocation in the amount of \$5,546,531 to the Community Development Administration for use in issuing housing bonds on behalf of Washington County.

REPORT-IN-BRIEF: Each year the State of Maryland invites local governments to partner in a statewide bond pool for first time homebuyers. The pool allows counties to transfer their housing bond allocation to the State to issue bonds to fund housing programs. Washington County has traditionally used this allocation to participate in the Maryland Mortgage Program (MMP).

DISCUSSION: Washington County has been transferring its housing bond allocation to the Community Development Administration (CDA) annually since at least 2007. The maximum allowable acquisition costs for the MMP in FY 18-20 were \$271,165 and \$331,423 in targeted areas. Income limits for MMP participants in FY 18-20 were between \$96,500 and \$135,100 depending on family size. The MD DHCD reports purchasing activity in Washington County as 96 units in 2017 (\$13,051,467), 41 units in 2018 (\$5,497,993), 58 units in 2019 (\$8,757,273), and 112 units in 2020 (17,949,089). Targeted areas in Washington County are within Hagerstown city limits.

FISCAL IMPACT: No cost to Washington County

CONCURRENCES: n/a

ALTERNATIVES: If there is no transfer there will be less money available to make housing loans to Washington County applicants from the Maryland Mortgage Program.

ATTACHMENTS: Letter to MD Department of Housing and Community Development

AUDIO/VISUAL NEEDS:



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

June 12, 2020

Maddy Ciulu, Director
Single Family Housing
Community Development Administration
Department of Housing & Community Development
7800 Harkins Road, Room 367
Lanham, Maryland, 20706

Dear Ms. Ciulu:

Pursuant to Sections 13-801 through 13-807 of the Financial Institutions Article of the Maryland Annotated Code, Washington County hereby irrevocably transfers to the Community Development Administration, for use in issuing housing bonds or mortgage credit certificates on behalf of this jurisdiction, 100% of its total \$5,546,531 tax-exempt housing bond allocation as set forth in 2020 allocation of the Maryland State Ceiling made by the Secretary of Commerce pursuant to the Article.

Sincerely,

Jeffery A. Cline, Chairperson
Board of County Commissioners of Washington County,
Maryland

Certificate of Counsel

This transfer of a tax-exempt bond allocation is duly authorized and executed and constitutes the valid, binding and irrevocable act of Washington County, Maryland.

Kirk C. Downey, County Attorney
Washington County, Maryland



Agenda Report Form

Open Session Item

SUBJECT: Black Rock Agricultural Lease

PRESENTATION DATE: June 9, 2020

PRESENTATION BY: Todd Moser, Real Property Administrator, Andrew Eshleman, Director of Public Works

RECOMMENDED MOTION: Move to approve the request to proceed with the Request for Quotation (RFQ) for the rental of a tract of land adjacent to Black Rock Golf Course and Landis Road and enter into an Agricultural Lease with the highest bidder.

REPORT-IN-BRIEF: The agenda item was initially presented to the Board on June 2, 2020, and at this meeting the Board requested the item be placed on the next agenda for consideration. The existing five-year lease with the current tenant is set to expire at the end of October 2020.

DISCUSSION: The County has approximately 46.25 +/- acres of tillable land available for agricultural use. The proposed lease is for the term of five years and allows either party to terminate the lease with 60 days written notice. Language regarding proposed future walking trails has been added to the lease that will allow the County to construct trails in the future. If the County terminates the lease, the tenant will have 60 days to harvest crops. If the crops are not deemed ready to harvest, the County will pay the tenant the current local USDA rate for existing crops the tenant was prevented from harvesting. Setting a \$3,500 minimum bid amount is proposed.

FISCAL IMPACT: Estimated annual revenue of \$3,500 - \$4,600.

CONCURRENCES: County Attorney's Office

ALTERNATIVES: Negotiate new lease with current tenant.

ATTACHMENTS: Aerial Map, Draft Lease

AUDIO/VISUAL NEEDS: N/A

ATTACHMENT E

AGRICULTURAL LEASE

THIS AGRICULTURAL LEASE ("Lease") is made as of the _____ day of _____, 2020, between the **BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland, 100 W. Washington Street, Hagerstown, Maryland 21740 (hereinafter referred to as "Landlord") and _____ a Maryland Limited Liability Company, (hereinafter referred to as "Tenant").

SECTION 1 DEMISE

In consideration of the rents and covenants herein set forth, Landlord does hereby lease to Tenant and Tenant hereby leases and accepts from Landlord for a period of Five (5) year beginning on the 1st day of November 2020, and ending on the 31 day of October, 2025, unless this Lease shall be sooner terminated for any cause, at and for the rental and upon the other terms and conditions hereinafter set forth, the Forty Six point Five Acres (46.25) parcels of land generally considered farm or agricultural land (hereinafter the "Leased Premises") consisting of approximately Forty Six Point Five (46.25) tillable acres shown on Exhibit A situated in Election Districts No. 10 Washington County, Maryland. Said parcel being part of the lands which were conveyed unto the Board of County Commissioners of Washington County, Maryland, by deeds recorded among the Land Records of Washington County, Maryland at Liber 913, folio 032, Liber 1427, folio 883, and Liber 914, Liber 353. The Leased Premises is also shown on Exhibit A attached hereto.

SECTION 2 RENT

Tenant shall pay as annual rent the sum of _____ (*****). Said annual rental payments shall be due and payable on the 1st day of November of each year during the term of this Lease and shall be mailed to the Washington County Department of Public Works, 100 West Washington Street, Suite 2400 Hagerstown, Maryland 21740.

SECTION 3 TERMINATION

If at any time during the term of this Lease, the Landlord desires, at its sole and absolute discretion, to use the Leased Premises or a portion thereof for the expansion of Black Rock Golf Course, construction of walking paths and additional parking as shown on Exhibit B, or for any other use that the Landlord determines is in its best interest, the Landlord may terminate this Lease upon giving sixty (60) days written notice to the Tenant. However, if at the time Landlord desires to terminate this Lease the Tenant has crops growing on the Leased Premises, Landlord

shall, at the Landlord's option, either permit the Tenant to harvest the crops prior to the effective date of termination, or reimburse the Tenant the current local USDA rate for any existing crops on the Leased Premises which the Tenant was prevented from harvesting by reason of the termination.

The Tenant may terminate this Lease at any time upon giving sixty (60) days written notice to the Landlord.

Following the termination of this Lease and any compensation for existing crops as described in this section, neither party shall have any further obligations under the terms and conditions of this Lease.

SECTION 4 DUTIES OF TENANT

In addition to the covenants contained in other sections of this Lease, Tenant further agrees as follows:

- (a) The Leased Premises shall be used only for agricultural purposes.
- (b) Tenant shall farm, cultivate, fertilize and manage the Leased Premises in a good and workmanlike manner, according to the most approved and accepted methods and to keep the Leased Premises in good condition and not allow the land to be impoverished and to have the land arable at all times. Landlord reserves the right to approve the specific crop to be planted by the Tenant on the Leased Premises.
- (c) Tenant is responsible for the sole cost of any additional utilities that are required for their agricultural activity to include electric, plumbing and water costs.
- (d) Tenant shall maintain in good repair all fences, gates and roads which may be located upon the Leased Premises. In the event that Tenant desires to construct fences, such fences shall be completed at the sole cost and expense of the Tenant and the Tenant must receive written approval of the Landlord prior to the start of construction.
- (e) Tenant shall keep the Leased Premises neat and orderly.
- (f) Tenant shall maintain the Leased Premises in accordance with conservation practices recognized as acceptable by the Washington County Soil Conservation District.
- (g) Tenant shall follow other recognized practices to control soil erosion.

- (h) Tenant shall keep trim the weeds and grasses on the Leased Premises and along the roads adjoining the Leased Premises and comply with the weed ordinance of Washington County, as may be amended from time to time, by routinely mowing and taking any other action necessary to comply with said ordinance, at no cost to Washington County.
- (i) Tenant may cultivate any fields suitable for cultivation and shall not cut nor remove any sod from the Leased Premises. Tenant shall not cut any trees or timber on the Leased Premises nor excavate the Leased Premises nor remove any minerals from the ground.
- (j) Tenant shall not burn corn stalks, straw, or other crop residues grown on the farm, except by prior written approval of Landlord, but shall leave or spread all such material upon the land.
- (k) Tenant shall not break up established ditches, or undertake any other operation that will injure the Leased Premises.
- (l) No hunting is allowed on the Leased Premises.
- (m) Tenant shall return the Leased Premises to the Landlord at the end of this Lease in as good a condition as when received.
- (n) No structures, building, or construction of any kind shall be placed on the leased premises.

SECTION 5

NO ASSIGNMENT OR SUBLETTING

Tenant shall not assign this Lease in whole or in part nor permit assignment thereof by operation of law, equity, or otherwise, nor sublet the whole or any part of the Leased Premises without the prior written approval of the Landlord.

SECTION 6 CONDEMNATION

If the whole or any part of the Leased Premises shall be taken under the power of eminent domain, or by private purchase in lieu thereof, this Lease shall terminate as to the part so taken on the day when Tenant is required to yield possession thereof. All compensation awarded for such taking shall belong to and be the property of the Landlord. A proportionate part of the rent shall be abated from and after the day of taking.

SECTION 7 INDEMNIFICATION

Except to the extent specifically limited by law, Tenant shall indemnify and save harmless Landlord and its contractors and subcontractors and its or their present and future controlling persons, commissioners, officers, elected officials, agents, and employees from and against any and all claims, actions, damages, liability and/or expense in connection with loss of life, personal injury and/or damage to property arising from or out of the condition of the Leased Premises or because of the occupancy or use by Tenant of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant or Tenant's family or any of their agents, employees, invitees, or contractors or any other person on the Leased Premises during the term of this Lease.

Landlord shall not be liable for any loss or damage to any person or persons or to any property at any time located on the Leased Premises, whether due to theft or suffered by reason of fire, water, rain, snow, hail, lightening, vermin, any animals on the Leased Premises, or any other cause.

SECTION 8 EFFECT ON INSURANCE

Tenant shall not do or suffer to be done or keep or suffer to be kept anything in, upon, or about the Leased Premises which may contravene the terms of any hazard or liability insurance policies Landlord may have or may obtain during the term of this Lease or any extension thereof, or which will prevent Landlord from procuring insurance in companies acceptable to Landlord at standard rates.

SECTION 9 NO ENCUMBRANCES

Tenant shall not execute any chattel mortgage or other security agreement or encumbrance that would attach to the leasehold estate, the Leased Premises, or any crops thereon or permit any chattel mortgage or other security agreement or encumbrance to attach thereto.

SECTION 10
LANDLORD'S REMEDIES ON DEFAULT BY TENANT

- A. Tenant agrees that in the event he should be in default under any of the terms, provisions, covenants or conditions of this Lease, or have otherwise breached this Lease that:
- (i) Landlord shall, in addition to every remedy now or hereafter available at law or in equity, have all of the rights and remedies set forth in this Lease, which shall be deemed cumulative and not exclusive of those available at law or in equity.
 - (ii) Landlord may, at its sole and absolute discretion, after having given Tenant ten (10) days written notice, terminate this Lease and have the right to immediate possession of the Leased Premises. No such recovery of possession of the Leased Premises shall deprive Landlord of any other action against Tenant for possession, rent and/or damages. If Tenant abandons the Leased Premises and cannot with reasonable diligence be located within ten (10) days after abandonment of the Leased Premises, Landlord may, at its sole and absolute discretion, terminate this Lease and have the right to immediate possession of the Leased Premises without notice to the Tenant, or by such substituted notice as the law shall provide or allow.
 - (iii) Landlord may, at its sole and absolute discretion and option, after having given Tenant ten (10) days written notice, terminate this Lease, or, without terminating this Lease, relet the Leased Premises or any part of the Leased Premises, upon such terms and conditions, and at such rental as the Landlord may deem advisable. The term of such reletting may be for a term beyond the term of the Lease. If the Landlord chooses to relet the Leased Premises, Tenant shall be immediately liable for any and all expenses of reletting.
 - (iv) Landlord shall have the right to own or possess at Landlord's option all crops, both harvested and unharvested; the right to remove all property and persons from the Leased Premises; and the right to store in a public warehouse at Tenant's expense all property so removed.
 - (v) Landlord shall also have the right, at Tenant's sole expense, to restore and/or put the Leased Premises or any part of the Leased Premises in good condition and repair.
- B. Each of the following shall be deemed default by Tenant under this Lease:

- (i) If the rent, in whole or in part, shall be in arrears and unpaid for the period of ten (10) days;
- (ii) If Tenant shall fail to comply with any of the terms, provisions, covenants, or conditions of this Lease and such default shall continue for the period of ten (10) days after written notice to Tenant;
- (iii) If there is filed by or against Tenant a petition in bankruptcy or insolvency proceedings or a petition, answer, or other pleading seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under the federal bankruptcy laws or under any state insolvency law;
- (iv) In the event Tenant makes an assignment or arrangement or executes a deed of trust for the benefit of creditors; or
- (v) If Tenant becomes insolvent or is unable to pay debts as they mature.

SECTION 11 ENTRY BY LANDLORD

If Tenant does not perform any covenant or obligation required of Tenant by this Lease or by law, Landlord shall have the right to perform such covenant or obligation and to enter the Leased Premises for such purposes, after having given Tenant ten (10) days' notice; except that no notice shall be required in the event of an emergency. The cost thereof to Landlord shall be deemed to be additional rent payable by Tenant and shall bear interest at the rate of one and one-half percent (1.5%) per annum from the date the costs are incurred.

Landlord shall have the right to inspect the Leased Premises at any reasonable time during the term of this Lease or any extension thereof but shall not have any duty to inspect or repair same for any purpose whatsoever, except as is specifically set forth herein.

SECTION 12 WAIVERS

Waiver by Landlord of any breach of any covenant or duty of Tenant under this Lease is not a waiver of a breach of any other covenant or duty of Tenant, or any of subsequent breach of the same covenant or duty.

SECTION 13

NOTICES

All notices required under this Lease shall be in writing and shall be considered proper, adequate and effective if and when mailed by United States mail, certified mail, return receipt requested, postage prepaid, as follows:

If to Landlord: Todd Moser
 Real Property Administrator, Washington County
 80 W Baltimore Street
 Hagerstown, MD 21742

If to Tenant:

or such other address as the parties above shall have furnished to the other in writing.

SECTION 14 COMPLETE AGREEMENT

This Lease contains the final and entire agreement between the parties hereto, and neither they nor their agents shall be bound by any terms, conditions, representations, or warranties not written herein, and this Lease cannot be changed or modified except by a written instrument subsequently executed by the parties hereto. This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind shall not be binding upon either party except to the extent incorporated in this Lease.

SECTION 15 BINDING EFFECT

This Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their personal representatives, successors, and permitted assigns, provided that no rights shall inure to any successor or assign of Tenant unless specifically approved in writing by Landlord. If Tenant shall consist of more than one person or entity, they shall be bound jointly and severally for performance of the obligations of Tenant hereunder.

SECTION 16 APPLICABLE LAW

This Lease shall be governed, construed and controlled by the laws of the State of Maryland.

SECTION 17 EFFECT OF PARTIAL INVALIDITY

The invalidity of any provision of this Lease will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Lease is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION 18 MODIFICATION OF AGREEMENT

Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

**SECTION 19
CAPTIONS**

The captions appearing in the Lease are inserted only as a matter of convenience and do not limit, construe, or describe the scope or intent of the Sections of this Lease nor in any way affect this Lease.

**SECTION 20
TIME IS OF THE ESSENCE**

Time is of the essence of each and every obligation of the Tenant.

WITNESS the hands and seals of the parties hereto as of the day and year first above written.

ATTEST:

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

Krista Hart, Clerk

BY: _____(SEAL)
Jeffery A. Cline, President

WITNESS/ATTEST:

TENANT

BY: _____(SEAL)

Recommended for approval by the County:

Todd Moser, Real Property Administrator
Division of Engineering

Approved as to form and
legal sufficiency for execution by the County:

BY: _____
B. Andrew Bright
Assistant County Attorney

DRAFT

Black Rock Golf Course Agricultural Fields





Agenda Report Form

Open Session Item

SUBJECT: 2020 Agricultural Land Preservation District Applications

PRESENTATION DATE: June 9, 2020

PRESENTATION BY: Chris Boggs, Land Preservation Planner, Dept. of Planning & Zoning

RECOMMENDED MOTION: Move to approve the 10-year Agricultural Land Preservation Districts for the following sixteen (16) property owners: Blue Mountain Farm, LLC, Eklund Family, LLC, Walnut Hill Farm, LLC, Harbaugh, Bragunier, Winders, KB Farm Properties, LLC, Bowers, Golden, Grimm/O'Neal, Hege, Hess, Byron/Stark, Baker, Kessler, and Wolfinger (see attachments for complete owner and location information); and 5-year renewals for the following four (4) property owners: Martz, Morgan, Green, and Fulton.

REPORT-IN-BRIEF: On June 2, 2020 the County Commissioners held a Public Hearing to consider the applications for Agricultural Land Preservation Districts.

DISCUSSION: A one-week review period to collect public comments on the district applications is required due to the required social distancing restrictions associated with the COVID-19 pandemic.

FISCAL IMPACT: The cost of tax credits for these properties for the full ten-year period is approximately \$12/acre/year for a total of about \$29,784 per year. This will be in the form of property taxes not collected. A total of 2,482.011 acres will be included in the 20 districts.

CONCURRENCES: The Agricultural Land Preservation Advisory Board approved all of the Districts because they meet program criteria for size, soils, and assessment. The Planning Commission/Planning Staff have determined the properties are consistent with Comprehensive Plan requirements due to their locations outside of County-designated growth areas and planned water and sewer service areas.

ALTERNATIVES: Deny any of the pending 10-year Districts.

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Agenda Report Form

Open Session Item

SUBJECT: Board of Health, Health Officer, and Governor's Executive Orders

PRESENTATION DATE: June 9, 2020

PRESENTATION BY: Kirk C. Downey, County Attorney

RECOMMENDED MOTION: N/A. For informational purposes.

REPORT-IN-BRIEF: Discussion about the Board of Health, the Health Officer, and the Governor's Executive Orders

DISCUSSION: The statutory authority relied upon by the Governor to promulgate the Executive Orders is Public Safety Article, Title 14, principally § 14-3A-03. It gives the Governor a list of powers including the following: "The Governor may order the evacuation, closing, or decontamination of any facility; and If necessary and reasonable to save lives or prevent exposure to a deadly agent, the Governor may order individuals to remain indoors or refrain from congregating."

The powers are premised on a proclamation of catastrophic health emergency under § 14-3A-02, which is valid for 30 days, renewable in 30 day increments, which of course has been done and renewed.

Some of the powers in § 14-3A-03 are exercisable by the Secretary or other designated official as ordered by the Governor. However, the powers in (d) only appear to be the prerogative of the Governor.

The Public Safety article does not mention any local exceptions. Section 14-111 provides for a declaration of a local state of emergency, that declaration only activates the response and recovery aspects of the local emergency plan, and authorizes provision of aid and assistance under the plan. It does not appear to circumvent or augment the powers exercised by the Governor.

§ 14-3A-08 makes it a misdemeanor to knowingly and willfully fail to comply with an order, requirement or directive issued under the subtitle, punishable by 1 year imprisonment and/or a \$5,000 fine.

The Health General Article, Title 3, Subtitle 2, establishes the local governing body as the County Board of Health. The Board of Health has certain oversight over local health conditions, some fee setting authority, and coordinating responsibilities with the State Department of Health

and the Health Officer. The Board of Health is empowered to “adopt and enforce rules and regulations on any nuisance or cause of disease in the County.” In sum, it appears that local Boards of Health could adopt rules and regulations that are more restrictive than those issued by the Governor or Secretary of Health, but not less restrictive.

Pursuant to Health General Article, § 3-302, the Health officer for each county is nominated by the County and appointed by the State Secretary of Health. The Health Officers powers and duties are set forth in § 3-306. In any event, the Health Officer does not appear, under either the Health Article or the Public Safety Article, to have the authority to issue an order contrary to that of the Governor or the Secretary.

Specifically, Public Safety § 14-113 provides as follows:

(a) Each emergency management agency established under this subtitle and its officers shall execute and enforce the orders, rules, and regulations made by the Governor under authority of this subtitle.

(b) With respect to the threat or occurrence of an enemy attack, act of terrorism, or public health catastrophe, each law enforcement officer of the State or a political subdivision and each health officer of a political subdivision shall execute and enforce the orders, rules, and regulations made by the Governor under authority of this subtitle.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A