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BOARD OF COUNTY COMMISSIONERS

November 29, 2022

AMENDED OPEN SESSION AGENDA

- 9:30 AM MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE
CALL TO ORDER, *President Jeffrey A. Cline*
APPROVAL OF MINUTES: *November 15, 2022*
- 9:35 AM COMMISSIONERS' REPORTS AND COMMENTS
- 9:50 AM STAFF COMMENTS
- 9:55 AM CITIZEN PARTICIPATION
- 10:05 AM PROCLAMATION FOR SHERIFF DOUGLAS W. MULLENDORE
Board of County Commissioners to Sheriff Douglas W. Mullendore
- 10:15 AM AGRICULTURE – FACES OF FARMING PRESENTATION
Leslie Hart, Business Development Specialist - Agriculture, Business Development;
Jonathan Horowitz, Director, Business Development
- 10:20 AM MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAM
(MALPP) 60/40 MATCH FOR FY 2023
Chris Boggs, Rural Preservation Administrator, Planning and Zoning
- 10:25 AM COMMUNITY RESCUE SERVICE SUB-STATION DISCUSSION
R. David Hays, Director, Emergency Services; Robert Buck, Deputy Chief,
Community Rescue Service (CRS), Dale Fishack, President, WCVFRA
- 10:30 AM PUBLIC HEARING – MARYLAND CLEAN ENERGY LOAN PROGRAM
ORDINANCE AND AGREEMENT
Linda Spence, Business Specialist, Business Development
- 10:40 AM PUBLIC HEARING – NOT-TO-EXCEED \$5,600,000 OF CONDUIT REVENUE
BONDS TO BE ISSUED BY THE TOWN OF SMITHSBURG (“SMITHSBURG”)
AND LOANED TO BROOK LANE HEALTH SERVICES, INC. (“BROOK
LANE”) AND PROPOSED RESOLUTION
Kirk C. Downey, County Attorney; and Lindsey A. Rader, Bond Counsel for
Washington County; or Emery B. McRill, McGuire Woods LLP, Bond Counsel for
the Proposed Revenue Bond Issue

- 10:50 AM PUBLIC HEARING – APPLICATION FOR ZONING TEXT AMENDMENT
RZ-22-004
Jill Baker, Director, Planning and Zoning
- 11:30 AM TEXT TO 911 – REQUEST FOR APPROVAL TO ACCEPT AWARDED
FUNDING
*Brian Albert, Assistant Director, Emergency Communications Center Operations;
Nicole Phillips, Grant Manager, Grant Management*
- 11:35 AM INTERGOVERNMENTAL COOPERATIVE PURCHASE (INTG-22-0101) 9-1-1
(NG9-1-1) ESINET NEXT GENERATION SOFTWARE UPGRADE
IMPLEMENTATION
*Rick Curry, Director, Purchasing; Brian Albert, Assistant Director, Emergency
Communications Center Operations;*
- QUOTATION AWARD (Q-22-737) FORT RITCHIE MANHOLE MONITORING
*Rick Curry, Director, Purchasing; Joe Moss, Deputy Director, Highway
Department*
- INTERGOVERNMENTAL COOPERATIVE PURCHASE (INTG-22-0091) -
LEASE/PURCHASE ONE (1) NEW TUB GRINDER
Rick Curry, Director, Purchasing; Dave Mason, Deputy Director, Solid Waste
- RESCIND BID AWARD, INTERGOVERNMENTAL COOPERATIVE
PURCHASE (INTG-22-0080) ONE (1) NEW 2023 FORD F650
Rick Curry, Director, Purchasing
- 11:40 AM CONSTRUCTION BID AWARD – STOTLER ROAD AT HALFWAY
BOULEVARD SIGNAL INTERSECTION IMPROVEMENTS
Scott Hobbs, Director, Engineering
- 11:45 AM PROCLAMATION PRESENTATION TO COMMISSIONER TERRY L. BAKER
FOR HIS DEDICATED YEARS OF SERVICE TO THE CITIZENS OF
WASHINGTON COUNTY
Presented by the Board of County Commissioners
- 11:55 AM PROCLAMATION PRESENTATION TO COMMISSIONER CHARLES A.
BURKETT FOR HIS DEDICATED SERVICE TO THE CITIZENS OF
WASHINGTON COUNTY
Presented by the Board of County Commissioners

12:05 PM ADJOURNMENT

12:30 PM COMMISSIONERS END OF TERM RECEPTION
LOCATION: ADMINISTRATION OFFICE BOARDROOM #1115



Open Session Item

SUBJECT: Proclamation for Sheriff Douglas W. Mullendore

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Board of County Commissioners to Sheriff Douglas W. Mullendore

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: Proclamation Presentation

WHEREAS, Douglas W. Mullendore has dedicated his life to serving the citizens of Washington County, Maryland; and

WHEREAS, in 1968, at the age of 15, he began volunteering for the combined Boonsboro Fire and Ambulance Company. When the companies split, he stayed with the fire department and eventually served as Boonsboro Fire Chief from 1978 to 1983; and

WHEREAS, Sheriff Mullendore was first employed as a police officer for the town of Boonsboro from 1974-1978. He was hired by the Washington County Sheriff's Office on January 18, 1982. He has held the ranks of Deputy through Sheriff. He is the longest serving employee of the Washington County Sheriff's Office, who was elected and served as Sheriff for sixteen (16) years; and

WHEREAS, during his career with the Washington County Sheriff's Office, Sheriff Mullendore enhanced the lives and safety of the citizens of Washington County; and

WHEREAS, Sheriff Mullendore was instrumental in the implementation of the Day Reporting Center, that provides outpatient services for nonviolent substance abuse offenders, adding the Sally Port to the Washington County Courthouse, that provides a secure area for officers to transport prisoners from their vehicles to holding cells in the courthouse; adding a new Central Booking Facility to the detention center to streamline arrests, reduce the risk of escapes during prisoner transport and allow officers to return to their patrols more quickly; planning and constructing the Public Safety Training Center; and planning for the renovation of the Special Services Building and relocation of the Patrol Division.

NOW THEREFORE, We, the Board of County Commissioners of Washington County, Maryland, do hereby offer our most sincere appreciation in recognition of Sheriff Mullendore's retirement from the Washington County Sheriff's Office and thank you for your dedication and service to our community



Agenda Report Form

Open Session Item

SUBJECT: Agriculture – Faces of Farming Presentation

PRESENTATION DATE: Tuesday, November 29, 2022

PRESENTATION BY: Leslie Hart, Business Development Specialist, Agriculture and Jonathan Horowitz, Director, Business Development

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: “Faces of Farming” is an agricultural-focused video marketing campaign that will showcase two local Washington County farms every month, for one year. The “Faces of Farming” marketing videos will be showcased on the County’s website, as well as Facebook and other social media platforms, and will target a new industry and highlight a local farmer from that specific agricultural industry.

DISCUSSION: Washington County’s agricultural business represents the backbone of the County’s landscape. With over 900 operating family farms and \$153,725,000 in market value of products sold, agriculture is the largest economic driver in Washington County. The “Faces of Farming” marketing campaign will aim to educate residents in Washington County, along with the surrounding States and Counties, about the economic impact of the Ag industry. Additionally, these videos will be used for agricultural education to numerous streams around Washington County, such as, 4-H and FFA (Future Farmers of America) meetings, Ag Expo and Fair, and they will be available on the Washington County Ag App and website.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: Yes - Faces of Farming Videos: Holsinger’s Meats and Hoffmans Meats of Hagerstown Maryland



Open Session Item

SUBJECT: Maryland Agricultural Land Preservation Program (MALPP) 60/40 Match for FY 2023

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Chris Boggs, Rural Preservation Administrator, Planning and Zoning

RECOMMENDED MOTION: Move to approve a \$1,333,333.00 commitment from the County Agricultural Transfer Tax, State Agricultural Transfer Tax, and Real Estate Transfer Tax to the 60/40 match component of the MALPP easement program for FY 2023 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 \$1,333,333.00 as its 40% local match in order to receive the 60% State match of \$2,000,000.00.

The commitment requested today will result in total funding of about \$4,300,000 for easement purchases in FY 23 (including approximately \$1,000,000 of general allotment funds that all counties receive). These Transfer Taxes collected each year are restricted for use in preservation programs and are not General Fund dollars.

DISCUSSION: For clarity sake, 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 2023 “General Allotment” of approximately \$1,000,000 for each County. The remaining half is divided among only those Counties that make local commitments to the 60/40 matching program and is used for the State’s 60% contribution. 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 six (6) farms. There are no General Funds involved. \$500,000 comes from the County’s Agricultural Transfer Tax; \$600,000 comes from the State Agricultural Transfer Tax; and \$233,333 comes from the Land Preservation share of the Real Estate Transfer Tax.

CONCURRENCES: The Agricultural Land Preservation Advisory Board has endorsed the use of the above funding source for the 60/40 match.

ALTERNATIVES: Make no commitment to the matching program; or commit further funding to the 60/40 match through the use of County General Funds.

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Open Session Item

SUBJECT: Community Rescue Service Sub-Station Discussion

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: R. David Hays, Director of Emergency Services
Robert Buck, Deputy Chief, Community Rescue Service (CRS)
Dale Fishack, President, WCVFRA

RECOMMENDATION: Motion to formally recognize the Community Rescue Service EMS station located at 113 Summit Avenue (Station 754) as a duly recognized sub-station by the Board of County Commissioners of Washington County, MD.

REPORT-IN-BRIEF: At the May 2022 monthly meeting of the WCVFRA, a motion was made and approved to formally recognize the CRS sub-station located at 113 Summit Avenue. Subsequently, CRS has requested consideration for full funding of the \$100,000.00 allocated to all other volunteer fire and EMS stations/sub-stations throughout the county.

DISCUSSION: In order to fund this request, the BOCC will need to authorize a budget adjustment in the Amount of \$100,000.00, as the current general allocation funding for vol. fire and EMS companies does not include funds to cover this request.

FISCAL IMPACT: \$100,000.00

CONCURRENCES: County Administrator, Chief Financial Officer, Director of Emergency Services, WCVFRA

ALTERNATIVES: N/A

ATTACHMENTS: None



Agenda Report Form

Open Session Item

SUBJECT: PUBLIC HEARING – Maryland Clean Energy Loan Program Ordinance and Agreement.

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Linda Spence, Business Specialist, Department of Business Development

RECOMMENDED MOTION: N/A

REPORT-IN-BRIEF: The Clean Energy Loan Program Ordinance is intended to replace ORD-2022-03 that was adopted and effective March 1, 2022. In addition to the updated ordinance, an agreement between Maryland Clean Energy Center (MCEC) Agreement and the Board of County Commissioners is required.

DISCUSSION: Since its adoption, the MD-PACE program has updated language to authorize enhanced eligibility requirements, as well as to require local government adoption. It will replace the existing Ordinance adopted by the Board of County Commissioners on March 1, 2022 (ORD-2022-03). The agreement between the Maryland Clean Energy Center (MCEC) and the Washington County Board of County Commissioners is required by the Maryland Clean Energy Center and is necessary to set forth the contractual rights and obligations of Washington County and the Maryland Clean Energy Center in establishing, administering, and overseeing the program.

The MD-PACE program administers county programs at no cost to the county. Maryland Clean Energy Center (MCEC) works with local tax collectors to accommodate MD-PACE on the tax bill and receives revenue through closing and servicing fees for C-PACE projects. A county is responsible for collecting MD-PACE assessments, not guaranteeing their collection. The county must also ensure that the MD-PACE assessments are separately accounted for and cannot be utilized for any other purposes. If a building owner is deficient or delinquent on their MD-PACE assessment, the county is not responsible to cover the shortfall. The county only remits payments to the program's servicing agent that are actually paid by building owners and are not liable for any deficiency or delinquency. A delinquent C-PACE surcharge is collected by the County in the same manner as real property taxes, pursuant to the enabling C-PACE legislation in Maryland.

FISCAL IMPACT: N/A

CONCURRENCES: Jonathan Horowitz, Director of Business Development and Kendall Desaulniers, Deputy County Attorney.

ALTERNATIVES: Do not adopt the updated ordinance or sign the agreement.

ATTACHMENTS: Adopting Ordinance, the Clean Energy Loan Program Ordinance, and Maryland Clean Energy Center (MCEC) Agreement.

AUDIO/VISUAL NEEDS: N/A

ORDINANCE NO. ORD-2022-
AN ORDINANCE TO ADOPT
THE CLEAN ENERGY LOAN PROGRAM ORDINANCE
WHICH SHALL REPEAL AND REPLACE
ORDINANCE NO. ORD-2022-03, CLEAN ENERGY LOAN PROGRAM,
ADOPTED AND EFFECTIVE MARCH 1, 2022

RECITALS

Maryland Code, Local Government Article, §§ 1-1102 *et seq.* (the *Act*), authorizes counties and municipalities to enact ordinances or resolutions to establish clean energy loan programs in their jurisdictions for the purpose of facilitating loan financing for Qualifying Projects to Commercial Properties (as those capitalized terms are defined in the Act) by utilizing state or local tax assessment mechanisms to provide security for repayment of the said loans.

The Board of County Commissioners of Washington County, Maryland (the *Board*), established such a program by Ordinance No. ORD-2022-03, adopted and effective March 1, 2022, following a public hearing held the same date, which hearing, together with the text of the proposed Ordinance No. ORD-2022-03, was duly noticed and publicly advertised. The clean energy loan program established by Ordinance No. ORD-2022-03 was for the expressed purpose of encouraging the finance or refinance of energy and water efficiency projects, environmental remediation projects, renewable energy projects, and resiliency projects, as were set forth in applicable provisions of the Act.

Certain legislative changes to the Act necessitate the Board's repeal and replacement of said Ordinance No. ORD-2022-03 with the attached Clean Energy Loan Program Ordinance.

A public hearing was held on _____, 2022, following due notice and advertisement of the repeal and replacement of Ordinance No. ORD-2022-03 with the text of the attached Clean Energy Loan Program Ordinance (the *Ordinance*).

Public comment was received, reviewed, and considered concerning the aforesaid Ordinance.

The Board believes it to be in the best interests of the citizens of Washington County for the Board to repeal Ordinance No. ORD-2022-03 and to adopt the attached Clean Energy Loan Program Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Washington County, Maryland, that Ordinance No. ORD-2022-03, adopted and effective March 1, 2022, is hereby repealed; and

BE IT FURTHER ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the attached Ordinance entitled "Clean Energy Loan Program Ordinance" is hereby adopted; and

BE IT FURTHER ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the Maryland Clean Energy Center (MCEC) and/or its designee are hereby authorized and directed to serve as the Clean Energy Loan Program Administrator (as that capitalized term is defined in the Act) under the terms of a separate agreement; and

BE IT FURTHER ORDAINED by the Board of County Commissioners of Washington County, Maryland, that the Ordinance shall apply to any Commercial Property for which a Clean Energy Loan (as those capitalized terms are defined in the Act) was financed on or after March 1, 2022.

Adopted and effective this ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, Clerk

BY: _____
Jeffrey A. Cline, President

Approved as to legal sufficiency:

Kirk C. Downey, County Attorney

Mail to:
County Attorney's Office
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740-4735

CLEAN ENERGY LOAN PROGRAM ORDINANCE

Section 1. Clean Energy Loan Program.

(a) **Definitions.** In this Ordinance, the following words have the meanings indicated:

(1) *Act* means §§ 1-1101 *et seq.* of the Local Government Article.

(2) *Clean Energy Lender* means a capital provider that provides loans to Property Owners to finance Qualifying Projects, approved by MCEC, and such capital provider's successors, transferees, and assignees.

(3) *Clean Energy Loan* means any loan made by a private lender to a Property Owner under the Clean Energy Loan Program.

(4) *Clean Energy Loan Financing Agreement* means an agreement between a Property Owner and a Clean Energy Lender providing for the terms and conditions of a Clean Energy Loan.

(5) *Clean Energy Loan Obligation* means all indebtedness and obligations of a Property Owner to a Clean Energy Lender under a Clean Energy Loan Financing Agreement.

(6) *Clean Energy Loan Program or PACE Program* means the clean energy loan program authorized by the Act and established by Section 1-(b) of this Ordinance, the purpose of which is to provide loans to Property Owners to finance Qualifying Projects.

(7) *Clean Energy Loan Program Administrator* means any person or entity selected by the County to manage the Clean Energy Loan Program.

(8) *Commercial Property* means any real property as defined in the Act, including residential dwellings containing more than four single dwelling units.

(9) *County* means Washington County, Maryland.

(10) *Local Government Article* means the Local Government Article of the Annotated Code of Maryland, as it may be amended.

(11) *Property Owner* means the owner of qualified Commercial Property.

(12) *Qualifying Projects* means projects as defined in Section 1-(g) of this Ordinance.

(13) *Surcharge* means the assessment levied by the County on a Property Owner's property tax bill to collect PACE Program loan payments owed to a Clean Energy Lender by the Property Owner and costs of administering the PACE Program in accordance with the Act and as authorized by Section 2 of this Ordinance.

(14) *Surcharge Lien* means the lien automatically established upon the County's levy of the Surcharge on the property tax bill.

(b) **Program.** There is a Clean Energy Loan Program to finance Qualifying Projects as provided in the Act.

(c) **Rules and Regulations.** The County may adopt rules and regulations to administer the Clean Energy Loan Program consistent with this Ordinance.

(d) **Program Administrator.** The County may enter into an agreement with a private entity or State instrumentality to administer the Clean Energy Loan Program.

(e) **Scope.** Property Owners are eligible to participate in the Clean Energy Loan Program for non-accelerating loans greater than \$25,000.

(f) **Eligibility.** In order to be eligible for a Clean Energy Loan, the Property Owner shall:

(1) have a 100% ownership interest in the property located in Washington County for a Qualifying Project(s) is(are) proposed;

(2) demonstrate that the most recent property taxes, assessments, and charges on the property have been paid;

(3) provide a copy of written notice to all current holders of a mortgage or deed of trust who have a priority recorded lien on the property and written proof of express consent to the Clean Energy Loan as a priority lien by all current holders of a mortgage or deed of trust on the property that is to be financed under the Clean Energy Loan Program; and

(4) establish that the owner of the Commercial Property is able to repay the loan provided under the Clean Energy Loan Program, in a manner substantially similar to that required for a mortgage loan under §§ 12-127, 12-311, 12-409.1, 12-925, and 12-1029 of the Commercial Law Article of the Annotated Code of Maryland.

(g) **Qualifying Projects.** The cost of the following types of Qualifying Projects to existing buildings and structures, or new construction, on Commercial Property may be financed through the Clean Energy Loan Program:

(1) Energy and water efficiency projects;

(2) Renewable energy projects, including, but not limited to, solar energy equipment, geothermal energy devices, and wind energy systems;

(3) Environmental remediation projects which means a project intended to remove environmental or health hazards, and including projects that promote indoor air and water quality, asbestos remediation, lead paint removal, and mold remediation;

(4) Resiliency projects which means a project intended to increase the capacity of a property to withstand natural disasters and the effects of climate change, including flood mitigation, stormwater management, a project to increase fire or wind resistance, a project to increase the capacity of a natural system, an inundation adaptation project, alternative vehicle charging infrastructure, and energy storage; and

(5) Any other project approved by the County or the Clean Energy Loan Program Administrator as qualifying consistent with the Act.

(h) **Qualifying Costs.** A Clean Energy Loan may be used to pay for all costs incurred by a Property Owner in connection with the Qualifying Projects, including, but not limited to, the cost of the energy audit; feasibility studies and reports; project management, design, installation, and construction of the Qualifying Projects; commissioning; energy savings or performance guaranty or insurance; building accreditation; closing costs of the Clean Energy Loan; permitting fees; administrative fees; post-install Evaluation, Measurement & Verification; and building accreditation.

Section 2. Real property tax surcharge.

(a) **Repayment of Loans.** A Property Owner participating in the Clean Energy Loan Program shall repay the Clean Energy Loan through a Surcharge on the real property tax bill. Upon receipt of written notice from the Clean Energy Loan Program Administrator of the execution of a Clean Energy Loan Financing Agreement, the County shall add the Surcharge to the tax property bill on July 1 of the year indicated by the payment schedule of the Clean Energy Loan Financing Agreement. The Surcharge shall constitute a first lien on the property from the date it becomes payable until the unpaid Surcharge and interest and penalties on the Surcharge are paid in full, regardless of a change in ownership, whether voluntary or involuntary. A person or entity that acquires property subject to a Surcharge assumes the obligation to pay such Surcharge.

(b) **Calculation.** The Surcharge for a Clean Energy Loan shall include the Clean Energy Loan Obligation and any administrative costs incurred by the County which shall be the actual expenses incurred to administer the program.

(c) **Statement of Levy and Lien of Surcharge.** Upon receiving written notice from the Clean Energy Loan Program Administrator of the execution of a Clean Energy Loan Financing Agreement, the Property Owner shall execute an agreement with the County and the Clean Energy Lender that will be recorded in the land records of Washington County, at the expense of the Property Owner, and which shall include:

(1) the date the Clean Energy Loan was made to the Property Owner and the property became subject to the Surcharge;

(2) the term of the Clean Energy Loan over which the Surcharge will apply to the property;

(3) the Clean Energy Loan Obligation and estimated County administrative costs for the first year;

(4) the annual principal and interest amount for each year of the term of the Clean Energy Loan, including any partial-year prorated amounts;

(5) prepayment requirements and any prepayment premium that may apply to a prepayable Clean Energy Loan;

(6) notice that the Clean Energy Loan Obligation and the County's administrative costs will be repaid through a Surcharge included on the Property Owner's real property tax bill due and payable on the same date as the real property tax bill;

(7) notice that an unpaid Surcharge constitutes a first lien on the property that has priority over prior or subsequent liens in favor of private parties and that the Surcharge will continue as a lien on the property from the date it becomes payable until the unpaid Surcharge and interest and penalties on the Surcharge are paid in full, regardless of a change in ownership of the property, whether voluntary or involuntary; and

(8) notice that, if payments of Surcharges are not timely paid, the Surcharge will be collectible as a tax lien through the tax sale process authorized under Tax-Property Article, Title 14, Subtitle 8, of the State Code and in accordance with Section 2-103 of the Code of Public Local Laws for Washington County, and that an overdue Surcharge will be so collected, irrespective of whether real property taxes (or any other taxes, charges, or assessments) are due and owing.

(d) Default. In the event of default on the Surcharge, the County shall be required to collect the lien pursuant to Tax-Property Article, Title 14, Subtitle 8, of the State Code and in accordance with Section 2-103 of the Code of Public Local Laws for Washington County, irrespective of whether property taxes (or any other taxes, charges, or assessments) are due and owing. The County shall not incur any liability to the Clean Energy Lender or others in the event of default.

(e) Credit of Payments. Payments received from a Property Owner shall be credited first to all County taxes, assessments, and charges.

(f) Payment to Clean Energy Lender. The County shall have no ownership of the Surcharges collected except for administrative costs provided under this Ordinance. The County shall pay all Surcharge payments in any calendar month to the applicable Clean Energy Lender or the Clean Energy Loan Program Administrator within 30 days after the end of the month in which such amounts are collected. The County shall have no obligation to make payments to any Clean Energy Lender with respect to any Clean Energy Loan Obligation other than that portion of Surcharge actually collected from a Property Owner for the repayment of a Clean Energy Loan.

Section 3. Financing.

(a) **Private Lenders; Terms.** Clean Energy Loans may be provided by any private lender; and a Clean Energy Financing Agreement may contain any terms agreed to by the Clean Energy Lender and the Property Owner, as permitted by law, for the financing of Clean Energy Loans. The County may not finance or fund any loan under the Clean Energy Loan Program, shall serve only as a program sponsor to facilitate loan repayment by including the Surcharge on the County real property tax bill for the property, and shall incur no liability for the Clean Energy Loan. The Clean Energy Loan must be repaid over a term not to exceed the useful life of the Qualifying Project(s) as determined by the Clean Energy Loan Program.

(b) **County Role.** The County's role in the Clean Energy Loan Program is limited to sponsoring the Clean Energy Loan Program and collecting and forwarding the Surcharges imposed thereunder. The County may not provide Clean Energy Loans or other financing in connection with the Clean Energy Loan Program.

**COMMERCIAL PROPERTY ASSESSED
CLEAN ENERGY (“MDPACE”) AGREEMENT**

THIS AGREEMENT (“Agreement”) is made and entered into as of this _____ day of _____, 2022, between the Board of County Commissioners of Washington County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland (the “County”), and the Maryland Clean Energy Center, a body politic and corporate and a public instrumentality of the State of Maryland (“MCEC”).

RECITALS

1. A Commercial Property Assessed Clean Energy program is a program to facilitate loan financing for Qualifying Projects to Commercial Properties by utilizing a state or local tax assessment mechanism to provide security for repayment of the loans.

2. Pursuant to §1-1102 of the Act (as defined below), counties and municipalities may enact ordinances or resolutions to establish a clean energy loan program.

3. The County has authorized and established a commercial property assessed clean energy loan program (“the PACE Program”) pursuant to Ordinance No. ORD-2022-_____ adopted and effective _____, 2022 (the “Ordinance”), attached hereto as Exhibit 1.

4. Section 1-(d) of the Ordinance permits the County to enter into an agreement with a PACE Program Administrator.

5. MCEC agrees to work with the County to implement the PACE Program and to obtain financing therefor.

6. To secure financing for the program, MCEC and the County are authorized to enter into a written agreement pursuant to which the County has agreed to assess, collect, remit, and assign Surcharges (defined below) to MCEC in return for Qualifying Projects for Commercial Property Owners within the County and for costs reasonably incurred by the County in performing those duties.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and in order to effectuate the purposes of the Act and the Ordinance, the parties agree as follows:

**ARTICLE I
DEFINITIONS**

(a) *Act* means §§1-1101 *et seq.* of the Maryland Code, Local Government Article.

(b) *Clean Energy Lender* means a capital provider that provides loans to Property Owners to finance Qualifying Projects, approved by MCEC, and such capital provider’s successors, transferees, and assignees.

- (c) *Clean Energy Loan* means any loan made by a private lender to a Property Owner under the Clean Energy Loan Program.
- (d) *Clean Energy Loan Financing Agreement* means an agreement between a Property Owner and a Clean Energy Lender providing for the terms and conditions of a Clean Energy Loan.
- (e) *Clean Energy Loan Program or PACE Program or MDPACE Program* means the clean energy loan program authorized by the Act and established by Section 1-(b) of the Ordinance, the purpose of which is to provide loans to Property Owners to finance Qualifying Projects.
- (f) *Clean Energy Loan Program Administrator* means any person or entity selected by the County to manage the Clean Energy Loan Program.
- (g) *Commercial Property* means any real property as defined in §1-1101(d) of the Act, including residential dwellings containing more than four (4) single dwelling units.
- (h) *Local Government Article* means the Local Government Article of the Annotated Code of Maryland, as it may be amended.
- (i) *Property Owner* means the owner of qualified Commercial Property
- (j) *Qualifying Projects* means projects as defined in the Ordinance.
- (k) *Surcharge* means the assessment levied by the County on a Property Owner's property tax bill to collect PACE Program loan payments owed to a Clean Energy Lender by the Property Owner and costs of administering the PACE Program in accordance with the Act and as authorized by the Ordinance.
- (l) *Surcharge Lien* means the lien automatically established upon the County's levy of the Surcharge on the property tax bill.

ARTICLE 2
OBLIGATIONS OF MCEC

Pursuant to this Agreement, MCEC will have the following obligations:

- (a) Program Requirements.
 - 1. Shall develop program guidelines governing the terms and conditions under which a Property Owner may access a PACE Program loan from a Clean Energy Lender, pursuant to the Act and Section 1-(f) of the Ordinance.
 - 2. Shall receive and review applications submitted by Property Owners within the County for financing of Qualifying Projects and approve or disapprove each application in accordance with underwriting procedures and requirements established by MCEC and in accordance with State law.

3. Shall prepare and deliver to the County an annual report which shall contain information related to the PACE Program within the County, including the following:

(i) A list of each Commercial Property for which the Property Owner executed a Clean Energy Loan Financing Agreement during the prior year;

(ii) A list of each Commercial Property where all obligations under the Clean Energy Loan Financing Agreement have been satisfied or paid in full during the prior year, including the satisfaction date and a copy of the notice of satisfaction, if required; and

(iii) For each unpaid Surcharge:

A. The date of the Clean Energy Loan Financing Agreement;

B. The total principal balance and accrued interest outstanding on the Clean Energy Loan; and

C. The annual payment(s) due, which shall include principal and accrued interest (including the amount of accrued interest on the initial payment, if different), and the fees for the costs of administering the PACE Program.

(b) Project Requirements. If a Property Owner requests approval from MCEC for a Qualifying Project, MCEC shall do the following:

1. Require proof that the Property Owner owns one hundred percent (100%) of the interests in the property located in Washington County for which Qualifying Projects are proposed;

2. Require that the Property Owner demonstrate that the proposed project is consistent with the requirements of the Act and Section 1-(f) of the Ordinance and is a Qualifying Project;

3. Impose requirements and criteria to ensure that the proposed Qualifying Project is consistent with the purpose of the PACE Program;

4. Require that the Property Owner, prior to the execution of the Clean Energy Loan Financing Agreement, provide a copy of the written notice to all current holders of a mortgage or deed of trust who have a priority recorded lien on the property and written proof of express consent by all current holders of a mortgage or deed of trust on the Commercial Property to the PACE Program loan, along with an acknowledgement of the priority of the Surcharge Lien;

5. Require that the Clean Energy Lender demonstrate to MCEC that the Property Owner is able to repay the loan under the Clean Energy Lender's underwriting standards which are substantially similar to the criteria set forth in the Act and Section 3 of the Ordinance; and

6. Require the Property Owner to provide proof that all outstanding property taxes, assessments, and charges have been paid.

(c) Financing Agreement for Project.

1. A Clean Energy Lender may provide financing to a Property Owner to finance Qualifying Projects, which loan will be non-accelerating and will survive a change of ownership, whether voluntary or involuntary.

2. Each Clean Energy Loan Financing Agreement shall clearly state the final Surcharge that will be levied against the PACE Program Commercial Property.

3. Each Clean Energy Loan Financing Agreement shall contain a Disclosures and Risks Form executed by the Property Owner.

4. Upon the submission of a Clean Energy Loan Financing Agreement to MCEC by a Clean Energy Lender and Property Owner with an approved Qualifying Project, MCEC shall (i) sign the Statement of Levy and Lien which establishes the legally binding Surcharge, including all fees for the operation of the PACE Program, and (ii) may provide a Notice to the County to Commence Levy and Collection of Surcharges for a Clean Energy Loan Program. If the County has semi-annual billing for real property taxes, the Surcharge shall be payable in two (2) equal payments respectively payable on September 30th and December 31st of each year so that they are due at the same time as the installments of the County's real property taxes. If the County changes its practices concerning the billing of annual real property taxes as to the number of installments and their due dates, MCEC will change its practices to the extent possible to correspond with the County's practices.

(d) Levy of Surcharge. Upon receiving written notice from MCEC that a PACE Program Clean Energy Loan Financing Agreement has been executed, MCEC, MCEC's Agent, or the Clean Energy Lender shall file a Notice of Levy and Lien of Surcharge in the County land records.

ARTICLE 3
OBLIGATIONS OF THE COUNTY

(a) Surcharge Billing, Collection, and Disbursement to MCEC.

1. The County shall select, within thirty (30) days of the date of this Agreement, a PACE Program coordinator within the tax collector's office who will assist in Surcharge assessments and collection as set forth in this Agreement.

2. The County shall bill the Surcharge due by a Property Owner on the first tax bill after the Program Administrator provides written notice to the County's PACE Program coordinator of the PACE Program agreement's repayment schedule. The County shall add a Surcharge to its real property tax bill(s) or stand-alone tax bill and shall send a copy of the tax bill containing the Surcharge to MCEC within thirty (30) days of the County's initial tax bill.

3. The purpose of the Surcharge is to repay the Clean Energy Loan under the PACE Program Clean Energy Loan Financing Agreement and to cover costs to operate the PACE Program. The Surcharge shall be a separate, clearly defined line item or separate bill and shall be due on the same date(s) as the County's real property taxes. The amount of the Surcharge will be recorded on the County's tax rolls in the same manner as any other tax, such that the public will

have access to its existence and payment status. The penalties and interest on delinquent Surcharges shall be charged in the same manner and at the same rate as the County charges for delinquent real property taxes. Once the obligation to assess, levy, collect, and disburse Surcharge payments to MCEC is triggered, the obligation survives termination and/or opting-out of this Agreement by the County.

(i) Surcharges collected by the County shall be segregated from all other funds of the County and deposited into a separate account for the benefit of MCEC and identifying MCEC as the beneficial owner. The County disclaims any ownership interest or other interests in such account or the amount collected.

(ii) The County shall pay all Surcharge amounts collected within any calendar month to MCEC no later than thirty (30) days after the last day of the month that the amounts are collected. The County will provide collection reports to MCEC; and MCEC, at its own expense, shall have the right to audit the records relating to the Surcharges upon reasonable notice at reasonable times. MCEC and the County agree to provide each other with information as they may reasonably request. MCEC and the County agree to provide such information in a computer format satisfactory to each other. Reported information may include data necessary for MCEC to include in its annual report required by this Agreement. Required information shall not include information which is deemed confidential information by law or any proprietary or confidential information from loan applicants or relating to the underwriting of any particular PACE Program Loan. The County shall not disclose any information contained in the books and records of MCEC, except as may be required by any applicable law.

(b) Levy of Surcharge. The Surcharge levied pursuant to this Agreement, State Code, and Section 2-(a) of the Ordinance, and the interest, fees, and any penalties thereon, shall constitute a lien against the Commercial Property on which they are made until they are paid. The Surcharge Lien shall be levied and collected in the same manner as the property taxes of the County on real property, including, in the event of default or delinquency, with respect to any penalties, fees, remedies, and lien priorities, as provided by Sections 2-(a), -(b), and -(d) of the Ordinance, and State law.

(c) Collections. Upon the failure of a Property Owner to pay a Surcharge within the appropriate timeframe, the County shall institute a tax lien collection pursuant to State law. Funds collected from a tax sale of a Commercial Property subject to a Surcharge shall be paid to MCEC or the MCEC Agent, its trustee, successors, assignees, or any other entity or person that MCEC or the MCEC Agent designates in writing to receive payment as set forth in Paragraph (a) above.

(d) Delinquencies. In the event that any Property Owner fails to make a Surcharge payment when due in any property tax billing cycle, the County shall provide written notice to MCEC or the MCEC Agent, its trustee, successors, or assignees, of such delinquency in a timely manner and shall endeavor to do so within thirty (30) days.

(e) Amendment of the Surcharge Amount. Pursuant to the PACE Program Clean Energy Loan Financing Agreement, the final amount of the Surcharge may be adjusted after the levy of the Surcharge Lien. Such an adjustment would likely be the result of a change in the qualifying improvement service contract amount during the construction period, a change in the amount of capitalized interest, or an amendment to the PACE Program Clean Energy Loan Financing Agreement. In the event that the final Surcharge amount needs to be adjusted at the

completion of the Qualifying Project or any other time, MCEC will inform the County of the change and provide the County with an updated payment schedule and new Surcharge amount, after which the County shall amend the Surcharge Lien to reflect the adjustment.

(f) PACE Program Administration Costs.

1. The County may include an administration fee to cover costs that will be collected by the PACE Program and remitted to the County. Reimbursable costs and expenses include reasonable costs, including attorneys' fees, incurred by the County in conjunction with any and all proceedings to collect and enforce the Surcharges and delinquent Surcharges, including foreclosure proceedings.

2. The County will provide written notice to MCEC prior to any sale or assignment of its real property taxes or any institution of a judicial foreclosure or other proceeding against any real property for delinquent real property taxes if such real property is subject to a delinquent Surcharge.

ARTICLE 4
TERM

The term of this Agreement shall commence upon the date the last party executes this Agreement. This Agreement shall remain in full force and effect until all of the Surcharges levied by the County have been paid in full or deemed no longer outstanding. Either party may terminate this Agreement at any time upon ninety (90) days' advance written notice to the other party, provided that the County's obligations to collect Surcharges for any PACE Program Loan made prior to the termination date shall continue until all Surcharges (including the interest, penalties, and fees thereon) have been collected and all such PACE Program Loans have been paid in full.

ARTICLE 5
DEFAULT

Each party shall give the other party written notice of any breach of any covenant, provision, or term under this Agreement and shall allow the defaulting party thirty (30) days from the date of its receipt of such notice within which to cure any such default or, if it cannot be cured within the thirty (30) days, to commence and thereafter diligently attempt to cure, using good faith efforts to effect such cure, and to thereafter notify the other party of the actual cure of any such default. The parties shall have all other equitable rights and remedies provided by law, including, but not limited to, specific performance.

ARTICLE 6
MISCELLANEOUS PROVISIONS

(a) Assignment or Transfer by County. The County may not assign or transfer its rights or obligations under this Agreement without prior written consent of MCEC.

(b) MCEC Agent. The County acknowledges and agrees that MCEC may employ a third party to undertake MCEC's obligations under this Agreement, subject to approval by the County (an "MCEC Agent"). In the event that MCEC employs an MCEC Agent, MCEC will notify the County in writing of the name and contact information of the MCEC Agent. The County agrees

that, for purposes of this Agreement, the MCEC Agent shall speak and act for MCEC and that any notices required under the terms of this Agreement required to be sent to MCEC shall also be sent to the MCEC Agent. In the event that MCEC is to be dissolved, MCEC may assign and transfer its rights under this Agreement to the MCEC Agent, subject to the County's right to terminate this Agreement under Article 4.

(c) This Agreement shall inure to the benefit of, and shall be binding upon, each of the parties and their successors and permitted assigns.

(d) Amendment/Termination/Waiver. This Agreement may not be amended or terminated by either party without the prior written approval of the other party. Any waiver of any provision of this Agreement must be in writing and mutually agreed to by MCEC and the County. Except for the specific provision of this Agreement, which is amended, this Agreement remains in full force and effect after such amendment and is subject to the same laws, obligations, conditions, provisions, rules, and regulations as it was before the amendment.

(e) Severability. If any clause, provision, or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision, or section will not affect any of the remaining clauses, provisions, or sections; and this Agreement will be construed and enforced as if the illegal or invalid clause, provision, or section has not been contained in it.

(f) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

(g) Notices. All notices, requests, consents, and other communications shall be in writing and shall be delivered, mailed by first-class mail with postage prepaid, hand-delivered, or overnight delivery service, to the parties, as follows:

If to the County:

Board of County Commissioners of Washington County, Maryland
100 West Washington Street, Suite 1101
Hagerstown, MD 21740
Attention: County Administrator

With courtesy copy to the County Attorney at the same address.

If to MCEC:

Maryland Clean Energy Center
5000 College Avenue, Suite 31010
College Park, MD 20740
Attention: Executive Director

(h) Applicable Law and Venue. This Agreement shall be construed, interpreted, and enforced according to the laws of the State of Maryland. Any claim brought in connection with this Agreement must be brought in the State Courts of Maryland, and the parties consent to the jurisdiction of the State Courts of Maryland.

(i) Headings. The headings in this Agreement are solely for convenience, do not constitute a part of this Agreement, and do not affect its meaning or construction.

(j) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previous discussions, understandings, and agreements between the parties relating to the subject matter of this Agreement.

(k) No Agency. Nothing in this Agreement, and no act of the County or MCEC, shall be deemed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any other relationship between the County and MCEC.

[Remainder of this page intentionally blank]

IN WITNESS WHEREOF, the County and MCEC have each caused this Agreement to be executed and delivered as of the date set forth above:

ATTEST:

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

Name: Krista L. Hart, County Clerk

By: _____
Name: Jeffrey A. Cline
Title: President

ATTEST:

**MARYLAND CLEAN ENERGY
CENTER**

Name: _____

By: _____
Name: _____
Title: _____

EXHIBIT 1



Open Session Item

SUBJECT: PUBLIC HEARING--Not-to-Exceed \$5,600,000 of Conduit Revenue Bonds to be Issued by The Town of Smithsburg (“Smithsburg”) and Loaned to Brook Lane Health Services, Inc. (“Brook Lane”) and Proposed Resolution

PRESENTATION DATE: November 29, 2022, 10:40 a.m. (for public hearing)

PRESENTATION BY: (i) Kirk C. Downey, County Attorney, and (ii) either Lindsey A. Rader, bond counsel for Washington County, or Emery B. McRill, McGuireWoods LLP, which is serving as bond counsel for the proposed revenue bond issue

RECOMMENDATION: Move to adopt the proposed Resolution (this may occur only after the public hearing is closed).

REPORT-IN-BRIEF: The public hearing is being conducted as required by the Internal Revenue Code of 1986, as amended (the “Code”), with respect to the proposed Resolution. The Resolution approves the issuance from time to time by Smithsburg of one or more series of revenue bonds in an original aggregate principal amount not to exceed \$5,600,000 (the “Bonds”), and the lending of the proceeds thereof to Brook Lane, pursuant to the authority of the Maryland Economic Development Revenue Bond Act (the “Act”), for the purpose of financing and refinancing costs of the Project identified below.

DISCUSSION: Brook Lane has asked Smithsburg to issue the Bonds in order to (a) refinance existing indebtedness of Brook Lane, the proceeds of which were used to pay the costs of (i) constructing, equipping, furnishing and renovating Brook Lane’s existing hospital facilities located on approximately 114 acres of land owned by Brook Lane located in Washington County and known as 13218 Brook Lane Drive, Hagerstown, Maryland 21742, and (ii) acquiring an electronic medical record (“EMR”) system; (b) finance the costs of acquiring and installing a new EMR system in an amount of approximately \$1,500,000; and (c) finance certain costs relating to the issuance of the Bonds and other related eligible costs (collectively, the “Project”). Such facilities and improvements are located outside the geographical boundaries of Smithsburg and are not located within the geographical boundaries of any other municipality within the County, but are located within the geographical boundaries of the County. Section 147(f) of the Code requires that when the facilities and improvements are to be financed or refinanced from proceeds of “qualified 501(c)(3) bonds” (as is expected to be the case with the Bonds) are not located within the geographical boundaries of the issuing entity the elected legislative body or chief elected executive officer of an encompassing jurisdiction in which such facilities and improvements are located conduct a public hearing relating to such bonds and the location and nature of the facilities and improvements, and, thereafter, approve such bond issue. This is known as “host approval.”

Brook Lane has requested that the County hold the public hearing required by the Code and provide host approval for the issuance of the Bonds by Smithsburg in order to position the Bonds for issuance within calendar year 2022, which will allow Smithsburg to designate the Bonds as “qualified tax-exempt obligations” for purposes of the Code, resulting in a more favorable interest rate or rates on the Bonds.

The Act does not require that the facilities or improvements to be financed or refinanced from the proceeds of bonds issued under authority of the Act be located within the boundaries of the issuing entity. The Council of Smithsburg has concluded that there is a sufficient nexus for it to serve as issuer of the proposed Bonds. The Council of Smithsburg has agreed to (i) hold a public hearing (as required by the Code) on November 22, 2022 concerning the issuance of the proposed Bonds, and (ii) consider a resolution (as required by the Act) on November 22, 2022 to authorize the issuance of the proposed Bonds, the loan of the Bonds to Brook Lane for the purposes of refinancing and financing costs of the Project, and to approve or provide for other matters required by the Act, in order to provide the “issuer approval” required by the Code for issuance of the Bonds.

In 2002 and 2013, Smithsburg issued conduit revenue bonds pursuant to the Act and loaned the proceeds of such conduit revenue bonds to Brook Lane; the County provided host approval for those bond issuances by Smithsburg. Those 2002 and 2013 conduit revenue bond issues constitute a portion of the existing indebtedness proposed to be refinanced from proceeds of the Bonds.

FISCAL IMPACT: None. Washington County will not be the issuer of the Bonds. The County will not have any liability for payment of the Bonds. Brook Lane will be responsible for making all debt service payments on the Bonds. The issuance will have no impact on the County’s borrowing limits or financial position. Brook Lane will pay all publication costs and costs of professionals involved in the proposed financing (including the County’s bond counsel), whether or not the Bonds are issued.

CONCURRENCES: Lindsey A. Rader of Funk & Bolton, P.A., bond counsel to the County, concurs in the necessity for host approval regarding the proposed Bonds and that the County is an appropriate entity to provide such host approval in the event she is not available for the public hearing and consideration of the proposed Resolution on November 29, 2022 due to a scheduled bond pre-closing on that date.

ALTERNATIVES: If the County is unwilling to provide host approval, Brook Lane’s only option for the issuance of the Bonds on a tax-exempt basis will be to seek host approval from the State of Maryland, which likely will be difficult to obtain and it may not be possible for the Bonds to be issued in calendar year 2022 as proposed, which may impact the ability of the Bonds to be issued as “qualified tax-exempt obligations.”

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A

RESOLUTION NO. RS-2022-__

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY APPROVING THE ISSUANCE BY THE TOWN OF SMITHSBURG (THE "TOWN"), PURSUANT TO THE MARYLAND ECONOMIC DEVELOPMENT REVENUE BOND ACT (THE "ACT"), OF THE TOWN'S ECONOMIC DEVELOPMENT REVENUE BOND OR BONDS IN ONE OR MORE SERIES FROM TIME TO TIME IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FIVE MILLION SIX HUNDRED THOUSAND DOLLARS (\$5,600,000.00), IN ORDER TO LEND THE PROCEEDS THEREOF TO BROOK LANE HEALTH SERVICES, INC., A NONPROFIT MARYLAND CORPORATION (THE "BORROWER"), SOLELY FOR THE PURPOSE OF FINANCING OR REFINANCING THE COSTS OF THE ACQUISITION AND IMPROVEMENT OF CERTAIN FACILITIES (WITHIN THE MEANING OF THE ACT) DESCRIBED HEREIN, TO BE USED BY THE BORROWER IN ITS TAX-EXEMPT PURPOSE ACTIVITIES; GENERALLY DESCRIBING AND APPROVING SUCH FACILITIES AND THE ISSUANCE OF SUCH BONDS; GENERALLY DESCRIBING THE PUBLIC PURPOSES TO BE SERVED BY SUCH FACILITIES; PROVIDING THAT THE PROVISIONS OF THIS RESOLUTION SHALL BE LIBERALLY CONSTRUED; AND GENERALLY PROVIDING FOR AND DETERMINING VARIOUS MATTERS IN CONNECTION THEREWITH.

RECITALS

Sections 12-101 through 12-118, inclusive, of the Economic Development Article of the Annotated Code of Maryland, as amended, being the Maryland Economic Development Revenue Bond Act (the "Act"), empower any public body (as defined in the Act) to issue and sell bonds (as defined in the Act), as its limited obligations and not upon its faith and credit or pledge of its taxing power, at any time and from time to time, and to loan the proceeds of the sale of such bonds to one or more facility users (as defined in the Act) for the purposes of financing or refinancing any costs of the acquisition and improvement (as defined in the Act) of one or more facilities (as defined in the Act) for one or more facility users, including the necessary expenses of preparing, printing, selling, and issuing those bonds, the funding of reserves, and the payment of interest with respect to financing such acquisition and improvement in such amounts, or for such periods, as the public body deems reasonable.

The Act states the declared legislative purpose of the General Assembly of Maryland to be to (1) relieve conditions of unemployment in the State of Maryland (the "State"); (2) encourage the increase of industry and commerce and a balanced economy in the State; (3) assist in the retention of existing industry and commerce and in the attraction of new industry and commerce in the State through, among other things, the development of ports and the control or abatement of environmental pollution and the use and disposal of waste; (4) promote economic development; (5) protect natural resources and encourage resource recovery; and (6) promote the health, welfare and safety of the residents of the State.

The Town of Smithsburg (the "Town") has received a request from Brook Lane Health Services, Inc. (the "Borrower"), an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and a facility applicant and a facility user within the meaning of the Act, for the Town to participate in the financing or refinancing of the costs of certain facilities (within the meaning of the Act) more particularly described in such

request by authorizing, issuing and selling its revenue bond or bonds in one or more series from time to time in an aggregate principal amount not to exceed Five Million Six Hundred Thousand Dollars (\$5,600,000.00) (in any such case, the “Bonds”) and lending the proceeds of the sale thereof (the “Loan”) to the Borrower.

The facilities (within the meaning of the Act) to be financed or refinanced will consist generally of (a) refinancing existing indebtedness of the Borrower, the proceeds of which were used to pay the costs of (i) constructing, equipping, furnishing and renovating the Borrower’s existing hospital facilities located on approximately 114 acres of land owned by the Borrower located in Washington County and known as 13218 Brook Lane Drive, Hagerstown, Maryland 21742 and (ii) acquiring an electronic medical record (“EMR”) system; (b) financing the costs of acquiring and installing a new EMR system in an amount of approximately \$1,500,000; and (c) financing certain costs relating to the issuance of the Bonds and other related eligible costs (collectively, the “Project”). The facilities and improvements referred to in clauses (a) and (b) of the definition of the Project (collectively, the “Facilities”) are located outside of the geographical boundaries of the Town, but are located in an unincorporated area within the geographical boundaries of Washington County, Maryland.

On November 22, 2022, the Council of the Town, following a public hearing as required by Section 147(f) of the Code, adopted a resolution authorizing the issuance and sale of the Bonds and the financing and refinancing of costs of the Project by the Borrower.

Because the Facilities are located outside the geographical boundaries of the Town, Section 147(f) of the Code provides that prior to the issuance of any of the Bonds by the Town, the elected legislative body or chief elected executive officer of the county or municipality in which the Project to be financed or refinanced with the proceeds of the Bonds is to be located shall conduct a public hearing relating to the Bonds and the location and nature of the Facilities and, thereafter, approve the Bonds and the Project.

The Borrower has requested in a letter to the Board of County Commissioners of Washington County, a copy of which is attached hereto as Exhibit A (the “Request Letter”), that County Commissioners of Washington County (the “County”), following a public hearing as required by Section 147(f) of the Code, approve the Project and the issuance of the Bonds by the Town. In the Request Letter, the Borrower identifies the purposes of the Act to be achieved through the issuance of the Bonds and the financing or refinancing of the costs of the Project.

The County has held a public hearing concerning the issuance of the Bonds and the location and nature of the Facilities following reasonable public notice (within the meaning of Section 147(f) of the Code).

The County has determined, based upon the findings and determinations hereinafter set forth, that it is in the best interests of the citizens of the County that the County approve the financing and refinancing of costs of the Project by the Town by approving the Project and the issuance of the Bonds by the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY:

SECTION 1. That the Recitals to this Resolution are incorporated by reference herein and deemed a substantive part of this Resolution. Capitalized terms used in this Resolution and not otherwise defined herein shall have the meanings given to such terms in the Recitals. References in this Resolution to “finance” or similar terms shall be construed to also refer to “reimburse” or similar terms, to the extent applicable.

SECTION 2. That, based on the Request Letter, it is hereby found and determined that the Project and the financing and refinancing of the costs thereof by the Town will (i) enhance and expand health care provided by the Borrower to the citizens of the Town, the County and the State; (ii) strengthen the ability of the Borrower as a health care institution to attract and care for patients; and (iii) permit the Borrower to maintain its professional and other staff, and, accordingly, will generally promote the purposes of the Act, by sustaining jobs and employment, thereby relieving conditions of unemployment in the Town, the County and the State, assisting in the retention of existing industry and commerce in the Town, the County and the State, and promoting the health, welfare and safety of the residents of the Town, the County and the State. Accordingly, it is in the interests of the public welfare of the citizens of the County and the State that the County approve the financing or refinancing by the Town of the costs of the Project.

SECTION 3. That the County hereby approves:

- (a) the Project; and
- (b) the issuance by the Town from time to time of one or more series of the Bonds in an aggregate principal amount not to exceed \$5,600,000, the proceeds of which may be used by the Town to make the Loan to the Borrower for the purpose of financing or refinancing the costs of the Project.

SECTION 4. That neither the Bonds nor the interest thereon shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation and neither shall ever constitute or give rise to any pecuniary liability of the County. The Bonds shall not constitute an indebtedness to which the faith and credit of the County is pledged. The Bonds and the interest on them shall be limited obligations of the Town, and the principal of, premium, if any, and interest on the Bonds shall be payable solely from revenues or moneys to be received in connection with the financing or refinancing of the costs of the Project or from any other moneys made available to the Town for such purpose.

SECTION 5. That the Bonds shall be authorized, issued, sold and delivered without direct or indirect cost to the County, and to that end, the Borrower shall pay all necessary expenses of preparing, printing, selling, and issuing the Bonds and all other costs and expenses contemplated and permitted by the Act, including without limitation, any and all costs, fees and expenses (including, without limitation, attorneys’ fees and expenses) incurred by or on behalf of the County in connection with this Resolution, the publication of notices of any public hearings to be held in connection herewith, and the development and execution of any closing certificates of the County deemed necessary or desirable in connection with any issuance of the Bonds, whether or not the proposed financing is consummated.

SECTION 6. That the adoption of this Resolution shall not in any way indicate the approval of, or constitute any commitment for approval by, the County or any of its officials or employees of any license, permit, application, or any other request to the County with respect to the acquisition and improvement (within the meaning of the Act) of the Facilities or the operation of the Facilities.

SECTION 7. That no further action of the County is necessary to effect the financing or refinancing by the Town of costs of the Project or the completion of the transactions contemplated in this Resolution, including without limitation, the issuance of the Bonds; provided that, (i) the President or, in the absence or disability of the President, the Vice President of the Board of the County Commissioners, on behalf of the County, is hereby authorized to sign the Request Letter in order to evidence the County's acceptance of the Request Letter and (ii) the appropriate officials of the County are hereby authorized and empowered to negotiate, approve, execute and deliver any certificates deemed necessary or desirable by bond counsel to the Town or counsel to the County in connection with any issuance of the Bonds.

SECTION 8. That it is hereby acknowledged and understood that Funk & Bolton, P.A., bond counsel to the County, which is representing the County in connection with the subject matter of this Resolution, is also serving as issuer's counsel to the Town in connection with the issuance of the Bonds.

SECTION 9. That the provisions of this Resolution shall be liberally construed in order to effectuate the transactions contemplated by this Resolution.

SECTION 10. That this Resolution shall take effect from the date of its adoption.

[CONTINUED ON FOLLOWING PAGE]

Adopted this _____ day of _____, 2022.

(SEAL)

ATTEST:

COUNTY COMMISSIONERS OF
WASHINGTON COUNTY

Krista L. Hart, County Clerk

Jeffrey A. Cline, President
Board of County Commissioners
of Washington County

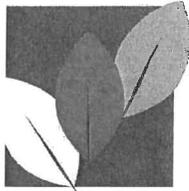
Approved as to form and legal sufficiency:

Kirk C. Downey
County Attorney

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

EXHIBIT A

LETTER FROM BROOK LANE HEALTH SERVICES, INC.



BROOK LANE

Hope • Healing • Recovery

November 17, 2022

Board of County Commissioners
of Washington County
100 West Washington Street
Hagerstown, Maryland 21740

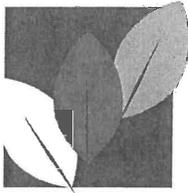
Re: Proposed The Town of Smithsburg Economic Development Revenue Bonds
for the Benefit of Brook Lane Health Services, Inc.

Dear Commissioners:

Brook Lane Health Services, Inc., a Maryland corporation (the "Borrower"), respectfully requests that County Commissioners of Washington County (the "County") approve the issuance from time to time by The Town of Smithsburg (the "Town") of one or more series of economic development revenue bonds in an aggregate principal amount not to exceed Five Million Six Hundred Thousand Dollars (\$5,600,000.00) (the "Bonds"), pursuant to and in accordance with the provisions of the Maryland Economic Development Revenue Bond Act, Sections 12-101 through 12-118, inclusive, of the Economic Development Article of the Annotated Code of Maryland, as amended (the "Act"), to finance or refinance the costs of the acquisition and improvement (within the meaning of the Act) by the Borrower of the Project identified below.

The Borrower will use the proceeds of the Bonds for the purpose of (a) refinancing existing indebtedness of the Borrower, the proceeds of which were used to pay the costs of (i) constructing, equipping, furnishing and renovating the Borrower's existing hospital facilities located on approximately 114 acres of land owned by the Borrower located in Washington County and known as 13218 Brook Lane Drive, Hagerstown, Maryland 21742, and (ii) acquiring an electronic medical record ("EMR") system; (b) financing the costs of acquiring and installing a new EMR system in an amount of approximately \$1,500,000; and (c) financing certain costs relating to the issuance of the Bonds and other related eligible costs (collectively, the "Project"). The facilities and improvements referred to in clauses (a) and (b) of the definition of the Project (collectively, the "Facilities") are located outside the geographical boundaries of the Town but within an unincorporated area of the County and constitute facilities within the meaning of the Act.

The existing Facilities are used and the Facilities to be acquired will be used by the Borrower in its business of operating a psychiatric hospital and providing related health care services and the components



BROOK LANE

Hope • Healing • Recovery

of the Project to be located at such location shall be used accordingly. The Borrower has been determined by the Internal Revenue Service to be an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

With respect to the County, the Borrower believes that the issuance of the Bonds and the financing and refinancing of the costs of the Project will (i) enhance and expand health care provided by the Borrower to the citizens of the Town, the County and the State; (ii) strengthen the ability of the Borrower as a health care institution to attract and care for patients; and (iii) permit the Borrower to maintain its professional and other staff, and, accordingly, will generally promote the purposes of the Act, by sustaining jobs and employment, thereby relieving conditions of unemployment in the Town, the County and the State, assisting in the retention of existing industry and commerce in the Town, the County and the State, and promoting the health, welfare and safety of the residents of the Town, the County and the State.

The Bonds shall be limited obligations of the Town, the principal of, premium, if any, and interest on which shall be payable solely from the revenue derived from loan repayments (both principal and interest) payable by the Borrower pursuant to the terms and provisions of the Loan Agreement (hereinafter defined) and from any other moneys made available to the Town for such purpose. The Town will loan the proceeds of the Bonds (the "Loan") to the Borrower pursuant to the terms and provisions of one or more loan agreements to be entered into by and between the Town and the Borrower (by whatever name known, including (without limitation) as a loan and financing agreement, a bond and financing agreement or by any other name, the "Loan Agreement"). The Loan Agreement will require the Borrower to use the proceeds of the Loan for the sole and exclusive purpose of financing or refinancing the costs of the Project and, to the extent permitted by the holder or holders of the Bonds, the payment of the expenses of preparing, printing and selling the Bonds, and other eligible costs, including any required reserves or interest.

As required by Section 5f.103-2(c)(3) of the Income Tax Regulations, the Borrower hereby requests that the Board of County Commissioners take the necessary action to grant "host approval" with respect to the Bonds and the Project.

It is expressly understood and agreed that the County will not incur any liability, direct or indirect, or any cost, direct or indirect, in connection with the authorization, issuance and sale of the Bonds, the making of the Loan or the acquisition and improvement of the Project and to that end, the Borrower agrees to pay all necessary expenses of preparing, printing, selling, and issuing the Bonds and all other costs and expenses contemplated and permitted by the Act, including without limitation, any and all costs, fees and expenses (including without limitation, attorneys' fees and expenses) incurred by or on behalf of the County in connection with the adoption of a resolution approving the Project and the issuance and sale of the Bonds, the publication of notices of any public hearings to be held in connection therewith and the development and execution of any closing certificates of the County deemed necessary or desirable, whether or not the



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proposed financing is consummated. The County shall have no liability or responsibility for the payment of any such fees and expenses.

The Borrower hereby agrees to indemnify and hold harmless the County and all of its officials, employees, agents and representatives from any and all claims, damages, expenses, fees and costs of any nature whatsoever in connection with the financing or refinancing of the costs of the Project and the issuance of the Bonds. Moreover, nothing contained in this letter shall be deemed to constitute an undertaking by the County to expend any of its funds to effect any or all of the transactions contemplated by this letter.

The Borrower understands and agrees that the approval by the County of the Project and the issuance and sale of the Bonds by the Town shall not in any way indicate the approval of, or constitute any commitment for approval by, the County or any of its officials or employees of any license, permit, application, or any other request to the County with respect to the acquisition and improvement (within the meaning of the Act) of the Facilities or the operation of the Facilities.

The Borrower understands and agrees that the principal of, premium, if any, and interest on the Bonds (1) shall be limited obligations of the Town, (2) are not debts or charges against the general credit or taxing power of the Town or the County within the meaning of any constitutional or charter provision or statutory limitation, and (3) may not give rise to any pecuniary liability of the Town or the County. The Bonds are not a debt to which the faith and credit of the Town, the County or any other public body (within the meaning of the Act) is pledged.

The Borrower accepts and understands that the County has designated the firm of Funk & Bolton, P.A. to provide legal services on the County's behalf in connection with the activities contemplated by this letter, and that such firm is also serving as issuer's counsel to the Town in connection with the issuance of the Bonds.

If the foregoing is acceptable to the County, please have an authorized representative of the County execute the same in the space provided for below; counterpart signature pages of this letter may be circulated by facsimile transmission and/or e-mail.

Thank you in advance for your consideration.



**BROOK
LANE**

Hope • Healing • Recovery

Very truly yours,

BROOK LANE HEALTH SERVICES, INC.

By:  _____

Jeffery D. O'Neal, MBA, LCPC, FACHE

Chief Executive Officer

Accepted:

COUNTY COMMISSIONERS OF WASHINGTON COUNTY

By: _____

[Vice] President of the Board of County

Commissioners of Washington County

Date: _____, 2022



Open Session Item

SUBJECT: PUBLIC HEARING: Application for Zoning Text Amendment RZ-22-004

PRESENTATION DATE: November 29, 2022 10:50am

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

RECOMMENDED MOTION: The purpose of this public hearing is to take public comment on the rezoning application. The Commissioners may take action to approve or deny the request or wait until a later date to deliberate.

REPORT-IN-BRIEF: Application has been made by the Board of County Commissioners of Washington County to amend several sections of the Zoning Ordinance to remove truck stops as a special exception use in the Highway Interchange (HI) district and to require warehouses with gross building areas greater than or equal to 1,000,000 sq. ft. to be special exception uses in all districts where warehouses are currently permitted.

DISCUSSION: Electronic commerce (E-commerce) has rapidly expanded in recent years hastened by the social changes brought about by the COVID-19 pandemic. Two primary focus points of e-commerce is having a large supply inventory as well as fast delivery service. This has created increased demand for inventory warehousing, regional distribution facilities, and freight carriers.

As an expected side effect, there has been a proportional increase in truck and other freight delivery services on local road networks. In addition to localized truck traffic, there has been a continued increase in interstate through traffic especially on Interstate 81. It is projected that truck traffic on both I-70 and I-81 will continue to increase as e-commerce and consumer demand continues to increase. With increased truck traffic has also come the need for services related to those employed by this industry. This most frequently takes the form of a truck stops, convenience stores, lodging facilities and parking facilities to assist truck drivers to meet federal limits on driving hours.

This has culminated in concerns from the public regarding traffic congestion, safety, and environmental concerns. In response to these concerns the applicant has proposed the text amendments attached to this report.

This amendment has not yet been presented to the Washington County Planning Commission. The Planning Commission has scheduled a Public Information Meeting to be held on Monday, December 5, 2022. It is recommended by Staff that the Board of County Commissioners withhold action on this matter until such time the Planning Commission can take public comment, deliberate, and submit a recommendation to the Board.

FISCAL IMPACT: unknown

CONCURRENCES: none

ALTERNATIVES: n/a

ATTACHMENTS: Proposed text amendments, staff report, and application

AUDIO/VISUAL NEEDS: none

Proposed Text Amendments for RZ-22-004

ARTICLE 3. DISTRICTS ESTABLISHED; ZONING MAPS, DISTRICT BOUNDARIES; LAND USE REGULATIONS (RURAL AREA USES)

Section 3.3 Land Use Regulations

LAND USES	A(R)	EC	P	RV	RB	IM	Intensity of Use
Q. Transportation and Warehousing							
Airports, private or landing fields, and heliports, subject to the Provisions of Article 21.	SE	SE	SE	N	N	N	N/A
Commercial parking lot or garage	N	N	N	N	P	N	LOW
Contractor's equipment and Storage yards	SE	SE	SE	SE	P	N	MODERATE
Explosives Storage	SE	SE	SE	N	N	N	N/A
Mini-warehouses excluding outside storage or outside uses	N	N	N	N	P	N	LOW
Mixed use buildings including warehouses, wholesale and retail sale where the gross building area is less than 1,000,000 sq. ft.	N	N	N	N	P	N	MODERATE
Mixed use buildings including warehouses, wholesale and retail sale where the gross building area is greater than or equal to 1,000,000 sq. ft.	N	N	N	N	SE	N	N/A
Warehouses, Gross building area less than 1,000,000 sq. ft.	N	N	N	N	P	N	MODERATE
Warehouses, Gross building area greater than or equal to 1,000,000 sq. ft.	N	N	N	N	SE	N	N/A

ARTICLE 12 "BG" BUSINESS, GENERAL DISTRICT

Section 12.1 Principal Permitted Uses

(a) Retail trades, businesses and services, including but not limited to the following and any use permitted in the BL District, subject to the use regulations specified in that district.

Wholesale business, warehousing with gross building area less than 1,000,000 sq. ft or service establishments, except as first allowed in an "IR" or "IG" District.

Section 12.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(m) Wholesale business, warehousing with gross building area greater than or equal 1,000,000 sq. ft or service establishments, except as first allowed in an "IR" or "IG" District.

ARTICLE 13 "IR" INDUSTRIAL, RESTRICTED DISTRICT

Section 13.1 Principal Permitted Uses

(a) Uses of a light industrial nature including, but not limited to the following:

Warehouses as defined in Article 28A with gross building area less than 1,000,000 sq. ft.

Section 13.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

ARTICLE 14 "IG" INDUSTRIAL, GENERAL DISTRICT

Section 14.1 Principal Permitted Uses(e) Any use permitted or as regulated as a principal permitted or special exception in the "IR" District, except as hereinafter modified.

Section 14.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(c) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

ARTICLE 17 "PB" PLANNED BUSINESS DISTRICT (SHOPPING CENTERS)

Section 17.1 Principal Permitted Uses

Only uses permitted in the BL or BG Districts shall be permitted. However, no animal hospitals, veterinary clinics, or kennels shall be permitted. No residential or industrial uses or Outdoor Advertising Signs shall be permitted. Only warehouses with gross building area less than 1,000,000 sq. ft. are principally permitted.

Section 17.1.1 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(c) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

ARTICLE 18 "PI" PLANNED INDUSTRIAL DISTRICT (INDUSTRIAL PARK)

Section 18.1 Principal Permitted Uses

(c) Wholesale warehousing establishments with gross building area less than 1,000,000 sq. ft. where no retail sales are permitted.

(d) Truck terminals or warehouses with gross building area less than 1,000,000 sq. ft.

Section 18.2 Prohibited Uses

(h) Special exception uses in "IR" and "IG" Districts

Section 18.2.1 Special Exception Uses

(a) Solar Energy Generating Systems in accordance with Section 4.26.

(b) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

ARTICLE 19 "HI" HIGHWAY INTERCHANGE DISTRICT

Section 19.2. Principal Permitted Uses

(a) All Principal Permitted Uses allowed in the BL, BG, PB, and ORT Districts. Also permitted are all Principal Permitted Uses in the IR District except heliports, warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft., and Commercial Communications Towers.

Section 19.3. Special Exception Uses (Requiring Board Authorization after Public Hearing)

(g) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

(h) Public utility buildings, structures, or uses not considered essential utility equipment, as defined in Article 28A.

(i) Commercial Communications Towers, subject to the requirements of Section 4.22.

ARTICLE 19C - "SPECIAL ECONOMIC DEVELOPMENT DISTRICT"

Section 19C.2. Principal Permitted Uses

Warehouses with gross building area less than 1,000,000 sq. ft.

Section 19C.3. Special Exception Uses

Warehousing with gross building area greater than or equal to 1,000,000 sq. ft

ARTICLE 21 "AP" AIRPORT DISTRICT

Section 21.4 AP - Airport District

Section 21.41 Principal Permitted Uses

(c) Uses of a light industrial nature including, but not limited to the following:

Wholesale warehousing establishments with gross building area less than 1,000,000 sq. ft. where no retail sales are permitted.

Truck terminals or warehouses with gross building area less than 1,000,000 sq. ft.

Section 21.42 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(f) Warehousing with gross building area greater than or equal to 1,000,000 sq. ft

ARTICLE 28A - DEFINITIONS



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

RZ-22-004

November 2022

**WASHINGTON COUNTY ZONING ORDINANCE
STAFF REPORT AND ANALYSIS**

ARTICLES 3, 12, 13, 14, 17, 18, 19, 19C, 21 & 28A

Proposal: Application has been made by the Board of County Commissioners of Washington County to amend several sections of the Zoning Ordinance to remove truck stops as a special exception use in the Highway Interchange (HI) district and to require warehouses with gross building areas greater than or equal to 1,000,000 sq. ft. to be special exception uses in all districts where warehouses are currently permitted.

Staff Report: Electronic commerce (E-commerce) has rapidly expanded in recent years hastened by the social changes brought about by the COVID-19 pandemic. Two primary focus points of e-commerce is having a large supply inventory as well as fast delivery service. This has created increased demand for inventory warehousing, regional distribution facilities, and freight carriers.

As an expected side effect, there has been a proportional increase in truck and other freight delivery services on local road networks. In addition to localized truck traffic, there has been a continued increase in interstate through traffic especially on Interstate 81. It is projected that truck traffic on both I-70 and I-81 will continue to increase as e-commerce and consumer demand continues to increase. With increased truck traffic has also come the need for services related to those employed by this industry. This most frequently takes the form of truck stops, convenience stores, lodging facilities and parking facilities to assist truck drivers to meet federal limits on driving hours.

This has culminated in concerns from the public regarding traffic congestion, safety, and environmental concerns. In response to these concerns the applicant has proposed the afore referenced text amendments.

Analysis:

The proposed amendments effect two different use types currently included within the zoning ordinance. While the two uses are similar in their function, the impacts of the text amendments will have different effects, therefore staff will analyze the changes separately.

Warehouses/Distribution Facilities

Through September 2022, there have been numerous applications made for review of warehouse/distribution facility projects in the County. A total of 22 buildings have been proposed

with 4 currently under roof for a total of 3.1 million square feet in the County. The City of Hagerstown has also experienced an influx of warehouse projects including 7 buildings with 4 currently under roof for a total of nearly 2.2 million square feet.

While there is no singular data source that can predict how many more warehouses may want to locate to the area, it is generally accepted that as long as e-commerce continues to grow, so will the need for additional warehouse and distribution centers to accommodate consumer demand. Logically, the intersection of two of the most significant eastern seaboard interstates that have both north-south and east-west directionals would prove to be a highly desirable location for these types of facilities. This puts Washington County in particularly high demand for placement of these uses.

The County is not a stranger to this phenomenon. Our economic prosperity has always been heavily linked to the influences of transportation. Modes of transportation have changed over the years from horse drawn carriages, to railroads, to the C&O Canal, to now interstates. Freight movement is integral to the success of not just our local economy but to the overall national economy.

Of particular concern in the moment is the overbearing size of these new facilities, almost all new warehouses include at least 500,000 sq. ft. of area while some are ballooning to over 1 and even 2 million square feet. These significant projects have drawn the attention of the public as they typically convert large amounts (50 to 100 acres) of existing farmland or other urban open space. This has led to the perception that we are losing farmland too rapidly and not planning for the impacts on our road networks and environmental resources.

These public perceptions have led the applicant to the conclusion that larger warehouses, defined as 1,000,000 sq. ft. or larger should have additional public scrutiny in the form of a special exception use that requires a public hearing. This would permit an additional forum for public review and comment on projects that may have concerns related to the scale and compatibility of larger buildings on the community.

Truck Stops

The applicant has stated that their reasoning for removing truck stops as a special exception use in the Highway Interchange zoning district was due to potential safety threats to County citizens such as human trafficking, traffic congestion, and vehicular accidents. There was also concern raised about already existing deficiencies in interstate capacities, specifically I-81, and local contribution to those deficiencies.

Several newspaper articles were cited as evidence that Washington County has a high rate of potential for human trafficking as well as fatalities on our roadways. Several articles have been published in the local newspaper, the Herald Mail, pertaining to various instances of criminal activity and vehicular fatalities associated with sections of interstate located within the county.

One effect of removing truck stops as a special exception use in the Highway Interchange zoning district is that there will no longer be any references to truck stops in the zoning ordinance in

totality. Therefore, the definition of a truck stop is also being stricken from the document in order to limit confusion as to having a definition of a use that isn't listed within the ordinance. While the perception is that this will effectively ban truck stop uses from being permitted in Washington County, the actual effect is that there will now be ambiguity in the ordinance as to what actually constitutes a truck stop. Without a definitive reference to a particular use within the ordinance, it is left up to interpretation what the definition of a truck stop is and where it could be appropriately located.

In addition to the administrative pit falls that this amendment could create, there is a lack of evidence provided to indicate why truck stops are believed to be a greater threat to our community than any other similar trucking or freight movement use in the Highway Interchange district. Evidence provided by the applicant included references to local newspaper stories and repeated statements by County and State elected officials that Interstate 81 has become dangerous and needs widening. One newspaper article cited by the applicant noted a recent application made by the State of Maryland to obtain Federal grant funding for the purpose of widening I-81. The statement made in the application is that "Maryland is recognized as having the most dangerous stretch of I-81 in the country...".¹ While this is compelling information, the grant application does not implicate any particular segment of the transportation economy as being a singular cause of highway capacity or safety issues. So while there has been evidence provided that I-81 has documented capacity and safety issues, it seems arbitrary and capricious to attribute these issues to just truck stops and/or warehouses.

Additional evidence cited by the applicant is another newspaper article that headlined a question asking "A unique sweet spot: Is Washington County becoming a hub for sex trafficking?". The article specifically mentions truck stops and lodging facilities that "can serve for clandestine meetings". The article provides no statistics on actual reported cases of human trafficking in the County but does reference that from January through August of 2022, 18 cases have been referred to anti-trafficking officials for assistance that include an undetermined mix of those who have been trafficked or of risk to be trafficked. No information was provided as to whether or not any of the 18 cases occurred on properties containing truck stops.

By citing this information, it further brings to light the arbitrary and capricious nature of the proposed amendments. If part of the reasoning for removing truck stops as a use in the Highway Interchange district is its attraction of human traffickers, then it stands to reason that any uses (i.e. lodging facilities) that could attract illicit behavior should also be removed as a permitted use.

Staff Recommendation: The primary concern addressed in these text amendments revolve around the fact that our County contains two of the most significant and heavily traveled interstates in the country. Our proximity to these facilities undoubtedly makes our area vulnerable to negative impacts such as traffic congestion, safety, and environmental concerns. Therefore, the question at hand is how we can protect the public health, safety and welfare of our community while also acknowledging the necessity and importance of interstate facilities to not just our local economy but the country's economy as well.

¹ I-81/Halfway Boulevard Freight Connections: Providing Opportunities for Economic Growth, Equitable Job Access, and Improved Safety; FY 2021 INFRA grant application; March 19, 2021

This question is true of any land use and is first addressed through development of the Comprehensive Plan. It is within the development of a Land Use Plan for the County that citizens voice their opinions about growth and its impacts. Specific to the amendments being proposed in the case, the Comprehensive Plan contains a Transportation Element that expands upon the multi-modal aspects of transportation necessitated by the various types of land uses and their locations. As noted in the goods movement section of the transportation element, *“The intersection of two major interstate systems provides a logical impetus for development of truck transportation. Several national companies along with major regional carriers have large terminals or warehouse/distribution centers in the area. The total terminal capacity greatly exceeds local requirements, clearly showing the importance of Washington County in freight transfer operations.”*

Noting the need and expectation of the continued growth of economic development in and around interstate facilities, the plan includes a land use policy area called Industrial Flex. As stated in the plan, *“This classification [Industrial Flex] reflects a hybrid policy area comprised of different types of economic development associated land uses. It is an outgrowth of the change taking place in the workplace as more and more jobs move from manufacturing to the hi-tech and service sectors of the economy. Most of the land zoned Industrial Restricted, Planned Industrial, and Airport, as well as a large portion of the Highway Interchange One zoned area not developed or anticipated to be developed as commercial are located in this policy area. Existing and anticipated land uses associated with this policy area include light industrial parks, office parks, research and development facilities, hi-tech communication and technology facilities, trucking and distribution facilities, and commercial uses that support job centers. These policy areas are located around the interchanges on I-81 and I-70 in the Urban Growth area...”*

Following the adoption of the Comprehensive Plan, comprehensive evaluation of all zoning in the County was completed. It was conducted in three phases that started with the rural areas of the County that was adopted in 2005, followed by town growth areas in 2012 and finished with the urban growth area in 2015. Zoning was applied in accordance with the policy areas set forth in the Comprehensive Plan. It should be noted that nearly all locations where warehouses and/or truck stops have been developed or contemplated fall within the Industrial Flex policy areas delineated in the land use plan and were given appropriate zoning classifications to follow the guidance of the Industrial Flex policy area.

The Board of County Commissioners recommendation to require warehouses greater than or equal to 1,000,000 sq. ft. obtain special exception approval does not seem to be counterintuitive to the policies and recommendations of the Comprehensive Plan. The recommended amendments do not ban the use but applies more public scrutiny to larger developments that may have larger impacts on the community.

The recommendation to remove truck stops as a special exception use from the Highway Interchange district and consequently as a use entirely from the zoning ordinance does not appear to be in harmony with the policies and recommendations of the Comprehensive Plan or of the Zoning Ordinance. As a basic tenet of land use planning and zoning, it is never a preferred method to ban uses without significant evidence of public nuisance or harm. The public perception of

trucks stops attracting more criminal activity than other similar uses that are permitted within the Highway Interchange has not been substantiated with the evidence provided in this case.

Furthermore, the elimination of truck stops as a defined use; special exception or otherwise is in direct conflict with the policies of the Comprehensive Plan as stated previously as well as the purpose statement of the Highway Interchange zoning which reads, "*The Highway Interchange District is established to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles.*"

For these stated reasons, Staff recommends denial of these amendments in order to provide consistent implementation of our land use policies and regulations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jill L. Baker" followed by a small "dse" at the end.

Jill L. Baker, AICP
Director



FOR PLANNING COMMISSION USE ONLY
 Rezoning No. _____
 Date Filed: _____

WASHINGTON COUNTY PLANNING COMMISSION
 ORDINANCE TEXT AMENDMENT APPLICATION

Washington County Board of County Commissioners _____

Applicant

100 W. Washington St., Hagerstown, MD 21740

Address

Jeff Cline, President

Primary Contact

same

Address

- Property Owner Contract Purchaser
 Attorney Consultant
 Other: Elected Body _____

240-313-2200

Phone Number

contactcommissioners@washco-md.net

E-mail Address

- Adequate Public Facilities Ordinance
 Forest Conservation Ordinance
 Subdivision Ordinance
 Solid Waste Plan

- Water and Sewer Plan
 Zoning Ordinance
 Other _____

Articles 3, 12, 13, 14, 17, 18, 19, 19C, 21, & 28A
 Section No. _____

Please provide the proposed text on a separate sheet of paper as follows: strike-through should be used for deletions [~~deletions~~], unchanged wording in regular type, and new wording should be underlined [new wording].

 Applicant's Signature

Subscribed and sworn before me this _____ day of _____, 20____.

My commission expires on _____

 Notary Public

FOR PLANNING COMMISSION USE ONLY	
<input type="checkbox"/> Application Form	<input type="checkbox"/> Proposed Text Changes
<input type="checkbox"/> Fee Worksheet	<input type="checkbox"/> 30 copies of complete Application
<input type="checkbox"/> Application Fee	



Open Session Item

SUBJECT: Text to 911 – Request for Approval to Accept Awarded Funding

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Brian Albert, Assistant Director, Emergency Communications Center Operations, and Nicole Phillips, Grant Manager, Office of Grant Management

RECOMMENDED MOTION: Move to approve the acceptance of grant funds in the amount of \$59,944 from the Maryland 911 Board.

REPORT-IN-BRIEF: The Division of Emergency Services is requesting approval to accept grant funds in the amount of \$59,944 from the Maryland 911 Board.

DISCUSSION: This funding is for software and the maintenance contract for Text to 9-1-1 services. This service is added on to Washington County's existing services with Motorola Solutions.

FISCAL IMPACT: Provides \$59,944 for the Division of Emergency Services.

CONCURRENCES: Susan Buchanan, Director, Office of Grant Management

ALTERNATIVES: Deny approval for submission of this request

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Open Session Item

SUBJECT: Intergovernmental Cooperative Purchase (INTG-22-0101) 9-1-1 (NG9-1-1) EsiNet Next Generation Software Upgrade Implementation

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Rick Curry, CPPO, Director of Purchasing Department; Brian Albert, Assistant Director, Emergency Communications Center

RECOMMENDED MOTION: Move to authorize by Resolution, the approval for the Division of Emergency Services to enter into a service contract for project management of the 9-1-1 (NG9-1-1) ESInet Next Generation software upgrade implementation at a cost of \$205,874.64 from Mission Critical Partners, LLC of Chicago, IL and to utilize another jurisdiction's contract (HP08-21) that was awarded by Houston Galveston Area Council (HGAC).

REPORT-IN-BRIEF: The services that Mission Critical Partners, LLC is providing is support to the Division with contract review, implementation, vendor oversight and coordination of the NG9-1-1 solution. The assistance is to ensure County information is in a consistent and timely fashion to the ESInet vendor in support of the County's migration to the ESInet platform. Technical assistance is also provided to ensure the NG9-1-1 system service provider is delivering services per the contractual commitments. The quoted contract is \$205,874.64, the division has made several payments totaling \$18,104 dollars, which the remaining contract balance of \$187,734.64 to be paid to Mission Critical Partners, LLC for the completion of the project.

The Code of Public Laws of Washington County, Maryland (the Public Local Laws) §1-106.3 provides that the Board of County Commissioners may procure goods and services through a contract entered into by another governmental entity, in accordance with the terms of the contract, regardless of whether the County was a party to the original contract. If the Board of County Commissioners determines that participation by Washington County would result in cost benefits or administrative efficiencies, it could approve the purchase of this service in accordance with the Public Local Laws referenced above by resolving that participation would result in cost benefits or in administrative efficiencies.

The County will benefit with direct cost savings in acquisitions of these services because of the economies of scale this contract has leveraged. I am confident that any bid received as a result of an independent County solicitation would exceed the spend savings that the Houston Galveston Area Council (HGAC) contract provides through this agreement. Additionally, the County will realize savings through administrative efficiencies as a result of not preparing, soliciting and evaluating a bid. This savings/cost avoidance would, I believe, be significant.

DISCUSSION: N/A

FISCAL IMPACT: Funds are budgeted in the Division's Capital Improvement Project (CIP) account GRT150.

CONCURRENCES: Division Director

ALTERNATIVES: N/A

ATTACHMENTS: Mission Critical Partners, LLC price quote dated November 15, 2021

AUDIO/VISUAL NEEDS: N/A

Pricing

Professional services outlined in the scope of work will be provided for a **not-to-exceed fee of \$205,874.64**. The fee is inclusive of labor and expenses.

Mission Critical Partners proposes to deliver services on a per-hour basis based on our Houston Galveston Area Council (H-GAC) Purchase Contract #HP08-21, with expenses defined at federal per diem rates. Reimbursable expenses on this project will be invoiced using GSA Federal rates for lodging, mileage and meals. All other expenses, including airfare, rental cars, rental fuel, local transportation, tolls, parking and taxes on lodging, will be invoiced at the cost incurred.

At the close of each month, MCP shall submit a properly executed invoice showing services rendered for that month. Each statement shall include labor and expenses for authorized activities based upon the approved scope of work.

Any additional services contracted in subsequent years will be performed at MCP's then-current fee schedule. Prior to initiating any such additional work, MCP would require a formal letter of authorization from Washington County.

Based on the current MCP understanding of what is to be accomplished, the pricing identified represents an estimate of the work anticipated for the project to be successful. MCP's priority is for this project to be successful for Washington County.

Table 1: Pricing Table

Staff Member	Title	Rate per Hour	Planned Hours	Planned Fee
Task 1: Administrative and Project Management Support				
Daniel Armstrong	Senior Technology Specialist	\$218.00	32	\$6,976.00
James Sullivan	Senior Technology Specialist	\$218.00	32	\$6,976.00
Dave Boyce	Senior Program Manager	\$264.00	20	\$5,280.00
Eric Caddy	Senior Program Manager	\$264.00	20	\$5,280.00
Joshua Jack	Senior Project Manager	\$224.00	15	\$3,360.00
Nicola Tidey	Technology Specialist II/III	\$204.00	124	\$25,296.00
Task 2 and Task 3: Network Solution Support and Acceptance Testing				
Daniel Armstrong	Senior Technology Specialist	\$218.00	269	\$58,642.00
James Sullivan	Senior Technology Specialist	\$218.00	121	\$26,378.00
Dave Boyce	Senior Program Manager	\$264.00	61	\$16,104.00
Joshua Jack	Senior Project Manager	\$224.00	26	\$5,824.00
Eric Caddy	Senior Program Manager	\$264.00	61	\$16,104.00
Nicola Tidey	Technology Specialist II/III	\$204.00	101	\$20,604.00

Staff Member	Title	Rate per Hour	Planned Hours	Planned Fee
			Labor Subtotal	\$196,824.00
			Estimated Expenses (as incurred)	\$9,050.64
			Total Fee	\$205,874.64

Table 2: Estimated Project Schedule

Project Task	Duration in Months	Labor Fee
Task 1: Administrative and Project Management	18	\$53,168.00
Task 2: Network Solution Support and Task 3: Acceptance Testing	18	\$143,656.00

MISSION CRITICAL PARTNERS, LLC

H-GAC All Hazards Preparedness, Planning, Consulting & Recovery Services
Contract No. HP08-21

Title	Labor Rate Per Hour
Support Specialist I	\$63.00
Support Specialist II	\$105.00
Operations Specialist I	\$204.00
Operations Specialist II	\$218.00
Planner	\$178.00
Communications Specialist	\$160.00
Technology Specialist I	\$191.00
Technology Specialist II	\$204.00
Project Manager	\$198.00
Senior Technology Specialist	\$218.00
Senior Project Manager	\$224.00
Program Manager	\$237.00
Forensics Analyst	\$244.00
Senior Program Manager	\$264.00
Principal	\$224.00

RESOLUTION NO. RS-2022-

(Intergovernmental Cooperative Purchase [INTG-22-0101] Radio Equipment for the Washington County Detention Center)

RECITALS

The Code of Public Local Laws of Washington County, Maryland (the "Public Local Laws"), §1-106.3, provides that the Board of County Commissioners of Washington County, Maryland (the "Board"), "may procure goods and services through a contract entered into by another governmental entity in accordance with the terms of the contract, regardless of whether the county was a party to the original contract."

Subsection (c) of §1-106.3 provides that "A determination to allow or participate in an intergovernmental cooperative purchasing arrangement under subsection (b) of this section shall be by resolution and shall either indicate that the participation will provide cost benefits to the county or result in administrative efficiencies and savings or provide other justifications for the arrangement."

The Division of Emergency Services is requesting to enter into a service contract for project management of the 9-1-1 (NG9-1-1) ESInet Next Generation software upgrade implementation at a cost of \$205,874.64 from Mission Critical Partners, LLC, of Chicago, Illinois, and to utilize another jurisdiction's contract (HP08-21) that was awarded by Houston Galveston Area Council (HGAC).

Utilizing the Houston Galveston Area contract and eliminating the County's bid process result in administrative and cost savings for the Division of Emergency Services. The County will benefit with direct cost savings because of the economy of scale the aforementioned contract has leveraged. Additionally, the County will realize administrative efficiencies and savings as a result of not preparing, soliciting, and evaluating bids.

NOW, THEREFORE, BE IT RESOLVED by the Board, pursuant to §1-106.3 of the Public Local Laws, that the Division of Emergency Services is authorized to enter into a service contract for project management of the 9-1-1 (NG9-1-1) ESInet Next Generation software upgrade implementation at a cost of \$205,874.64 from Mission Critical Partners, LLC, of Chicago, Illinois, and to utilize another jurisdiction's contract (HP08-21) that was awarded by Houston Galveston Area Council (HGAC).

Adopted and effective this ____ day of November, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, County Clerk

BY: _____
Jeffrey A. Cline, President

Approved as to form
and legal sufficiency:

Kirk C. Downey
County Attorney

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



Open Session Item

SUBJECT: Quotation Award (Q-22-737) Fort Ritchie Manhole Monitoring

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Rick Curry, CPPO, Purchasing Director; Joe Moss, Deputy Director, Washington County Highway Department.

RECOMMENDED MOTION: Move to award the Quotation for the Fort Ritchie Manhole Monitoring project to the responsible, responsive bidder, Huntsberry Brothers, Inc. Smithsburg, MD who submitted the Total Lump Sum Price of \$93,450.

REPORT-IN-BRIEF: On October 12, 2022 the County accepted Quotations for the Fort Ritchie Manhole Monitoring project to replace sixty-six feet of sewer pipe, install one forty-eight inch precast concrete manhole and have the contractor install a ten inch diameter cartridge type flow meter. Request for Quotation notices were forwarded to three vendors. The Quotation was listed on the County's Purchasing website. There were eighteen (18) downloads of the Request for Quotation document from the County's website. Two (2) Contractors submitted a quote for the project.

DISCUSSION: The Code of the Public Local Laws states that a contract over \$50,000 for the purchase or other expenditure shall be awarded by the Board to the lowest responsible bidder who submits a responsive bid. Request for Quotations are processed for purchases of commodities and services not exceeding \$50,000 and are normally awarded at the departmental level in concurrence with the Purchasing Department. Due to the manhole monitoring project cost proposal exceeding \$50,000, the Quotation is before the Board for an award. It was anticipated that the project would not exceed \$50,000.

Based on previously contracted values and estimates for the work, it was anticipated this work would be quoted below the \$50,000 threshold which would not have required using the Invitation to Bid (ITB) advertisement process. As such, the Request for Quotation process was followed and not the formal bid process. As noted previously, a significant number of vendors reviewed the document; as such we do not believe publicly advertising the project in the newspaper or through the State's web site would have yielded any difference in the final outcome. Given the value of the quotations, the Board of County Commissioners' approval is necessary to award this project. The project is to be funded through budgeted amounts previously approved for the manhole monitoring project.

FISCAL IMPACT: Funding is available in the department's CIP budget account LIN046.

CONCURRENCES: Division Director

ALTERNATIVES: N/A

ATTACHMENTS: Quote Matrix Tabulation

AUDIO/VISUAL NEEDS: N/A

Q-22-737
Fort Ritchie Manhole Monitoring
(Located at 25040 Penmar Road, Cascade, Maryland 21719)

Item Description	Callas Contractors, LLC. Hagerstown, MD	Huntzberry Brothers, Inc. Smithsburg, MD
Replace 66' of sewer pipe, install one (1) 48" diameter, precast concrete manhole, and install an 8" diameter, cartridge type, flow meter with accessories.	\$154,700.00	\$93,450.00
TOTAL LUMP SUM PRICE per SCOPE OF WORK DESCRIBED ABOVE		

Remarks/Exceptions

Callas Contractors, LLC.

1. Interior/exterior concrete manhole coatings are excluded.
2. Frame/cover to be standard "non-watertight" style.
3. Flow Meter and Factory Startup excluded from Lump Sum Proposal.
4. Sewer bypass pumping excluded from this proposal. Maintenance of sewage flows beyond daily inflatable pig insertion into upstream piping is excluded. Sewage flows will be backed up and stored in the upstream piping/manholes and released at the end of each work shift. Lump Sum Pricing excludes testing and/or camera inspection of the new sewer installations.
5. 3" HDPE is not readily available in small quantities from our local suppliers. Lump Sum Pricing is based on the installation of 3" PVC SCH 40 piping.
Lump Sum Pricing is based on "open-cut" conduit installation from the Sampler Building to the NEMA 4 Enclosure. Directional boring installations are excluded from this proposal.
6. 1" HDPE is not readily available in small quantities from our local suppliers. Lump Sum Pricing is based on the installation of 1" PVC SCH 40 piping.
Lump Sum Pricing is based on "open-cut" conduit installation from the New Manhole to the NEMA 4 Enclosure. Directional boring installations are excluded from this proposal.
7. Lump Sum Pricing is based on grass areas restored with seed & mulch. Sod restoration is excluded from this proposal.
Lump Sum Pricing is based on traffic control plans utilizing MDSHA Standard Details for Temporary Traffic Control as applicable to site conditions. Site specific traffic control plans prepared by a traffic engineer are excluded from this proposal.
Lump Sum Pricing is based on all trench patching performed in accordance with the "Flexible Pavement" detail provided on MD Standard 578.01 in Addendum #2. Concrete pavement repairs and/or pavement mill and overlay are excluded from this proposal.
8. No exceptions

Q-22-737
Fort Ritchie Manhole Monitoring
(Located at 25040 Penmar Road, Cascade, Maryland 21719)

9. No exceptions

10. Lump Sum Pricing is based on “hand-drafted” red line notations on the plans provided in the RFQ. As-build documents prepared in Auto-CAD or by a licensed engineer/surveyor are excluded from this proposal.

**Flow Meter lead time is not included in 90 Calendar Day Completion timeframe.

Huntzberry Brothers, Inc.

Item No. 5 – Request to use 3” – SCH-40 PVC

Item No. 6 – Request to use 1” SCH-40 PVC

SWIMMING POOL WATER/WASTEWATER TREATMENT CHEMICALS

Remarks / Exceptions

Addendum No. 1 (dated 10/8/20) Items number 15 & 16D were eliminatd from the Proposal. A "Revised Specification/Form of Proposal" was also issued in Addendm No. 1. Addendum No. 2 (dated 10/9/20) Items number 4, 8, & 11 were elimated from the Proposal. All bidders were required to use the "Revised Form Of Proposal"

Amato Industries, Inc. / Amchlor -

No. 18 \$147.00 each 50#
 No. 20 \$75 each
 No. 22 Pail must be returned
 No. 41 \$40 each

Brenntag Northeast LLC -

No. 2 50,000 lb delivery
 No. 9 4500 gl deliveries
 No. 10A Bulk delivery
 No. 10B 2 drum minimum order
 No. 12 4 drum minimum order
 No. 13 We would like to deliver both locations together
 No. 14 3 drum minimum order
 No. 28 Bulk load

Chemstream -

No. 13 Import material

Colonial Chemical Solutions, Inc. -

Non-Responsive: Inncorrect Form of Proposal
 No Addendums acknowledged
 No. 10B Minimum 2 drums per delivery
 No. 11 Minimum 4 containers per delivery
 No. 12 Minimum 4 drums per delivery
 No. 13 Minimum 4 pails per delivery
 No. 14 Minimum 4 drums per delivey
 No. 19 Minimum 4 drums per delivery
 No. 21 Minimum 4 containers per delivery
 No. 23 Minimum 4 drums per delivery
 No. 28 Minimum 3000 gallons per delivery

Gasochem International LLC -

Addendum No. 3 not acknowledged
 No. 21 Brand: DowFlake
 No. 28 Min 7000 gallon delivery
 No. 41 Celite 545 Brand

George S. Coyne Chemical Company, Inc. -

No. 6 Minimum 8,000 lbs. per delivery
 No. 12 Minimum 4 drums per combined delivery
 No. 14 Minimum 10 drums per delivery
 No. 16A Minimum 3 drums per delivery
 No. 18 Minimum 2 pallets per delivery
 No. 24 Minimum 4 drums per delivery
 No. 26 Minimum 2 drums per delivery
 No. 30 Bidding on CP-722
 No. 34 Minimum 3 totes per delivery

Innovative Water Care -

No. 18 50# pail full order of 24 units, 1200 net lbs.

Kemira Water Solutions, Inc. -

No. 3 Kemira PIX-111
 No. 17A Kemira PAX-XL6

Kuehne Chemical Company, Inc. -

Non-Responsive: Incorrect Form of Proposal
 Addendum No. 2 & Addendum No. 3 not acknowledged

Maryland Biochemical Company, Inc.

Did not submit entire Form of Proposal
 Did not acknoldge Addendum No. 3

SWIMMING POOL WATER/WASTEWATER TREATMENT CHEMICALS

Remarks / Exceptions

Maryland Chemical Company, Inc. -

No. 2 Minimum 45,000 lbs delivery

No. 29 *Packaged in 25 lb containers

No. 34 MCC FloSet 22 2700lb totes = 262 gals.

Norwalk Wastewater Equipment Co. dba Norweco -

Non-Responsive: Incorrect Form of Proposal

No. 18 100lb drum; Minimum Order (18) drums One Pallet

Penco, Inc. -

Non-Responsive: Incorrect Form of Proposal

No Bid on all items

Premier Magnesia, LLC -No. 27 Premier Invoices based on Wet lbs listed on Bol. Equivalent
wet lb pricing is 0.216 / wet lb (2.78 ÷ 12.9 wet lbs)**Thatcher Company of New York, Inc -**

No. 33 Minimum Order Quantity: 2000 gals.

Lead Time: 3 to 5 days ARO

Univar Solutions USA Inc. -

No. 2 Full Truck Load

No. 5 Minimum 1,200 Gallons

No. 10B Minimum 2 drums

No.12 53 gallon Drums Minimum 4 Drums

No. 13 Domestic Product

No. 14 Caustic Soda 25% Minimum 4 Drums

No 16A Minimum 5 Pails

No. 16B Minimum 3 Drums

No 18 60 pound Container Minimum 24 pails

No. 19 53 gallon Drums Minimum 4 Drums

No. 28 Minimum 7,000 Gallons FTL four (4) calendar days

No. 31A Minimum 1,000 Gallons

No. 31B Minimum 2,000 Gallons

No. 33 Minimum 2,000 Gallons

No. 34 265 Gallon Non Returnable Tote

No. 36 Minimum

No. 38 Minimum 8 Cylinders

No. 39 Minimum 10 Cylinders

No. 41 Minimum order 42 Bags/ Full Pallet 2,100 lbs.



Open Session Item

SUBJECT: Intergovernmental Cooperative Purchase (INTG-22-0091) – Lease/Purchase One (1) New Tub Grinder

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Rick Curry, CPPO, Director, Purchasing Department; Dave Mason P.E., Deputy Director, Solid Waste Department

RECOMMENDED MOTION: Move to authorize by Resolution, for the Solid Waste Department to lease/purchase one (1) New Vermeer TG5000100 Tub Grinder from Vermeer All Roads of Annapolis, MD for a total lease/purchase cost of \$625,282 and to utilize another jurisdiction's contract (#050119-VRM) that was awarded by Sourcewell to Vermeer Corporation of Pella, IA.

REPORT-IN-BRIEF: The Code of Public Laws of Washington County, Maryland (the Public Local Laws) 1-106.3 provides that the Board of County Commissioners may procure goods and services through a contract entered into by another governmental entity, in accordance with the terms of the contract, regardless of whether the County was a part to the original contract. If the Board of County Commissioners determines that participation by Washington County would result in cost benefits or administrative efficiencies, it could approve the procurement of the equipment in accordance with the Public Local Laws referenced above that participation would result in cost benefits or in administrative efficiencies.

The County will benefit with the direct cost savings in the purchase of this equipment because of economies of scale this contract has leveraged. Additionally, the County will realize savings through administrative efficiencies as a result of not preparing, soliciting and evaluating a bid. Acquisition of the equipment by utilizing the Sourcewell contract and eliminating our county's bid process would result in an administrative and cost savings for the Solid Waste Department and Purchasing Department in preparing specifications.

DISCUSSION: N/A

FISCAL IMPACT: Funds are budgeted in the Solid Waste Department's Operating budget account 535055-21-21020

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: Vermeer All Roads', Quote Dated November 15, 2022



Prepared For:

SOURCEWELL RECYCLING AND REPURPOSING
 WASHINGTON CO ENVIRONMENTAL MGMT
 12630 EARTH CARE ROAD
 HAGERSTOWN, MD 21740

240-313-2792
 301-988-8030
 100902
 DMASON@WASHCO-MD.NET
 Sourcewell Contract #050119-VRM

Vermeer Dealer:

645 - VERMEER ALL ROADS
 301-498-5200
 ANNAPOLISJUNCTION.MD@VERMEERALLROADS.COM
 8832 CORRIDOR RD
 ANNAPOLIS JUNCTION, MD 20701
 STEVE ZAICKO
 240-374-9361

Description	Qty	
TG5000		
TG5000100 TG5000 TUB GRINDER - 2 AXLE FOR NON LOADERIncludes frame and axle assembly; 2" replaceable king pin and hitch; PT Tech dry clutch; tub table; belly and load out conveyor, fuel and oil reservoirs; hydraulic system; ACS electric control system; hydraulic cooling assembly; 24V starting and charging system; trailer lighting; radio remote; standard yellow paint	1	
TG5000030 CAT C15 540HP T4F/STAGE V ENGINEincludes cooling system; fuel cooling system; after-treatment system; enclosure and sub frame	1	
TG5000041 AUTO REVERSE COOLING FAN - T4F	1	
TG5000061 HYDRAULIC TRAILER JACKS(not available when purchasing Loader -050 or -051)	1	
TG5000157 SERIES III DUPLEX DRUM W/ 7/8 BOLT TIPS; includes hardfaced drum with 3 inch premium tips, special tools assembly, deflector assembly, and anvil assembly.	1	
TG5000223 AXIAL MAGNETIC DRIVE PULLEYincludes nail chute; suited for light ferrous materials	1	
TG5000230 STANDARD CLEATED CONVEYOR BELT WITH CABLE SPLICE	1	
TG5000270 DAMAGE DEFENSE	1	
TG5000AM010 ~TELEMATICS	1	
163729211 SCREEN-2" RND TG5000	1	
163729212 SCREEN-4" RND TG5000	1	
163729962 SCREEN-6" RND TG5000	1	
		Subtotal Price Equipment (each) \$ 718,559.00
		Freight and Prep(each) \$ 16,700.00
		Quantity of Complete Units 1
		Subtotal: \$ 735,259.00
Additional Items		
SOURCEWELL DISCOUNT:TG5000 = 12%	1	\$ -86,227.00
::ADDITIONAL DISCOUNT	1	\$ -23,750.00
		Subtotal: \$ -109,977.00
		Grand Total: \$ 625,282.00



Terms

By signing below you understand the information presented and acknowledge order acceptance:

Vermeer: _____

Customer: _____

Date: _____

Date: _____

Prices and availability are subject to change without notice. All prices are exclusive of any and all duties, import fees, taxes or other similar charges including sales and federal excise tax, if applicable. Prices may not be applicable in any transaction involving a trade or rental transaction. Unless noted, dealer freight and preparation to be determined. All prices quoted herein are US Dollars. All quotations valid for thirty days from date of quotation. The pricing set forth herein is an estimate only based on currently prevailing market conditions. The above may not include all possible specifications available with this model. For complete product specifications, please contact your local, authorized Vermeer Dealer.

RESOLUTION NO. RS-2022-

(Intergovernmental Cooperative Purchase [INTG-22-0091] Lease/Purchase One [1] New Tub Grinder)

RECITALS

The Code of Public Local Laws of Washington County, Maryland (the "Public Local Laws"), § 1-106.3, provides that the Board of County Commissioners of Washington County, Maryland (the "Board"), "may procure goods and services through a contract entered into by another governmental entity in accordance with the terms of the contract, regardless of whether the county was a party to the original contract."

Subsection (c) of §1-106.3 provides that "A determination to allow or participate in an intergovernmental cooperative purchasing arrangement under subsection (b) of this section shall be by resolution and shall either indicate that the participation will provide cost benefits to the county or result in administrative efficiencies and savings or provide other justifications for the arrangement."

The Solid Waste Department is requesting to lease/purchase one (1) New Vermeer TG5000100 Tub Grinder from Vermeer All Roads of Annapolis, Maryland, for a total lease/purchase cost of \$625,282, by utilizing another jurisdiction's contract (#050119-VRM) that was awarded by Sourcewell to Vermeer Corporation of Pella, Iowa.

Utilizing the Sourcewell contract and eliminating the County's bid process results in administrative and cost savings for the Solid Waste. The County will benefit with direct cost savings because of the economy of scale the aforementioned contract has leveraged. Additionally, the County will realize administrative efficiencies and savings as a result of not preparing, soliciting, and evaluating bids.

NOW, THEREFORE, BE IT RESOLVED by the Board, pursuant to §1-106.3 of the Public Local Laws, that the Solid Waste Department is authorized to lease/purchase one (1) New Vermeer TG5000100 Tub Grinder from Vermeer All Roads of Annapolis, Maryland, for a total lease/purchase cost of \$625,282, utilizing another jurisdiction's contract (#050119-VRM) that was awarded by Sourcewell to Vermeer Corporation of Pella, Iowa.

Adopted and effective this ____ day of November, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Krista L. Hart, County Clerk

BY: _____
Jeffrey A. Cline, President

Approved as to form
and legal sufficiency:

Kirk C. Downey
County Attorney

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



Agenda Report Form

Open Session Item

SUBJECT: Rescind Bid Award, Intergovernmental Cooperative Purchase (INTG-22-0080) – One (1) New 2023 Ford F650

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Rick F. Curry, CPPO, Director, Purchasing Department;

RECOMMENDED MOTION: Move to relieve 72 Hour LLC dba/National Auto Fleet Group of Watsonville, CA from the contract without prejudices for the purchase of one (1) New/Unused 2023 Ford F-650, (F6D) Regular Cab Base, CA 84” WB with Rugby 11’ Eliminator Dump Body that was approved by this Board on January 25, 2022 for the total sum amount \$89,755 and permission to readvertise for a 2024 model year truck.

REPORT-IN-BRIEF: The January 25th award was for one (1) F650 Ford regular cab truck, which the vendor canceled the order due to the manufacturer stopped production. Since the beginning of COVID-19 pandemic, new and used car prices have risen dramatically, in part due to computer chips and labor force shortage.

FISCAL IMPACT: N/A

CONCURRENCES: N/A

ALTERNATIVES: Purchase the equipment from another vendor.

ATTACHMENTS: N/A

AUDIO/VISUAL NEEDS: N/A



Open Session Item

SUBJECT: Construction Bid Award – Stotler Road at Halfway Blvd Signal Intersection Improvements

PRESENTATION DATE: November 29, 2022

PRESENTATION BY: Scott Hobbs, Director, Division of Engineering

RECOMMENDED MOTION: Move to award the bid for the Showalter Road at Crayton Boulevard Signal Intersection Improvements contract to the lowest responsive, responsible bidder, C. William Hetzer, Inc. of Hagerstown in the amount of \$1,777,279.75.

REPORT-IN-BRIEF: The project was advertised in the Herald Mail, on the County’s website, and on the State of Maryland’s website, e-Maryland Marketplace Advantage. One (1) bid was received on Wednesday, November 9, 2022, as listed below.

Contractor:
C. William Hetzer, Inc.

Total Bid:
\$1,777,279.75

The bids were evaluated, and the low bid is in order. The engineer’s estimate for the work is \$1,750,000.

DISCUSSION: The project involves the installation of a new traffic signal and associated equipment, mechanically stabilized earth slope, paving, pervious concrete sidewalk, curb/gutter, traffic barrier, signs, and pavement markings at the intersection of Stotler Road and Halfway Boulevard. The project is a 275 consecutive calendar day contract with an anticipated notice to proceed in January 2023 and a completion date in October 2023. There will be lane and shoulder closures associated with this work.

FISCAL IMPACT: The project will utilize available funds from Intersection and Signal Improvements (EQP052), Transportation ADA (LDI037), Stormwater Retrofits (DNG039), and Pavement Maintenance and Rehabilitation Program (RDI024) in the Capital Improvement Plan (CIP).

CONCURRENCES: N/A

ALTERNATIVES: N/A

ATTACHMENTS: Bid Tabulation, Aerial Map

AUDIO/VISUAL TO BE USED: Aerial Map



WASHINGTON COUNTY DIVISION OF ENGINEERING
 BID TABULATION
Intersection Signal & Sidewalk Improvments
Stotler Road & Halfway Boulevard
 CONTRACT NO. TS-SH-045-16

Bids Received: Wednesday, November 9, 2022 at 2:00 PM EST
 Length of Contract: 275 Calendar Days

C. William Hetzer, Inc.
 9401 Sharpsburg Pike
 Hagerstown, MD 21741

Item No.	Description	Unit	Quantity	Unit Price	Item Total
1001	Mobilization	LS	1	\$242,180.00	\$242,180.00
1002	Maintenance of Traffic	LS	1	\$61,500.00	\$61,500.00
1003	Temporary Traffic Signs	SF	210	\$66.00	\$13,860.00
1004	Drums for Maintenance of Traffic	EA	75	\$160.00	\$12,000.00
1005	Construction Stakeout	LS	1	\$5,630.00	\$5,630.00
1006	Contingent: Temporary Orange Construction Fence	LF	200	\$3.70	\$740.00
1007	Temporary Concrete Barrier for MOT	LF	540	\$24.25	\$13,095.00
1008	Portable Flashing Arrow Panel	UD	60	\$12.50	\$750.00
1009	Temporary Crash Cushion Sand Filled Plastic Barrels	EA	7	\$500.00	\$3,500.00
2001	Unclassified Excavation	CY	2050	\$24.50	\$50,225.00
2002	Common Borrow	CY	1800	\$1.00	\$1,800.00
2003	Contingent: Test Pit Excavation	CY	20	\$200.00	\$4,000.00
2004	Mechanically Stabilized Earth (MSE) Slope	SF	2075	\$33.00	\$68,475.00
3001	Contingent: Selected Backfill	CY	100	\$66.00	\$6,600.00
3002	36 Inch Reinforced Concrete Pipe	LF	16	\$295.00	\$4,720.00
3003	Precast COG/COS Open Back Inlet - 10 Feet	EA	7	\$5,700.00	\$39,900.00
3004	Stabilized Construction Entrance	EA	1	\$1,040.00	\$1,040.00
3005	Filter Log, 18 Inch Diameter	LF	2750	\$10.50	\$28,875.00
3006	Inlet Protection	EA	8	\$310.00	\$2,480.00
3007	Contingent: Class 0 RipRap	SY	20	\$61.00	\$1,220.00
5001	Graded Aggregate Base 8 Inch Depth	SY	1300	\$15.25	\$19,825.00
5002	Hot Mix Asphalt Superpave Surface 12.5mm (PG64H-22)	Ton	1750	\$110.00	\$192,500.00
5003	Hot Mix Asphalt Superpave Base 19mm (PG64S-22)	Ton	400	\$135.00	\$54,000.00
5004	Milling Asphalt Pavement, 0-2 Inches	SY	14100	\$4.60	\$64,860.00
5005	Contingent: Hot Mix Asphalt Patch (Base Mix)	Ton	100	\$220.00	\$22,000.00
5006	Price Adjustment for Asphalt Binder	EA	5000	\$1.00	\$5,000.00
5007	Concrete for Street Repair - Mix 3	CY	55	\$275.00	\$15,125.00
5008	5 Inch Yellow Thermoplastic Pavement Markings	LF	3825	\$1.25	\$4,781.25
5009	5 Inch White Thermoplastic Pavement Markings	LF	5100	\$1.25	\$6,375.00
5010	10 Inch Yellow Thermoplastic Pavement Markings	LF	285	\$2.50	\$712.50
5011	12 Inch White Preformed Thermoplastic Pavement Markings	LF	220	\$18.75	\$4,125.00
5012	24 Inch White Preformed Thermoplastic Pavement Markings	LF	120	\$25.00	\$3,000.00
5013	White Preformed Thermoplastic Pavement Marking Symbols	SF	62	\$50.00	\$3,100.00
5014	Saw Cutting	LF	2525	\$0.95	\$2,398.75
6001	Standard Type A Combination Curb and Gutter	LF	1730	\$28.50	\$49,305.00
6002	Contingent: Type A Curb	LF	250	\$28.50	\$7,125.00
6003	Concrete Curb Opening	EA	1	\$1,410.00	\$1,410.00
6004	5 Inch Pervious Concrete Sidewalk	SF	8810	\$10.50	\$92,505.00
6005	Concrete ADA Ramps - Mix 3	SF	665	\$20.50	\$13,632.50
6006	Removal and Disposal of Existing Traffic Barrier	LF	2020	\$4.95	\$9,999.00
6007	Traffic Barrier W-Beam Using 8 Foot Posts	LF	1975	\$47.50	\$93,812.50
6008	Traffic Barrier Type C End Treatment	EA	3	\$5,000.00	\$15,000.00
6009	Traffic Barrier Anchorage at Structures	EA	2	\$5,630.00	\$11,260.00
6010	Detectable Warning Surface	SF	165	\$25.00	\$4,125.00
7001	Placing Furnished Topsoil, 4 Inch Depth	SY	3200	\$9.40	\$30,080.00
7002	Temporary Seed and Mulch	SY	1600	\$0.65	\$1,040.00
7003	Turfgrass Establishment	SY	3200	\$1.25	\$4,000.00
7004	Type A Soil Stabilization Matting	SY	3000	\$2.50	\$7,500.00
8001	Concrete for Foundations and Cabinet Pad	CY	18	\$1,630.00	\$29,340.00
8002	Ground Rod - 3/4 Inch Diameter x 10 Foot Length	EA	6	\$315.00	\$1,890.00
8003	(1) 2 Inch Schedule 80 Rigid PVC Conduit - Trenched	LF	80	\$31.50	\$2,520.00
8004	(1) 4 Inch Schedule 80 Rigid PVC Conduit - Slotted	LF	165	\$65.00	\$10,725.00
8005	(2) 4 Inch Schedule 80 Rigid PVC Conduit - Trenched	LF	55	\$63.00	\$3,465.00
8006	LED Lamp and Luminaire	EA	2	\$1,500.00	\$3,000.00
8007	Embedded Metered Service Pedestal	EA	1	\$5,630.00	\$5,630.00
8008	Electrical Service Cable - 3 Wire - 1 Conductor (4 AWG)	LF	350	\$2.50	\$875.00
8009	(2) 4 Inch Schedule 80 Rigid PVC Conduit - Slotted	LF	50	\$93.00	\$4,650.00
8010	Electrical Cable - 3 Conductor (12 AWG)	LF	325	\$4.05	\$1,316.25
8011	Electrical Cable - 2 Conductor (14 AWG)	LF	240	\$3.45	\$828.00

Item No.	Description	Unit	Quantity	Unit Price	Item Total
8012	Electrical Cable - 5 Conductor (14 AWG)	LF	235	\$3.75	\$881.25
8013	Electrical Cable - 7 Conductor (14 AWG)	LF	1840	\$4.05	\$7,452.00
8014	Stranded Bare Copper Ground Wire (6 AWG)	LF	1100	\$4.05	\$4,455.00
8015	Electrical Handhole	EA	1	\$4,380.00	\$4,380.00
8016	Wood Sign Supports 4 Inch x 6 Inch	LF	50	\$25.00	\$1,250.00
8017	Sheet Aluminum Signs - Ground Mounted	SF	39	\$88.00	\$3,432.00
8018	Sheet Aluminum Signs - Mast Arm Mounted	SF	53	\$140.00	\$7,420.00
8019	12 Inch LED Vehicular Traffic Signal Head Section	EA	24	\$610.00	\$14,640.00
8020	16 Inch LED Countdown Pedestrian Signal Head	EA	2	\$1,500.00	\$3,000.00
8021	Traffic Signal Control Cabinet	EA	1	\$40,000.00	\$40,000.00
8022	Traffic Signal Controller	EA	1	\$18,750.00	\$18,750.00
8023	Video Detection Interface Equipment	EA	1	\$13,250.00	\$13,250.00
8024	IP Base Video Detection Camera (Envision)	EA	2	\$15,000.00	\$30,000.00
8025	Video Detection Lead-In Cable	LF	475	\$4.05	\$1,923.75
8026	Battery Backup for Traffic Signals	LS	1	\$28,750.00	\$28,750.00
8027	2-Wire APS Central Control Unit	EA	1	\$5,630.00	\$5,630.00
8028	Audible / Tactile Pedestrian Pushbutton Station and Sign	EA	2	\$1,750.00	\$3,500.00
8029	27 Foot Steel Pole with Twin 50 Foot and 60 Foot Mast Arms	EA	2	\$86,250.00	\$172,500.00
8030	30 Foot Steel Light Pole	EA	1	\$10,000.00	\$10,000.00
8031	20 Foot Lighting Arm	EA	2	\$5,250.00	\$10,500.00
8032	10 Foot Breakaway Pedestal Pole	EA	1	\$5,630.00	\$5,630.00
8033	Remove and Relocate Existing Signs and Sign Structures	SF	235	\$58.00	\$13,630.00
8034	(1) 3 Inch Schedule 80 Rigid PVC Conduit - Trenched	LF	320	\$34.00	\$10,880.00
TOTAL BID:					\$1,777,279.75

Stotler Road at Halfway Boulevard

