LURAY TOWN COUNCIL
September 14, 2020 - 7:00 p.m.

MEETING AGENDA

I.	**CALL TO ORDER & PLEDGE ALLEGIANCE TO THE U.S. FLAG**	Mayor Presgraves
II.	**ROLL CALL**	Danielle Babb
III.	**CONTINUITY OF GOVERNMENT ANNOUNCEMENT**	Mayor Presgraves
IV.	**CONSENT AGENDA**	Mayor Presgraves
V.	**GENERAL CITIZEN COMMENTS (**other than agenda items**)**	
VI.	**PRESENTATIONS**	
	A) Virginia Rural Water Association – Operator of the Year	Mike Ritchie
	B) Luray Cultural Climate	Melvin Tutt
VII.	**ACTION & DISCUSSION ITEMS**	
	A) Luray Park Association Agreement	Steve Burke
	B) 47 West Main Street Rental Agreement	Steve Burke
	C) North Broad Street Park – Property Acquisition	Steve Burke
	D) North Broad Street Park – LDI Agreement	Steve Burke
	E) LFCC CARE Scholarship	Steve Burke
	F) Browns Listing Contract	Steve Burke
	G) CARES Act Funding	Steve Burke
	H) VOSH COVID-19 Regulations	Steve Burke
	I) VDOT Road Resolution	Bryan Chrisman
	J) Browns Building Improvements	Bryan Chrisman
	K) Procurement Policy	Jason Botkins
	L) Resolution on Citizen Equality	Steve Burke
VIII.	**TOWN ATTORNEY'S REPORT**	Jason Botkins
IX.	**MAYOR'S ANNOUNCEMENTS**	Mayor Presgraves
X.	**ADJOURN**	

Due to the threat of transmission of COVID-19 and in recognition of the Governor's Executive Order, this meeting will have limited seating. The meeting will be live-streamed on the Town's Facebook page.

Please submit any public comments concerning the agenda items through any of the following means: Email – sburke@townofluray.com; Mail – Luray Town Council, Attention Steve Burke, Post Office Box 629, Luray VA, 22835; Hand Delivery – Place in exterior DROP BOX in the alcove located at the front of the Town's Town Hall facing Main Street; or Phone – (540) 743-5511. All comments must be submitted by 5:00 pm the day of the meeting, and will be read aloud at the meeting.

Version Date: September 8, 2020 11:00 a.m.

Town of Luray
PO Box 629
45 East Main Street
Luray, VA 22835
www.townofluray.com
540.743.5511

Mayor

Barry Presgraves
bpresgraves@townofluray.com
Term: 2017-2020

Council Members

Leroy Lancaster
llancaster@townofluray.com
Term: 2017-2020

Jerry Schiro
jschiro@townofluray.com
Term: 2014-2022

Joey Sours
jsours@townofluray.com
Term: 2017-2020

Jerry Dofflemyer
jdofflemyer@townofluray.com
Term: 2015-2022

Leah Pence
lpence@townofluray.com
Term: 2017-2020

Ronald Vickers
Rvickers@townofluray.com
Term: 2014-2022

Town Officials:

Town Manager – Steven Burke
Assistant Town Manager- Bryan Chrisman
Town Clerk/ Treasurer- Mary Broyles
Deputy Town Clerk/ Treasurer- Danielle Babb
Chief of Police- Bow Cook
Superintendent of Public Works- Lynn Mathews
Superintendent Parks & Recreation-Dakota Baker

Commissions & Committees:

Luray Planning Commission
Luray-Page County Airport Commission
Luray Tree and Beautification Committee
Luray Board of Zoning Appeals
Luray Downtown Initiative
Luray-Page County Chamber of Commerce

Town of Luray, Virginia

Town Council Agenda Statement

Meeting Date: September 14, 2020

Item No: III

Agenda Item: **Continuity in the Government of Luray, Virginia**

Announcement by Mayor Presgraves:

- This meeting of the Town Council is being held pursuant to the April 13, 2020 Ordinance for Continuity in the Government of Luray.
- The Town Clerk shall read the names of the Councilmembers present and identify those who are electronically present.
- The Town Manager is responsible for receiving public comment in advance of the meeting, which may be submitted by mail, email, phone, or hand delivery by 5:00 p.m. on the day of the meeting.
- In-person attendance and comment by the public is also permitted subject to the limitations of the most recent Executive Order and Phasing Guidelines issued by Governor Northam.
- This meeting can be viewed live on the Town's Facebook page, and a recording will be available on the Town's YouTube Channel. Minutes from the meeting will be posted on the Town's website after being approved by the Town Council.

I move to approve the following Consent Agenda (All items must be read):

CONSENT AGENDA

(A) Minutes of the Regular Council Meeting –8-10-20
(B) Minutes of the Council Work Session Meeting – 8-25-20
(C) Accounts Payable checks totaling- $ 477,051.51

- *Financial Statements will be made available upon the close of the fiscal year end.*

Prepared By:

_____
Mary F. Broyles, Treasurer

A REGULAR MEETING OF
THE TOWN COUNCIL
OF
THE TOWN OF LURAY, VIRGINIA

Monday, August 10, 2020

The Luray Town Council met in regular session on Monday, August 10, 2020, at 7:00 p.m. in the Luray Town Council Chambers located at 45 East Main Street, Luray, Virginia at which time there were present the following:

Presiding: Mayor Barry Presgraves

Council Present:
Ron Vickers
Jerry Dofflemyer
Jerry Schiro
Leroy Lancaster
Joseph Sours
Leah Pence

Also Present:
Steve Burke, Town Manager
Bryan Chrisman, Assistant Town Manager
Mary Broyles, Clerk Treasurer
Danielle Babb, Deputy Clerk Treasurer
Chief Bow Cook, Luray Police Department
Captain Mike Wagoner, Luray Police Department
Jason Botkins, Litten & Sipe
Page News & Courier
Page Valley News

(This meeting was made public via the Town's Facebook page. Public comments were accepted prior to the meeting via e-mail to sburke@townofluray.com).

A quorum being present, Mayor Presgraves declared the Council to be in session for the transaction of business. All present stood for a moment of silence. Mayor Presgraves led everyone in the United States Pledge of Allegiance.

Mayor Presgraves read aloud the Ordinance for the *Continuity in the Government of Luray.*

MAYOR'S STATEMENT

Mayor Presgraves made the following statement:

"Thank you to everyone here tonight, and your interest in our town… the last eight days have been the most difficult time for our community, my family and me… I want to make this very clear to everyone, with absolutely no qualifications: I understand what I posted on social media was wrong, offensive and unbecoming, it does not reflect what is in my heart… I also want to make a direct apology to all people of color and women… passing off demeaning and worn out racial stereotypes as humor isn't funny, I now fully understand how hurtful it is… I can and will do better, and we can all do better, we must… From the bottom of my heart I am sorry and humbly ask for your forgiveness and your grace… thank you for listening, and God bless each and everyone one of you."

CONSENT AGENDA

Motion: Councilman Vickers motioned to approve the Consent Agenda as presented, motion seconded by Councilman Sours with the vote as follows: YEA: Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours, Pence. **Approved 6-0**

Consent Agenda
(A) Minutes of the Regular Council Meeting –7-13-2020.
(B) Minutes of the Council Work Session Meeting – 7-28-2020.
(C) Accounts Payable checks totaling- $ 133,027.95

DISCUSSION OF TOWN CHARTER

Town Attorney, Jason Botkins, discussed the Town's Charter and its update in recent years. He noted that Municipal Code Corporation is working to update the charter online. The Charter was updated through process of the General Assembly in recent years and has come under question in the recent days regarding removal of an elected official. The Town's Charter does not allow members of the Town Council the authority to remove other elected members of Council from office. The Charter follows the direction of the General Assembly in asserting that elected representatives are accountable to the citizens of the Town. Mr. Botkins explained that the State Code provides the citizens the ability to pursue a petition of the Circuit Court to recall an elected official.

CITIZEN COMMENT

The following citizens signed up and spoke during the Citizen Comment portion of the meeting.

- Audre King- 1 Jordan Street, Luray Virginia
- Audrey Tutt Smith- 116 Cole Street, Luray Virginia
- D. Dean Peterson- 789 Ridge View Lane, Shenandoah Virginia
- Theresa Posey- 15 Woodland Avenue, Luray Virginia
- Barbara Veney- 161 Hillside Drive, Luray Virginia
- Laura Ausberry- 153 Hillside Road, Luray Virginia
- R.J. Judd- 24 Zerkel Street, Luray Virginia
- Logan Horng- 112 South Marye Lane, Luray Virginia
- Pat Taylor- 660 West Main Street,, Luray Virginia
- Penny Good- 532 West Main Street, Luray Virginia
- Cindy Baron- 3 Hudson Drive, Luray Virginia
- Maxine Tutt- 637 West Main Street, Luray Virginia
- Michelle Billings- 16 Spingcrest Drive, Luray Virginia
- Melvin Tutt- 113 Meade Street, Luray Virginia
- Tesa Conlin- 100 Grand View Drive, Luray Virginia
- Ken Johnson- 611 Jewell Hollow Road, Luray Virginia
- James North- 5 South Court Street, Luray Virginia
- Mike Nestor- 14 Springview Blvd. , Luray Virginia

In accordance with the deadline of 5pm, the following e-mails were received by the Town Manager for citizen comment and were read aloud from:

- Wendy Brown – 104 North Hawksbill Street, Luray Virginia
- Judy Peabody- 418 East Main Street, Luray Virginia
- Suzanna Grant- 125 Pass Run Drive, Luray Virginia
- Cathy Herbert- 201 Hawksbill Heights Drive, Luray Virginia
- Scott and Kelly Zitzer- 7 Johnson Drive, Luray Virginia
- William Kelly and Cynthia Smith- 7 Jamison Road, Luray Virginia
- James Turner- 830 Mill Creek Cross Roads, Luray Virginia
- Venessa Acham- 5 Summer Street, Hanover New Hampshire
- Jodi Arbor Johnson- 5398 Harbor Court, Alexandria Virginia
- Monica Gilley- 100 Luna Park Drive, Alexandria Virginia
- Chris Hurlbert- 220 Water Street, Brooklyn New York

PUBLIC HEARINGS

Code Amendment- Artisan Manufacturing

Town Manager, Steve Burke, requested the Council hold a public hearing regarding the draft code amendments to Section 202 and Sections 406 of the Town Code regarding artisan manufacturing. The Town Council reviewed the draft previously at the July Work Session meeting. Mr. Burke stated that the Planning Commission unanimously approved the amendments at their monthly meeting on July 15th.

Mayor Presgraves opened the public hearing for citizen comment. With no citizens signed up to speak, the hearing was closed.

Motion: Councilman Vickers moved that the Town Council adopt the amendments to Sections 202 and 406 of the Town Code regarding artisan manufacturing as presented. Motion seconded by Councilman Dofflemyer with the vote as follows: YEA: Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours, Pence. **Approved 6-0**

ACTION & DISCUSSION ITEMS

Luray Meadows Agreement

Mr. Burke discussed the draft agreement for the Luray Meadows Apartments project with People Incorporated. Mr. Burke clarified some of the questions from the work session in regards to the term of the agreement and the funding responsibilities; ultimately lending to People Inc. being the responsible party. The project is funded by a $700,000 CDBG grant.

Motion: Councilman Schiro moved that the Town Council approve the agreements for the Luray Meadows Apartments project as presented and authorize the Town manager to execute the Sub-Grant Agreement. Motion seconded by Councilman Vickers with the vote as follows: YEA: Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours, Pence. **Approved 6-0**

TOWN ATTORNEY

Jason Botkins, Town Attorney, had nothing further for the meeting.

EXECUTIVE SESSION

Consultation with Legal Counsel - Section 2.2-3711 (A) (8)
Discuss the Performance of the Mayor - Section 2.2-3711 (A) (1)

Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing matters relevant to Section 2.2-3711.A.8 and Section 2.2-3711.A.1. **Motion:** Councilman Schiro motioned to recess the regular meeting and to convene in executive session; Councilman Vickers seconded the motion with the following members voting YEA: Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours. NAY: Pence. Approved 5-1

-Closed Meeting-

Certification: Mayor Presgraves asked members of Council to certify that to the best of their knowledge only matters covered under Section 2.2-3711.A.8 and Section 2.2-3711.A.1 were heard, discussed, or considered during the closed session. **Motion:** Councilman Schiro motioned to certify the closed session; Councilman Sours seconded the motion with the following members voting YEA: Mayor Presgraves, Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours, Pence.

Motion: Councilman Schiro moved Town Council approve the following statement regarding the performance of the Mayor and use of social media. Motion seconded by Councilman Dofflemyer with

the vote as follows: YEA: Council Members Vickers, Dofflemyer, Schiro, Lancaster, Sours. NAY: Pence. **Approved 5-1**

The Town Council issued the following statement:

The Luray Town Council hereby adopts this formal censure of Mayor Barry Presgraves for his choice of harmful words posted on Social Media. While the Town Council affirms the freedom of speech guaranteed by the U.S. Constitution, as elected officials, we are held to a higher standard within our communities.

Statements by public officials have a powerful impact on the community. We have listened carefully to and reflected deeply upon the public comments shared with the Town during the past week.

Your apology is a step towards reconciliation with our citizens, however damage both internal and external to our community remains.

This statement of censure focuses on the action. The Town Council expects your highest level of commitment and dedication to serving all citizens of Luray as we move forward without regard to race, sex, or other characteristics.

We recognize that words alone will not advance this cause or any other. We are dedicated to working in a transparent manner to build public trust in Town governance and move our great Town forward during this time of healing.

ANNOUNCEMENTS/ ADJOURN

With no further business, the meeting was adjourned at 9:24pm.

_____
Barry Presgraves
Mayor

_____
Danielle Babb
Deputy Clerk-Treasurer

MINUTES OF A TOWN COUNCIL
WORK SESSION MEETING
TOWN OF LURAY, VIRGINIA
Tuesday, August 25, 2020
5:30pm

The Luray Town Council met in a Work Session on Tuesday, August 25, 2020 at 5:30 p.m. in the Luray Town Council Chambers located at 45 East Main Street, Luray, Virginia at which time there were the following present:

Presiding: Mayor Presgraves

Council Present: Ron Vickers
Jerry Dofflemyer
Jerry Schiro
Leroy Lancaster
Joseph Sours
Leah Pence

Others Present: Steve Burke, Town Manager
Bryan Chrisman, Assistant Town Manager
Mary Broyles, Clerk Treasurer
Danielle Babb, Deputy Clerk Treasurer
Chief Bow Cook, Luray Police Department
Lowell Baughan, Luray Parks Association (present electronically)

Due to the threat of transmission of COVID-19 and in recognition of the Governor's Executive Order, this Work Session will have limited seating. The meeting was made available to the public via the Town's Facebook page live-streaming broadcast.

A quorum being present, Mayor Presgraves declared the Council to be in session for the transaction of business. Mayor Presgraves led members in the United States Pledge of Allegiance. The roll was called with all members present.

Councilwoman Pence stated that she would like to add two items to the evening's discussion. First, for consideration by the Council to receive public relations and diversity training and, second; to offer the community diversity training. Mayor Presgraves stated that in order for an item to be added to the agenda, two members of Council must request the change. He noted that Councilwoman Pence was the sole member making the request, therefore the agenda remained as stated. No further discussion was held.

UPDATES & DISCUSSION ITEMS

Luray Park Association Agreement

Town Manager, Steve Burke, stated that the Town Attorney has prepared a draft agreement between the Town and the Luray Park Association to maintain the property. The Town has historically maintained the property owned by the association since 1949. Mr. Lowell Baughan was present electronically to provide a presentation on the history of the Park Association.

Mr. Lowell Baughan, Luray Park Association, provided a power point presentation detailing the history of the board beginning in 1917. Mr. Baughan stated that it all began with the historic Luray Inn (built in 1881) which was formerly located near the top of Inn Lawn Circle. At the time, visitors came to Luray via the railroad and stayed at the Inn. On November 5th, 1891, the historic Inn caught fire and was destroyed completely. In 1917, the Luray Land Corporation donated several of the lots to create a public park for the Town of Luray. In December of 1917, the Park Association was formed with 7 founding members. The mission of the Association was *"the establishment and maintenance of a public park in the Town of Luray ….. shall not only be a place of adornment to said Town, but also a place of enjoyment and recreation for all its people. It shall not be an amusement park operated for profit".* The purpose also clearly stated that the trustees shall not sell or encumber the park property.

The park then continued its expansion later with the additions of the tennis courts (gifted by the Town of Luray), and the Belle Brown Northcott Memorial Carillion (Luray Singing Tower). Most recently in 2013, the Parks Association acquired the Performing Arts Luray building in order to provide long term financing for the PAL Center. The Parks Association also provides support of other organizations including the Page Library Association, whereas the Page Public Library is located on park board property, and the Page County Heritage Association placed the Massanutten School on park land in 1974.

In closing, Mr. Baughan stated that the Association in its longevity from 1917-2020 has maintained the mission " *Holding properties in trust which support recreational, historical and cultural programs in our community".*

Councilman Vickers inquired about the slave block that is located within park association property. Mr. Lowell Baughan stated that the slave block was indeed placed there at the request of Minister Fred Henson to recognize that slavery did exist in Page County. Councilwoman Pence inquired who the block now belongs to. Mr. Baughan indicated that it would belong to the park board as it was gifted and placed on park association property.

Mr. Baughan addressed the question of why the Town is maintaining the park. He noted that as early as 1918 the trustees met with the Town to acquire financial assistance to defray costs of maintenance. Later, around 1937 the Town imposed a park levy on property taxes in order to provide maintenance funds. Mr. Baughan said that around 1970 the Town overhauled its code and eliminated the park levy. The response to the elimination of the levy was that the Town would continue to maintain the park lands for the enjoyment of the citizens.

Councilwoman Pence stated that with a parks system in place, the Town should not continue to maintain without the merger of the Parks Association into the Town of Luray, as opposed to continued private ownership. Town Manager, Steve Burke, along with Mr. Baughan maintained that the property cannot be sold nor conveyed in ownership. Councilman Vickers expressed his appreciation for Inn Lawn Park as a public facility and the benefit it provides to town citizens. Mr. Vickers stated that he feels theTown is in a good position to continue the maintenance as is. Mayor Presgraves said the park is a tremendous asset to the community and thanked Mr. Baughan for his presentation.

North Broad Street Park (LDI)

Mr. Steve Burke requested Council review the proposed North Broad Street Improvements. Luray Downtown Initiative has notified town staff of its award of a $25,000 grant from Virginia Main Street. The Town has previously placed an option to purchase the property, and staff is seeking authorization to proceed. Additionally, staff is seeking approval for the Town and LDI to enter into a memorandum of agreement to provide parking, drainage and physical improvements utilizing both the grant and Town funding. Mr. Burke believes the estimated cost to the town will be around $23,000. Mr. Burke believes the budget can accommodate this expenditure through savings recognized in several line items in the general fund. The current name for the project is the "North Broad Street Park".

Announcements and Adjourn

With no further business, Mayor Presgraves adjourned meeting of the Luray Town Council at approximately 6:03 p.m.

_____

Mayor, Barry Presgraves

_____

Deputy Clerk, Danielle Babb

Town of Luray, Virginia

Town Council Agenda Statement

Meeting Date: September 14, 2020

Item No: VI_A

Agenda Item: TOWN COUNCIL PRESENTATION
Item VII-A – Virginia Rural Water Association – Operator of the Year

Summary: The Town Council is requested to receive a presentation by Mike Ritchie, Executive Director of the Virginia Rural Water Association, of the System Operator Specialist of the Year award. This award recognizes a Water Treatment Plant Operator whose service to the profession and to his utility company can serve as an example to others.

Town of Luray, Virginia

Town Council Agenda Statement

Item No: VI_B

Meeting Date: September 14, 2020

Agenda Item: TOWN COUNCIL PRESENTATION
Item VII-B – Cultural Climate of Luray

Summary: The Town Council is requested to receive a presentation by Mr. Melvin Tutt and Mr. Audre King regarding the cultural climate of Luray and opportunities for the community to move forward and gain awareness of issues that we may not have awareness.

Town of Luray, Virginia

Town Council Agenda Statement

Item No: VII_A

Meeting Date: September 14, 2020

Agenda Item: TOWN COUNCIL CONSIDERATION
Item VII-A – Luray Park Association Agreement

Summary: The Town Council is requested to consider approval of an agreement between the Town and the Luray Park Association for the public use and Town maintenance of certain properties owned by the Association. The Town has maintained the property owned by the Luray Park Association since 1949. Neither the Town nor the Association has been able to locate a copy of the original maintenance agreement referenced in the 1948 Town Council minutes.

The Town Attorney has reviewed this Agreement.

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Town Council approve the agreement for the public use and Town maintenance of certain properties owned by the Luray Park Association and authorize the Town Manager to execute the Agreement.

AGREEMENT FOR PUBLIC USE AND MAINTENANCE OF REAL PROPERTY

THIS AGREEMENT is made this 29TH day of JULY, 2020, by and between **THE TOWN OF LURAY, VIRGINIA,** a Virginia municipal corporation (the "Town") whose address is 45 East Main Street, Luray, Virginia, 22835, and **LURAY PARK ASSOCIATION,** a Virginia nonstock corporation (the "Association"), whose mailing address is Post Office Box 151, Luray, Virginia, 22835.

RECITALS

WHEREAS, the Association owns approximately 5.42 acres at West Main Street and Northcott Drive commonly referred to as the Belle Brown Northcott Memorial / Luray Singing Tower / Carillon Park property (Tax Map Parcel No. 42A9-A-19) (referred to hereafter as "Carillon Park"); and

WHEREAS, the Association owns approximately 3.39 acres at Inn Circle and Zerkel Street commonly referred to as Inn Lawn Park (Tax Map Parcel Nos. 42A11-11-3, 4, 5, 6, 7, and 31A; and 42A11-A-187B and 188) (referred to hereafter as "Inn Lawn Park"); and

WHEREAS, Carillon Park and Inn Lawn Park were conveyed to the Association for public use; and

WHEREAS, the minutes of the Town Council meeting of July 12, 1948 state "The upkeep of the Park was discussed, and it was agreed for Mayor Dyche to meet with the Park Board to see if an understanding could be reached whereby the Town of Luray would take over the maintenance of the Park..." and the minutes of the October 11, 1948 state that "At a meeting of the Luray Park Board it was agreed that the proposal made by the Town of Luray be accepted."; and

WHEREAS, the Association records indicate that the Town has been maintaining the properties since 1949; and

WHEREAS, the Town and the Association desire to update, renew, and formalize their agreement with respect to Carillon Park and Inn Lawn Park.

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the Town and the Association hereby agree to the following:

1. **Public Use of Carillon and Inn Lawn Parks.** The Association agrees that Carillon and Inn Lawn Parks shall remain open for free public use and access in accordance with the terms of this Agreement and the above-referenced conveyances.

2. **Town Events at Inn Lawn Park.** The Association agrees that Town may use Inn Lawn Park for Town events at no charge. The Town agrees to restore Inn Lawn Park to its pre-event condition following any such event.

3. **Carillon Park Maintenance.** The Town agrees to furnish the following maintenance services at Carillon Park:

(a) Mowing, limb removal, and trash removal;

(b) Pond maintenance consisting of maintenance of the aerator and control of surface algae; and

(c) Maintenance of the stage area consisting of repair of seating and handrails.

4. **Inn Lawn Park Maintenance.** The Town agrees to furnish the following maintenance services at Inn Lawn Park:

(a) Mowing, limb removal, and trash removal;

(b) The tennis court maintenance consisting of maintenance of net, fencing, and court surface; and

(c) Maintenance of playground equipment, picnic tables, and gazebo consisting of repair or replacement of equipment, tables, and gazebo.

5. **Term.** This Agreement shall be binding for an initial term of five years commencing upon execution of this Agreement by all parties. The term shall automatically renew for up to three successive 5-year renewal terms unless written notice of nonrenewal from either party is delivered at least 90 days in advance of expiration of the initial or renewal term, as applicable.

6. **Insurance.** The Association shall maintain comprehensive general liability insurance coverage of at least $1,000,000 per incident with the Town named as an additional insured. The Association shall provide a certificate of insurance to the Town as evidence of compliance.

7. **Indemnification.** The Association agrees to defend, indemnify and hold harmless the Town for any and all actions, claims or disputes arising from the Town's provision of services under this Agreement.

8. **Successors.** The Association warrants and covenants to the Town that the terms of this Agreement shall be binding on any successor in the event that Carillon or Inn Lawn Park are sold to a third party.

9. **Non-Assignability.** This Agreement may not be assigned by the Association without the express written consent of the Town.

10. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and may not be modified except by a written agreement signed by both parties.

11. **Notice.** Any notice required under this Agreement shall be sent by first class mail to the mailing address specified in the introductory paragraph of this Agreement.

12. **Enforcement.** This Agreement shall be governed by the laws of the Commonwealth of Virginia. Any action brought to enforce the terms of this Agreement shall be filed in the Courts of Page County, Virginia.

IN WITNESS WHEREOF, the undersigned parties hereto have made and executed this Agreement.

THE TOWN OF LURAY, VIRGINIA

Attest: _____ **BY:** _____

Printed Name: _____ **Printed Name: Steven Burke**

Title: Town Manager

Date: _____

LURAY PARK ASSOCIATION:

Attest: Amanda J. Lyle **BY:** L. B. Baughan

Printed Name: Amanda J. Lyle **Printed Name: Lowell Baughan**

Title: President

Date: 7/29/2020

Town of Luray, Virginia

Town Council Agenda Statement

Item No: VII_B

Meeting Date: September 14, 2020

Agenda Item: TOWN COUNCIL CONSIDERATION
Item VII-B – 47 West Main Street Rental Agreement

Summary: The Town Council is requested to consider approval of an agreement between the Town and the owners of 47 West Main Street to rent the basement of the building for use by the Town's Park Department for events at Ruffner Plaza and for storage .

The Town Attorney has reviewed this Agreement.

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Town Council approve the agreement for the public use and Town maintenance of certain properties owned by the Luray Park Association and authorize the Town Manager to execute the Agreement.

LEASE

THIS LEASE is made this 25 day of July, 2020, by and between **THE TOWN OF LURAY, VIRGINIA,** a Virginia municipal corporation (the "Town") whose address is 45 East Main Street, Luray, Virginia, 22835, and **REED R. TATE and WANDA H. TATE,** the owners of 47 West Main Street ("Landlord"), whose mailing address is 20 Woodland Park Drive, Luray, Virginia, 22835.

RECITALS

WHEREAS, the Town has rented the basement of the building located at 47 East Main Street from Landlord since 2012; and

WHEREAS, the Town has paid Landlord rent of $60.00 per month in addition to providing certain grounds maintenance for the property behind the building; and

WHEREAS, the Town and Landlord desire to update, renew, and formalize their agreement.

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the Town and Landlord hereby agree to the following:

1. **The Leased Premises and Rent.** Landlord agrees to lease the basement of the building located at 47 West Main Street (the "Leased Premises") to the Town. The Town agrees to pay rent of $60.00 per month that shall be payable the first day of each month. The Town may elect to prepay rent at any time for any future time periods.

2. **Grounds Maintenance and Use.** The Town agrees to perform grounds maintenance consisting of mowing, limb removal, and trash removal for the portion of the property behind the building at 47 West Main Street. Landlord agrees that the Town shall have the right to use this portion of the property for Town events.

3. **Retaining Wall.** The Town agrees to provide cosmetic maintenance limited to minor painting and weed control with respect to the retaining wall at the south end of the property. The Town shall not be responsible for any structural inspections or repairs of the retaining wall.

4. **Exclusive Use.** Landlord agrees that the Town shall enjoy the exclusive use of the Leased Premises during the term of this Lease. Notwithstanding the foregoing, the Town agrees that other tenants of the building may engage in incidental uses of the Leased Premises from time to time so long as such uses do not materially interfere with the Town's use of the Leased Premises.

5. **Term.** This Lease shall be binding for an initial term of one year commencing upon execution of this Lease by all parties. The term shall automatically renew for up to four successive 1-year renewal terms unless written notice of nonrenewal from either party is delivered at least 90 days in advance of expiration of the initial or renewal term, as applicable.

6. **Successors.** Landlord warrants and covenants to the Town that the terms of this Lease shall be binding on any successor in the event the Leased Premises are sold to a third party.

7. **Non-Assignability.** This Lease may not be assigned by the Town or Landlord without the express written consent of the other party.

8. **Entire Agreement.** This Lease constitutes the entire agreement between the parties and may not be modified except by a written agreement signed by both parties.

9. **Notice.** Any notice required under this Lease shall be sent by first class mail to the mailing address specified in the introductory paragraph of this Lease.

10. **Enforcement.** This Lease shall be governed by the laws of the Commonwealth of Virginia. Any action brought to enforce the terms of this Lease shall be filed in the Courts of Page County, Virginia.

IN WITNESS WHEREOF, the undersigned parties hereto have made and executed this Lease.

THE TOWN OF LURAY, VIRGINIA

BY: _____
Steven Burke, Town Manager

Date: _____

LANDLORD:

Reed Tate
_____
Reed R. Tate

Date: 7-25-2020

Wanda H Tate
_____
Wanda H. Tate

Date: 7-25-2020

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-C

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-C – Purchase Option Lot 42A4-A-49A

Summary: The Town Council approved an Option Agreement to purchase the lot identified as Tax Map No. 42A4-A-49A at a purchase price of $12,000.00 for the North Broad Street Improvements project at your November 12th meeting.

The Luray Downtown Initiative has been awarded $25,000 in Virginia Main Street Downtown Investment Grants for its "Get Out of Your Car in Luray" initiative to assist with improvements to this project.

Council Review: October 15, 2019; November 12, 2019, August 25, 2020

Fiscal Impact: Acquisition - $11,000 included in FY 2021 Budget

Suggested Motion: I move that Town Council authorize the Town Manager, Assistant Town Manager, and Town Attorney to exercise the option to purchase the lot identified at Tax Map No. 42A4-A-49A for a total cost of $12,000 and execute all documents necessary for the closing on the property acquisition.

Consideration: Exempt
Actual Value: Exempt

Tax Map No. 42A4-A-49A

This instrument is exempt from recordation tax pursuant to § 58.1-811(A)(3) of the 1950 Code of Virginia, as amended.

OPTION AGREEMENT FOR PURCHASE OF REAL ESTATE

THIS OPTION AGREEMENT is made this 16th day of October, 2019, between **HARRISON HOLDING COMPANY, LLC**, a Virginia limited liability company, the "Seller," and **THE TOWN OF LURAY, VIRGINIA**, a Virginia municipal corporation, the "Purchaser."

1. ***Description of option.*** Seller grants to Purchaser the irrevocable and exclusive right and option to purchase Seller's parcel of real estate of approximately 0.13 acres fronting North Broad Street in Luray, Virginia, and otherwise identified as Tax Map No. 42A4-A-49A (the "Property").

2. ***Term of option; method of exercising.*** This option shall expire at midnight October 16, 2020, and it may be exercised within the option period by giving written notice to Seller, which may be hand delivered or mailed, and if mailed, the date of depositing such notice in the United States mail, postage prepaid, shall constitute the date of exercising the option. The notice shall be given to Seller at 7441 AMF Drive, Mechanicsville, Virginia, 23111.

3. ***Purchase price.*** The purchase price for the Property shall be $12,000.00. Seller acknowledges receipt of a payment by Purchaser in the amount of One Thousand Dollars ($1,000.00) to be credited by Seller against the purchase price in the event that Purchaser exercises the option. If Purchaser does not exercise the option, Seller shall retain the deposit unless Seller has breached this Agreement in which case it shall be returned to Purchaser. The disposition of the deposit shall not preclude any other remedies available to Seller or Purchaser for the other's breach of this Agreement.

4. ***Title.*** In the event Purchaser exercises this option, the contract shall be contingent upon Purchaser receiving good and marketable fee simple title in the Property with General Warranty and English covenants of title. "Good and marketable title" shall mean that the Property is free of all liens, encumbrances, leases, except for normal utility easements, or covenants and restrictions of record that are not now violated by either existing buildings or uses. In the event a title examination reveals facts which constitute valid title objections or affect the marketability of title, Purchaser shall have the option to terminate the agreement with no penalty, and with a refund of the option consideration paid, unless Seller, at its expense, cures the title objections within a reasonable time. Obtaining a commitment from a title insurance company operating in Virginia for title insurance, without exception as to the defect claimed, shall constitute compliance with marketable title requirements.

5. ***Payment of purchase price.*** In the event Purchaser exercises the option, the remainder of the purchase price shall be paid in cash (cashier's or certified check) to Seller at settlement upon Seller's execution and delivery of a deed in a form acceptable to Purchaser.

6. ***Settlement.*** In the event the option is exercised, settlement shall be made within 30 days thereafter. This time may be extended by mutual agreement.

7. ***Settlement costs.*** Purchaser shall pay for the costs of a title examination, deed preparation, and all recordation taxes. Real estate taxes for the then current year shall be prorated as of the date of settlement.

8. ***Purchaser's right to evaluate the Property.*** Purchaser and its agents shall have the right to go on the Property to conduct surveying work, engineering studies, and other professional evaluations and studies during the option period.

9. ***General provisions.*** This Agreement:

(a) represents the entire agreement between the parties;

(b) shall not be modified except in writing signed by all the parties;

(c) shall be binding upon and inure to the benefit of the successors and assigns of the parties; and

(d) shall be construed according to the laws of the Commonwealth of Virginia.

10. ***Attorneys' fees and costs on default.*** If either party defaults under the agreement, the defaulting party shall be liable for expenses incurred by the non-defaulting

party, including attorneys' fees incurred in attempting enforcement of the agreement.

WITNESS the following signatures and seals.

Harrison Holding Company, LLC

By:_____(SEAL)

Its: _____

Seller

The Town of Luray, Virginia

By: _____(SEAL)
Steve Burke, PE
Town Manager

Purchaser

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF _____:

The foregoing instrument was acknowledged before me this ____ day of October, 2019, by _____, _____ of Harrison Holding Company, LLC, a Virginia limited liability company, the Seller.

My commission expires _____.
Notary Registration No. _____.

_____
Notary Public

COMMONWEALTH OF VIRGINIA
COUNTY OF PAGE:

The foregoing instrument was acknowledged before me this ____ day of October, 2019, by Steve Burke, PE, Town Manager for the Town of Luray, Virginia, a Virginia municipal corporation, the Purchaser.

My commission expires _____.
Notary Registration No. _____.

_____
Notary Public

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-D

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-D – North Broad Street Park Project Memorandum of Understanding

Summary: The Town Council approved an Option Agreement to purchase the lot identified as Tax Map No. 42A4-A-49A at a purchase price of $12,000.00 for the North Broad Street Improvements project at your November 12th meeting.

The Luray Downtown Initiative has been awarded $25,000 in Virginia Main Street Downtown Investment Grants for its "Get Out of Your Car in Luray" initiative to assist with improvements to this project.

The original cost estimate of $79,000 for the acquisition and construction of the project has been reduced to $59,000. LDI anticipates having donations for some of the park amenities such as benches and tables. A proposed layout sketch is provided for review.

Funding for the property acquisition was included in the FY 21 Budget. Staff believe that funding for the remaining $23,000 for improvements can be realized by reductions in FY 21 General Fund expenditures.

A Memorandum of Understanding with the Luray Downtown Initiative has been developed to detail the project expectations.

Council Review: October 15, 2019; November 12, 2019; August 25, 2020

Fiscal Impact: Improvements $23,000

Suggested Motion: I move that Town Council authorize the Town Manager and the Assistant Town Manager to execute the Memorandum of Understanding with the Luray Downtown Initiative for the development of the North Broad Street Park. I further move that funding for the park improvements from General Fund revenue overages realized from reduced expenses.

FY 2020-2021 Downtown Investment Grant
MEMORANDUM OF UNDERSTANDING
Between
Luray Downtown Initiative, Inc.
AND
The Town of Luray, Virginia

PURPOSE:

The purpose of this Memorandum of Understanding ("MOU") between Luray Downtown Initiative, Inc. ("LDI"), a Virginia Main Street Program and a Section 501(c)(3) non-profit organization, and the Town of Luray, Virginia ("TOL"), is for the administration of a Downtown Investment Grant awarded by the Virginia Main Street Program ("VMS") of the Virginia Department of Housing and Community Development.

PERIOD OF AGREEMENT:

This MOU is entered into as of August 25, 2020, subject to approval by TOL's Town Council. The Project (as later defined) must be completed by May 31, 2021, unless otherwise agreed upon by LDI and TOL and approved by VMS.

SCOPE OF WORK:

WHEREAS, LDI, as a Virginia Main Street Program, is tasked with economic vitality, tenant advocacy, public relations, marketing, event coordination, community support, and program administration of the Main Street Approach to revitalize TOL; and

WHEREAS, the development of North Broad Street Park (the "Project") has been identified as a strategic priority for the continued revitalization of TOL; and

WHEREAS, LDI and TOL will be cooperative in formulating and communicating the Project's details going forward and TOL will be inclusive of LDI in Project planning and progress; and

WHEREAS, VMS has awarded a matching grant in the amount of $25,000 (the "VMS Grant") for the Project.

NOW, THEREFORE, in consideration for the mutual covenants and promises in this MOU, the parties agree as follows:

1) VMS has awarded a grant to LDI in the amount of $25,000 for the exclusive purpose of developing the Project, which shall be payable upon submission of a remittance by LDI.
2) With respect to the Project, TOL will (a) manage onsite construction; (b) be responsible for timely payments to contractors; and (c) meet any VMS reporting deadlines.
3) LDI will distribute VMS Grant funds to TOL based upon the schedule outlined by VMS, which consists of an initial payment of $5,000, an interim payment of $10,000, and a final payment of $10,000 upon Project completion and submission of the final report in CAMS.
4) The VMS Grant will result in the following required activities:
    a. TOL's acquisition of the real property on North Broad Street identified as Tax Map No. 42A4-A-49A.
    b. TOL's commissioning of sign designs and construction drawings.
    c. Redevelopment of the property including demolition, stormwater systems, curb and gutter, paving, electrical utilities and lighting, streetscaping enhancements, landscaping improvements, and installation of an information kiosk, signs and public artwork.
5) The activities above are anticipated to provide:
    a. Visual enhancement to the downtown gateway area;
    b. New parking spaces, including handicap accessible parking options;
    c. Green transportation options such as an electric car charging station and bike racks;
    d. Unique memorable art; and
    e. Orientation for visitors and area residents to the downtown area with information kiosks, benches and picnic tables.

DEFAULT:

In the event of a default by either party which remains uncured after 30 days' written notice, LDI reserves the right to request that TOL reimburse LDI for previously-disbursed VMS Grant funds, in whole or in part, to be returned to VMS in accordance with the requirements of the VMS Grant. Failure to comply with the terms and conditions of this MOU may make TOL and LDI ineligible to apply in partnership for future VMS grants.

EXECUTION:

In witness whereof, the parties have executed or caused to be executed by their duly authorized official this MOU and be bound thereby.

Luray Downtown Initiative, Inc. (LDI)

BY: _____ DATE: _____
TITLE: PROGRAM DIRECTOR

BY: _____ DATE: _____

TITLE: PRESIDENT

The Town of Luray, Virginia (TOL)

BY:_____ DATE: _____
TITLE: TOWN MANAGER

BY:_____ DATE: _____
TITLE: ASSISTANT TOWN MANAGER

Town Council - Work Session Update

Tuesday, August 25 2020

Overview: Downtown Luray continues to see summer tourists on our busy weekends. We are excited to have The Valley Cork open again with new owners to serve our afternoon dinning crowd. With another new business on the horizon in a newly purchased building on East Main Street, there is a lot happening behind the scenes. At LDI we have been hard at work virtually attending our Downtown Intersections Conference with Virginia Main Street, working with the County Economic Development Office on the Small-Scale Manufacturing Pilot Grant and gearing up for our busy fall and holiday season. Be on the lookout for a "Drive -Thru Dinner Party" hosted by LDI, this seasons Limited Edition Holiday Ornament, and everyone's favorite, Small Business Saturday.

DIG (Downtown Investment Grant) – We are thrilled to announce that LDI has been awarded a Virginia Main Street Downtown Investment Grant in the amount of $25,000. (Please see the attached letter from DHCD).

This means we are finally ready to move forward with completion of Phase 3 of the gateway project initiated several years ago. We have worked closely with Town Staff and Racey Engineering to develop the project and are excited to share more with you at the September council meeting.

In the meantime, here is a bit more information about our newest park in Downtown Luray.

The project will include 7 additional parking spaces right in the center of downtown making more shops and restaurants walkable and encouraging guests to linger longer. This will also serve as a continuation of the sidewalk area bringing people from the Greenway onto Main Street. Amenities like bike racks, a car charging station and picnic tables shows our community we are committed to accessibility, which adds value to our downtown landscape and encourages a healthy lifestyle. But, perhaps the most exciting aspect of all will be a place-making opportunity that showcases the Greenway and gives a perfect photo backdrop for those ever-popular travel hashtags. Our locals will enjoy the beautiful spot to take seasonal photos and proudly share their hometown. (see initial site drawing attached)

The initial budget (attached) was $73,000 however, we were able to remove costs totaling ~$20,000 associated with several amenities to the project as we hope to use things like benches, picnic tables and bike racks to bring our local community together and help us build and/or donate those items. With your contribution to the budget shortfall of $9,100 we can make this park more than just gravel and trash cans. This funding allows us to pave the lot, add additional landscaping, and create a more beautiful space for all to enjoy. We can continue to add to this park overtime so that it continues to be a valuable park in downtown.

Today we ask that you consider moving forward with the purchase of the property on North Broad St., identified as Tax Map No. 42A4-A-49A, so that we may officially begin work on this exciting project.

Ralph S. Northam
Governor

R. Brian Ball
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

Erik C. Johnston
Director

DEPARTMENT OF
HOUSING AND COMMUNITY DEVELOPMENT

August 12, 2020

Meredith Dees
Program Manager
Luray Downtown Initiative Inc.
18 Campbell Street
Luray, VA 22835

Dear Ms. Dees:

It gives me great pleasure to inform you that Luray Downtown Initiative Inc. (LDI) has been awarded a Virginia Main Street (VMS) 2021 Downtown Investment Grant in the amount of $25,000.

Enclosed is a Memorandum of Understanding between LDI and the Department of Housing and Community Development (DHCD) outlining all of the requirements of this grant. DHCD will enforce Virginia Main Street recapture provisions if LDI fails to comply with applicable grant requirements. Please review, sign, make a copy for yourself, and return the original to DHCD no later than August 31, 2020.

The project must be completed by May 31, 2021. Should any problem arise which prevents completion by this date, you must submit a written report to DHCD explaining why the deadline was not met.

We look forward to working with you on the Get Out of the Car in Luray project. Please contact Courtney Mailey, Community Revitalization Specialist, at (804) 385-0191 if you have any questions.

Sincerely,

Jay Grant
Deputy Director

Enclosure

c: Joy Rumley, DHCD

DIG Grant Revised Budget

GRANT PROJECT BUDGET	
(See Construction Estimate for Detailed Breakdown)	
Original Project Budget	$72,679.00
Budget Reductions (LDI/Donations, Town Reuse of Items)	-$20,450.00
Items Covered under VDOT Maintenance	-$7,180.00
REVISED PROJECT BUDGET SUBTOTAL	$45,049.00
PROJECT TOTAL	
REVISED PROJECT BUDGET SUBTOTAL	$45,049.00
Grant Award	**-$25,000.00**
Property Acquisition	-$11,000.00
Remaining Project Shortfall	**$9,100.00**

Thank you so much for your time and support of LDI and of a thriving downtown. Please reach out with any questions you may have. We look forward to joining you in person again in September.

Best,

Meredith Dees
Program Director

Bill Huffman
President

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-E

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-E – Town of Luray CARES Scholarship

Summary: The Town Council is requested to consider authorizing a Memorandum of Understanding between the Town and the Lord Fairfax Community College Educational Foundation, Inc. to establish the CARES Scholarship. The Scholarship would be available to assist Town residents whose jobs or source of income have been impacted by COVID-19.

The Town would fund $25,000 through our CARES Act allocation to establish the Scholarship.

Council Review: August 25, 2020

Fiscal Impact: Cares Act – $25,000

Suggested Motion: I move that Town Council authorize the Town Manager to execute the Memorandum of Understanding with the Lord Fairfax Community College Educational Foundation, Inc. to establish the Town of Luray CARES Scholarship. I further move that funding for the $25,000 scholarship be approved from the Town's allocation of CARES Act funding.

TOWN OF LURAY CARES SCHOLARSHIP

MEMORANDUM OF UNDERSTANDING
Between
The Town of Luray, Virginia, and
Lord Fairfax Community College Educational Foundation, Inc.

PURPOSE:
The purpose of this Memorandum of Understanding ("MOU") between the Town of Luray, Virginia ("TOL"), a Virginia municipal corporation, and Lord Fairfax Community College Educational Foundation, Inc. ("LFCC"), a Virginia non-profit corporation, is to establish the terms of a scholarship to provide education and training opportunities for Luray residents whose employment has been negatively impacted by COVID-19 and associated efforts for its control.

PERIOD OF AGREEMENT:
This MOU is entered into as of September 14, 2020, is subject to approval and appropriation by TOL's Town Council, and shall continue until all appropriated scholarship funds are exhausted.

RECITALS:
WHEREAS, the COVID-19 public health emergency has caused job losses, furloughs, and reduced work hours that have impacted TOL residents; and
WHEREAS, TOL has been allotted funding through the CARES Act that may be used to provide employment and training opportunities to such residents; and
WHEREAS, Lord Fairfax Community College, through its Workforce Solutions and Continuing Education program, offers education and training opportunities in careers that are in demand in and around our community; and
WHEREAS, TOL desires to use a portion of its CARES Act funding to assist TOL residents whose employment has been negatively impacted by COVID-19 in pursuing these opportunities.
NOW, THEREFORE, in consideration for the mutual covenants and promises in this MOU, the parties agree as follows:

1) TOL agrees to contribute $25,000 to LFCC to establish the Town of Luray CARES Scholarship. TOL's contribution of scholarship funding is expressly contingent upon TOL's receipt of CARES Act funds approved for such use from Page County, Virginia.
2) LFCC agrees to develop an application for the scholarship to be approved by TOL.
3) LFCC agrees to award scholarships on a first-come, first-served basis to any applicant who is a TOL resident and provides satisfactory evidence that the applicant's employment has been negatively impacted by the COVID-19 public health emergency, including a job loss, reduction in work hours, or furlough occurring in the applicant's household on or after March 1, 2020.
4) TOL may require the return of any unused scholarship funds in the event of a default by LFCC which remains uncured after 30 days' written notice.

In witness whereof, the parties have executed or caused to be executed by their duly authorized official this MOU and be bound thereby.

Lord Fairfax Community College Educational Foundation, Inc.

BY: _____ DATE: _____
TITLE: EXECUTIVE DIRECTOR

The Town of Luray, Virginia

BY:_____ DATE: _____
TITLE: TOWN MANAGER

LORD FAIRFAX COMMUNITY COLLEGE

Workforce Solutions

Town of Luray CARE Scholarship

Career Training/Enhancement Scholarship Application…

The **Lord Fairfax Community College Foundation** will provide limited scholarship opportunities for Luray residents taking Workforce Solutions Career Preparation or Enhancement classes.

GUIDELINES: Scholarship is available to all Luray residents and will cover 75% of tuition up to $2,000 per resident for Workforce Solutions Career Preparation and/or Enhancement classes taken before June 30th, 2021. Registration must occur no later than November 30th, 2020. Some classes starting as soon as October 1st. Register today!

APPLICATION: Please complete the application information below, indicate your interest in the class(es) you wish to take and explain your interest, need and how you will use the training. Once approved and prior to the award, recipient must write a thank you letter to the **Town of Luray**.

Please complete the general information requested:

Please print neatly:

TODAY'S DATE _____

FULL NAME _____

STREET ADDRESS _____

CITY/TOWN _____ STATE _____ ZIP _____

EMAIL ADDRESS _____ DAYTIME PHONE # _____

Class Registration

Check the class you wish to take. The (price) indicated would be the price you would pay to take the class if you meet all registration requirements. You can select up to two classes if you are taking a multi-level class.

Classes Currently Scheduled in Middletown

- ☐ **CLASS A Commercial Driver's License** ($375)
- ☐ **CLASS B Commercial Driver's License** ($325)
- ☐ **Electrical Level 1 Apprenticeship** ($192)
- ☐ **Electrical Level 2 Apprenticeship** ($137.50)
- ☐ **Electrical Level 3 Apprenticeship** ($137.50)
- ☐ **Electrical Level 4 Apprenticeship** ($137.50)
- ☐ **HVAC Level 1 Apprenticeship** ($211.75)
- ☐ **HVAC Level 2 Apprenticeship** ($191.75)
- ☐ **HVAC Level 3 Apprenticeship** ($191.75)
- ☐ **HVAC Level 4 Apprenticeship** ($191.75)
- ☐ **Medical Assisting** ($266.25)
- ☐ **Learning to Lead: Buddy to Boss** ($19.75)
- ☐ **Pharmacy Technician** ($449.25)

Potential Classes in Luray area

(Minimum Enrollments required)

- ☐ **CompTIA Fundamentals Prep and Certification** ($83.25)
- ☐ **ServSafe** Food Safety Certification ($57.25)
- ☐ **Learning to Lead: Buddy to Boss** ($19.75)

Select Online Classes (but not limited to)

- ☐ **Medical Billing & Coding with ICD-10 Coding** ($648.75)
- ☐ **Certificate in CyberSecurity** ($123.75)
- ☐ **Customer Service for Healthcare** ($248.75)
- ☐ **Certificate in Customer Service** ($61.25)
- ☐ **Other:**

_____

_____

_____

- APPLICATION CONTINUES ON BACK -

Describe how COVID-19 impacted your job or source of income?

OBLIGATIONS / RESPONSIBILITIES:

- If you are selected to receive the scholarship, you will be required to write a thank you letter to the **Town of Luray** describing how you will use the fund proceeds prior to the release of the funds. You will bring the letter to the Workforce Solutions Office for forwarding.
- You must submit the "Thank you" letter and register for the class within 3 business days of the aware notification or offer will be withdrawn.
- You will be expected to regularly attend class. If you drop or stop attending, you will be personally responsible for repaying the funds awarded.

Return completed application to the **Luray Town Office,** 45 East Main Street, Luray, VA.

QUESTIONS: Contact our Middletown Office at (540) 868-7021.

I would like to request consideration for the following amount. $

Applicant Signature

Date

REVISED 9/5/20 8:15 AM

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-F

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-F – Browns Building Listing Agreement

Summary: The Town Council is requested to consider extending the Listing Agreement with Bill Dudley & Associates Real Estate Inc. to market and sell the Browns Building located at 36 West Main Street (Tax Map No. 42A11-A-14) for an additional ninety (90) days. The agreement approved at the December 9, 2019 meeting and extended at the March 9, 2020 and July 13, 2020 meetings expires September 6, 2020.

Due to end of year holidays, staff request that Council consider a one-hundred twenty day extension rather that the previous ninety day.

Council Review: July 13, 2020

Fiscal Impact: N/A

Suggested Motion: I move that Council approve the extension of the Listing Agreement with Bill Dudley & Associates Real Estates Inc. to market and sell the Browns Building located at 36 West Main Street for one-hundred twenty (120) days until January 4, 2021 as presented.

REALTOR®

EQUAL HOUSING OPPORTUNITY

VIRGINIA REALTORS®
EXCLUSIVE AUTHORIZATION TO SELL

OWNER AUTHORIZATION REGARDING INTERNET

Internet advertising is one of the ways information concerning real property offered for sale is disseminated to real estate agents and brokers as well as the general public. The property owner has the right to determine whether or not their property information is displayed on the Internet and if so the manner in which it is presented.

Section 7(f) of the Virginia REALTORS® Exclusive Authorization to Sell allows the property owner to authorize or prohibit the display of the property on the Internet. If authorized, it also permits the property owner to limit the display of property reviews and automated estimates of market value on the Internet.

Owners must initial beside the appropriate responses in Section 7(f). The OPT OUT OF THE INTERNET section should **only** be completed if the Owner does not wish to have their property address displayed on the Internet or does not wish to have ANY information concerning the property and it's availability for sale published on the Internet. **Otherwise Option A and B should be left blank.**

Terms and Definitions:

Property Reviews/Blogging - Some web sites allow third parties to publish public commentary or feedback related to a particular property. This type of public online journaling is sometimes referred to as a blog.

Automated Estimate of Market Value - Also known as AVM or Automated Valuation Model. An AVM is a computer generated estimate of residential property value that is calculated using computer software models and recent sales of similar homes.

VAR Form 400 Revised 10/19
Reviewed 10/19

VIRGINIA REALTORS®
EXCLUSIVE AUTHORIZATION TO SELL

REALTOR®

EQUAL HOUSING OPPORTUNITY

(This is a legally binding contract, if not understood, seek competent advice before signing)

This AGREEMENT made as of **November 25, 2019**, by and between **Town of Luray** ("Owner"); and **Bill Dudley & Assoc. Real Estate, Inc.** ("Broker"), provides:

1. In consideration of services rendered by Broker to Owner, Owner grants to Broker the EXCLUSIVE and irrevocable right to sell certain real estate, and all improvements thereon which is owned by Owner and which is hereafter described (all herein called the "Property"), during the period commencing on **December 10, 2019** and expiring at midnight on **March 10, 2020** (the "initial period of time"), for the price of **One Hundred Ninety-Nine Thousand and 00/100** Dollars ($ **199,000.00**) ("Listing Price"), payable in cash, or at such price and/or on such terms as may be agreed by the parties.

2. REAL PROPERTY: The Property is located in the City or County of **Page** and is described as follows: **All that 20,670 square feet improved by a two-story commercial building reference T.M.#42A11-A-14.** and more commonly known as **36 West Main Street, Luray, VA 22835** (i.e., street, town, village, etc.).

3. BROKER FEE:

(a) If the Property is sold or exchanged by Broker, or by Owner with or without the assistance of Broker, within the initial period of time or any extension thereof, Owner agrees to pay Broker a fee of **6%** (the "Fee"). If, within **N/A** days after the expiration of the initial period of time or any extension thereof, the Property is sold or exchanged by Broker, by Owner, or by any other person, to a purchaser or purchasers to whom the Property was shown, offered, or introduced by Broker, or by any licensed broker or salesperson employed by or affiliated with Broker, Owner agrees to pay Broker the Fee. Notwithstanding the foregoing, Owner shall not be obligated to pay the Fee to Broker if, after the expiration of the initial period of time or any extension thereof, Owner enters into an exclusive authorization to sell or exchange the Property with a licensed broker or salesperson, other than Broker or a licensed broker or salesperson employed or affiliated with Broker, and the Property is sold or exchanged pursuant to such exclusive authorization. For purposes of the Agreement, if an offer is presented to Owner within the initial period of time or any extension thereof, but (i) is accepted by Owner after expiration of the initial period of time or any extension thereof, or (ii) Owner make a counteroffer which is accepted by the purchaser after the expiration of the initial period of time or any extension thereof, the Owner shall pay Broker the Fee as if the Property had been sold during the initial period of time or any extension thereof.

(b) Broker has advised Owner of Broker's firm policy regarding cooperating with and compensating other real estate licensees. Owner authorizes Broker to cooperate with and compensate other brokers via the following **[select one]:** ☐ **3.000** % of the gross sales price OR ☐ the sum of $_____. Such compensation shall be paid by Owner at settlement. Owner acknowledges that the cooperating fee set forth in this paragraph represents an obligation of Broker to a selling broker per MLS rules, and agrees that Owner is responsible to pay this amount to Broker as part of the Fee, which will then be paid to the cooperating broker. Owner understands the responsibility for the payment of a cooperating broker's compensation may be determined as a result of civil action or arbitration, or in a separate agreement between Broker and a cooperating broker claiming such fee; provided however, such fee shall not exceed the amount set forth in this paragraph 3(b) without consent of Owner. Owner agrees to participate fully, at Owner's sole expense, in any legal action or arbitration proceedings that may arise with respect to the compensation due to a cooperating broker. ~~Owner shall indemnify and hold Broker harmless from any monetary loss suffered by Broker due to any award against Broker arising from Owner's nonpayment of compensation that is due to a cooperating broker as a result of the sale of the Property.~~ Owner agrees not to negotiate Broker's Fee or any purchaser agent/representative's compensation in a real estate sales contract for the Property. This obligation shall survive expiration or earlier termination of this Agreement and settlement of the sale of the Property.

Town of Luray

(c) If Owner should withdraw the Property from the market during the initial period of time or any extension thereof, without written agreement from Broker, or otherwise prevents Broker from selling the Property during the initial period of time or any extension thereof, such action shall constitute a breach of this Agreement, and Owner agrees to pay Broker the Fee set forth in paragraph 3(a) as liquidated damages, and not as a penalty. If the Fee is expressed as a percentage of the purchase price of the Property, the gross sales price, for the purposes of computing the Fee, shall be the Listing Price.

(d) If, after a valid contract for the purchase of the Property is executed by Owner and a purchaser or purchasers, there is a default by such purchaser or purchasers which prevents performance of such contract through no fault of the Owner, Broker agrees that Owner will not be liable for the Fee of Broker and that Broker shall look to such defaulting purchaser or purchasers for compensation relating to such contract. Owner agrees if such a default occurs, this Agreement shall remain in effect until its expiration and that payment of the Fee by such defaulting purchaser or purchasers shall not satisfy any obligation that may arise if, after to such default, another valid contract for the purchase of the Property is brought about by Broker.

(e) If after a valid contract for the purchase of the Property is executed by Owner and a purchaser or purchasers, there is a default by Owner which prevents performance of such contract through no fault of Broker, or if Owner fails to fully perform the obligations of Owner set forth herein, the Owner shall be liable to Broker for the Fee, as compensation for its services hereunder, and the reasonable attorney's fees and expenses incurred by Broker, if any, in enforcing the terms and conditions hereof. In any action brought by Broker or Owner under this Agreement, the prevailing party or parties in such action shall be entitled to receive from the non-prevailing party or parties, jointly and severally, in addition to any other damages or awards, reasonable attorney's fees and costs expended or incurred in prosecuting or defending such action.

4. AGENCY RELATIONSHIP:

(a) In accordance with the Virginia Real Estate Board ("VREB") regulations, Broker hereby discloses to Owner that Broker and Broker's salespeople are representing Owner as a standard agent in connection with marketing the Property under this Agreement and owe Owner the duties set out in this Agreement and under Section 54.1-2131 of the Code of Virginia. At the same time, brokers and their salespeople are required to treat all parties to a transaction honestly. Without breaching their duties to Owner, Broker and its salespeople may provide prospective purchasers with information about the Property and may assist a prospective purchaser in preparing an offer to purchase the Property. Broker and its salespeople have a duty to respond accurately to a prospective purchaser's questions and to submit to Owner all offers to purchase the Property.

(b) If the Property is shown to a prospective purchaser who is represented by Broker and such purchaser client of Broker wishes to make an offer on the Property, and Broker has not designated representatives to represent Owner and purchaser, the Broker will be acting as a representative for both Owner and purchaser in the transaction. In such a transaction, Broker will remain impartial to Owner and purchaser. Owner understands that Broker shall not be liable to either party for refusing or failing to disclose information which, in the sole discretion of Broker, would harm one party's bargaining position and would benefit the other party. However, Broker shall not be prevented from disclosing to the purchaser any known material defects in the Property or any other matter that must be disclosed by law and/or regulation. Broker will not disclose (i) to the purchaser information about what price Owner will accept other than the Listing Price, or (ii) to Owner information about what price the purchaser will pay other than the written offered price. If Owner and purchaser do not enter into an agreement for the purchase of the Property such dual representation shall terminate.

(c) Because of such dual representation, Owner understands that Owner and purchaser have the responsibility of making their own decisions as to what terms are to be included in any purchase agreement. Owner should be aware of the implications of Broker's dual representation including the limitation on Broker's ability to represent Owner or the purchaser fully and exclusively. Owner understands that Owner may seek independent legal counsel in order to assist with any matter relating to a purchase agreement or to the transaction that is the subject matter of a purchase agreement. Provided Broker has acted in accordance with its obligations under this Agreement, Broker shall not be liable for any claims, damages, losses, expenses or liabilities arising from Broker's role as a dual representative. Owner shall have the duty to protect its own interests and should read any purchase agreement carefully to insure that it accurately sets forth the terms Owner wants included in the purchase agreement.

(d) When acting as a dual representative, Broker: will treat Owner and purchaser honestly; will disclose material facts about the Property that are known to Broker as required by law and/or regulation; may help the purchaser to arrange for property inspections; may explain closing costs and procedures; may help the purchaser compare financing alternatives; may provide information about comparable properties so Owner and the purchaser may make an educated decision about the price to be contained in the purchase agreement; and will work diligently to facilitate the sale and will work with Owner's and the purchaser's lawyers, tax accountants, inspectors, and other advisors in order to expedite the closing.

(e) When acting as a dual representative, Broker may not: disclose confidential information that Broker may know about either Owner or the purchaser (including but not necessarily limited to motivation to sell or buy, price, terms and/or conditions of sale which are acceptable, and negotiating strategy) without written permission of the relevant party; disclose the price Owner will accept other than Listing Price without written permission of Owner; disclose the price the purchaser is willing to pay other than contained in any offer without written permission of the purchaser; recommend or give advice regarding the price the purchaser should offer or pay for the Property; recommend or give advice regarding the terms and conditions of sale the purchaser should offer for the Property; recommend or give advice regarding the price Owner should accept or that should form the basis of a counteroffer; or recommend or give advice regarding the terms and conditions of sale Owner should accept or that should form the basis of a counteroffer.

5. **OWNER'S DUTIES:** Owner shall: work exclusively with Broker during the term of this Agreement; comply with the reasonable requests of Broker to supply any pertinent information or personal data needed to fulfill the terms of this Agreement; pay Broker the compensation set forth in this Agreement; make the Property available during reasonable hours for potential purchasers to view properties; and inform all purchasers and licensees whom Owner contacts of Owner's brokerage relationship with Broker.

6. **BROKER DUTIES:** Broker agrees to make commercially reasonable efforts to obtain a purchaser for the Property during the initial period of time and any extension thereof. Owner acknowledges that Broker shall disclose to potential purchasers of the Property all material adverse facts pertaining to the physical condition of the Property actually known by Broker.

7. **ADVERTISING:**

(a) Owner agrees that during the initial period of time or any extension thereof Broker is authorized to place "FOR SALE" signs on the Property, to remove any other "FOR SALE" signs and to take all appropriate action to bring about a sale of the Property. Owner agrees to make the Property available to Broker and real estate brokers and salespersons employed or affiliated with Broker at all reasonable hours for showing to prospective purchasers. Owner also agrees to refer to Broker all inquiries or offers which Owner may receive regarding the Property.

(b) Unless otherwise provided herein, Broker agrees to submit pertinent information concerning the listing of the Property (including information which may be provided on a separate form or document) to any Multiple Listing Service ("MLS") serving the geographic area in which the Property is located of which Broker is a member to distribute such information to other brokers, and to solicit the cooperation of other brokers in securing a purchaser or purchasers for the Property. Owner understands that the listing data may get disseminated to third party websites through means other than the MLS. Owner acknowledges that the accuracy of the listing data is controlled by the third party websites and is outside of Broker's control.

(c) Unless the Property is not being submitted to the MLS, Broker is authorized to make access available to cooperating brokers and their clients or customers.

(d) Broker shall have the right and sole discretion to advertise the Property in commercially reasonable ways, and unless otherwise provided herein, shall have the right to place advertisements of the Property on the Internet communications network and in any Internet Data Exchange program in which Broker participates.

(e) Owner authorizes the dissemination of Property/sales information to MLS participants, including electronic format, magazines and other media.

(f) If authorized below, Broker's website may also allow third-parties to (i) write comments or reviews about the Property or display a hyperlink to comments or reviews in immediate conjunction with particular listings, or (ii) display an automated estimate of the market value of the Property (or hyperlink to such estimate) or other listings in immediate conjunction with the Property.

If Owner does not want the Property listing or address displayed on the Internet, Owner must complete the "OPT-OUT OF INTERNET" section below.

OPT-OUT OF INTERNET
Complete this section only if Owner desires to opt-out of Internet display

Owner may opt-out of having the Property listing or property address displayed on the Internet by selecting Option A or B below.

Option A: ☐ Owner has advised Broker that Owner does not want the Property displayed on the Internet.

OR

Option B: ☐ Owner has advised Broker that Owner does not want the address of the Property displayed on the Internet. In the event Owner does not authorize the display of the Property address, only the street address will not be displayed, other data such as zip code, county, etc. may be displayed.

Owner understands and acknowledges that if **Option A** has been selected, consumers who conduct searches for listings on the Internet will not see information about the Property in response to their search.
_____/_____ **(Owner's Initials)**

____/____ Owner **(select one)** ☒ authorizes OR ☐ does not authorize third-parties to write comments or reviews about the Property or provide hyperlinks to comments or reviews to any property in immediate conjunction with the Property. In the event Owner does not authorize the display of the Property address, only the street address will not be displayed, other data such as zip code, county, etc. may be displayed.

____/____ Owner **(select one)** ☒ authorizes OR ☐ does not authorize an automated estimate of the market value of the Property (or any hyperlink to such estimate) or any property in immediate conjunction with the listing. This provision does not control the display of such estimated value of the Property on third party websites such as syndicated websites.

____/____ Owner **(select one)** ☒ authorizes OR ☐ does not authorize Broker to advertise on social media, understanding that there may be third-parties comments or reviews about the Property. In the event Owner does not authorize the display of the Property address, only the street address will not be displayed, other data such as zip code, county, etc. may be displayed.

8. **LOCKBOX:** Owner hereby ☒ does OR ☐ does not authorize Broker to place a lock box on the Property.

9. **PROPERTY OWNERS' ASSOCIATION ACT:**
   (a) Owner represents to Broker that the Property ☐ is OR ☒ is not located within a development that is subject to the Virginia Property Owners' Association Act (Section 55.1-1800 et seq. of the Code of Virginia) (the "POA Act"). If the Property is within such a development, the POA Act requires Seller to obtain from the Property Owners' Association an association disclosure packet and provide it to the purchaser.
   (b) The purchaser may cancel the purchase agreement within three or six days (depending on the manner of delivery) after receiving the association disclosure packet or being notified that the association disclosure packet will not be available. The right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.

10. **CONDOMINIUM ACT:**
   (a) Owner represents to Broker that the Property ☐ is OR ☒ is not located within a development that is subject to the Virginia Condominium Act (Section 55.1-1900 et seq. of the Code of Virginia) (the "Condominium Act"). If the Property is within such a development, the Condominium Act requires Seller to obtain from the unit owners' association a condominium resale certificate and provide it to the purchaser.
   (b) The purchaser may cancel the purchase agreement within three or six days (depending on the manner of delivery) after receiving the condominium resale certificate or being notified that the condominium resale certificate will not be available. The right to receive the condominium resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

11. **SEWAGE SYSTEM DISCLOSURE:** Pursuant to Section 32.1-164.1:1 of the Code of Virginia, Owner must disclose to the purchaser if the onsite sewage system serving the Property fails to meet the Board of Health's current regulatory requirements and Owner has applied for or obtained a waiver from the Board of Health for the system. Disclosure ☐ is OR ☒ is not applicable to the Property.

12. **VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT:** Virginia Residential Property Disclosure Act (Section 55.1-700 et seq. of the Code of Virginia) requires the owner of residential real property to furnish the purchaser of such property a disclosure statement in a form provided by the VREB containing certain information and disclosures for the benefit of purchasers and stating that the owner makes no representations or warranties as to the condition of such property and that the property is being sold "as is" with all defects that may exist, if any, except as otherwise provided in the purchase contract. Failure to make such disclosure in a timely manner or any misrepresentation contained in the disclosure may result in termination of the purchase contract or an award of damages to the purchaser. Broker will furnish Owner with the appropriate disclosure form for completion by Owner.

13. **OTHER OFFERS:** Owner ☐ does OR ☒ does not authorize Broker to use Broker's best judgment in determining how and when to divulge the existence of an offer or offers on the Property of which Broker is aware to other brokers or purchasers, if asked. Owner shall inform Broker if Owner is unwilling to permit Broker to divulge the existence of any particular offer(s) on the Property. Broker and its licensees shall not disclose to prospective purchasers (or their real estate licensees) the terms of any other offers to purchase the Property received by Broker without Owner's prior written consent.

14. **INDEMNIFICATION:**
    (a) Owner acknowledges and agrees that in consideration of the use of the services and facilities of Broker or the MLS identified in paragraph 7, neither Broker, its officers, directors and employees, nor any real estate broker or salesperson employed by or affiliated with Broker showing the Property to purchaser or prospective purchasers, nor the MLS, nor the directors, officers and employees thereof, including officials of any parent association of REALTORS®, shall be liable for any vandalism, theft or damage of any nature whatsoever to the Property or its contents during the initial period of time and any extension thereof, and Owner waives any and all rights, claims, and causes of action against any of them ~~and hold them harmless for any property damage or personal injury arising from the use of or access to the Property by any person during the initial period of time and any extension thereof,~~ but excluding property damage or personal injury arising out of the negligence of Broker or its officers, directors and employees or any real estate broker or salesperson employed by or affiliated with Broker.
    (b) If Owner has provided to Broker relevant information about the Property, Owner represents and warrants that to the best of Owner's knowledge and belief such information or the information contained in the disclosure form completed in compliance with the Virginia Residential Property Disclosure Act is true and correct as of the date given, and that Owner will update such information promptly in the event of a material change in such information. The parties agree that such information is incorporated into and constitutes a part of this Agreement.

15. **RECORDINGS WITHIN THE PROPERTY:**
    (a) In the event Owner has a recording system in the Property which records or transmits audio, Owner understands that recording or transmitting of audio may result in violation of state and/or federal wiretapping laws. Owner hereby releases ~~and indemnifies~~ Broker, Broker's designated agents, sub-agents, sales associates, and employees from any liability which may result from any recording or transmitting in the Property.
    (b) Seller understands that while potential purchasers viewing the Property should not engage in photography, videography, or videotelephony in the Property without prior written permission, such recordings or transmissions may occur. Seller should remove any items of a personal nature Seller does not wish to have recorded or transmitted. Owner hereby releases Broker, listing sales associates and employees from any liability which may result from any recording or transmission in the Property.

16. **MISCELLANEOUS:**
    (a) Owner is advised that because some purchasers may employ the services of purchaser agents or representatives, Owner should not disclose any confidential information to prospective purchasers or to real estate licensees other than Broker.

(b) This Agreement is intended solely to define the relationship between Owner and Broker. It is not intended to be an offer to sell to a third party, nor may any third party rely upon it as such an offer. Further, this Agreement does not confer upon Broker the power or authority to either make or accept an offer or counteroffer to sell the Property. The Property may be sold only by a written agreement executed by Owner, or by an attorney-in-fact for Owner under a written power of attorney. Broker's authority hereunder shall be limited to marketing the Property for sale and such activities as are necessary or incidental thereto, including without limitation accepting and holding an earnest money deposit in accordance with the VREB regulations.

(c) In the event of a sale of the Property, Owner agrees to convey the Property to any purchaser or purchasers by ~~general~~ SPECIAL warranty deed ~~with the usual English covenants of title~~ and free and clear from all encumbrances, tenancies, and liens (for taxes or otherwise), but subject to applicable easements and restrictive covenants of record not adversely affecting the use of the Property, and subject in all events, to the specific terms and conditions contained in the contract of sale.

(d) This Agreement may not be modified or changed except by written instrument executed by the parties, and it shall be construed, interpreted, and applied according to the laws of the Commonwealth of Virginia. It shall be binding upon and shall inure to the benefits of the heirs, personal representatives, successors, and/or assigns of the parties.

(e) Owner understands that Owner has the right to choose an attorney to prepare the deed conveying title to the Property or otherwise to represent Owner in connection with the sale of the Property.

(f) In the sale, purchase, exchange, rental, or lease of real property, Broker has the responsibility to offer equal service to all clients and prospects and shall not discriminate on the basis of any protected class under Federal, state or local law or the REALTOR® Code of Ethics.

(g) If a written offer has been submitted prior to the expiration of this Agreement, the Agreement will automatically extend to settlement or termination of that offer.

17. ELECTRONIC SIGNATURES. _____/_____ If this paragraph is initialed by both parties, then in accordance with the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National Commerce Act, or E-Sign, regarding electronic signatures and transactions, the parties do hereby expressly authorize and agree to the use of electronic signatures as an additional method of signing and/or initialing this Agreement and any addenda or amendments. The parties hereby agree that either party may sign electronically by utilizing an electronic signature service.

18. WIRE FRAUD ALERT. Criminals are hacking email accounts of real estate agents, title companies, settlement attorneys, and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal. Owner is advised to not wire any funds without personally speaking with the intended recipient of the wire to confirm the routing number and the account number. Owner should not send personal information such as Social Security numbers, bank account numbers, and credit card numbers except through secured email or personal delivery to the intended recipient.

19. OTHER TERMS: (Use this space for additional terms not dealt with elsewhere in this Agreement.) **(1.) Additional Terms and Provisions are attached and made a part of this Listing Agreement. (2.) This property is sold "AS IS". (3.) This Listing Agreement and any forthcoming Contract of Purchase is expressly contingent upon approval by the Luray Town Council.**

OWNER

_____ / _____
Date Owner **Town of Luray**

_____ / _____
Date Owner

_____ / _____
Date Owner

_____ / _____
Date Owner

BROKER

Bill Dudley & Assoc. Real Estate, Inc.

By: _____
Name: **William C. Dudley III, Broker**
Date: _____

Supervising Broker Name: **William C. Dudley III**
Supervising Broker Contact Information: **560-860-9104; billdudley@teambda.com**

Additional Provisions:

Deed Provisions. The deed conveying the Property to Purchaser shall include the following provisions:

A. **Restrictive Covenants.** The following restrictions shall be set forth in the deed and restrict the use of the Property:

   (i) No portion of the Property may be used for residential or short-term rental use except for the top floor of the building now existing on the Property.

   (ii) No portion of the Property may be used for an adult-oriented entertainment businesses, tattoo or body piercing parlors, pawnshops, gambling establishments, businesses selling products commonly used for vaping or drug paraphernalia, funeral home, service station, garage, auto sale facility, auto service facility, dry cleaners, churches, libraries, lumber and building supply, equipment rental supply, preschool or child care facilities, or mini-storage unit facility.

B. **Repurchase Option.** Purchaser agrees to grant the Town the irrevocable and exclusive right and option to repurchase the Property upon the following terms:

   (i) **Term.** The Town's repurchase option shall be valid for a term of three (3) years commencing upon the date of settlement.

   (ii) **Conditions Precedent.** The Town may exercise the repurchase option in the event that Purchaser fails to substantially complete renovations to the ground floor of the building on the Property within twenty-four (24) months after closing. "Substantial completion" means that the renovations are sufficiently complete in that the ground floor of the building passes all building and related inspections, a certificate of occupancy is issued, and the renovated area can be reasonably utilized for its intended purpose(s).

   (iii) **Method of Exercise.** Once the conditions of Subsection (ii) are met, the Town may exercise the option by giving written notice to Purchaser, which may be hand delivered or mailed to Purchaser at _____.

   (iv) **Purchase Price.** The price for the Town to repurchase the Property from Purchaser shall be One Hundred Seventy-Nine Thousand Seven Hundred Thirty–Eight and 00/100 dollars ($179,738.00).

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-G

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-G – Cares Act Funding

Summary: The Town Council is requested to consider authorizing staff to pursue acquisition of equipment through the allocated CARES Act funding.

- Park Restroom Facilities - $92,162.00 – Upgrade all restroom fixtures to "touchless" facilities to limit potential exposure to COVID-19
- Digital message signs (North Broad Street, Dean Park, & Lake Arrowhead) - $46,974.00 – Purchase and install new digital message signs to provide residents and visitors with critical information about COVID-19 and other important information about the Town.

Previous & Pending CARES Act Expenses

- $25,950.34 – Supplies & Equipment
- $5,954.24 – FCCRA Salaries
- $2,838.96 – Quarantine Salaries & Testing
- $640.11 – Sanitation Salaries
- $11,900.00 – Automatic gate & Intercom at WTP
- $40,000 – Variable Message Signs
- $135,000 – Police Vehicles
- $25,000 – Town of Luray CARES Scholarship w/ LFCC
- $9,000 – Council Chambers Video Camera Equipment

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Council approve the purchase of "touch-free" Park restroom fixtures for $92,162.00 and three digital message signs for $46,974.00 using CARES Act funding.

J. Rex Burner Plumbing & Heating, Inc.
3148 US Hwy BSN 340
Luray, VA 22835
Contractor License # 2705150393
Class A CIC, HIC, GFC, HVA, PLB, SDS
Phone: (540) 743-5521 Fax: (540) 743-1667

Town of Luray

Tuesday, September 01, 2020

J Rex Burner Plumbing & Heating, INC. – Contractor hereby proposes to furnish supervision, labor, material, and equipment, in accordance with the following terms and specifications.

RE: To Furnish & Install the following

Mauck Field Men's Restroom:

- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO0345154 Transformer for Flushometer
- 2 – SLO3451623 Water Closet Flush Valve
- 3 – SLO3453224 Urinal Flush Valve
- 2 – SLO3366119 Electronic Hand Dryer
- 1 – 518173 Automatic Soap Dispenser

Mauck Field Women's Restroom:

- 5 – SLO3451623 Water Closet Flush Valve
- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 2 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 1 – 518173 Automatic Soap Dispenser

Mauck Field Upstairs Restrooms:

- 2 – SLO3451623 Water Closet Flush Valve
- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 2 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 1 – 518173 Automatic Soap Dispenser

Concession Building Men's Restroom:

- 1 – SLO3453224 Urinal Flush Valve
- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 2 – AMS4142 Cadet 1.6gpf Tank
- 2 – AMS3483 Elongated Bowl
- 2 – BEM1955 White Plastic Toilet Seat
- 2 – 2268291 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

Concession Building Women's Restroom:

- 2 – SLO3365331 Powered SENSOR Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 2 – AMS4142 Cadet 1.6gpf Tank
- 2 – AMS3483 Elongated Bowl
- 2 – BEM1955 White Plastic Toilet Seat
- 2 – 2268292 Flushmate Hands Free Flushing Toilet
- 1 -518173 Automatic Soap Dispenser

Playground Men's Restroom:

- 1 – SLO3453224 Urinal Flush Valve
- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 1 – AMS4142 Cadet 1.6gpf Tank
- 1 – AMS3483 Elongated Bowl

- 1 – BEM1955 White Plastic Seat
- 1 – 2268297 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

Playground Women's Restroom:

- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 2 – AMS4142 Cadet 1.6gpf Tank
- 2 – AMS3483 Elongated Bowl
- 2 – BEM1955 White Plastic Seats
- 2 – 2268295 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

Greenway:

- 2 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 2 – SLO3451623 Water Closet Flush Valve
- 2 – SLO3453224 Urinal Flush Valve
- 2 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 1 – 518173 Automatic Soap Dispenser

Lake Arrowhead Men's Restroom:

- 1 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 2 – AMS4142 Cadet 1.6gpf Tank
- 2 – AMS3483 Elongated Bowls
- 2 – BEM1955 White Plastic Seats
- 2 – 2268381 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

Lake Arrowhead Women's Restroom;

- 1 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 2 – AMS4142 Cadet 1.6gpf Tank
- 2 – AMS3483 Elongated Bowls
- 2 – BEM1955 White Plastic Seats
- 2 – 2268381 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

Lake Arrowhead Office Restroom:

- 1 – SLO3365331 Powered Sensor Operated Chrome Lav. Faucet
- 1 – SLO3366119 Electronic Hand Dryer
- 1 – SLO0345154 Transformer for Flushometer
- 1 - AMS4142 Cadet 1.6gpf Tank
- 1 – AMS3483 Elongated Bowls
- 1 – BEM1955 White Plastic Seats
- 1 – 2268381 Flushmate Hands Free Flushing Toilet
- 1 – 518173 Automatic Soap Dispenser

- **Contract Total Materials & Labor …….. $92,162.00**

Date(s) work to be performed: The work specified above will begin on ___TBD____ & estimated completion date ___TBD___.
The estimated completion date is an estimate only and may change. In the event that the Contractor is unable to being work on the Start Date because of unforeseen circumstances or due to events beyond Contractor's control, the parties agree that the Contractor will start work as soon after the Start Date as practical or as otherwise agreed. Delays caused by such events do not constitute abandonment of this contract, and are not included in calculating timeframes for payment or performance. Contractor shall not be liable for any damages, financial or otherwise, that may arise because of inconvenience, delay, or loss experienced by Owner if Contractor does not being work on the said Start Date. Furthermore, Contractor shall not be liable for any of Owner's costs or damages whatsoever that are caused, in whole or part, by any event beyond the control of the Contractor.

Payment: 50% Down Payment – Final Payment at 100% Completion
Materials and labor specified herin shall be provided for payment in the total sum of: **$ 92,162.00**

Payment Terms shall be made as followed: Unless expressly provided otherwise in the Contract, payments are NET 30. Progress payments paid monthly for all supervision, labor, materials, and equipment to the date of billing. Progress payments are due on the 25th day of the month following the billing for such payment. Customer agrees to pay a finance charge of 2% per month, annual percentage rate of 24% on any unpaid balance beginning 30 days from the date of initial billing. Customer further agrees to pay Contractor's expenses, attorney fees, and court costs for the collection of any unpaid payment balances. Venue shall be in Page County, Virginia.

Changes: Any alteration or deviation from the above specifications that involves a change in pricing, materials, services, or that changes the estimated completion date, shall be in writing and signed by the parties. Such alterations or deviations are not included in the pricing of the proposal. **Prices are subject to change with manufacturers increase.**

Permits: Contractor shall obtain all licenses and permits necessary for the proper completion of the work. Unless otherwise agreed to in writing. Contractor will be responsible for the cost of all necessary permits. Contractor shall perform all work in compliance with all applicable federal, state, and local laws, regulations, ordinances, and permits.

Termination & Cancelation: This contract shall terminate upon completion of the services outline above. In addition, Owner or Contractor may terminate this contract, and all obligations stated in this contract, for reasonable cause by providing written notice. In the event of early termination, Contractor shall be entitled to receive payment for all services performed and materials provided or ordered at time to termination. Reasonable cause shall include, but shall not be limited to, a material breach of the other party and/or any act exposing the other party to liability for personal injury or property damages.

J Rex Burner Plumbing & Heating Inc.
Signature *Kimberly D. Dean*
Date: ___09/01/2020

Note: This proposal may be withdrawn if not accepted with ___10___ days.

Owner's Acceptance of Proposal. The above prices specifications, conditions are hereby agreed to, and payments will be made as outlined.

Owners Signature; _____
Date: _____

Owner is hereby notified of the existence of the Virginia Contractor Recovery fund. The fund provides relief to eligible consumers who have incurred losses through the improper and dishonest conduct of a licensed contractor. More information can be found at www.dpor.virginia.gov/boards/contractors recovery fund.

Sign Doctor Sales & Service, Inc.

P.O. Box 254
Luray, VA 22835

Estimate

DATE	ESTIMATE NO.
9/8/2020	2905

NAME / ADDRESS
Town of Luray P.O. Box 629 Luray, Va. 22835

PROJECT

DESCRIPTION	QTY	COST	TOTAL
PROVIDE A 50.4" X 100.8" X 6" DEEP 16mm FULL COLOR ELECTRONIC MESSAGE CENTER. CABINET WILL BE ALL ALUMINUM. DISPLAY IS BORDERLESS. SIGN CONTROLLED VIA WIFI AND A LAPTOP COMPUTER. LAPTOP NOT PROVIDED.	3	12,798.00	38,394.00
PROVIDE 8" X 8" X .25" WALL THICKNESS STEEL COLUMNS BY10' LONG. PRICE INCLUDES TO CLEAN, CUT TO LENGTH AND TO PRIME THE STEEL. THESE ARE NEEDED FOR THE RALPH DEAN PARK AND THE LAKE ARROWHEAD LOCATIONS.	4	75.00	300.00
YARDS OF 2500 PSI CONCRETE. PRICE INCLUDES A SMALL LOAD HANDLING FEE. EXTRA CHARGES MAY INCUR ON THIS LINE ITEM TO FILL ANY ENLARGED HOLES DUE TO ANY ROCK REMOVAL THAT MAY BE NEEDED. THIS LINE ITEM IS FOR RALPH DEAN PARK AND LAKE ARROWHEAD.	4	225.00	900.00
PROVIDE A SKID STEER WITH A 24" DIAMETER AUGER TO AUGER FOUR 5' DEEP HOLES. THE TOWN WILL BE RESPONSIBLE FOR PROVIDING A DUMPTRUCK TO HAUL OFF THE DIRT. EXTRA CHARGES MAY INCUR ON THIS LINE ITEM FOR ROCK REMOVAL IF SOLID ROCK IS HIT WHILE DIGGING THE FOOTERS. THIS LINE ITEM IS FOR RALPH DEAN PARK AND LAKE ARROWHEAD.		750.00	750.00
PROVIDE ALL NECESSARY LABOR, EQUIPMENT AND MATERIALS NEEDED TO SET AND BRACE THE POLES AT THE RALPH DEAN PARK AND THE LAKE ARROWHEAD LOCATIONS. RUN A PIECE OF 3/4" PVC PIPE FROM THE BANK OF THE FOOTER OVER AND UP INTO THE INSIDE OF ONE OF THE COLUMNS AT EACH SITE FOR THE ELECTRICAL SERVICE RAN BY OTHERS. GET A FOOTER INSPECTION AND POUR THE CONCRETE.	9	150.00	1,350.00

Thanks for the opportunity!

TOTAL

Sign Doctor Sales & Service, Inc.

P.O. Box 254
Luray, VA 22835

Estimate

DATE	ESTIMATE NO.
9/8/2020	2905

NAME / ADDRESS
Town of Luray P.O. Box 629 Luray, Va. 22835

PROJECT

DESCRIPTION	QTY	COST	TOTAL
RETURN TO REMOVE THE BRACING OFF OF THE POLES. INSTALL AND WIRE UP THE TWO ELECTRONIC MESSAGE CENTERS AT THE TWO ABOVE MENTIONED LOCATIONS.	16	220.00	3,520.00
PROVIDE ALL NECESSARY LABOR, EQUIPMENT AND HARDWARE NEEDED TO REMOVE THE EXISTING STATIC CHANGEABLE COPY SIGN AND INSTALL A NEW ELECTRONIC MESSAGE CENTER IN ITS PLACE. THIS IS FOR THE SIGN ON ROUTE 340 COMING INTO TOWN.	8	220.00	1,760.00

Thanks for the opportunity!

TOTAL $46,974.00

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-H

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-H – VOSH COVID-19

Summary: The Town Council is requested to consider adopting the temporary "**Infectious Disease (COVID-19 & SARS) Preparedness and Response Plan & Policy**" to comply with the Virginia Department of Labor and Industry (DOLI) policies and regulations set forth in Virginia Code 16 VAC 25-220. This Emergency Standard for preventing the infectious diseases SARS-CoV-2 (otherwise known as COVID-19) and SARS is designed to prevent the spread of COVID-19 and SARS and protect Virginia's workers.

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Town Council adopt the "Infectious Disease (COVID-19 & SARS) Preparedness and Response Plan and Policy" as presented. I further move the Town Council authorize the Town Manager and Town Attorney to amend this policy as necessary to comply with regulations adopted by the Virginia Department of Labor and Industry to address the prevention of the spread of COVID-19 and SARS.

TOWN OF LURAY
September 14, 2020

Infectious Disease (COVID-19 & SARS) Preparedness and Response Plan & Policy

ORGANIZATION POLICY

The Virginia Department of Labor and Industry (DOLI) at the direction of the Virginia Governor has developed and implemented policies set forth in Virginia Code 16 VAC 25-220. This Emergency Standard for preventing the infectious diseases SARS-CoV-2 (otherwise known as COVID-19) and SARS is designed to prevent the spread of COVID-19 and SARS and protect Virginia's workers. The Town of Luray is dedicated to ensuring that our employees are fully protected, and can return to their families at the conclusion of their shifts. This policy sets forth the measures, policies, assessments, and enforcement measures that the Town of Luray will utilize to ensure the best possible outcome. Employees failing to abide by the requirements of this policy may received disciplinary action in conformance with the employee handbook.

Should you have any que3stions please contact your supervisor or Town Manager to address any questions or concerns that you may have.

Thank you,

Mayor Barry Presgraves

I. Purpose

This plan describes the implementation of mandatory health and safety requirements established by the Virginia Department of Labor and Industry, Governor Northam's COVID-19 Executive Order and subsequent Addendum as well as guidelines from the Centers for Disease Control.

II. Responsibilities

The Town of Luray has assigned the following individual(s) to serve in the role of health officer. The health officer has the authority to stop or alter activities to ensure that all work practices conform to the mandatory safety and health requirements applicable to COVID-19 as well as any other infectious disease hazards.

Town Manager, Assistant Town Manager, Town Treasurer/Clerk, Deputy Treasurer/Clerk

For the purpose of ensuring compliance with the most recent safety and health requirements, the Town Manager is responsible for administering this plan, monitoring agencies for new requirements, updating this plan, communicating any changes to employees, and monitoring the overall effectiveness of the plan. This person is also responsible for providing employees with a copy of this plan upon request.

III. Determination of Exposure Risk by Job Duty

We have determined the COVID-19 exposure risk level of all worksite functions to ensure that we apply appropriate hazard controls – including training, equipment, and personal protective equipment (PPE) – to protect employees' safety and health. This assessment is based on OSHA Publication 3990. Classes of employees have been assigned to risk categories as follows:

Exposure Risk Level means an assessment of the possibility that an employee could be exposed to the hazards associated with SARS-CoV-2 virus and the COVID-19 disease. Hazards and job tasks have been divided into four risk exposure levels: "Very High", "High", "Medium", and "Lower".

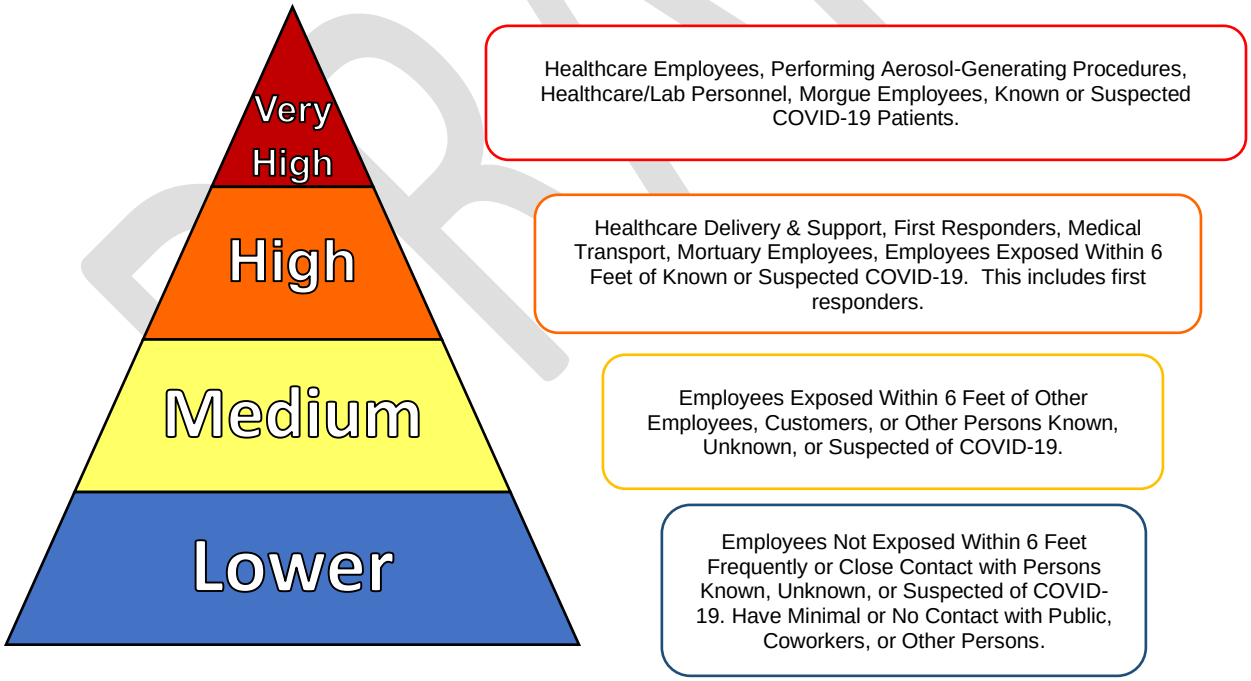
"Very High" exposure risk hazards or job tasks are those in places of employment with high potential for employee exposure to known or suspected sources of the SARSCoV-2 virus and the COVID-19 disease including, but not limited to, during specific medical, postmortem, or laboratory procedures (refer to page 8 of the 16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation for a more detailed description).

"High" exposure risk hazards or job tasks are those in places of employment with high potential for employee exposure within six feet with known or suspected sources of SARS-CoV-2 that are not otherwise classified as "very high" exposure risk (refer to page 8 of the 16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation for a more detailed description).

"Medium" exposure risk hazards or job tasks that are not labeled as "very high" or "high" (refer to pages 9-10 of the 16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation for a more detailed description).

"Lower" exposure risk hazards or job tasks are those not otherwise classified as "very high", "high", or "medium" exposure risk that do not require contact within six feet of persons known to be, or suspected of being, or who may be infected with SARS-CoV-2; nor contact within six feet with other employees, other persons, or the general public except as otherwise provided in this definition (refer to page 10 of the 16 VAC 25-220, Emergency Temporary Standard/Emergency Regulation for a more detailed description).

The following graph relates to job tasks that pose a risk level to employees. The job tasks that are listed are not an all-inclusive list.



Consult the definition of "Exposure risk level" of the Emergency Temporary Standard for COVID-19 by the Virginia Department of Labor and Industry. Also, consult pages 18 - 21 of the OSHA document "Guidance on Preparing Workplaces for COVID-19" which is available at

http://www.osha.gov/Publications/OSHA3990.pdf and determine the risk level of each employee or class of employee based on their type of work and duties. Some jobs may have more than one type of exposure risk depending on the task or qualifying factors.

When you have determined the risk level of all your employees and officials, list the work area, job/job tasks, employee exposure risk, and qualifying factors in the table.

Exposure Risk	Work Area	Protection Measure	Qualifying Factors
Lower	**Administration** **Water Treatment Plant** **Wastewater Treatment Plant** **Parks & Recreation** **Public Works**	• Follow VOSH/CDC protocols • Use of PPE • Hand washing & sanitizing • Self-health monitoring • Stay home if ill • Minimize sharing equipment	Minimal close or unprotected exposure to public
High	**Police Department**	• Follow VOSH/CDC protocols • Use of PPE • Hand washing & sanitizing • Self-health monitoring • Stay home if ill • Minimize sharing equipment • Prompt identification and isolation of infectious individuals	Elevated potential exposure to public.

IV. Contingency Plan in the Event of an Infectious Disease Outbreak

In the event that an outbreak or pandemic due to an infectious disease, the Town of Luray has set up contingency plans for addressing the workplace needs as well as employee safety and health during the outbreak.

These plans are as follows:

- Restriction of public access to Town offices.
- Use of online meetings
- Working in shifts to minimize contact

V. Basic Infectious Disease Prevention and Control Measures

To control the spread of infectious diseases such as COVID 19 or SARS, basic prevention and control measures must be implemented to ensure that all employees are protected against the hazards of infectious disease.

To control the spread of infectious disease it is important to keep up general housekeeping in the workplace. Additional housekeeping actions must also be implemented to ensure the safety and health of employees and decreasing the chances of spread of an infectious disease such as: All restrooms, common areas that remain in use, door knobs/handles, tools, equipment, and other frequently touched surfaces are disinfected as often as possible. All contact surfaces of vehicles used by more than one person are disinfected at the end of each person's use. All disinfectants are EPA-approved or otherwise comply with CDC disinfection guidance.

Additional precautions and actions to take are **:**

- Large gatherings are minimized whenever possible; staff meetings are postponed, cancelled or held remotely;
- Employees are encouraged to maintain physical distance even when on break, as well as before and after working hours;
- Employees are required to maintain physical distance when reporting to work, clocking in, leaving work, and clocking out;
- Employee work stations are greater than six feet apart;
- The employer may utilize flexible work hours, wherever possible, to limit the number of employees simultaneously working on-site; and
- Employee interactions with the general public are modified to allow for additional physical space between parties.

VI. Identification and Isolation of Sick and/or Exposed Employees

Risk and exposure determinations are made without regard to employees protected characteristics as defined by local, state, and federal law.

Any health-related information and documentation gathered from employees is maintained confidentially and in compliance with state and federal law. Specifically, medical documentation is stored separate from employee's personnel documentation.

1. Employee Self-Monitoring

The following employees should **not** report to work and, upon notification to the Town Manager; will be removed from the regular work schedule:

- Employees who display COVID-19 symptoms, such as fever, cough, shortness of breath, sore throat, new loss of smell or taste, and/or gastrointestinal problems, including nausea, diarrhea, and vomiting, whether or not accompanied by a formal COVID-19 diagnosis;
- Employees who, in the last 14 days, have had close contact with and/or live with any person having a confirmed COVID-19 diagnosis; and
- Employees who, in the last 14 days, have had close contact with and/or live with any person displaying COVID-19 symptoms, such as fever, cough, shortness of breath, sore throat, new loss of smell or taste, and/or gastrointestinal problems, including nausea, diarrhea, and vomiting.

Such employees may only resume in-person work upon meeting all return-to-work requirements, defined below.

2. Daily Screenings

To prevent the spread of COVID-19 and reduce the potential risk of exposure, the Department Superintendent will screen employees on a daily basis.

Employees are asked the following questions before entering the worksite:

1. Are you currently suffering from any of the following symptoms – fever, cough, shortness of breath, sore throat, new loss of smell or taste, and/or gastrointestinal problems, including nausea, diarrhea, and vomiting?
    a. If a touchless thermometer is available, temperature checks are performed.
    b. If yes, access is denied, and employee is advised to self-isolate/self-quarantine at home, until employee is permitted to return to work as defined below.
2. Have you lived with, or had close contact with, someone in the last 14 days diagnosed with or displaying the symptoms of COVID-19?
    a. If yes, access is denied, and employee is advised to self-isolate/self-quarantine at home, until at least 14 days after the close contact.

A reference chart of the above daily screening questions is listed below.

Before Each Shift	• Perform Temperature Check • Ask Questions Listed
Are you currently suffering from any of the following symptoms – fever, cough, shortness of breath, sore throat, new loss of smell or taste, and/or gastrointestinal problems, including nausea, diarrhea, and vomiting?	• Yes - Deny Access & Advise Self Isolation/Self-Quarantine at Home at least 14 Days • No - Allow Access
Have you lived with, or had close contact with, someone in the last 14 days diagnosed with or displaying the symptoms of COVID-19?	• Yes - Deny Access & Advise Self Isolation/Self-Quarantine at Home at least 14 Days After Close Contact • No - Allow Access
Have you traveled via plane internationally or domestically in the last 14 days?	• Yes - Deny Access & Advise Self Isolation/Self-Quarantine at Home at least 14 Days After International/Domestic Travel • No - Allow Access

Employees who develop symptoms during their shift must immediately report to their supervisor and/or Human Resources.

3. Return-to-Work Requirements

Employees who were themselves diagnosed with COVID-19 may only return to work upon confirmation of the cessation of symptoms and contagiousness, proof of which may be acquired via the test-based strategy or the non-test-based strategy.

The test-based strategy is preferred but relies upon the availability of testing supplies and laboratory capacity. Under this strategy, employees may discontinue isolation and return to work upon achieving the following conditions:

- Resolution of fever without the use of fever-reducing medications;
- Improvement in respiratory symptoms (e.g., cough, shortness of breath); and
- Negative results of an FDA Emergency Use Authorized molecular assay for COVID-19 from two consecutive nasopharyngeal swab specimens collected at least 24 hours apart.

Under the non-test-based strategy, employees may discontinue isolation and return to work upon achieving the following conditions:

- At least 3 days (72 hours) have passed since recovery defined as resolution of fever without the use of fever-reducing medications;
- Improvement in respiratory symptoms (e.g., cough, shortness of breath); and
- At least 7 days have passed since symptoms first appeared.

Employees who come into close contact with or who may live with an individual with a confirmed diagnosis or symptoms may return to work after either 14 days have passed since the last close contact with the diagnosed and/or symptomatic individual. This includes the diagnosed and/or symptomatic individual receiving a negative COVID-19 test.

Employees are typically required to submit a release to return to work from a healthcare provider; given the current stressors on the healthcare system, the Town of Luray may accept written statements from employees confirming all the factors supporting their release.

Actively encourage sick employees to stay home:

- Leave may be scheduled following the Town's Personnel Policies Manual
- The Town of Luray will follow state and federal guidance for return to work guidance.
    - Guidance from the employee's health care provider will also be considered.

VII. Procedures for Minimizing Exposure from Outside of Workplace

The Town of Luray's business practices are evaluated to ensure the safety and health of all individuals. This is done on a phased approach. Beginning with appointment only onsite meetings, virtual meetings, and finally transitioning to onsite meetings with appropriate precautions when that time comes.

- Social distancing practices to be observed:
    - 6-foot distances are marked in areas where customers might gather/wait
    - In person meetings are to be made by appointments only
    - Limit the number of customers allowed into workplace
    - Minimize face to face contact

Information is posted throughout the worksite educating individuals on ways to reduce the spread of COVID-19.

Any individual entering one of the Town's facilities may have their temperature checked and/or a questionnaire completed prior to entry.

To minimize exposure from visitors or vendors:

- *All business partners that work within Town facilities will be provided this Plan.*
- *When possible, the Town will limit the number of visitors in the facility.*
- *Any individual entering one of the Town's facilities may have their temperature checked and/or a questionnaire completed prior to entry.*
- *Masks may be available to visitors/vendors as well as appropriate disinfectants so individuals can clean work areas before and after use.*
- *All deliveries will be handled through curbside pick-up or delivery.*

Minimizing exposure from the general public:

- Social distancing practices to be observed:
  - 6-foot distances are marked in areas where individuals might gather/wait.
  - Limit number of individuals allowed into workplace.
  - Minimize face to face contact:
- Information is posted at the Town's facility educating individuals on ways to reduce the spread of COVID-19.
- Any individual entering the Town's may have their temperature checked and/or a questionnaire completed prior to entry.
- Individual symptoms may be assessed of COVID-19 and individuals with symptoms will be removed from the workplace.
- Physical barriers between the Town's employees and the public will be considered in high impact areas (i.e. shielding at the front desk areas).
- Masks may be available to the general public as well as appropriate disinfectants so individuals can clean work areas before and after use.

VIII. Training

All employees at the Town will be required to have training on the hazards and characteristics of SARS-CoV-2 virus and COVID-19 disease. This training will ensure that all employees recognize the hazards of SARS-CoV-2 and COVID-19 as well as the procedures to minimize the hazards related to the infectious diseases and help prevent the spread of the infectious disease.

The training material will cover the following:

- Requirements of the COVID-19 Emergency Regulation.
- Companies Infectious Disease Preparedness and Response Plan.
- Characteristics and methods of spread of SARS-CoV-2 virus.
- Symptoms of COVID-19 disease as well as the asymptomatic reactions of some persons to the SARS-CoV-2 virus.
- Safe and healthy work practices, including but not limited to, physical distancing, disinfection procedures, disinfecting frequency, and noncontact methods of greeting.
- PPE
  - When PPE is required
  - What PPE is required
  - How to properly don, doff, adjust and wear PPE
  - Limitations of PPE
  - Proper care, maintenance, useful life and disposal of PPE

All employees in the workplace will be trained on this subject and procedures. All training will be certified and recorded according to the Emergency Regulations for COVID-19 by the Virginia Department of Labor and Industry.

Training Records will be certified by the following requirements (see example below):

Date:		**Trainer:**	
Employee Name (Printed)	**Employee Name (Signature)**	**Work Area**	**COVID-19 Risk Level**

Retention of training records must be retained in employee files. These records are in the Clerk's Office**.** The most recent training records will be maintained.

Industry Specific Guidelines

Construction Industry Guidelines

Businesses or operations in the construction industry must:

a) Conduct a daily entry screening protocol for employees, contractors, suppliers, and any other individuals entering a worksite, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.

b) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in sub-provision (b) of this section, or in the alternative issue stickers or other indicators to employees to show that they received a screening before entering the worksite that day.

c) Provide instructions for the distribution of personal protective equipment and designate on-site locations for soiled face coverings.

d) Require the use of work gloves where appropriate to prevent skin contact with contaminated surfaces.

e) Identify choke points and high-risk areas where employees must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.

f) Ensure there are sufficient hand-washing or hand-sanitizing stations at the worksite to enable easy access by employees.

g) Notify contractors (if a subcontractor) or owners (if a contractor) of any confirmed COVID-19 cases among employees at the worksite.

h) Restrict unnecessary movement between project sites.

i) Create protocols for minimizing personal contact upon delivery of materials to the worksite.

Office Regulations

a) Assign dedicated entry point(s) for all employees to reduce congestion at the main entrance.

b) Provide visual indicators of appropriate spacing for employees outside the building in case of congestion.

c) Take steps to reduce entry congestion and to ensure the effectiveness of screening (e.g., by staggering start times, adopting a rotational schedule where only half of employees are in the office at a particular time).

d) Require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.

e) Increase distancing between employees by spreading out workspaces, staggering workspace usage, restricting non-essential common space (e.g., cafeterias), providing visual cues to guide movement and activity (e.g., restricting elevator capacity with markings, locking conference rooms).

f) Prohibit social gatherings and meetings that do not allow for social distancing or that create unnecessary movement through the office.

g) Provide disinfecting supplies and require employees wipe down their workstations at least twice daily.

h) Post signs about the importance of personal hygiene.

i) Disinfect high-touch surfaces in offices (e.g., whiteboard markers, restrooms, handles) and minimize shared items when possible (e.g., pens, remotes, and whiteboards).

j) Institute cleaning and communications protocols when employees are sent home with symptoms.

k) Notify employees if the employer learns that an individual (including a customer, supplier, or visitor) with a confirmed case of COVID-19 has visited the office.

l) Suspend all nonessential visitors.

m) Restrict all non-essential travel, including in-person conference events.

Outdoor:

Businesses or operations whose work is primarily and traditionally performed outdoors must

a) Prohibit gatherings of any size in which people cannot maintain six feet of distance from one another.

b) Limit in-person interaction with clients and patrons to the maximum extent possible, and bar any such interaction in which people cannot maintain six feet of distance from one another.

c) Provide and require the use of personal protective equipment such as gloves, goggles, face shields, and face coverings, as appropriate for the activity being performed.

d) Adopt protocols to limit the sharing of tools and equipment to the maximum extent possible and to ensure frequent and thorough cleaning and disinfection of tools, equipment, and frequently touched surfaces.

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-I

Meeting Date: September 14, 2020

Agenda Item: COUNCIL CONSIDERATION
Item VII-I – VDOT Urban Maintenance Program Road Additions

Summary: The Town Council is requested to consider adopting the Resolution ADOPTION OF A REQUEST FOR STREET ADDITIONS FOR MUNICIPAL ASSISTANCE PAYMENTS to request inclusion of portions of Mount View Avenue, Cole Street, Sixth Street, and General Drive into the VDOT Urban Maintenance Program. Approval by VDOT, will increase the number of qualifying lane miles for which the Town will be provided annual road maintenance funding.

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Town Council adopt the Resolution ADOPTION OF A REQUEST FOR STREET ADDITIONS FOR MUNICIPAL ASSISTANCE PAYMENTS as presented.

Luray Town Council Resolution 2020 - ___ - ___

RESOLUTION BY THE COUNCIL OF THE TOWN OF LURAY,
IN THE COUNTY OF PAGE, IN THE STATE OF VIRGINIA:

ADOPTION OF A REQUEST FOR STREET ADDITIONS
FOR MUNICIPAL ASSISTANCE PAYMENTS

WHEREAS, in accordance with Virginia Department of Transportation procedures, it is necessary that a request by Council Resolution be made for Street Additions for municipal assistance pursuant to ***Code of Virginia Section 33.2-319***.

THEREFORE, BE IT RESOLVED that the Council of the Town of Luray, Virginia requests the Virginia Department of Transportation to provide additional assistance for the streets listed on the attached Virginia Department of Transportation Form U-1 (Rev. 7-1-17). The location of the streets requested for addition are generally shown on the attached map of the Town of Luray (not to scale).

BE IT FURTHER RESOLVED, that the listed streets meet the Virginia Department of Transportation's right-of-way and pavement width eligibility requirements for funding.

MOTION by: Council Member _____
SECOND by: Council Member _____

Council Members Roll-Call Vote	**YEA**	**NAY**
Council Member Vickers	X	
Council Member Dofflemyer	X	
Council Member Schiro	X	
Council Member Lancaster	X	
Council Member Sours	X	
Council Member Pence	X	

Mayor Presgraves (only in the event of a tie)

SIGNATURES AND SEALS

This Resolution was passed at a regular meeting of the Luray Town Council held this ____ day of _____, 2020.

Mayor: _____ Date: _____
Barry Presgraves

ATTEST:
Clerk/Treasurer _____ Date: _____
Mary Broyles

Attachments: VDOT Form U-1 (Rev. 7-1-17) - Appendix B
Locator Map of the Town of Luray

Appendix B
Form U-1 (rev. 7-1-17)

LOCAL ASSISTANCE DIVISION
VDOT
REQUEST FOR STREET ADDITION, DELETIONS AND CONVERSIONS FOR
STREET PAYMENTS SECTION 33.2-319
CODE OF VIRGINIA

MUNICIPALITY Luray DISTRICT Staunton

ACTION REQUIRED (SELECT BELOW)	STREET NAME ROUTE NUMBER	FROM TERMINI TO	R/W (Width) (FEET)	PAVEMENT WIDTH (FEET)	CENTER LANE (MILES)	NUMBER OF LANES	MOVING LANE MILES	Eligibility Code Reference Link	FUNC. CLASS. (TMPD USE except for HR and NOVA)
ADD (New Road)	Mount View Avenue	Eden Road to Fairview Road	35	17	0.10	2	0.19	4	
SELECT ONE							0.00	Select one	
ADD (New Road)	Cole Street	0.05 E of Jordan Street to Jordan Street	30	16	0.05	2	0.10	4	
ADD (New Road)	Cole Street	0.09 W of Jordan Street to Jordan Street	30	16	0.09	2	0.18	4	
SELECT ONE							0.00	Select one	
ADD (New Road)	Sixth Street	Ninth Avenue to Eight Avenue	60	30	0.08	2	0.16	4	
ADD (New Road)	Sixth Street	Sixth Street to Town Park Road	80	21	0.09	2	0.18	3	
SELECT ONE		(current State Route 735)					0.00	Select one	
SELECT ONE							0.00	Select one	
ADD (New Road)	General Drive	Cave Hill Road to 0.27 S of Cave Hill Road	50	36	0.27	2	0.54	1	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	
SELECT ONE							0.00	Select one	

* Council Resolution and Map Attached

SIGNED _____
MUNICIPAL OFFICIAL DATE

SIGNED _____
AUTHORIZED VDOT OFFICIAL DATE

Submit to: District Point of Contact in triplicate

CLASSIFIED BY _____
T&MPD ENGINEER DATE

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-I

Meeting Date: September 14, 2020

Agenda Item: COUNCIL DISCUSSION
Item VII-I – Browns Building Improvements

Summary: The Town Council is requested to discuss the cost estimate for various improvements to the Brown's Building.

- Kitchen Painting - $6,500
- Exterior Painting - $21,500
- Entrance Door Overhangs; Replace Front Window Glass; Door Trim; Rear Steps; Rear Screen Door - $12,500
- Temporary Water Connection - $500 (Internal Leaks Unknown)

Council Review: N/A

Fiscal Impact: Unfunded in FY 2021 Budget

Suggested Motion: N/A

Town of Luray, Virginia

Council Agenda Statement

Item No: VII-K

Meeting Date: September 14, 2020

Agenda Item: COUNCIL DISCUSSION
Item VII-K – Town of Luray Procurement Policy

Summary: Town Council is requested to discuss a draft Code Amendment to Chapter 2 of our Town Code related to Procurement. The Town Attorney has developed the draft Amendment based upon changes to State law that take effect July 1, 2020 and comments from Town Council at your April 28th Work Session. In instances where the State has increased the maximum dollar amounts, the current Town policy limit is shown with the State Maximum in brackets.

The Town Attorney recommends that the Town consider adding procedures at various purchase amounts.

Council Review: April 28, 2020

Fiscal Impact: Unfunded in FY 2021 Budget

Suggested Motion: N/A

DIVISION 2. - PROCUREMENT ~~; SURPLUS PROPERTY[6]~~

~~**Footnotes:**~~

~~**(6)**~~

~~**Charter reference—General limitation on authority to contract indebtedness or issue bonds, § 77.**~~

~~**State Law reference—Public policies pertaining to governmental procurement from nongovernmental sources, Code of Virginia, § 2.2-4300 et seq.**~~

Subdivision I. - In General

Sec. 2-351. - Introduction~~Purpose~~.

These provisions constitute the procurement policy of the Town of Luray, Virginia. The purpose of this division is to provide for the fair and equitable treatment of all persons involved in public purchasing by this town, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

~~**(Code 1981, § 15.5-2; Ord. of 11-8-1982, § 1-102)**~~

Sec. 2-352. - Application~~ of division~~.

(a) These provisions govern the town's procurement of goods, services, insurance, and construction from nongovernmental sources and are intended to supersede the provisions of the Virginia Public Procurement Act to the maximum degree allowed by state law. Subject to Subsection (b), this policy shall become effective on MONTH XX, 2020, and will replace all procurement policies previously adopted. Any contract entered into prior to MONTH XX, 2020, shall be governed by the town's procurement policy in effect at the time the contract was executed.

(b) When a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned on compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of the Virginia Public Procurement Act and this policy, the town may comply with such federal requirements, notwithstanding contrary provisions of state law or this policy, only upon the written determination by the purchasing agent that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of state law and this policy that conflict with the conditions of the grant or contract.~~(a) This division applies to contracts for procurement of goods, services, insurance and construction entered into by this town involving every expenditure for public purchasing irrespective of its source.~~

Sec. 2-353. – Definitions.

All terms used in this division have the meaning prescribed by the Virginia Public Procurement Act.

(b) When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal law and regulation which are not reflected in this division. Nothing in this division shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest which are otherwise consistent with law.

Subdivision II. - Office of Purchasing Agentpurchasing agent

Sec. 2-3671. – **Establishment, appointment and bond.**

(a) Creation of purchasing system.

There is hereby created a purchasing system to operate under the direction and supervision of the town manager, .who Nothing contained in this division shall prevent the manager from designating a responsible person to perform the duties of purchasing agent, subject to his direction.

(b) *Appointment of purchasing agent.* The shall be the town'sre is hereby created the position of purchasing agent, who shall be the town manager..

(c) *Bond.* The purchasing agent shall give an official bond, the form and amount shall be approved by the town attorney.

(Code 1981, § 15.5-15; Ord. of 11-8-1982, § 2-101)

Sec. 2-3672. - **Authority and duties of purchasing agent.**

(a) *Principal public purchasing official.* The purchasing agent shall serve as the town's principal public purchasing officercial for this town and shall be responsible for the procurement of goods, services, insurance and construction in accordance with this division, as well as the management and disposal of supplies.

(b) *Duties.* In accordance with this division, the purchasing agent shall:

(a1) Purchase or supervise the purchasing of all goods, services, insurance and construction needed by the town;

(b2) Exercise direct supervision over the town's central stores and general supervision over all other inventories of goods belonging to the town;

(c3) Sell, trade or otherwise dispose of surplus goods belonging to the town; and

(d4) Establish and maintain programs for specifications development, contract administration and inspection and acceptance, which are, in cooperation with the public agencies using the goods, services, and construction.

(c) *Operational procedures.* cConsistent with this division, and with the approval of the town council, the purchasing agent may adopt operational procedures relating to the execution of his duties.

Sec. 2-367~~7~~3. - Delegation of authority.

T~~With the approval of the town council, t~~he purchasing agent may delegate authority~~ to purchase certain supplies, services, or construction items~~ to other town officials~~, if such delegation is deemed necessary for the effective procurement of those items~~ while maintaining reasonable supervision and accountability. ~~.~~

~~**(Code 1981, § 15.5-17; Ord. of 11-8-1982, § 2-103)**~~

Sec. 2-367~~7~~4. - Unauthorized purchases.

~~Except as herein provided, n~~No official, elected or appointed, or ~~any~~ employee shall purchase or contract for any goods, services, insurance, or construction within the purview of this division other than by and through the~~-~~ purchasing agent~~town manager~~, and any purchase order or contract made contrary to these provisions ~~hereof is not approved and the town~~ shall not be ~~be~~ binding upon~~ound~~ ~~the~~the town~~reby~~.

Subdivision III. – Exceptions to Procurement Requirements.

Sec. 2-365. - Purchases From Governmental Sources.

Purchases from governmental agencies are not covered by the Virginia Public Procurement Act or the provisions of this division. There are no procedural requirements for such purchases.

Sec. 2-366. - Cooperative Procurement.

The town may purchase from another public body's contract if the Request for Proposal or Invitation to Bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. This provision does not apply to contracts for architectural services, engineering services, or construction.

Sec. 2-367. - Small Purchases.

(a) The purchasing agent may award single or term contacts without requiring sealed bids or competitive negotiation for:

(1) Goods and services other than professional services and non-transportation-related construction, if the aggregate or sum of all phases is not expected to exceed [$30,000] $100,000;

(2) Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed $25,000; and

(3) Professional services, if the aggregate or sum of all phases is not expected to exceed [$30,000] $80,000.

(b) Purchases by the purchasing agent pursuant to Subsection (a) shall be made based upon the following procedures:

(1) Purchases Less Than $1,000:

Contracts may be awarded for the purchase of goods or services of less than $1,000 without any procurement so long as the individual making the purchase has no reason to believe that equivalent goods or services are available at a lower cost elsewhere.

(2) Purchases Greater Than $1,000 But Less Than $10,000:

If reasonably possible, written price quotations should be solicited from two vendors who can meet the town's requirements for quality, quantity, delivery time, etc. Price quotations may be secured via telephone, catalog, internet, eVA, or written inquiry. A purchase order is not required.

(3) Purchases Greater Than $10,000 But Less Than $100,000:

(i) If reasonably possible, written price quotations should be obtained from three vendors who can meet the town's requirements for quality, quantity, delivery time, etc. Price quotations may be secured via telephone, catalog, internet, eVA, or written inquiry.

(ii) Once price quotations are secured under Subsection (3)(i), a purchase order must be prepared that includes the following information:

- The date of preparation;
- The name and department of the individual preparing the Purchase Order;
- The name of the vendor;
- The shipping address;
- The quantity and/or number of units being purchased;
- A description of each article or service being purchased;
- The unit price and total amount for each item;
- The total purchase order amount;
- The signature of the department head or authorized individual; and
- Copies of vendor quotations secured in accordance with Subsection (3)(i).

(iii) The Purchasing Agent should proceed with issuing a purchase order to the vendor submitting the best price quote.

(c) Notwithstanding Subsections (a) and (b), the purchasing agent may utilize formal procurement for any small purchase when doing so is in the town's best interest.

Commented [J1]: Increased from $500.

Commented [J2]: Increased from $500.

Commented [J3]: Increased from $30,000.

Sec. 2-368. - Legal services.

The town may contract for legal services, expert witnesses, and services associated with litigation or regulatory proceedings without competitive procurement.

Sec. 2-369. - Sole Source Procurement.

Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The purchasing agent shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice may be posted on the Department of General Services' central electronic procurement website or other appropriate websites. In addition, the purchasing agent may publish it in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first.

Sec. 2-370. - Emergency Purchases.

(a) In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. The purchasing agent shall prepare a written determination of the basis for the emergency and for the selection of the particular contractor.

(b) The purchasing agent may deem an emergency to exist in the following circumstances:

(1) A breakdown in machinery or equipment;
(2) A threatened termination of essential services;
(3) The development of a dangerous condition;
(4) Any circumstance causing curtailment or diminution of an essential service; or
(5) Any circumstance in which materials or services are needed to prevent loss of life or property.

Sec. 2-371. - Purchases at Auction.

(a) Goods, products, and commodities may be purchased at auction, including an online public auction, upon an advance written determination by the purchasing agent that such purchase is in the best interests of the public. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

(b) The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities

used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

Secs. 2-372—2-380. - Reserved

Subdivision IV. - ~~(Code 1981, § 15.5-18; Ord. of 11-8-1982, § 2-104)~~

~~Secs. 2-375—2-390. - Reserved.~~

~~Subdivision III. - Contract Formation; Methods of Source Selection~~General Requirements.

~~Secs. 2-375—2-390. - Reserved.~~

~~Subdivision III. - Contract Formation; Methods of Source Selection~~General Requirements.

Sec. 2-38~~9~~1. - ~~Competitive sealed bidding.~~
Methods of Procurement.

(a) Contracts for the purchase or lease of goods, services other than professional services, and insurance shall be procured with competitive sealed bidding.

(b) Professional services shall be procured by competitive negotiation.

(c) Construction must be procured by competitive sealed bidding except that competitive negotiation may be used in the following instances:

(1) For a fixed price design-build contract or a construction management contract.

(2) For the construction of highways and any draining, dredging, excavation, grading or similar work upon real property upon a determination, made in advance by the purchasing agent and set forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public. The writing shall document the basis for this determination.

Sec. 2-382. - Prequalification Generally; Prequalification for Construction.

(a) The purchasing agent may prequalify prospective contractors for particular types of supplies, services, insurance, or construction, and limit consideration of bids or proposals to prequalified contractors. The opportunity to prequalify shall be given to any prospective contractor who has not been suspended or debarred under this policy.

(b) The application form to prequalify contractors for construction shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective construction contractors only such information as is

appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of Sec. 2-392(f). Advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.

(c) Any contractor that applies for prequalification shall be notified in writing whether they have been prequalified at least 30 days prior to the deadline for submitting bids or proposals under the procurement of the contract for which the prequalification applies. If prospective contractor is denied prequalification, the written notification shall include the reasons for denial and the factual basis of such reasons. Notices of refusal of prequalification shall be kept and made a part of the contract file.

(d) In considering any request for prequalification, the purchasing agent shall determine whether the contractor possesses management, financial soundness, and a history of performance that demonstrates the apparent ability to successfully complete all requirements of the contract being procured. The purchasing agent may require prospective contractors to submit information that the purchasing agent deems pertinent, including samples, financial reports, and references. The purchasing agent may employ standard forms designed to elicit necessary information, or may design other forms for that purpose.

(e) Prequalification of a contractor shall not constitute a conclusive determination that the contractor is responsible, and such bidder may be rejected as nonresponsible on the basis of subsequently discovered information.

(f) Failure of a contractor to prequalify with respect to one procurement transaction shall not bar the contractor from seeking prequalification as to other procurement transactions or bidding on procurement transactions that do not require prequalification.

(g) Prequalification may be denied to any contractor only if the purchasing agent finds one of the following:

(1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury's list of acceptable surety corporations in the amount and type required by the town shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

(2) The contractor does not have appropriate experience to perform the construction project in question;

(3) The contractor or any officer, director or owner thereof has had judgments entered against him or her within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

(4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the town has not contracted with a contractor in any prior construction contracts, the purchasing agent may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. This provision shall not be used to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto was given to the contractor at that time, with the opportunity to respond;

(5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (Virginia Code, § 2.2-4367 *et seq.*) of the Procurement Act, (ii) the Virginia Governmental Frauds Act (Virginia Code, § 18.2-498.1 *et seq.*), (iii) Chapter 4.2 of Title 59.1 of the Code of Virginia, or (iv) any substantially similar law of the United States or another state;

(6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

(7) The contractor fails to provide information in a timely manner that is requested by the purchasing agent and is relevant to subdivisions 1 through 6 of this subsection.

Sec. 2-383. - Discrimination Prohibited.

In the solicitation or awarding of contracts, the Town shall not discriminate against a bidder or offeror on the basis of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment.

Sec. 2-384. - Participation of Small, Women, Minority, and Service Disabled Veteran Owned Businesses.

(a) Whenever solicitations are made, the purchasing agent shall include businesses selected from a list made available by the Virginia Department of Small Business and Supplier Diversity.

(b) The purchasing agent shall place qualified small businesses, women-owned businesses, minority-owned businesses, and service disabled veteran owned businesses, as defined in

Virginia Code § 2.2-4310, on solicitation lists used by the town. The purchasing agent shall use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, the Virginia Department of Minority Enterprise and other public and private agencies in obtaining the names of qualifying businesses so that their bids may be solicited whenever they are potential sources of goods and services for the town.

(c) The purchasing agent shall also, when he or she deems it practicable and economically feasible, divide the total bid requirements into smaller tasks or quantities so as to permit maximum participation by qualifying businesses.

Sec. 2-385. - Comments Concerning Specifications.

Comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposals shall be received and considered at conferences with potential contractors prior to the time set for receipt of bids, proposals, or the award of the contract. The purchasing agent shall be responsible for scheduling such conferences and providing notice to potential contractors.

Sec. 2-386. - Rejection of Bids or Proposals.

(a) An Invitation to Bid, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. The reasons for cancellation or rejection shall be made part of the contract file. The purchasing agent shall not cancel or reject an Invitation to Bid, a Request for Proposal, any other solicitation, bid or proposal solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

(b) The purchasing agent may waive informalities in bids.

Sec. 2-387. - Contract Pricing Arrangements.

Except as prohibited herein, public contracts may be awarded on a fixed price or cost reimbursement basis, or on any other basis that is not prohibited. Except in cases of emergency affecting the public health, safety or welfare, no contract shall be awarded on the basis of cost plus a percentage of cost ("cost-plus"). If a cost-plus contract is to be used in an emergency situation, a written determination of the basis of the emergency and the selection of the particular contractor shall be included in the contract file. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section.

Sec. 2-388. - Multi-Term Contracts.

Unless otherwise provided by law, a contract for goods, services, or insurance may be entered into for any period of time deemed to be in the best interests of the town provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation or request and funds are available for the first fiscal period at the time of contracting. Payment and

performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. The contract shall be canceled when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period.

Sec. 2-389. - Contract Modification.

(a) Any contract award, change order, or contract modification that requires the submission and certification of cost or pricing data shall contain a provision stating that the price, including any profit or fee, excludes any significant increase that the purchasing agent finds to be the result of cost or pricing data furnished by the contractor that was inaccurate, incomplete or not current at the time provided.

(b) Provisions for modification of the contract during performance may be included in the contract, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or [$10,000] $50,000, whichever is greater, without the advance written approval of the town council. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

(c) The purchasing agent may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

(d) Modifications that fail to comply with this section are voidable at the discretion of the town council and the unauthorized approval of a modification may not be the basis of a contractual claim brought pursuant to Sec. 2-371.

Sec. 3-390. - Retainage on Construction Contracts.

(a) Retainage Limit. In any construction contract which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with no more than five percent being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Escrow Option for Retainage. When procuring construction of $200,000 or more of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, the Invitation to Bid shall include an option for the contractor to use an escrow account procedure for utilization of retainage funds. In the event the contractor elects to use the escrow account procedure, the escrow agreement form included in the Invitation to Bid and contract shall be executed and submitted to the purchasing agent within fifteen calendar days after notification. Otherwise, the contractor shall forfeit his rights to the use of the escrow account procedure. The contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the

Commonwealth. The escrow agreement shall be substantially the same as that used by the Virginia Department of Transportation.

(c) Any subcontract for a public project that provides for similar progress payments shall be subject to the provisions of this section.

Sec. 2-391. - Required Contract Provisions.

(a) Every contract shall contain the following provisions:

(1) Compliance with Immigration Law. The contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

(2) Authorized to Transact Business.

(i) Any contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Virginia Code, or as otherwise required by law.

(ii) Any contractor described in subsection (i) shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

(iii) The town may void any contract with a contractor that fails to remain in compliance with subsections (i) or (ii).

(b) Every contract of $10,000 or more shall include the following provisions:

(1) Employment Discrimination Prohibited. During the performance of this contract, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that the contractor is an equal opportunity employer.

The contractor will include the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) Drug-free workplace. During the performance of this contract, the contractor shall (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this policy, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

(c) Additional provisions, including those set forth in Subdivision XII, may be required in contracts procured either in part or in whole with federal funds. Consultation with the town attorney is recommended prior to issuing a solicitation for any such procurement.

Sec. 2-392. – Public Access to Procurement Information.

(a) Except as provided herein, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Virginia Code, § 2.2-3700, *et seq.*).

(b) Cost estimates relating to a proposed transaction prepared by or for the town shall not be open to public inspection.

(c) Any competitive sealed bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the town rejects all bids and reopens the contract. Otherwise, bid and proposal records shall be open to public inspection only after award of the contract.

(d) Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the town decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

(e) Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

(f) Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the bidder, offeror or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, identify the data or other materials to be protected, and state the reasons why protection is necessary. A bidder, offeror, or contractor shall not designate as trade secrets or proprietary information (1) an entire bid, proposal, or prequalification application; (2) any portion of a bid, proposal, or prequalification application that does not contain trade secrets or proprietary information; or (3) line item prices or total bid, proposal, or prequalification application prices.

Secs. 2-393—2-400. – Reserved.

Subdivision V. – Bond Requirements

Sec. 2-401. - Bid Bonds.

(a) Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of [$25,000] $500,000 or transportation-related projects authorized under Code §§ 33.1-1233.1-1233.1-12 that are in excess of $250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he or she will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with Sec. 2-382 and Virginia Code § 2.2-4317. However, the purchasing agent may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of $100,000 but less than $300,000 upon an advance written determination by the town council that waiving the requirement is in the best interests of the town. The town may not enter into more than 10 of such contracts per year.

(c) No forfeiture under a bid bond shall exceed the lesser of (1) the difference between the bid for which the bond was written and the next low bid, or (2) the face amount of the bid bond.

(d) Nothing in this section shall preclude the purchasing agent from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000 for nontransportation-related projects or $250,000 for transportation-related projects authorized under Virginia Code §§ 33.1-1233.1-1233.1-12 and partially or wholly funded by the Commonwealth.

Sec. 2-402. - Performance and Payment Bonds.

(a) Upon the award of any (1) construction contract exceeding $500,000 to any prime contractor; (2) construction contract exceeding $500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body; (3) construction contract exceeding $500,000 in which the performance of labor or the furnishing of materials will be paid with public funds, or (4) any transportation-related projects exceeding $350,000 that are partially or wholly funded by the Commonwealth, such contractor shall furnish the following bonds:

(i) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Virginia Code, § 33.1-12, such bond shall be in a form and amount satisfactory to the purchasing agent.

(ii) A payment bond in the sum of the contract amount. The payment bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in the prosecution of the work provided for in the contract, and shall be conditioned upon the prompt payment for all material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under Virginia Code, § 33.1-12 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the purchasing agent. "Labor or materials" includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Each bond shall be (1) executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia; (2) made payable to the town; and (3) filed with the town or a designated office or official thereof.

(c) Nothing in this section shall preclude the purchasing agent from requiring payment or performance bonds for construction contracts below $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under Virginia Code, § 33.1-12 and partially or wholly funded by the Commonwealth.

(d) Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

(e) The performance and payment bond requirements of Subsection (a) for transportation-related projects that are valued in excess of $250,000 but less than $350,000 may only be waived by the purchasing agent if the bidder provides evidence, satisfactory to the

purchasing agent, that a surety company has declined an application from the contractor for a performance or payment bond.

(f) For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, where the performance and payment bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with Sec. 2-382 and Virginia Code § 2.2-4317. However, the purchasing agent may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of $100,000 but less than $300,000 upon an advance written determination by the town council that waiving the requirement is in the best interests of the town. The town may not enter into more than 10 of such contracts per year.

Sec. 2-403. - Action on Performance Bond.

No action against the surety on a performance bond shall be brought unless within five years after the final payment to the contractor pursuant to the terms of the contract. However, if a final certificate of occupancy, or written final acceptance of the project is issued prior to final payment, the five-year period to bring an action shall commence no later than 12 months from the date of the certificate of occupancy or written final acceptance of the project.

Sec. 2-404. - Action on Payment Bonds.

(a) Any claimant who has a direct contractual relationship with the contractor and who has performed labor or furnished material in accordance with the contract documents in furtherance of the work provided in any contract for which a payment bond has been given, and who has not been paid in full before the expiration of 90 days after the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, may bring an action on the payment bond to recover any amount due for the labor and material. The obligee named in the bond need not be named a party to the action.

(b) Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he or she has given written notice to the contractor within 90 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he or she claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place where his or her office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performance or materials furnished shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

(d) Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

Sec. 2-405. - Bonds on Other Than Construction Contracts.

The purchasing agent may require bid, payment, or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

Sec. 2-406. - Alternative Forms of Security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check, cashier's check, or cash escrow in the face amount required for the bond.

(b) If approved by the town's attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.

Secs. 2-407—2-410. – Reserved.

Subdivision VI. – Competitive Sealed Bidding.~~(a) *Conditions for use.* All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.~~

Sec. 2-411. - Description.

Competitive sealed bidding is a method of contractor selection, other than for professional services, which includes (a) issuance of a written Invitation to Bid, (b) public notice of the Invitation to Bid, (c) public opening and announcement of all bids received, (d) evaluation of bids based upon the requirements set forth in the Invitation, and (e) award to the lowest responsive and responsible bidder.

Sec. 2-412. - Invitation to Bid.

(a) An Invitation to Bid shall contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement, state where bid documents and specifications may be obtained and identify the time and place for opening bids. Unless the purchasing agent has provided for prequalification of bidders pursuant to Sec. 2-382, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. No confidential or proprietary data shall be solicited in any Invitation to Bid.

(b) An Invitation to Bid shall include a provision that requires a bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid a statement describing why the bidder is not required to be so authorized.

(c) Any bidder described in Subsection (b) that fails to provide the required information shall not receive an award unless a waiver is granted by the purchasing agent.

Sec. 2-413. - Multistep Sealed Bidding.

When it is impractical to initially prepare a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

Sec. 2-414. - Notice of Invitation to Bid.

(a) Notice of the Invitation to bid may be posted on the Department of General Services' central electronic procurement website and other appropriate websites at least 10 days prior to the date set for receipt of bids. In addition, notice may also be published in a newspaper of general circulation. Bids may be solicited directly from potential contractors.

(b) The notice of Invitation to Bid shall include a general description of the goods or services to be purchased, the location where bid documents and specifications may be obtained, and the time and place for opening bids.

Sec. 2-415. - Use of Brand Names.

Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer shall not restrict bidders to the specific brand, make or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the purchasing agent, in his or her sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

Sec. 2-416. - Bid Openings.

Sealed bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The name of each bidder and the amount of each bid shall be recorded along with any other relevant information deemed appropriate by the purchasing agent. The contract record and each bid shall be open to public inspection as provided in Sec. 2-392.

Sec. 2-417. - Evaluation of Bids.

(a) Evaluation of bids shall be based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, lifecycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

(b) If the purchasing agent determines that the apparent low bidder is not responsible, he or she shall proceed as follows:

(1) Prior to the issuance of a written determination of nonresponsibility, the purchasing agent shall (i) notify the apparent low bidder in writing of the results of the evaluation, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five business days after receipt of the notice.

(2) Within 10 business days after receipt of the notice, the bidder may submit rebuttal information challenging the evaluation. The purchasing agent shall issue a written determination of responsibility based on all information in its possession, including any rebuttal information, within five business days of the date the purchasing agent received the rebuttal information. At the same time, the purchasing agent shall notify, with return receipt requested, the bidder in writing of the determination.

(3) Such notice shall state the basis for the determination which shall be final unless the bidder appeals the decision within 10 days after receipt of the notice by filing a letter of appeal pursuant to the administrative appeals procedure described in Sec. 2-472.

(4) If, upon appeal, it is determined that the decision of the purchasing agent was (i) not an honest exercise of discretion, but rather was arbitrary or capricious, or (ii) not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, and the award of the contract in question has not been made, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question. If it is determined that the decision of the purchasing agent was (i) not an honest exercise of discretion, but rather was arbitrary or capricious or (ii) not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid and the contract has been awarded, the relief shall be as follows. Where the award has been made but performance has not begun, the performance of the contract may be enjoined. Where the award has been made and performance has begun, the purchasing agent may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

(5) A bidder contesting a determination that he or she is not a responsible bidder for a particular contract may not protest the award or proposed award.

(6) Nothing herein shall require the town to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous when procuring by competitive negotiation.

Sec. 2-418. - Award of Contract.

(a) A contract shall be awarded to the lowest responsive and responsible bidder. Awards may be made to more than one bidder when so provided in the Invitation to Bid.

(b) Unless cancelled or rejected, a responsible bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds budgeted funds, the purchasing agent may negotiate with the apparent low bidder to obtain a contract price within budgeted funds. The negotiations should be conducted in accordance with the following procedures:

(1) The purchasing agent shall advise the lowest responsible bidder, in writing, that the low bid exceeds the town's funds budgeted the procurement. He or she may suggest a reduction in scope for the proposed purchase, and invite the lowest responsible bidder to amend its bid proposal.
(2) Repetitive informal discussions may be conducted with the lowest responsible bidder for purposes of obtaining a contract within the town's budgeted funds.
(3) The lowest responsible bidder may submit an addendum to its bid that includes the change in scope for the proposed purchase, the reduction in price, and the new contract value.
(4) If the proposed addendum is acceptable to the town, the purchasing agent should award a contract within its budgeted funds to the lowest responsible bidder based upon the amended bid.
(5) If the purchasing agent and the lowest responsible bidder cannot negotiate a contract within the town's budgeted funds, all bids should be rejected.

(c) When the award is not given to the lowest bidder, a statement of the reasons shall be prepared by the purchasing agent and made a part of the contract record.

Sec. 2-419. - Tie Bids; Preference Matching.

(a) In the case of a tie bid, preference shall be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations; otherwise the tie shall be decided by lot.

(b) Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference, a like preference shall be allowed to responsive and responsible bidders who are residents of Virginia. If the lowest bidder is a

resident contractor of a state with an absolute preference, the bid shall not be considered. The purchasing agent may rely upon information posted on the website for the Department of General Services for the purposes of compliance with this subsection.

(c) Notwithstanding the provisions of Subsections (a) and (b), in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.

(d) For the purposes of this section, a Virginia person, firm or corporation shall be deemed to be a resident of Virginia if such person, firm or corporation has been organized pursuant to Virginia law or maintains a principal place of business within Virginia.

Sec. 2-420. - Withdrawal of Bid Due to Error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his or her bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(b) The bidder shall give notice in writing of any claim of right to withdraw his or her bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. The mistake shall be proved only from the original work papers, documents and materials delivered as required herein. The work papers, documents and materials submitted by the bidder shall, at the bidders request, be considered trade secrets or proprietary information subject to the conditions of Sec. 2-392(f) and Virginia Code § 2.2-4342(F).

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or to another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) The purchasing agent shall notify the bidder in writing within five business days of the decision regarding the bidder's request to withdraw its bid. If the purchasing agent denies the withdrawal of a bid under the provisions of this section, it shall state in the notice the reason for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the purchasing agent shall return all work papers and copies thereof that have been submitted by the bidder.

(g) A decision denying withdrawal of bid shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking the administrative appeals procedure provided in Sec. 2-472.

(h) If no bid bond was posted, a bidder shall, prior to appealing, deliver to the purchasing agent a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next lowest bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

(i) If, upon appeal, it is determined that the decision refusing withdrawal of the bid was (i) not an honest exercise of discretion, but rather was arbitrary or capricious or (ii) not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

Secs. 2-421—2-430. – Reserved. ~~(d) *Bid bonds on construction contracts.* Except in cases of emergency, all bids or proposals for construction contracts in excess of $25,000.00 shall be accompanied by a bid bond from a surety company, selected by the bidder which is legally authorized to do business in Virginia as a guarantee that if the contract is awarded to such bidder that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid. No forfeiture under a bid bond shall exceed the lesser of the difference between the bid for which the bond was written and the next low bid, or the face amount of the bid bond.~~

Subdivision VII. - Competitive Negotiation.

Sec. 2-431. - Description.

Competitive negotiation is a method of procurement which includes (a) issuance of a written Request for Proposal, (b) public notice of the Request for Proposal, and (c) negotiations between the town and individual offerors.

Sec. 2-432. - Request for Proposals.

(a) A Request for Proposal shall be in writing and indicate in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.

(b) A Request for Proposal shall include a provision that requires an offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its proposal the identification number issued to it by the State Corporation Commission. Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its proposal a statement describing why the offeror is not required to be so authorized.

(c) Any offeror described in Subsection (b) that fails to provide the required information shall not receive an award unless a waiver of this requirement is granted by the purchasing agent.

Sec. 2-433. - Public Notice.

Notice of the Request for Proposal may be posted on the Department of General Services' central electronic procurement website and other appropriate websites at least 10 days prior to the date set for receipt of proposals. In addition, the notice may be published in one or more newspapers of general circulation in the area in which the contract is to be performed. Proposals may be solicited directly from potential contractors.

Sec. 2-434. - Negotiations for Professional Services.

(a) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the purchasing agent in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. As the discussion stage, the purchasing agent may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the

public or to competitors. For architectural or engineering services, offerors shall not be required to list exceptions to proposed contractual terms and conditions, unless required by applicable law, until after the qualified offerors are ranked for negotiations.

At the conclusion of discussion, outlined herein, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. If the terms and conditions for multiple awards are included in the Request for Proposal, the purchasing agent may award contracts to more than one offeror. Should the purchasing agent determine in writing and in his or her sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

(b) A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects provided (1) the projects require similar experience and expertise, (2) the nature of the projects is clearly identified in the Request for Proposal, and (3) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.

Such contracts may be renewable for four additional one-year terms at the option of the town. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed. The sum of all projects performed in one contract term shall not exceed $750,000.

The project fee for any single project for architectural or professional engineering services relating to construction projects shall not exceed $150,000. Any unused amounts from a contract term may not be carried forward to subsequent terms.

Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the town has established procedures for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

(c) Multiphase professional services contracts satisfactory and advantageous to the town for completion of large, phased, or long-term projects may be negotiated and awarded based upon qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract,

the purchasing agent shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the town require awarding the contract.

Sec. 2-435. - Negotiations For Other than Professional Services.

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the purchasing agent shall select the offeror which, in his or her opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the purchasing agent determine in writing and in his or her sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

Secs. 2-436—2-440. – Reserved.

~~(Code 1981, § 15.5-32; Ord. of 11-8-1982, § 3-103)~~

Sec. 2-441. - Approval of Use.

The purchasing agent may award a job order contract for multiple jobs, provided (a) the jobs require similar experience and expertise; (b) the nature of the jobs is clearly identified in the solicitation; and (c) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized by Sec. 2-442, whichever occurs first. Contractors may be selected through either competitive sealed bidding or competitive negotiation.

Sec. 2-442. - General Requirements.

Job order contracts may be renewed by the purchasing agent for up to two additional one-year terms. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $6 million. Individual job orders shall not exceed $500,000. Any unused amounts from one contract term shall not be carried forward to any additional term.

Sec. 2-443. - Restrictions.

(a) Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in Sec. 2-442 is prohibited.

(b) Job order contracting may not be used solely for the purpose of purchasing professional architectural or engineering services that constitute the practice of architecture or the

practice of engineering as those terms are defined in Code of Virginia § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services are (i) incidental and directly related to the job; (ii) do not exceed $25,000 per job order; and (iii) do not exceed $75,000 per contract term.

(c) Job order contracting may not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. However, job order contracting may be used for safety improvements or traffic calming measures for individual job orders up to $250,000, subject to the maximum annual threshold established above.

Secs. 2-444—2-450. – Reserved.

Subdivision IX. – Design-Build and Construction Management Contracts.

Sec. 2-451. - Approval of Use.

The town may procure contracts for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the provisions of this subdivision.

Sec. 2-452. - General Requirements.

(a) Professional Advisor. Prior to electing to use a design-build or construction management contract for a specific construction project, the purchasing agent shall hire a licensed architect or professional engineer (the "Professional Advisor") with professional competence appropriate to the project who shall advise the purchasing agent regarding the use of design-build or construction management for the project and who shall assist the purchasing agent with the preparation of the Request for Qualifications, Request for Proposal, and the evaluation thereof.

(b) Eligibility Requirements. Prior to procuring a design-build or construction management contract, the purchasing agent shall issue a written determination that competitive sealed bidding is not practical or fiscally advantageous and document the basis for the determination to utilize design-build or construction management.

(c) Evaluation Committee. An Evaluation Committee of not less than three members shall be appointed by the purchasing agent to review and evaluate submittals. To the extent possible, the Evaluation Committee shall include one licensed professional architect or professional engineer. The Professional Advisor may be a member of the Evaluation Committee. Members of the Evaluation Committee may be employees of the town or City of Harrisonburg, but may not be officers, directors, owners or employees of or otherwise affiliated with any offeror or potential offeror.

(d) Reporting Requirements. The purchasing agent shall report no later than November 1 of each year to the Director of the Department of General Services on all completed design build or construction management projects in excess of $2 million, including (1) the

procurement method utilized, (2) the project budget, (3) the actual project cost, (4) the expected timeline, (5) the actual completion time, and (6) any post-project issues.

Sec. 2-453. - Design-Build Procurement Procedure.

Design-build contracts shall be procured using the following two-step competitive negotiation process:

(a) Selection of Qualified Offerors.

(1) Request for Qualifications. The purchasing agent shall issue a Request for Qualifications inviting potential offerors to submit their qualifications as both "designer" and "builder" of the construction. The Professional Advisor shall assist the purchasing agent in preparing the Request for Qualifications. The Request for Qualifications shall describe in general terms the particular construction and specify all factors that will be used in evaluating potential offerors' qualifications. The Request for Qualifications shall also contain or incorporate by reference other applicable contractual terms and conditions, including any unique capabilities or qualifications required for the project. The Request for Qualifications shall request only such information as is appropriate for an objective evaluation of all potential offerors pursuant to the criteria in the Request for Qualifications.

Notice of the Request for Qualifications shall be published at least 10 days prior to the deadline for qualification submittals by posting in a public area normally used for posting of public notices and by posting on the On-Line Bids page eVa, Virginia's electronic procurement website, at http://eva.virginia.gov. In addition, the notice shall be published in a newspaper of general circulation in the area in which the contract is to be performed. The intent of publication is to provide reasonable notice to the maximum number of potential offerors that can be reasonably anticipated to submit qualifications in response to the Request for Qualifications.

(2) Review. The Evaluation Committee shall evaluate the qualification submittals based on the criteria set forth in the Request for Qualifications. Additional information submitted by potential offerors can be considered by the Evaluation Committee. The Evaluation Committee shall select and prequalify two to five offerors that it deems most qualified and suitable for the project.

Within a reasonable time after review of all qualification submittals, but no less than 30 days prior to the deadline for submission of proposals, all potential offerors shall be notified in writing whether they been prequalified. If an offeror is denied prequalification, the notice shall include the reasons for denial and the factual basis of those reasons. Potential offerors may be denied prequalification only upon those grounds specified in Sec. 2-382(g).

(b) Selection of Contractor.

(1) Request for Proposals. The purchasing agent shall issue a Request for Proposals to the offerors prequalified by the Evaluation Committee. The Professional Advisor shall assist the purchasing agent in preparing the Request for Proposals. The Request for Proposals shall request that offerors submit separate sealed Technical Proposals and Cost Proposals. Cost Proposals shall be secured and kept sealed until evaluation of all Technical Proposals is completed.

The Request for Proposals shall define the criteria to be used by the Evaluation Committee to evaluate each proposal. In addition, the Request for Proposals shall include and define the criteria of the specific construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications. The Request for Proposals may also define such other requirements as the purchasing agent deems appropriate for that particular construction project.

Qualified offerors may comment on the specifications or other provisions of the Request for Proposals prior to the deadline for submission. Any comments made prior to the deadline for proposal submission will be considered by the Evaluation Committee when reviewing the Technical Proposals.

(2) Review of Technical Proposals. The Evaluation Committee shall evaluate each of the Technical Proposals based on the criteria set forth in the Request for Proposals. As a part of the evaluation process, the Evaluation Committee shall grant each of the offerors an equal opportunity for direct and private communication with the Evaluation Committee. Each offeror shall be allotted the same fixed amount of time. The Evaluation Committee shall exercise care to discuss the same information with all offerors. The Evaluation Committee shall inform each offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the Request for Proposals. The Evaluation Committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to Sec. 2-392(f) of this policy and § 2.2-4342(F) of the Procurement Act.

Based upon its review of the Technical Proposals, the Evaluation Committee shall determine whether any changes to the Request for Proposals should be made to clarify errors, omissions or ambiguities or to incorporate project improvements or additional details, or both, identified by the Evaluation Committee during its review. If such changes are required, an addendum shall be provided to each offeror.

Based on any revisions to the Technical Proposals, the offeror may amend its Cost Proposal. In addition, an offeror may submit cost modifications to its sealed Cost Proposal which are not based upon revisions to the Technical Proposals.

(3) Review of Cost Proposal. At the conclusion of this process, the Evaluation Committee shall publicly open, read aloud, and tabulate the Cost Proposals. The Evaluation

Committee shall add to or deduct from the appropriate Cost Proposal any cost adjustments contained in amendments submitted by an offeror.

(4) Selection of Contractor. The Evaluation Committee shall make its recommendation on the selection of the design-builder to the purchasing agent based on its evaluation and negotiations. Unless otherwise specified in the Request for Proposals, the design-build contract shall be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal. When the terms and conditions of multiple awards are so provided in the Request for Proposals, awards may be made to more than one offeror.

The purchasing agent shall notify all offerors who submitted proposals which offeror was selected for the project. Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful offerors.

Sec. 2-454. - Construction Management Procurement.

(a) Prerequisites for Use. Construction management contracts may be procured (1) for any project whose cost is expected to exceed $10 million; and (2) any complex project whose cost is less than $10 million and construction management has been approved by the town council. A "complex project" is a construction project that includes difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding impractical. The written approval of the town council shall be maintained in the procurement file.

(b) Procurement Procedure. Construction management contracts shall be procured using the following two-step competitive negotiation process:

(1) Selection of Qualified Offerors.

(i) Request for Qualifications. The purchasing agent shall issue a Request for Qualifications inviting potential offerors to submit their qualifications for coordinating and administering contracts for construction services. The Professional Advisor shall assist the purchasing agent in preparing the Request for Qualifications. The Request for Qualifications shall describe in general terms the particular construction projects and specify all factors that will be used in evaluating potential offerors' qualifications. The Request for Qualifications shall also contain or incorporate by reference other applicable contractual terms and conditions, including any unique capabilities or qualifications required for the project. The Request for Qualifications shall request only such information as is appropriate for an objective evaluation of all potential offerors pursuant to the criteria in the Request for Qualifications.

Notice of the Request for Qualifications shall be posted on the Department of General Services' central electronic procurement website at least 30 days prior to the deadline for qualification submittals. In addition, the notice may also be

published in a newspaper of general circulation in the area in which the contract is to be performed.

(ii) Review. The Evaluation Committee shall evaluate the qualification submittals based on the criteria set forth in the Request for Qualifications. Additional information submitted by potential offerors can be considered by the Evaluation Committee. The Evaluation Committee shall select and prequalify two to five offerors that it deems most qualified and suitable for the project.

Within a reasonable time after review of all qualification submittals, but no less than 30 days prior to the deadline for submission of proposals, all potential offerors shall be notified in writing whether they been prequalified. If an offeror is denied prequalification, the notice shall include the reasons for denial and the factual basis of those reasons. Potential offerors may be denied prequalification only upon those grounds specified in Sec. 2-382(g).

(2) Selection of Contractor.

(i) Request for Proposals. The purchasing agent shall issue a Request for Proposals to the offerors prequalified by the Evaluation Committee. The Professional Advisor shall assist the purchasing agent in preparing the Request for Proposals.

The Request for Proposals shall define the criteria to be used by the Evaluation Committee to evaluate each proposal. In addition, the Request for Proposals shall include and define the criteria of the specific construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications. The Request for Proposals may also define such other requirements as the purchasing agent deems appropriate for that particular construction project.

Qualified offerors may comment on the specifications or other provisions of the Request for Proposals prior to the deadline for submission. Any comments made prior to the deadline for proposal submission will be considered by the Evaluation Committee when reviewing the proposals.

(ii) Evaluation of Proposals. The Evaluation Committee shall evaluate each of the proposals based on the criteria set forth in the Request for Proposals. After evaluating the proposals, the Evaluation Committee shall conduct negotiations with two or more offerors submitting the highest ranked proposals, or, if the purchasing agent determines, in writing and at his or her sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

(iii) Award of Contract. The Evaluation Committee shall make its recommendation on the selection of the construction manager to the purchasing agent based on its evaluation and negotiations. The construction management contract shall be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal. Price shall be a critical basis for awarding the contract. Prior construction management experience may be considered but is not required as a prerequisite for award of a contract. When the terms and conditions of multiple awards are so provided in the Request for Proposals, awards may be made to more than one offeror. The contract must be entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions.

The purchasing agent shall notify all offerors who submitted proposals which offeror was selected for the project. Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful offerors.

(c) Required Terms for Construction Management Contracts.

Any construction management contract entered into by the town shall contain provisions requiring that (1) not more than 10 percent of the construction work (measured by cost of the work) will be performed by the construction manager with its own forces; and (2) that the remaining 90 percent of the construction work will be performed by subcontractors of the construction manager which the construction manager must procure by publicly advertised, competitive sealed bidding, to the maximum extent practicable.

Secs. 2-455—2-460. – Reserved.

Subdivision X. – Debarment.

Sec. 2-461. - Authority to Debar.

The purchasing agent may, in the public interest, debar a prospective contractor from participating in the town's competitive procurement. The seriousness of the grounds and any mitigating factors should be considered in making any debarment decision.

Sec. 2-462. - Grounds for Debarment.

The purchasing agent may debar a prospective contractor for any of the following grounds:

(a) Conviction of or entry of a civil judgment for:

(1) Fraud or any criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract.
(2) Violating federal or state antitrust statutes relating to the submission of offers.
(3) Embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, or receiving stolen property.
(4) Any other offense that reflects a lack of business integrity or business honesty and

directly affects the responsibility of a contractor or subcontractor.

(b) Breach of the terms of a government contract or subcontract so serious as to justify debarment, including:

(1) Willfully failing to perform in accordance with the terms of a contract.
(2) A history of failing to perform or of performing unsatisfactorily under a contract.
(3) Any other cause of so serious or compelling that it affects the present responsibility of a contractor or subcontractor.

Sec. 2-463. - Debarment Procedure.

(a) Notice of consideration. The prospective contractor shall be advised that debarment is being considered. The notice should be by certified mail, return receipt requested. The notice shall include the reasons for the proposed debarment.

(b) Challenge. Within 10 days of the date of the notice, the prospective contractor may submit information challenging the proposed debarment.

(c) Decision. The purchasing agent shall render a written decision within 5 days of receiving the prospective contractor's rebuttal information. Any debarment should be for a time period that reflects the seriousness of the cause.

(d) Appeal. The purchasing agent's decision is final unless the prospective contractor appeals the decision within 10 days after receipt by invoking the administrative appeals procedure provided in Sec. 2-472.

Secs. 2-464—2-470. – Reserved.

Subdivision XI. - Appeals and Remedies. ~~for Bid Protests~~

Sec. 2-471. - Contractual Claims.

All contractual claims for money or other relief shall be adjudicated using the following procedure, which shall be included or incorporated by reference in every contract:

(a) Notice. The contractor shall give written notice of his or her intention to file a contractual claim to the town manager at the time of the event or the beginning of the work upon which the claim is based.

(b) Claim. Contractual claims must be submitted in writing to the town manager no later than 60 days after final payment.

(c) Decision. The town manager or an authorized designee shall make a written decision addressing the claim within 90 days of submission.

(d) Appeal. The decision of the town manager shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by

invoking the administrative procedure provided in Sec. 2-472. A contractor may not invoke administrative procedures prior to receipt of the town's decision on the claim, unless the town fails to render such decision within the time period specified in Subsection (c).

Sec. 2-472. - Administrative Appeals Procedure.

(a) Appealable Decisions. Any contractor may appeal a decision on a contract claim. In addition, any bidder or offeror, or person debarred or denied prequalification, may appeal:

(1) An award or a decision to award a contract.
(2) A decision refusing to allow the withdrawal of the appellant's bid.
(3) A denial of the appellant's prequalification.
(4) The appellant's debarment.
(5) A determination of the appellant's nonresponsibility.

(b) Appeals Process. Any appeal pursuant to this section shall be in accordance with the following administrative procedures:

(1) The appellant shall submit a written letter of appeal to the town manager within 10 days of the date of the decision being appealed. The letter of appeal must include the basis for the appeal and the relief sought, and whether the contractor wishes to have a hearing.

(2) If no hearing is requested, the town manager or a designee, shall render a written decision within 10 days of receiving the letter of appeal.

(3) If a hearing is requested, it shall be held within 10 days of receipt of the letter of appeal, and a final decision shall be rendered within 10 days of the hearing. During the hearing, the appellant shall have the opportunity to present pertinent information and to cross-exam adverse witnesses. The hearing shall be an informal administrative proceeding rather than a judicial-type trial, and it will be conducted by a disinterested person appointed by the town manager and who is not an employee of the town.

(c) Judicial Review. Any party to the administrative procedure may institute judicial review within 30 days of receipt of the written decision. Findings of fact shall be final and conclusive and shall not be set aside unless the same are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith. No determination of an issue of law shall be final if legal action is instituted in a timely manner.

(d) Effect of Appeal Upon Contract.~~Sec. 2-441. - Ineligibility of bidder, offeror or contractor.~~

Secs. 2-473—2-480. – Reserved.

~~**(Code 1981, § 15.5-55; Ord. of 11-8-1982, § 5-105)**~~

Subdivision XII. – Additional Provisions Applicable to Procurements Involving Federal Funds.~~**Sec. 2-446. - Stay of award during protest.**~~

~~**An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.**~~

~~**(Code 1981, § 15.5-56; Ord. of 11-8-1982, § 5-106)**~~

Sec. 2-481. - Applicability.

The town is required to comply with federal regulations when a procurement is conducted in whole or in part with federal funds. The United States Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards apply to all federal grants.

Sec. 2-481. - Full and Open Competition.

All procurement transactions must be conducted in a manner providing full and open competition. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. The following are considered to be restrictions upon full and open competition:

(a) Imposing unreasonable business requirements for bidders or offerors to qualify to do business.

(b) Requiring unnecessary experience or bonding.

(c) Specifying only a brand name product without listing salient characteristics and allowing an equivalent product to be offered. Brand names are among the most restrictive types of specification.

(d) Non-competitive practices between firms or affiliated companies.

(e) Noncompetitive contracts with consultants that are on retainer contracts.

(f) Organizational conflicts of interest.

(g) Any arbitrary action in the procurement process.

Sec. 2-482. - Geographic Preferences Prohibited.

The use of statutorily or administratively imposed state, local, or tribal geographical preferences is prohibited in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section

preempts any Virginia law requiring that a contractor within a particular profession be licensed within the Commonwealth. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Sec. 2-483. - Affirmative Steps Pertaining to Minority and Other Businesses.

The town is required to take certain steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this section.

Sec. 2-484. - Recovered Materials.

The town must comply with certain laws that require a preference for items that protect the environment, including Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Sec. 2-485. - Equal Opportunity.

All contracts greater than $3,500 must contain a clause in which the contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the contractor agrees to comply with all applicable Federal laws and regulations pertaining to nondiscrimination.

Sec. 2-486. - Federal Awarding Agency Review.

The town must make procurement documents and technical specifications available to the federal awarding agency upon request. The town may affirmatively seek review by the federal awarding agency when the town believes that such review is needed to comply with federal regulations.

Sec. 2-487. - Debarment and Suspension.

A contract award must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM). The SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.

Sec. 2-488. - Davis-Bacon Act.

All procurements for federally-assisted construction contracts in excess of $2,000 must require the contractor to comply with the Davis-Bacon Act, as supplemented by United States Department of Labor regulations, which require that the contractor and its subcontractors pay prevailing wages to certain categories of employees.

Sec. 2-489. - Byrd Anti-Lobbying Amendment.

All federally-funded procurements in excess of $100,000 must require that bidders and offerors provide a certification that the funds will not be used to pay any person or organization to lobby agencies, members of Congress, or other federal officials. In addition, any lobbying in connection with obtaining any federally-funded project must be disclosed.

Sec. 2-490. - Other Required Federal Contract Clauses.

Certain contract clauses are required in federally-funded contracts, such clauses being dependent on the nature of the goods or services being procured and the dollar amount of the contract. Please consult Appendix 1 for a list of many required state and federal contract clauses. On larger contracts or with atypical funding sources, the town should consult with counsel prior to the issuance of a procurement solicitation.

~~Sec. 2-447. - Contractual disputes.~~

Town of Luray, Virginia

Town Council Agenda Statement

Item No: VII-L

Meeting Date: September 14, 2020

Agenda Item: TOWN COUNCIL CONSIDERATION
Item VII-L – Resolution on Equal Protection and Equality for Town Citizens

Summary: The Town Council is requested to consider adoption of a Resolution on Equal Protection and Equality for Town Citizens. The Town of Stephens City adopted a similar Resolution at their September 1st meeting.

Council Review: N/A

Fiscal Impact: N/A

Suggested Motion: I move that Town Council approve the Resolution on Equal Protection and Equality for Town Citizens as presented.

Alternative Motion: I move that Town Council postpone action on the Resolution until discussion at a future Work Session.

RESOLUTION
EQUAL PROTECTION & EQUALITY
FOR TOWN CITIZENS

BE IT RESOLVED that the Common Council of the Town of Luray hereby proclaims its intentions to promote and ensure its residents shall be free and safe from discrimination of all types.

Small Virginia communities have always played an important role in setting the standard for safety, security and harmony in the lives of all of its citizens. Residents deserve to live in a community that is culturally sensitive, responsive, and provides a safe environment for its residents, children, families, and elders to live, grow and prosper.

The Town proclaims that discrimination of all types, no matter its base, including discrimination based upon race, creed, color, religion, national origin, sexual orientation or age have no place in this Town. The Town of Luray hereby pledges to do its part in advocating and enforcing equal protection of the laws and rights of all of its citizens and to promote the welfare of this community. This Town will work to move forward with a community that is blind to labels and titles and is intolerant of discrimination. The Town seeks to unify all of its people under the banner of equality.

The Town proclaims that it will endeavor to continue to build and create an inclusive community. Wherever there is a system of oppression within its boundaries, the Town will work to positively heal this system. Wherever there are Town individuals, citizens, families, groups, and organizations that are marginalized, the Town will work positively to promote healing, reconciliation, and justice.

The Town proclaims that the laws of this community, the Commonwealth of Virginia, and the United States of America apply equally to all of its citizens, as guaranteed by both the U.S. Constitution and that of the Commonwealth of Virginia. The Town will use its resources and the power of its people to guarantee its citizens such protections. Moving forward, the people of the Town are united as one.

Adopted: September 14, 2020

_____

Mayor

RESOLUTION
EQUAL PROTECTION & EQUALITY
FOR TOWN CITIZENS

CERTIFICATE

I certify that I am the Clerk of the Town of Luray, Virginia, and that the foregoing is a true copy of the Resolution adopted by the Council of the Town of Luray, Virginia, on September 14, 2020, upon the following vote:

NAME	AYE	NAY	ABSTAIN	ABSENT
Mayor Presgraves[1]				
Ronald "Ron" Vickers	X			
Jerry Dofflemyer	X			
Jerry Schiro	X			
Leroy Lancaster	X			
Joey Sours	X			
Leah Pence	X			

Date: September 14, 2020

[SEAL]

ATTEST: _____
Clerk, Town Council of
Town of Luray, Virginia

[1] Votes only in the event of a tie.