



FAIRFAX COUNTY PARK AUTHORITY



M E M O R A N D U M

TO: Chairman and Members
Park Authority Board

FROM: Sara Baldwin, Acting Executive Director

David Buchta, Historic Preservation
Resource Management Division

DATE: October 5, 2017

Agenda

Committee of the Whole
Wednesday, October 11, 2017 – 6:15 p.m.
Boardroom – Herrity Building
Chairman: William G. Bouie
Vice Chair: Mary Cortina

1. Resident Curator Program – Lease Agreement between the Park Authority and Board of Supervisors and Sublease Agreement between the Board of Supervisors and Resident Curator Steven McCullough for the Park Authority owned Stempson House that is in Laurel Hill Park, Tax Map # 107-3((1))19 – Action*
2. Park Authority Board – Policy 104 – Standards of Conduct – Information*

*Enclosures



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ACTION

Resident Curator Program – Lease Agreement between the Park Authority and Board of Supervisors and Sublease Agreement between the Board of Supervisors and Resident Curator Steven McCullough for the Park Authority owned Stempson House that is in Laurel Hill Park, Tax Map # 107-3((1))19 (Mount Vernon District)

ISSUE:

Approval of two (2) lease agreements for the Park Authority owned Stempson House, 9501-9599 Furnace Road, Lorton, Virginia, that has been placed in the County Resident Curator Program.

RECOMMENDATION:

The Park Authority Acting Executive Director recommends approval of two (2) lease agreements for the purposes of implementing the County Resident Curator Program at the Park Authority Stempson House in Laurel Hill Park: (1) lease agreement between the Park Authority and the Board of Supervisors, and (2) sublease agreement between the Board of Supervisors and Steven McCullough, Resident Curator.

TIMING:

Board Approval is requested on October 11, 2017.

BACKGROUND:

For the Resident Curator Program, legislation stipulates that a potential property must be owned or leased by the locality and have a public benefit for our parkland for it to be eligible for lease under the provisions of the Resident Curator Program. As a part of the public outreach process to select a resident curator, the selected applicant presented their proposal and workplan in a public forum. Afterwards, the public had 30 days to comment on the proposal. The evaluation committee met to make its decision to create a draft lease for the selected applicant and consider any public comments. To implement the Resident Curator Program, the Park Authority is required to enter a lease agreement with the Board of Supervisors so that the Board of Supervisors can enter into a lease agreement with the potential curator.

The Resident Curator Program administrative staff received one application in March 2017 for the Stempson House in response to an Invitation to Submit (ISA). The application was evaluated through an administrative and financial team review process.

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The Resident Curator Evaluation Team recommended the application move forward to the Park Authority Board and the appointment of Steven McCullough as the Resident Curator subject to lease approvals.

Mr. McCullough proposed to rehabilitate the house and garage for use as a private residence. He has proposed a lease term of approximately nine (9) years with a tentative start date of November 1, 2017. He intends to maintain the house and grounds (Attachment 1), create a pictorial blog of the rehabilitation process, and assist the Resident Curator Program by being a resource for other prospective curators. He agreed to open the house on occasion for public viewing.

FISCAL IMPACT:

Due to the prohibitive estimated costs of connecting to the public water and sanitary sewer systems, Resident Curator staff, on the direction of Park Authority Member Gorham, investigated alternative individual utility provisions for Stempson House. Staff recommends the following scope of work for this project:

- Archaeological survey for approximately four acres surrounding Stempson House
- Underground electrical service connection to house from Furnace Road
- Electrical fit up of house including new meter, panel box, breakers, and wiring
- Soil testing for new septic system
- Septic system redesign and installation
- Well drilling

Based on the scope cost estimate which includes installation of electrical service, septic system reconnection and well drilling, funding in the amount of approximately \$95,000 is required to design, permit, and construct this project. Funding in the amount of \$60,000 is currently available for this project in PR-000093-036, Stempson House (Resident Curator). The additional funding of \$35,000 is suggested to be allocated from 2016 bond funds set aside for the Park Authority's historic property improvements and documentation.

ENCLOSED DOCUMENTS:

Attachment 1: Map of House and Grounds

Attachment 2: Lease Agreement between BOS and FCPA

Attachment 3: Lease Agreement between BOS and Resident Curator

Attachment 4: Stempson Expenditure Budget

STAFF:

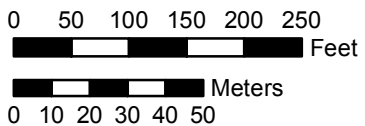
Sara Baldwin, Acting Executive Director

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Aimee L. Vosper, Deputy Director/CBD
Cindy Walsh, Acting Deputy Director/COO
David Bowden, Director, Planning & Development Division
Todd Brown, Director, Park Operations Division
Judy Pedersen, Public Information Office
Todd Brown, Acting Division Director, Resource Management Division
David Buchta, Branch Manager, Heritage Conservation Branch



Stempson House
Laurel Hill Park
Fairfax County Park Authority
2015 Aerial Pictometry (.25 ft)



LEASE AGREEMENT

THIS LEASE (“Lease”) made this _____ day of _____, 2017 by and between the **FAIRFAX COUNTY PARK AUTHORITY**, a body corporate and politic, as the landlord hereunder (“**Landlord**”) and the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a body corporate and politic, as the tenant hereunder (“**Tenant**”).

RECITALS

R-1 Landlord is the owner of certain real estate that includes the **STEMPSON HOUSE** (“**Stempson House**”), located at **9501-9599 Furnace Rd, Lorton, VA 22079**, in **LAUREL HILL PARK** (“**Park**”) that is identified in the Fairfax County Tax Administration records as **Tax Map 107-3(1)19**. The subject of this Lease is for a portion of the Park, which portion is a house, garage, and grounds collectively referred to as the Leased Property (“**Leased Property**”) as shown on **Exhibit A**.

R-2 Chapter 125, The Resident Curator Program Ordinance, to *The Code of the County of Fairfax Virginia*, established a **Resident Curator Program** (“**Resident Curator Program**”) to preserve and maintain historic properties owned or leased by Fairfax County by leasing historic properties to individuals or businesses for the purposes of maintaining and improving leased properties in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, 36 CFR Part 68 (2013), as amended.

R-3 Tenant desires to enter into a lease with **Steven J. McCullough** who will be the **Resident Curator** (“**Resident Curator**”) to rehabilitate the Stempson House and garage, and maintain the grounds, in accordance with the approved **Stempson House Work** consistent with the **Resident Curator Lease** (“**Resident Curator Lease**”) attached hereto as **Exhibit B**.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. **GRANT OF LEASED PROPERTY.** Landlord does hereby lease unto Tenant and Tenant does hereby lease from Landlord the Leased Property, which Leased Property includes nonexclusive access to the Leased Property through the Park as shall be designated by Landlord. Tenant agrees that there are no requirements imposed upon Landlord to perform improvements to the Leased Property.
2. **TERM OF OCCUPANCY.** The term of occupancy under this Lease (the "**Term**") shall be for a period of **eight (8) years and eight (8) Months** to begin at 12:00 noon on the **1st day of xxxxxxxxxx, 2017**, (“**Commencement Date**”) and, unless otherwise agreed by the parties hereto and, subject to early termination which will occur if the Resident Curator Lease terminates early, will expire on the **31st day of xxxxxxxxxx, 202X**, (“**Scheduled Termination Date**”). At the expiration of the tenancy hereby created, or upon any re-entry by Landlord into the Leased Property pursuant to any provision herein, Tenant shall surrender the Leased Property.
3. **RENT.** Not Applicable

4. **USE OF LEASED PROPERTY.** Tenant has leased the Leased Property for the purpose of entering into a sub-lease agreement with the Resident Curator in furtherance of the Tenant's Resident Curator Program. Landlord has negotiated and approved the terms of the sub-lease agreement, defined as the Resident Curator Lease above, and will be responsible for monitoring the Resident Curator's performance under the Resident Curator Lease and for ensuring the Resident Curator complies with the terms of the Resident Curator Lease.

5. **MEETINGS WITH REPRESENTATIVES.** Landlord, Tenant and Resident Curator shall meet quarterly starting on the date of this Lease. Tenant shall include a provision in the Resident Curator Lease requiring the Resident Curator to attend the quarterly meetings. The Landlord's representative is David Buchta, Heritage Conservation Branch Manager (or his designee or successor), (703) 324-8586. The Tenant's representative is Mike Lambert, Assistant Director, Facilities Management Department (or his designee or successor). The Resident Curator is Steven J. McCullough, and he shall be contacted at 8391 W. Thomas Street, Rome NY 13440 (315) 334-6241 until such time that he provides an alternate address in writing to the Landlord or he becomes a resident of the Stempson House.

6. **UTILITIES AND SERVICE CONNECTIONS.** Landlord and Tenant shall have no obligation to provide to the Leased Property, or to arrange for the availability at the Leased Property of, any utilities or services and they make no representations or warranties relating thereto or to the condition of the Leased Property. Tenant shall include a provision in the Resident Curator Lease that requires the Resident Curator to arrange for any utilities or services that it requires during the term of the Resident Curator Lease.

7. **REPAIRS AND MAINTENANCE.** Landlord and Tenant shall have no obligation to maintain or repair any portion of the Leased Property. Tenant shall include a provision in the Resident Curator Lease that requires the Resident Curator to perform any repairs or maintenance that is necessary to the Leased Property during the term of the Resident Curator Lease.

8. **END OF TERM.** Upon the expiration or other termination of this Lease or the Resident Curator Lease, the Tenant shall quit and surrender to Landlord the Leased Property.

9. **NOTICES.** Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Leased Property, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows:

(a) If to Tenant:

Director, Facilities Management Department
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035

(b) If to Landlord:

Executive Director, Fairfax County Park Authority
12055 Government Center Parkway, Suite 927
Fairfax, Virginia 22035

Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or referred by the party to whom it was sent.

10. TENANT'S FINANCIAL OBLIGATIONS. To the extent there are any financial obligations of the Tenant under this Lease, such financial obligations are subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.

11. PARK USE: Tenant acknowledges that Leased Property is located in a public park and, therefore, is subject to inconveniences due to the public nature of the grounds surrounding the Leased Property.

12. INTERPRETATION: All nouns used herein shall be interpreted and construed to include the singular, plural, masculine, feminine, or neuter forms in any place or places in which the context may require to indicate such interpretation and construction.

13. ENTIRE AGREEMENT: This Lease constitutes the entire agreement between Landlord and Tenant with respect to the Leased Property. This Lease shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

14. SMOKING: Smoking is prohibited at all of Landlord's properties.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals:

LANDLORD:

FAIRFAX COUNTY PARK AUTHORITY

By: _____

Sara Baldwin
Acting Executive Director
Fairfax County Park Authority

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of _____, 2017 by Sara K. Baldwin, in her capacity as the Acting Executive Director of the Fairfax County Park Authority, the Landlord hereunder.

My Commission expires: _____

Notary Public

Registration Number: _____

Witness the following signatures and seals:

TENANT:

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY**

By: _____
Dave Molchany, Deputy County Executive
Fairfax County

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of _____,
2017 by Dave Molchany, in his capacity as the Deputy County Executive of the Board of
Supervisors, the Tenant hereunder.

My Commission expires: _____

Notary Public

Registration Number: _____

RESIDENT CURATOR LEASE

COMMENCEMENT DATE: _____, 20__

between

BOARD OF SUPERVISORS OF FAIRFAX COUNTY as LESSOR (“LESSOR”)
and

STEVEN J. MCCULLOUGH as LESSEE (“RESIDENT CURATOR”)

on Property owned by the

FAIRFAX COUNTY PARK AUTHORITY (“PROPERTY OWNER”)

at the

Stempson House
9501-9599 Furnace Road
Lorton, Virginia 22079

in

LAUREL HILL PARK
Tax Map # 107-3((1))19

RESIDENT CURATOR LEASE

THIS LEASE (“Lease”) made this _____ day of _____, 2017, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY (BOS)**, 12000 Government Center Parkway, Suite 424, Fairfax, Virginia 22035, as **Lessor (“Lessor”)**, and **STEVEN J. MCCULLOUGH** as **Lessee (“Resident Curator”)** on property owned by the **FAIRFAX COUNTY PARK AUTHORITY (FCPA)**, a body corporate and politic, as **Property Owner (“Property Owner”)**.

RECITALS

RECITALS

R-1 Property Owner is the owner of certain real estate that includes the **STEMPSON HOUSE (“Stempson House”)**, located at **9501-9599 Furnace Rd, Lorton, VA 22079**, in **LAUREL HILL PARK (“Park”)** that is identified in the Fairfax County Tax Administration records as **Tax Map 107-3(1)19**. The subject of this lease is for a portion of the Park, which portion is a house, garage, and grounds collectively referred to as the **Leased Property (“Leased Property”)** as shown on **Exhibit A**. Property Owner leased the Leased Property to Lessor pursuant to a Lease dated _____ (“**Master Lease**”).

R-2 The Resident Curator Program Ordinance, Chapter 125, of *The Code of the County of Fairfax Virginia*, established a **Resident Curator Program (“Resident Curator Program”)** to preserve and maintain historic properties owned or leased by Fairfax County by leasing historic properties to individuals or businesses for the purposes of maintaining and improving leased properties in accordance with the **Secretary of the Interior’s Standards for the Treatment of Historic Properties**, 36 CFR Part 68 (2013) as shown on **Exhibit B**.

R-3 Subject to the Fairfax County Park Authority Laurel Hill Park General Management Plan and Conceptual Development Plan as of July, 2004 and incorporated by reference into this Lease, and the **Memorandum of Agreement**, attached as **Exhibit C** and incorporated by reference into this Lease, between the General Service Division (GSA), The Bureau of Land Management (BLM), The County of Fairfax, Virginia (The County), the Fairfax County Park Authority (FCPA), the Fairfax County Public Schools (FCPS), The Federation of Lorton Communities (FOLC), the Lorton Heritage Society (LHS), The Northern Virginia Regional Park Authority (NVRPA), the Virginia Department of Historic Resources (VDHR), and the Advisory Council on Historic Preservation (The Council), the Resident Curator responded to an **Invitation to Submit Application (“ISA”)** for participation in the Resident Curator Program at Stempson House, and the Lessor and the Property Owner accepted the **Resident Curator’s Response to the ISA (“Resident Curator’s Response to ISA”)** attached as **Exhibit D** and incorporated by reference into this Lease, and **Steven J. McCullough** as the appointed Resident Curator under this Lease.

R-4 Lessor desires to enter into a lease with the Resident Curator who will rehabilitate the Stempson House and garage, and maintain the grounds, in accordance with the **Resident Curator’s Response to the ISA**, the **Resident Curator Maintenance Guidelines and**

Checklist (“Maintenance Guidelines”), attached hereto as **Exhibit E** and incorporated into this Lease, the **Stempson House Treatment Plan (“Treatment Plan”)**, attached hereto as **Exhibit F** and incorporated into this Lease, **The Stempson House Building Evaluation (“Building Evaluation”)**, attached hereto as **Exhibit G** and incorporated into this Lease, and the **Resident Curator Stempson House Approved Work Plan (“Approved Work Plan”)**, attached hereto as **Exhibit H** and incorporated into this Lease. The Resident Curator’s Response to the ISA, Maintenance Guidelines, Treatment Plan, Building Evaluation and Approved Work Plan are collectively referred to as the **Curator Program (“Curator Program”)**. This Lease shall incorporate any **Additional Non-Discretionary Improvements and Additional Discretionary Improvements**, defined below, in accordance with Section 8 and Section 9 of this Lease.

R-5 All Resident Curator Program schedules and performance milestones associated with the Curator Program shall be collectively referred to as **Curator Schedule and Milestones (“Curator Schedule and Milestones”)**.

R-6 The Lessor delegated certain responsibilities to the Property Owner to effectuate efficient administration of the Resident Curator Program per a March 29, 2016 memorandum and Property Owner will monitor Resident Curator’s compliance with this Lease pursuant to the Master Lease.

R-7 Lessor, the Resident Curator, and the Property Owner will collectively be referred to as the **Parties (“Parties”)**.

NOW THEREFORE, the parties hereto mutually agreed as follows:

1. GRANT OF LEASED PROPERTY. Lessor does hereby lease unto Resident Curator and Resident Curator does hereby lease from Lessor the Leased Property, including nonexclusive access to the Leased Property through the Park via the driveway shown on Exhibit A. It is agreed that by occupying the Leased Property, Resident Curator acknowledges that he has had full opportunity to examine the Leased Property and is fully informed, independent of any statements by Lessor and Property Owner, as to the character, construction and structure of the Leased Property. All amenities and appliances, if any, are in "AS IS" condition and Lessor and Property Owner shall have absolutely no obligation whatsoever to repair such items or to replace any such amenities at the end of their useful life. It is agreed that by occupying the Leased Property, Resident Curator agrees that there are no requirements imposed upon Lessor or Property Owner to perform improvements or repairs to the Leased Property. Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that Resident Curator’s agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

2. ACCEPTANCE OF POSSESSION. Lessor shall deliver possession of the Leased Property to Resident Curator under this Lease on the **Commencement Date (“Commencement Date”)** of _____, 2017, and Resident Curator shall accept possession of the Leased

Property on the Commencement Date in its "AS IS" condition on the date of execution of this Lease.

3. TERM. The term of this Lease (the "Term") shall be for a period of eight (8) years and eight (8) months commencing on 12:00 noon on the 1st day of xxxxxxxx, 2017 ("**Commencement Date**"), and, unless otherwise agreed by the parties hereto and, subject to early termination if an Event of Default as described in Section 26 shall occur, or if Lessor shall otherwise elect to terminate this Lease as described in Section 25, or if Resident Curator shall elect to terminate this Lease in accordance with Section 6, this Lease will expire on the 31st day of xxxxxxxx, 2027, ("**Scheduled Termination Date**"). At the expiration of the tenancy hereby created, or upon any re-entry by Lessor into the Leased Property pursuant to any provision herein, Resident Curator shall surrender the Leased Property. Resident Curator does not have any right to extend or renew this lease except as provided for herein.

Notwithstanding the stated Commencement Date under the Lease, under no circumstances shall Resident Curator be permitted to occupy the Leased Property unless and until a **Residential Use Permit ("RUP")** or **Non-Residential Use Permit ("Non-RUP")** for the Leased Property has been issued by the appropriate Fairfax County ("**County**") Agency. If a temporary or partial RUP or Non-RUP has been issued by the appropriate County Agency, Resident Curator may occupy that certified portion of the Leased Property, but none other.

4. CURATOR SCHEDULE and MILESTONES: Resident Curator, at Resident Curator's sole expense and cost, shall timely perform and timely complete the Work, defined in Section 10 below, in accordance with the terms of the Curator Program. The Curator Program documents set forth in detail sufficient to satisfy the Lessor and Property Owner of the items, methodology and timeframes for the development, redevelopment, remediation, improvements, replacement, refurbishment, renovation, rehabilitation, major maintenance and repair of the Leased Property. The Resident Curator and Lessor acknowledge that this Lease, including the agreement that Lessor and Property Owner have no requirement to perform repairs or otherwise maintain the Leased Property, is entered into in good faith and that Resident Curator's agreement to perform the maintenance and repairs required under this Lease support the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306. The Approved Work Plan includes an outline of public benefit activities as presented in the Resident Curator's Response to the ISA as well as his public presentation to the Resident Curator Program's Application Evaluation Team on July 19, 2017, held at the Laurel Hill Golf Club.

6. EARLY TERMINATION. Lessor and Resident Curator agree that Resident Curator shall have the right at any time and for any reason to terminate this Lease prior to the Scheduled Termination Date ("**Early Termination Date**") provided that notice is given at least ninety (90) days prior to the Early Termination Date. Lessor reserves the right of Early Termination in an Event of Default as described in Section 26 and elsewhere in this Lease.

7. RENT, FAIR MARKET RENTAL VALUE. Residents Curator's consideration for the lease is the performance of the Curator Schedule and Milestones, which has an estimated value of \$165,000. The parties agree that adjusted **Fair Market Rental Value** for the eight (8) years and eight (8) month term is \$164,897.20 as shown on **Exhibit I** which is incorporated into this

Lease.

8. ACCOUNTING FOR REQUIRED WORK NOT INCLUDED IN THE CURATOR SCHEDULE AND MILESTONES. Resident Curator and Lessor acknowledge that there may be certain improvements that are necessary, that affect the structure of the Leased Property, that were unknown to the parties at the execution of this Lease, that are not included in the Curator Schedule and Milestones and that are capital in nature. These improvements are defined as “**Additional Non-Discretionary Improvements.**” If Resident Curator determines that he is required to effect such Additional Non-Discretionary Improvements, then he shall provide written notice to Lessor and Property Owner of all such Additional Non-Discretionary Improvements before commencing work on the Additional Non-Discretionary Improvements and may not commence such work until he receives consent in writing from Lessor and Property Owner. If Lessor and Property Owner agree that the improvements listed on that written notice qualify as Additional Non-Discretionary Improvements, then they shall notify Resident Curator in writing that they agree the improvements qualify as Additional Non-Discretionary Improvements and advise Resident Curator whether they consent to Resident Curator performing the Additional Non-Discretionary Improvements. The Parties may agree to add the cost of the Additional Non-Discretionary Improvements to the estimated rehabilitation project costs if before commencement of the Additional Non-Discretionary Improvements the Resident Curator first gives notice of any intent to add the cost of the Additional Non-Discretionary Improvements in writing with a cost accounting of all labor and materials to the Lessor and the Property Owner with a cost accounting of all labor and materials. Additional Non-Discretionary Improvements covered in this section shall be accounted for according to the template included in **Exhibit J.** Lessor and Property Owner reserve the right to refuse all or any part of such cost accounting.

9. ADDITIONAL DISCRETIONARY IMPROVEMENTS. **Additional Discretionary Improvements** (“**Additional Discretionary Improvements**”) are those improvements, capital or otherwise, that the Resident Curator decides to undertake for his own convenience or desire, and that are not covered by Section 4 or Section 8. Resident Curator may not perform any Additional Discretionary Improvements unless he has the written consent of Lessor and Property Owner, which consent may be withheld in their absolute discretion. Lessor and Property Owner reserve the right to refuse to consent to all or any part of Additional Discretionary Improvements. Resident Curator makes any such Additional Discretionary Improvements at his own risk and expense. Resident Curator understands that such Additional Discretionary Improvements become the property of the Property Owner at the time of installation.

10. CURATOR PROGRAM, ADDITIONAL NON-DISCRETIONARY IMPROVEMENTS, ADDITIONAL DISCRETIONARY IMPROVEMENTS. The Curator Program, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements shall be collectively referred to as **Work** (“**Work**”) for the purposes of plan submission, approval, permitting, and occupancy and performance of the improvements and rehabilitation. Approved installations of Curator Program, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements shall be collectively referred to as Improvements (“**Improvements**”) upon Completion of Work per Section 11.

11. REVIEW AND APPROVAL OF WORK. The Resident Curator shall submit all of the documents for proposed Work, including but not limited to the required plans and specifications, to the Property Owner for review and approval. Activity cannot start until the Property Owner has determined that the Work will have “no adverse effect” on the historic integrity of the Leased Property. Resident Curator shall not commence construction of any Work until the Property Owner has given final written approval.

In order to obtain approval for all Work, Resident Curator must send the Property Owner the following support information: (1) Narrative Summary of proposed improvements; (2) representative photos (digital or print) that clearly indicates the proposed project area; (3) a site map indicating the project area; and (4) any supporting material, material samples, plans, schematics and specifications that Property Owner determines is pertinent to review of the project. Property Owner shall review the plans and specifications for conformity with the terms of this Lease, and Property Owner shall, within ninety (90) days after receipt thereof, either approve the submissions or notify the Resident Curator in writing of disapproval, specifying the respects in which the submissions do not conform to the terms of this Lease. If Property Owner fails to respond within ninety (90) days, it will be deemed a disapproval of the plans and specifications.

In the event of disapproval, the Resident Curator shall resubmit the plans and specifications altered so as to conform to the terms of this Lease in those respects specified by the Property Owner as the grounds for disapproval. The re-submission shall be subject to review and approval by the Property Owner in accordance with the procedure provided above for an original submission, until the plans and specifications have been approved by the Property Owner.

If the Property Owner determines that the Work requires review by the Fairfax County Architectural Review Board (ARB), or that other regulations are in effect governing such Work that require review by another regulatory entity, then Property Owner will advise Resident Curator of that determination and Resident Curator will prepare required documents in accordance with the governing regulations and submit all required documents to the ARB or other regulatory entity for review with a copy to Property Owner. Work will be allowed to proceed if Property Owner consents in writing and the ARB or other regulatory entity determines that there will be no adverse effect on the Leased Property historic or archaeological resources. Resident Curator will inform Lessor and Property Owner of any such determination. In the event of a determination of adverse effect, Resident Curator must follow and fulfill any prescribed mitigation requirements.

A. Compliance. All Work undertaken by or for the Resident Curator at the Leased Property, and any future changes thereto, shall be in material conformity with all applicable Laws, including, without limitation, the Americans With Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq. and Resident Curator’s insurance policies.

B. Permits, Due Diligence. Resident Curator will comply with all applicable laws. Resident Curator shall obtain and pay for the preparation and approval of required Engineering, Architectural or other plans, permits, and inspections for any renovation, replacement and/or construction work undertaken by or for the Resident Curator. Any

architect or engineer undertaking any of the construction work shall carry professional liability insurance naming Resident Curator, Lessor, and Property Owner as additional insureds, and Resident Curator shall provide proof of such insurance to Lessor and Property Owner.

C. Construction by Contractor or Resident Curator. The term **Contractor** (“**Contractor**”) shall mean any person or entity, including the Resident Curator, that provides labor, materials or both for the construction, repair, restoration or rehabilitation of any portion of the Work, whether or not paid by Resident Curator. Contractor shall provide evidence of any required license (“**License**”), bond (“**Bond**”) and insurance (“**Contractor’s Insurance**”) for Work performed by Contractor in accordance with all applicable local, state and federal regulations. Contractor shall provide a warranty for at least one (1) year for completed Improvements.

D. General Provisions Governing Work.

(i) No Contractor shall commence Work until all applicable construction permits, including the building permits and all other permits, certificates, and approvals for the commencement of such construction have been issued and remain in effect.

(ii) Once commenced, the Work shall be prosecuted continuously and with diligence in accordance with the Curator Schedule and Milestones.

(iii) Resident Curator shall dispose of all waste and debris from any demolition of the existing structures and any Work performed on the Leased Property. All such disposal shall be performed in accordance with all applicable laws and regulations.

(iv) Work will be of high quality and performed in a workmanlike manner, free from faults and defects.

(v) While the Work is in progress, Resident Curator shall maintain, or shall require its Contractor(s) to maintain, worker’s compensation insurance in the amounts required by law (or reasonably comparable insurance if such insurance is no longer available); builder’s risk (or such reasonably comparable insurance) insurance on an “all risk” basis (including collapse) insuring against casualty to such construction for full replacement value of the work performed and the equipment, supplies and materials furnished and stored, unless such insurance coverage is provided under policies carried by Resident Curator; automobile liability in the minimum amounts required by law; and public liability insurance within limits in an amount reasonably satisfactory to Lessor and Property Owner.

E. Payment for Work. Resident Curator shall pay the entire cost of all Work in cash or its equivalent within the time periods specified in its construction contracts, or promptly where there is no such contract.

F. Inspection of Work. Lessor and Property Owner shall enter upon the Leased Property from time to time upon reasonable notice to Resident Curator and without material interruption to the Work, for the purpose of inspecting the Work being performed by or on behalf of Resident Curator, and such entry shall not be construed to be a violation of Resident Curator's right to the Leased Property.

G. Time for Completion of Work. Notwithstanding any provision of this Lease, including any applicable cure period for a default or Force Majeure, the Work shall be completed in accordance with the Curator Schedule and Milestones and all applicable laws and regulations, including any applicable State or Local Building Code. Resident Curator shall commence the Work and shall complete the Work in accordance with Curator Program documents.

H. Record Set of Drawings. Resident Curator shall furnish Lessor and Property Owner with a complete record set of any final plans and specifications for any Work constructed by or for Resident Curator, together with copies of all final permits and approvals issued by local plumbing, gas, electrical, building and other inspectors.

I. Mechanics' Liens. No mechanics, materialmen or similar lien shall ever attach against Lessor or Property Owner's interest in and to the Leased Property by reason of any Work performed by or for Resident Curator. If any lien relating to the construction of any Work is filed against Lessor, Property Owner or Resident Curator's interest in the Leased Property and said lien is not dissolved within sixty (60) days after the date for payment under the contract for said work, then Resident Curator shall discharge the same by payment or by filing any necessary bond within fifteen (15) days after the expiration of said sixty-day period.

J. Completion of Work. The Work shall be considered complete ("Completion of Work") for the purposes of this Lease only when Resident Curator has performed all of the Work including (i) complete installation of all structural and mechanical elements, fixtures, life safety systems, decorations, and landscaping, (ii) proper offsite removal and disposal of construction debris, and (iii) provided proof that all governmental inspections have been completed, and all permits, approvals, certificates and the like, if any, necessary for the lawful use and occupancy of the Leased Property or any portion thereof, have been issued, including, any temporary or permanent certificates of occupancy, a copy of which shall be delivered by Resident Curator to Lessor and Property Owner.

12. CONTROL OF WORK AND OWNERSHIP OF IMPROVEMENTS. Property Owner shall continue to have title to the Leased Property and Resident Curator, subject to the terms of this Lease, shall have control of the Work within the Leased Property. Upon the expiration or termination of this Lease, all approved Improvements shall become the property of Property Owner with no compensation to Resident Curator for any Improvements which may have been paid for by or on behalf of Resident Curator.

13. UTILITIES AND SERVICE. Resident Curator shall be responsible for securing accounts with local utility companies in order to activate service of all utilities, as well as paying

for all of the required utility services for the Leased Property. Utilities and services used at the Leased Property shall be consistent with this Lease.

14. USE OF LEASED PROPERTY. Resident Curator shall have the right to use the Leased Property as a residence for Resident Curator and his immediate family. For the purposes of this Lease, “immediate family” means the Resident Curator’s spouse and children. If Resident Curator would like any individual other than his immediate family to reside in the Leased Property, he must receive written consent from Property Owner for that specific individual to reside in the Leased Property. Resident Curator shall provide Property Owner with a written list of all individuals who are authorized by Resident Curator to have keys or access to the Leased Property and all individuals age eighteen (18) years and over who live in the Leased Property. Resident Curator shall keep this written list current and shall review and update it periodically, providing updates to Property Owner within two (2) days upon request.

Resident Curator shall be responsible for performance and compliance with all applicable laws, rules, orders, ordinances and regulations related to the Leased Property. Resident Curator may be required to work with Lessor and the Property Owner to apply for permits and to comply with reviews including those required under VDEQ regulations, if any, all at Resident Curator’s expense.

Lessor and Property Owner agree that if Resident Curator shall perform, fulfill and observe the other obligations and liabilities of Resident Curator under this Lease prior to the expiration of any grace or cure period applicable thereto, if any, Resident Curator shall peacefully and quietly have, hold and enjoy the Leased Property.

15. SIGNS AND MARKETING. Lessor and Property Owner shall have the right to install one or more **Signs or Kiosks** (“**Signs**”) on the Leased Property on the exterior and in the interior of the buildings provided that such Signs shall not unreasonably interfere with Resident Curator’s use of the Leased Property. Resident Curator shall have the right to install interior and exterior signs on the Leased Property only if he receives written consent from Lessor. No signage, whether exterior or interior, that is visible from the exterior shall include any commercial advertising beyond the identification of the Resident Curator and the Leased Property. Any signage at the entrance to the Leased Property or otherwise visible to the public will require the prior review and approval of the Property Owner, it being agreed by Resident Curator that Lessor’s or Property Owner’s name and logo shall be included in major signage such as entrance signage. Property Owner shall have the right to install a plaque or other designating signage on the property in order to indicate the name of Stempson House and its inclusion in Resident Curator Program. The location and method of installation will be determined in consultation with Resident Curator. If Resident Curator proposes any directional signs for the Leased Property located off of the Leased Property, the Property Owner retains the right to review and approve any signs in its absolute discretion.

16. PARK USE. Resident Curator acknowledges that Leased Property is located in a public park and, therefore, is subject to inconveniences due to the public nature of the grounds surrounding the Leased Property, and subject to **Fairfax County Park Authority Regulations** (“**Park Authority Regulations**” attached hereto as **Exhibit K** and incorporated into this Lease

by reference. Property Owner will identify key points of contact for all inquiries regarding construction or other activities that impact the operation and management of Park. Resident Curator shall provide two (2) week advanced written notification to the Property Owner Contact and the Laurel Hill Park Contact for any Work or other activities that could potentially impact or interfere with Park operations and Resident Curator shall adjust Work or other activities if required by Property Owner.

Property Owner Contact: David Buchta, Heritage Conservation Branch Manager, Resource Management Division, david.buchta@fairfaxcounty.gov, (703) 324-8586

Lessor Contact: Mike Lambert, Assistant Director, Facilities Management, michael.lambert@fairfaxcounty.gov, (703) 324-2825

Laurel Hill Park Contact: Ed Richardson, Area 4 Manager, Park Operations Division, ed.richardson@fairfaxcounty.gov, (703) 425-2123

Resident Curator Contact Info: Steven J. McCullough, *email, phone*

The contacts listed in this Section may be changed by any Party through the Notice process set forth in Section 27.

17. PUBLIC ACCESS. Resident Curator shall allow public access, including programmatic access, to the Leased Property to the public consistent with the historic property's nature and use as agreed upon by the Parties in writing (email confirmation is acceptable) for the purpose of providing public access to the historic qualities of the property, pursuant to the Resident Curator Program. A failure to allow the public access required in this section will be an Event of Default.

18. MEETINGS WITH PARTIES. Parties shall meet quarterly or more frequently at the request of any Party, at a location determined by the Property Owner, starting on the Commencement Date of this Lease. The Property Owner's representative is David Buchta or his designee or successor. The Lessor's representative is Mike Lambert or his designee or successor. The Resident Curator is Steven J. McCullough, Resident Curator.

19. ANNUAL REPORT. Within ninety (90) days after the end of the first year of the term, and every year of the term thereafter, Resident Curator shall submit to the Property Owner a written **Annual Report** ("**Annual Report**") that summarizes the progress and status of the Resident Curator Program at the Leased Property for the then-ended fiscal year. The Annual Report shall demonstrate to Lessor's and Property Owner's reasonable satisfaction that Resident Curator is rehabilitating and maintaining the Leased Property in compliance with the Resident Curator Program and this Lease. The Annual Report shall also note the nature and dates for any public and community activities at the Leased Property, and the number of visitors participating in each event. Each Annual Report must contain a financial statement accounting for all Work completed to date as well as the value of any Work. Resident Curator will certify each Annual Report under the penalty of perjury, as being accurate, true, and complete, to the best of Resident

Curator's knowledge, belief, and ability to ascertain. Resident Curator's failure to file Annual Report within the time limits prescribed hereunder shall be considered an Event of Default.

20. PROPERTY OWNER APPROVAL. All reports, financial statements, analyses and other documentation provided by Resident Curator shall be subject to verification and audit by Lessor, Property Owner, agents or assigns. Resident Curator shall provide additional documents upon request if required as part of an audit.

21. INSURANCE. Resident Curator shall, at all times during the term of the Resident Curator Lease, maintain, or cause to be maintained, insurance on the Leased Property.

A. Public Liability and Property Damage Insurance. Resident Curator shall maintain comprehensive general liability insurance on an occurrence basis insuring against all claims and demands against, and liability of, any combination of Resident Curator, Lessor or Property Owner, and which names the Lessor and Property Owner as an additional insured for claims arising out of and in connection with the Leased Property or Resident Curator's use or occupancy of the Leased Property, in standard form to afford protection in such amounts as Lessor and Property Owner shall reasonably request, but, in any event, initially not less than \$1,000,000.00 per-occurrence. Limits may be based upon a combination of primary coverage (plus umbrella coverage), which policy shall include operations coverage which insures performance by Resident Curator of the indemnity provisions set forth in this Lease.

B. Property/Renter's Insurance - Personal Property. Resident Curator shall maintain on all Resident Curator's personal property on or about the Leased Property a policy of "all-risks" property insurance, with vandalism and malicious mischief endorsements, to the extent of at least 100% of their full replacement value. Resident Curator shall use the proceeds from any such policy for the replacement of such personal property.

C. Workers Compensation Insurance. If applicable, Resident Curator shall maintain Worker's Compensation Insurance, subject to the statutory limits of the Lessor and Property Owner.

D. Amounts of Insurance. If, in the reasonable judgment of Lessor or Property Owner, the types and amounts of insurance coverage at any time require adjustment, Resident Curator shall modify the types and amounts of insurance coverage, as directed by Lessor.

E. Insurance Companies. All insurance required under this Lease shall be issued by insurance companies authorized to do business in the Commonwealth of Virginia, with claims paying ability rating of A- or better and a financial class of V or better, as rated in the most recent edition of Best's Insurance Reports.

F. Certificate of Insurance. Resident Curator shall deliver Certificate(s) of Insurance bearing notations evidencing the payment of premiums or accompanied by

other evidence satisfactory to Lessor of such payment by Resident Curator to Lessor within thirty (30) days of the Commencement Date. Each Certificate of Insurance delivered under this Lease shall contain an agreement by the insurer, to the extent obtainable, that such policy shall not be cancelled or surrendered without at least thirty (30) days prior written notice to Lessor and Property Owner.

22. REPAIRS AND MAINTENANCE. Lessor and Property Owner shall have no obligation to maintain or repair any portion of the Leased Property. Resident Curator shall perform all repairs, rehabilitation and maintenance required to be performed as Work. Resident Curator shall also perform all necessary repairs and maintenance for the Leased Property during the term of this Lease. Resident Curator and Lessor acknowledge that Resident Curator's agreement to perform the maintenance and repairs required under this Lease is entered into in good faith and supports the purpose of the Resident Curator Program permitted under Va. Code § 15.2-2306.

23. NO HAZARDOUS CONDITIONS. Resident Curator shall not permit any hazardous materials, explosives, combustible, corrosive or erosive materials, as defined by the Fire Marshal, on the Leased Property or perform any action, or fail to perform any action, which would increase the cost of fire or other hazard insurance on the Leased Property.

24. PARTICIPATION IN ILLEGAL ACTIVITIES: If the Lessor or Property Owner determines that the Resident Curator has participated in or in any manner permitted any criminal activities on the Leased Property, Lessor or Property Owner reserves the right immediately to declare an Event of Default and Lessor shall thereafter have the immediate right to terminate this Lease.

25. TERMINATION OF LEASE OR END OF TERM. Upon the expiration or other termination of this Lease ("**Termination Date**"), the Resident Curator shall quit and surrender to Property Owner the Leased Property with all Improvements resulting from Work required to be performed in the original and addended **Curator Schedule and Milestones** completed, Additional Non-Discretionary Improvements, and Additional Discretionary Improvements completed, with the Leased Property broom cleaned, in such order and condition as Resident Curator is required to maintain the same hereunder, and Resident Curator shall remove all of its movable personal property therefrom to the extent that such personal property does not constitute a fixture to the Leased Property, failing which, such moveable personal property shall be deemed to have been abandoned.

26. DEFAULT.

A. An Event of Default ("Event of Default**")** shall occur if the following situations occur:

i. **Failure to Complete Work.** If Resident Curator does not achieve benchmarks in accordance with the Curator Schedule and Milestones, or it is anticipated by the Property Owner that the Resident Curator will be unlikely to achieve Completion of Work.

ii. Bankruptcy. If Resident Curator's estate shall be sold or Resident Curator files any petition or answer seeking any reorganization, arrangement, liquidation, dissolution, or similar relief for Resident Curator under the United States Bankruptcy Code, as then in effect, or any other present or future federal, state, or other statute, law, or regulation, or if Resident Curator seeks, consents to or acquiesces in the appointment of any trustee, receiver, or liquidator of Resident Curator or of all or any substantial part of Resident Curator's properties, or makes any general assignment for the benefit of creditors.

B. Remedy of Default. In addition to the Events of Default defined above, and except as provided herein, if any party fails to perform or observe any covenants, terms or conditions in this Lease within thirty (30) days after written notice thereof from the non-defaulting party, then such a failure to perform or observe shall also be considered an Event of Default and in addition to its remedies under this Lease, such non-defaulting party shall have all available rights and remedies at law and equity. The failure of one party to the action in case of a breach of the Lease or to enforce its rights hereunder shall not be deemed a waiver of any breach of this Lease. In the absence of written notice or consent, any such breach shall be a continuing one. This section however shall not be construed as a waiver of any defenses that one party may assert against the other under the Lease. The non-defaulting party shall have the right to terminate this Lease in the Event of Default.

27. NOTICES. Whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, and/or whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to the Leased Property, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows:

(a) If to Lessor:

Director, Facilities Management Department
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035

(b) If to Property Owner:

Director, Fairfax County Park Authority
12055 Government Center Parkway, Suite 927
Fairfax, Virginia 22035

(c) If to Resident Curator:

Steven J. McCullough, Resident Curator

Every such notice, demand, request or other communication hereunder shall be deemed to have been given or served for all purposes hereunder on the date on which it is received or referred by the party to whom it was sent.

Wherever in this Lease notice or requests to Lessor and a response is required within a specified period of time, the envelope containing the notice or request shall bear on the outside thereof and the first page of such notice at the top of such page, the following legend, printed in bold-face type in a font of at least fourteen (14) points in size:

NOTICE

THIS NOTICE REQUIRES REPLY WITHIN [] DAYS

with the blank in such legend filled in with the number of days for notice or request referred to in the applicable Section of this Lease, as appropriate.

28. DAMAGE BY FIRE, ETC. Resident Curator shall give prompt notice to Property Owner of any damage or loss by fire or other casualty to the Leased Property. If the Leased Property shall be partially or completely damaged by fire or other cause and the damage renders the Leased Property or the approaches thereto unfit for use and occupancy or repairs are not financially feasible in Property Owner's sole determination, at Property Owner's election, this Lease will terminate. Lessor and Property owner are not responsible for Resident Curator's personal goods lost or damaged during any fire or fire suppression activity, and Lessor and Property Owner shall have no obligation to replace such items or compensate Resident Curator in any way for such loss or damage.

29. INDEMNIFICATION and HOLD HARMLESS.

A. Risk. The Resident Curator shall assume all risk in connection with any and all activities engaged on the Leased Property, and shall be solely responsible and answerable in damages and any other equitable remedies for all accidents or injuries caused by the Resident Curator's activities.

B. Security. The Resident Curator shall be responsible for the security of the Leased Property and the protection of the assets and property. Lessor and Property Owner shall not be responsible for property of the Resident Curator's contractors, agents, representatives, employees, permittees, licensees, guests and invitees.

C. Indemnification and Hold Harmless. The Resident Curator will defend, hold harmless, and indemnify the Lessor and the Property Owner, and each of their agents, officers and employees, from any claims arising out of any violation of any law, ordinance or regulation affecting the activities authorized herein by this Lease. The Resident Curator will also defend, hold harmless, and indemnify the Lessor and the Property Owner from any claims for personal injury or death or damage to personal property, of whatever kind or nature, arising from the Resident Curator's activities on the Leased Property, including claims arising from the negligence, carelessness or willfulness

of any combination of the Resident Curator and his contractors, agents, representatives, employees, permittees, licensees, guests and invitees, as authorized under this Lease. The Resident Curator will also defend, hold harmless and indemnify the Lessor and the Property Owner from any claims arising from the Resident Curator's failure to provide adequate security within the Leased Property.

D. Claims. The Resident Curator shall not make any claims against the Lessor or Property Owner for any injury, loss, or damage to persons, including bodily injury or death, or damage to property arising out of or in connection with the actions or omissions of any combination of the Resident Curator, his contractors, agents, representatives, employees, permittees, licensees, guests and invitees. The Resident Curator shall waive any and all claims for compensation for any and all loss or damage sustained by reason of any interference by any public agency or official in the operation of this Lease.

E. Injunctive Relief. If an Event of Default shall occur, without limiting any other rights or remedies Lessor may have at law or in equity Lessor expressly reserving the right to injunctive relief, including specific performance under this Lease, Resident Curator hereby indemnifies and holds BOS and FCPA harmless from all loss of rent and costs including legal costs, and expenses which Lessor may incur from time to time by reason of the occurrence of the Event of Default, together with interest on any unpaid rent.

30. RIGHT TO REPOSSESS. Should any Event of Default occur, then, notwithstanding any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Lessor lawfully may, in addition to any and all rights and remedies otherwise available to Lessor at law, enter into and upon the Leased Property and repossess the same as of Property Owner's Leased Property, and expel Resident Curator and those claiming through or under Resident Curator or otherwise in occupancy and remove his or their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any rights or remedies to which Lessor might otherwise be entitled, for arrears of rent or preceding breach of covenant.

Lessor may send written notice to Resident Curator terminating the Term of this Lease and upon the receipt of such notice of termination, the Term of this Lease shall terminate. Resident Curator covenants and agrees any entry or re-entry by Lessor whether by summary proceedings, termination or otherwise, that Resident Curator shall be and remain liable for any obligations of the Resident Curator under the Lease. If Resident Curator has not achieved Completion of Work at the date of re-entry by Lessor or termination of the Lease, then Lessor and Property Owner each have the right to finish the Work at the Resident Curator's expense. Lessor and Property Owner shall have no other obligation to mitigate damages upon the occurrence of an Event of Default. Resident Curator acknowledges that the Leased Property belongs to the Property Owner.

31. WAIVERS. No waiver or oversight of any breach of covenant, condition, or agreement herein contained, or compromise of settlement relating to such a breach, shall operate as a waiver of the covenant, condition, or agreement itself, or of any subsequent breach thereof. Each

property insurance policy obtained in connection with this Lease shall include a waiver by the insurer of all rights of subrogation against whichever party, if any, is not an insured under such policy. Resident Curator acknowledges that the Lessor and the Property Owner are not required to procure or maintain insurance of any kind on or with respect to the Leased Property under this Lease.

32. ASSIGNMENT. Resident Curator shall not assign, transfer, convey, encumber, sublease, or dispose of its right or interest in the whole or any part of the Leased Property or enter into any agreement with any entity or person except employees of the Resident Curator to exercise substantial management responsibilities for the operations authorized hereunder, all of which shall be considered an impermissible transfer of Resident Curator's interest in the Leased Property.

33. INTERPRETATION. All nouns used herein shall be interpreted and construed to include the singular, plural, masculine, feminine, or neuter forms in any place or places in which the context may require to indicate such interpretation and construction.

34. ENTIRE AGREEMENT. This Lease constitutes the entire agreement between Lessor and Resident Curator with respect to the Leased Property. This Lease shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

35. KEYS AND SECURITY. Property Owner shall furnish the Resident Curator with two (2) sets of keys to the Stempson House. Property Owner shall have the right to retain sets of keys as Property Owner deems appropriate for maintenance and emergency purposes as provided herein.

36. ANIMALS. Pets or other animals, other than service animals as defined in the Americans with Disabilities Act, 42 U.S.C. § 12101, *et. seq.*, shall not be allowed without prior written approval from the Property Owner. If the Property Owner approves pets or other animals, such pets or animals shall be appropriately confined consistent with park use and public access.

37. SMOKING. Smoking is prohibited at all of Property Owner's properties.

38. SAFETY, SECURITY. Resident Curator shall be responsible for ensuring adequate law enforcement at the Leased Property when breach of the peace can be reasonably anticipated, or when required by the Park Authority Regulations which Resident Curator is required to comply with when in the Park. When applicable, Resident Curator shall develop and maintain safety and security plans for its own activities subject to Lessor and Property Owner prior written approval.

39. NONDISCRIMINATION. Resident Curator agrees that Resident Curator shall not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation, discriminate against any qualified employee, applicant for employment, contractor, subcontractor, or person or firm seeking to provide goods or services to Resident Curator, or deny any person access to the Leased Property or to any activities or programs

carried out upon the Leased Property. Resident Curator shall comply with all applicable laws prohibiting discrimination in employment or public accommodation.

40. REAL ESTATE TAXES. “**Real Estate Taxes**” shall mean real estate taxes levied, assessed, or imposed against the Leased Property or the leasehold interest created pursuant to this Lease. Resident Curator acknowledges the leasehold created pursuant to this Lease will be assessed for Real Estate Taxes and that he will pay timely pay all Real Estate Taxes imposed during the term of this Lease.

41. LIABILITY. No official, employee or consultant of the Lessor or Property Owner shall be personally liable to Resident Curator or to any successor in interest or person claiming through or under Resident Curator in the Event of Default or breach of this Lease or for any amount which may become due or on any claim, cause or obligation whatsoever under the terms of this Lease.

42. ESTOPPEL. Lessor and Resident Curator agree at any time and from time to time, upon not less than fifteen (15) days prior written request by the other, to execute, acknowledge and deliver to the other either a statement in writing certifying that this Lease is unmodified and in full force and effect or if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications, and that either under the Lease there is no default and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default, or that a default exists under this Lease and specifying the nature thereof, and the dates to which the rent and other charges have been paid in advance.

43. AMENDMENTS. This Lease may be modified or altered only by agreement in writing by **Amendment** (“**Amendment**”) between Lessor and Resident Curator after review and consent by the Property Owner.

44. GOVERNING LAW. Landlord and Tenant agree to be bound by the Laws of the Commonwealth of Virginia in any proceeding, whether in law or in equity, with respect to any dispute arising under this Lease. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

45. FORCE MAJEURE. In any case where Resident Curator is required to do any act other than the payment of money, delays caused by or resulting from Acts of God, war, civil commotion, fire, flood or other casualty, strikes, unavailability of materials or equipment, unusually severe weather or other causes beyond the reasonable control of Resident Curator, herein referred to as **Force Majeure** (“**Force Majeure**”), Force Majeure shall not be counted in determining the time when the performance of such act must be completed. The period of time for completion shall be extended by the same number of days as lost due to the Force Majeure event. If Resident Curator claims any delay was caused by Force Majeure, he must provide written notification to Property Owner within seven (7) days of the first day of delay caused by Force Majeure. This written notification (“**Force Majeure Notification**”) must set forth the basis for the claim of Force Majeure, the delay that was caused and the length of the delay. If the delay continues for a period of time longer than seven (7) days, then Resident Curator must

provide a Force Majeure Notification to Property Owner every seven (7) days until the delay no longer exists.

46. LESSOR'S FINANCIAL OBLIGATIONS. To the extent there are any financial obligations of the Lessor under this Lease, such financial obligations are subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.

47. AGREEMENT AND COVENANT. Every term, condition, agreement or provision contained in this Lease that imposes any obligation on Tenant or Lessor shall be deemed to be also a covenant by Tenant or Lessor.

48. NO PARTNERSHIP. Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Tenant, or to create any other relationship between the parties hereto other than that of Lessor and Tenant.

49. RECITALS. Recitals R-1 through R-7, above, are incorporated into this Lease and shall be binding on Lessor and Resident Curator.

[SIGNATURES ON FOLLOWING PAGES]

Witness the following signatures and seals:

LESSOR:

**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY**

By: _____
Kirk W. Kincannon, Acting County
Executive
Fairfax County

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this ____ day of _____, 20____ by Kirk W. Kincannon, in his capacity as the Acting County Executive of the Board of Supervisors of Fairfax County, the Lessor hereunder.

My Commission expires: _____

Notary Public

Witness the following signatures and seals:

LESSEE:

STEVEN J. MCCOLLOUGH

By: _____
Steven J. McCullough
Resident Curator

Commonwealth of Virginia :
County of Fairfax :

The foregoing Lease was acknowledged before me this _____ day of
_____, 2017 by Steven J. McCullough, in his capacity as the Resident
Curator.

My Commission expires: _____

Notary Public

Registration Number: _____

Stempson Utilities Expenditures

Revised 9/20/2017

	PROJECT TASKS	QUANTITY	UNIT	UNIT COS ¹	TOTAL	
ELECTRICAL	Dominion Electric	Underground connection to new meter			\$744.90	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
		Subtotal				\$744.90
ELECTRICAL	Benfield Electric	120/240 panel 200 amp main breaker	1	each	\$350.00	\$350.00
		Meter base	1	each	\$100.00	\$100.00
		Breakers	1	each	\$150.00	\$150.00
		Service Wire	1	each	\$80.00	\$80.00
		Misc Materials	1	each	\$150.00	\$150.00
		Ground rods and wires	1	each	\$125.00	\$125.00
		Permit and inspection	1	each	\$950.00	\$950.00
		Outlets, switches, and wall plates	1	each	\$300.00	\$300.00
		Smoke Detectors	1	each	\$325.00	\$325.00
		GFCI outlets	1	each	\$80.00	\$80.00
		Romex wire	1	each	\$3,500.00	\$3,500.00
		Electrician Labor	208	hour	\$38.50	\$8,008.00
		Material Mark-Up	10	percent	\$6,110.00	\$611.00
Subtotal				\$14,729.00		
SOIL TESTING	Soil Tech, Inc.	Soil studies with test boring			\$1,000.00	\$1,000.00
		Administrative Services			\$200.00	\$200.00
		Site Evaluations with Health Dept.			\$300.00	\$300.00
		Percolation Tests (if required)			\$1,500.00	\$1,500.00
		Health Dept fees			\$520.00	\$520.00
		Additional Soil Studies			\$1,000.00	\$1,000.00
Subtotal				\$4,520.00		
ARCHAEOLOGY	Dovetail	Phase 1 Estimate			\$13,979.00	
					\$0.00	
					\$0.00	
					\$0.00	
					\$0.00	
		Subtotal				\$13,979.00
SEPTIC	Five Star Septic	Estimate for new septic system (retrofitting existing)			\$45,000.00	
					\$0.00	
					\$0.00	
					\$0.00	
		Subtotal				\$45,000.00

SEPTIC DESIGN & ENGINEERING	TBD	Estimated			\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
Subtotal					\$1,500.00

WELL DRILLING	Groundwater Systems	6" Air rotary drilling	400	feet	\$10.25	\$4,100.00
		6" Steel casing installed	63	feet	\$12.50	\$787.50
		Well Grouting (up to 60' of casing and 15 b:	1	each	\$550.00	\$550.00
		Well cap	1	each	\$50.00	\$50.00
						\$0.00
						\$0.00
Subtotal					\$5,487.50	

PUMP & WATER	Valley Drilling	GOULDS 13GS20 PUMP END ONLY	1	each	\$952.00	\$952.00
		MOTOR 4" 2 HP, 3-PHASE	1	each	\$659.00	\$659.00
		CONSTANT PRESSURE 3AS20	1	each	\$1,443.00	\$1,443.00
		SPLICE SIZE 12/3	1	each	\$5.00	\$5.00
		TAPE GREEN WIDE WEATHERPROOF	2	each	\$8.50	\$17.00
		PIPE 1.25" SCH 120 PVC	360	each	\$2.44	\$878.40
		PIPE 200#PSI 1.25" PLASTIC	100	each	\$1.68	\$168.00
		TORQUE ARRESTOR	1	each	\$11.90	\$11.90
		CABLE GUARD 1.25"	18	each	\$6.20	\$111.60
		CHECK VALVE 1.25"	2	each	\$53.42	\$106.84
		UF WIRE SIZE 12/3	365	each	\$1.30	\$474.50
		NYLON SAFETY ROPE	365	each	\$0.12	\$43.80
		STAINLESS STEEL CLAMP 1.25"	4	each	\$4.84	\$19.36
		PITLESS ADAPTOR BR 1.25"	1	each	\$192.44	\$192.44
		UF WIRE SIZE 12/3	100	each	\$1.30	\$130.00
		WELL-X-TROL PRESSURE TANKWX202	1	each	\$330.00	\$330.00
		TANK TEE 1"	1	each	\$51.87	\$51.87
		PRESSURE GAUGE LIQUID FILLED	1	each	\$12.23	\$12.23
		RELIEF VALVE RV100 1/2"	1	each	\$12.12	\$12.12
		BOILER DRAIN 1/2"	1	each	\$9.70	\$9.70
		PIPE 1.25" SCH 40 PVC	20	each	\$0.96	\$19.20
		BALL VALVE 1" BRASS	1	each	\$29.92	\$29.92
		FUSED DISCONNECT 30A	1	each	\$55.08	\$55.08
		MISC 1.25" & 1" PVC - BRASS FITTINGS, JCT BOX, CONDUIT, HARDWARE, ETC.	1	each	\$85.00	\$85.00
		WALL SLEEVE W/PATCH	1	each	\$40.00	\$40.00
		WELL CHLORINATION	1	each	\$15.00	\$15.00
		10% off Materials (\$5,853.75)				-\$585.37
		PITLESS INSPECTION & BACKFILL	1	each	\$250.00	\$250.00
		45KW GENERATOR NO CHARGE	1	each	-	\$0.00
		HILTI DRILL NO CHARGE	1	each	-	\$0.00
CRANE SERVICE	1	each	\$225.00	\$225.00		
TRENCHER MINIMUM CHARGE	1	each	\$200.00	\$200.00		
REGULAR LABOR HOUR	38	each	\$62.50	\$2,375.00		
Subtotal					\$8,337.59	

Subtotals		\$94,297.99
Risk (Contingency)		\$0.00
Total (Scheduled)		\$94,297.99

Resident Curator Program Update

Presentation to the
Fairfax County Park Authority Board

October 11, 2017



Stempson House



Stempson House

Applicant: Steven McCullough

- * **Proposed Use:** Private Residence
- * **Public Benefit Components:**
 - * Rehabilitate what has become a potential eye sore
 - * Deter theft and vandalism
 - * Historic Preservation of a Park Authority Resource
 - * Vigilant eye on park property and Orchard Loop Trail
 - * Active role in the RCP as a resource and model for other curators, coordination with ACB
 - * Blog of the heritage conservation process

Stempson House

Applicant, Continued

- * **Rehabilitation Plan:** 3 phased plan
 - Initial phase
 - Move-in phase
 - Occupancy phase
- * **Estimated RCP Costs:** \$165,000
- * **Lease Term:** 8.8 years
- * **Experience:**
 - Remodeled 4 homes, DIY, Coast Guard Service
 - Familiarity with subcontractors

Fair Market Rental Value (FMRV) Stempson House

- * Rental Appraisal: \$30,000 Per Annum or FMRV
- * Lease: 8 years, 8 months
- * Est. Maintenance Costs: \$4,390
- * Occupancy/Management Costs: \$3,832
- * Revised Occupancy/Management Costs: \$6,579
- * FMRV Advertised Adjusted = \$21,778
- * FMRV Revised Adjusted = \$19,031

Resident Curator Process

Stempson House

- * **Marketing, Open House**
- * **Administrative Review**
- * **Financial Review**
- * **Evaluation Team Review**
- * **Lease Negotiations- Complete**
- * **BOS Leasing Process**

Leases

PAB



BOS

11/21/17

BOS



Curator

QUESTIONS?



**Fairfax County
Park Authority**

**RESIDENT
CURATOR
PROGRAM**

Committee Agenda Item
October 11, 2017

INFORMATION

Park Authority Board – Policy 104 – Standards of Conduct

During the scheduled review of all Park Authority policies, the Park Authority Board determined it was necessary to include clarifying language to Policy 104 – Standards of Conduct that addresses possible conflicts that may occur if a board member also serves on a board, commission, authority, etc. that holds an ‘agreement’ (i.e. Memorandum of Understanding, etc.) with the Park Authority.

A benchmarking exercise which included data gathering and research on other board’s bylaws, board member agreements, and charters both within Fairfax County and in other jurisdictions was conducted. The updated version of the Virginia Freedom of Information Act the Virginia Public Records Act; the Virginia Public Records Act, Article 4; Virginia Code (§ 2.2-3122) Prohibited Conduct Relating to Transactions; and Virginia Code (§ 2.2-3115) Disclosure by Local Government Officers and Employees were consulted to confirm that the position and language suggested below as modifications to the policy would be compliant.

The Office of the County Attorney was also consulted and has indicated that while this type of conflict is not a legal issue, what is important is the appearance of a conflict to the public if decisions are made on controversial items by board members with a potential conflict. Based on the County Attorney’s response and the data reviewed in the benchmarking exercise, it appears that most boards ask members to recuse themselves for items where there may be a real or perceived conflict of interest.

Unless otherwise directed by the board, the Policy 104 – Standards of Conduct will include language that requires board members to recuse themselves from participating in decisions where there is a real or perceived conflict of interest, and especially if they serve as a member of a board, commission, authority, etc. of an organization that holds an ‘agreement’ with the Park Authority.

ENCLOSED DOUMENTS:

Attachment 1: Policy 104 – Standards of Conduct (version as of July 12, 2017)

Attachment 2: Policy 104 – Standards of Conduct (revised)

STAFF:

Sara Baldwin, Acting Executive Director

Aimee Vosper, Deputy Director/CBD



Policy: 104	Title: Standards of Conduct
Date Approved:	Last reviewed: 6/26/2013
Objective: <u>Administration</u> Establish policies for the Park Authority that provide direction for the implementation of sustainable management practices in accordance with community needs.	

Purpose: This policy establishes the standards of conduct for Park Authority Board members and prescribes procedures for determining and addressing violations.

Policy Statement: Board members and employees shall adhere to the highest ethical standards and to all laws and regulations in the performance of their duties. Board members and employees shall avoid actual or perceived conflicts of interest in their responsibilities to the public.

Employees and the Park Authority Board are governed by the Code of Ethics, Standards of Conduct, and related administrative procedures detailed in the Fairfax County Merit System Ordinance and Personnel Regulations.

This policy provides standards of conduct for Board members. The provisions herein are not to be construed or applied in a manner contrary to applicable laws of the Commonwealth of Virginia.

The Board shall:

1. Recognize that it has a fiduciary duty with respect to the oversight and use of revenue fund assets.
2. Be responsible for the effective operations of the Authority by the establishment of policies and procedures that direct the activities of staff.
3. Hold the Director responsible for his or her conduct and the conduct of the Authority's business.
4. Base decisions upon available factual information and vote with honest conviction, unaffected by any bias.
5. Abide by majority decisions of the Board.
6. Remember that individual Board members have no authority outside the decision of a majority of the Board.

Policy 104 Standards of Conduct (continuation)

7. Avoid in appearance or in fact the use of their position to benefit themselves or any individual, organization or entity, apart from the total welfare of the Park Authority.
8. Disclose any financial or other private interest in any matter coming before the Board, and excuse themselves from participation in or voting on such matters.
9. Not accept directly or indirectly any gift, favor, loan, retainer, entertainment, compensation or other things of value that may conflict with the performance of official duties. A conflict shall be deemed to exist where a reasonable and prudent person would perceive that the acceptance might influence an official action or judgment.
10. Not reveal the deliberations of the Board in executive session or any other information acquired in the course of official duties when the deliberations or information are not available as a matter of public knowledge or record.
11. Not interfere either directly or indirectly with the day-to-day management of the Authority, either by issuing operational directives to staff or by using the influence or prestige of Board membership to affect operational matters.
12. Not serve as Board members in organizations that have agreements with the Authority.

Violations of the Standards of Conduct. Violations of the standards of conduct by a Board member shall be immediately forwarded to the Board's Executive Committee. The Executive Committee shall advise the affected Board member that a complaint has been lodged and is being investigated by the Committee, and then meet to consider the alleged violation, interview complainants and review related documents. If additional information is needed, the Committee shall investigate with the assistance of other Board members, staff or other resources as the Committee may deem appropriate. These efforts shall be discussed only in closed sessions pursuant to Virginia Code 2.2-3711 (A)(4); Any behavior/personnel matters must be discussed in closed session.

If, after the collection of all relevant and available information, the Executive Committee finds reasons to believe a violation has occurred, it shall bring the matter to the Board in Executive Session. The affected Board member shall be afforded an opportunity to present any and all information the Board member believes is pertinent to support his or her position.

Policy 104 Standards of Conduct (continuation)

The Board shall determine whether a violation has occurred and, if so, shall take corrective action. Board action may include a warning to the member, a vote of censure, official sanctions, and/or referral to the Commonwealth Attorney or County Attorney.

References:

1. Closed Meetings Code
<http://law.lis.virginia.gov/vacode/title2.2/chapter37/section2.2-3711/>

Supporting Documentation:

1. Memorandum of Understanding with the Board of Supervisors



FAIRFAX COUNTY PARK AUTHORITY POLICY MANUAL

Policy: 104	Title: Standards of Conduct
Date Approved:	Last reviewed: 6/26/2013
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The Board shall:

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2. Be responsible for the effective operations of the Authority by the establishment of policies and procedures that direct the activities of staff.
3. Hold the Director responsible for his or her conduct and the conduct of the Authority's business.
4. Base decisions upon available factual information and vote with honest conviction, unaffected by any bias.
5. Abide by majority decisions of the Board.
6. Remember that individual Board members have no authority outside the decision of a majority of the Board.

Policy 104 Standards of Conduct (continuation)

~~7. Disclose any financial or other private interest in any matter coming before the Board.~~

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~~7.8. Refrain from participating in consideration of any proposed action or other matter where the Board member may have a declared or perceived conflict of interest. Unless for special reasons the Board requests information or interpretation from the person or persons involved. Avoid in appearance or in fact the use of their position to benefit themselves or any individual, organization or entity, apart from the total welfare of the Park Authority.~~

~~8. Disclose any financial or other private interest in any matter coming before the Board, and excuse themselves from participation in or voting on such matters.~~

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9. Not accept directly or indirectly any gift, favor, loan, retainer, entertainment, compensation or other things of value that may conflict with the performance of official duties. A conflict shall be deemed to exist where a reasonable and prudent person would perceive that the acceptance might influence an official action or judgment.

10. Not reveal the deliberations of the Board in executive session or any other information acquired in the course of official duties when the deliberations or information are not available as a matter of public knowledge or record.

11. Not interfere either directly or indirectly with the day-to-day management of the Authority, either by issuing operational directives to staff or by using the influence or prestige of Board membership to affect operational matters.

~~12. Not serve as Board members in organizations that have agreements with the Authority.~~

Violations of the Standards of Conduct. Violations of the standards of conduct by a Board member shall be immediately forwarded to the Board's Executive Committee. The Executive Committee shall advise the affected Board member that a complaint has been lodged and is being investigated by the Committee, and then meet to consider the alleged violation, interview complainants and review related documents. If additional information is needed, the Committee shall investigate with the assistance of other Board members, staff or other resources as the Committee may deem appropriate. These efforts shall be discussed only in closed sessions pursuant to Virginia Code 2.2-3711 (A)(4); Any behavior/personnel matters must be discussed in closed session.

Policy 104 Standards of Conduct (continuation)

If, after the collection of all relevant and available information, the Executive Committee finds reasons to believe a violation has occurred, it shall bring the matter to the Board in Executive Session. The affected Board member shall be afforded an opportunity to present any and all information the Board member believes is pertinent to support his or her position.

The Board shall determine whether a violation has occurred and, if so, shall take corrective action. Board action may include a warning to the member, a vote of censure, official sanctions, and/or referral to the Commonwealth Attorney or County Attorney.

References:

1. Closed Meetings Code
<http://law.lis.virginia.gov/vacode/title2.2/chapter37/section2.2-3711/>

Supporting Documentation:

1. Memorandum of Understanding with the Board of Supervisors

FCPA Policy Review - Standards of Conduct

10/11/2017

Background

- ▶ Based on comments from committee members this statement was added
 - ▶ The Board shall:
 - *Not serve as Board members in organizations that have agreements with the Authority.*
- ▶ The revised language was presented to the Committee of the Whole and staff were directed to benchmark how other boards are addressing this issues.
- ▶ Staff gathering data on other board's bylaws, Board member agreements, and charters both within Fairfax County and in other jurisdictions.

A summary of the findings follow:

Source	Text
Fairfax County - Architectural Review Board (bylaws)	<u>Conflict With Any Application Involving A Member.</u> Members shall exempt themselves from taking part in the hearing, consideration, or determination of any application in which the Member or any of their immediate family or employer is financially interested.
Board of Park Commissioners, Boardman, Ohio (bylaws)	<u>Restraint on Participation.</u> A Commissioner of the Board or employee who has declared or has been found to have a conflict of interest in any proposed transaction or other matter shall refrain from participating in consideration of the proposed transaction or other matter, ...
National Association of Park Foundations (NAPF) - Board Member Agreement	<u>“... will act in the best interests of NAPF, and abstain from discussions and votes where (I) have a conflict of interest.</u> ”

Source	Text
<p>Fairfax County Boards and Commissions Office: The Virginia Freedom of Information Act (VFOIA) and the Virginia Public Records Act Documents (Package A) - This document has just recently been updated (July 25, 2017) and posted to the County site. The two relevant passages are provided.</p>	<p>Article 4. Prohibited Conduct Relating to Transactions (§ 2.2-3112) Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction <u>shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent- subsidiary or affiliated business entity relationship with the business in which he has a personal interest...</u> The officer or employee shall <u>disclose his personal interest</u> as required by subsection E of §2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction.</p>
	<p>§ 2.2-3115. <u>Disclosure by local government officers and employees.</u> Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest...</p>

Summary of Changes

- ❑ Delineate the policy requirements of the Board and Board Members
- ❑ Deleted:
 - ❑ The Board
 - ❑ Not serve as Board members in organizations that have agreements with the Authority.
 - ❑ Disclose any financial or other private interest in any matter coming before the Board, and excuse themselves from participation in or voting on such matters.
- ❑ Replaced with:
 - ❑ The Board Members will:
 - ❑ Refrain from participating in consideration of any proposed action or other matter where the Board member may have a declared or perceived conflict of interest. Unless for special reasons the Board requests information or interpretation from the person or persons involved. Avoid in appearance or in fact the use of their position to benefit themselves or any individual, organization or entity, apart from the total welfare of the Park Authority.

Next Steps

- ▶ Final review from Office of the County Attorney
- ▶ Final review by Board and Approval