

Issue Analysis Form



Date: March 9, 2021
Item: Resolution to authorize public hearing for approval of Lease Agreement for Walton Elementary School Property
Lead Department(s): County Attorney
Contact Person(s): Dan Whitten

Description and Current Status

The Prince George County School Board has requested to lease a 75 acre property on Middle Road (Tax Map #120(07)00-00A-2) owned by the County to construct the new Walton Elementary School.

Authority is granted to the County by Virginia Code Section 15.2-1800 to lease out real property owned by the County.

A Lease Agreement is attached for review. The lease has a 30 year term with automatic 10 year renewal terms. The School Board is required to maintain comprehensive general liability insurance on the property naming the County as additional insured. The School Board is also required to have insurance coverage for the full replacement cost of improvements.

A resolution authorizing a public hearing to consider the approval of the Lease Agreement is attached; a motion approving the resolution is requested.

Sample Motion: I move that the Board approve the resolution authorizing the advertisement of a public hearing to approve the Lease Agreement between Prince George County School Board and the County of Prince George for the Walton Elementary School Property.

Government Path

Does this require IDA action?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does this require BZA action?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does This require Planning Commission Action?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does this require Board of Supervisors action?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does this require a public hearing?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If so, before what date?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Fiscal Impact Statement

County Impact

Notes

Board of Supervisors
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia, this 9th day of March, 2021:

Present:

Floyd M. Brown, Jr., Chairman
Marlene J. Waymack, Vice-Chair
Alan R. Carmichael
Donald Hunter
T. J. Webb

Vote:

A-1

On motion of _____, seconded by _____, which carried unanimously, the following Resolution was adopted:

RESOLUTION: AUTHORITY TO ADVERTISE A PUBLIC HEARING APPROVING THE LEASE AGREEMENT FOR WALTON ELEMENTARY SCHOOL PROPERTY

WHEREAS, Prince George County School Board has requested to lease property on Middle Road (Tax Map #120(07)00-00A-2) owned by the County to construct the new Walton Elementary School; and

WHEREAS, authority is granted to the County by Virginia Code Section 15.2-1800 to lease out real property owned by the County; and

WHEREAS, it is the desire of the County to encourage the maximum use of its properties consistent with their mission, in order to support government and civic activities and to contribute to the well-being of the County.

NOW, THEREFORE BE IT RESOLVED: That the Board of Supervisors of the County of Prince George this 9th day of March, 2021, does hereby authorize the advertisement of a public hearing to approve the Lease Agreement for Walton Elementary School Property.

A Copy Teste:

Percy C. Ashcraft
County Administrator

LEASE AGREEMENT FOR WALTON ELEMENTARY SCHOOL PROPERTY

PRINCE GEORGE COUNTY SCHOOL BOARD
AND
COUNTY OF PRINCE GEORGE, VIRGINIA

THIS LEASE AGREEMENT (the “Agreement”) is made and entered into this _____ day of _____, 2021 by and between the Prince George County School Board (the “School Board”) and the County of Prince George, Virginia (the “County”), a political subdivision of the Commonwealth of Virginia.

WITNESSETH:

WHEREAS the County is the sole owner of certain property located on Middle Road in Prince George, Virginia and known as Tax Map # 120(07)00-00A-2 (the “Property”); and

WHEREAS the School Board seeks to lease the Property in order to construct a new elementary school and other school related improvements (“Facilities”); and

WHEREAS the parties recognize the authority granted to the County by the Virginia Code, namely Virginia Code § 15.2-1800, to lease real property owned by the County; and

WHEREAS it is the desire of the County to encourage the use of its properties in order to support governmental and civic activities and to contribute to the well-being of the County; and

WHEREAS the use by the School Board of the Property is lawful and in the public interest.

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement, the parties agree as follows:

1. **Term of Lease.** The County agrees to lease the Property to the School Board for a term of **Thirty (30)** year(s), beginning on _____, 2021. At the end of the term or any extension or renewal thereof, the Agreement shall be automatically renewed for additional ten (10) year periods under the same terms and conditions, unless ninety (90) days prior

to the end of such term or any extension or renewal thereof, either of the parties delivers to the other party written notice of its intention not to renew this Agreement.

2. Rent. In consideration of the benefits accruing to the public by reason of the use of the Property, the School Board shall pay ten dollars (\$10) for annual rent to the County.

3. Construction in General. The School Board shall be responsible for the construction of Facilities on the Property. All construction shall be completed in a good and workmanlike manner with the plans approved in writing in advance by the County, which approval shall not be unreasonably withheld, and shall be done in compliance with all applicable building codes and other applicable laws and regulations. All improvements which are fixtures, including sinks, coolers, bathroom appliances, non-portable shelving units, counters and the like which are installed by the School Board shall become and remain part of the Facilities and become and remain the property of the County and may not be removed by the School Board without the written approval of the County. Movable and removable items of personal property are not to be considered as fixtures.

The site improvements and design layout for the new Walton Elementary School are set forth in the architectural and engineering plans of Moseley Architects, which plans are made a part hereof by reference.

4. Permits. In advance of performing any work, the School Board shall obtain, at its expense, all applicable permits, approvals, or other governmental authorizations.

5. Repairs and Maintenance. All repairs and maintenance for the Facilities, except as expressly stated in this Agreement, shall be the responsibility of the School Board. The School Board agrees to maintain the Property and Facilities in an appropriate manner at all times to include grounds maintenance and snow and ice removal.

6. Mechanical Systems. The School Board shall install and keep in good repair and operating condition heating, air conditioning, sprinkler, and alarm systems suitable for School Board's use of the Facilities.

7. Use of Facilities. The parties expressly agree that this lease is executed in order that School Board may use the Property and Facilities for school related uses, and that the Property and the Facilities shall not be put to any other use without the prior written consent of the County.

8. Utilities/Services. The School Board agrees to pay or provide for all utilities/services for all Facilities located on the Property to include the following:

- a. Water, sewer, heat, electricity, gas, all communications services, refuse collection, and any and all other utility services for the Facilities.
- b. Custodial and/or janitorial services for the Facilities.
- c. Lawn maintenance, landscaping and snow removal services for the Property.

9. Assignment/Sublease. This Agreement may not be assigned or transferred, and neither the Property nor the Facilities may not be assigned, transferred, or sublet.

10. Insurance and Liability. The School Board shall be responsible for insuring the improvements and its personal property in the Facilities and shall be responsible for liability to persons or property within the Facilities and on the Property. The School Board shall not modify or cancel such insurance policies without at least 30 days' prior notice to the County.

The School Board shall be responsible for insurance coverage to the extent of the full replacement cost of the improvements on the Property against loss or damage by fire or lightning, with broad form extended coverage, including damage by windstorm, explosion, aircraft, smoke, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally included

within such coverage (limited only as may be provided in the standard form for such coverage at the time in use in the Commonwealth of Virginia).

The School Board shall maintain for its own and the other party's protection, and at its own expense, a comprehensive public liability insurance policy, a copy of which shall be continuously furnished to the other party including evidence of payment of annual premiums therefore. The policy shall name the County, its agents and employees as additional insureds, in a form and with an insured amount as approved by the County with minimum coverages as follows:

- (i) Comprehensive General Liability Insurance
 - a. General Aggregate - \$1,000,000
 - b. Occurrence based deductible allowed - \$1,000
 - c. Premises and operations - \$1,000,000
 - d. Products and completed operations - \$1,000,000
 - e. Independent Contractors - \$1,000,000
 - f. Contractual –Leases - \$1,000,000
 - g. Explosion, collapse and underground hazards - \$1,000,000
 - h. Personal injury and advertising injury - \$1,000,000
 - i. Real Property and Personal Property damage - \$500,000
 - j. Contractual indemnity – Hold Harmless - \$1,000,000
 - k. Fire Damage (any one fire) - \$50,000
 - l. Medical Expenses (any one person) - \$50,000
- (ii) Automobile Liability
 - a. Combined Single Limit - \$1,000,000 (includes owned, hired and non-owned motor vehicles)

- (iii) Excess Umbrella Liability - \$1,000,000
- (iv) Workers Compensation Coverage required by Virginia Law

11. Damage or Destruction. In any case of casualty resulting in damage or destruction of the Property or Facilities or any portion, the School Board shall promptly give written notice to the County.

12. Additional Covenants by the County. The School Board covenants and agrees to keep the Property and Facilities clean and safe; to use the Property and Facilities in a reasonable manner; to conduct itself, its employees, agents, invitees and visitors in a manner that will not disturb unreasonably the neighbors in the quiet enjoyment of their premises; to take care not to intentionally or negligently destroy, damage, or remove any part of the Property or Facilities, and that it will not permit any person to do so; and to use the Property and Facilities in a lawful manner.

Upon the expiration or termination of this lease, the County agrees to deliver the Property and Facilities in good and clean condition, ordinary wear and tear accepted.

13. Signs. The School Board may display such exterior signs on the Property with the prior written consent of the County, which consent shall not unreasonably be withheld, and in a manner consistent with all applicable laws and regulations in the Prince George County Code.

14. No County Representations. The County makes no warranty or representation, express or implied, in respect to the leased premises or any part thereof, either as to its fitness for use, design or condition for any particular use or purpose or otherwise, or as to quality or material or workmanship therein, latent or patent; it being agreed that all such risks are to be borne by the School Board.

15. Easements. The School Board shall not install any improvements within the utility easements and access easement dedicated to the County as shown on the attached plat.

16. Modification. This Agreement may be modified only by a writing signed by both parties.

17. Interpretation. Interpretation of the provisions of this Agreement shall be in accordance with the laws of the Commonwealth of Virginia.

18. Venue. Any legal action arising out of this Agreement shall be filed by either party only in the Circuit Court of Prince George County, Virginia.

19. Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements and understandings of the parties in connection with the subject matter.

20. Authority. The parties each warrant and acknowledge that the person signing this Agreement has full legal authority to bind such party to this Agreement based on appropriate resolutions of each party.

21. Partial Invalidity. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect; and it is the intention of all the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

22. Counterparts. If this Agreement shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Agreement.

23. Effective Date. The Effective Date of this Agreement shall be the date that a fully signed original of this Contract is executed by Buyer and delivered to and signed by Seller.

24. Notice. All written notices required by this Agreement shall be submitted to the School Superintendent and the County Administrator, at the addresses below:

School Superintendent: Prince George County Schools
c/o School Superintendent
6410 Courts Drive
Prince George, Virginia 23875

County Administrator: Prince George County
c/o County Administrator
6402 Courts Drive, Third Floor
Prince George, Virginia 23875

IN WITNESS WHEREOF, and pursuant to the authority granted by duly recorded resolutions, the parties have caused this agreement to be executed on their behalf.

In accordance with § 15.2-1800, Code of Virginia, 1950, as amended, the lease agreement is approved by the County of Prince George, Virginia, a political subdivision of the Commonwealth of Virginia, as evidenced by the signature of the County Administrator, attached hereto pursuant to authority vested in him by Resolution of the Board of Supervisors adopted on March 23, 2021 and is approved as to form as evidenced by the signature of the County Attorney for the County of Prince George.

COUNTY OF PRINCE GEORGE VIRGINIA

By: _____
Percy Ashcraft
County Administrator

COMMONWEALTH OF VIRGINIA
COUNTY OF PRINCE GEORGE, TO-WIT:

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, at large, do hereby certify that **Percy Ashcraft**, County Administrator, whose name is signed to the foregoing Lease Agreement, dated the ____ day of _____, 2021, has this day personally appeared and acknowledged the same before me in my State and County aforesaid.

Given under my hand this ____ day of _____, 2021.

Notary Public

Commission expiration date: _____

Notary registration number: _____

APPROVED AS TO FORM:

Dan N. Whitten, County Attorney

PRINCE GEORGE COUNTY SCHOOL BOARD

By: _____

COMMONWEALTH OF VIRGINIA
COUNTY OF PRINCE GEORGE, TO-WIT:

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, at large, do hereby certify that _____ whose name is signed to the foregoing Lease Agreement, dated the ____ day of _____, 2021, has this day personally appeared and acknowledged the same before me in my State and County aforesaid.

Given under my hand this ____ day of _____, 2021.

Notary Public

Commission expiration date: _____

Notary registration number: _____