



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of May 18, 2019

DATE: May 10, 2019

SUBJECT: Westover Branch Library

- A. Memorandum of Understanding Between the County Board of Arlington County, Virginia and the Arlington County School Board concerning use of Westover Branch Library and its related facilities during construction of the New Elementary School at the Reed Site located at 1644 N. McKinley Road, Arlington, Virginia (RPC# 10-022-030).
- B. First Amendment to Deed of Lease between Arlington County School Board, as Landlord, and the County Board of Arlington County, Virginia, as Tenant, for the Westover Library located at 1644 McKinley Road, Arlington, Virginia (RPC# 10-022-030).

C. M. RECOMMENDATION:

- 1. Approve the attached Memorandum of Understanding Between the County Board of Arlington County, Virginia and the Arlington County School Board concerning use of Westover Branch Library and its related facilities during construction of the New Elementary School at the Reed Site located at 1644 N. McKinley Road, Arlington, Virginia (RPC# 10-022-030) ("MOU").
- 2. Approve the attached First Amendment to Deed of Lease between Arlington County School Board, as Landlord, and the County Board of Arlington County, Virginia, as Tenant, for the Westover Library located at 1644 McKinley Road, Arlington, Virginia (RPC# 10-022-030) ("First Amendment").
- 3. Authorize the Real Estate Bureau Chief, or his designee, to execute on behalf of the County Board, the MOU, First Amendment and all related documents, subject to approval as to form of all documents by the County Attorney.

ISSUES: Arlington Public Schools ("APS") has requested an amendment to the Deed of Lease ("Lease") between the County Board, as Tenant, and the County School Board, as Landlord,

County Manager:

MJS/SFW

County Attorney:

[Signature]

CR Sanders

Staff: Betsy Herbst, DES, Real Estate Bureau

37.

pertaining to the Westover Library Branch to address the revision of certain provisions of the Lease resulting from APS' construction and addition to the building and related facilities as approved on November 14, 2018 by an amendment to special exception U-3175-07-1. The proposed MOU contains the temporary provisions that apply to the use of the facility during the expected two-year period of construction. The First Amendment contains provisions concerning use of the facility following completion of the project when a portion of the facility will be used as a neighborhood elementary school. At the date of this report, there are no known issues related to this request.

SUMMARY: Westover Branch Library is located on property, and within a building, owned by the County School Board and operates under the terms of a Deed of Lease dated May 22, 2008 ("Lease"). APS has requested that the County enter into an MOU to address issues concerning use and operation of the Westover Branch Library during the period of construction at the Reed School site ("Project"). In addition, APS has requested that the County enter into the First Amendment to the Lease to address revisions necessary to the Lease that pertain to changes in use of the Library and certain common areas following construction of the new School, parking lots and fields.

BACKGROUND: The subject site, known as 1644 N. McKinley Road ("Property"), is located at the corner of Washington Boulevard and North McKinley Road near the Westover Shopping Center (see Vicinity Maps, Attachments 1-3). The existing building, that contains the Library and the former Reed School, was originally constructed using combined funds from both County and School Board sources on real property owned by the School Board.

The Library operates under the terms of the Lease dated May 22, 2008, between the School Board, as Landlord, and the County Board, as Tenant, which commenced on October 23, 2009, and has a term of 30 years with automatic 5-year renewals, unless notice is provided by the County to APS of its intention not renew. The Lease designated portions of the Building as the Library, under the control of the Tenant, and as the School, under the control of the Landlord. In addition, certain areas were designated as common areas, portions of which were under Tenant control and portions of which are under Landlord control, and certain areas were designated as parking areas.

On November 18, 2018, the County Board approved an amendment to U-3175-07-1 to allow APS to modify the footprint of the Building to increase the size of the school, modify certain common areas and the parking areas serving the Facility. Construction of the Project is expected to begin in September, 2019 and will last approximately two years, with a new neighborhood elementary school expected to be opened in September 2021.

DISCUSSION: APS has identified certain provisions of the Lease that will need to be modified during the period of construction, such as those provisions relating to Library access, parking, maintenance and utilities. The MOU, attached as Exhibit A, sets forth the temporary policies and procedures necessary for the shared use and operation of the facility during construction of the Project. Some of the pertinent provisions of the MOU are as follows:

- During Library operating hours, all entry and egress points shall remain available for use at all times.
- Library patrons will continue to have access to the Library through the existing plaza along North McKinley Road during construction.
- APS will install temporary sidewalks to provide access from the parking area to the Library prior to removing public access to the existing sidewalks. However, the temporary sidewalks will not be considered an accessible route due to the existing site slope.
- Accessible on-street public parking on North McKinley Road and the accessible ramp next to the plaza will continue to be available during construction.
- Any construction work involving the Library during occupied hours will require prior Library approval.
- There will be a minimum of 33 on-site parking spaces available for Library use during construction, although parking may be temporarily relocated to accommodate construction phasing.
- APS staff and construction workers will not use any on-site parking designated for Library use during construction.
- APS will be responsible for repair of any items determined to be damaged as a result of construction.
- APS and the County will continue to maintain their respective responsibilities for services and utilities as set forth in the Lease.
- APS will schedule any utility interruptions to the Library to occur when the Library is not operation. If a utility interruption that will impact Library operations is necessary, APS will provide advanced notice to the Library.

Upon completion of the Project by APS, certain provisions of the First Amendment will become effective to reflect changes in the use of the facility once the new elementary school is completed. The change in the Lease provisions are set forth in the First Amendment, attached as Exhibit B. Some of the pertinent provisions of the First Amendment are as follows:

- The square footage of the respective areas of the Building are revised to reflect the size of these areas following construction for the purposes of calculating maintenance responsibilities between APS and the County.
- The Playgrounds, Games Courts and Rear Green Space, which were common areas under the Lease are removed as common areas and will be part of the School space. New exhibits depicting these areas will be attached as exhibits to the Lease.
- The on-site Parking Spaces continue to be common space under the control of APS; however, 33 spaces shall be specifically designated for Library and visitor use, including Library and School visitors. Of the 33 allocated parking spaces, 15 of these spaces will be designated in the North 18th Street and Madison Street parking lot and 18 of these spaces will be designated in the North 18th Street and McKinley Street parking lot. The remaining parking spaces are non-exclusive use on a first come, first served basis.
- Updated APS Use of School Facilities policy and an updated Library Meeting Room Policies and Guidelines will replace outdated policies as attachments to the Lease.
- The Notice provision is updated to provide current addresses for APS and the County.

PUBLIC ENGAGEMENT:

Level of Engagement:

- Communicate

The amendment of a lease in which the County is a tenant and an MOU do not require specific public engagement measures to be implemented because there is no disposition of public property. However, the underlying change in use of the facilities were the subject of the use permit amendment in November 2018 that incorporated an extensive public engagement process both by the County and APS.

Outreach Methods:

- These items were placed on the agenda for the County Board meeting on May 18, 2019.

Community Feedback:

- As of the date of this report, staff has not received any feedback from the community.

FISCAL IMPACT: Operating costs for the Department of Libraries will continue to be included in the annual budget. Capital maintenance costs will come from the annual capital budget and will not be part of the Library's Operating Expenses.

**MEMORANDUM OF UNDERSTANDING BETWEEN
ARLINGTON COUNTY AND ARLINGTON PUBLIC SCHOOLS**

*Regarding the Construction of
The New Elementary School at the Reed Site and Westover Branch Public Library*

The following constitutes a Memorandum of Understanding (“MOU”) between the County Board of Arlington County, Arlington (hereafter identified as the “County”) and the School Board of Arlington County, Virginia (“APS”).

The County and APS intend for this MOU to be in accordance with the respective policies and procedures of each party, and to serve as a supplement to that certain Deed of Lease between APS, as Landlord, and the County, as Tenant, dated May 22, 2008 (“Lease”), for the shared use and operation of the New Elementary School at Reed (“School”) and Westover Branch Public Library (“Library”), 1644 McKinley Road, Arlington, Virginia 22205 (together, the “Project”).

Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Lease.

Construction on the Project (“Construction”) shall be made in accordance with the amendment to special exception U-3175-07-1, as approved by the County on November 17, 2018 (“Use Permit”).

Construction is anticipated to commence on or about September 1, 2019 and will conclude by on or about September 30, 2021 (“Construction Term”).

Notwithstanding the contrary in the Lease, the parties shall abide by the following during Construction:

I. ACCESS TO LIBRARY DURING CONSTRUCTION

1. During hours that the Library is occupied (“Occupied Hours”), all entry and egress points for the Library as shown on the attached Exhibit A shall remain unobstructed and available for Library staff and patron use at all times.
2. APS will vacate the School prior to the commencement of Construction.
3. Library patrons shall continue to have safe access to the Library through the existing plaza along North McKinley Road during Construction.
4. APS will install temporary sidewalks as shown on the attached Exhibit A to provide access from the parking area to the Library prior to removing public access to the

existing sidewalks. Due to the existing site slope, these temporary sidewalks will not be an accessible route for purposes of the Americans with Disabilities Act ("ADA").

5. With reasonable advance notice to the Library, APS and its construction team shall have access to Library space for the purposes of non-destructive survey and construction planning during Library operating hours. APS shall seek to minimize any disruption to the Library staff and patrons from such visits.
6. All Construction activities that generate noise and/or debris within the Library during Occupied Hours shall require prior Library approval. APS will give the Library staff 14 days' notice prior to any construction activities immediately adjacent to the Library that will likely generate noise or debris during Occupied Hours.

II. PARKING

1. At all times during Construction there will be a minimum of 33 on-site parking spaces available for Library use. Initially the parking spaces will be provided as shown on the attached Exhibit A. During Construction parking may need to be temporarily relocated to accommodate construction phasing adjacent to the parking lot at 18th Street North and Madison Street North (labeled "Common Parking" in the Lease). APS shall provide a minimum of 14 days' Notice to the Library prior to any changes to parking.
2. APS shall not use on-street parking on McKinley Road for Construction vehicles, staging or construction workers.
3. APS staff and Project construction workers will not use any on-site parking designated for Library use during Construction.

III. MAINTENANCE AND UTILITIES DURING CONSTRUCTION

1. During the Construction Term, the parties shall maintain their respective responsibilities for maintenance and repairs in the Library, School, Common Area, and Parking Areas, as set forth in Section 3 of the Lease, except as follows:
 - a. APS shall be responsible for repair of items damaged as a result of Construction.
2. During the Construction Term, the parties shall maintain their respective responsibilities for services and utilities in the Library, School, Common Area, and Parking Areas, as set forth in Section 5 of the Lease.

3. During the Construction Term, APS anticipates disruptions to electricity, natural gas, and water/sewer servicing the Library. APS shall not schedule these interruptions during Occupied Hours. In the event that the utility interruption and restoration will impact Library operations, APS shall provide a minimum of 14 days' Notice to the Library and to Arlington County's Facility Management Bureau prior to the interruption.

WITNESS the following signatures and seals:

WITNESS:

ARLINGTON COUNTY SCHOOL BOARD,
a body corporate and politic

By: _____(SEAL)

Name:

Name/Title: _____

Date: _____

WITNESS:

THE COUNTY BOARD OF ARLINGTON COUNTY,
VIRGINIA, a body corporate and politic

By: _____(SEAL)

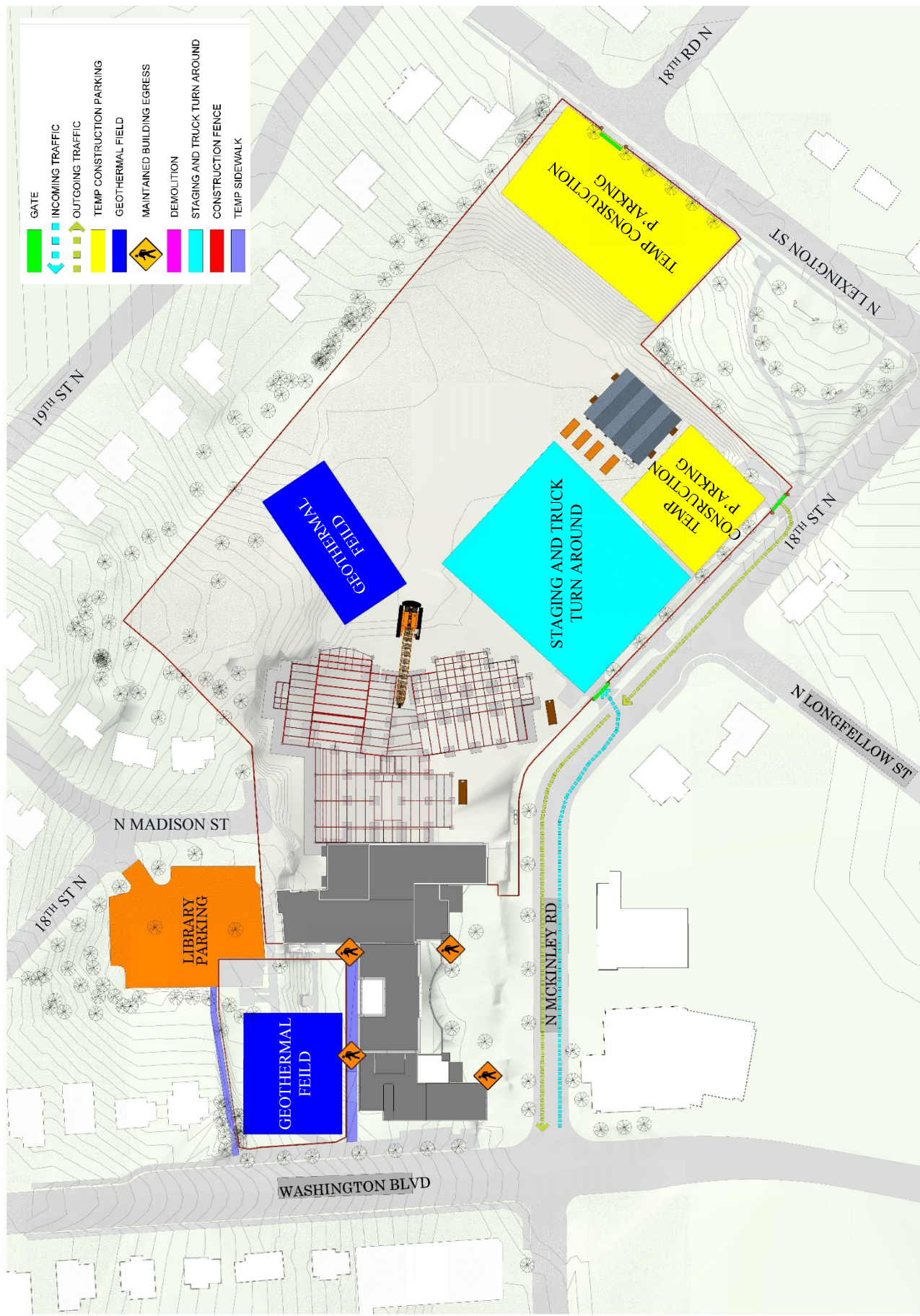
Name:

Name/Title: _____

Date: _____

Approved as to form:

County Attorney



FIRST AMENDMENT TO DEED OF LEASE

This First Amendment to Deed of Lease ("Amendment"), is made this ____ day of _____, 2019 by and between ARLINGTON SCHOOL BOARD, a body corporate (hereinafter referred to as "Landlord" or "School Board"), and THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate (hereinafter referred to as "Tenant" or "County", the parties which are jointly referred to herein as the "Parties").

RECITALS

WHEREAS, Landlord is the owner of that certain property located at 1644 N. McKinley Road, Arlington, Virginia 22205, RPC #10022030, and further described on Exhibit A attached hereto and made a part hereof (the "Property");

WHEREAS, the Property is improved with a building ("Building") housing The New Elementary School at Reed ("School"), common areas ("Common Areas"), and a public library, known as Westover Library ("Library"), as well as certain parking areas ("Parking Areas") (together, the "Project");

WHEREAS, by Deed of Lease, dated May 22, 2008 ("Lease"), Landlord leased approximately 16,000 square feet to Tenant for use as the Library ("Premises"), along with a non-exclusive license to use certain Common Areas and Parking Areas;

WHEREAS, by Use Permit, dated November 18, 2018, the County approved a use permit to modify the footprint of the Building to increase the size of the school and modify certain Common Areas and Parking Areas;

WHEREAS, while the Premises will not be modified by the reconfiguration of the Project, the parties wish to modify the Lease to reflect the changes to the Common Areas and Parking Areas.

WITNESSETH:

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The foregoing recitals are incorporated herein by reference. All terms and conditions of the Lease shall remain in full force and effect unless expressly modified herein.
2. All references in the Lease to Exhibit D-1, D-2, D-3 and D-4 shall be changed as follows:

Exhibit D-1 *shall become* Exhibit D-1A

Exhibit D-2 *shall become* Exhibit D-2A

Exhibit D-3 *shall become* Exhibit D-3A

Exhibit D-4 *shall become* Exhibit D-4A

3. Section 1.1 shall be modified by deleting the second and third paragraphs in their entirety and replacing them as follows:

The Building consists of approximately Fifteen Thousand Five Hundred and Eighteen (15,518) square feet of space located on the ground floor of the Building, designated as Westover Branch Library ("Library") and One Hundred Sixteen Thousand Four Hundred and Fourteen (116,414) square feet of space designated as the New Elementary School at Reed ("School"), including approximately One Thousand Eight Hundred and Twenty Five (1,825) square feet of interior space known as "Common Area", which are under Tenant control, as depicted on Exhibits D-1A and D-2A attached hereto and more fully described in Section 3.4 herein. The words "Common Areas controlled by Tenant" or "Common Areas under the control of Tenant" as used in this Lease shall mean the Plaza Area, Shared Hallway/Entrance, and Utility Rooms, as such terms are further described in Section 3.4 hereof. The words "Common Areas controlled by Landlord" or "Common Areas under the control of Landlord" as used in this Lease shall mean the Parking Areas, as such terms are further described in Section 3.4 hereof.

The Library, School, Common Area, and Parking Areas, collectively referred to herein as the "Project", are shown on the plans attached hereto and made a part hereof as Exhibits D-1A, D-2A, and D-3A. The Project has an address of 1644 N. McKinley Road, Arlington, Virginia 22205.

4. Section 1.6(c) is hereby deleted and replaced as follows:

(c) Common Areas. The areas designated in Exhibit D-1A and D-3A as Common Areas, including the Shared Hallway/Entrance, the Utility Rooms, the Plaza Area, and the Parking Areas shall be used jointly by the Parties, with the primary maintenance and responsibility as set forth in Section 3.4 herein.

5. Section 1.7(a) and (b) are hereby deleted and replaced as follows:

(a) Addresses for Notices to Tenant:

County Manager
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 302
Arlington, VA 22201

with a required copy to:

Real Estate Bureau Chief
Arlington County, Virginia
Department of Environmental Services
Real Estate Bureau
2100 Clarendon Boulevard, Suite 800

Arlington, VA 22201

with a required copy to:

County Attorney
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 403
Arlington, VA 22201

With a required copy to:

Department Director
Arlington County, Virginia
Department of Libraries
1015 N. Quincy Street
Arlington, VA 22201

(b) Addresses for Notices to Landlord:

Superintendent
Arlington County School Board
Syphax Education Center
2110 Washington Boulevard
Arlington, VA 22205

With a required copy to:

Assistant Superintendent for Facilities and Operations
Arlington County School Board
2770 S. Taylor Street
Arlington, VA 22206

Section 1.7(d) is hereby deleted and replaced as follows:

(d) Effective Date of Notice. Notices personally delivered shall be deemed effective upon delivery; notices sent by certified or registered mail or overnight express delivery shall be deemed effective upon the earlier of (i) the date of receipt or rejection by the addressee, or (ii) three (3) days following the date of mailing (excluding Sundays and holidays on which mail is not delivered by the United States Postal Service). Notwithstanding the foregoing, any notice pertaining to a change of address of a party shall be deemed effective only upon receipt or rejection by the party to whom such notice is sent.

6. Section 3.3 is hereby deleted and replaced as follows:

Maintenance and Repair of Shared Systems. Landlord shall maintain and repair, and perform all routine and scheduled maintenance of shared systems of the Project including, but not limited to the fire alarm and sprinkler systems, domestic water booster pumps, incoming electrical switchgear and related equipment (“Shared Systems”). Landlord and Tenant shall coordinate scheduling of routine maintenance and repair of Shared Systems for a mutually agreeable time. Tenant shall pay to Landlord, within thirty (30) days after written demand therefore, accompanied by a copy of the invoice or bill associated therewith, Tenant’s Proportionate Share of the costs of the repair and maintenance of the Shared Systems. “Tenant’s Proportionate Share” shall mean 12%. In the event emergency repairs are required to be made to a Shared System, Tenant shall have the right to make such repairs, and Landlord shall reimburse Tenant for Landlord’s Proportionate Share of the cost of repairs paid by Tenant. “Landlord’s Proportionate Share” shall mean 88%.

7. Section 3.4(b) is deleted in its entirety.
8. Section 3.4(c) is modified by replacing the existing text with the following: “The main hallway beginning at the east entrance of the combined facility dividing the School from the Library is designated a Common Area under the control of Tenant.”
9. Section 3.4(d), Section 3.4(f), and Section 3.4(g) are deleted in their entirety.
10. Section 3.4(h) is modified by replacing the existing text with the following: “The Parking Areas are designated as Common Area under the control of the Landlord. Thirty-three (33) spaces are allocated for Library use; of these spaces fifteen (15) will be reserved in the “18th & Madison parking lot” for Library staff, and eighteen (18) spaces will be in the 18th and McKinley parking lot” for visitors. The Common Areas referred to in Section 3.4 are more particularly shown on the diagrams attached hereto as Exhibits D-1A and D-3A.”
11. Section 4.4 is hereby deleted and replaced as follows:

Other Transfers. Notwithstanding anything herein to the contrary, neither Tenant nor Landlord shall pledge, assign, transfer, encumber or otherwise convey its interest in the Project conditionally or as security for any obligation to any third party, or otherwise. Any such transfer in violation of this provision shall be void.

12. Section 6.11 is hereby deleted and replaced as follows:

Signage. The posting of signs in Common Areas, including outdoor signs, shall be agreed upon by the Program Managers prior to installation of the signs. Tenant shall have the right to separate signage designating the Library.

13. Section 7.1 is hereby modified by adding the following sentence: "Tenant shall provide Landlord reasonable access to the Library to service all utilities entering the Building, including water, electricity, and telecommunications.
14. Exhibit E-1, Large Meeting Room Policy and Guidelines is hereby deleted and replaced with a new Exhibit E-1, Large Meeting Room Policy and Guidelines.
15. Exhibit E-2, Use of School Facilities 40-1.13 is hereby deleted and replaced with a new Exhibit E-2, Policy K7 Financial Management - Use of School Facilities.

(Signature page follows)

WITNESS the following signatures and seals:

WITNESS:

ARLINGTON COUNTY SCHOOL BOARD,
a body corporate and politic

By: _____(SEAL)

Name:

Name/Title: _____

Date: _____

WITNESS:

THE COUNTY BOARD OF ARLINGTON COUNTY,
VIRGINIA, a body corporate and politic

By: _____(SEAL)

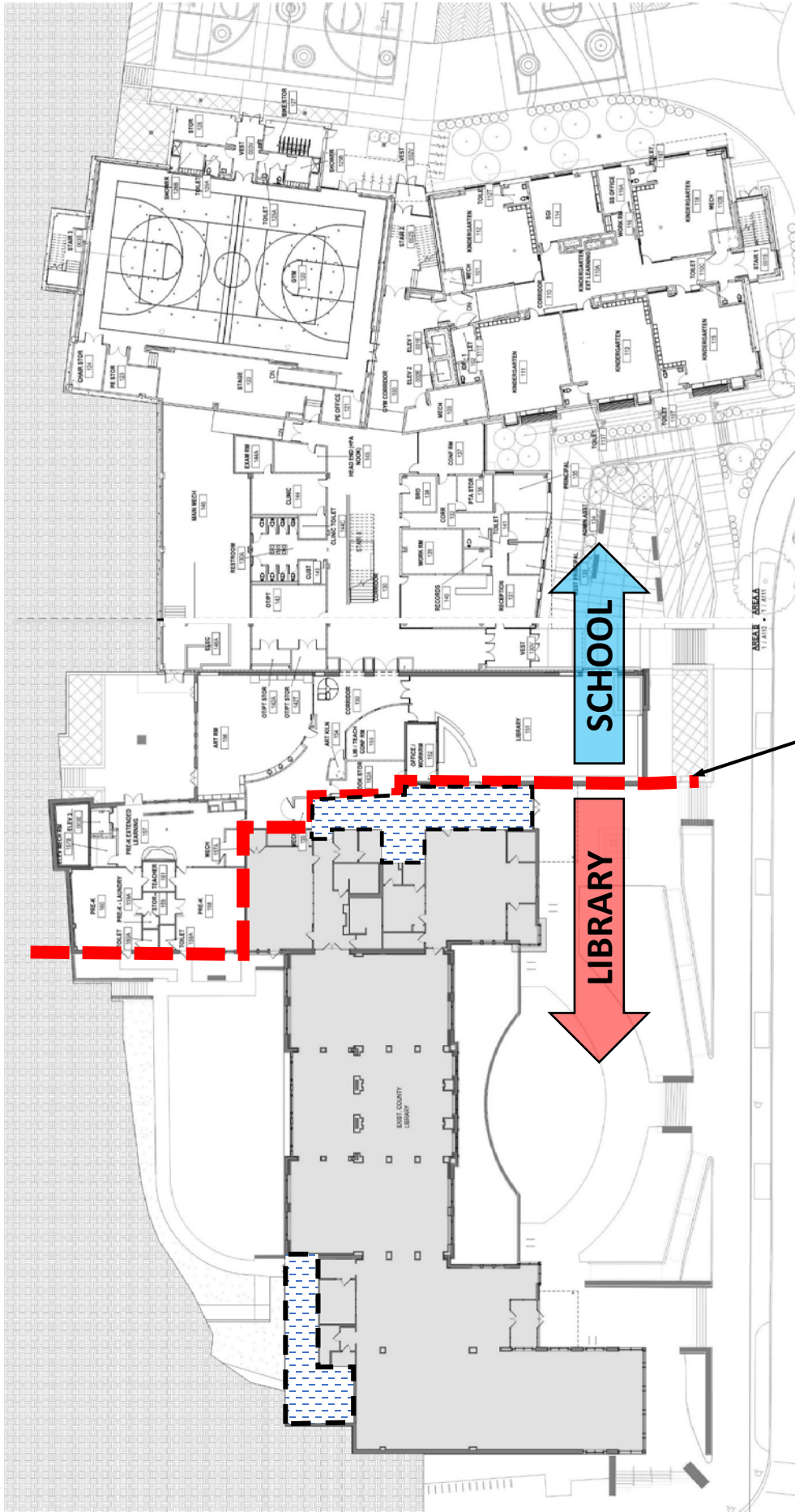
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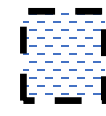
Name/Title: _____

Date: _____

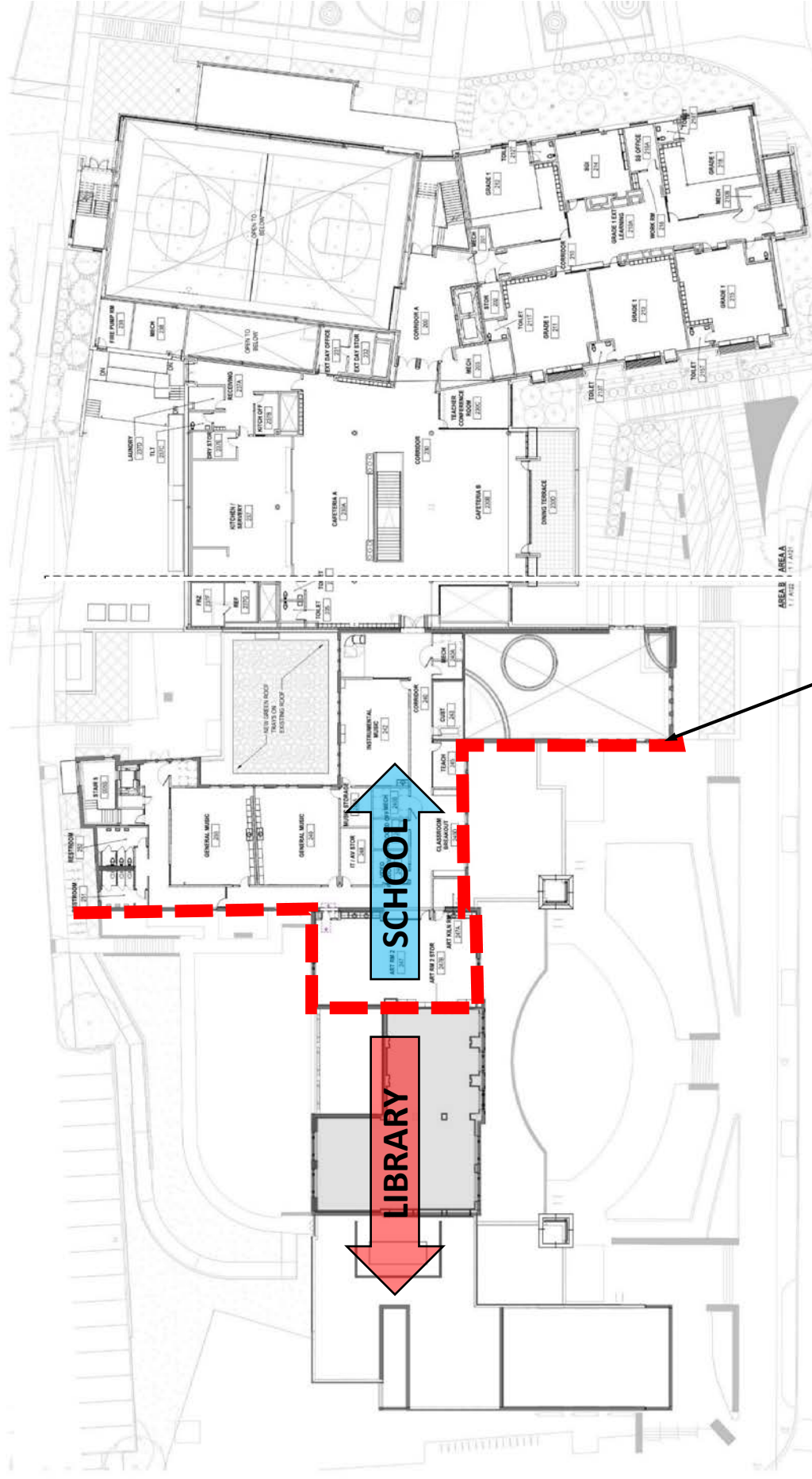
Approved as to form:

County Attorney



 Common Area Shared
Hallway/Entrance & Utility Rooms
(Tenant Controlled)

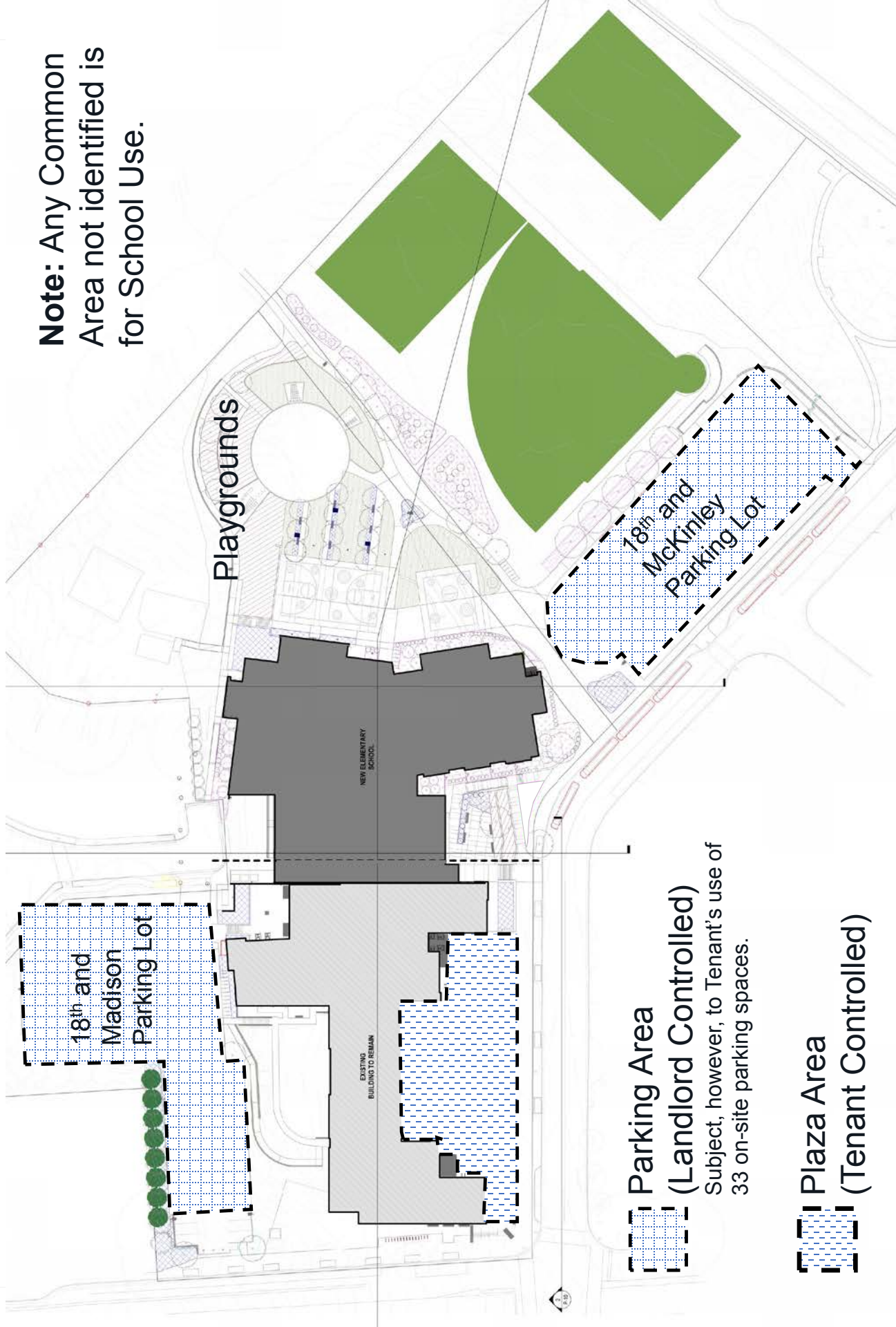
**SEPARATION LINE
BETWEEN BOTH
FACILITIES**



Library Space Open
to First Floor Below
(Tenant Controlled)

**SEPARATION LINE
BETWEEN BOTH
FACILITIES**

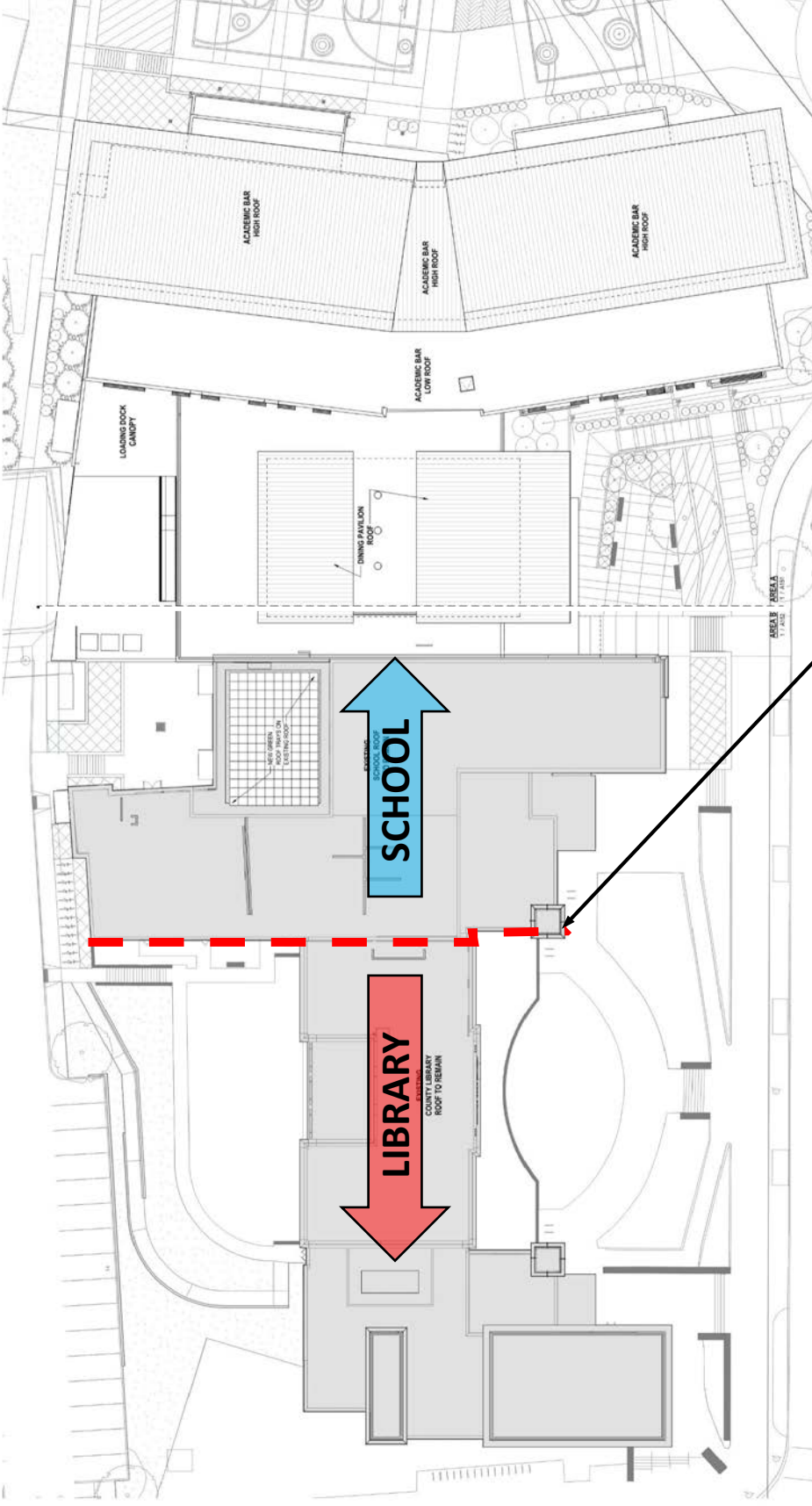
Note: Any Common Area not identified is for School Use.



Parking Area
(Landlord Controlled)

Subject, however, to Tenant's use of
33 on-site parking spaces.

Plaza Area
(Tenant Controlled)



**SEPARATION LINE
BETWEEN BOTH
FACILITIES**

ROOF MAINTENANCE AREA

EXHIBIT D-4A

Exhibit E-1

Large Meeting Room Policy and Guidelines

Arlington Public Library makes large meeting rooms available for public use for open discussion and exchange of information and ideas. The Library reviews this policy annually and reserves the right to change it anytime.

- Rooms are made available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
- Staff at Aurora Hills and Shirlington reserve the right to open rooms for multi-use if minimum capacity is not met
- Allowing a group to meet in the Library does not constitute the Library's endorsement of the group's policies, beliefs or practices. Advertisements or announcements by any group implying such endorsement are not permitted.
- Some restrictions regarding time, place, and manner of presentation may apply.
- Programs offered in the Library's meeting rooms must be open to the public and free of charge. Before and during a program, no fees of any kind may be charged, and selling or sales promotions are prohibited with the exception of sales by The Friends of the Arlington Public Library. Only Library or Library-sponsored groups/individuals, with prior approval, may charge a fee or sell a product.
- Rooms may not be used for private social events such as birthday parties, baby showers, etc.
- There is no fee for the use of the library's meeting rooms.
- Please note and observe the Library's photographing policy.

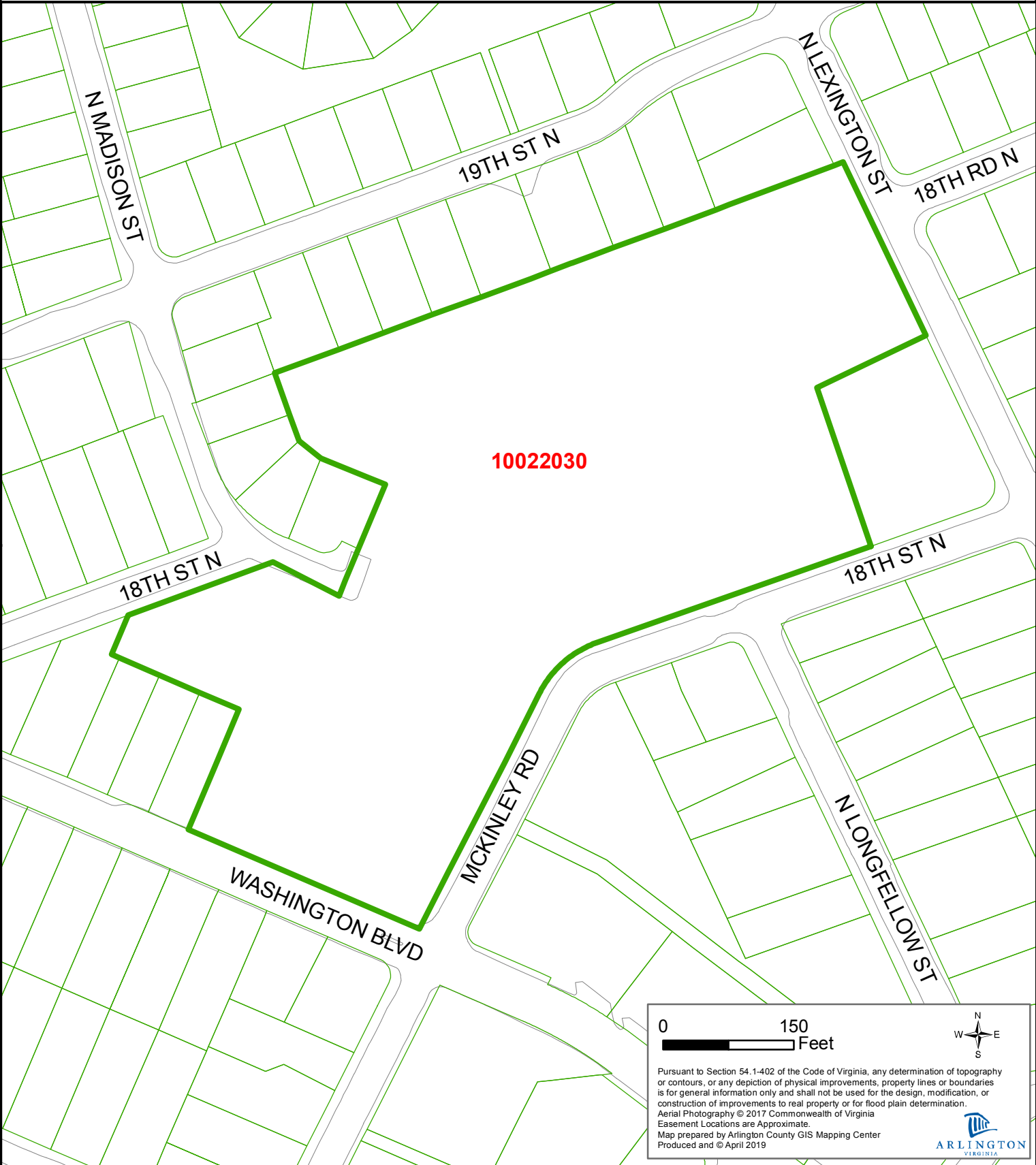
Any exception to this policy must be approved in advance by the Library administration.

Guidelines

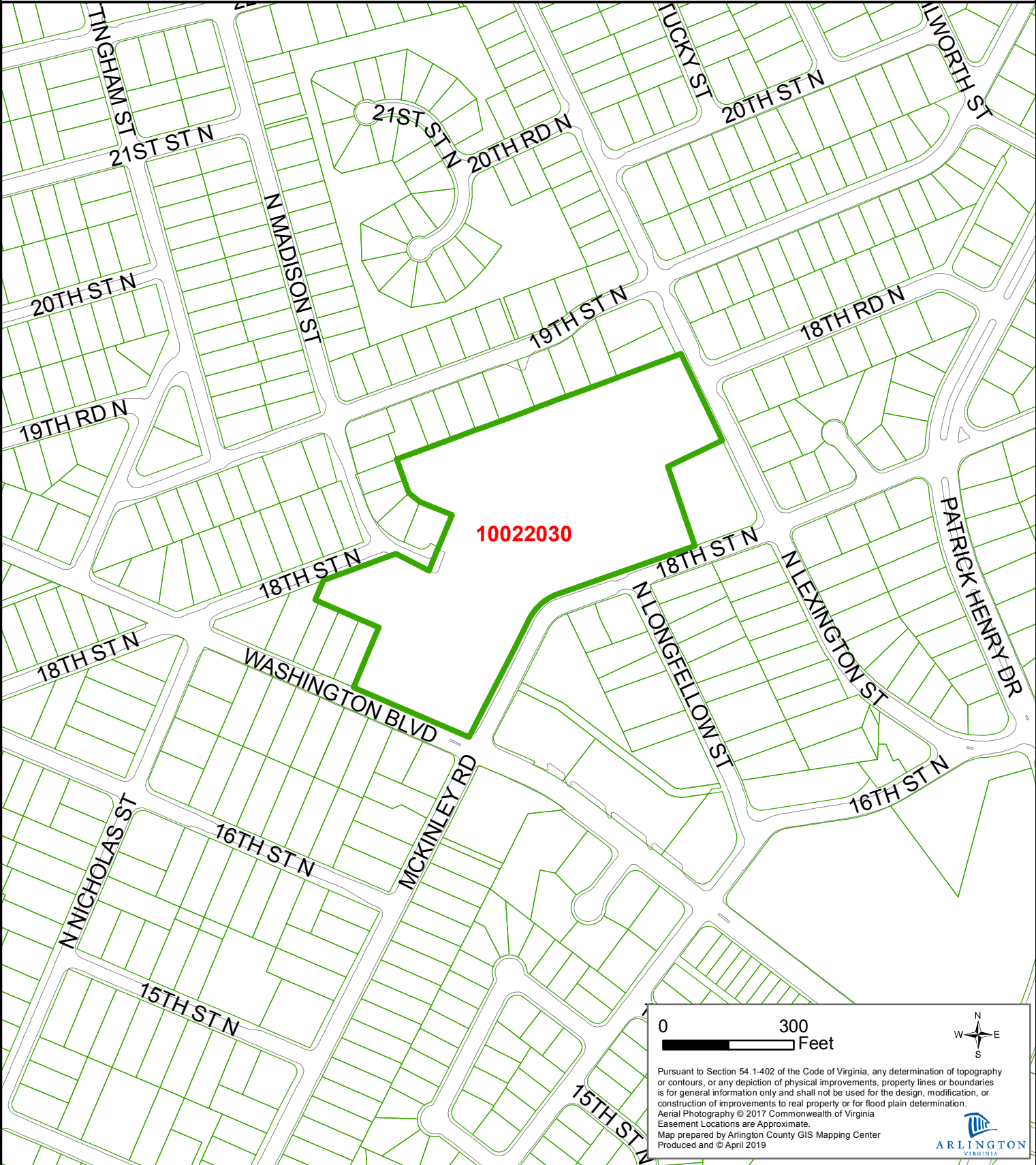
1. An application form for the site must be completed and approved by authorized Library staff at least 48 hours prior to the meeting.
2. Large meeting rooms may be reserved up to two months in advance, on a first-come, first-served basis, except when the space is needed as a polling place. Each group may use the meeting rooms no more than four times within a 12-month period.
3. All publicity is the responsibility of groups using the meeting rooms and must clearly identify the sponsoring organization. The location of the Library may be publicized but the Library telephone number may not be placed on publicity.
4. Large meeting rooms should be scheduled for use during regular Library hours and be vacated 30 minutes before closing time. Please note branch hours differ from Central Library hours. Any after-hour use request must be approved by the Library administration.
5. Groups using the library's meeting rooms are responsible for room setup, including arrangement of tables and chairs. Library staff will assist with setup of library-provided audio-visual equipment requested at the time of application (where available).

6. Persons presenting and attending public programs in the library are subject to Rules Governing the Use of the Library.
7. Refreshments may be served in the meeting rooms, provided proper care is given to clean-up after the meeting. Alcoholic beverages may not be served or consumed on Library property.
8. The Library does not assume responsibility for any private property brought into the Library.
9. Groups must leave meeting rooms clean and neat. Failure to do so will result in loss of meeting room privileges.
10. Repair or replacement costs due to damage of Library facilities, furnishings and equipment will be charged to the program sponsor. Arlington County will be the sole determiner of who does repair to County property.

Vicinity Map
Westover Library- 1644 McKinley Rd.
RPC# 10-022-030



Vicinity Map
Westover Library- 1644 McKinley Rd.
RPC# 10-022-030



Vicinity Map
Westover Library- 1644 McKinley Rd.
RPC# 10-022-030

