

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF AUGUSTA
AND
THE CITY OF STAUNTON

The County of Augusta, Virginia (County), and the City of Staunton, Virginia (City), enter into this MEMORANDUM OF UNDERSTANDING (MOU), dated December ____, 2021 for identification, to reflect the essence of their commitments regarding the City's acquisition of property owned by the County and located in the City of Staunton and the City's support of a special act in the Virginia General Assembly's 2022 Session permitting the County to conduct a referendum to move its court facilities to Verona, Virginia.

1. Recitals.

- 1.1. The County and the City have been engaged informally in discussions related to the County's plans to improve its court facilities. As part of the County's and the City's respective deliberations and their discussions through their representatives, they each and together realize the mutual benefit of finding a long-term solution.
- 1.2. The City acknowledges that the County made good faith efforts to acquire property located within the City of Staunton to construct a new courts facility to house the County's Circuit, General District, and Juvenile and Domestic Relations District Courts. The City further acknowledges that the County's good faith efforts to acquire property within the City of Staunton to construct the new courts facility have been unsuccessful.
- 1.3. The County acknowledges that the City has meaningfully engaged with the County in good faith concerning its efforts to construct a new courts facility in the City.
- 1.4. The City respects the County's special history that includes the existing 1901 Augusta County Courthouse (Courthouse) located in the City of Staunton, with Staunton serving as the County seat since 1745. The City also respects that the County needs to provide a modernized court facility for the County's citizens.
- 1.5. The County respects the City's own special history and the City's abiding commitment to historic preservation that has made the City of Staunton a unique locale that attracts businesses, tourists and others to the region.
- 1.6. The City and the County both acknowledge that, pursuant to state law currently in effect, the County understands (a) it cannot lawfully re-locate its courts outside of the City of Staunton without the approval by referendum of the registered voters of Augusta County, and (b) no such referendum can be conducted until 2026, without special legislation..

- 46 1.7. In public statements and a letter dated November 12, 2021, from County Board
47 Chair Gerald Garber to City Mayor Andrea Oakes, the County has shared that the
48 County has no intention of constructing court facilities in the City of Staunton, after
49 having explored and exhausted multiple options.
50
- 51 1.8. The County intends to request its representatives in the Virginia General Assembly
52 to introduce a special act pursuant to Article VII, Section 2 of the Constitution of
53 Virginia (special legislation) to allow the County to hold a referendum on
54 November 8, 2022, on the question of whether to construct a new courts facility in
55 Verona, Virginia for its Circuit, General District, and Juvenile and Domestic
56 Relations District Courts.
57
- 58 1.9. Through ongoing recent discussions, the County and the City have reached an
59 understanding about how their mutual respect and separate and mutual interests
60 may be served through this MOU to evidence what they believe is a long-term
61 solution.
62
- 63 1.10. This MOU has been reviewed informally by the individual members of the Board
64 of Supervisors of Augusta County and by the individual members of the Staunton
65 City Council.
66
- 67 1.11. This MOU is contingent upon the review and final approval by the governing
68 bodies of each locality, with each party's obligations further conditioned upon the
69 other's satisfaction of its obligations.
70
- 71 1.12. These recitals are an integral part of this MOU, but they do not purport to recite all
72 of the circumstances and considerations which have occasioned this MOU at this
73 time.
74
- 75 2. City's Obligations.
76
- 77 2.1. On December 9, 2021, the Staunton City Council will:
78
- 79 2.1.1. adopt a Resolution which states that the City supports the special
80 legislation; and
81
- 82 2.1.2. adopt a Resolution approving this MOU and authorizing the Mayor of the
83 City of Staunton to execute this MOU and deliver it to the County.
84
- 85 2.2 The Staunton City Council may rescind its Resolution supporting the special
86 legislation if the Augusta County Board of Supervisors does not fulfill its
87 obligations pursuant to Sections 3.2.1 and 3.2.2 of this MOU.

- 88
- 89 3. County's Obligations.
90

- 91 3.1. On December 8, 2021, the Augusta County Board of Supervisors will:
92
93 3.1.1. conduct a public hearing pursuant to Virginia Code Section 15.2-1800 to
94 dispose of the County’s properties located at 1 E. Johnson Street (Parcel
95 ID# 9006); 6 E. Johnson Street (Parcel ID# 9005); 14 E. Johnson Street
96 (Parcel ID# 9010); 111 S. Augusta Street (Parcel ID# 666); and 115 S.
97 Augusta Street (Parcel ID# 9009) (collectively, the Properties) in the City
98 of Staunton, Virginia; and
99 3.1.2. adopt a Resolution approving this MOU and authorizing the Augusta
100 County Board of Supervisors’ Chair to execute this MOU and deliver it to
101 the City, subject to and provided that City Council adopts a resolution
102 pursuant to Paragraph 2 above.
103
104 3.2. On or before January 12, 2022, the Augusta County Board of Supervisors will:
105
106 3.2.1. approve the conveyance of the Properties to the City contingent upon (a)
107 the special legislation being enacted into law by the Virginia General
108 Assembly and approved by the Governor of Virginia, and if challenged in
109 any legal proceeding, such legislation is ultimately upheld, and (b) the
110 referendum to move the court facilities to the County of Augusta being
111 approved by the voters of the County on November 8, 2022, and if
112 challenged in any legal proceeding, such referendum is ultimately upheld.
113
114 3.2.2. authorize the execution of a special warranty deed, in a form reasonably
115 acceptable to the City (the Deed), conveying the Properties to the City on
116 July 1, 2022, contingent upon the enactment and approval of the special
117 legislation and approval of the referendum, and further subject to the
118 following conditions:
119
120 3.2.2.1. The Deed will be held in escrow by an independent escrow agent
121 jointly appointed by the County and City until such time as a
122 referendum is held. If the referendum to move the court facilities
123 is not approved, the Deed shall be delivered by the escrow agent
124 to the County, and there shall be no such conveyance of the
125 Properties to the City. If the referendum to move the court
126 facilities is approved, and the Deed shall be released from escrow
127 to the City upon the earlier to occur of (i) July 1, 2026, and (ii) the
128 date on which a certificate of occupancy is issued for the County’s
129 new court facility in Verona, Virginia, pursuant to an escrow
130 agreement to be negotiated in good faith by the County and the
131 City (the Escrow Agreement).
132
133 3.2.2.2. Execution and delivery of the Deed is subject to Section 6 of this
134 MOU.
135

- 136 4. Personal Property and Fixtures. Upon the enactment and approval of the special legislation
137 and approval of the referendum, the Augusta County Administrator and the Staunton City
138 Manager will examine the personal property and fixtures in the Properties and determine
139 which items of personal property and which fixtures will remain with the Properties, with
140 title vested in the City, and which items of personal property and fixtures may be removed
141 from the Properties by the County. Their joint determination will be documented as they
142 deem necessary and appropriate.
143
- 144 5. Assignments. No Third-Party Beneficiary or Joint Undertaking. This MOU is solely
145 between the County and the City, and no part of the understanding may be assigned. This
146 MOU shall not create or be construed to create any third-party beneficiary or any kind of
147 joint undertaking relationship between the County and the City, such as an agency,
148 partnership or joint venture relationship.
149
- 150 6. Delivery of Possession; Force Majeure. The County will vacate and deliver possession of
151 the Properties to the City on the date the Deed is released from escrow, pursuant to the
152 Escrow Agreement. The County shall not be compelled to vacate the Properties if
153 construction of its court facility in Verona, Virginia is not completed by July 1, 2026, nor
154 suffer any enforcement or penalty relating to noncompliance or default where such non-
155 compliance or alleged defaults occurred or were caused by lightning strike, earthquake,
156 flood, tidal wave, unusually severe rain, ice or snow storm, hurricane, tornado, or other
157 catastrophic act of nature; riot, war, labor disputes, environmental restrictions, failure of
158 utility service or the failure of equipment or facilities not belonging to the County,
159 administrative or judicial order or regulation or other event that is reasonably beyond the
160 County's ability to anticipate or control. If the County will not be able to vacate the
161 Properties by July 1, 2026, due to one of the aforementioned causes, it must provide at least
162 ninety (90) days' notice to the City or this force majeure clause of the MOU shall have no
163 effect.
164
- 165 7. Immunity. Nothing in this MOU shall be construed or interpreted to be a waiver of any
166 sovereign or other immunity of the County or the City, or their respective governing body
167 members, officials, employees, agents or responsible parties.
168
- 169 8. Prior Understandings. This MOU shall supersede and abrogate any prior agreements or
170 understandings between the County and the City regarding the Properties.
171
- 172 9. Applicable Laws. The terms of this MOU shall be subject to applicable state and federal
173 law, including but not limited to future amendments, court order(s), executive order(s), or
174 other legally binding action enacted or ordered by an entity that is not a party to this MOU.
175

176 This MOU is executed by the representatives of the County and the City as of the date first
177 written above.
178

179
180
181 CITY OF STAUNTON, VIRGINIA

182
183
184
185
186
187
188
189
190
191
192
193
194
195

By: _____
Andrea W. Oakes,
Mayor

COUNTY OF AUGUSTA, VIRGINIA

By: _____
Gerald W. Garber,
Chairman of the Board of Supervisors

DRAFT