

**WINCHESTER COMMON COUNCIL
COUNCIL CHAMBERS – ROUSS CITY HALL
FEBRUARY 11, 2014
AGENDA
7:00 P.M.**

CALL TO ORDER AND ROLL CALL

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – January 7, 2014 Work Session, January 14, 2014 Regular Meeting, January 28, 2014 Work Session, and January 28, 2014 Special Meeting

REPORT OF THE MAYOR

REPORT OF THE CITY MANAGER

Presentation: Conference Center Feasibility Study – Tony Peterman, Strategic Advisory Group & Jim Deskins, Economic Redevelopment Director (pages 3-45)

REPORT OF THE CITY ATTORNEY

1.0 PUBLIC HEARINGS

1.1 O-2014-02: Second Reading – AN ORDINANCE TO ADOPT SECTIONS 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES (*Allows the use of video monitoring systems on school buses for the purpose is issuing citations to motorists*)(**REQUIRES ROLL-CALL VOTE**)(pages 46-51)

2.0 PUBLIC COMMENTS

3.0 CONSENT AGENDA

- 3.1 O-2014-03:** First Reading – AN ORDINANCE TO AMEND CHAPTER 8 AND CHAPTER 27 PERTAINING TO THE ESTABLISHMENT OF THE WINCHESTER ENTERPRISE ZONE AND ITS RELATED INCENTIVES (pages 52-69)
- 3.2 R-2014-01:** Resolution – Authorizing the execution of the Winchester Enterprise Zone Local Incentives Grants Funding Agreement between the City of Winchester and the Winchester Economic Development Authority (pages 70-92)
- 3.3 R-2014-02:** Resolution – Authorize the refund of \$12,078.51 to Piedmont Medical Laboratory for prorated Business License Taxes, the refund of \$10,420.84 to Riddleberger Brothers, Inc. and the refund of \$46,811.11 to

Integrity Home Mortgage Corp. for prorated and erroneously paid Business License Taxes (pages 93-98)

- 3.4 Motion to direct the Clerk of Council to prepare a Certificate of Appreciation for Allyson Pate for her service on the Social Services Advisory Board
- 3.5 Motion to appoint John Tagnesi as a member of the Northern Shenandoah Valley Regional Commission
- 3.6 Announce the term expirations of John Elliott, Krista Farris, and Jules Bacha as members of the Parks & Recreation Board effective April 30, 2014. Mr. Bacha is eligible for re-appointment. Mr. Elliott and Ms. Farris are not eligible.
- 3.7 Announce the resignation of P. Michael Atkins as a member of the Northwestern Community Services Boards effective January 15, 2014 and direct the Clerk of Council to advertise the vacancy
- 3.8 Announce the resignation of Minh Le as a Ward 3 member of the Winchester School Board effective January 17, 2014 and direct the Clerk of Council to advertise the vacancy

4.0 AGENDA

- 4.1 Motion to rescind the decision of an April 8, 1969 motion which granted Apple Blossom permission to handle all concession licenses during the Apple Blossom Festival for succeeding years

5.0 EXECUTIVE SESSION

- 5.1 MOTION TO CONVENE IN EXECUTIVE SESSION PURSUANT TO §2.2-3711(A)(7) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND STATUS UPDATE FROM THE CITY ATTORNEY AND LEGAL CONSULTATION REGARDING THE SUBJECT OF SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY THE CITY ATTORNEY AND MATTERS OF ACTUAL OR PROBABLE LITIGATION AND PURSUANT TO §2.2-3711(A)(1) OF THE CODE OF VIRGINIA FOR THE PURPOSE OF DISCUSSION AND CONSIDERATION OF INFORMATION REGARDING THE SUBJECT OF THE EMPLOYMENT, ASSIGNMENT, APPOINTMENT, AND PERFORMANCE OF SPECIFIC PUBLIC OFFICERS APPOINTEES, AND EMPLOYEES OF THE CITY OF WINCHESTER INCLUDING THE APPOINTMENT OF OR PROSPECTIVE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

6.0 ADJOURNMENT

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: February 11, 2014 **CUT OFF DATE:** ___

RESOLUTION ___ **ORDINANCE** ___ **PUBLIC HEARING** ___

ITEM TITLE: Presentation of the Conference Center Feasibility Study by Strategic Advisory Group

STAFF RECOMMENDATION: Requires no formal approval or acceptance from Council

PUBLIC NOTICE AND HEARING: N/A

ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: N/A

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. City Attorney	<i>aw</i>	_____	<i>1/31/2014</i>
6. City Manager	<i>[Signature]</i>	_____	<i>1-2-14</i>
7. Clerk of Council	_____	_____	_____

Initiating Department Director's Signature: *[Signature]*
 Economic Redevelopment Director

2/28
Date



APPROVED AS TO FORM:
[Signature] 1/31/2014
 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: 2/11/2014
Re: Presentation of the Conference Center Feasibility Study from Strategic Advisory Group

THE ISSUE: The Winchester Common Council has identified the City Staff to study the feasibility of constructing a conference center in Winchester

RELATIONSHIP TO STRATEGIC PLAN: Goal One: Grow the Economy

Top Priority 2013-2014. Conference Center Strategy Concept/Market/Study

BACKGROUND: Strategic Advisory Group has been contracted by the Economic Development Authority of the City of Winchester to conduct a conference center feasibility study and will be presenting their findings to Council. This presentation was scheduled for the January 21, 2014 City Council Work Session. However, due to inclement weather the Work Session was cancelled.

BUDGET IMPACT: N/A

OPTIONS: Presentation requires no formal acceptance from Council

RECOMMENDATIONS: Council is asked to provide staff with future direction/expectations regarding the construction of a conference center

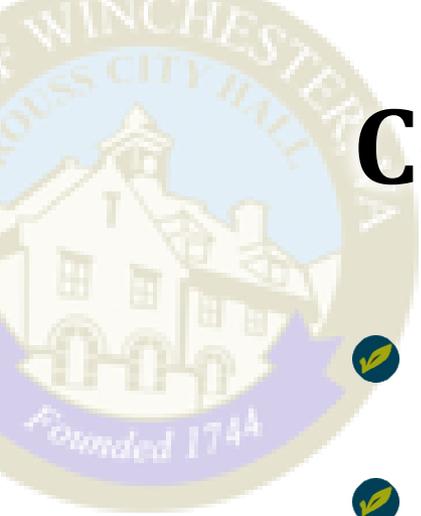


Feasibility Study: Multi-Purpose Conference Center

SUMMARY PRESENTATION

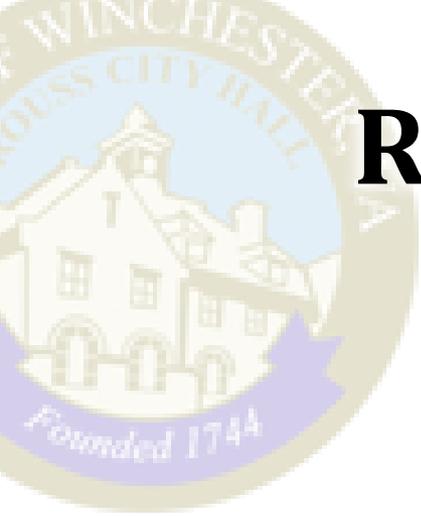
Why the Study?

- Lack of large, quality event space causes many to go outside of the community
- Growth exists in the community population; Shenandoah Univ., Medical Center; the success of Old Town; etc.
- Possible to complement and augment that growth with a facility?



Conclusions

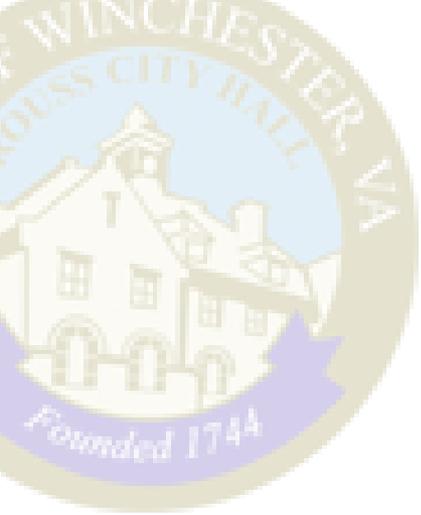
- Winchester is in population growth zone of US and offers easy regional accessibility
- Success of Nationally- and State-recognized “*Old Town Winchester*” has spurred over \$110M+ in private investment
- Growth at Shenandoah University and Winchester Medical Center
- Leading hotels in Winchester support healthy fundamentals
- Current lack of large, quality event space within the community
- Winchester has the destination components to penetrate group market
- Community already has signature event to help communicate and expedite the message



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Recommended Site Area





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Industry Trends

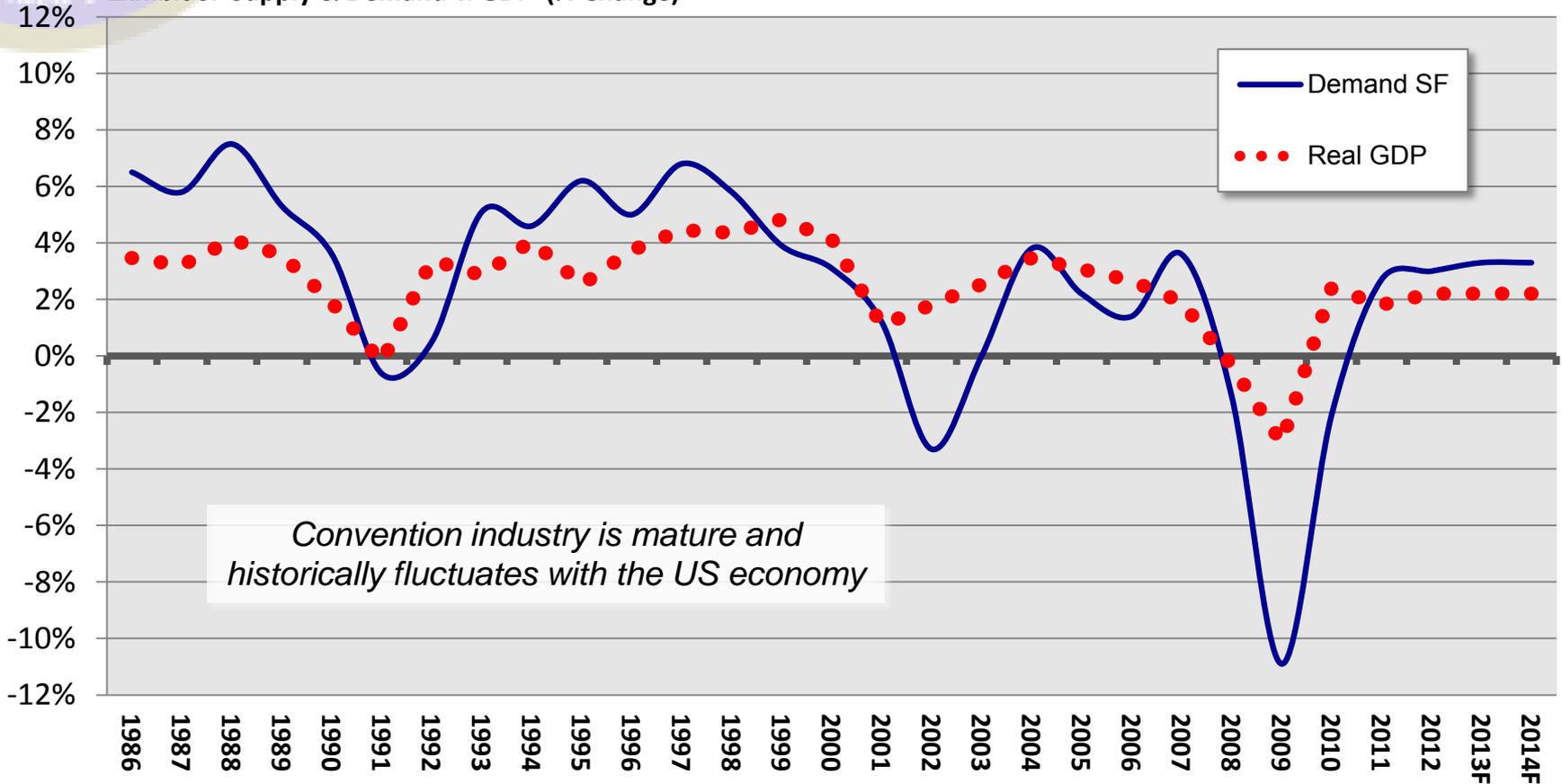


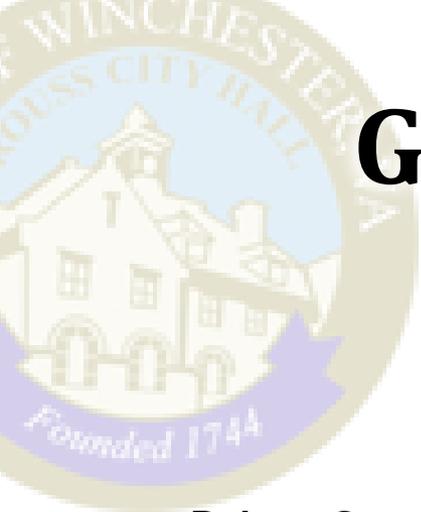
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State of the Industry

US Convention Center Market

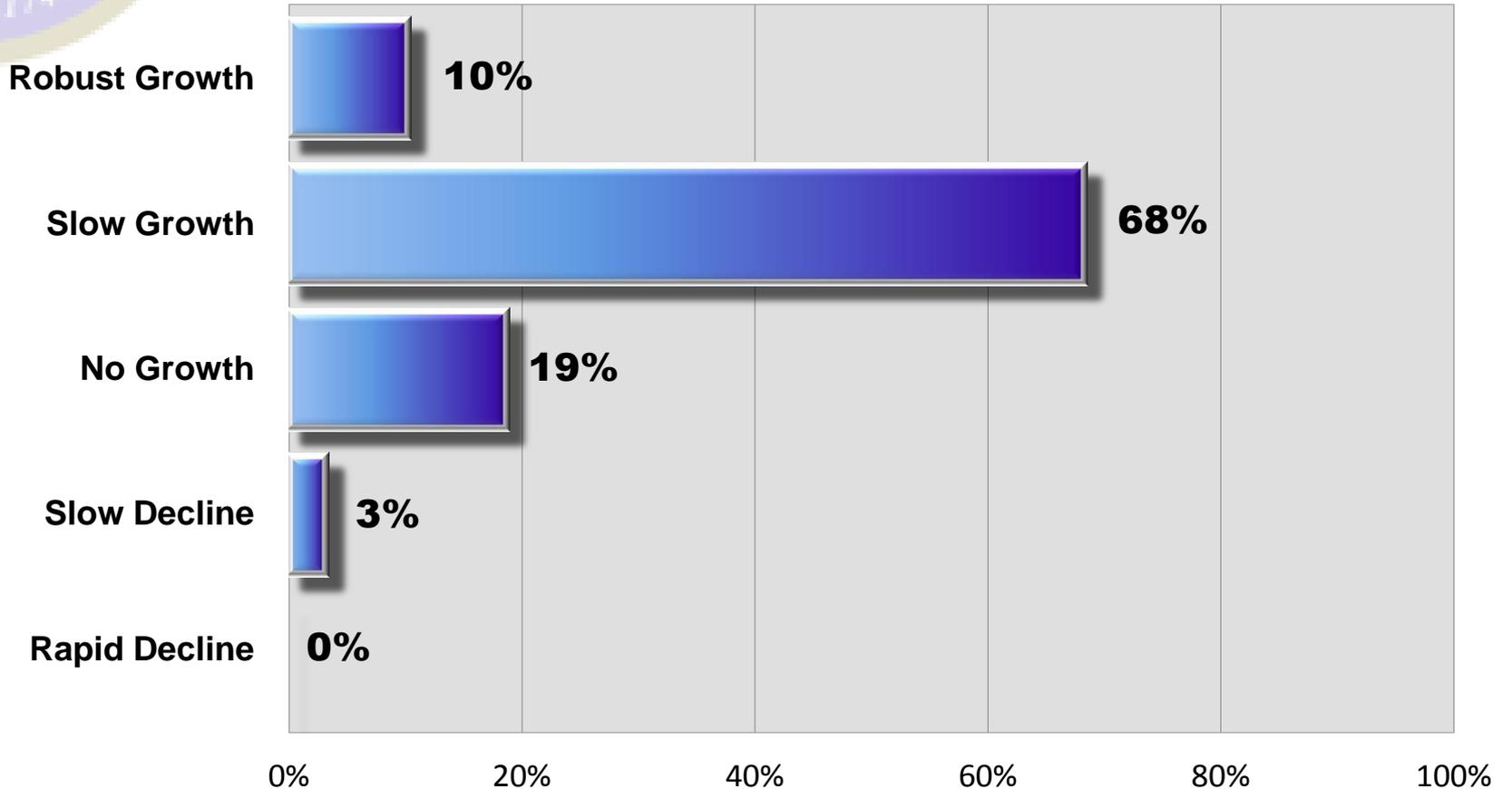
Exhibit SF Supply & Demand v. GDP (% Change)

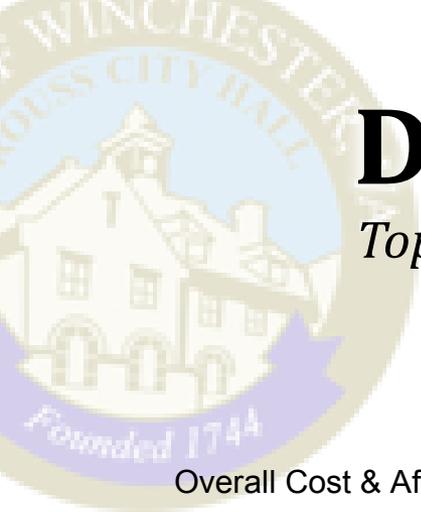




Growth in Future?

Meeting Planners were asked, "Given this past recession and changes in the economy, how does your event most likely view its future?"

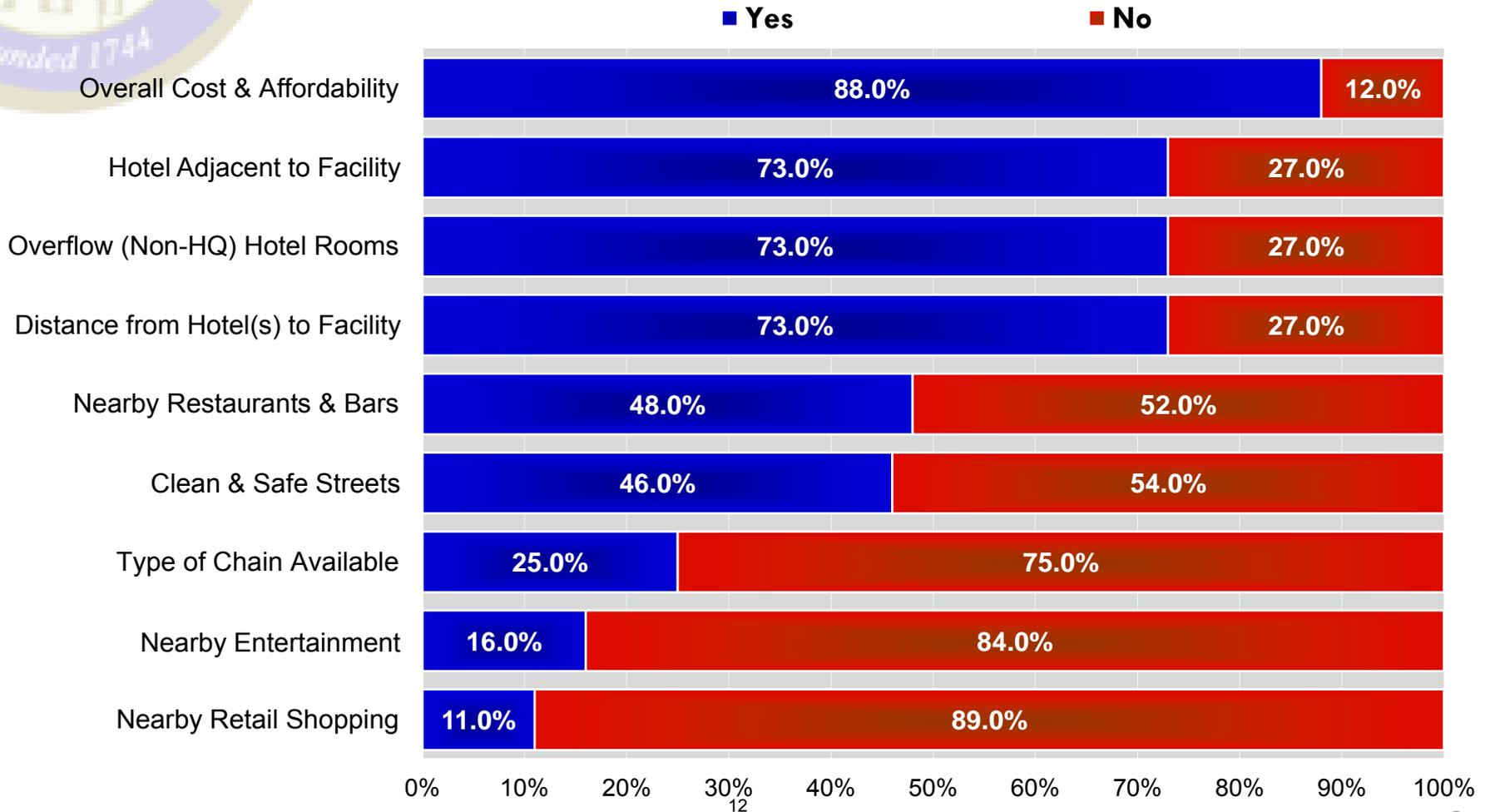




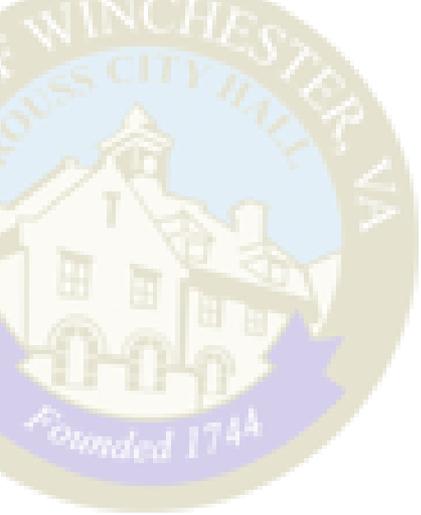
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Destination Factors

Top 9 factors with potential to be a Deal-Breaker

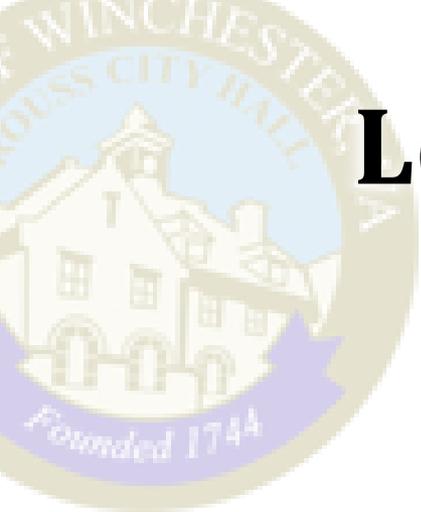


Source: Meeting Planner Survey.



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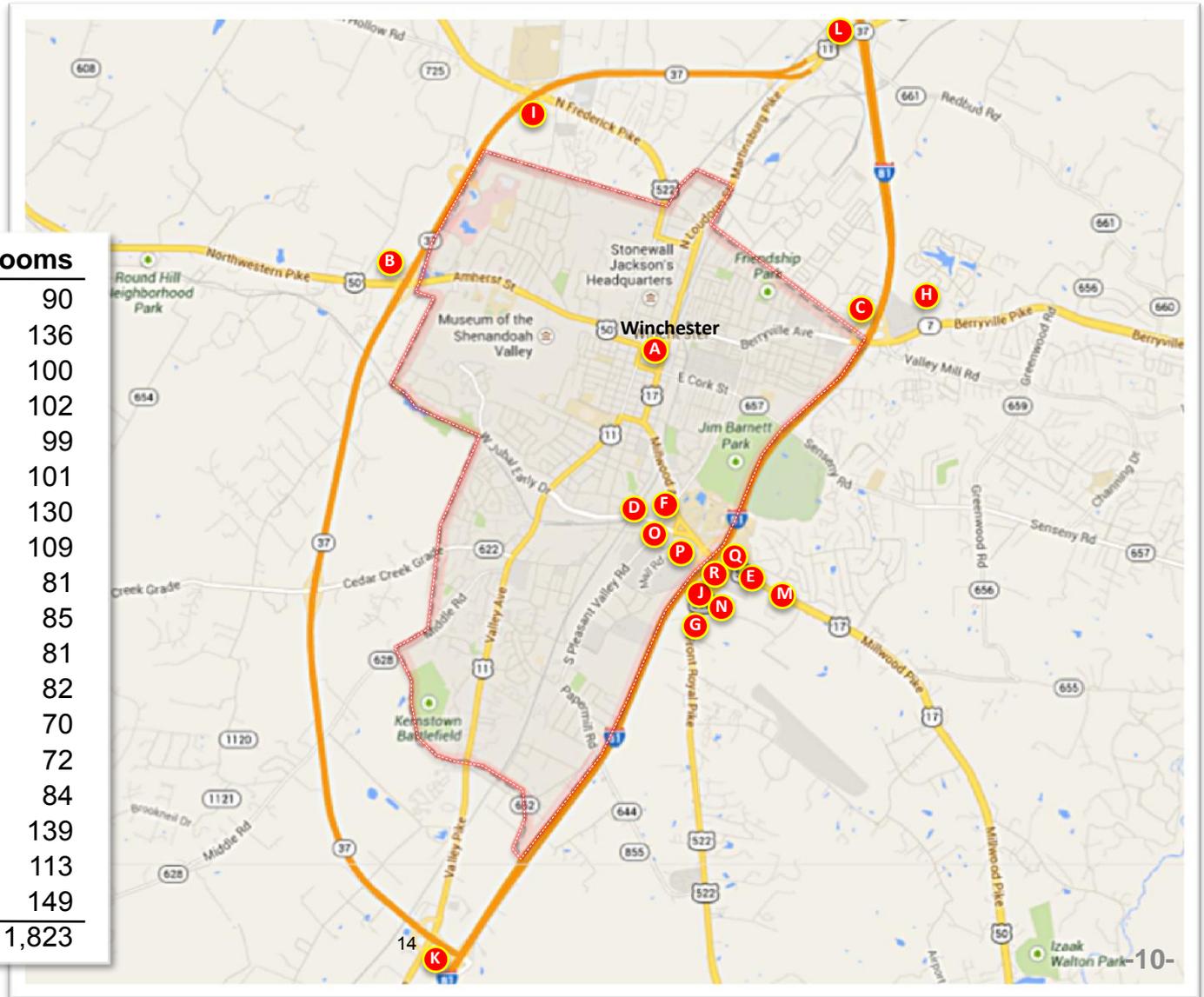
Hotel Market: *Winchester*



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Local Hotel Supply

Property	Rooms
A Wyndham GW Hotel	90
B Marriott Courtyard	136
C Hampton Inn North	100
D Hilton Garden Inn	102
E aLoft Hotel	99
F Hampton Inn @ Mall	101
G Holiday Inn	130
H Towne Place Suites	109
I Holiday Inn Express	81
J Fairfield Inn	85
K Country Inn & Suites	81
L Comfort Inn	82
M Candlewood Suites	70
N Sleep Inn	72
O Wingate	84
P Best Western	139
Q Red Roof Inn	113
R Travelodge	149
	<hr/>
	1,823

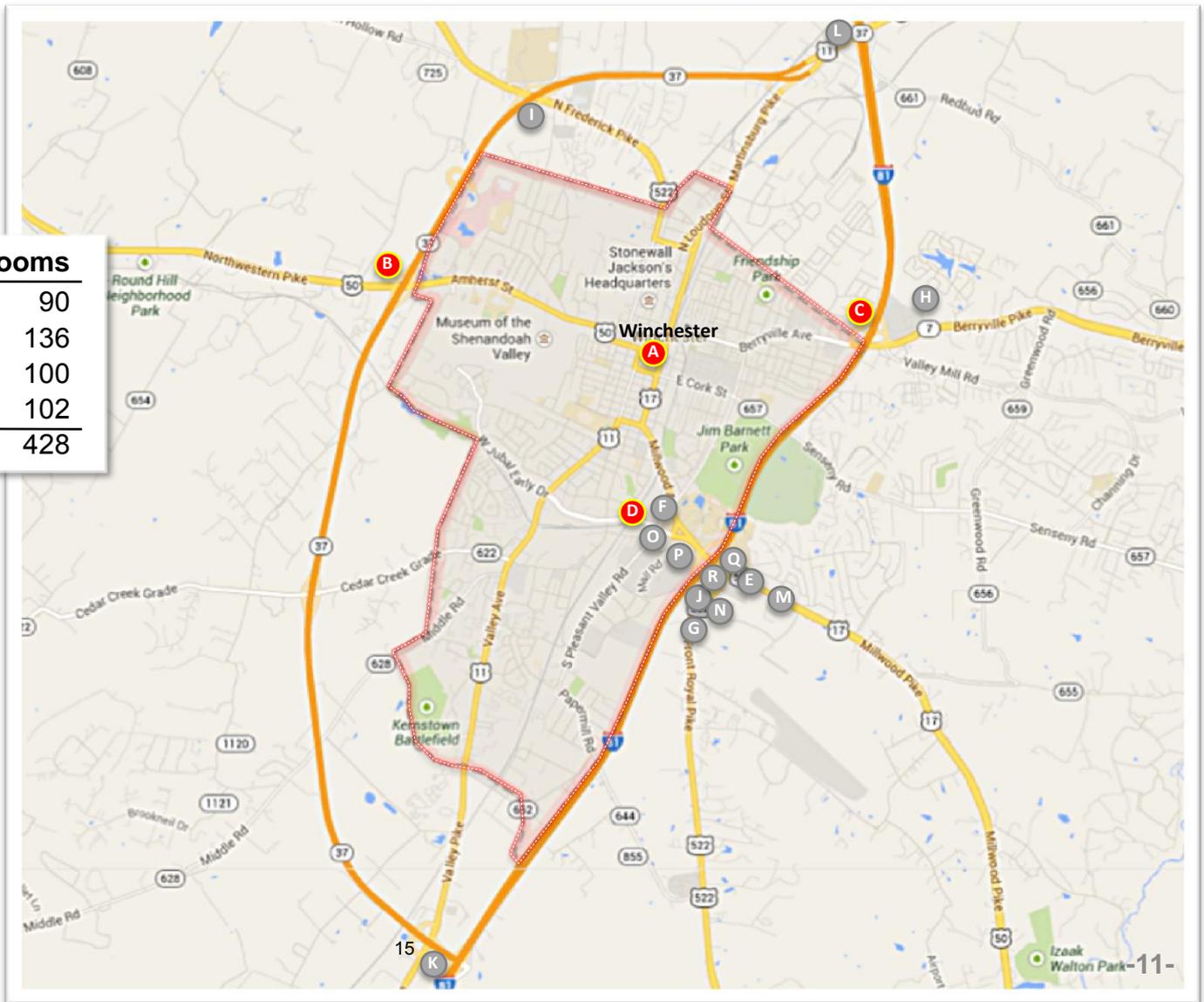


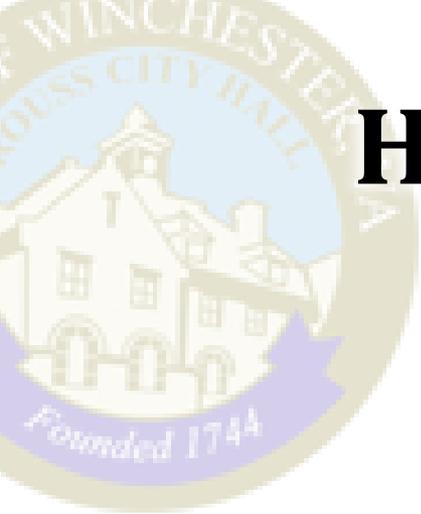


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Market Subset: "Leaders"

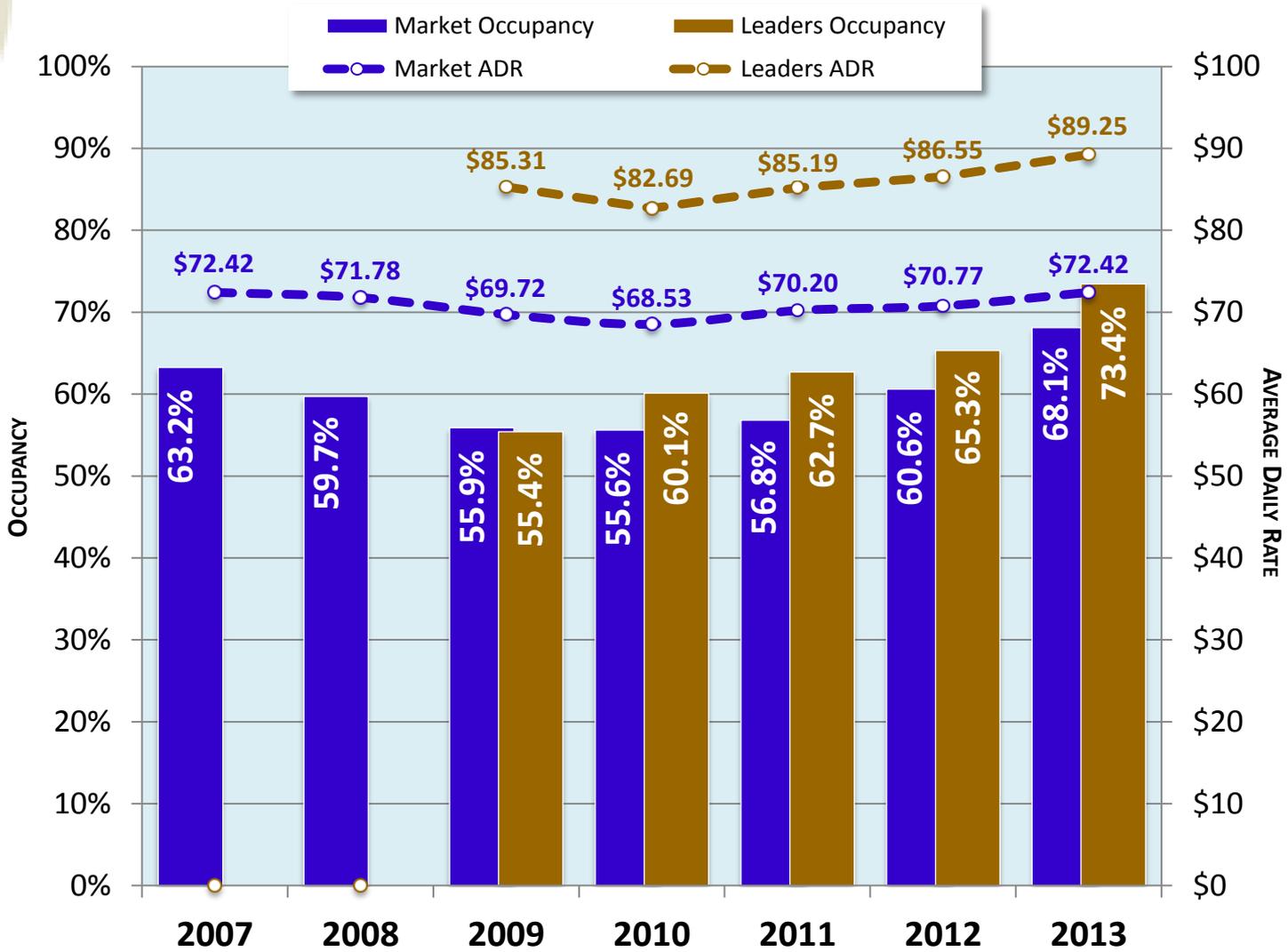
Property	Rooms
A Wyndham GW Hotel	90
B Marriott Courtyard	136
C Hampton Inn North	100
D Hilton Garden Inn	102
	<hr/>
	428

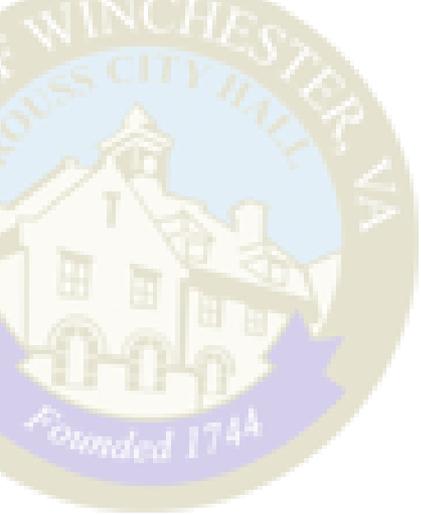




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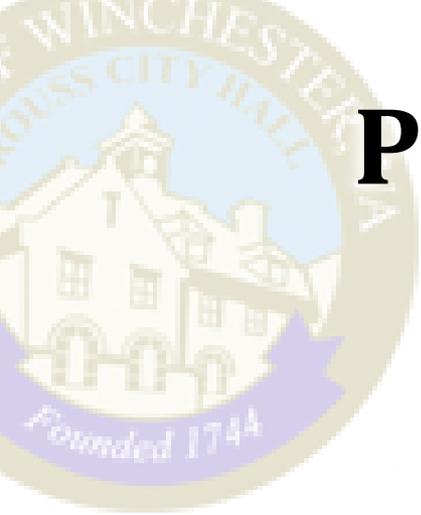
Hotel Market Performance





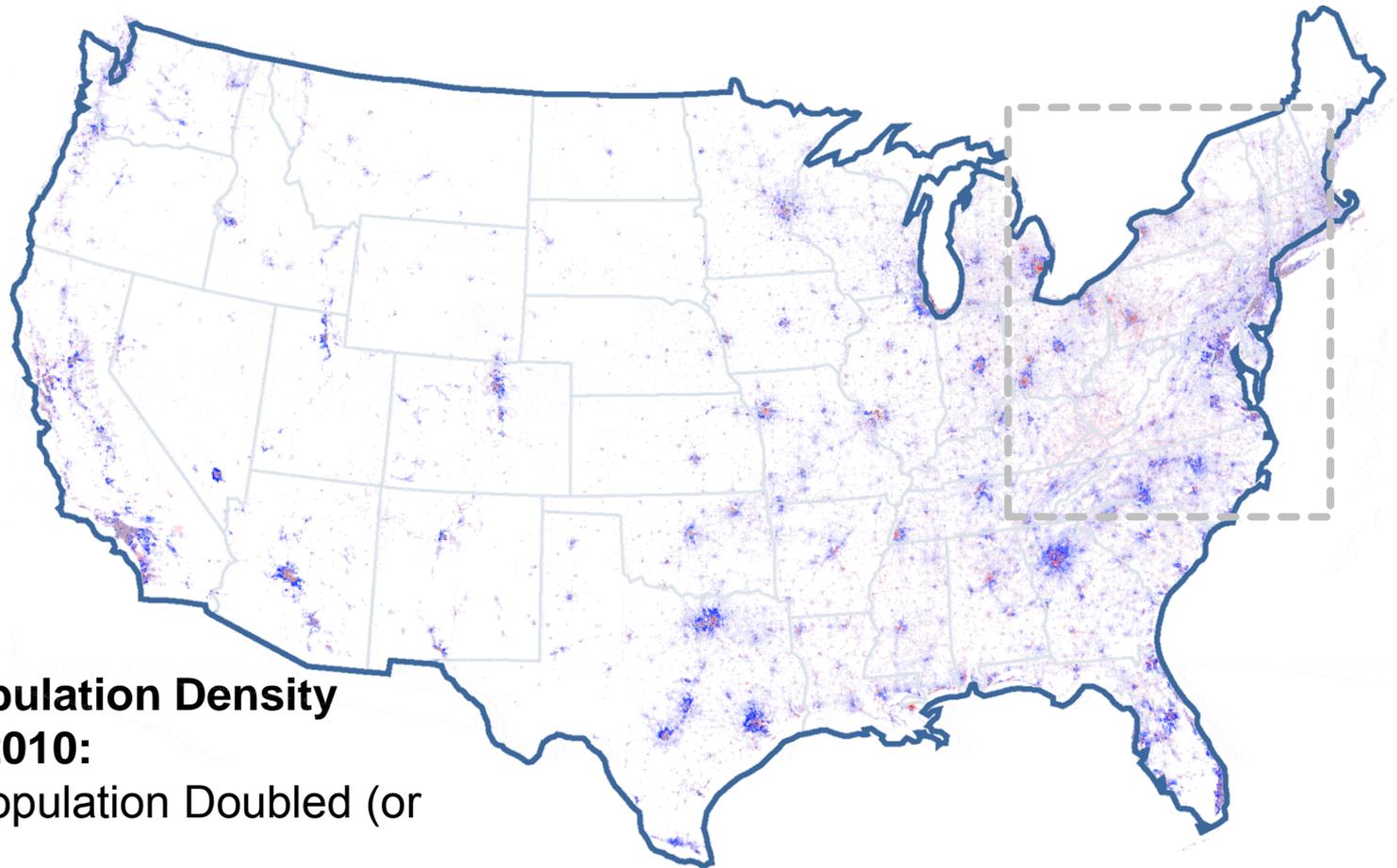
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Demographics



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Population Density Shift

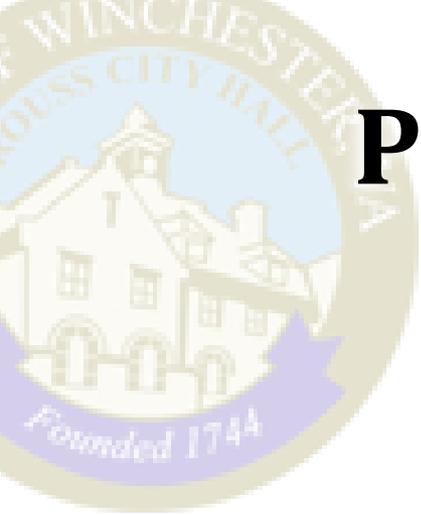


**Change in Population Density
from 2000 to 2010:**

Blue = Population Doubled (or more),

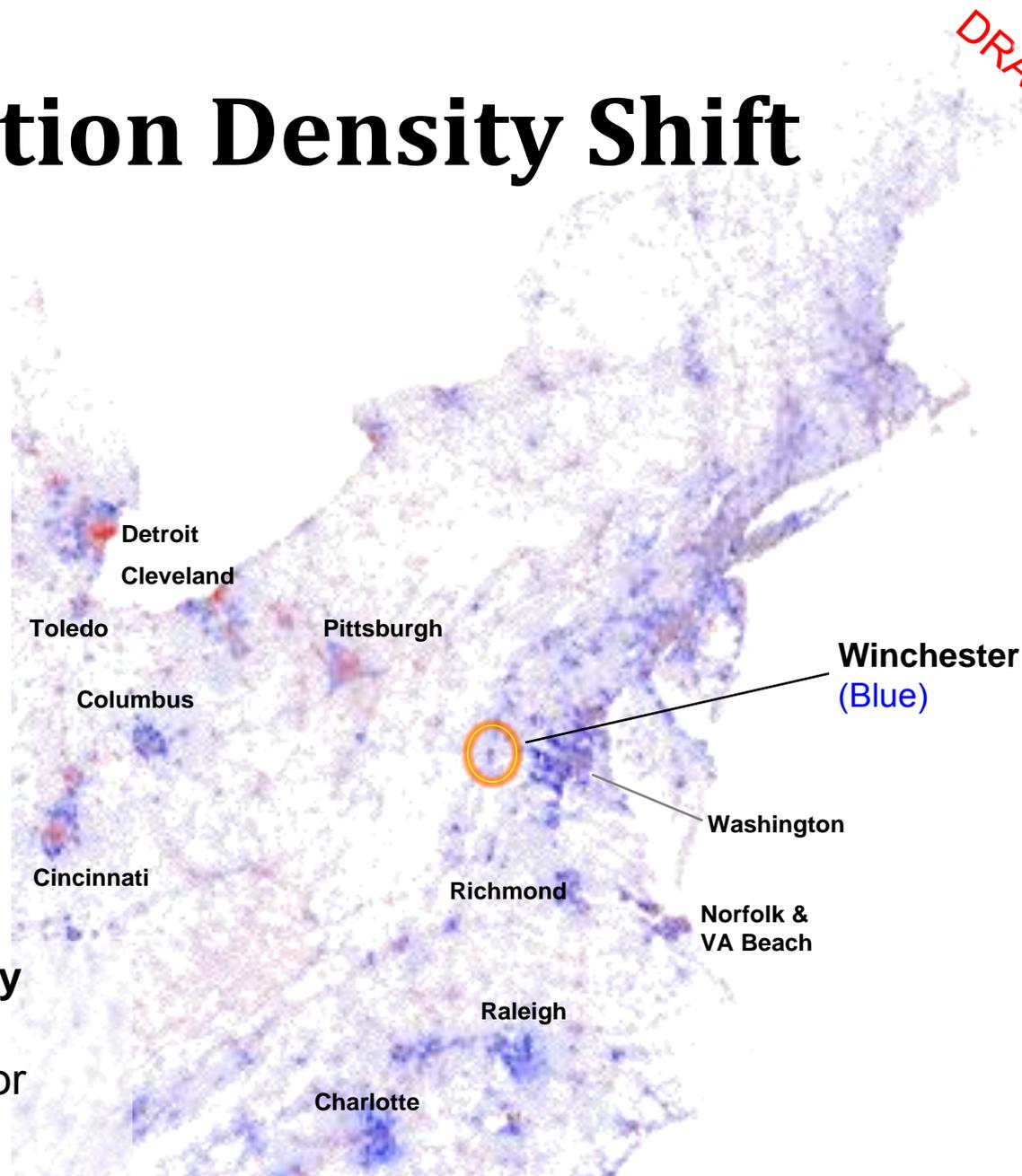
Red = Large Decreases,

White = Little or No Change



Population Density Shift

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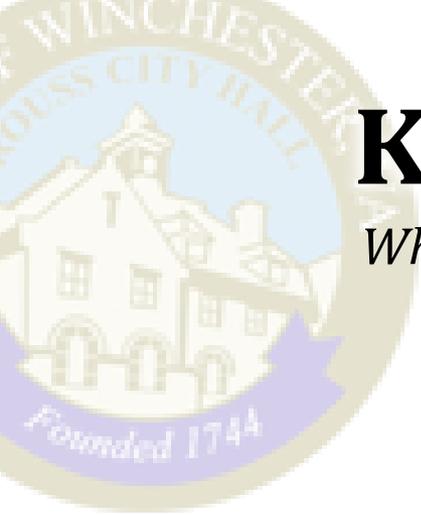


**Change in Population Density
from 2000 to 2010:**

Blue = Population Doubled (or more),

Red = Large Decreases,

Grey = Little or No Change

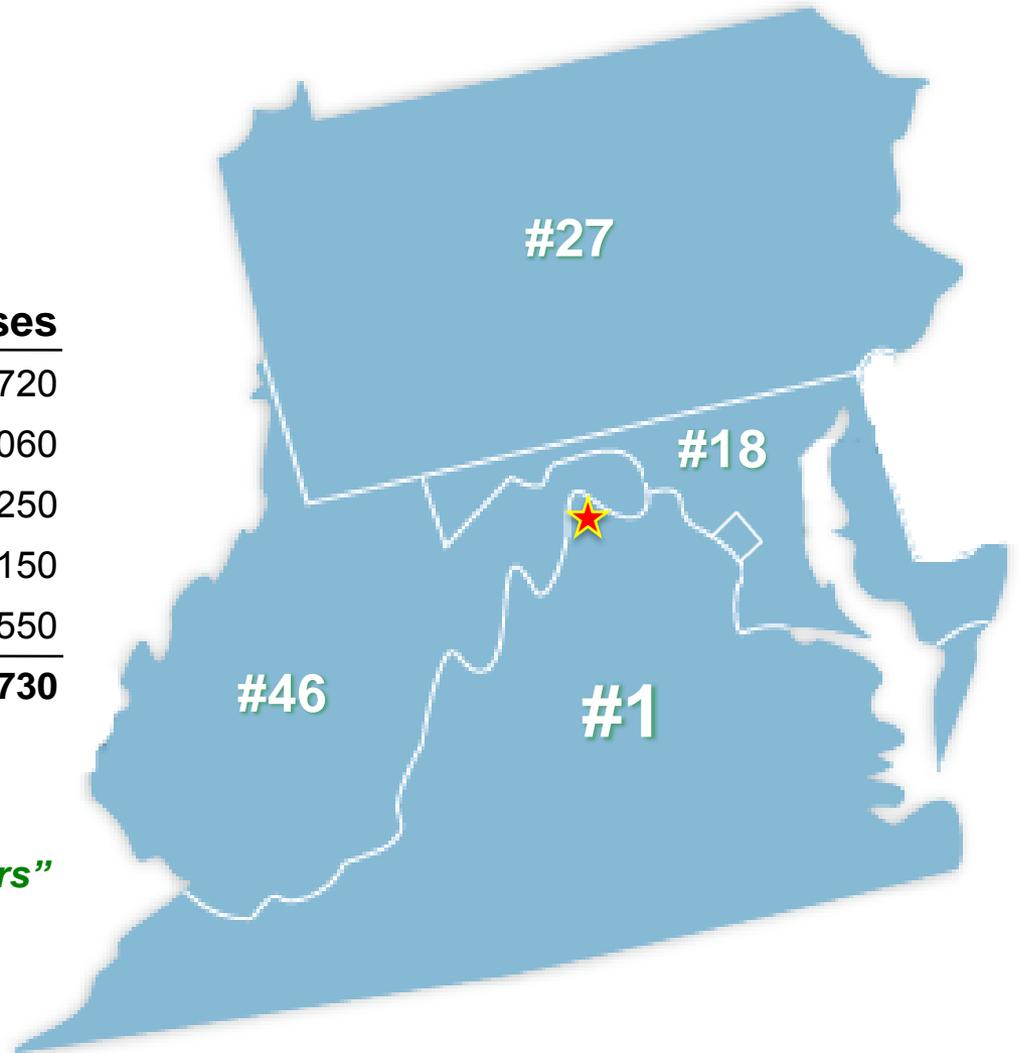


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Key Demographics

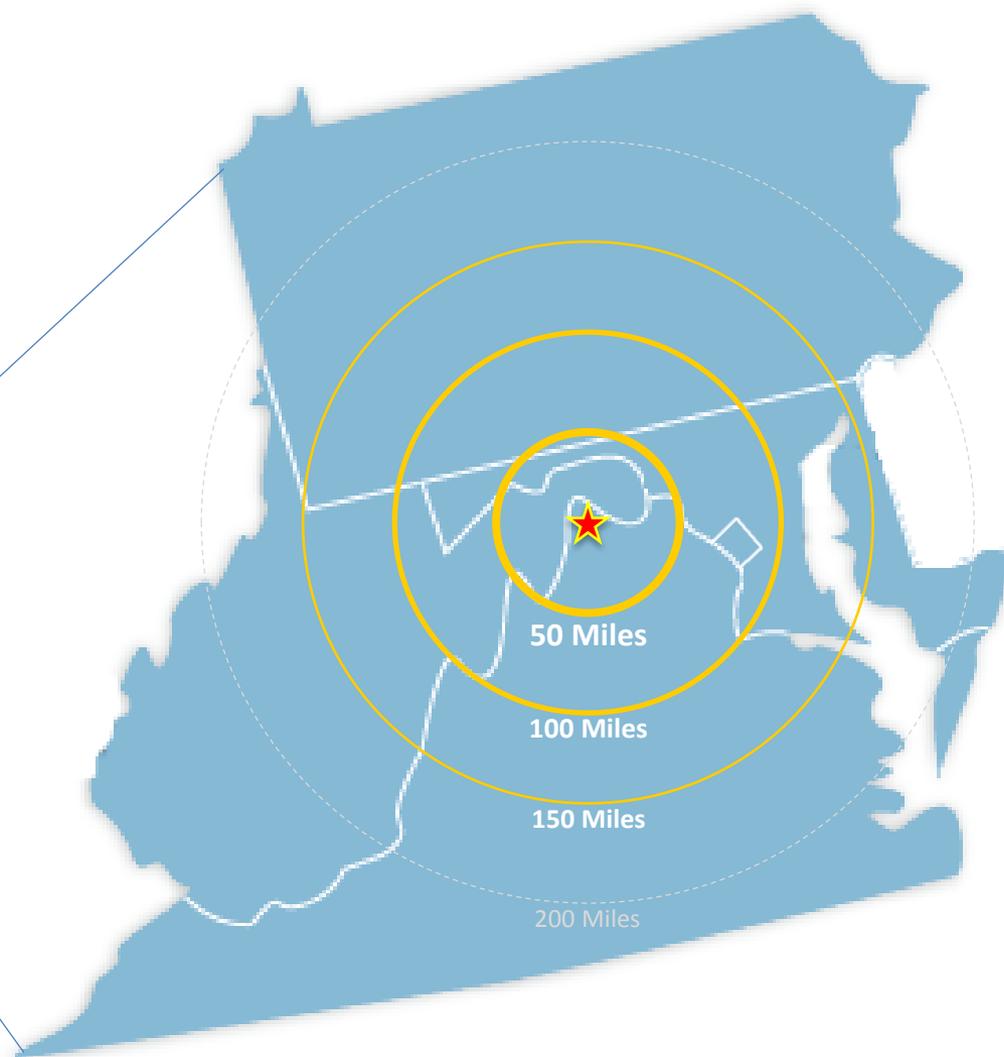
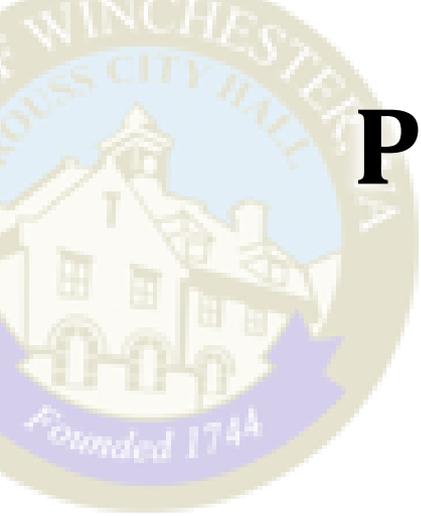
What Drives Group Events? People.

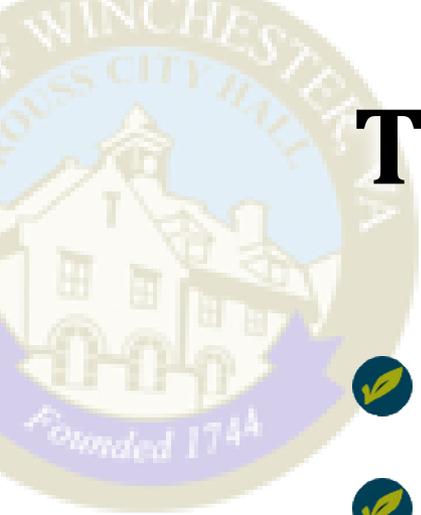
	<u>Population</u>	<u>Businesses</u>
PA:	12,702,000	295,720
VA:	8,001,000	191,060
MD:	5,774,000	133,250
WV:	1,853,000	35,150
DC:	602,000	21,550
TOTAL:	28,932,000	676,730



“Best States for Business and Careers”
-Forbes magazine

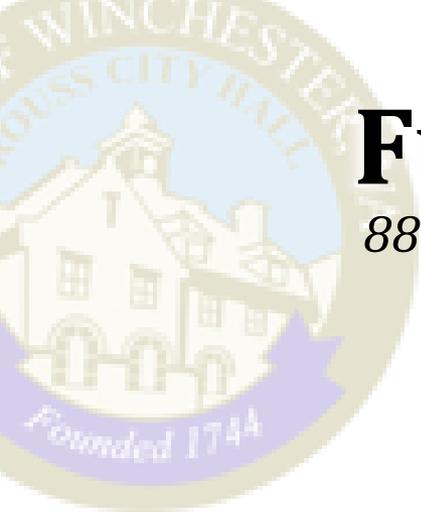
Primary Target Market





Types of Group Events

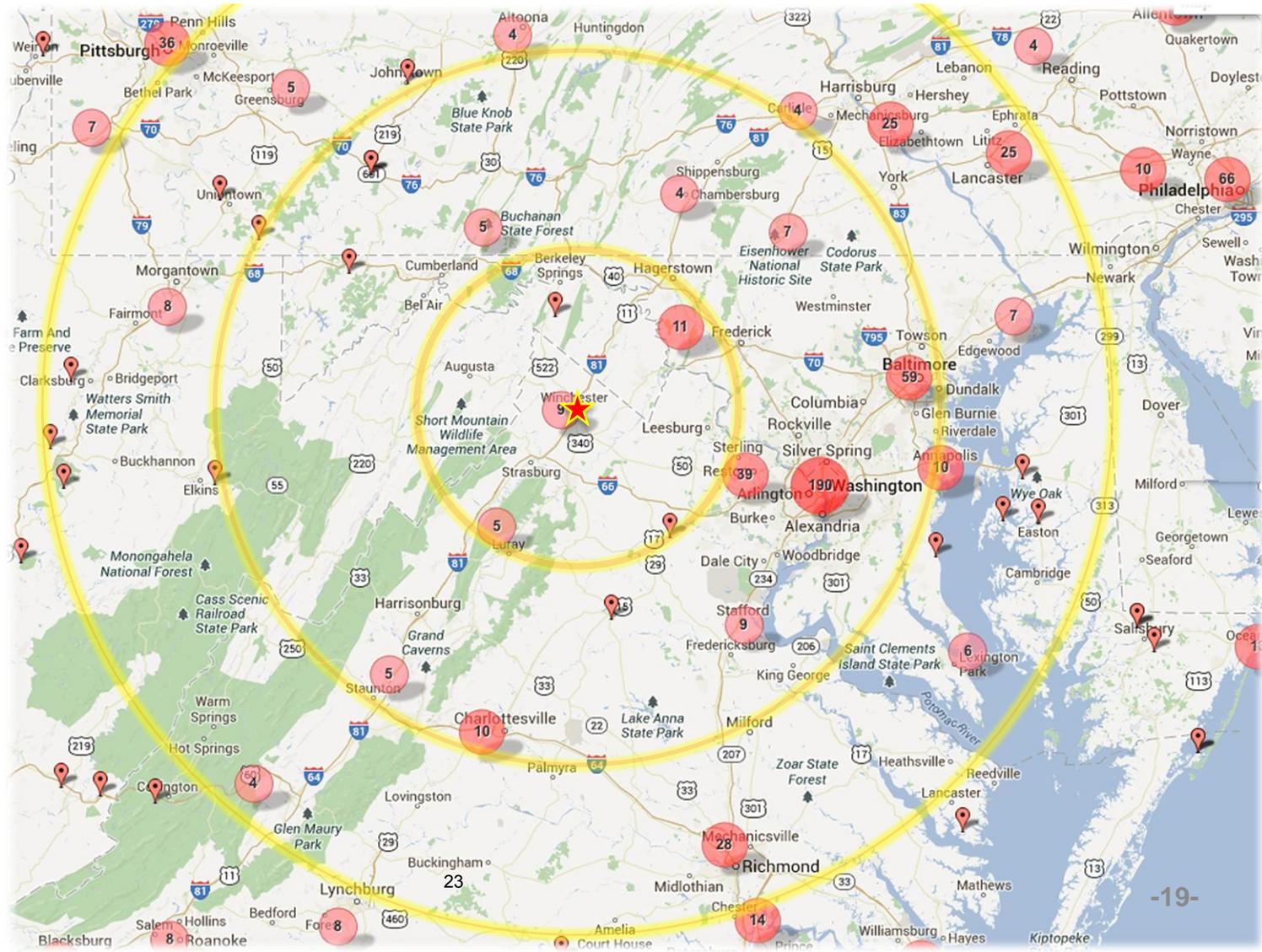
- Association/Conventions
- Tradeshows
- Consumer/Public Shows
- Corporate
- SMERF/Affinity
 - Social, Military, Educational, Religious, Fraternal
- Local & Other

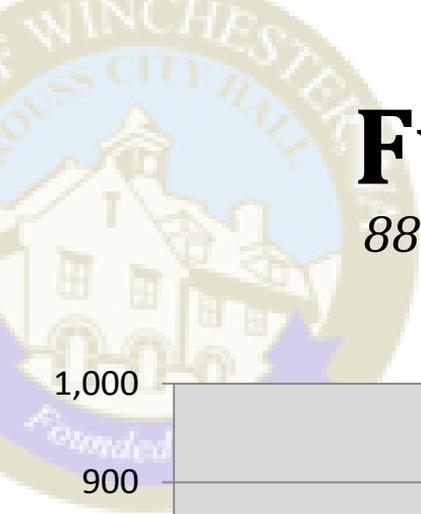


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Full Service Hotels

886 Full-Service Hotels in VA-DC-MD-PA-WV

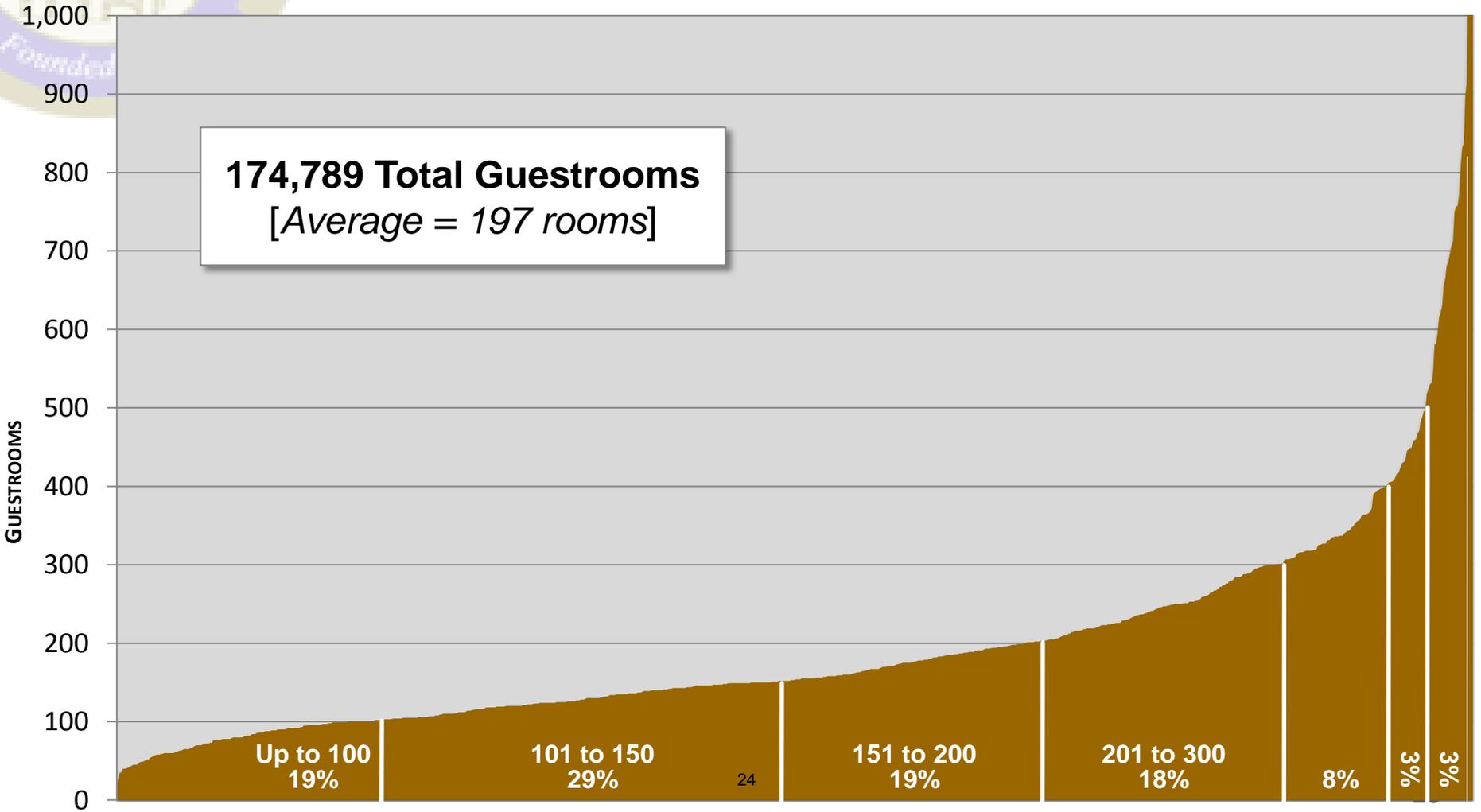


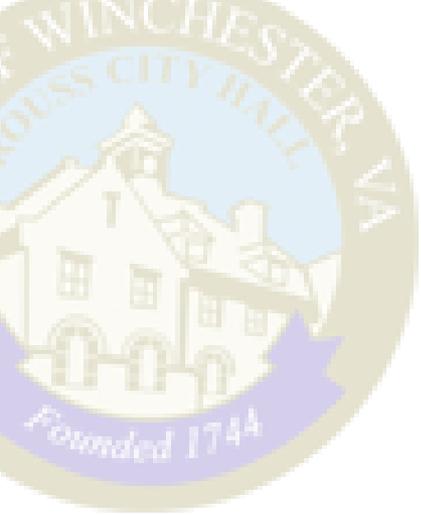


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Full Service Hotels

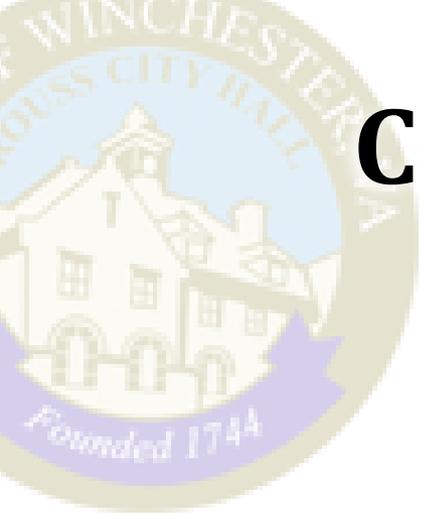
886 Full-Service Hotels in VA-DC-MD-PA-WV





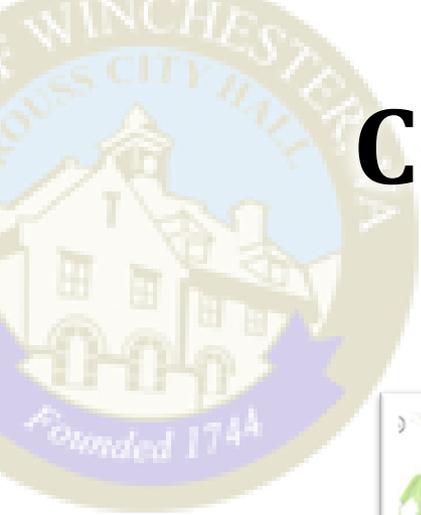
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Case Study: *Lancaster PA*



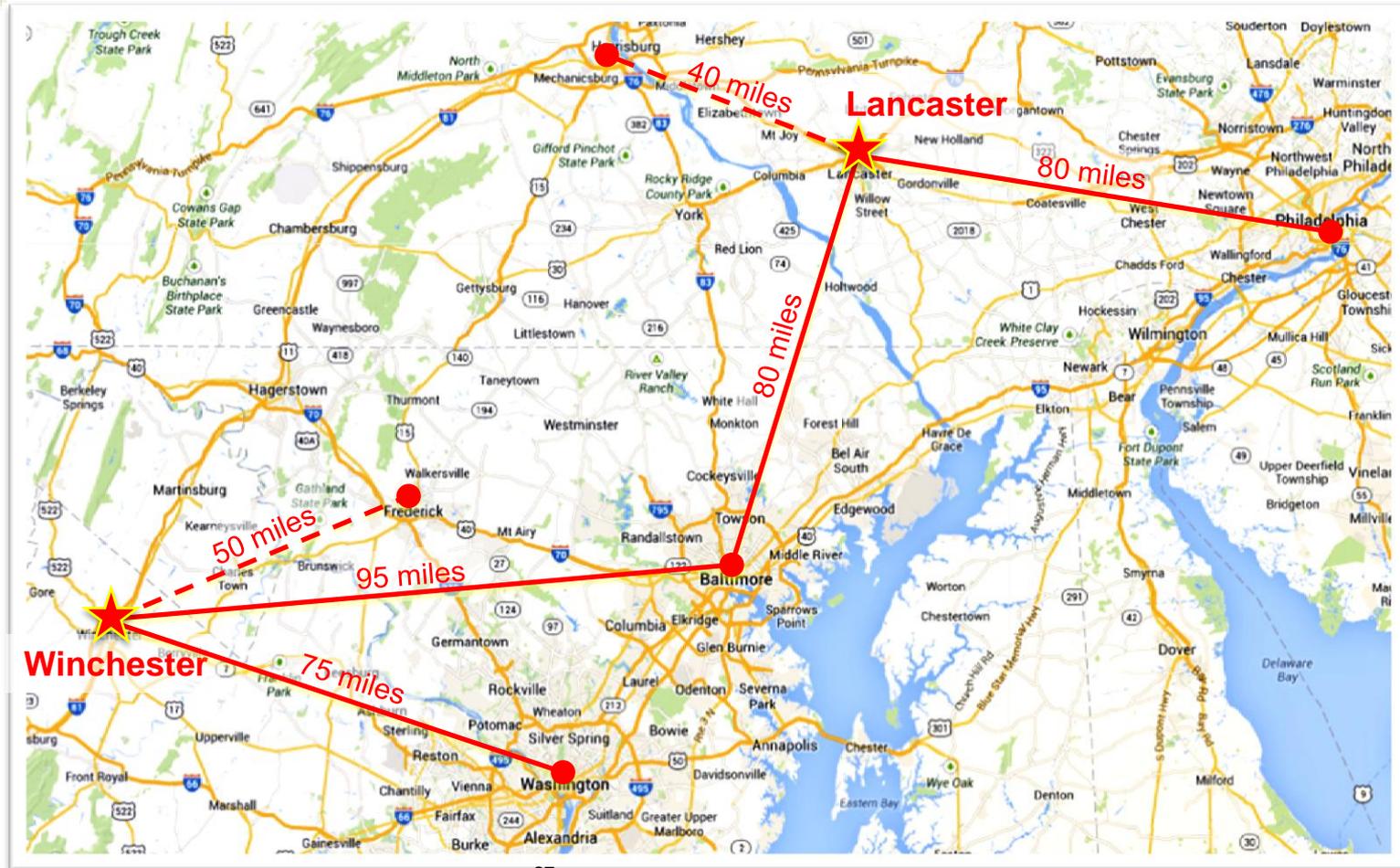
Comparison: *Lancaster*

	Winchester VA	Lancaster PA
People		
2012 Population	26,881	59,360
Pct Change 2010 to 2012	2.6%	0.1%
Land Area in Square Miles	9.23	7.23
Density: People per SM	2,912	8,210
Demographics		
Median Age	35.1	30.5
Under 5 Years	6.8%	8.0%
Age 5 to 19	19.5%	21.8%
Age 20 to 24	8.8%	10.3%
Age 25 to 34	14.9%	16.7%
Age 35 to 54	25.2%	25.4%
Age 55 to 64	10.9%	9.2%
Age 65 & Over	13.9%	8.6%
Diversity		
Born in the U.S.	87.6%	77.8%
Pct Households Speaking English Only	84.7%	65.0%
Education		
High School Diploma	29.6%	39.5%
Assoc. Degree/Some College	23.4%	20.1%
Bachelor Degree	16.6%	10.4%
Graduate Degree	12.6%	5.7%
Housing		
No. of Units	11,905	23,377
Home Ownership Rate	49.8%	44.4%
Median Value	\$255,000	\$98,500
Persons per Household	2.47	2.47
Employment		
Primary Jobs within City Limits	22,400	36,800
Primary Jobs within 5 Mile Radius	39,700	122,300
Average Commute Time in Minutes	22.7	19.2
Income		
Per Capita	\$26,343	\$16,212
Median Household	\$46,065	\$33,115
Persons below Poverty Level	18.7%	28.0%
Businesses		
Total Number of Firms	2,973	4,332
Retail Sales (000) - 2007	\$998,681	\$950,870
Retail Sales per Capita - 2007	\$38,614	\$17,209
Accommodations & Food Services Sales (000) - 2007	\$104,640	\$127,406

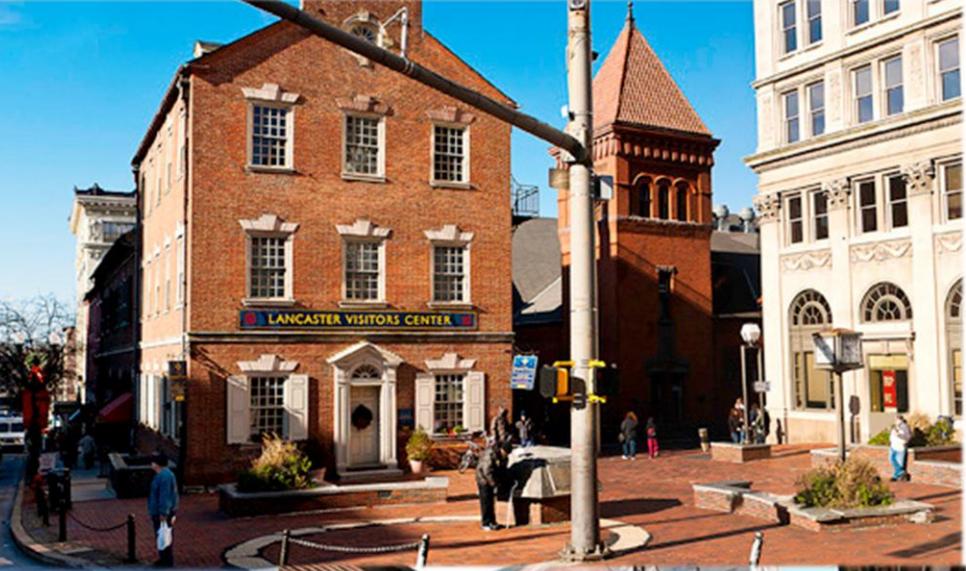


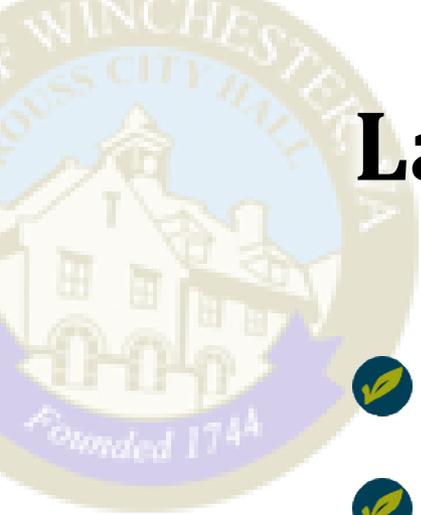
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Comparison: *Lancaster*



Lancaster PA

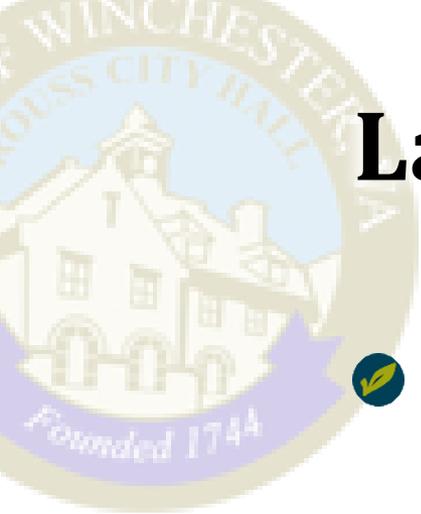




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Lancaster Convention Complex

- Facility opened in 2009 for \$178M
- In downtown core using the façade of historic Watt & Shand dept. store
- 299-room attached Marriott hotel
- 46,500 SF Exhibit space
- 9,700 SF + 8,700 SF Ballrooms
- 6,700 SF Meeting space (16 rooms)
- Operated as one facility by Interstate

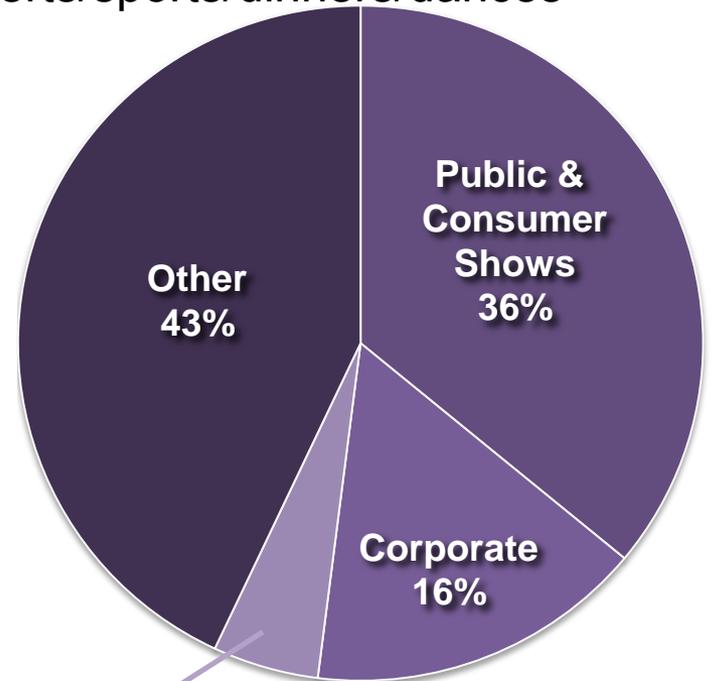


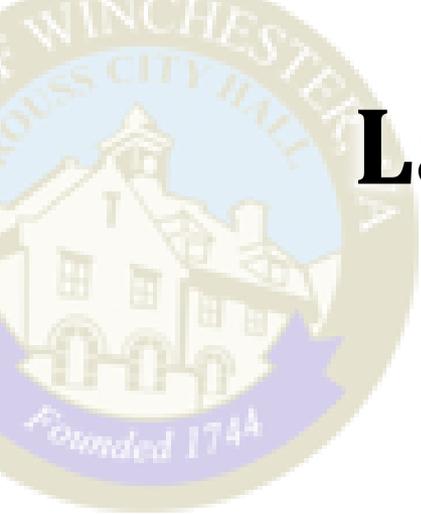
Lancaster Convention Complex

- Hotel occupancy 63% - 70% in last 3 years
- Facility hosts approx. 250 events per year
 - “Other” : Graduations/concerts/sports/dinners/dances

● Larger Events

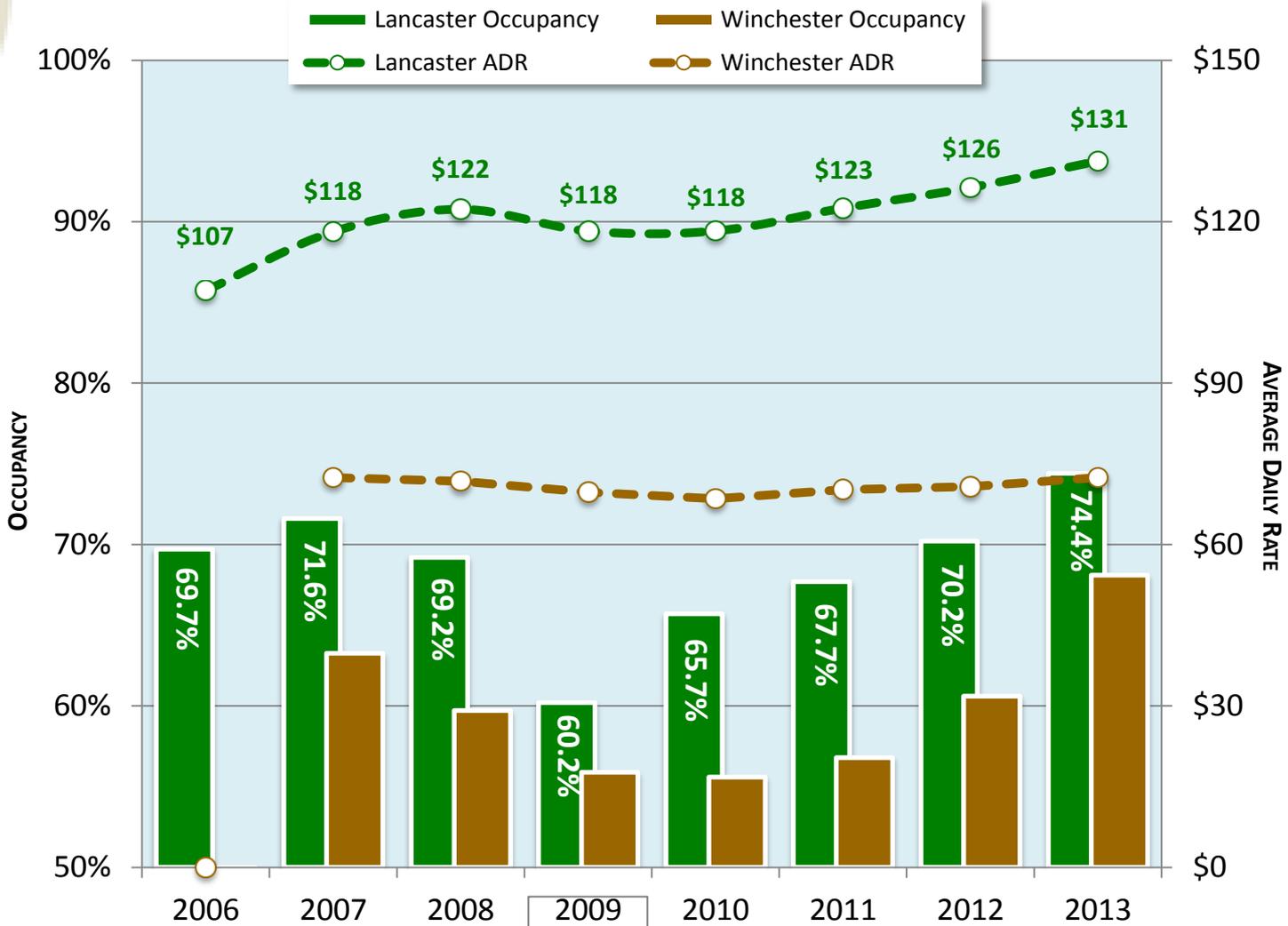
– American Quilt Society Show	16,000
– American Consumer Show	15,000
– Global Awakening	14,000
– Mission Fest	9,000
– Starquest	8,000
– Leadership Team Development	7,500
– Show Stoppers	7,200
– Life Expo	6,000
– Baby & Toddler Show	6,000
– LaunchMusic	6,000
– MLK Volleyball	6,000





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Lancaster Hotel Market

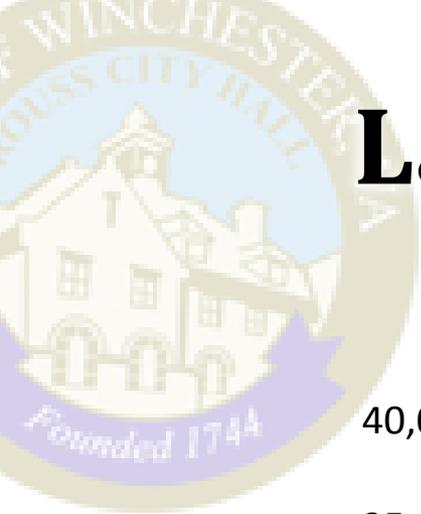


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Facility Opens

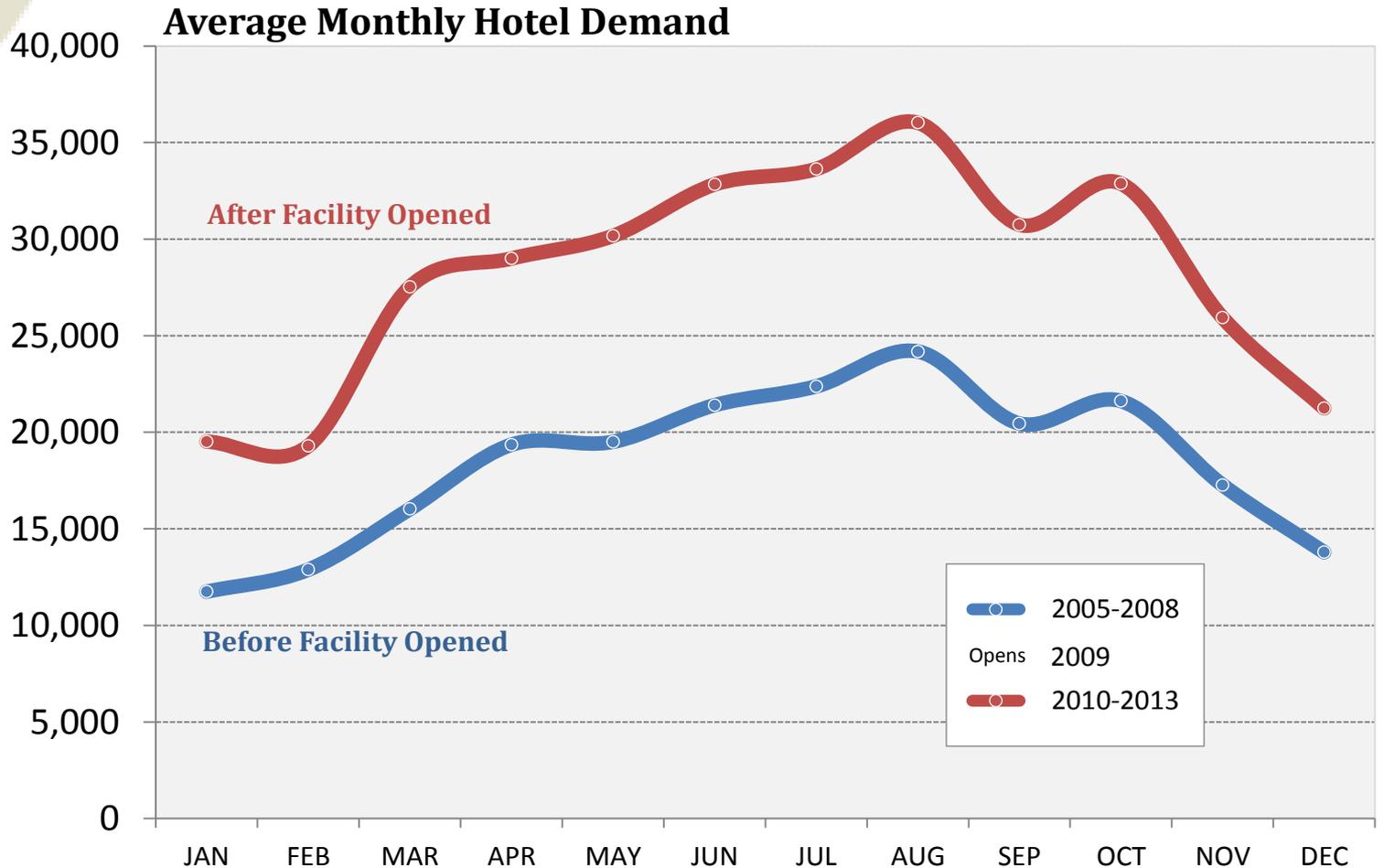
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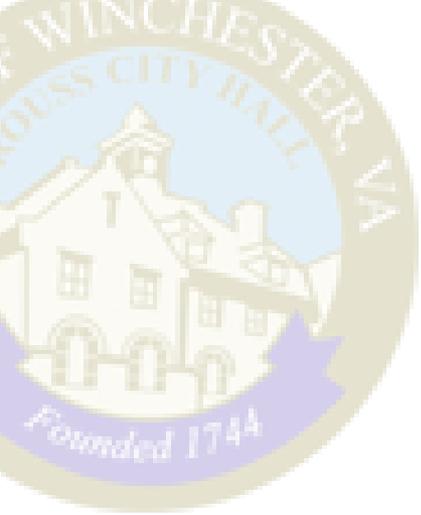
Source: STR, SAG.



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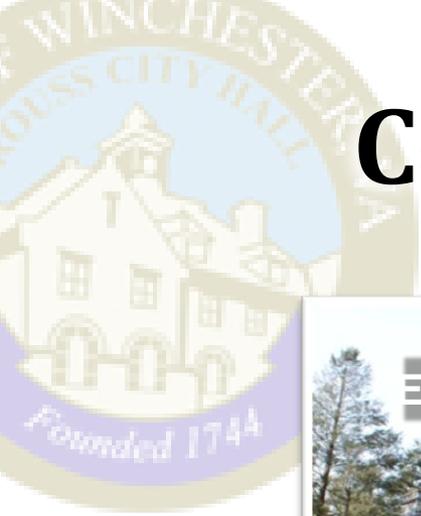
Lancaster PA: *Before & After*





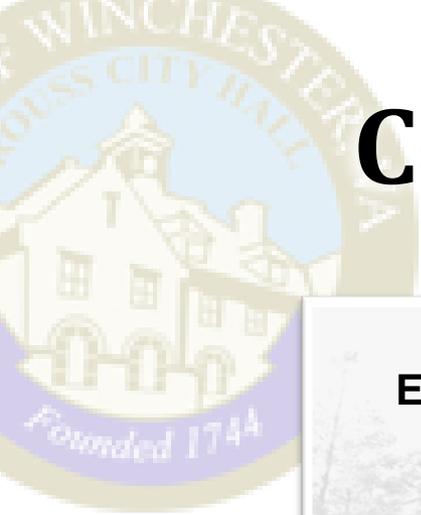
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Financial Comps: *Conference Center Hotels*



Comparable Facilities





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Comparable Facilities

Edith Macy Conference Center
White Plains NY Area

58 Guestrooms
14,000 SF Total Function Space
No Formal Ballroom
Independent

Marietta Hotel & Conference Center
Suburban Atlanta GA

198 Guestrooms
25,000 SF Total Function Space
6,500 SF Ballroom
Hilton

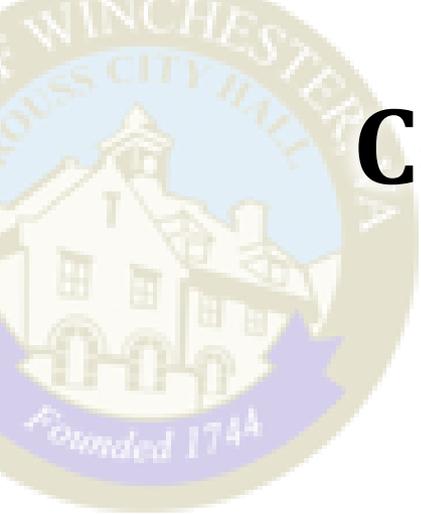
Average Property Size is 147 rooms with 129 SF function space per room

Virginia Crossings Conference Center
Suburban Richmond VA

183 Guestrooms
24,000 SF Total Function Space
4,700 SF Ballroom
Wyndham

Mason Inn & Conference Center
Fairfax VA - Suburban DC

148 Guestrooms
13,000 SF Total Function Space
4,900 SF Ballroom
Independent

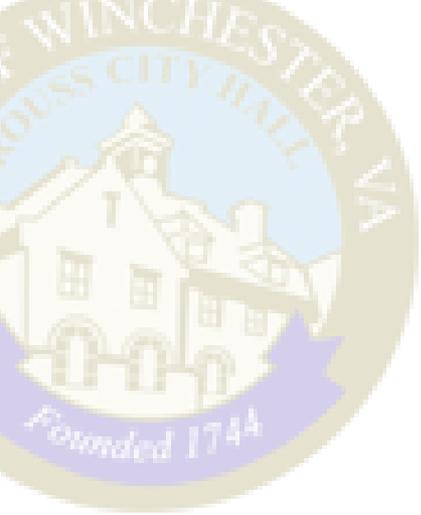


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Comps: Average Financials

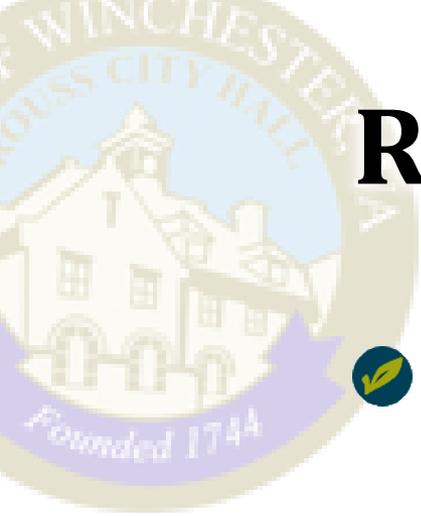
Occ: 62%
ADR: \$109

	2012		
	Ratio to Sales	Amount Per Available Room	Amount Per Occupied Room Night
	%	\$	\$
REVENUE			
Rooms	47.9 %	\$ 21,621	\$ 108.91
Food	25.9	11,710	58.99
Beverage	4.3	1,938	9.76
Other Food & Beverage	10.3	4,663	23.49
<i>Total F&B</i>			<i>92.24</i>
Telecommunications	-	13	0.06
Other Operated Departments	9.9	4,462	22.48
Rentals & Other Income	0.1	63	0.32
Cancellation Fee	1.6	704	3.55
Total Revenue	100.0 %	\$ 45,173	\$ 227.56
DEPARTMENTAL EXPENSES			
Rooms	28.3 %	\$ 6,113	\$ 30.79
Food & Beverage	69.8	12,777	64.36
Telecommunications	1,360.0	173	0.87
Rental Income	1.4	11	0.06
Other Expenses	50.7	2,263	11.40
Total Departmental Expenses	47.2 %	\$ 21,337	\$ 107.48
UNDISTRIBUTED OPERATING EXPENSES			
Administrative & General	12.0 %	\$ 5,431	\$ 27.36
Marketing	9.3	4,179	21.05
Utility Costs	6.1	2,751	13.86
Property Operation & Maintenance	5.4	2,447	12.33
Total Undistributed Expenses	32.8	\$ 14,808	\$ 74.60
GROSS OPERATING PROFIT			
	20.0 %	\$ 9,028	\$ 45.48
Franchise Fees (Royalty)	0.9	419	2.11
Management Fees	2.6	1,180	5.94
Income before Fixed Charges	16.4 %	\$ 7,429	\$ 37.42
SELECTED FIXED CHARGES			
Taxes	0.3 %	\$ 123	\$ 0.62
Insurance	0.7	328	1.65
Reserve For Capital Replacement 36	1.4	629	3.17
EBITDA	14.1 %	\$6,349	\$31.98



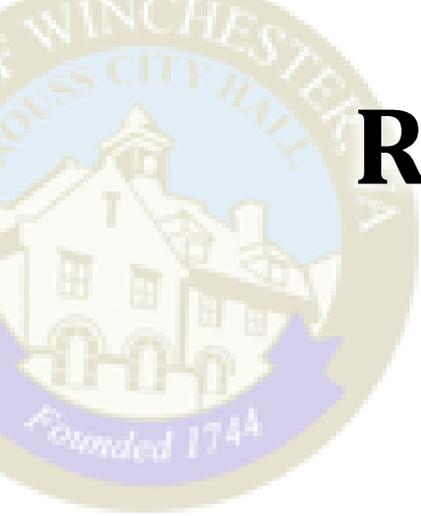
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Recommendations



Recommendations

- Pursue a 16,000 GSF facility to be attached/adjacent to GW Hotel; equating to 9,100 NSF of Rentable Function Space
 - One highly flexible & divisible space
- Concurrent development of 50-60 additional guestrooms at GW Hotel
 - Likely above facility
- Establish marketing strategy for new facility



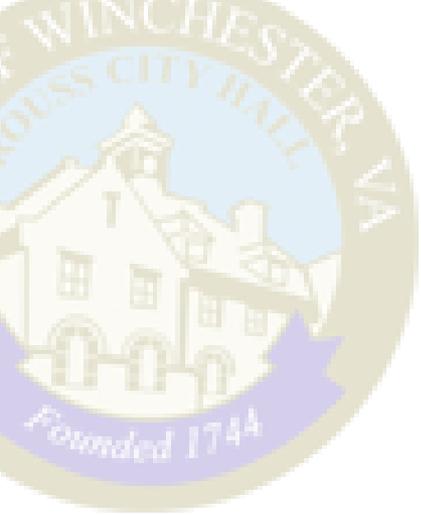
Recommended Site





Keys to Success

- Adjacency to hotel rooms
 - Existing GW is most cost effective
- Facility must be proximate to Old Town
 - Where people want to be
- Don't get into the “conference” business but rather pursue the activity business
 - Fill facility, fill hotels, fill streets, fill restaurants, fill shops
- Utilize an experienced sales professional that understands that business

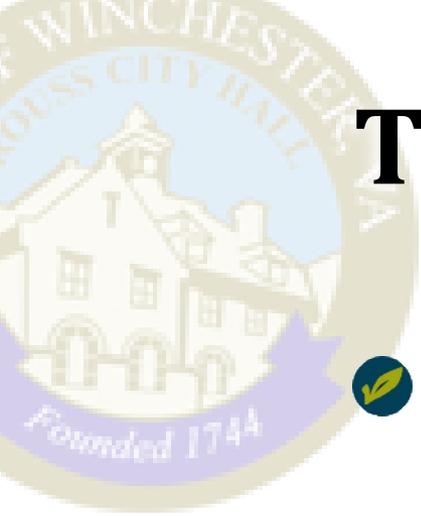


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TIF Potential

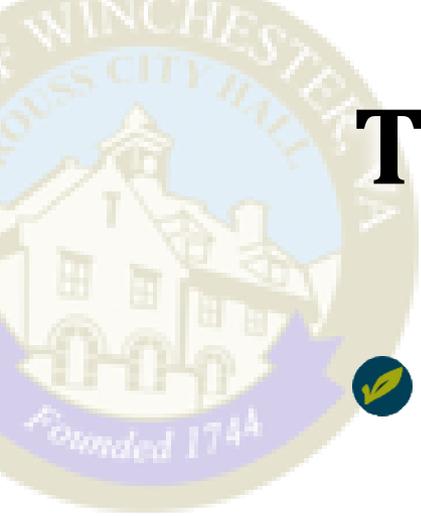
TIF: *Major Assumptions*

- Facility is managed as one property by GW Hotel management
- Hotel expands with 60 additional guestrooms, likely above Facility
- Hotel 72% occupancy and \$105 ADR
- Based on current City & State tax rates
- Annual inflation of 2.5%



TIF: *One Scenario*

- All TIF revenues for existing GW + 60 New Rooms + Facility
 - Opens in 2016
- City/Public collects tax revenues and issues debt based on TIF
 - 5.5% for 25 Years with 1.20 DSCR
 - Two years capitalized interest
- Facility leased to GW Owner



TIF: *One Scenario*

- Bond proceeds generate approx. \$7.5M to build project
 - \$23M TIF revenues collected over 25 yrs
- The development cost of facility could be approx. \$4.8M to \$6.4M
 - Assumes \$300-\$400 cost per SF
 - Excludes land and parking costs
- New hotel rooms to be privately funded



Feasibility Study: Multi-Purpose Conference Center

SUMMARY PRESENTATION

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 01/09/2013 CUT OFF DATE: 11/20/2013

RESOLUTION ___ ORDINANCE X PUBLIC HEARING X

ITEM TITLE: Ordinance to Approve School Bus Video Monitoring and Adopt Sections 14-45 of the Winchester City Code.

STAFF RECOMMENDATION: Winchester Public Schools recommends approval of the proposed Ordinance.

PUBLIC NOTICE AND HEARING: Required

ADVISORY BOARD RECOMMENDATION: School Board supports Council's adoption of the proposed Ordinance.

FUNDING DATA: City's expenses in administering the program shall be reimbursed by fines imposed for violations. Remaining funds collected will be remitted to WPS.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. _____	_____	_____	_____
2. <u>Police</u>	<i>Chp/KL</i>	_____	<u>12/19/13</u>
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. <u>City Attorney</u>	<i>[Signature]</i>	_____	<u>12/20/2013</u>
6. <u>City Manager</u>	<i>[Signature]</i>	_____	<u>12-20-13</u>
7. <u>Clerk of Council</u>	_____	_____	_____
Initiating Department Director's Signature: <i>Chp/KL</i>	_____	_____	<u>12/24/13</u>
	Kevin McKew, Executive Director WPS		Date

Revised: October 23, 2009



APPROVED AS TO FORM:

[Signature] 12/20/2013
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Kevin McKew, Executive Director, Winchester Public Schools
Date: November 18, 2013
Re: School Bus Video Monitoring Systems

THE ISSUE: Based on reports from school bus drivers and law enforcement officials, motorists routinely disregard warning signals, and illegally pass stopped school buses each day thereby putting children in serious danger.

RELATIONSHIP TO STRATEGIC PLAN: Relates to WPS Comprehensive Plan Reference §3.1 *Providing a safe, clean, and appropriate environment for students.*

BACKGROUND: In 2011 the Virginia Legislature enacted a law allowing for consistent and continuous enforcement of vehicles illegally passing a stopped school bus through the use of photo enforcement technology. This law allows citations to be issued to registered owners of vehicles that illegally pass camera-equipped school buses. The video system must produce a recorded image of the license plate and the activation status of at least one warning device, and also must record time, date, and location of the violation. The civil penalty for a violation is \$250, and by city ordinance may be payable to the local school division to offset the cost of the program.

On October 14, 2013 the School Board passed a motion authorizing the Superintendent to finalize an agreement with American Traffic Systems, Incorporated (ATS); and following City Council approval of an ordinance change allowing school bus video monitoring systems (attached), and legal counsel review of the contract form, to submit the proposed contract to the Board for final approval.

BUDGET IMPACT: None. The cost of the equipment and service is paid for by revenues generated through citations.

OPTIONS:

- 1) Adopt the proposed ordinance change allowing the use of school bus video monitoring systems for the purpose of issuing citations to motorists illegally passing stopped school buses.
- 2) Do not adopt the proposed ordinance change.

RECOMMENDATIONS:

Adopt the proposed ordinance change allowing the use of school bus video monitoring systems for the purpose of issuing citations to motorists illegally passing stopped school buses.

CODE OF VIRGINIA

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus which is stopped on any highway, private road or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road or school driveway, is subject to a civil penalty of \$250 and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ten days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. The testimony of the school bus driver, the supervisor of school buses or a law-enforcement officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

B. A locality may, by ordinance, authorize the school division of the locality to install and operate a videomonitoring system in or on the school buses operated by the division or to contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A. Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to the local school division.

For purposes of this subsection, "video-monitoring system" means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle when the image is recorded.

(1985, c. 511, § 46.1-212.1; 1987, c. 106; 1989, c. 727; 1997, cc. 622, 800, 908; 2001, c. 126; 2002, c. 541; 2011, cc. 787, 838.)

AN ORDINANCE TO ADOPT SECTIONS 14-15 OF THE WINCHESTER CITY CODE PERTAINING TO USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES

WHEREAS, Winchester Public Schools (“WPS”) is concerned regarding the safety of students boarding and exiting school buses; and

WHEREAS, it is the belief of WPS that vehicles unlawfully passing school buses while loading and unloading its passengers poses a significant danger; and

WHEREAS, the use of a photo-monitoring enforcement system on school buses is authorized under the Code of Virginia; and

WHEREAS, the implementation of such a system requires that Common Council adopt an Ordinance authorizing WPS to operate such a system; and

WHEREAS, Common Council for the City of Winchester believes that the implementation of such a system will be of benefit to the citizens of the City of Winchester.

NOW therefore be it ORDAINED that Section 14-45 of the Winchester City Code is hereby adopted as follows:

14-15 USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES, PENALTY.

(a) For purposes of this ordinance, “school division” means the Winchester City Public Schools. “Video-monitoring system” means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia, §46.2-859.

(b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded.

(c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a videomonitoring system, to have failed to comply with Code of Virginia, § 46.2-859.

(d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.

(e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes. Such agreement shall:

- (1) Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system

recordings in accordance with this section;

(2) Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;

(3) Provide that the vendor shall on request of the City or the school division, submit a report to the City and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

(f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other provision of law, all images or video or other personal information recorded by a video- monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a school bus stopping violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.

(g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of civil penalties. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.

(h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.

(i) Violations of the foregoing sections shall carry a civil penalty of \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.

(j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a videomonitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the city and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, §46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

(k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1.B. The waiver shall be effective when the person voluntarily pays \$250.00 to the city treasurer's office within 15 business days after receipt of the summons or notice of violation.

(l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.),

shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a videomonitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.

(m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the city treasury. The city treasurer shall remit to the school division all fine amounts received in respect to the violations of this section after crediting the city's general fund with amount equal to the costs incurred in administering the video enforcement measures under this ordinance.

(n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 21, 2014 **CUT OFF DATE:** ___

RESOLUTION ___ **ORDINANCE** X **PUBLIC HEARING** ___

ITEM TITLE: Amendment of Chapter 8 and Chapter 27 Ordinances in Order to Accommodate the Establishment of the Winchester Enterprise Zone and its Related Incentives

STAFF RECOMMENDATION: Approval

PUBLIC NOTICE AND HEARING: To be held February 11, 2014.

ADVISORY BOARD RECOMMENDATION: The Winchester Economic Development Authority approves of the ordinances amendments

FUNDING DATA: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	JB		1-17-13
2. Commissioner of the Revenue	DTB		1/14/14
3. _____			
4. _____			
5. City Attorney	aw		1/14/2014
6. City Manager	DI		1-16-14
7. Clerk of Council	DT		1-16-14

Initiating Department Director's Signature: _____

[Signature]

 Economic Redevelopment Director

1/14/13

 Date



APPROVED AS TO FORM:

[Signature]

 CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: January 21, 2014
Re: Adoption of Enterprise Zone Ordinance

THE ISSUE: The purpose of these ordinances are to establish an enterprise zone as authorized and guided by the Code of Virginia, § 59.1-543 et seq., to improve the economic conditions of the downtown area of Winchester.

RELATIONSHIP TO STRATEGIC PLAN: Goal 1: Grow the Economy

BACKGROUND: The City was recently awarded Virginia Enterprise Zone designation. Council is required to adopt these ordinances before the enterprise zone can begin offering incentives.

BUDGET IMPACT: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

OPTIONS: Council has the option to approve or reject the proposed ordinances.

RECOMMENDATIONS: City Staff recommends that Council adopt the ordinances.

**CHAPTER 8
ENTERPRISE ZONE**

- Art. I. ~~General Provisions, §§8-1-8-15~~
- Art. II. ~~Tax Rebates, §§8-16-8-25~~
- Art. III. ~~Exemption from Land Development Fees, §§8-26-8-40~~
- Art. IV. ~~Substantially Rehabilitated Property, §§8-41-8-44~~

Art. I. General Provisions, §§8-1--8-25

Art. II. Exemption from Land Development Fees, §§8-26--8-4032

Art. III. Substantially Rehabilitated Property, §§8-41-8-47

ARTICLE I - GENERAL PROVISIONS

SECTION 8-1. PURPOSE.

The purpose of this chapter is to establish an enterprise zone as authorized and guided by the Code of Virginia, § 59.1-251 *et seq.*, to improve the economic conditions of the downtown and other areas of Winchester. (Ord. No. 033-95, 9-12-95)

SECTION 8-2. APPLICABILITY.

The provisions of this chapter shall apply only to the area described herein and- designated by the Commonwealth of Virginia as an enterprise zone. If for any reason the Commonwealth of Virginia ceases to recognize the area as an enterprise zone, the provisions of this chapter shall be void. (Ord. No. 033-95, 9-12-95)

SECTION 8-3. ADMINISTRATION.

The Local Zone Administrator of the Winchester Enterprise Zone shall be the city manager or his designee. The Local Zone Administrator shall determine and publish the procedure for obtaining the benefits created by this chapter. (Ord. No. 033-95, 9-12-95)

SECTION 8-4. DEFINITIONS.

When used in this chapter, the definitions found in Code of Virginia §59.1-271, *et seq.*, as amended from time to time, shall control and are incorporated herein by reference. (Ord. No. 033-95, 9-12-95)

Editor's note--Ord. No. 033-95 adopted on September 12, 1995 enacted this chapter.

ENTERPRISE ZONE

SECTION 8-5. BOUNDARIES.

The enterprise zone shall be that area located within the following boundary lines:-

~~Commencing at the Northeast Corner of the intersection of Cecil Street and Braddock Street;~~

~~thence east along the North line of Cecil Street to Cameron Street;~~

~~thence north along the West line of Cameron Street to the North side of Clifford Street;~~

~~thence east along the North line of Clifford Street to Kent Street;~~

~~thence north along the West line of Kent Street to the north side of Cork Street;~~

~~thence east along the North side of Cork Street to the West side of East Lane;~~

~~thence north along the West side of East Lane to the Southwest corner of the~~

~~intersection of East Lane and Fairfax Lane;~~

~~thence West along the south side of Fairfax Lane to the intersection with West Lane;~~

~~thence North along the west side of West Lane to the South side of Elk St.;~~

~~thence West along the South side of Elk St. to the intersection of Elk Street and Chase Street;~~

~~thence North along the west side of Chase Street to the South side of Kern Street; thence~~

~~West along the south side of Kern Street to the West side of Kent Street; thence North~~

~~along the West side of Kent Street to the south side of the public~~

~~way crossing the CSXT railroad tracks;~~

~~thence West along the south side of the public way crossing the CSXT railroad tracks to the east side of Cameron Street;~~

~~thence South along the east side of Cameron Street to the South side of North Avenue;~~

~~thence West along the south side of North Avenue to the east side of Loudoun~~

~~Street; thence south along the east side of Loudoun Street to the South side of Fairfax~~

~~Lane; thence west along the south side of Fairfax Lane to the east side of Washington~~

~~Street; thence south along the east side of Washington Street to the North side of Cork~~

~~Street; thence east along the north side of Cork Street to the East side of Braddock Street;~~

~~thence south along the east side of Braddock Street to the point of beginning;~~

~~as shown on the map which is adopted as a part of this ordinance. (Ord. No. 033-95, 9-12-95)~~

The boundaries of the Winchester Enterprise Zone ("the Zone") are those established pursuant to Code of Virginia, § 59.1-543 et seq. (the "Enterprise Zone Grant Program Act" or, "the Act", as referred to herein this Chapter), and the designation as an enterprise zone of such area(s) as approved by the Governor of the Commonwealth of Virginia and described in those official Winchester Enterprise Zone real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time (the "designation").

SECTIONS 8-6 - 8-1415. RESERVED.

~~WINCHESTER CODE~~

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SECTION 8-15. LOCAL ENTERPRISE ZONE INCENTIVES

Pursuant to the Act and the designation; and pursuant to the requirement of the Act that local incentives be offered to qualifying recipients located within an enterprise zone as pledged by enterprise zone applicant and approved by the Governor of the Commonwealth of Virginia and described in the application made by the City of Winchester for the designation of the Zone, and as may be amended from time to time, such local incentives as are delineated in this section are hereby authorized.

The Local Zone Administrator is authorized to administer and deliver, and the City of Winchester is authorized to fund, as required, the following local enterprise zone incentives as further authorized subsequently in this Chapter: Exemption from Land Development Fees for commercial, industrial or residential properties. The Local Zone Administrator and the Winchester Economic Development Authority are authorized to administer and deliver, and the City of Winchester and the Winchester Economic Development Authority are authorized to fund, as required, the following local enterprise zone incentives: Business Growth Revolving Loan Fund, Commercial Façade Program, Real Estate Development Revolving Loan Fund, and Winchester Enterprise Zone Micro-loan Program. The Local Zone Administrator and the Winchester Economic Development Authority are authorized to administer and deliver, and the City of Winchester is authorized to enter into a funding agreement with the Winchester Economic Development Authority in order to fund the following enterprise zone incentives: Business Development Grant for Vacant Properties, Entrepreneurship Incentive, Knowledge-based Jobs Grant, Major Economic Development Project Incentive, Major Mixed-use Development Incentive, New or Expanding Technology-driven Business Grant, and Retail Mix Enhancement Grant. The Commissioner of the Revenue is authorized to administer the Substantially Rehabilitated Enterprise Zone Property Real Estate Tax Exemption for commercial, industrial or residential properties as described in Chapter 27 Division 4A of Code of the City of Winchester.

SECTIONS 8-16 – 8-18. REPEALED.

SECTIONS 8-19 – 8-25. RESERVED

ENTERPRISE ZONE

ARTICLE II. TAX REBATES

SECTION 8-16. TAXES ELIGIBLE FOR REBATE.

Qualified business firms shall receive a rebate of a percentage of the following local taxes:

- a. ~~The meals tax imposed by Winchester City Code § 27-70 et seq.~~
- b. ~~The motel tax imposed by Winchester City Code § 27-90 et seq.~~
- e. ~~The machinery and tools tax imposed by Winchester City Code § 27-50.~~
- d. ~~The utility tax on local telephone usage imposed by Article V of Chapter 27 of the Winchester City Code.~~
- e. ~~The business, professional and occupational license taxes imposed by Chapter 28 of the Winchester City Code. (Ord. No. 033-95, 9-12-95)~~

SECTION 8-17. AMOUNT OF REBATE.

The amount of each type of tax rebate under §8-16 shall be a percentage of that tax paid by the firm each year. The percentage rebated each year shall be determined by the following schedule:

Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Year 5	20%

Year 1 is the calendar year following the year in which the firm becomes a qualified business firm. Qualified business firms shall receive the tax rebates established by this article for five years. If a business ceases to be a qualified business firm during a year in which the rebates apply, any rebates shall be prorated for the months the business was a qualified business firm. (Ord. No. 033-95, 9-12-95)

SECTION 8-18. PROCEDURE FOR REBATE.

Qualified business firms shall pay the taxes listed in this article in the manner prescribed by

~~WINCHESTER CODE~~
WINCHESTER CODE

~~the Winchester City Code. Business firms shall apply to the Local Zone Administrator for certification as a qualified business firm. Upon certification and proof that no taxes are currently due, the qualified business firm shall be entitled to the rebates~~

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ENTERPRISE ZONE

created by this article. The schedule for rebating the taxes shall be regulated by the Local Zone Administrator. Failure of the firm to pay in full by the due date any of the taxes listed in this article, shall result in forfeiture of the rebate of that tax for that year. (Ord. No. 033-95, 9-12-95)

~~SECTIONS 8-19 – 8-25. RESERVED.~~

ARTICLE III. II. EXEMPTION FROM LAND DEVELOPMENT FEES

SECTION 8-26. QUALIFIED ZONE RESIDENTS PERMIT AND FEE EXEMPTIONS

For purposes of this article, the term "qualified zone resident" shall have the meaning provided in the Code of Virginia §59.1-280.1(D), as amended from time to time. The term shall also include a person who has entered into a contract to purchase or lease land within the enterprise zone, who will become a "qualified zone resident" except that such person does not yet hold title to the land at the time the fee is incurred. (Ord. No. 033-95, 9-12-95)

(a) Commercial, Industrial and Mixed-Use Property.

(a) Pursuant to the Act and the designation, an exemption from certain building permit, zoning and subdivision fees is hereby authorized for the new construction and renovation or rehabilitation of commercial, industrial, or mixed-use real estate which is located within the Zone and which have met the qualification criteria described in this Article. For purposes of this article, the term "mixed-use" shall mean any building developed as a mixed-use building, as defined in the Code of Virginia, § 59.1-548(A) or, if a development qualifying for a Major Mixed-use Development Incentive and consisting of more than a single building, structure(s) developed on a tract of land for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public or entertainment and including the on-site infrastructure necessary to support such uses. The said exemption shall be in the form of a refund of such fees as are described in this Article, except that no fee or portion of any fee which is remanded to the Commonwealth of Virginia or to any entity other than the City of Winchester shall be refunded.

(b) Residential Property.

(b) Pursuant to the Act and the designation, an exemption from certain building permit, zoning and subdivision fees is hereby authorized for the new construction and

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renovation or rehabilitation of residential real estate which is located within those portions of the N. Loudoun Street District located in the Zone and which have met the qualification criteria described below. The boundaries of the N. Loudoun Street District are described in those official real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time.

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SECTION 8-27. BUILDING CODE FEES, QUALIFIED RECIPIENTS

Qualified zone residents shall be exempt from the application fee imposed by Winchester City Code §6-26 and the building permit fees imposed by Winchester City Code §6-27. (Ord. No. 033-95, 9-12-95)

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(a) SUBSTANTIALLY REHABILITATED REAL ESTATE.

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COMMERCIAL/INDUSTRIAL PROPERTY REAL ESTATE TAX EXEMPTION

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Qualified recipients shall be those owners of residential, commercial, industrial or mixed-use property who complete a substantial rehabilitation project as defined in Chapter 27 Division 4A of Code of the City of Winchester.

Qualified recipients shall be those owners of residential, commercial, industrial, or mixed-use property located within the Zone who complete new construction costing at least five hundred thousand dollars (\$500,000) or who complete a rehabilitation or renovation costing at least sixty percent (60%) of the pre-renovation assessed value of the rehabilitated or renovated improvements.

(b) SUBSTANTIALLY REHABILITATED RESIDENTIAL PROPERTY REAL ESTATE TAX EXEMPTION

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Qualified recipients shall be those owners of residential property located within the N. Loudoun Street district inside the Zone who complete a substantial rehabilitation that increases their assessed value of the residential structure by at least 40% without increasing total square footage by more than 15%. If the total square footage of the improved structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article.

(eb) BUSINESS DEVELOPMENT GRANT FOR VACANT PROPERTIES.

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Qualifying recipients shall also include eligible businesses that conduct a substantial rehabilitation of a property within the Zone equal to or more than 75% of the assessed value of the property. The property must be at least 5,000sf, have been consecutively vacant for the two years prior to the commencement of the renovation and the business must be new to the City, or an expansion location within the City.

Completion shall be evidenced by the issuance of a final certificate of occupancy or, where no certificate of occupancy is required, by a final building inspection certificate.

(dc) INCENTIVE VALUATION.

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ENTERPRISE ZONE

The value of the incentive shall be measured and determined by the property's assessed value immediately before commencement of substantial rehabilitation and the assessed value immediately after completion of substantial rehabilitation, as determined by the City's assessing official.

(de) EXCLUDED RECIPIENTS.

Properties that possess or will possess not-for-profit enterprises are excluded from receiving any of the aforementioned incentives. Mixed-use properties that possess a not-for-profit enterprise must house residential or for profit businesses that amount for sixty percent (60%) or more are qualified recipients.

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SECTION 8-28. ~~WATER AND SEWER AVAILABILITY CHARGE. AMOUNT.~~

~~Qualified zone residents shall be exempt from the availability charge imposed by Winchester City Code §29-7(e) on water and sewer connections. (Ord. No. 033-95, 9-12-95)~~
Fees to be refunded to a qualified recipient shall include and be limited to the building permit fees imposed by Winchester City Code §6-27, the fees imposed by §23-8-1 et seq. of the Zoning Ordinance, and the charge for the submission of a subdivision plat imposed by the Subdivision Ordinance §4-8.

SECTION 8-29. ~~ZONING ORDINANCE FEES. OWNER'S APPLICATION.~~

~~Qualified zone residents shall be exempt from the fees imposed by §23-8-1 et seq. of the Zoning Ordinance. (Ord. No. 033-95, 9-12-95)~~

The owner of property which is qualified to be exempted from those fees described above shall be required to file an application requesting the exemption provided for in this article with the Local Zone Administrator not later than one year after completing the qualifying construction. No property owner may apply for an exemption under this article on the basis of a building permit issued prior to the establishment of the enterprise zone.

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SECTION 8-30. ~~SUBDIVISION ORDINANCE FEE. REPEALED~~

~~Qualified zone residents shall be exempt from the charge for the submission of a subdivision plat imposed by the Subdivision Ordinance §4-8. (Ord. No. 033-95, 9-12-95)~~

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SECTION 8-31. NONWAIVER.

This article shall not be construed to waive the requirement of any application, permit, or approval from the City as mandated by other code sections. Nothing in this article shall be construed as waiving the right of the City of Winchester to collect any fines or penalties imposed by other sections of the Code. (Ord. No. 033-95, 9-12-95)

~~SECTIONS 8-32 – 8-40. RESERVED.~~

~~ARTICLE III. SUBSTANTIALLY REHABILITATED PROPERTY~~

Comment [AB1]: Mov
ed to Chapter 27 Division
4.

**~~SECTION 8-41. RESIDENTIAL REAL ESTATE. AUTHORIZED; AMOUNT;
DURATION~~**

~~Any residential real estate within an Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been improved as to increase the assessed value thereof by no less than forty percent (40%), without increasing the total square footage by more than fifteen percent (15%) shall qualify for the real estate tax exemptions granted by Winchester City Code § 27-29. (Ord. No. 033-95, 9-12-95)~~

~~(a)~~

~~Pursuant to the Act and the designation, a real estate tax exemption is hereby authorized for commercial or industrial use real estate which is located within the Zone and which has undergone substantial rehabilitation or renovation. The exemption shall be in an amount equal to the increase in the assessed value resulting from the rehabilitation of the real estate, as determined by the Commissioner, and this amount only shall be applicable to any subsequent assessment or reassessment for a period of twelve (12) years commencing on July 1 of the year following the completion of the rehabilitation or renovation.~~

~~(b)~~

~~Pursuant to the Act and the designation, a real estate tax exemption is hereby authorized for residential real estate which is located within those portions of the Winchester Historic District, to include the entire N. Loudoun Street District, located in the Zone and which has undergone substantial rehabilitation or renovation. The boundaries of the Winchester Historic District and N. Loudoun Street District are~~

ENTERPRISE ZONE

~~described in those official real estate parcel maps, which shall be retained by the Local Zone Administrator, and as may be amended from time to time. The exemption shall be in an amount equal to the increase in the assessed value resulting from the rehabilitation of the real estate, as determined by the Commissioner, and this amount only shall be applicable to any subsequent assessment or reassessment for a period of twelve (12) years commencing on July 1 of the year following the completion of the rehabilitation or renovation.~~

(e)

~~Property shall be eligible for the exemption referred to in subsections (a) and (b) of this section if the appropriate building permits were acquired by the property owner and the rehabilitation indicated on the application was completed subsequent to the inclusion of the property in the Zone as verified by the Commissioner.~~

~~*State law reference* — Authority to provide above exemption, Code of Virginia, §§ 58.1-3220(A), 58.1-3221(A); amount and duration of exemption and authority of city relating thereto, Code of Virginia, §§ 58.1-3220(B), 58.1-3221(B).~~

SECTION 8-42. SUBSTANTIAL REHABILITATION OF COMMERCIAL OR INDUSTRIAL REAL ESTATE.

~~Any commercial or industrial real estate within an Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%) shall qualify for the real estate tax exemptions granted by Winchester City Code § 27-29. (Ord. No. 033-95, 9-12-95)~~

~~For the purposes of this article commercial or industrial real estate shall be deemed to have undergone substantial rehabilitation, renovation or replacement when a structure which is no less than fifteen (15) years of age has been so improved as to increase the assessed value of the structure by no less than 60 percent (60%) without increasing the total square footage of the structure by more than fifteen percent (15%). In the event of complete replacement of such structure, the increase in the total square footage shall be no more than fifteen percent (15%). If the total square footage of such rehabilitated, renovated, or replacement structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article. Rehabilitation, renovation, or replacement shall not include rehabilitation, renovation, or replacement occasioned by damage or destruction by fire, natural disaster or other acts of God.~~

~~*State law reference* — Authority for above section, Code of Virginia, § 58.1-3221(A).~~

SECTION 8-43. DEFINITIONS. SUBSTANTIAL REHABILITATION OF RESIDENTIAL REAL ESTATE.

~~The definitions and eligibility requirements of Division D of Article II of Chapter 27~~

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~~of the Winchester City Code shall apply to this article *mutatis mutandis*. (Ord. No. 033-95, 9-12-95)~~

~~For the purpose of this article, residential real estate shall be deemed to have undergone substantial rehabilitation, renovation or replacement when a structure which is not less than fifteen (15) years of age has been so improved as to increase the assessed value of the structure by no less than 40 percent without increasing the total square footage of this structure by more than fifteen percent (15%). In the event of complete replacement of such structure, the increase in the total square footage shall be no more than fifteen percent (15%). If the total square footage of such rehabilitated, renovated, or replacement structure exceeds that of the original structure by more than fifteen percent (15%), the excess square footage above said additional fifteen percent (15%) shall not be entitled to the real estate tax exemption authorized by this article. Rehabilitation, renovation, or replacement shall not include rehabilitation, renovation, or replacement occasioned by damage or destruction by fire, natural disaster or other acts of God.~~

~~State law reference—Authority for above section, Code of Virginia, § 58.1-3220(A).~~

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SECTION 8 44. — RESTRICTIONS, OWNER'S APPLICATION

~~No property owner may apply for an exemption under this article on the basis of a building permit issued prior to the establishment of the enterprise zone. (Ord. No. 033-95, 9-12-95)~~

~~State law reference—Authority for above fee, Code of Virginia, §§ 58.1-3220(D), 58.1-3221(D).~~

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DIVISION 4. SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY

SECTION 27-28. HISTORIC REHABILITATION DEFINITIONS.

For the purpose of this division, the following words and phrases shall have the meanings, respectively ascribed to them:

- (a) SUBSTANTIALLY REHABILITATED HISTORIC RESIDENTIAL REAL ESTATE, shall mean any residential real estate within the Historic Winchester District (HW), as defined by Article 14 of the Zoning Ordinance of the City of Winchester, 1976, as amended, upon which there is an existing structure which is no less than twenty-five (25) years old, and which has been so improved as to increase the assessed value thereof by no less than forty percent (40%), without increasing the total square footage by more than fifteen percent (15%).
- (b) SUBSTANTIALLY REHABILITATED HISTORIC COMMERCIAL, ~~OR INDUSTRIAL OR MIXED-USE~~ REAL ESTATE, shall mean any commercial, ~~or industrial or mixed-use~~ real estate within the Historic Winchester District (HW), as defined by Article 14 of the Zoning Ordinance of the City of Winchester, 1976, as amended, upon which there is an existing structure which is no less than twenty-five (25) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%).
- (c) AMOUNT OF EXEMPTION, shall mean an amount equal to the increase in assessed value resulting from the rehabilitation of the structure as determined by the assessing officer, and this amount only shall be applicable to assessment commencing on the first day of January of the year following the rehabilitation. An increase in assessment occurring after the first year of such rehabilitation exemption shall not result in an increase in such exemption.
- (d) TAXABLE YEAR, shall mean the calendar year from January first through December thirty-first for which such real property tax is imposed or exemption claimed. (Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92)

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SECTION 27-~~29~~28.1. HISTORIC REHABILITATION EXEMPTIONS DECLARED.

The purpose of this division shall be to provide real estate tax exemptions for substantially rehabilitated residential, commercial, ~~or industrial or mixed-use~~ real estate for a period of ten (10) years, commencing on January first of the year following completion of such rehabilitation. (Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92; Ord. No. 2011-28, 8-9-11)

State Law Reference-- Code of Virginia, §§58.1-3220, *et seq.*

**SECTION 27-~~30~~28.2. HISTORIC REHABILITATION EXEMPTION
ELIGIBILITY REQUIREMENTS.**

Exemptions pursuant to this division shall not become effective unless the persons owning such property have:

- (a) Prior to commencement of a plan to rehabilitate the property, obtained the required building permit and applied for the herein prescribed exemption on a form approved by the Commissioner of the Revenue. Application for exemption must be filed before the work designated by the building permit is begun.
- (b) Paid to the Treasurer an application processing fee in the amount of twenty dollars (\$20.00). No application for the exemption approved by this article shall be deemed to have been filed until the fee herein imposed has been paid.
- (c) Prior to commencement of a plan to rehabilitate the property, contacted the ~~real-estate assessor~~Commissioner of the Revenue to make an assessment of the property in its current condition.
- (d) After rehabilitation of the building, contacted the ~~real-estate assessor~~Commissioner of the Revenue to assess the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records.
- (e) ~~Submitted the application for exemption~~Obtained the final assessment prior to January first of the taxable year for which such exemption is claimed.
(Ord. No. 044-88, 11-15-88; Ord. No. 017-92, 11-10-92; Ord. No. 2011-28, 8-9-11)

**DIVISION 4A. SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE
PROPERTY**

SECTION 27-29. ENTERPRISE ZONE REHABILITATION DEFINITIONS.

For the purpose of this division, the following words and phrases shall have the meanings, respectively ascribed to them:

- (a) SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE RESIDENTIAL REAL ESTATE, shall mean any residential real estate within the North Loudoun Street District of the Enterprise Zone, but outside the boundaries of the Winchester Historic District, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than

forty percent (40%), without increasing the total square footage by more than fifteen percent (15%).

(b) SUBSTANTIALLY REHABILITATED ENTERPRISE ZONE COMMERCIAL, INDUSTRIAL OR MIXED-USE REAL ESTATE, shall mean any commercial or industrial or mixed use real estate within the Enterprise Zone, upon which there is an existing structure which is no less than fifteen (15) years old, and which has been so improved as to increase the assessed value thereof by no less than sixty percent (60%), without increasing the total square footage by more than fifteen percent (15%). Any commercial, industrial or mixed-use property that possesses or will possess not-for-profit enterprises that amount for more than forty percent (40%) of total improvement space is excluded from receiving this exemption.

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(c) AMOUNT OF EXEMPTION, shall mean an amount equal to the increase in assessed value resulting from the rehabilitation of the structure as determined by the assessing officer, and this amount only shall be applicable to assessment commencing on the first day of January of the year following the rehabilitation. An increase in assessment occurring after the first year of such rehabilitation exemption shall not result in an increase in such exemption.

(d) TAXABLE YEAR, shall mean the calendar year from January first through December thirty-first for which such real property tax is imposed or exemption claimed.

SECTION 27-29.1. ENTERPRISE ZONE EXEMPTIONS DECLARED.

The purpose of this division shall be to provide real estate tax exemptions for substantially rehabilitated residential, commercial, industrial or mixed-use real estate for a period of twelve (12) years, commencing on January first of the year following completion of such rehabilitation.

State Law Reference-- Code of Virginia, §§58.1-3220, et seq.

SECTION 27-29.2. ENTERPRISE ZONE REHABILITATION EXEMPTION ELIGIBILITY REQUIREMENTS.

Exemptions pursuant to this division shall not become effective unless the persons owning such property have:

(a) Prior to commencement of a plan to rehabilitate the property, obtained the required building permit and applied for the herein prescribed exemption on a form approved by the Commissioner of the Revenue. Application for exemption must be filed before the work designated by the building permit is begun.

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(b) Paid to the Treasurer an application processing fee in the amount of twenty dollars (\$20.00). No application for the exemption approved by this article shall be deemed to have been filed until the fee herein imposed has been paid.

(c) Prior to commencement of a plan to rehabilitate the property, contacted the Commissioner of the Revenue to make an assessment of the property in its current condition.

(d) After rehabilitation of the building, contacted the Commissioner of the Revenue to assess the fair market value of the renovation improvements, and reflect such value in the real estate tax assessment records.

(e) Obtained the final assessment prior to January first of the taxable year for which such exemption is claimed.

SECTION 27-30. RESERVED.

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B-2014-01

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: January 21, 2014 **CUT OFF DATE:** __

RESOLUTION X **ORDINANCE** **PUBLIC HEARING**

ITEM TITLE: Adoption of the Enterprise Zone Funding Agreement Resolution between the City and the Winchester Economic Development Authority

STAFF RECOMMENDATION: Approval

PUBLIC NOTICE AND HEARING: N/A

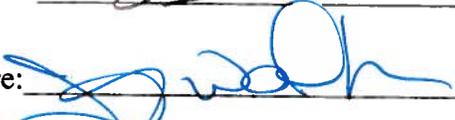
ADVISORY BOARD RECOMMENDATION: N/A

FUNDING DATA: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

INSURANCE: N/A

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	B		1-8-14
2. _____			
3. _____			
4. _____			
5. City Attorney	aw		1/15/2014
6. City Manager	DI		1-16-14
7. Clerk of Council	DI		1-16-14

Initiating Department Director's Signature:  Date: 1/15/2014

Economic Redevelopment Director



APPROVED AS TO FORM:


CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Jim Deskins, Economic Redevelopment Director
Date: January 21, 2014
Re: Adoption of Enterprise Zone Funding Resolution

THE ISSUE: The Winchester Economic Development Authority requires funding to award the economic development incentives identified in the enterprise zone funding agreement

RELATIONSHIP TO STRATEGIC PLAN: Goal 1: Grow the Economy

BACKGROUND: The City was recently awarded Virginia Enterprise Zone designation. The zone goes into effect upon Council's adoption of this resolution and the related enterprise zone ordinance. Additionally, Council approved R2013-26 pledging funding to the incentives

BUDGET IMPACT: We estimate that the program could result in incentives up to \$500,000 annually. However, many of the incentives are based on local tax rebates paid annually in arrears and will result in a positive return in investment over a five to ten year period. The success of the enterprise zone in attracting new economic development projects will determine the actual cost.

OPTIONS: Council has the option to approve or reject the proposed resolution.

RECOMMENDATIONS: City Staff recommends that Council adopt the resolution.

RESOLUTION

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF WINCHESTER, VIRGINIA, THAT CERTAIN WINCHESTER VIRGINIA ENTERPRISE ZONE LOCAL INCENTIVES GRANTS FUNDING AGREEMENT DATED AS OF THE TH DAY OF _____, 2014, BY AND BETWEEN THE CITY OF WINCHESTER, VIRGINIA AND THE WINCHESTER ECONOMIC DEVELOPMENT AUTHORITY.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Winchester:

1. That it hereby authorizes the City Manager to execute, and the City Clerk to attest, on behalf of the City of Winchester, Virginia, that certain Winchester Virginia Enterprise Zone Local Incentives Grants Funding Agreement dated as of the th day of _____, 2014, by and between the City of Winchester, Virginia and the Winchester Economic Development Authority.

2. That a copy of the said Funding Agreement is attached hereto and made a part hereof.

3. That this resolution shall be in effect on and after _____, 2014.

**WINCHESTER VIRGINIA ENTERPRISE ZONE LOCAL INCENTIVES GRANTS
FUNDING AGREEMENT**

This Winchester Virginia Enterprise Zone Local Incentives Grants Funding Agreement (hereafter “this Agreement”) is entered into as of this ____ day of _____, 2014, between the CITY OF WINCHESTER, VIRGINIA, a Virginia municipal corporation (hereafter “the City”), and the WINCHESTER ECONOMIC DEVELOPMENT AUTHORITY, a political subdivision of the Commonwealth of Virginia (hereafter “the EDA” or “the authority”). The City and the EDA are collectively referred to as “the Parties.”

RECITALS

Whereas, the Governor of Virginia is authorized to establish enterprise zones within the Commonwealth of Virginia, by Section 58.1-538, et seq. of the Code of Virginia, the boundaries of such enterprise zones to be established by certain eligible Virginia municipal corporations through application made to the Commonwealth and approved by the Governor;

Whereas, an enterprise zone consists of an area within the boundaries of a locality in which certain business enterprises may become eligible to receive financial incentives from the locality for certain investment and job creation activities;

Whereas, the City has determined that the establishment of enterprise zones will foster the development of commercial and industrial businesses to the benefit of the public health, safety, welfare and convenience of the City through the enhancement of public revenues and the creation of employment opportunities;

Whereas, on October 17, 2013, the Governor of Virginia did so designate an enterprise zone in the City of Winchester, to become effective January 1, 2014, in such areas, as may be amended from time to time, that are further described in those official Winchester Virginia Enterprise Zone real estate parcel maps, which shall be retained by the Local Zone Administrator;

Whereas, the EDA is directed by the charter granted to it by the General Assembly of Virginia to participate in economic development activities within the City of Winchester;

Whereas, the EDA is authorized by its charter to exercise all or any of the powers and authority vested in an industrial development authority established under the Industrial Development and Revenue Bond Act, which is set out in Chapter 49 of Title 15.2 of the Code of Virginia, section 15.2-4905;

Whereas, among the powers of industrial development authorities thus granted to the EDA is the power to make grants to any business firm, as later defined herein, for the purpose, among others, of promoting economic development;

Whereas, the City is henceforward willing to consider providing funds to the EDA for the purpose of enabling it to make certain grants within the enterprise zones the Governor has established;

Whereas, the circumstances under which the City is willing to consider providing such funds to any given business firm relate to the nature of its business, to the monetary value of its taxable capital investments, and to its creation of new positions;

Whereas, the City is authorized to enter into agreements with the EDA to contract obligations, both contingent and absolute, and to appropriate, donate or contribute, from tax

revenues or from any other sources, funds to assist the authority in the carrying out of any of the purposes of the act creating the EDA; and

Whereas, the Parties desire to memorialize their agreement with respect to the City's willingness to provide funds to the EDA for the purpose of its making certain Business Development Grants for Vacant Property, Entrepreneurship Incentives, Knowledge-based Job Grants, Major Economic Development Project Incentives, New or Expanding Technology-driven Business Grants, Retail Mix Enhancement Grants and grants and/or provision of in-kind services made by the EDA in order to deliver Major Mixed-Use Development Incentives, (hereafter, collectively, the "Enterprise Zone Local Incentive Grants"), as well as to provide funds to the EDA for the purpose of capitalizing, as and when necessary, certain loan funds, all of which have been pledged by the City, through its application to the Governor for designation of an enterprise zone in the City of Winchester, as local incentives required by the Commonwealth to be offered in enterprise zones as herein specified.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing, the Parties agree:

I. Definitions

(a) "Business Firm" means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia, or any subsidiary thereof.

(b) "Enterprise Zone" means a zone created by the Governor of Virginia as authorized by the Code of Virginia, Section 58.1-538 et seq. in such areas, as may be amended from time to time, that are further described in those official Winchester Virginia Enterprise Zone real estate parcel maps which shall be retained by the local zone administrator.

(c) “Grant Period” means the period commencing on the first day of the first tax year for which an Enterprise Zone Local Incentive Grant is payable and ending on the last day of the last tax year for which an Enterprise Zone Local Incentive Grant is payable, unless otherwise defined in an Incentive Agreement. For the purposes of this Agreement, a tax year begins on the first day on which the relevant property is assessed for the first time or on the first day on which a tax upon which an Enterprise Zone Local Incentive Grant is calculated is paid to the City, whichever is applicable.

(d) “Incentive Agreement” means the agreement between the EDA and a Business Firm that is a Qualified Recipient for an Enterprise Zone Local Incentive Grant, which agreement governs the terms and conditions under which the firm may receive and retain Enterprise Zone Local Incentive Grants. For purposes of this section, the term “Enterprise Zone Local Incentive Grant” includes the provision of in-kind services through the Major Mixed-Use Development Incentive. With respect to the Major Mixed-Use Development Incentive, the term “Incentive Agreement” may refer to a development agreement or to a section(s) of a development agreement between the EDA and a Business Firm that is a Qualified Recipient.

(e) “Mixed-use Project” means a tract of land or structure(s) developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public or entertainment and including the on-site infrastructure necessary to support such uses. In the case of a single structure, the structure shall meet the definition of a mixed-use building, as defined in the Code of Virginia, § 59.1-548(A).

(f) “Net Increase,” with respect to any tax, means the positive change of that tax occurring during the Grant Period due to the assessment of a capital investment made by, or caused to be made by, a Qualified Recipient and not by any change in the rate at which such

capital investment is taxed, as compared to the amount of that tax levied upon the Qualified Recipient during a period prior to the Grant Period, as defined in the Incentive Agreement or, if no Incentive Agreement has been executed, as determined by the local zone administrator.

(g) “New Positions” means jobs of indefinite duration at a Business Firm located within an Enterprise Zone requiring each employee to report for work within the Enterprise Zone and requiring: 1) a minimum of 35 hours of the employee's time per week for the entire normal year of the Business Firm's operation, which "normal year" must consist of at least 48 weeks, 2) a minimum of 35 hours of the employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the Business Firm, or 3) a minimum of 1,680 hours per year. “New Positions” shall not include seasonal or temporary positions.

(h) “Post-performance Provision” means a requirement contained in an Incentive Agreement pledging the Qualified Recipient to return all or a portion of Enterprise Zone Local Incentive Grants it has received from the EDA if the Qualified Recipient leaves the Enterprise Zone within five (5) years of receiving its final Enterprise Zone Local Incentive Grant.

(i) “Qualified Amounts” means an amount corresponding to the Net Increase in the various taxes paid by or held in trust by each Qualifying Recipient to the City.

(j) “Qualified Recipient” means the recipient of any Enterprise Zone Local Incentive Grant as further specified herein.

(k) “Qualified Business Development Grant for Vacant Properties Recipient” means a Business Firm, which is new to the City or is expanding and which is located in an Enterprise Zone, which has substantially rehabilitated real property of at least five thousand (5,000) square feet for commercial or mixed-use, which property shall have been vacant for a minimum of two (2) years prior to the commencement of such rehabilitation. A property shall be considered to

have been substantially rehabilitated if the cost of such rehabilitation equals at least seventy-five percent (75%) of the assessed value of the property improvements measured from the last assessment prior to commencement of the rehabilitation, the rehabilitation cost being measured by the construction cost declared on a building permit for the rehabilitation issued by the City plus the cost declared on any receipts for rehabilitation work not requiring a building permit. The Business Firm must also authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(l) “Qualified Entrepreneurship Incentive Recipient” means a new Business Firm located in an Enterprise Zone, fifty percent (50%) of whose market is located outside of the City and Frederick County or which provides a product not currently available in the City (all of which as determined by the EDA in its sole discretion), and which shall: 1) create at least one (1) but not more than nine (9) New Positions (businesses creating more than nine (9) New Positions will not be eligible for the incentive) in an Enterprise Zone within the first twelve (12) months of commencing business operations; 2) acquire a business license from the City; 3) be located in a commercially zoned district; 4) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 5) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(m) “Qualified Knowledge-based Jobs Grant Recipient” means a Business Firm located in an Enterprise Zone which shall: 1) within a twelve (12) month period, create at least ten (10) New Positions which are Knowledge-based Professional Jobs, as herein defined, if newly located in the City, or create at least five (5) New Positions which are Knowledge-based Professional Jobs, if an existing Business Firm in the City (collectively, the “Qualifying Jobs”); 2) pay wages or salaries to holders of the Qualifying Jobs which, averaged, are equal to or above

one hundred and twenty percent (120%) of the City's median annual income as determined by the latest data available from the U.S. Census Bureau; 3) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 4) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee. A Knowledge-based Professional Job is defined as one within one of the following: the architecture and engineering occupations; arts, design, entertainment, sports and media occupations; business and financial occupations, except loan counselors and tax preparers; computer and mathematical occupations; healthcare practitioners (excluding technicians); lawyers; life, physical, and social science occupations; and management occupations.

(n) "Qualified Major Economic Development Project Incentive Recipient" means a Business Firm located in an Enterprise Zone which shall: 1) make a capital investment of at least two million, five hundred thousand dollars (\$2.5 million) within the Enterprise Zone; 2) create at least twenty-five (25) New Positions within the Enterprise Zone whose wages and salaries, averaged, are at least equal to the City's median annual income as determined by the latest data available from the U.S. Census Bureau; 3) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision, and 4) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(o) "Qualified Major Mixed-Use Development Incentive Recipient" means a Business Firm which shall: 1) make a capital investment of at least five million dollars (\$5 million) in a Mixed-use Project located in an Enterprise Zone; 2) sign an Incentive Agreement and 3) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee.

(p) “Qualified New or Expanding Technology-based Business Grant Recipient” means a Business Firm which is a High-Tech Business, as herein defined, located in an Enterprise Zone and which shall: 1) make a one million dollar (\$1 million) capital investment in the Enterprise Zone; 2) sign an Incentive Agreement which shall include, among other provisions, a Post-performance Provision and 3) authorize the commissioner of the revenue to release pertinent data to the city manager or his designee. A High-Tech Business is defined as one classified in one of the following industry sectors: advanced manufacturing; bio-information and bio-medical; knowledge-producing federal government contractors; and other technology-driven firms, all as determined by the EDA in its sole discretion.

(q) “Qualified Retail Mix Enhancement Grant Recipient” means a Business Firm located in the Downtown or Berryville Avenue areas of the Enterprise Zone and doing business in the retail industry sector which, as determined by the EDA in its sole discretion, are positioned to attract shoppers from beyond the City. Such qualifying Business Firms may include, but are not limited to: art galleries, antique dealers, book stores, “high end” or specialty grocers, high fashion retailers, and specialty item gift stores. For the purpose of administering the Retail Mix Enhancement Grant, the local zone administrator shall delineate and publish the boundaries of the Downtown and Berryville Avenue areas of the Enterprise Zone on official real estate parcel maps of the City of Winchester, Virginia, which shall be retained by the local zone administrator.

(r) “Qualifying Event” means the creation of New Positions and/or capital investment, as the case may be, of such magnitudes as to fulfill the requirements for the definition of a Qualified Recipient for any Enterprise Zone Local Incentive Grant, as described herein.

(s) “Qualifying Wage” means an average level of wages and salaries as herein

specified in the definitions of a Qualified Knowledge-based Jobs Grant Recipient and Qualified Major Economic Development Project Incentive Recipient.

II. Eligibility

The City will provide funds to the EDA for the purpose of its making Enterprise Zone Local Incentive Grants to a Business Firm if 1) the firm is a Qualified Recipient; and 2) it applies for the applicable Enterprise Zone Local Incentive Grant no later than twelve (12) months after the occurrence of the last Qualifying Event, provided that no more than twelve (12) months have transpired between the first Qualifying Event and the last Qualifying Event, unless such period is extended by an Incentive Agreement which is signed prior to the occurrence of the first Qualifying Event; except that, for a Major Mixed-Use Development Incentive, a Business Firm must apply for the incentive prior to the occurrence of the first Qualifying Event and an executed development agreement shall constitute the application for the Major Mixed-Use Development Incentive.

III. Amount and Delivery of Grants

The City will provide funds to the EDA for the purpose of its making Enterprise Zone Local Incentive Grants in amounts and in manners as are described more fully herein.

- A. Business Development Grant for Vacant Properties. The amount of any Business Development Grant for Vacant Properties shall be equal to:
 - a) twenty-five percent (25%) of the Net Increase in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years,

if the substantially rehabilitated structure is at least five thousand (5,000) square feet but no more than twenty thousand (20,000) square feet;

- b) fifty percent (50%) of the Net Increase in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years, if the substantially rehabilitated structure is more than twenty thousand (20,000) square feet but no more than forty thousand (40,000) square feet;
- c) one hundred percent (100%) of the Net Increase a in business personal property taxes, business license fees or taxes, local option sales taxes, meals taxes, lodging taxes and/or admissions taxes paid to the City by a Qualified Business Development Grant for Vacant Properties Recipient during a Grant Period equal to five (5) years, if the substantially rehabilitated structure exceeds (40,000) square feet.

Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified Business Development Grant for Vacant Properties Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Business Development Grant for Vacant Properties Recipient who has applied for the Business Development

Grant for Vacant Properties, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Business Development Grant for Vacant Properties.

- B. Entrepreneurship Incentive. The amount of any Entrepreneurship Incentive shall be equal to fifty percent 50% of the cost of website design and construction, up to a maximum amount of one thousand dollars (\$1,000); plus fifty percent (50%) of the cost of website hosting or high speed internet access, up to a maximum amount of five hundred dollars (\$500); plus a two hundred (200) basis point reduction on a Winchester Enterprise Zone Micro-loan, if the Qualified Entrepreneurship Recipient is approved by the EDA for such loan. A Qualified Entrepreneurship Incentive Recipient shall not be delinquent in the payment or remittance of any taxes or fees to the City. The EDA shall pay such grants to a Qualified Entrepreneurship Incentive Recipient who has applied for the Entrepreneurship Incentive, and whose application has been approved by the EDA Board from such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Entrepreneurship Incentive.
- C. Knowledge-based Jobs Grant. The amount of any Knowledge-based Jobs Grant shall be equal to the sum of one thousand dollars (\$1,000) multiplied by the number of qualifying Knowledge-based Professional Jobs, up to a maximum amount of twenty-five thousand dollars (\$25,000). A Qualified Knowledge-based

Jobs Grant Recipient shall not be delinquent in the payment or remittance of any taxes or fees to the City. The EDA shall pay such grants to a Qualified Knowledge-based Jobs Grant Recipient who has applied for the Knowledge-based Jobs Grant, and whose application has been approved by the EDA Board from such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Knowledge-based Jobs Grant.

D. Major Economic Development Project Incentive. The amount of any Major Economic Development Project Incentive shall be equal to one hundred percent (100%) of the Net Increase in any and all taxes paid to the City by a Qualified Major Economic Development Project Incentive Recipient during a Grant Period equal to three (3) years. Such funds shall be provided only upon actual receipt of such taxes by the City and under condition that the Qualified Major Economic Development Project Incentive Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Major Economic Development Project Incentive Recipient who has applied for the Major Economic Development Project Incentive, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Major Economic Development Project Incentive. An approved application for the Major Economic Development Project Incentive shall be a fully executed Incentive Agreement. If the Qualified Major Economic

Development Project Incentive Recipient receives any other Enterprise Zone Local Incentive Grant, then the sum of all such Enterprise Zone Local Incentive Grants shall not exceed the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period. If the sum of all such Enterprise Zone Local Incentive Grants exceeds the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period, then the amount of the Major Economic Development Project Incentive shall be reduced to equal the present value of the sum of the Net Increase of all taxes paid by the Qualified Major Economic Development Project Incentive Recipient to the City during a five (5) year period. The Incentive Agreement entered into by the Qualified Major Economic Development Project Incentive Recipient shall provide that any amount of the Major Economic Development Project Incentive received by the Qualified Major Economic Development Project Incentive Recipient in excess of the maximum amount of the Major Economic Development Project Incentive so determined (the "Excess Grant Amount") shall be paid by the Qualified Major Economic Development Project Incentive Recipient to the EDA and the EDA shall remit such amount to the City. The Incentive Agreement may alternatively provide that the Excess Grant Amount may be reduced or eliminated by reducing the amounts due to the Qualified Major Economic Development Project Incentive Recipient from other Enterprise Zone Local Incentive Grants.

E. Major Mixed-Use Development Incentive. The amount or value and nature of the

Major Mixed-Use Development Incentive provided by the EDA to a Qualified Major Mixed-Use Development Incentive Recipient shall be specified in an Incentive Agreement and shall be an amount or value equal to at least thirty-five percent (35%) but not more than sixty-five percent (65%) of the Net Increase in all taxes paid to the City derived from the qualifying Mixed-use Project. The EDA may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive to a Qualified Major Mixed-Use Development Incentive Recipient as a cash grant or as a series of cash grants. The EDA may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive by providing in-kind services for the benefit of the Qualified Major Mixed-Use Development Incentive Recipient, including, but not limited to, such services as: site assemblage, land cost write-down or below-market sale of property, provision of on or off-site public infrastructure, provision of public facilities, the issuance and/or payment by the EDA of debt service on a bond(s), or provision of favorable financing terms. The EDA's provision of such in-kind services may require the City to provide funds to the EDA in order that the EDA may affect the provision of such services in whole or in part. Additionally or alternatively, the City or its agent may, but is not required to, provide all or a portion of the Major Mixed-Use Development Incentive by directly providing in-kind services for the benefit of the Qualified Major Mixed-Use Development Incentive Recipient and/or the public welfare, including, but not limited to, such services as: abandonment of public rights-of-way, provision of on or off-site public infrastructure, provision of public facilities, or provision of favorable

financing terms. The amount and mode of delivery of the Mixed-Use Development Incentive, whether by grant(s), in-kind services delivered by the EDA, or in-kind services delivered by the City, or any combination of the above shall be specified in the Incentive Agreement governing that Major Mixed-Use Development Incentive.

- F. New or Expanding Technology-based Business Grant. The amount of any New or Expanding Technology-based Business Grant shall be equal to fifty percent (50%) of the Net Increase in any and all taxes paid to the City tax by a Qualified New or Expanding Technology-based Business Grant Recipient during a Grant Period equal to five (5) years. Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified New or Expanding Technology-based Business Grant Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified New or Expanding Technology-based Business Grant Recipient who has applied for the New or Expanding Technology-based Business Grant, and whose application has been approved by the EDA Board, semi-annually upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the New or Expanding Technology-based Business Grant. An approved application for the New or Expanding Technology-based Business Grant shall be a fully executed Incentive Agreement. If the Qualified New or Expanding Technology-based Business Grant Recipient is also a Qualified Major Economic Development Project Incentive Recipient, the Incentive Agreement may contain a provision to

reduce or eliminate the Excess Grant Amount.

- G. Retail Mix Enhancement Grant. The amount of any Retail Mix Enhancement Grant shall be equal to fifty percent (50%) of the Net Increase in any and all of the taxes delineated herein (the "Retail Mix Enhancement Grant Taxes") paid to the City by a Qualified Retail Mix Enhancement Grant Recipient during a Grant Period equal to the first twelve (12) months of operation of the Business Firm. The Retail Mix Enhancement Grant Taxes include: the business license fee, or business professional and occupational license (BPOL) tax; the food and beverage, or meals, tax; and the local option sales tax. Such funds shall be provided only upon actual receipt of such taxes by the City. A Qualified Retail Mix Enhancement Grant Recipient shall not be delinquent in the payment or remittance of any other taxes or fees to the City. The EDA shall pay such grants to a Qualified Retail Mix Enhancement Grant Recipient who has applied for the Retail Mix Enhancement Grant, and whose application has been approved by the EDA Board, at the end of the Grant Period and upon receipt of such funds as are herein provided to be paid by the City to the EDA for the purposes of making such funds available for payment by the EDA of the Retail Mix Enhancement Grant. The Retail Mix Enhancement Grant shall be used by the Qualified Retail Mix Enhancement Grant Recipient for the sole purpose of the bona fide marketing expenses incurred during pre-opening and the first year of operation of the Business Firm (the "Eligible Expenses") and the amount of the Retail Mix Enhancement Grant shall be limited to the amount of the Eligible Expenses. The Qualified Retail Mix Enhancement Grant Recipient shall provide the EDA with

evidence of the Eligible Expenses prior to the EDA's disbursement of the Retail Mix Enhancement Grant.

H. With respect to the Business Development Grant for Vacant Properties, Major Economic Development Project Incentive, New or Expanding Technology-based Business Grant and Retail Mix Enhancement Grant (collectively, the "Tax-based Grants"), the following procedure shall be implemented in order to provide the necessary funding for the Tax-based Grants.

- a) Annually, the local zone administrator shall provide to the director of finance an estimate of the total amount to be disbursed to Qualified Recipients of the Tax-based Grants during the forthcoming fiscal year. Upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required for disbursement to fulfill the EDA's obligations to fund the Tax-based Grants.
- b) Semi-annually, the local zone administrator shall verify with the commissioner of the revenue and the city treasurer the amounts of the various taxes paid by each Qualifying Recipient to the City.
- c) Semi-annually, upon receiving verification from the commissioner of the revenue and the city treasurer the amounts of the various taxes paid by each Qualifying Recipient to the City, the local zone administrator shall request the EDA to invoice the City for the Qualified Amounts and the director of finance shall transfer the Qualified Amounts from the City to the EDA.

- d) Upon receipt of such funds from the City, the EDA shall disburse the various Tax-based Grants in the appropriate amounts to the appropriate Qualified Recipients.
- I. With respect to the Entrepreneurship Incentive and Knowledge-based Jobs Grant (the “Direct Grants”), the following procedure shall be implemented in order to provide the necessary funding for the Direct Grants.
 - a) Upon securing an eligible applicant and being invoiced by the EDA, the City shall transfer the full amount of the applicable incentive to the EDA in order to fund the Entrepreneurship Incentive and the Knowledge-based Jobs Grant.
 - b) Annually, upon being invoiced by the EDA, the City shall transfer to the EDA such amounts as are determined to be necessary to fully fund the Entrepreneurship Incentive and the Knowledge-based Job Grant.
- J. With respect to the Major Mixed-Use Development Incentive, upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required by various Incentive Agreements to be necessary for the EDA to fulfill its obligations under said Incentive Agreements.
- K. With respect to the Business Growth Revolving Loan Fund, the Commercial Façade Program, the Real Estate Revolving Loan Fund and the Winchester Enterprise Zone Micro-loan Fund (collectively, the “Loan Funds”), upon being invoiced by the EDA, the City shall transfer to the EDA from time to time such amounts as may be determined and required by various Incentive Agreements to

be necessary for the EDA to fulfill its obligations under said Incentive Agreements.

- L. No reference to the timing of payments of Local Enterprise Zone Incentive Grants provided herein shall preclude a reasonable period for verification and processing of payments from being assumed to be included in or be in addition to those timings referenced herein.

IV. Approval of Incentive Agreements

Notwithstanding anything to the contrary expressed or implied by the terms of this Agreement, the City retains the right in its discretion to approve or disapprove any proposed Incentive Agreement for a Major Mixed-Use Development Incentive negotiated pursuant to the terms of this Agreement without regard to whether the proposed qualifying activity provides the minimum taxable capital investment and meets the minimum job creation criterion. No Incentive Agreement for a Major Mixed-Use Development Incentive may be executed by the EDA without first being authorized by a resolution of the City Council of the City of Winchester.

V. Execution in Counterparts

This Agreement may be executed in any number of counterparts, each of which when fully executed shall be deemed to be an original.

**WINCHESTER ECONOMIC
DEVELOPMENT AUTHORITY**

Chairman

ATTEST:

Secretary of the Winchester
Economic Development Authority

APPROVED AS TO FORM:

Counsel for the Winchester
Economic Development Authority

R-2014-02

CITY OF WINCHESTER, VIRGINIA

PROPOSED CITY COUNCIL AGENDA ITEM

CITY COUNCIL/COMMITTEE MEETING OF: 01/21/2014 **CUT OFF DATE:** _____

RESOLUTION X **ORDINANCE** **PUBLIC HEARING**

ITEM TITLE: Refund Piedmont Medical Laboratory, Riddleberger Brothers Inc. and Integrity Home Mortgage Corp. for Prorated Business License Taxes

STAFF RECOMMENDATION: Approve

PUBLIC NOTICE AND HEARING:

ADVISORY BOARD RECOMMENDATION:

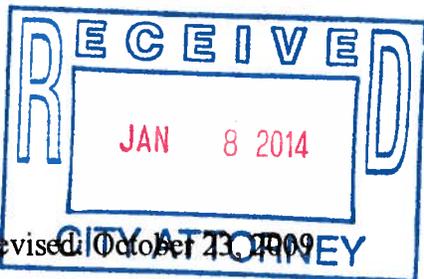
FUNDING DATA:

INSURANCE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The Director's initials for approval or disapproval address only the readiness of the issue for Council consideration. This does not address the Director's recommendation for approval or denial of the issue.

<u>DEPARTMENT</u>	<u>INITIALS FOR APPROVAL</u>	<u>INITIALS FOR DISAPPROVAL</u>	<u>DATE</u>
1. Finance	<i>JB</i>		1-8-14
2. Treasurer	<i>JB/PLH</i>		1-8-2014
3. _____			
4. _____			
5. City Attorney	<i>AW</i>		1/8/2014
6. City Manager	<i>DT</i>		1-9-14
7. Clerk of Council			

Initiating Department Director's Signature: *Gene T. Beville* Date: 12/23/2013



APPROVED AS TO FORM:

[Signature]
1/8/2014
CITY ATTORNEY

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Ann T. Burkholder, Commissioner of the Revenue
Date: 12/23/2013
Re: Refund for Prorated Business License Taxes

THE ISSUE: Three taxpayers have requested refunds of business, professional and occupational (BPOL) taxes paid.

RELATIONSHIP TO STRATEGIC PLAN: This is a matter of fair and equitable taxation, which relates to Goal 2: Create a high-performing City organization.

BACKGROUND: Code of the City of Winchester §27-8, in accordance with Code of Virginia §58.1-3981 requires City Council approval of any refunds in excess of \$2,500.00. Code of the City of Winchester §28-12 provides for refunds of BPOL taxes paid under certain circumstances.

1. Piedmont Medical Laboratory transferred ownership of its business to another entity during tax year 2013. The taxpayer has applied for a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.
2. Riddleberger Brothers, Inc. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. The taxpayer has applied for a prorated refund to ensure the licensed privilege includes only those gross receipts attributable to a taxable situs within the City of Winchester.
3. Integrity Home Mortgage Corp. filed and paid for 2012 and 2013 City business licenses. However, as the business actually moved out of the City in mid-2012, the taxpayer then requested a partial refund for 2012 and full refund for 2013.

BUDGET IMPACT: Minimal.

OPTIONS: When appropriate, the office of the Commissioner of the Revenue offers the option of either a credit on the account towards future taxes or a refund.

RECOMMENDATION: Pursuant to Code of the City of Winchester §27-8, the Commissioner of the Revenue respectfully requests that the City Council, with the consent of the City Attorney, authorize the Treasurer to issue these three refunds in the amounts certified by the Commissioner of the Revenue for each.

RESOLUTION

WHEREAS, Piedmont Medical Laboratory has requested a prorated refund of Business License Taxes for tax year 2013; and

WHEREAS, Riddleberger Brothers, Inc. has requested a prorated refund of Business License Taxes for tax year 2013; and

WHEREAS, Integrity Home Mortgage Corp. has requested a prorated refund of Business License Taxes for tax year 2012 and full refund of Business License Taxes for tax year 2013; and

WHEREAS, the office of the Commissioner of the Revenue has certified that each of these taxpayers has properly requested and is entitled to this refund; and

WHEREAS, the office of the Commissioner of the Revenue wishes to maintain accurate and equitable tax records.

NOW therefore be it RESOLVED, that Common Council hereby approves the refund of \$12,078.51 to Piedmont Medical Laboratory for prorated Business License Taxes, the refund of \$10,420.84 to Riddleberger Brothers, Inc. and the refund of \$46,811.11 to Integrity Home Mortgage Corp. for prorated and erroneously paid Business License Taxes; and directs the City Treasurer to refund said amounts together with any penalties and interest paid thereon.



Ann T. Burkholder, Commissioner of the Revenue
15 North Cameron Street
Winchester, VA 22601
Email: commrevenue@winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 667-8937
TDD: (540) 722-0782
Website: www.winchesterva.gov

Certificate of the Commissioner of the Revenue

Piedmont Medical Laboratory transferred ownership of its business to another entity during tax year 2013. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Piedmont Medical Laboratory is due a refund of \$12,078.51 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Handwritten signature of Ann T. Burkholder in black ink.

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Handwritten signature of Anthony C. Williams in black ink.

Anthony C. Williams

Date: 1/8/2014



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Certificate of the Commissioner of the Revenue

Riddleberger Brothers, Inc. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Riddleberger Brothers, Inc. is due a refund of \$10,420.84 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Handwritten signature of Ann T. Burkholder in black ink.

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Handwritten signature of Anthony C. Williams in black ink.

Anthony C. Williams

Date: 1/8/2014



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Certificate of the Commissioner of the Revenue

Integrity Home Mortgage Corp. filed an amended return for its 2013 business license, excluding gross receipts which were properly reported to another locality. Pursuant to Code of the Winchester §28-12, the taxpayer has requested a prorated refund to ensure the licensed privilege is taxed only for that fraction of the year during which it was exercised within the City.

Pursuant to Code of the City of Winchester §27-8 and §58.1-3981 of the Code of Virginia, I certify that Integrity Home Mortgage Corp. is due a refund of \$46,811.11 for prorated Business License taxes.

Verified by Commissioner of the Revenue:

Ann T. Burkholder

Date: 12/23/2013

Consent by City Attorney:

Anthony C. Williams

Date: 1/8/2014