RESOLUTION

TIDAL WETLANDS MITIGATION AND COMPENSATION POLICY

WETLANDS BOARD FOR THE COUNTY OF FAIRFAX, VIRGINIA

At a regular meeting of the Wetlands Board for the County of Fairfax, Virginia ("the Wetlands Board"), on March 30, 2005, the Wetlands Board adopted a Tidal Wetlands Mitigation and Compensation Policy for the County of Fairfax, Virginia ("Policy"), said Policy so adopted being in the words following, to-wit:

WHEREAS, pursuant to Va. Code Ann. §§ 28.2-1301 and -1308, as amended, the Virginia Marine Resources Commission ("VMRC") adopted the Wetlands Mitigation – Compensation Policy and Supplemental Guidelines, 4 VAC 20-390-10 through -50 ("VMRC Policy"), as amended, to assist wetlands boards in Virginia in mitigating or minimizing the loss of tidal wetlands and the adverse effects of all permitted activities in tidal wetlands in Virginia; and

WHEREAS, the Wetlands Board recognizes and adopts, by reference, the goal for wetlands in Virginia as set forth in the Chesapeake 2000 Agreement, adopted by Maryland, Pennsylvania, Virginia, the District of Columbia, the United States Environmental Protection Agency, and the Chesapeake Bay Commission in June 2000, which seeks, among other things, to achieve a no net loss of jurisdictional tidal wetlands acreage and function through regulatory programs; and

WHEREAS, pursuant to § 404 of the Clean Water Act and applicable Virginia and County wetlands regulations, the Wetlands Board desires to ensure that all applicants for tidal wetland permits in Fairfax County take the following steps in order to achieve no net loss of tidal wetlands (as defined by acreage and function) as follows:

1. First avoiding impacts to tidal wetlands to the maximum extent practicable;

2. Then minimizing unavoidable impacts to tidal wetlands to the maximum extent practicable; and

3. Finally offsetting the remaining unavoidable tidal wetland impacts through all appropriate and practicable compensatory mitigation actions as more fully described below; and

WHEREAS, the Wetlands Board desires to implement the policy and procedures set forth in the VMRC Policy and implement additional procedures and guidelines as set forth below, when issuing tidal wetlands permits and determining if compensatory mitigation is required.

BE IT RESOLVED that:

The Wetlands Board hereby adopts, by reference, the VMRC Policy, as amended, and shall require the following in deciding whether to issue all tidal wetlands permits conditioned upon compensatory mitigation for unavoidable tidal wetlands impacts:

A. All tidal wetlands permit applicants shall demonstrate to the Wetlands Board that: (1) all efforts have been made to first avoid the tidal wetlands impact to the maximum extent practicable; (2) all efforts have been made to then

minimize the unavoidable tidal wetlands impact to the maximum extent practicable; and (3) the unavoidable tidal wetlands impact shall be compensated.

B. In applying the term compensation as used in the VMRC Policy, the Wetlands Board may consider allowing the tidal wetlands permit applicant to satisfy all or part of the compensatory mitigation requirements by the payment of money, in-lieu of in-kind replacement of tidal wetlands: (1) to an approved governmental or nongovernmental entity or County agency that maintains, restores, and has created or creates tidal wetlands in Fairfax County and has been previously approved by the Wetlands Board or (2) for the purchase or use of credits from any tidal wetlands mitigation bank that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for establishment, use, and operation of mitigation banks as long as the bank is in the same U.S.G.S. cataloging unit, as defined by the Hydrologic Unit Map of the United States (U.S.G.S. 1980, as amended) or an adjacent cataloging unit within the same river watershed as the impacted site, in compliance with all of the standards set forth in Va. Code Ann. § 28.2-1308(C), but only if all other means of compensation have been eliminated as a possibility for a particular project.

C. In determining the amount of money to be paid by a tidal wetlands permit applicant for compensation for a tidal wetlands loss, the Wetlands Board shall calculate such payment using the methods and guidelines established by the Virginia Institute of Marine Science and VMRC set forth in 4 VAC 20-390-10, et seq., as amended, and 4 VAC 20-391-10, et seq., as amended.

WETLANDS BOARD FOR THE
COUNTY OF FAIRFAX, VIRGINIA

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Glenda Booth, Chair

ATTEST:

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Mary Ann Welton, Staff to the Wetlands Board