FAIRFAX COUNTY
BOARD OF SUPERVISORS
March 20, 2012

AGENDA

9:30	**Done**	Presentations
10:30	**Adopted**	Report on General Assembly Activities
10:40	**Done**	Board Appointments
10:50		Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Streets into the Secondary System (Lee and Sully Districts)
2	**Approved**	Extension of Review Periods for 2232 Review Applications (Dranesville and Providence Districts)
3	**Approved**	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District)
4	**Approved**	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)
5	**Withdrawn**	Authorization to Advertise Proposed Amendments to The Code of the County of Fairfax, Virginia Enacting Chapter 102.1 (Street Addresses and Names) and Repealing Chapter 102 (Streets and Sidewalks) RE: Assigning New Street Names and Addresses to Property and Buildings
	ACTION ITEMS	
1	**Approved**	Approval of a Resolution to Authorize the Sale of Fairfax County Economic Development Authority Facilities Revenue Bonds for the Woodburn Replacement Center Project (Mid-County Center) and the Providence Community Center Project (Providence District)
2	**Approved**	Authorization for the Fairfax County Redevelopment and Housing Authority to Loan Up to $2,725,900 to Pathway Homes, Inc. for the Purchase of Thirteen (13) Scattered Site Condominium, Townhouse and Single Family Units
3	**Approved**	Adoption of a Resolution Opting Out of the Line of Duty Act Fund

FAIRFAX COUNTY
BOARD OF SUPERVISORS
March 20, 2012

	ACTION ITEMS (Continued)	
4	**Withdrawn**	Approval of a Parking Reduction for Mosaic District – Parcel H of the Merrifield Town Center (Providence District)
5	**Approved**	Approval of an Amended Parking Reduction for Mosaic District – Parcels I and J of the Merrifield Town Center (Providence District)
6	**Approved**	Approval of Revisions to Chapters 2, 4, 5, 7, 10, and 16 of the Personnel Regulations Updating Terminology, Aligning Regulations with FOCUS System Requirements and Federal Laws Prohibiting Discrimination and Incorporating Administrative Changes
7	**Approved**	Approval of the Sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Laurel Hill Public Facilities Projects (South County Secondary School and Laurel Hill Golf Course)
8	**Approved**	Approval of a Project Agreement for the Design and Construction of Braddock Road and Roanoke River Road Interim Improvements (Braddock District)
9	**Approved**	Approval of a Project Agreement for the Construction of Eskridge Road (Providence District)
	INFORMATION ITEMS	
1	**Noted**	Consolidated Plan Certification for the Fairfax County Redevelopment and Housing Authority Public Housing and Housing Choice Voucher Annual Plan for Fiscal Year 2012
2	**Noted**	Waste Delivery/Disposal Agreement with the District of Columbia
3	**Noted**	Planning Commission Action On Application 2232-M11-24, Fairfax County Department of Public Works and Environmental Services (Mason District)
11:00	**Done**	Matters Presented by Board Members
11:50	**Done**	Closed Session

FAIRFAX COUNTY
BOARD OF SUPERVISORS
March 20, 2012

PUBLIC HEARINGS

3:30	**Approved**	Public Hearing on RZ 2011-SU-024 (Pohanka Stonecroft LLC) (Sully District)
3:30	**Approved**	Public Hearing on SE 2011-SU-009 (Pohanka Stonecroft LLC) (Sully District)
3:30	**Approved**	Public Hearing on RZ 2011-BR-014 (Midland Road LLC and Ridgewood Commercial Owners Property Association) (Braddock District)
3:30	**Approved**	Public Hearing on PCA 2005-SP-019 (Midland Road LLC and Ridgewood Commercial Owners Property Association) (Braddock District)
3:30	**Approved**	Public Hearing on SE 2011-MA-013 (Page Little River Turnpike, LLC) (Mason District)
3:30	**Approved**	Public Hearing on SE 2011-LE-017 (Hybla Center, LP) (Lee District)
3:30	**Approved**	Public Hearing on PCA 1996-MV-037-08 (Lorton Medical LLC) (Mount Vernon District)
4:00	**Approved**	Public Hearing on Proposed Zoning Ordinance Amendment Re: Editorial and Minor Revisions
4:00	**Approved**	Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)
4:00	**Public Hearing held; Decision deferred**	Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2013
4:00	**Approved**	Public Hearing on a Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive as Part of the Residential Traffic Administration Program (Lee District)
4:30	**Approved**	Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)
4:30	**Public Hearing held; Decision only deferred to 4/10/12 at 3:00 p.m.**	Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) (Hunter Mill District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
March 20, 2012

PUBLIC HEARINGS
(Continued)

5:00	**Public Hearing held; Action deferred to 4/10/12**	Public Hearing on the Confirmation of Fairfax County's Participation in Phase Two of the Dulles Metrorail Project

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
March 20, 2012

9:30 a.m.

SPORTS/SCHOOLS

- RESOLUTION – To congratulate Marshall Road Elementary School for its 50th anniversary. Requested by Supervisors Hudgins and Smyth.

RECOGNITIONS

- RESOLUTION – To recognize Mrs. Sally Merten and Dr. Alan Merten for their contributions to Fairfax County. Requested by Supervisor Herrity.

- CERTIFICATE – To congratulate the Fairfax County Master Gardeners Association for its 35th anniversary. Requested by Chairman Bulova and Supervisor Herrity.

DESIGNATIONS

- PROCLAMATION – To designate March 2012 as Alternative Dispute Resolution Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate April 2012 as Sexual Assault Awareness Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate April 2012 as Designate Life Month in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
March 20, 2012

- PROCLAMATION – To designate April 2-8, 2012, as Public Health Week in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate April 2012 as Fair Housing Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate April 9-13, 2012, as Public Safety Telecommunications Week in Fairfax County. Requested by Supervisor Gross.

STAFF:
Merni Fitzgerald, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
March 20, 2012

10:30 a.m.

Report on General Assembly Activities

ENCLOSED DOCUMENTS:
None. Materials to be distributed to the Board of Supervisors on March 20, 2012

PRESENTED BY:
Supervisor Jeff McKay, Chairman, Board of Supervisor's Legislative Committee
Anthony H. Griffin, County Executive

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Board Agenda Item
March 20, 2012

10:40 a.m.

Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard March 20, 2012
(A final list will be distributed at the Board meeting.)

STAFF:
Catherine A. Chianese, Clerk to the Board of Supervisors

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March 20, 2012

NOTE: A revised list will be distributed immediately prior to the Board meeting.

APPOINTMENTS TO BE HEARD MARCH 20, 2012

(ENCOMPASSING VACANCIES PROJECTED THROUGH APRIL 30, 2012)

(Unless otherwise noted, members are eligible for reappointment)

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Mark S. Ingrao (Appointed 1/03 by Mendelsohn; 5/05 by DuBois) Term exp. 5/09	Citizen Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 *Resigned*	Lending Institution Representative		By Any Supervisor	At-Large

ADVISORY SOCIAL SERVICES BOARD
(4 years – limited to 2 full consecutive terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Gretchen Johnson; appointed 3/08 by Hyland) Term exp. 9/12 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon

AIRPORTS ADVISORY COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Barbara Kreykenbohm; appointed 1/09 by Gross) Term exp. 1/11 *Resigned*	Mason District Representative		Gross	Mason

ANIMAL SERVICES ADVISORY COMMISSION (2 years)

[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

Incumbent History	Requirement	Nominee	Supervisor	District
Philip S. Church (Appointed 6/01-2/02 by Hanley; 2/04-2/08 by Connolly; 2/10 by Bulova) Term exp. 2/12	At-Large Chairman's Representative	**Philip S. Church**	Bulova	At-Large Chairman's

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael Champness (Appointed 2/05&3/07 by DuBois; 3/09 by Foust) Term exp. 3/11	Dranesville District Principal Representative		Foust	Dranesville
Karin Stamper (Appointed 9/09-4/10 by McKay) Term exp. 4/12	Lee District Representative		McKay	Lee
Elmer Arias (Appointed 4/10 by Bulova) Term exp. 4/12	Member-At-Large Principal Representative		Bulova	At-Large Chairman's

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
(1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Regina Jordan; appointed 6/04&6/09 by Hudgins) Term exp. 6/10 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Brian K. Halston; appointed 1/10-6/11 by McKay) Term exp. 6/12 *Resigned*	Lee District Representative		McKay	Lee
Rachel Rifkind (Appointed 5/09-6/09 by Gross) Term exp. 6/11	Mason District Representative		Gross	Mason
VACANT (Formerly held by Robert McDaniel; appointed 9/10 by Herrity) Term exp. 6/11 *Resigned*	Springfield District Representative		Herrity	Springfield

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS
(4 years)

(No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR shall serve as a member of the board.)

Incumbent History	Requirement	Nominee	Supervisor	District
J. Christopher Fox (Appointed 6/93-2/08 by Gross) Term exp. 2/12	Design Professional #5 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Harrison Glasgow (Appointed 12/03 by Hanley; 9/07 by Connolly) Term exp. 9/11	At-Large #2 Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by Michael Fraser; appointed 11/08 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence
Christina Terpak-Malm (Appointed 12/3-9/07 by Frey) Term exp. 9/11	Sully District Representative		Frey	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Janet M. Reimer (Appointed 3/10 by Bulova) Term exp. 2/12	At-Large Chairman's Representative		Bulova	At-Large Chairman
VACANT (Formerly held by Karen Hecker; appointed 10/03-9/09 by Hyland) Term exp. 9/11 *Resigned*	Mount Vernon District Representative		Hyland	Mt. Vernon
VACANT (Formerly held by Joan C. Holtz; appointed 5/09 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence

COMMUNITY ACTION ADVISORY BOARD (CAAB)
(3 years – up to 5 consecutive years, 10 maximum for elected/confirmed members)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATION NEEDED:

- Ms. Alissa Redding as the Junior League of Northern Virginia Representative

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Rose Miles Robinson (Appointed 7/06-2/09 by Hudgins) Term exp. 2/12	Hunter Mill District Representative		Hudgins	Hunter Mill
Andrew Hunter (Appointed 4/04-2/09 by Gross) Term exp. 2/12	Mason District Representative		Gross	Mason

DULLES RAIL TRANSPORTATION IMPROVEMENT DISTRICT ADVISORY BOARD, PHASE I (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James D. Policaro (Appointed 3/10 by Smyth) Term exp. 3/12	At-Large #1 Representative		By Any Supervisor	At-Large
Peter M. Rosen (Appointed 3/04-3/08 by Smyth) Term exp. 3/12	At-Large #2 Representative		By Any Supervisor	At-Large
Brenda Krieger (Appointed 8/04-3/08 by Smyth) Term exp. 3/12	At-Large #3 Representative		By Any Supervisor	At-Large

ECONOMIC ADVISORY COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James Socas (Appointed 1/09 by Foust) Term exp. 12/11	Dranesville District Representative		Foust	Dranesville

ENGINEERING STANDARDS REVIEW COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Robert L. Norwood (Appointed 9/97-3/03 by Hanley; 3/06-3/09 by Connolly) Term exp. 3/12	Citizen #1 Representative		By Any Supervisor	At-Large
James M. Dougherty (Appointed 9/10 by Smyth) Term exp. 3/12	Citizen #2 Representative		By Any Supervisor	At-Large
Paul Noursi (Appointed 11/05-3/09 by Hudgins)	Citizen #3 Representative		By Any Supervisor	At-Large

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Patricia Greenberg (Appointed 1/11 by Hudgins) Term exp. 1/12	Hunter Mill District Representative		Hudgins	Hunter Mill

FAIRFAX AREA DISABILITY SERVICES BOARD
(3 years- limited to 2 full consecutive terms per MOU, after initial term)
[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Thomas Choman; appointed 5/02 by Hanley; 11/04&1/08 by Connolly) Term exp. 11/10 *Resigned*	At-Large Fairfax County Representative		By Any Supervisor	At-Large
Ann Pimley (Appointed 9/03&11/06 by Frey) Term exp. 11/09 ***Not eligible for reappointment (need 3 year lapse)***	Sully District Representative		Frey	Sully

HEALTH SYSTEMS AGENCY BOARD
(3 years - limited to 2 full terms, may be reappointed after 1 year lapse)

Incumbent History	Requirement	Nominee	Supervisor	District
Carol Ann Coryell (Appointed 6/05-6/08 by Frey) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Consumer #6 Representative		By Any Supervisor	At-Large
Stephen Goldberger (Appointed 7/04-6/06 by Kauffman; 7/09 by McKay) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Provider #3 Representative		By Any Supervisor	At-Large

HISTORY COMMISSION (3 years)

[NOTE: The Commission shall include at least one member who is a resident from each supervisor district.] Current Membership:

Braddock - 3	Lee - 2	Providence - 1
Dranesville - 2	Mason - 2	Springfield - 2
Hunter Mill - 3	Mt. Vernon - 3	Sully - 2

Incumbent History	Requirement	Nominee	Supervisor	District
Esther McCullough (Appointed 3/00-11/02 by Hanley; 12/08-12/08 by Connolly) Term exp. 12/11 *Sully District*	Citizen #10 Representative	**Esther McCullough** (Bulova)	By Any Supervisor	At-Large
VACANT (Formerly held by Mayo S. Stuntz; appointed 1/78-11/89 by Pennino; 11/92-12/98 by Dix; 11/01 by Hudgins; 12/04-1/08 by Connolly; 12/10 by Bulova) Term exp. 12/13 *Resigned*	Historian #2 Representative	**Anne G. Stuntz** (Hudgins)	By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Luis F. Padilla; appointed 4/10 by Bulova) Term exp. 9/11 *Resigned*	At-Large #11 Representative	**Shahid S. Malik** (Bulova)	By Any Supervisor	At-Large

INFORMATION TECHNOLOGY POLICY ADVISORY COMMITTEE (ITPAC)
(3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Walter Williams (Appointed 5/09 by Herrity) Term exp. 12/11	Springfield District Representative		Herrity	Springfield

LIBRARY BOARD
(4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly Held by Jay Jupiter; appointed 12/10 by Hyland) Term exp. 7/13 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon
Flint H. Lewis (Appointed 5/02-3/08 by Frey) Term exp. 3/12	Sully District Representative		Frey	Sully

REDEVELOPMENT AND HOUSING AUTHORITY
(4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
William O. Jasper (Appointed 6/97-3-00 by Hanley; 4-04-4/08 by Connolly) Term exp. 4/12	At-Large #1 Representative		Bulova	At-Large
Albert J. McAloon (Appointed 7/95 by Alexander; 3/96-3/00 by Kauffman; 4/04-4/08 by McKay) Term exp. 4/12	Lee District Representative		McKay	Lee
Rod Solomon (Appointed 7/08 by Smyth) Term exp. 4/12	Providence District Representative		Smyth	Providence

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL
(2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Janet E. Bradshaw (Appointed 3/05-3/10 by Hudgins) Term exp. 3/12	Fairfax County #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Lawrence Bussey; appointed 3/05-3/09 by Hudgins) Term exp. 3/11 *Resigned*	Fairfax County #2 Representative		By Any Supervisor	At-Large

Continued on next page

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

continued

Incumbent History	Requirement	Nominee	Supervisor	District
Bob Dim (Appointed 5/06-3/10 by Hudgins) Term exp. 3/12	Fairfax County #5 Representative		By Any Supervisor	At-Large
Ram Singh (Appointed 5/06-3/10 by Hudgins) Term exp. 3/12	Fairfax County #6 Representative		By Any Supervisor	At-Large
Medelyn Ortiz Lopez (Appointed 11/10 by Hudgins) Term exp. 3/12	Fairfax County #9 (Youth) Representative		By Any Supervisor	At-Large
Natasha Hoyte (Appointed 4/08-3/10 by Hudgins) Term exp. 3/12	Reston Association #2 Representative		By Any Supervisor	At-Large
Ellen A. Graves (Appointed 4/08-3/10 by Hudgins) Term exp. 3/12	Reston Association #3 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

[NOTE: Per County Code Section 12-2-1, each member of this commission must be a County resident. Tenant Members: shall be a person who, prior to the time of his/her appointment, and throughout his/her term, shall be the lessee of and reside in a dwelling unit. Landlord Members: shall be a person who owns and leases, or serves as a manager for four (4) or more leased dwelling units in Fairfax County or is employed by a real estate management firm that manages more than four (4) rental units. Citizen Members: shall be anyone who is neither a lessee nor lessor of any dwelling unit in Fairfax County.]

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 *Resigned*	Tenant Member #3 Representative		By Any Supervisor	At-Large

TRAILS AND SIDEWALKS COMMITTEE (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lisa S. Willey; appointed 7/08-1/10 by Herrity) Term exp. 1/12 *Resigned*	Springfield District Representative		Herrity	Springfield

WATER AUTHORITY (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Richard Terwilliger; appointed 5/97-6/03 by Hanley; 6/06 by Connolly; 6/09 by Bulova) Term exp. 6/12 *Resigned*	At-Large Chairman's Representative		Bulova	At-Large Chairman's

Board Agenda Item
March 20, 2012

10:50 a.m.

Items Presented by the County Executive

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Board Agenda Item
March 20, 2012

ADMINISTRATIVE – 1

Streets into the Secondary System (Lee and Sully Districts)

ISSUE:
Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:
The County Executive recommends that the street(s) listed below be added to the State Secondary System.

Subdivision	**District**	**Street**
Gunnell Section Two	Lee	La Vista Drive (Route 1693)
		Clouds Mill Drive (Route 10361)
		James Gunnell Lane
McLearen Road Self Storage	Sully	McLearen Road (Route 668) (Additional Right-of-Way (ROW) Only)
Rugby Road Section Three	Sully	Rugby Road (Route 750) (Additional ROW Only)

TIMING:
Routine.

BACKGROUND:
Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:
None.

Board Agenda Item
March 20, 2012

ENCLOSED DOCUMENTS:
Attachment 1 – Street Acceptance Forms

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle Brickner, Deputy Director, DPWES, Land Development Services

Attachment 1

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA

REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 9850-SP-02

SUBDIVISION PLAT NAME: Gunnell Section Two

COUNTY MAGISTERIAL DISTRICT: Lee

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 12/16/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
La Vista Drive (Route 1693)	Existing La Vista Drive (Route 1693) - 160' SW CL Overly Drive (Route 3303)	1,566' SW to End of Cul-de-Sac	0.30
Clouds Mill Drive (Route 10361)	Existing Clouds Mill Drive (Route 10361) - 612' NW CL Bush Hill Drive (Route 1455)	511' N to CL La Vista Drive (Route 1693)	0.10
James Gunnell Lane	CL La Vista Drive (Route 1693) - 578' SW CL Overly Drive (Route 3303)	747' SW to End of Cul-de-Sac	0.14
		TOTALS:	0.54

NOTES:

La Vista Drive : 3,074' of Concrete Sidewalk on North Side (5') and South Side (4") to be maintained by VDOT.

Clouds Mill Drive: 924' of 4' Concrete Sidewalk on Both Sides to be maintained by VDOT.

James Gunnell Lane: 1,425' of 4' Concrete Sidewalk on Both Sides to be maintained by VDOT.

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

(28)

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA

REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 0854-SP-01

SUBDIVISION PLAT NAME: McLearen Road Self Storage

COUNTY MAGISTERIAL DISTRICT: Sully

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 01/04/2012

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
McLearen Road (Route 668) (Additional Right-of-Way Only)	54' NW CL Eds Drive (Route 8105)	310' NW to Section Line	0.0
		TOTALS:	0.0

NOTES:

276' of 4' Concrete Sidewalk on North Side to be maintained by Fairfax County.

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

ENGINEERING MANAGER: Terry Yates, P.E.

BY: Nidia Alphonse

VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA

REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 1340-SP-03

SUBDIVISION PLAT NAME: Rugby Road Section Three

COUNTY MAGISTERIAL DISTRICT: Sully

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 12/20/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Rugby Road (Route 750) (Additional Right-of-Way Only)	125' SW CL Fairfax County Parkway (Route 7100)	150' SW To Section Line	0.0
		TOTALS:	0.0

NOTES:

75' of 5' Concrete Sidewalk on West Side to be maintained by VDOT.

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Board Agenda Item
March 20, 2012

ADMINISTRATIVE – 2

Extension of Review Periods for 2232 Review Applications (Dranesville and Providence Districts)

ISSUE:
Extension of the review periods for specific 2232 Review applications to ensure compliance with the review requirements of *Section* 15.2-2232 of the *Code of Virginia.*

RECOMMENDATION:
The County Executive recommends that the Board extend the review periods for the following applications: application FSA-P04-44-2 to June 4, 2012; and application FS-D09-208 to October 8, 2012.

TIMING:
Board action is required on March 20, 2012, to extend the review periods of the applications noted above before their expirations.

BACKGROUND:
Subsection B of *Section* 15.2-2232 of the *Code of Virginia* states: "Failure of the commission to act within sixty days of a submission, unless the time is extended by the governing body, shall be deemed approval." Subsection F of *Section* 15.2-2232 of the *Code of Virginia* states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within ninety days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than sixty additional days."

The Board is requested to extend the review period for application FSA-P04-44-2 which was accepted for review by the Department of Planning and Zoning (DPZ) on January 6, 2012. This application is for a telecommunications facility and thus is subject to the State Code provision that the Board may extend the time required for the Planning Commission to act on these applications by no more than sixty additional days.

The Board is requested to extend the review period for application FS-D09-208 which was accepted for review by the DPZ on April 9, 2010. This application is for a non-

telecommunication public facility, and thus is not subject to the State Code provision for extending the review period by no more than sixty additional days.

Specific information for the applications requested for extended review is as follows:

FS-D09-208	District of Columbia Water and Sewer Authority Odor control facility Great Falls Dranesville District
FSA-P04-44-2	Sprint Antenna collocation on building rooftop 2600 Park Tower Drive, Vienna Providence District

The need for the full time of these extensions may not be necessary, and is not intended to set a date for final action.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
None

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ
Sandi M. Beaulieu, Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item
March 20, 2012

ADMINISTRATIVE - 3

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Dranesville District)

ISSUE:
Board endorsement of a Traffic Calming plan as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends that the Board endorse a traffic calming plan for North Albemarle Street (Attachment I) consisting of the following:

- Two Speed Humps on North Albemarle Street (Dranesville District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved measures as soon as possible.

TIMING:
Board action is requested on March 20, 2012.

BACKGROUND:
As part of the RTAP roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, all-way-stops, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. For North Albemarle Street, a traffic calming plan was developed by staff in concert with community representatives. The plan was subsequently submitted for approval to residents in the ballot area from the adjacent community. On February 14, 2012, FCDOT received verification from the local Supervisor's office confirming community support.

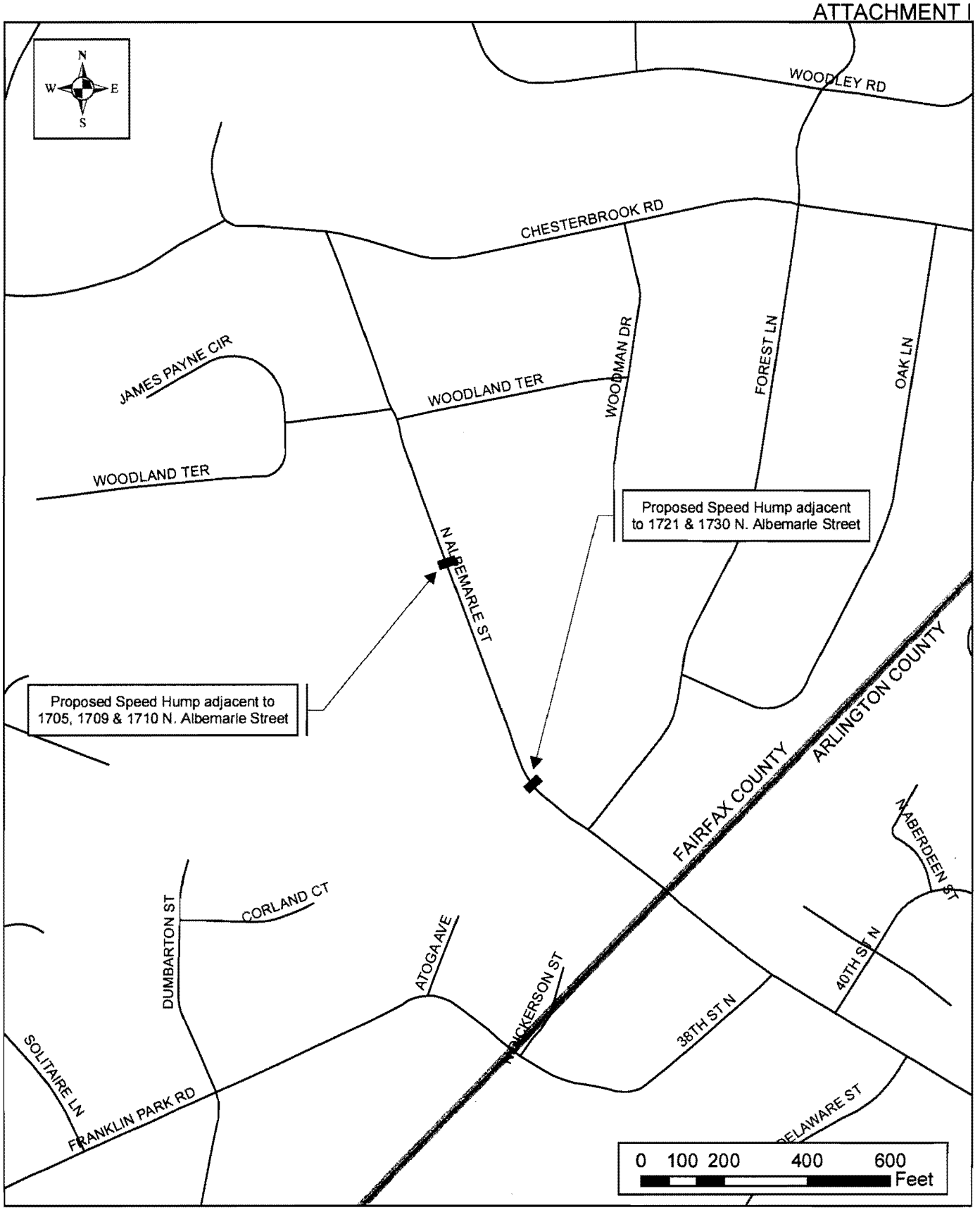
FISCAL IMPACT:
Funding in the amount of $10,000 for the identified traffic calming measures is available in Fund 001, General Fund, under Job Number 40TTCP.

Board Agenda Item
March 20, 2012

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for North Albemarle Street

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT

ATTACHMENT I



February 2012

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
NORHT ALBEMARLE STREET
Dranesville District

A Fairfax County, Va., publication

TAX MAP: 31-4

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Board Agenda Item
March 20, 2012

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Culmore Residential Permit Parking District, District 9 (Mason District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to expand the Culmore Residential Permit Parking District (RPPD), District 9.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing.

TIMING:
The Board should take action on March 20, 2012, to advertise a public hearing for May 1, 2012, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(b) of *The Code of the County of Fairfax*, *Virginia*, authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of $10 per address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Staff conducted a peak parking demand survey for Washington Drive. This survey verified that more than 75 percent of the total number of on-street parking spaces of the

petitioning blocks were occupied by parked vehicles, and more than 50 percent of those occupied spaces were occupied by nonresidents of the petitioning blocks. All other requirements to expand the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated at $800 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of RPPD Establishment

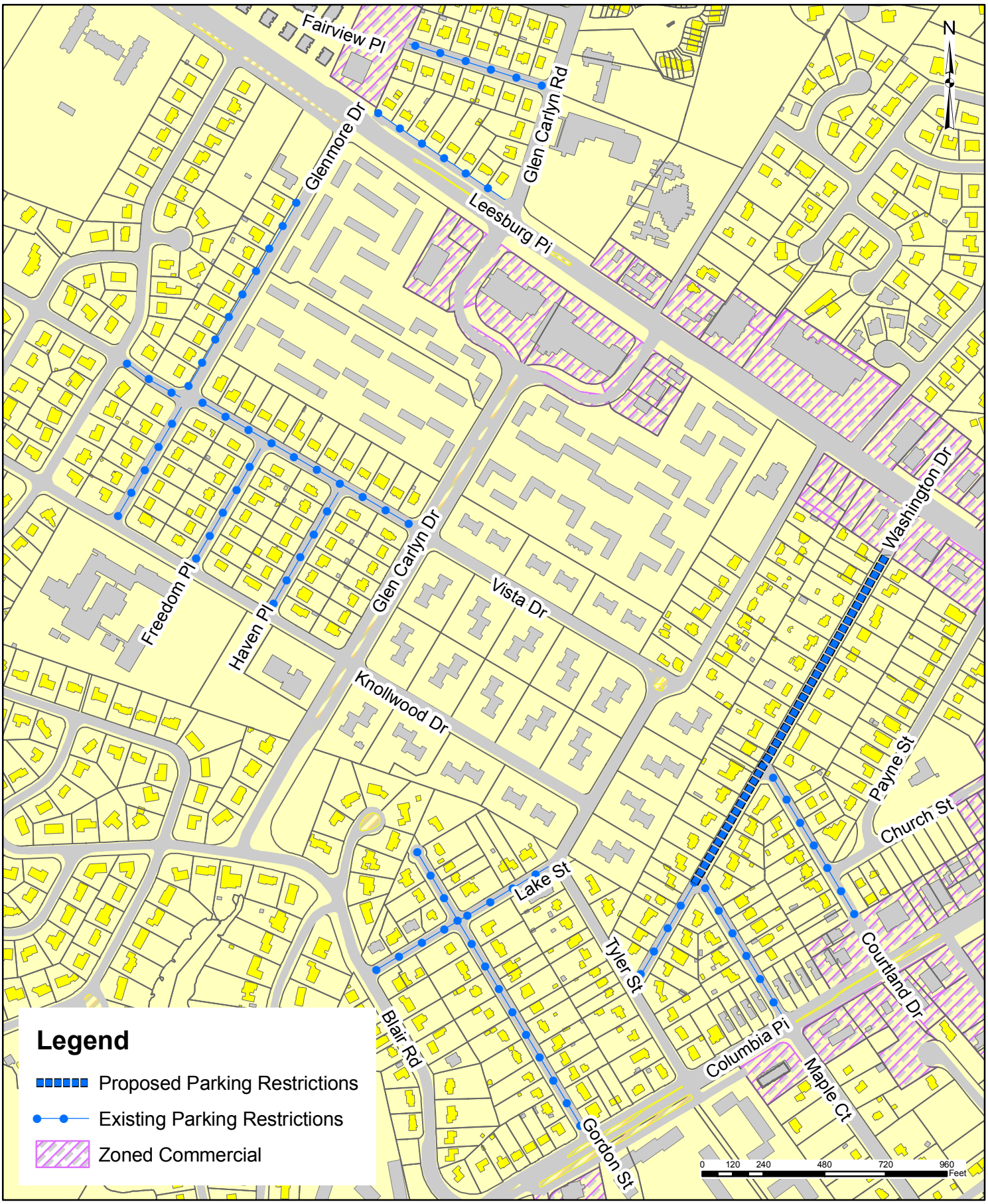
STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Hamid Majdi, FCDOT

Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following streets to Appendix G-9, Section (b), (2), Culmore Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Washington Drive (Route 794)
~~From Tyler Street (Route 795) to Maple Court (Route 1026)~~
From Tyler Street to the northern boundaries of 3407 and 3408 Washington Drive



Fairfax County Department of Transportation
Traffic Operations Section
RESIDENTIAL PERMIT PARKING DISTRICT (RPPD)
Culmore # 9
Mason District

February 21, 2012

Tax Map: 61-2

Board Agenda Item
March 20, 2012

Regulatory Review

Administrative - 5

Authorization to Advertise Proposed Amendments to *The Code of the County of Fairfax, Virginia* Enacting Chapter 102.1 (Street Addresses and Names) and Repealing Chapter 102 (Streets and Sidewalks) RE: Assigning New Street Names and Addresses to Property and Buildings

ISSUE:
Board authorization to advertise public hearings on proposed amendments to *The Code of the County of Fairfax, Virginia* (the Code) enacting Chapter 102.1 (Street Addresses and Names) and repealing Chapter 102 (Streets and Sidewalks). The proposed amendments address issues related to requirements for assigning new street names and addresses to property and buildings.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the proposed amendments to the County Code as set forth in the Staff Report dated March 20, 2012.

The proposed amendments have been prepared by Department of Public Works and Environmental Services and coordinated with the Department of Information Technology, the Police Department, the Fire and Rescue Department, the Sheriff's Office, the Department of Public Safety Communications, and the Office of the County Attorney.

TIMING:
Board action is requested on March 20, 2012, to provide sufficient time to advertise public hearings on April 26, 2012, at 8:15 p.m., before the Planning Commission and on May 22, 2012, at 4:00 p.m., before the Board. The proposed amendments will become effective at 12:01 a.m. on the day following adoption.

BACKGROUND:
Chapter 102 (Streets and Sidewalks) provides for a uniform street numbering system that facilitates emergency services personnel and the general public in locating buildings and property throughout Fairfax County. Chapter 102 also contains provisions for naming new streets, the assignment of street addresses, the posting of addresses on buildings, and enforcement. There have been no substantive changes to Chapter 102 since 1977 and some of the provisions are outdated. For example, the Official

Street Names and Property Numbering Atlas referenced in Chapter 102 has been replaced by the current Official County Property Map (Map) and the Master Addressing Repository (MAR). In addition, issues have arisen with respect to application of certain provisions to existing buildings and addresses of corner properties. For example, the term "front entrance" is not defined in Chapter 102; however, staff's longstanding interpretation identifies the "front entrance" as the portion of the property where the driveway enters the street. This interpretation becomes problematic when existing property owners are asked to change their addresses.

On March 8, 2011, the Board directed staff to:

- Complete its review of the County's procedures for changing street addresses and determine whether those procedures are consistent with the Code of the County of Fairfax
- Present an analysis to the Board of the benefits, costs and options of implementing alternative procedures that would minimize the consequences and inconveniences to existing homeowners
- To place a moratorium on making changes to the street addresses of these non-conforming lots without the owner's agreement until staff has received further direction from the Board

The proposed amendments have been developed in response to the Board's directive. To eliminate any confusion regarding the location of the "front entrance," the new Code chapter includes a definition of "front entrance" and provisions for assigning addresses that are consistent with staff's longstanding interpretation. In order to minimize the impact of this definition on existing properties, the proposed amendments do not require that existing addresses be changed unless building alterations are proposed that exceed a certain threshold. A list of the major changes being proposed was provided to the Board's Development Process Committee on February 21, 2012. Because the name of Chapter 102 (Streets and Sidewalks) does not accurately reflect the contents of the chapter and because of the significant number of changes proposed, it was determined that it would be appropriate to repeal the chapter in its entirety and replace it with new Chapter 102.1 (Street Addresses and Names).

PROPOSED AMENDMENTS:
Proposed Chapter 102.1 includes the following provisions:

- Designates the Director of the Department of Public Works and Environmental Services as the official responsible for administration of Chapter 102.1
- Establishes the property and building addresses and the street names as shown on the Map and the MAR as the official addresses and names.

- Definitions of the terms: address, address numbers, Board, corner property, Director, Map, MAR, primary entrance, principal building, and property.
- Requirements for the assignment of street names
- Requirements for changing existing street names
- Requirements for the assignment of property addresses
- Requirements for the posting of building addresses consistent with the Virginia Statewide Fire Protection Code
- Provisions for an existing building that allow continued use of a current address that does not meet Chapter 102.1 requirements unless the building is being altered in excess of 100 percent of the existing gross floor area above grade or includes the demolition of more than 50 percent of the existing gross floor area above grade
- Enforcement procedures and penalty provisions

REGULATORY IMPACT:
The changes to the requirements for the assignment of new street names, assignment of new addresses, and changes to existing street names have no significant regulatory impact beyond clarifying the requirements and procedures. The new provisions relating to existing addresses eliminate current regulatory impacts, including costs that would have been incurred to change an address, on existing properties and buildings unless the buildings are being altered in excess of 100 percent of the existing gross floor area above grade or includes the demolition of more than 50 percent of the existing gross floor area above grade. Applicants for street name changes will be required to pay for changing street signs in accordance with current policy.

FISCAL IMPACT:
No budget impact. There should be a small reduction in staff time spent dealing with changes to addresses for existing buildings because of the allowance for existing buildings to continuing using their current nonconforming addresses.

ENCLOSED DOCUMENTS:
Attachment I - Staff Report

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle Brickner, Deputy Director, DPWES

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ATTACHMENT I

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

- [x] PROPOSED COUNTY CODE AMENDMENT
- [ ] PROPOSED PFM AMENDMENT
- [ ] APPEAL OF DECISION
- [ ] WAIVER REQUEST

Authorization to Advertise Proposed Amendments to The Code of the County of Fairfax, Virginia Enacting Chapter 102.1 (Street Addresses and Names) and Repealing Chapter 102 (Streets and Sidewalks) RE: Assigning New Street Names and Addresses to Property and Buildings

Authorization to Advertise	March 20, 2012
Planning Commission Hearing	April 26, 2012, at 8:15 p.m.
Board of Supervisors Hearing	May 22, 2012, at 4:00 p.m.
Prepared by:	Code Analysis Division JAF (703) 324-1780
	March 20, 2012

STAFF REPORT

A. Issues:

Proposed amendments to *The Code of the County of Fairfax, Virginia* (the Code) enacting Chapter 102.1 (Street Addresses and Names) and repealing Chapter 102 (Streets and Sidewalks). The proposed amendments address issues related to requirements for assigning new street names and addresses to property and buildings.

B. Recommended Action:

Staff recommends that the Board of Supervisors adopt the proposed amendments to *The Code of the County of Fairfax, Virginia* (the Code) enacting Chapter 102.1 (Street Addresses and Names) and repealing Chapter 102 (Streets and Sidewalks).

C. Timing:

Board of Supervisors authorization to advertise – March 20, 2012

Planning Commission Public Hearing – April 26, 2012, at 8:15 p.m.

Board of Supervisors Public Hearing – May 22, 2012, at 4:00 p.m.

Effective Date – May 23, 2012 at 12:01 a.m.

D. Source:

Department of Public Works and Environmental Services

E. Coordination:

The proposed amendments have been prepared by Department of Public Works and Environmental Services and coordinated with the Department of Information Technology, the Police Department, the Fire and Rescue Department, and the Office of the County Attorney.

F. Background:

Chapter 102 (Streets and Sidewalks) provides for a uniform street numbering system that facilitates emergency services personnel and the general public in locating buildings and property throughout Fairfax County. Chapter 102 also contains provisions for naming new streets, the assignment of street addresses, the posting of addresses on buildings, and enforcement. There have been no substantive changes to Chapter 102 since 1977 and some of the provisions are

outdated. For example, the Official Street Names and Property Numbering Atlas referenced in Chapter 102 has been replaced by the current Official County Property Map (Map) and the Master Addressing Repository (MAR). In addition, issues have arisen with respect to application of certain provisions to existing buildings and addresses of corner properties. For example, the term "front entrance" is not defined in Chapter 102; however, staff's longstanding interpretation identifies the "front entrance" as the portion of the property where the driveway enters the street. This interpretation becomes problematic when existing property owners are asked to change their addresses.

On March 8, 2011, the Board directed staff to:

- Complete its review of the County's procedures for changing street addresses and determine whether those procedures are consistent with the Code of the County of Fairfax
- Present an analysis to the Board of the benefits, costs and options of implementing alternative procedures that would minimize the consequences and inconveniences to existing homeowners
- To place a moratorium on making changes to the street addresses of these non-conforming lots without the owner's agreement until staff has received further direction from the Board

The proposed amendments have been developed in response to the Board's directive. To eliminate any confusion regarding the location of the "front entrance," the new Code chapter includes a definition of "front entrance" and provisions for assigning addresses that are consistent with staff's longstanding interpretation. In order to minimize the impact of this definition on existing properties, the proposed amendments do not require that existing addresses be changed unless building alterations are proposed that exceed a certain threshold. A list of the major changes being proposed was provided to the Board's Development Process Committee on February 21, 2012. Because the name of Chapter 102 (Streets and Sidewalks) does not accurately reflect the contents of the chapter and because of the significant number of changes proposed, it was determined that it would be appropriate to repeal the chapter in its entirety and replace it with new Chapter 102.1 (Street Addresses and Names).

G. <u>Proposed Amendments</u>:

Proposed Chapter 102.1 includes the following provisions:

- Designates the Director of the Department of Public Works and Environmental Services as the official responsible for administration of Chapter 102.1
- Establishes the property and building addresses and the street names as shown on the Map and the MAR as the official addresses and names.
- Definitions of the terms: address, address numbers, Board, corner property, Director, Map, MAR, primary entrance, principal building, and property.

- Requirements for the assignment of street names
- Requirements for changing existing street names
- Requirements for the assignment of property addresses
- Requirements for the posting of building addresses consistent with the Virginia Statewide Fire Protection Code
- Provisions for an existing building that allow continued use of a current address that does not meet Chapter 102.1 requirements unless the building is being altered in excess of 100 percent of the existing gross floor area above grade or includes the demolition of more than 50 percent of the existing gross floor area above grade
- Enforcement procedures and penalty provisions

H. REGULATORY IMPACT:

The changes to the requirements for the assignment of new street names, assignment of new addresses, and changes to existing street names have no significant regulatory impact beyond clarifying the requirements and procedures. The new provisions relating to existing addresses eliminate current regulatory impacts, including costs that would have been incurred to change an address, on existing properties and buildings unless the buildings are being altered in excess of 100 percent of the existing gross floor area above grade or includes the demolition of more than 50 percent of the existing gross floor area above grade. Applicants for street name changes will be required to pay for changing street signs in accordance with current policy. There is no impact on the County budget. There should be a small reduction in staff time spent dealing with changes to addresses for existing buildings because of the allowance for existing buildings to continuing using their current nonconforming addresses.

H. Attached Documents:

Attachment A - Proposed Chapter 102.1 (Street Addresses and Names)

Attachment A

Proposed Amendment to the Code of the County of Fairfax Enacting Chapter 102.1 (Street Addresses and Names) and Repealing Chapter 102 (Streets and Sidewalks)

Enact Chapter 102.1 (Street Addresses and Names) to read as follows:

CHAPTER 102.1
Street Addresses and Names

ARTICLE 1. General

§ 102.1-1-1 Purpose and Intent.
§ 102.1-1-2 Administration.
§ 102.1-1-3 Uniform Numbering System and Street Names
§ 102.1-1-4 Definitions

ARTICLE 2. Property, Building Numbers, and Street Names

§ 102.1-2-1 Street Names.
§ 102.1-2-2 Street Name Changes.
§ 102.1-2-3 Property Addresses.
§ 102.1-2-4 Assignment of Addresses.
§ 102.1-2-5 Posting of Addresses.
§ 102.1-2-6 Existing Addresses.

ARTICLE 3. Violations and Penalties

§ 102.1-3-1 Violations.
§ 102.1-3-2 Enforcement.

ARTICLE 1.
General.

Section 102.1-1-1. Purpose and intent

This Chapter, as adopted and amended, is intended to support and protect the general health, safety, and welfare of the public. This Chapter provides for a uniform system of street addresses for properties and buildings throughout Fairfax County. A uniform system of street addresses facilitates locating properties and buildings in Fairfax County by public safety services and the general public.

Section 102.1-1-2. Administration

The Director of the Department of Public Works and Environmental Services shall be responsible for the administration, interpretation, and enforcement of the provisions of this Chapter.

Section 102.1-1-3. Uniform Numbering System and Street Names.

A uniform system of numbering properties and principal buildings as shown on the Official County Property Map (Map) and as identified in the Master Addressing Repository (MAR) is hereby established. The Map, MAR, and all explanatory matters thereon are hereby adopted and made a part of this Chapter. Street names as shown on the Map and in the MAR are hereby declared the official names of such streets unless changed by action of the Board in accordance with § 102.1-2-2. Addresses as shown on the Map and in the MAR are hereby declared the official addresses of properties and buildings. Any address in use that is not shown on the Map and in the MAR shall be void.

Section 102.1-1-4. Definitions.

The following words and phrases, when used in this Chapter, shall, for the purposes of this Chapter, have the meanings respectively ascribed in this section.

(a) *Address* shall mean the address number, suffix (if applicable), street name, and street type.

(b) *Address numbers* shall mean the Western Arabic/European symbols for the numbers which are the ten digits (0, 1, 2, 3, 4, 5, 6, 7, 8, 9) along with the system by which a sequence such as "307" is read as a number.

(c) *Board* shall mean the Board of Supervisors of Fairfax County.

(d) *Corner property* shall mean a lot or property at the junction of and abutting on two or more intersecting streets excluding interstate highways.

(e) *Director* shall mean the Director of the Fairfax County Department of Public Works and Environmental Services or his/her duly authorized agent.

(f) *Map* shall mean the Official County Property Map.

(g) *MAR* shall mean the Master Addressing Repository

(h) *Person* shall mean any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency, or any legal successor, representative, agent, or agency thereof.

(i) *Primary entrance* shall mean the front door for a single family dwelling or the main access doorway of all other buildings as shown on a site plan.

(j) *Principal building* shall mean a building in which the primary use of the lot on which the building is located is conducted.

(k) *Property* shall mean a parcel of land and building(s) belonging thereto.

ARTICLE 2.

Property and Building Numbers and Street Names.

Section 102.1-2-1. Street Names.

Names of new streets shall be assigned by the Director as part of the land development review process in accordance with the following:

(a) A complete street name shall consist of a street name and a street type.
(b) Street types shall not be used in the street name.
(c) Articles (e.g. “the”) shall not be used in the street name.
(d) Street names shall not be duplicates of, closely approximate, or sound like existing street names. Complete street names with the same street name but different street types shall be considered duplicates.
(e) Street names shall not include directional words (e.g. “North”).
(f) Street names shall not include special characters (e.g. hyphens, commas, and apostrophes).
(g) Proper names with initials (e.g., “Thomas J Stockton Pkwy”), shall not be used as street names
(h) Numeric names (e.g. “Fifth”) shall be spelled out.
(i) Streets named for the purpose of promoting a private business are not permitted.

Section 102.1-2-2. Street Name Changes.

Street names as shown on the Map and in the MAR may only be changed in accordance with the following provisions:

(a) At least 51 percent of the property owners on the street shall request the change through a written petition submitted to the Director.
(b) The new name must meet the requirements of § 102.1-2-1.
(c) The Director shall review the request and provide a recommendation to the Board.
(d) The Board must approve the change.
(e) Costs associated with replacement of street signs shall be paid by the applicant(s).

Section 102.1-2-3. Property Addresses.

Property and building addresses shall be assigned by the Director in accordance with the following:

(a) *Address Grid*. The Address Grid of Fairfax County (adopted in April 1963) shall be used to determine property addresses throughout the County.
(b) *Application of the Address Grid*. The address number range for each street segment shall be generated from the Address Grid.
(c) *Street Numbers*. Even numbers will be assigned to properties on the north side of east-west streets and on the west side of the north-south streets. For streets that change direction, the directional numbering of the original segment shall determine the streets address range.
(d) *Suffix*. Property and building addresses limited by the numbers available within the numbering system, shall be permitted to use an alphabetized suffix beginning with “A” to provide unique addresses.
(e) *Uniform increments*. All address numbers shall increase/decrease in uniform increments with neighboring properties and properties on the opposite side of the street.
(f) *Assigning addresses*. The street name assigned to a principal building shall be the name of the street on which the primary entrance faces. If the primary entrance faces a street from which access is not possible (e.g. I-66), then the street name assigned to a principal building shall be the name of the street on which the driveway to the building is located. The street number

shall be determined from the point where the primary entrance or driveway intersects the address range for the named street.

(g) *Corner properties*. Street names assigned to corner properties shall be the name of the street on which the driveway of the property intersects except that:

1) Properties where the primary entrance is less than or equal to 100 feet from the edge of pavement of both streets may be addressed from either street.

2) Properties where the primary entrance is less than or equal to 100 feet from the edge of pavement of one street but not the other street may be addressed from the closer street.

3) Properties served by one driveway that intersects both streets shall be addressed from the street on which the primary entrance faces.

Section 102.1-2-4 Developing and Obtaining Addresses.

Addresses of properties shall be assigned as part of the land development review process for new construction in accordance with this Chapter and as follows:

(a) Addresses of properties shall be assigned as part of the review of preliminary subdivision plats, final subdivision plats, construction/grading plans and final site plans.

(b) Addresses of properties shall be released for proposed structures upon approval of the final site plan, recordation of the final subdivision plat, or construction/grading plan, whichever applies.

Section 102.1-2-5 Posting of Address Required.

(a) Address numbers for each building requiring an address shall be posted and affixed to the building in a manner as to be visible and distinguishable from the street on which the property is located and in accordance with the Virginia Statewide Fire Prevention Code.

(b) Each principal building shall bear the number assigned to it under § 102.1-2-3. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(c) Final approval of occupancy of any new structure erected after the effective date of this Chapter shall be withheld until a permanent and compliant address number has been affixed to such structure in accordance with this Section.

(d) Addresses for temporary construction offices shall be posted with the temporary address used for the temporary special permit.

(e) Shopping center address numbers shall be displayed on or near all exterior doors.

Section 102.1-2-6. Existing Addresses.

Addresses of existing buildings assigned prior to the effective date of this Chapter shall comply with the following:

(a) Existing addresses shall be permitted to remain unless otherwise required to be changed per the provisions of paragraph (c).

(b) Existing addresses shall not be changed to an address that does not comply with § 102.1-2-3.

(c) Addresses of buildings with alterations that exceed 100 percent of the existing gross floor area above grade or include the demolition of more than 50 percent of the existing gross floor area above grade shall meet the requirements of § 102.1-2-3.

(d) Addresses shall not be changed without the written approval of the Director.

ARTICLE 3.
Violations and Penalties.

Section 102.1-3-1. Penalties.

Violation of any provision of this Chapter shall constitute a Class 3 misdemeanor as provided in § 1-1-14 of this Code.

Section 102.1-3-2. Enforcement.

(a) Whenever the Director has reason to believe there has been a violation of any provision of this Chapter, the Director may give notice of such violation to the property owner or the person failing to comply with any such provision either in person or by registered or certified mail to the property or the owner's address .

(b) Such notice shall specify the provisions of this Chapter which have been violated, the measures necessary to remedy the violation, and a reasonable time in which to remedy the violation.

(c) If such person fails to comply with the order issued pursuant to this Section, the Director may initiate such actions as are necessary to terminate the violation, including obtaining criminal warrants, applying to courts of competent jurisdiction for injunctive relief, or any other appropriate action.

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ACTION – 1

Approval of a Resolution to Authorize the Sale of Fairfax County Economic Development Authority Facilities Revenue Bonds for the Woodburn Replacement Center Project (Mid-County Center) and the Providence Community Center Project (Providence District)

ISSUE:
Board approval of a resolution to authorize and request the sale of Fairfax County Economic Development Authority Facilities Revenue Bonds for the Woodburn Replacement Center Project (Mid-County Center) and Providence Community Center Project (Providence District) on or about April 11, 2012.

RECOMMENDATION:
The County Executive recommends Board approval of a Resolution which (i) requests the Fairfax County Economic Development Authority (“EDA”) to issue bonds to finance the Project (the “Bonds”), (ii) approves the form and authorizes the execution of the Installment Purchase Contract between the Fairfax County Economic Development Authority ("EDA") and Board of Supervisors which contract sets out the terms and conditions for the County to make payments to EDA to pay the debt service on the Bonds and the responsibilities of the parties relating to the " Project," (iii) approves the form of the Second Supplemental Trust Agreement, between EDA and a trustee, which agreement sets forth the terms for issuing the Bonds; the application of the proceeds of the Bonds and the pledging of funds for the payment of the Bonds.

TIMING:
Board action is requested on March 6, 2012.

BACKGROUND:
Board approval of the resolution requests the EDA to issue Bonds to fund project costs in an amount not to exceed $110 million. The bonds will fund the cost of the public facilities, costs of issuance, and capitalized interest during construction as well as provide a contingency reserve in the event of any unforeseen circumstances that may impact the cost of the Project for which the County is responsible. Board approval is also recommended for the forms of Installment Purchase Contract and the Second Supplemental Trust Agreement with the EDA that delineate the basic parameters of the bond issue and the County’s responsibilities with respect to the payment of debt service to the EDA. Today’s action will establish the details of the sale by approval of the forms of the Second Supplemental Trust Agreement pertaining to the actual issue size and date, and the forms of the Preliminary Official Statement and the Notice of Sale. As this

transaction will have similar documentation and credit to other County facility bonds wherein the County pledges, subject to annual appropriation, to make payments sufficient to pay debt service on EDA bonds subject to annual appropriation, the financial advisor has recommended a competitive sale as the best option to complete this transaction in the market. Such bonds usually obtain credit ratings that are one step off the County's general obligation AAA rating.

Woodburn Replacement Center Project (Mid-County Center)
On September 28, 2010, the Board of Supervisors authorized a Contract of Sale with Inova Health Care Services effectuating a series of real estate transactions. This approved Contract of Sale with Inova achieves the most cost effective development option for design and construction of a facility that can replace the existing Woodburn Mental Health Center and consolidate other Fairfax-Falls Church Community Services Board (CSB) programs from various leased spaces. By state mandate, the CSB must provide emergency mental health care to residents. The CSB's current facility for these services cannot meet current or future needs. This facility was built in 1975 and has never undergone any significant renovation or capital renewal work. While the Contract of Sale does not include building a replacement to the mental health center, this was the ultimate purpose for having entered into the agreement. The Mid County Center will replace the Woodburn Mental Health Center. The proposed facility is an approximately 200,000 gross square-foot, Class A office building, with an approximate 690 car parking structure.

Based on the approved Contract of Sale, a first closing was executed on March 2, 2011, including the following real estate transactions:

- Amendment of the County ground lease with Inova to release the 15.32 acre parcel and extend the lease on the remaining 29.59 acres by 99 years.
- Conveyance of the 15.32 acre parcel and the 1.15 acre Woodburn Place parcel from the County to Inova.
- Execution of a 99 year ground lease for the Woodburn Place parcel by Inova to the County.
- Inova payment of $7.3 million dollars to the County. The $7.3 million represents an initial payment of the $12.5 million dollar allocation of the total $15 million dollars, less the County's $4.2 million share of the Willow Oaks (e.g. the site for the Mid County Center) infrastructure and a $1 million dollar deposit securing the County obligation to execute the Second Closing.

Based on the Contract of Sale, a Second Closing is scheduled to occur in the March/April 2012 timeframe, subsequent to the Board of Supervisor's approval of the Bond Documents required to fund the construction of the Mid County Center building. The Second Closing includes:

- Conveyance of Willow Oaks Lot 1 from Inova to the County

- Conveyance of the Woodburn Mental Health property from the County to Inova, with interim lease back to the County
- Execution of a 10 year, 40,000 sf lease in the Mid County Center building by the County to Inova

During the Board's deliberations in connection with approval of the Contract of Sale on September 28, 2010, staff presented a summary plan of long term financing for the Mid County Center project that was incorporated into the County's FY 2012 – 2016 Adopted Capital Improvement Program. The construction contract award and the second real estate closing to effectuate County acquisition of the Willow Oaks site for the new Mid County Center are scheduled to occur in March/April 2012 pending, and subsequent to, Board approval of the Bond Documents. Construction is scheduled to be fully completed by September 2014.

Providence Community Center Project
The Providence Community Center will provide a comprehensive program of community services and recreational, educational, and cultural activities serving the Providence District of the County. The two story structure will encompass approximately 32,000 square feet. The Providence Community Center project is partially funded by a proffered commitment of approximately $6 million from Pulte as part of Metro West rezoning case. Based on an escalator clause in the Metro West rezoning proffers, DPWES estimates that Pulte's actual funding obligation will be in the order of $6.6 million, requiring a projected County funding commitment of $6.5 million to fully fund the project. Pulte's total commitment amount will be determined based on actual escalation at the time of construction completion in fall 2013, as required by the proffer.

FISCAL IMPACT:
The estimated cost of construction including contingencies and associated costs for the Woodburn Replacement Center Project is projected to be $86.5 million absent unforeseen circumstances. This figure is net of Inova's $15 million cash contribution per the terms of the approved Contract of Sale between Inova and the County; and the County's previous $7.8 million appropriation for preliminary design work for the project. The debt service required to support construction, soft costs and capitalized interest will be approximately $5.6 million per year commencing in FY 2016. The bond term is recommended to be thirty years which is consistent with other County projects funded in this manner. The net present value of the savings generated from consolidating leased office space is approximately $22.9 million.

The cost of the Providence Community Center is currently estimated at $13.1 million. The County will provide $6.5 million to the project and the developer will cover the balance of $6.6 million. Due to its small size, a five year amortization is appropriate and recommended for this portion of the financing. The annual debt service costs for the County's $6.5 million share of the project will be approximately $1.4 million beginning in FY 2013.

ENCLOSED DOCUMENT:
Attachment 1: Resolution of Approval
Attachment 2: Bond Sale Schedule of Events
Attachment 3: Installment Purchase Contract
Attachment 4: Second Supplemental Trust Agreement (Available in the Office of the Clerk of the Board)
Attachment 5: Preliminary Official Statement (Available in the Office of the Clerk of the Board)
Attachment 6: Notice of Sale
Attachment 7: Continuing Disclosure Agreement

STAFF:
Leonard Wales, Debt Manager, Department of Management and Budget
Joseph LaHait, Debt Coordinator, Department of Management and Budget
James Patteson, Director, Department of Public Works and Environmental Services
George Braunstein, Director, Community Services Board
Alan Weiss, Assistant County Attorney, Office of the County Attorney

RESOLUTION REQUESTING THAT THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY ISSUE ITS FACILITIES REVENUE BONDS SERIES 2012 A (COMMUNITY SERVICES FACILITIES PROJECTS), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INSTALLMENT PURCHASE CONTRACT WITH THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY ALL FOR THE PURPOSE OF PROVIDING FOR THE FINANCING OF THE CONSTRUCTION AND IMPROVEMENT OF A MENTAL HEALTH FACILITY AND NEIGHBORHOOD COMMUNITY CENTER; APPROVING THE FORM OF A SECOND SUPPLEMENTAL TRUST AGREEMENT BETWEEN THE AUTHORITY AND A TRUSTEE, A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS, AND A NOTICE CALLING FOR BIDS TO PURCHASE THE BONDS; MAKING A CONTINUING DISCLOSURE UNDERTAKING; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AND AGREEMENTS RELATING TO SUCH TRANSACTIONS AS MAY BE NECESSARY OR REQUIRED; DELEGATING TO THE COUNTY EXECUTIVE OR THE CHIEF FINANCIAL OFFICER POWER TO DETERMINE CERTAIN DETAILS OF SUCH TRANSACTIONS

WHEREAS, the Board of Supervisors (the "Board") of Fairfax County (the "County") has agreed to convey three County owned property parcels to Inova Health Care Services ("Inova") in fee simple and in return Inova has agreed to convey to the County in fee simple a 4.6 acre parcel of land located at 8221 Willow Oaks Corporate Drive, Fairfax, Virginia (the "Willow Oaks Land") and

WHEREAS, the Board has determined to approve the construction and improvement of a 200,000 square foot facility on the Willow Oaks Land to serve as a new Woodburn Mental Health Center (the "Woodburn Mental Health Center"); and

WHEREAS, the Board has also determined to finance the construction and improvement of a neighborhood community center located in Fairfax, Virginia (the "Providence Community Center" and together with the Woodburn Mental Health Facility (the "Projects")); and

WHEREAS, the Fairfax County Economic Development Authority ("EDA") has previously caused to be executed and delivered a master trust agreement, dated as of January 1, 2005 (the "Master Trust Agreement"), by and between EDA and a the predecessor trustee to U.S. Bank National Association, as trustee (the "Trustee") pursuant to which the EDA may issue bonds to provide financing for the cost of acquiring, improving or constructing County facilities; and

WHEREAS, the County hereby requests EDA to consider a resolution authorizing the financing the cost of the Projects by issuing bonds pursuant to Section 208 of the Master Trust Agreement and a Supplemental Trust Agreement and approving the necessary documents to effect such financing and related transactions; and

WHEREAS, the Board has determined to approve the form of a second supplemental trust agreement (the "Supplemental Agreement") between EDA and the Trustee, supplementing the Master Trust Agreement, that will provide for the issuance of a series of Bonds, to be designated "Fairfax County Economic Development Authority Fairfax County Facilities Revenue Bonds Series 2012 A (Community Services Facilities Projects)" (the "2012 A Bonds"); and

WHEREAS, there has been presented to the Board a proposed Installment Purchase Contract by the terms of which the EDA will sell to the County EDA's interest in the Projects, and the County will agree to make Basic Payments and Additional Payments (as defined in the Installment Purchase Contract) therefor, on the terms and conditions therein set forth, sufficient to pay the principal of and interest on the 2012 A Bonds issued by EDA to pay the cost of the Projects and related expenses; and

WHEREAS, there has been presented to the Board a proposed form of the notice calling for bids for the purchase of all (but not less than all) of the 2012 A Bonds (the "Notice of Sale"); and

WHEREAS, there has been presented to the Board a proposed Preliminary Official Statement describing the 2012 A Bonds, EDA, the County and the Projects (the "Preliminary Official Statement"); and

WHEREAS, the County will undertake primary responsibility for any annual and other reports, notices or disclosures that may be required under Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and make a continuing disclosure undertaking in the form of the continuing disclosure agreement presented to the Board (the "Continuing Disclosure Agreement"); and

WHEREAS, the Board has duly reviewed and considered the forms of the Supplemental Agreement, the Installment Purchase Contract, the Preliminary Official Statement, the Notice of Sale and the Continuing Disclosure Agreement and has determined that each is in acceptable form; and

WHEREAS, the Board has determined that it is necessary to delegate to the County Executive and the Chief Financial Officer of the County (each a "Delegate") the power to approve the sale of the 2012 A Bonds and the details of these transactions but subject to the guidelines and standards established hereby; now, therefore,

BE IT RESOLVED by the Board as follows:

SECTION 1. EDA is hereby requested to authorize and issue the 2012 A Bonds in an aggregate principal amount not to exceed $110,000,000 (which includes underwriting and net bond discounts, closing costs, and issuance expenses), for the purpose of financing the construction and improvement of the Projects, as well as providing capitalized interest if necessary, as provided in the Master Trust Agreement and Supplemental Agreement on a date no later than December 31, 2012; such 2012 A Bonds may be sold in a competitive sale pursuant to bids received electronically via the PARITY Competitive Bidding System or similar electronic based competitive bidding system or through a negotiated sale to one or more underwriters chosen in compliance with County guidelines and regulations. If such 2012 A Bonds shall be sold in a competitive sale such 2012 A Bonds are requested to be awarded to the bidder submitting the best bid (determined in accordance with the requirements of the Notice of Sale

and the terms set forth in an EDA Board of Commissioners resolution) and the Fairfax County Executive or Chief Financial Officer (each a "Delegate") are hereby authorized to request EDA to award the Bonds to such best bidder. The 2012 A Bonds may upon the approval of the EDA Chairman, Vice Chairman or other authorized officer and with the consent of the County Executive or the Chief Financial Officer be sold in a negotiated sale to one or more underwriters, subject to the following conditions: (i) the Financial Advisor to the County shall have recommended that due to financial market conditions such a negotiated sale best serves the interest of the County and (ii) the underwriter(s) of the bonds shall have been chosen pursuant to County guidelines and regulations. In the event of a negotiated sale, the Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such other officer or officers of the County as may be designated by any one of them, is hereby authorized and directed to execute or approve a bond purchase agreement, by and among the underwriters, EDA and the County, setting forth the terms of the sale of the bonds. Such bond purchase agreement shall only be executed (i) if such agreement does not contain any terms contradictory to the terms of this Resolution or the resolution to be approved by the EDA Board of Commissioners resolution relating to the 2012 A Bonds and (ii) the Financial Advisor to the County shall recommend to the County the execution of such agreement.

SECTION 2. The form of the Supplemental Trust Agreement presented to this meeting, providing details for the custody, investment and disbursement of the proceeds of the 2012 A Bonds, is hereby approved in such form and containing substantially the terms and provisions therein set forth.

SECTION 3. The form of the Installment Purchase Contract presented to this meeting be, and the same hereby is, approved, and the Chairman or Vice Chairman of the Board or the County Executive or the Chief Financial Officer of the County, as appropriate, and the Clerk or any Deputy Clerk of the County be, and they hereby are, authorized, directed and empowered to execute and deliver, under seal, in the name and on behalf of the County the Installment Purchase Contract in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by those executing the Installment Purchase Contract, their execution thereof being conclusive evidence of such approval.

SECTION 4. The form of the Notice of Sale presented to this meeting is approved, and the distribution, publication and use of the Notice of Sale for purposes of the sale of the 2012 A Bonds is hereby approved. Alternatively, the Clerk may cause to be distributed a summary of the principal terms of the notice. Bids shall be received electronically via the PARITY Competitive Bidding System.

SECTION 5. The form of the Preliminary Official Statement is hereby approved and deemed "final" for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The distribution and use by the winning bidder or underwriters of the 2012 A Bonds of a final Official Statement relating to the 2012 A Bonds (the "Official Statement") is hereby approved. The Official Statement shall be completed with the pricing and other information in substantially the form of the Preliminary Official Statement approved this day with such minor changes, insertions and omissions as may be approved by a Delegate.

SECTION 6. The form of the Continuing Disclosure Agreement presented to this meeting be, and the same hereby is, approved, and the Chairman or Vice Chairman of the Board or a Delegate, as appropriate, be, and the same is hereby authorized, directed and empowered to

execute and deliver, under seal, in the name and on behalf of the County, the Continuing Disclosure Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by the person executing the Continuing Disclosure Agreement, such execution thereof being conclusive evidence of such approval.

SECTION 7. The execution and delivery by a Delegate of the Continuing Disclosure Agreement and any other agreements, documents, closing papers and certificates executed and delivered pursuant to this Resolution shall be conclusive evidence of their approval of the changes, if any, in the forms thereof and of their authority to execute and deliver such agreements, documents, certificates and closing papers on behalf of the Board.

SECTION 8. The members, officers and employees of the Board and the County, EDA and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the 2012 A Bonds, the Trust Agreement, the Supplemental Agreement, the Installment Purchase Contract, the Notice of Sale and the Official Statement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the 2012 A Bonds, the Trust Agreement, the Supplemental Agreement, the Installment Purchase Contract, the Notice of Sale and the Official Statement and also to do all acts and things required of them by the provisions of this Resolution.

SECTION 9. The officers of the Board and the County are authorized to execute one or more certificates evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificate shall be conclusive evidence of the actions or determinations as stated therein.

SECTION 10. All actions taken by the Board and the members, officers and employees of the Board in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates and other documents to be executed by the Board and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 11. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict. All capitalized terms not defined herein shall have the meanings as set forth in the Trust Agreement.

SECTION 12. This resolution shall take effect immediately upon its adoption.

Attachment 2

DRAFT Critical Path
Fairfax County EDA
Woodburn and Providence Revenue Bonds, Series 2012

January 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2012						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

March 2012						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

April 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Week of	Activity	Responsible Party
Week of January 23, 2012		
	First Draft of Resolutions, POS, NOS, First Supplemental (Bond Documents) distributed	SA
Week of January 30, 2012		
	Comments Due on First Draft of Bond Documents	All
Week of February 6, 2012		
	Second Draft of Bond Documents distributed	SA
	Comments Due on Second Draft of Bond Documents	All
Week of February 13, 2012		
	Third Draft of Bond Documents Distributed	SA
	Documents Sent to Rating Agencies	PFM
Monday, February 13	Board Title Due	SA, PFM
Wednesday, February 15	Board Item Due	SA, PFM
Week of February 20, 2012		
Monday, February 20	President's Day Holiday	-
Thurs, February 23rd at 2 pm	Call with S&P	FFX, PFM
Friday, February 24th at 10 am	Call with Moody's	FFX, PFM
Friday, February 24th at 11 am	Call with Fitch	FFX, PFM
Week of February 27, 2012		
Friday, March 2	Receive Ratings (no later than 3/2/12)	
Week of March 5, 2012		
Tuesday, March 6	Fairfax County Board Meeting. Board to Consider Bond Documents	SA
Week of March 19, 2012		
Tuesday, March 20	EDA Board Considers Documents	FFX
Week of March 26, 2012		
	Final comments due on POS	All
Friday, March 30	POS Distributed	SA
Week of April 2, 2012		
	Pre-Market Bonds	PFM
Week of April 9, 2012		
Tuesday, April 10	Competitive Bond Sale	All
Week of April 16, 2012		
	Finalize closing documents	SA
	Finalize Official Statement	SA
Week of April 23, 2012		
Thursday, April 26	Closing	All

Key
FFX = Fairfax County, VA
PFM = Public Financial Management
SA = Sidley Austin, Bond Counsel

INSTALLMENT PURCHASE CONTRACT

between

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Seller,

and

BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA

Purchaser.

relating to

FAIRFAX COUNTY
COMMUNITY FACILITIES PROJECTS

_____

Dated as of _____, 2012

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THIS INSTALLMENT PURCHASE CONTRACT dated as of _____, 2012 ("Contract") by and between the **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia having its principal office at 8300 Boone Boulevard, Vienna, Virginia ("EDA"), and the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia and having its principal office at 12000 Government Center Parkway, Fairfax, Virginia (the "County").

RECITALS:

In furtherance of the public purposes identified its Enabling Act and for the particular purpose of assisting the County to plan, develop, acquire, construct, improve, renovate and equip facilities for the benefit of the County, EDA has entered into a Master Trust Agreement (the "Master Trust Agreement"), dated as of January 1, 2005 with U.S. Bank National Association, as successor Trustee, pursuant to which EDA has authorized and may issue from time to time its Fairfax County Facilities Revenue Bonds in one or more series for the purpose of financing all or any portion of the cost of facilities for the County; provided that, among other things, the County shall have first entered into a Payment Agreement with EDA by the express terms of which the County is absolutely and unconditionally obligated to make payments to the Trustee for the account of EDA at times and in amounts sufficient for EDA to make timely payment of debt service on the Bonds.

EDA and the County have agreed that the construction of a four-story 200,000 square foot office building for use as a mental health facility (the "Mental Health Building") [and a parking garage] to serve the Mental Health Building at 8221 Willow Oaks Corporate Drive Fairfax, Virginia (collectively the "Mental Health Property") and construction and improvement of a new neighborhood community center in Fairfax, Virginia (the "Providence Community Center Property" and together with the Mental Health Property, the "Properties") are worthy undertakings serving public purposes for the citizens of the County.

In furtherance of these public purposes and simultaneously with the execution and delivery of this Contract and the Master Trust Agreement, EDA has entered into a Second Supplemental Trust Agreement, dated as of _____, 2012, with U.S. Bank National Association, as trustee, pursuant to which EDA will issue its $_____ Fairfax County Facilities Revenue Bonds Series 2012 A (Community Services Facilities Projects) (the "2012 A Bonds") for the purpose of financing the improvement of the Properties including the construction of the Mental Health Building, parking garage and the neighborhood community center (the "Project").

Under this Contract, EDA will agree to make available to the County the proceeds of the 2012 A Bonds for the improvement of the Properties and to sell its interests in the Project to the County in consideration of the County's undertaking responsibility for the Project and its agreement to pay a purchase price for the Project, and interest thereon, sufficient for EDA to pay timely the debt service on the 2012 A Bonds.

It is the intention of the parties that this Contract meet all the requirements of a "Payment Agreement" under the Master Trust Agreement.

ARTICLE I.

DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. In addition and exception to the terms defined above, the terms defined in this Article 1, for all purposes of this Contract and all agreements supplemental hereto, shall have the meaning specified below.

"**Additional Contract Payments**" shall have the meaning set forth in Section 4.01(b).

"Allocated Bonds" shall mean those Bonds allocated by the County, in a certificate of a County Representative delivered to the Trustee, to the Mental Health Property or the Providence Community Center Property, as the case may be, in an event referred to in Section 5.01(c) or (e)(3) hereof.

"**Basic Contract Payments**" shall have the meaning set forth in Section 4.01(a).

"**Bonds**" shall mean the 2012 A Bonds and any additional revenue bonds issued by EDA in accordance with the Trust Agreement to provide additional funds for the Cost of the Project or to finance the Cost of the Project or to refund Bonds issued and outstanding under the terms of the Trust Agreement. "Bonds" as used in this Contract shall not include "Bonds" as defined in the Master Trust Agreement that are not payable from Contract Payments under this Contract.

"**Buildings**" shall mean collectively the Mental Health Building and the Providence Community Center.

"**Contract**" shall mean this Installment Purchase Contract as the same may be supplemented and amended in accordance with the provisions hereof and the Trust Agreement.

"**Contract Payments**" shall mean the amounts, designated as Basic Contract Payments and Additional Contract Payments, payable by the County to or for the account of EDA pursuant to this Contract.

"**Cost**" shall have the meaning set forth in Section 403 of the Master Trust Agreement.

"**County Executive**" shall mean the chief administrative officer of the County at the time being.

"**County Representative**" means each of the persons at the time designated to act on behalf of the County by written certificate furnished to the EDA and the Trustee containing the specimen signature of such persons and signed on behalf of the County by an authorized officer of the County.

"**Default**" shall mean any condition or event which constitutes or would, after notice or lapse of time, or both, constitute an Event of Default.

"**Due Date**" shall mean the last date on which payment is due without penalty, premium or interest.

"**Effective Date**" shall mean the date of delivery of the 2012 A Bonds.

"**Enabling Act**" shall mean Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth, as amended, and other applicable law.

"**Event of Default**" shall have the meaning set forth in Section 12.01.

"**Event of Non-Appropriation**" shall have the meaning set forth in Section 12.03.

"Interest" shall mean interest on the Purchase Price of the Project. Such interest shall include interest at the same rates payable on the same dates as the interest and any redemption premium payable by EDA on the Bonds.

"**Late Charge Rate**" shall mean the true interest cost rates on the Bonds plus one percent (1%).

"**Master Trust Agreement**" shall mean the Master Trust Agreement, dated as of January 1, 2005, as generally amended and supplemented from time to time, including by the Second Supplemental Trust Agreement, dated as of _____, 2012 and by any Supplemental Trust Agreement entered into in connection with the issuance of additional Bonds, each between EDA and the Trustee. "Master Trust Agreement" shall also include Supplemental Trust Agreements, as supplemented and amended, each between EDA and the Trustee, entered into in connection with the issuance of additional or refunding bonds under the Master Trust Agreement that are not related to this Contract or the Properties.

"Mental Health Building" shall mean the four-story, 200,000 square foot office building and related parking garage to be constructed on the Mental Health Property, as the same may be improved as part of the Project.

"**Mental Health Property**" shall mean the approximately 4.6 acres of land and all improvements, including the Mental Health Building located at 8221 Willow oaks corporate Drive, Fairfax, Virginia.

"**Net Proceeds**" when used with respect to any insurance or condemnation award, shall mean the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after the payment of all out-of-pocket expenses of the parties to this Contract incurred in the collection of such gross proceeds.

"**Notice**" shall have the meaning and must be given in the manner set forth in Article XIII.

"**Payment of the Allocated Bonds**" shall mean payment of the principal of and interest on all the Allocated Bonds in accordance with their terms, whether through payment at maturity or purchase and cancellation or redemption or provision for such payment in such a manner that the Bonds shall be deemed to have been paid under Section 1301 of the Trust Agreement.

"**Payment of the Bonds**" means payment of the principal of and interest on all the Bonds in accordance with their terms, whether through payment at maturity or purchase and cancellation or redemption or provision for such payment in such a manner that the Bonds shall be deemed to have been paid under Sections 1301 of the Trust Agreement.

"**Permitted Encumbrances**" shall have the meaning set forth in Exhibit B.

"**Project**" shall mean the construction of the Mental Health Building and the construction of the Providence Community Center.

"**Properties**" shall mean collectively the Mental Health Property and the Providence Community Center Property.

"Providence Community Center" shall mean the 32,000 square foot neighborhood community center to be built on the Providence Community Center Project.

"**Providence Community Center Property**" shall mean the approximately _____ acres of land and all improvements, including the Providence Community Center located in Fairfax, Virginia.

"Purchase Price" shall mean an amount equal to the principal amount of the 2012 A Bonds and any additional Bonds.

"**Second Supplemental Trust Agreement**" shall mean the Second Supplemental Trust Agreement, dated as of _____, 2012 between EDA and the Trustee, as the same may be supplemented and amended as permitted thereby.

"**State**" shall mean the Commonwealth of Virginia.

"**Supplemental Trust Agreement**" shall mean any amendment or supplement to the Master Trust Agreement permitted thereby, including the Second Supplemental Trust Agreement.

"Term" shall mean the period of time commencing on the Effective Date and ending upon the Payment of the Bonds.

"**Termination of this Contract**" shall mean the expiration and any sooner termination of this Contract pursuant to any of the provisions of this Contract.

"**Trust Agreement**" shall mean the Master Trust Agreement as generally amended and supplemented from time to time, including by the Second Supplemental Trust Agreement, dated as of _____, 2012, and by any Supplemental Trust Agreement entered into in connection with the issuance of additional Bonds, each between EDA and the Trustee. "Trust Agreement" shall not include Supplemental Trust Agreements entered into in connection with the issuance of additional or refunding bonds under the Master Trust Agreement that are not related to this Contract or the Properties.

"**Trustee**" shall mean the trustee at the time being under the Master Trust Agreement and all Supplemental Trust Agreements. U.S. Bank National Association, is the successor Trustee under the Master Trust Agreement and the Second Supplemental Trust Agreement.

"**2012 A Bonds**" shall mean EDA's $_____ Fairfax County Facilities Revenue Bonds Series 2012 A (Community Services Facilities Projects).

SECTION 1.02. Interpretation.

(a) **References Hereto.** The terms "hereby", hereof", "herein", "hereunder" and any similar terms, refer to this Contract.

(b) **Gender and Plurality.** Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(c) **Examples.** The use of the term "including" or "include" or of examples generally, shall mean without limitation to the specific examples provided.

(d) **Person; Owner.** Unless the context shall otherwise indicate, "person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof, and "owner" when used herein with respect to Bonds shall mean the registered owner of Bonds at the time issued and outstanding under the Trust Agreement.

(e) **Redemption.** Words importing the redemption or calling for redemption of the Bonds shall not be deemed to refer to or connote the payment of Bonds at their stated maturity.

(f) **Captions.** The captions or headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Contract.

(g) **Articles; Sections.** All references herein to particular articles or sections are references to articles or sections of this Contract unless some other reference is established.

(h) **Table of Contents**. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Contract or as supplemental thereto or amendatory thereof.

(i) **Trust Agreement Controls.** Any inconsistency between the provisions of this Contract and the provisions of the Trust Agreement shall be resolved in favor of the provisions of the Trust Agreement.

ARTICLE II.

ISSUANCE OF BONDS; COST OF THE PROJECT

SECTION 2.01. Agreement to Issue the 2012 A Bonds. At the request of the County, EDA agrees that it will use its best efforts to issue, sell and deliver to the purchasers thereof at one time or from time to time (i) the 2012 A Bonds pursuant to Section 208 of the Trust Agreement for the purpose of paying the Cost of the Project, (ii) additional Bonds pursuant to Section 208 of the Trust Agreement for the purpose of paying all or any portion of the Cost of the Project in excess of the funds available for the purpose from the proceeds of the 2012 A Bonds or (iii) refunding Bonds pursuant to Section 209 of the Trust Agreement for the purpose of refunding any 2012 A Bonds or additional Bonds issued under (ii) above or a combination of such purposes. The proceeds of the 2012 A Bonds shall be delivered to the Trustee for application in accordance with the Trust Agreement and the Second Supplemental Trust Agreement.

SECTION 2.02. Disbursements from Construction Subfund**.** EDA and the County hereby agree that the money in the Construction Subfund under the Trust Agreement shall be applied to the payment of the Cost of the Project, and otherwise as provided in accordance with Article IV of the Trust Agreement, and, pending such disbursement, such money shall be invested and reinvested in accordance with Article VI of the Trust Agreement.

SECTION 2.03. No Sufficiency Warranty by EDA; Limited Liability of County**. EDA DOES NOT MAKE ANY WARRANTY, EITHER EXPRESS OR IMPLIED, THAT THE MONEY THAT WILL BE PAID INTO THE CONSTRUCTION SUBFUND OR ANY ACCOUNT THEREIN WILL BE SUFFICIENT TO PAY THE COST OF THE PROJECT.** The obligation of the County under this Contract to pay the Cost of the Project will be limited to the proceeds of the 2012 A Bonds and any additional Bonds described in Section 2.01(ii) above deposited to the credit of the Project Account in the Construction Subfund, the investment earnings thereon and any other investment earnings on the funds and accounts held by the Trustee under the Trust Agreement and transferred to the Project Account in the Construction Subfund. The County agrees, however, that if, after exhaustion of the moneys in the Construction Subfund, the County should pay or cause to be paid any portion of the Cost of the Project, it shall not be entitled to any reimbursement therefor from EDA or from the Trustee (other than from the proceeds of Additional Bonds issued under and in accordance with the provisions of the Trust Agreement and Section 2.01 above), or diminution or postponement of the payments to be made pursuant to Article 4 of this Contract.

SECTION 2.04. Third Party Beneficiaries**.** Except as provided by Section 10.06 with respect to the Trustee and the owners of the Bonds and except as provided in Section 14.04 with respect to individual and corporate rights to exemption from liability, it is not the intention of the parties to constitute any other person a beneficiary of this Contract or any of its provisions.

ARTICLE III.

SALE OF THE PROJECT

In consideration of the mutual promises contained herein, the sum of Ten Dollars ($10) paid by the County to EDA and the net proceeds of the 2012 A Bonds paid to the bond registrar under the Trust Agreement for the account of EDA, receipt of which is hereby acknowledged, EDA hereby sells to the County, and the County hereby purchases from EDA, on the Effective Date the Project as it exists at such time, situate, lying and being in the County of Fairfax, and more particularly bounded and described in Exhibit A together with the easements and other rights and interests described in Exhibit A,

SUBJECT to the Permitted Encumbrances specified in Exhibit B.

ARTICLE IV.

PAYMENTS

SECTION 4.01. Payments.

(a) Basic Contract Payments. (i) The County shall be obligated to pay to EDA the Purchase Price of the Project in installments, with Interest thereon, in accordance with the provisions of this Contract. The Purchase Price and the Interest thereon shall be paid as Basic Contract Payments in the respective amounts, not less than one business day prior to their respective Due Dates, shown in Schedule 1, beginning with the business day immediately prior to the first Due Date.

(ii) The County may, at its option, prepay the Purchase Price, in whole or in part, on any Due Date on not less than forty-five (45) days' written notice to EDA, accompanied by a specific direction to EDA to apply such prepayment to the purchase and cancellation, redemption or defeasance of the Bonds in accordance with their terms. EDA shall comply, or provide in the Trust Agreement securing the Bonds for compliance, with such directions. Upon such purchase and cancellation, redemption or defeasance, EDA shall credit the principal amount of the Bonds so cancelled, redeemed or defeased against the Purchase Price and reduce the Basic Contract Payments otherwise payable in accordance with Schedule 1 by an amount equal to the sum of (X) the principal amount of the Bonds so purchased and cancelled, redeemed or defeased, (Y) the interest on the Bonds so purchased and cancelled, redeemed or defeased and as a result of such prepayment and (Z) the interest that would have accrued on such Bonds so redeemed or defeased but for such prepayment and redemption or defeasance. EDA and the County shall revise Schedule 1 appropriately to reflect such reductions in Basic Contract Payments.

(iii) EDA shall credit appropriately against the Purchase Price and Interest, and reduce the Basic Contract Payments otherwise payable on each Due Date, by the amount of any investment income (X) realized from the investment and reinvestment of Bond proceeds and Basic Contract Payments or other amounts or reserves derived from Bond proceeds

or Basic Contract Payments and set aside or pledged to the Bonds and (Y) applied, or to be applied, to the payment of principal or interest and any redemption premiums on Bonds.

(iv) EDA shall also credit appropriately against the Purchase Price and Interest and reduce the Basic Contract Payments by, in accordance with any directive by the County consistent with the terms of this Contract, amounts described by the provisions of this Contract, including without limitation, Sections 5.01(c), (d), and (e)(5) and 12.04.

(b) Additional Contract Payments. The County shall also pay to or for the account of EDA as Additional Contract Payments for the Project all other amounts (other than Basic Contract Payments) payable by the County to EDA under this Contract, including, without limitation, any amounts due to EDA under Section 4.02.

All Additional Contract Payments shall be payable in accordance with the provisions of applicable Sections of this Contract.

SECTION 4.02. Expenses. The County will pay as Additional Contract Payments:

(1) all reasonable fees and expenses of the Trustee and, to the extent permitted by law, the costs and expenses of holding the Trustee harmless, to the extent permitted by law, against any loss, liability or expense (including the costs and expenses of defending against any claim of liability) incurred without negligence or willful misconduct by the Trustee and arising out of or in connection with its acting as Trustee under the Trust Agreement;

(2) all reasonable fees and expenses of the bond registrar, any depository and any paying agent appointed under the Trust Agreement; and

(3) all reasonable expenses of EDA allocable to this Contract and the Bonds, including, without limitation, the reasonable fees and expenses of its counsel in connection with the financing of the Cost of the Project, the preparation of this Contract and the Trust Agreement, any expenses payable by EDA under the Trust Agreement allocable to the Bonds, and not otherwise payable by the County under this Contract, and, to the extent permitted by law, the costs and expenses of holding EDA harmless, to the extent permitted by law against any loss, liability or expense (including the costs and expenses of defending against any claim of liability) incurred without negligence or willful misconduct by EDA and arising out of or in connection with this Contract or the Bonds or the Trust Agreement.

SECTION 4.03. Form of Payment. All Contract Payments payable to or for the account of EDA pursuant to this Contract shall be paid to or for the account of EDA in funds that shall be available in cash for payment or investment on the respective Due Dates of such Contract Payments.

SECTION 4.04. Net Contract. The County shall pay to EDA all Contract Payments payable to EDA free of any abatement, charges, counterclaims, assessments, set-offs, offsets, impositions or deductions of any kind whatsoever except as otherwise expressly provided in Section 4.01(a), and under no circumstances or conditions shall EDA be expected or required to make any payment of any kind with respect to the Properties or be under any obligation or liability hereunder, except as provided in this Contract and the Trust Agreement. In addition,

and not in limitation of the foregoing, but subject to the provisions of Section 5.01, as between the County and EDA, the County shall be responsible for payment for all costs of operating, maintaining and repairing the Properties, including the costs and expenses for sewer, water, gas, electric, telephone, fuel and other utilities used or consumed in or at the Properties.

SECTION 4.05. Late Charges. Unless otherwise expressly provided to the contrary herein, in the event that payment of any (i) Basic Contract Payment required to be paid hereunder shall become overdue for one business day beyond the date on which it is due and payable as provided in Section 4.01(a) or (ii) Additional Contract Payments required under this Contract shall become overdue for forty-five (45) days, the sums so overdue shall be payable with interest at the Late Charge Rate (computed on a 360 day year) from the date on which payment was originally due to the date until such sum is paid in full. No grace period or notice requirement shall be applicable to the preceding sentence or the application of interest therein and no failure by EDA to insist upon the strict performance by the County of the County's obligations to pay any late charge shall constitute a waiver by EDA of its right to collect the same or to enforce the provisions of this Article in any instance thereafter occurring. The provisions of this Section 4.05 shall not be construed in any way to extend the grace periods or notice periods provided in Article XIII hereof or otherwise provided in this Contract.

SECTION 4.06. Obligations of County Subject to Appropriation. The obligations of the County to make Contract Payments under this Contract are contingent upon the appropriation for each fiscal year by the Board of Supervisors of the County of funds from which such Contract Payments can be made. The County shall not be liable for any amounts that may be payable pursuant to this Contract unless and until such funds have been so appropriated for payment and then only to the extent thereof. It is understood and agreed by the parties hereto that nothing in this Contract shall be deemed to obligate the Board of Supervisors of the County to appropriate any sums on account of any Contract Payments to be made by the County hereunder. This Contract shall not constitute a pledge of the full faith and credit of the County or a bond or debt of the County in violation of Section 10 of Article VII of the Constitution of the Commonwealth.

SECTION 4.07. County Budget. The County Executive shall include as a separate line item in each annual budget of revenues and disbursements presented to the Board of Supervisors an item designated "Community Services Facilities Projects Payments" in an amount not less than an amount sufficient, in the judgment of the County Executive, to make the Contract Payments scheduled to become due, and pay all other amounts payable by the County, pursuant to this Contract during such fiscal year. Alternatively, the County Executive may include as a single line item in each annual budget of revenues and disbursements presented to the Board of Supervisors an item designated "Basic and Additional Payments – Master Trust Agreement" in an amount not less than an amount sufficient, in the judgment of the County Executive, to make all payments scheduled to become due, and pay all other amounts payable by the County, pursuant to this Contract and all other payment agreements referred to in the Master Trust Agreement during such fiscal year.

ARTICLE V.

REPAIRS

SECTION 5.01. County's Obligation to Maintain and Repair Properties.

(a) Maintenance and Repairs. Except as otherwise provided in this Section 5.01, as between the County and EDA, the County, at its sole cost and expense, throughout the Term, shall keep and maintain the Properties in good and safe order and condition in accordance with industry standards, including without limiting the generality of the foregoing, the roofs, all railings and gutters, water, sewer and gas connections on or adjacent to or directly or indirectly servicing the Properties, pipes and mains on or adjacent to or directly or indirectly servicing the Properties and all other fixtures, machinery and equipment and shall make all repairs thereto, therein and thereon, interior and exterior, necessary to keep the same in good and safe order and condition, howsoever the necessity or desirability therefor may occur, and whether necessitated by wear and tear or otherwise; provided, however, that the County's obligations with respect to restoration resulting from a casualty shall be as provided in this Section 5.01 and Section 5.02 hereof. The County shall not commit or suffer, and shall use all reasonable precaution to prevent, waste, damage, or injury to the Properties. When used in this Section 5.01 the terms "repairs" and "restoration" shall include all required replacements, additions and alterations.

(b) County to Repair Damage. In the event the Properties or any portion thereof is damaged or destroyed by fire, flood or other casualty, the County shall, except as otherwise provided in subsection (c), proceed forthwith to repair, reconstruct and restore the damaged Properties as and to the extent the County shall deem appropriate under the circumstances and will apply the Net Proceeds of any insurance relating to such damage or destruction received by the County to the payment or reimbursement of the costs of such repair, reconstruction and restoration.

Net Proceeds of any insurance relating to such damage or destruction shall be paid directly to the County for disbursement or use, and the County shall apply such Net Proceeds received solely to, and shall complete, to the extent the County shall deem appropriate, the repair, reconstruction and restoration of the Properties, whether or not the Net Proceeds of insurance received by the County for such purposes are sufficient to pay for the same.

(c) Circumstances Under Which County May Not Repair Damage. In the event that the Properties or any portion thereof is destroyed by fire or other casualty, the County may within 90 days after such damage or destruction, elect by written notice to EDA not to repair, reconstruct or restore the Properties, provided that the Net Proceeds of insurance payable as a result of such damage or destruction together with other moneys held for the payment of or as security for the Bonds and any additional sums paid by the County are sufficient to provide for Payment of the Bonds. In such event the County shall, in its notice of election to EDA, state that such Net Proceeds and other moneys, if any, shall be applied to defease the lien of the Second Supplemental Trust Agreement securing the 2012 A Bonds in accordance with its terms and such Net Proceeds shall be paid to EDA for the purpose of such defeasance. Alternatively, if the County shall determine that the destruction is limited to the Mental Health Property or to the Providence Community Center Property, it shall constitute compliance with the provisions of

this subsection (c) if the Net Proceeds of insurance payable as a result of such damage or destruction together with other moneys held for the payment of or as security for the Bonds and any additional sums paid by the County are sufficient to provide for Payment of the Allocated Bonds and shall be so applied.

(d) Surplus Net Proceeds of Insurance. Upon completion of the repair, reconstruction and restoration pursuant to subsection (b), any excess moneys from the Net Proceeds of insurance over and above the costs of such repair, reconstruction and restoration shall be paid by the County to EDA and shall be applied as a credit to Basic Contract Payments becoming due thereafter as designated in writing by the County. In the event that all the Bonds are defeased pursuant to subsection (c), any remaining Net Proceeds shall be paid to or retained by the County.

(e) Condemnation.

(1) In the event that the Properties or any portion thereof is condemned or taken for any public or quasi-public use and title thereto vests in the party condemning or taking the same, the County shall determine in writing whether the Properties can be repaired, reconstructed and restored to such an extent that the utility of the Buildings, or either of them, can be largely maintained, restored or replaced and shall furnish copies of such determination to EDA.

(2) If the County shall determine in accordance with paragraph (1) of this subsection that the utility of the Buildings, can be maintained, restored or replaced following such taking, the Net Proceeds resulting from such taking shall be paid directly to the County and applied as hereinafter provided in this paragraph. The County agrees that, to the extent permitted by law, it will forthwith repair, reconstruct and restore the Properties, as nearly as shall be practicable, to substantially the same or an improved condition or utility as existed prior to the taking and will to the extent necessary apply the Net Proceeds of any condemnation award relating to such condemnation received by the County to the payment or reimbursement of the costs of such repair, reconstruction and restoration. It is further understood and agreed that, if the County shall determine that the Properties can be repaired, reconstructed and restored to such an extent that utility of the Buildings, or either of them, can be largely maintained, restored or replaced, the County shall complete the repair, reconstruction and restoration of the Properties, whether or not the Net Proceeds of the condemnation award received by the County for such purposes are sufficient to pay for the same.

(3) If the County shall determine in accordance with paragraph (1) of this subsection that the utility of the Buildings cannot be maintained, restored or replaced following such taking, the Net Proceeds payable as a result of such taking shall be paid for the account of EDA to the Trustee and the County shall pay to the Trustee for the account of EDA such additional amount as shall be required, together with such Net Proceeds and all amounts held under the Trust Agreement and available for the purpose, for the Payment of the Bonds. Alternatively, if the County shall determine that the taking is limited to the Mental Health Property or the Providence Community Center Property, it shall constitute compliance with the provisions of this paragraph (e)(3) if the Net Proceeds payable as a result of such taking together with other moneys held for the payment of or as security for the Bonds issued to finance the

Project and any additional sums paid by the County are sufficient to provide for Payment of the Allocated Bonds and shall be so applied.

(4) EDA shall cooperate with the County in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Properties or any part thereof.

(5) Any excess moneys from the Net Proceeds of a taking over and above the costs of repair, reconstruction and restoration prosecuted to completion in accordance with paragraph (2) of this subsection shall be paid by the County to EDA and applied as a credit against the Purchase Price and reduce the Basic Contract Payments becoming due thereafter as designated in writing by the County. In the event of Payment of the Bonds in accordance with paragraph (3) of this subsection, any remaining Net Proceeds shall be retained by or paid to the County.

SECTION 5.02. County's Assumption of the Maintenance and Management of the Properties. EDA shall have no duty or obligation to make any alteration, change, improvement, replacement, restoration or repair to, or to demolish, the whole or any part of the Properties. Except as otherwise provided in Section 5.01 hereof, as between the County and EDA, the County assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Properties.

ARTICLE VI.

INSURANCE

The County shall procure and pay the requisite premiums for, and maintain during the Term of this Contract, the insurance described in Schedule 2 of this Contract. Such insurance shall be placed in effect on the Effective Date. The insurance policies required by this Contract and described in Schedule 2 shall name the Trustee as an additional named insured and shall provide that the policies shall not be changed or terminated without forty-five (45) days prior written notice to the County and the Trustee. Nothing in this Contract shall prohibit the County from self-insuring against any one or more of the liabilities, perils or circumstances described in Schedule 2 if such insurance shall not be available on terms that, in the opinion of the Manager of the Risk Management Division of the Office of Finance of the County, are commercially reasonable. If the County self insures against any one or more of the liabilities, perils or circumstances described in Schedule 2 it is understood that that other parties cannot be named as an additional named insureds.

ARTICLE VII.

TITLE; LIENS

SECTION 7.01. Title. As between the County and EDA, fee title to the Project shall vest in the County on the Effective Date in accordance with the provisions of Article III.

SECTION 7.02. No Impairment of EDA's Interests. Except for Permitted Encumbrances, the County shall not create or cause or, due to the County's negligence or willful misconduct, suffer to be created, and shall cause its transferees to covenant not to create or suffer to be created, any lien, encumbrance or charge upon this Contract, the Properties, or any part of any of them, or EDA's income derived from this Contract.

SECTION 7.03. County to Pay or Contest, Taxes, etc. Notwithstanding the provisions of Section 7.02 hereof, the County shall not be required to pay any tax, levy, charge, fee, rate, assessment or imposition to remove any lien described in Section 7.02, pay or otherwise satisfy and discharge its obligations, demands and claims against it or to comply with any lien, law, ordinance, rule, order, decree, decision, regulation or requirement so long as the County shall contest, in good faith and at its cost and expense, in its own name and behalf, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, levy, charge, fee, rate, assessment, imposition, obligation, indebtedness, demand, claim or lien so contested, and the sale, forfeiture, or loss of the Properties or any part thereof, provided, that no such contest shall subject EDA to the risk of any liability. While any such matters are pending, the County shall not be required to pay, remove or cause to be discharged the tax, levy, charge, fee, rate, assessment, imposition, obligation, indebtedness, demand, claim or lien being contested unless the County agrees to settle such contest. Each such contest shall be promptly prosecuted to final conclusion (subject to the right of the County to settle such contest), and in any event the County, to the extent permitted by law, will save EDA harmless from and against all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) as a result of such contest and will, promptly after the final determination of such contest or settlement thereof, pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable therein, together with all penalties, fines, interests, costs and expenses thereon or incurred in connection therewith.

ARTICLE VIII.

REPRESENTATIONS

SECTION 8.01. County Representations.

(a) Project. As between EDA and the County, the County represents that the County is fully familiar with the Project and the physical conditions thereof and the status of title thereto.

Except as expressly provided in this Contract, the County warrants that no representations, statements or warranties, express or implied, have been made by or on behalf of EDA in respect of the Project including the physical condition thereof, the status of title to the Properties, the availability of utilities or other infrastructure thereon or any facts, conditions, laws, regulations, rules or orders applicable thereto, now or in the future affecting the Properties, or the use that may be made of the Properties, and that the County has relied on no such representations, statements or warranties, and that EDA shall in no event whatsoever be liable for any latent or patent defects in the Project or the Properties.

(b) Tax Representations.

(1) Except as permitted in this Section, the County represents that it shall not use, or permit the use of, any portion of the Properties by any person or entity for any private business use, other than a state or local governmental unit. For purposes of this subsection, the term "use" shall include the transfer of title or lease of all or any portion of the Properties, or operation of or the provision of services with respect to all or any portion of the Properties, or any contract for the management or operation of the Properties that does not conform to the guidelines set forth in Revenue Procedure 97-13, as such guidelines may be modified by the Internal Revenue Code of 1986, as amended (the "Code"), and regulations and procedures adopted pursuant thereto, or any contract or other arrangement permitting the use of all or any portion of the Properties on a basis other than as a member of the general public.

(2) The County may use, or permit the use of, any portion of the Properties by any person or entity that is not a state or local governmental unit or other "exempt person" as defined in the Code for any private business use, provided, that (i) the County shall not more than sixty (60) nor less thirty (30) days prior to the effective date of such proposed use, furnish or cause to be furnished to EDA a written description of the nature, scope and duration of such proposed use, the person or entity to be engaged in such proposed use and a copy of the proposed agreement between the County, or any transferee of the County, and such person or entity establishing the terms and conditions of such proposed use, and (ii) an attorney at law or a firm of attorneys, designated by EDA, of nationally recognized standing in matters pertaining to the exclusion of interest on bonds issued by states and their political subdivisions from gross income for federal income tax purposes, shall, on or prior to the effective date of such proposed use, have delivered to EDA an opinion, reasonably satisfactory in form and substance to EDA, to the effect that such proposed use will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

SECTION 8.02. Representations re Authorization. EDA and the County each represent to the other that it has full power and authority to enter into this Contract, and that when executed and delivered by it, this Contract shall have been duly authorized by all necessary corporate action and all necessary consents obtained and that this Contract shall be a valid and binding obligation.

ARTICLE IX.

EDA NOT LIABLE FOR INJURY OR DAMAGE, ETC.

SECTION 9.01. No Liability of EDA for Injury. To the fullest extent permitted by law, EDA shall not be liable for any injury or damage to any property or any person, happening on, in or about the Properties and its appurtenances, nor for any injury or damage to the Properties or to any property belonging to the County or any other person which may be caused by any fire, breakage or other event, or by the use, misuse or abuse of the Properties or area adjacent thereto (including, but not limited to, the common and public facilities, elevators, hatches, openings, installations, stairways or hallways, on or within the Properties) or which may arise from any other cause whatsoever, unless caused by the gross negligence or an intentional act of EDA in its

capacity as landlord of the Properties or its agents or employees in their capacities as agents or employees.

SECTION 9.02. No Liability of EDA for Utility Failure, Weather, Leaks, Etc. EDA shall not be liable for any failure of water supply, gas or electric current, nor for any injury or damage to any property or person or to the Properties caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or other storms or disturbances, leakage of gasoline or oil from pipes, appliances, sewer or plumbing works, or from any other place.

ARTICLE X.

SPECIAL COVENANTS; COUNTY OPTIONS

SECTION 10.01. Power to Contract. EDA covenants that it has the right to make this Contract for the Term. The County may seek to enforce its rights under this Contract by any appropriate remedial action at law or in equity.

SECTION 10.02. EDA Right of Access. The County agrees that EDA, the Trustee and their or either of their duly authorized agents shall have the right, at all reasonable times with reasonable prior notice and subject to the rights of subtenant's under their respective subleases, to enter upon the Properties and to examine and inspect the Project.

SECTION 10.03. Release of Portions of the Properties. (a) Notwithstanding any other provisions of this Contract, the parties hereto reserve the right at any time and from time to time to amend this Contract for the purpose of effecting the release and removal from the provisions of this Contract of any part of the Properties with respect to which the County or a transferee of the County proposes to convey fee title to a public utility or public body in order that utility services or roads or other services may be provided for the Properties or any of them; provided, that if at the time any such amendment is made, any of the Bonds is outstanding and unpaid there shall be deposited with the Trustee the following:

(1) A copy of the amendment or easement as executed;

(2) A resolution of the Board of Supervisors of the County (i) stating that the County is not in default under any of the provisions of the Trust Agreement and EDA is not to the knowledge of the County in default under any of the provisions of this Contract, (ii) giving an adequate legal description of that portion of the Properties to be released, and (iii) stating the purpose for which the County desires the release;

(3) A certificate showing that EDA has approved such amendment and stating that EDA is not in default under any of the provisions of this Contract; and

(4) A certificate of an appropriate County Representative, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the person signing such certificate, the release proposed to be made will not impair the usefulness of the Project as a mental health facility or neighborhood community center as appropriate and in the case of the land that constitutes a portion of the Mental Health Property or the Providence Community Center Property will not destroy the means of ingress thereto and egress therefrom.

(b) Notwithstanding any other provisions of this Contract, the County may sell or otherwise dispose of its interest in any unimproved parts of the Properties (on which neither the Buildings or the utilities that serve them are located); provided, that if at the time any such sale or other disposition is proposed, all or any of the Bonds is outstanding and unpaid, there shall be deposited with the Trustee the following:

(1) The documents described in clauses (1), (2) and (3) above;

(2) An amount equal to $_____ per acre or any fraction thereof in the case of (b)(ii) above.

(3) A certificate of an appropriate County Representative, dated not more than sixty (60) days prior to the date of the disposition, stating that, in the opinion of the person signing such certificate, the release proposed to be made will not impair the usefulness of Buildings as mental health facilities or a neighborhood community center, as applicable, and will not destroy the means of ingress thereto and egress therefrom.

SECTION 10.04. Granting of Easements. The County and its transferees may at any time or times (i) grant easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Properties (collectively, "Easements") or (ii) release existing Easements and with or without consideration and upon such terms and conditions as the County shall determine, and the County and any transferee may execute and deliver any instrument necessary or appropriate to confirm to grant or release any such Easement provided, however, that neither the County nor its transferees will effect any such grant or release which will materially adversely affect the usefulness of the Mental Health Property as a site for mental health facilities or the Providence Community Center Property as a site for a neighborhood community center.

SECTION 10.05. Assignment, Leasing and Subleasing. Neither this Contract nor the rights and obligations of the County under this Contract shall be assigned in whole or in part without the consent of EDA. With EDA's consent, this Contract may be assigned in whole or in part, and the Properties may be further conveyed, leased or subleased as a whole or in part, by the County subject, however, to each of the following conditions:

(1) No assignment, conveyance, lease or sublease shall relieve the County from primary liability for any of its obligations hereunder, and in the event of any such assignment, conveyance, lease or sublease, the County shall continue to remain primarily liable for payment of the Contract Payments specified in Article 4 and for performance and observance of the other agreements on its part herein provided to be performed and observed by it;

(2) The assignee, transferee, lessee or sublessee, if not an affiliate under the direct or indirect control of the County, shall assume the obligations of the County hereunder, arising from and after the effective date of such assignment, other than the County's obligations under Article 4, to the extent of the interest assigned, conveyed, leased or subleased, and such assignment, lease or sublease shall be subject to all the terms and conditions of this Contract;

(3) The County shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the EDA and to the Trustee a true and complete copy of each such assignment, conveyance, lease or sublease, as the case may be.

SECTION 10.06. Assignment of Contract by EDA. EDA shall assign its interest in and pledge all moneys receivable under this Contract, other than the Additional Contract Payments payable by the County under Section 4.01(b) and described in Section 4.02, to the Trustee pursuant to the Trust Agreement as security for payment of the principal of and the interest and any redemption premium, if any, on the Bonds. The County hereby consents to and acknowledges such assignment and consequently shall make all Basic Contract Payments and payments to be credited against Basic Contract Payments directly to the Trustee for the account of EDA.

SECTION 10.07. County Options to Terminate. The County may terminate the Term by paying to the Trustee, for the account of EDA, for deposit in the Debt Service Subfund under the Trust Agreement an amount that will be sufficient to purchase, redeem or defease all the outstanding Bonds in accordance with the provisions of Articles III, V and XIII of the Trust Agreement, and in case of redemption making arrangements satisfactory to the Trustee for the giving of the required notice of redemption.

ARTICLE XI.

USE AND MANAGEMENT OF PROPERTIES

SECTION 11.01. Permitted Use. The County shall use, or cause to be used, the Properties for public purposes permitted by the Enabling Act. The County shall not use, or suffer any one else to use, the Properties for other than public purposes permitted by the Enabling Act. Except as permitted by Section 8.01(b), there shall be no occupation or use of the Properties by the County or any one else for any purpose other than as authorized by this Section, without the written consent of EDA and counsel to EDA.

SECTION 11.02. No Illegal or Hazardous Use. The County shall not use or occupy, nor permit or suffer the Properties or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, or for any disreputable, dangerous, noxious or hazardous business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) by reason of odors, fumes, dust, smoke, noise or other pollution, or for any purpose or in any way in violation of the certificate of occupancy or of any applicable rules or regulations, or which may make void or voidable any insurance then in force on the Properties. Upon the discovery of any such unlawful, illegal, disreputable or hazardous use, the County shall immediately take all necessary steps, legal and equitable, to compel the discontinuance of such use.

SECTION 11.03. Properties Management. Nothing in this Contract shall constrain the County and its transferees and their lessees and sublessees and licensees from contracting for management, cleaning, maintenance, food, professional instruction or other services for the Properties, or portions of them, and enter into an agreement or agreements therefor, subject to the provisions of Section 8.01(b).

ARTICLE XII.

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

SECTION 12.01. Events of Default. Subject to the provisions of Section 12.03, each of the following events shall be an "Event of Default" hereunder:

(1) subject to the provisions of Section 12.03, if the County shall fail to make any Basic Contract Payment or any part thereof on the due date thereof and such failure shall continue for one business day; or

(2) subject to the provisions of Section 12.03, if the County shall fail (i) to maintain or cause to be maintained the insurance required by Article VI, or (ii) to make any Additional Contract Payment, or any other payment under this Contract, required to be paid by the County hereunder for a period, after notice thereof from EDA to the County, of forty-five (45) days; or

(3) subject to the provisions of Section 12.02, if the County shall fail to observe or perform one or more of the other material terms, conditions, covenants or agreements of this Contract or any representation, and such failure or misrepresentation shall continue for a period of ninety (90) days after written notice thereof by EDA to the County specifying such failure (unless such failure or misrepresentation requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such ninety (90) day period, in which case no Event of Default shall be deemed to exist as long as the County shall have commenced curing the same within such ninety (90) day period and shall diligently and continuously prosecute the same to completion); or

(4) if the County shall admit, in writing, that it is unable to pay its debts as such become due or shall make an assignment for the benefit of creditors; or

(5) if the County shall file a voluntary petition in bankruptcy or the County shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the County or of all or any substantial part of the Properties or any interest of the County therein; or

(6) if within ninety (90) days after the commencement of any proceeding against the County seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of the County, of any trustee, receiver or liquidator of the County or of all or any substantial part of the Properties or any interest of the County therein, such appointment shall not

have been vacated or stayed on appeal or otherwise, or if, within thirty (30) days after the expiration of any such stay, such appointment shall not have been vacated.

SECTION 12.02. Force Majeure**.** The foregoing provisions of Section 12.01(3) are subject to the following limitations: if by reason of Force Majeure, the County is unable in whole or in part to carry out any of its agreements herein contained, failure of the County to carry out any such agreements, shall not be deemed an Event of Default under Section 12.01(3) during the continuance of such inability, including a reasonable time for the removal of the effect thereof.

The term "Force Majeure" shall mean, without limitation, the following:

(1) acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the Commonwealth or any of their departments, agencies, political subdivisions or officials (other than the County), or any civil or military authority; war; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; droughts; floods; washouts; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(2) any cause, circumstance or event not reasonably within the control of the County.

The County agrees, however, to use commercially reasonable efforts to remedy with all reasonable dispatch the Force Majeure preventing it from carrying out its agreements; provided, that the settlement of any disputes of any nature shall be entirely within the discretion of the County, and the County shall not be required to make settlement or any such disputes by acceding to the demands of the opposing party or parties when such course is, in the judgment of the County Attorney for the County, unfavorable to the County.

SECTION 12.03. Non-Appropriations. **ANYTHING TO THE CONTRARY NOTWITHSTANDING ELSEWHERE IN THIS CONTRACT, THE FAILURE OF THE COUNTY TO PAY ALL OR ANY PORTION OF ANY AMOUNT OTHERWISE DUE AND PAYABLE UNDER THIS CONTRACT TO OR FOR THE ACCOUNT OF EDA OR THE TRUSTEE ON ACCOUNT OF THE FAILURE OF THE BOARD OF SUPERVISORS OF THE COUNTY TO APPROPRIATE SUCH SUM (AN "EVENT OF NON-APPROPRIATION") SHALL NOT, TO THE EXTENT OF SUCH FAILURE, CONSTITUTE A DEFAULT OR AN EVENT OF DEFAULT UNDER THIS CONTRACT.**

SECTION 12.04. Remedies. If an Event of Default shall have occurred and be continuing,

(1) In an Event of Default, EDA may, at its option, declare all installments of Basic Contract Payments (equal to all the then outstanding principal amounts of the Bonds and any accrued interest thereon) payable under Section 4.01(a) hereof for the remainder of the Term to

be immediately due and payable, whereupon the same shall become immediately due and payable.

(2) In an Event of Default, EDA may take whatever action at law or in equity may appear necessary or desirable to collect the Contract Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the County under this Contract.

Any amounts collected pursuant to action taken under this Section shall be paid into the Debt Service Subfund under the Trust Agreement and applied in accordance with the provisions of the Trust Agreement, or, if the Payment of the Bonds shall have occurred, to EDA unless all sums owing hereunder by the County to EDA shall have been paid, in which case such amounts shall be paid to the County.

SECTION 12.05. No Remedy Exclusive. In an Event of Default, no remedy herein conferred upon or reserved to EDA or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle EDA or the Trustee to exercise any remedy reserved to it in this Article XII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 12.06. Agreement to Pay Attorneys' Fees and Expenses. If any Event of Default shall occur or in the event the County should default under any of the provisions of this Contract and, in any such case, EDA or the Trustee should employ attorneys or incur other expenses for the collection of Contract Payments or the enforcement of performance or observance of any obligation or agreement on the part of the County herein contained, the County agrees that it will on demand therefor pay to EDA or the Trustee the reasonable fee of such attorneys and such other expenses so incurred.

SECTION 12.07. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Contract should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XIII.

NOTICES

SECTION 13.01. Notice Procedure. Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall or may be given to or served upon either of the parties by the other, and whenever either of the parties shall desire to give or serve upon the other any notice, demand, request, consent, approval or other communication with respect hereto or to the Project, each such notice, demand, request, consent, approval or other

communication shall be in writing (a "Notice") and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served as follows:

(1) If to EDA, by registered or certified mail, postage prepaid, return receipt requested, or hand delivery addressed to EDA at 8300 Boone Boulevard, Suite 450, Vienna, Virginia 22182, Att: Executive Director with a copy thereof sent to Thomas O. Lawson, Esq., 10805 Main Street, Suite 200, Fairfax, Virginia 22030; or to such other party or address(es) as EDA may from time to time designate by notice given to the County by registered or certified mail as aforesaid.

(2) If to the County, by registered or certified mail, postage prepaid, return receipt requested, or hand delivery, addressed to the County of Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035, Att: County Executive; or to such other party or address(es) as the County may from time to time designate by notice given to the County by registered or certified mail as aforesaid.

(3) A copy of any notice sent to the County or EDA shall also be sent to the Trustee, by registered or certified mail, postage prepaid, or hand delivery, addressed as provided in the Trust Agreement.

SECTION 13.02. Receipt. Every notice, demand, request, consent, approval or other communication hereunder shall be deemed to have been given or served when received at the recipient's office address as designated in Section 13.01.

ARTICLE XIV.

MISCELLANEOUS

SECTION 14.01. Performance of Governmental Functions. Notwithstanding anything to the contrary contained in this Contract, nothing contained in this Contract shall in any way estop, limit or impair the County from exercising or performing any regulatory, policing or other governmental functions with respect to the Properties.

SECTION 14.02. County Obligation Not to Pay Bonds. The obligation of the County to pay Basic Contract Payments, Additional Contract Payments and other amounts hereunder shall be as set forth herein, and nothing contained in this Contract shall obligate or be deemed to obligate the County to pay the principal of and premium, if any, and interest on the Bonds.

SECTION 14.03. Successors. The agreements, terms, covenants and conditions herein shall bind and inure to the benefit of EDA and the County and their respective successors and (except as otherwise provided herein) assigns.

SECTION 14.04. Limitation of Personal Liability. No covenant, condition or agreement contained in this Contract shall be deemed to be a covenant, agreement or obligation of any present or future member, commissioner, supervisor, officer, employee or agent of EDA or the County in his individual capacity. No member, commissioner, supervisor, officer, employee or agent of EDA or the County shall incur any personal liability with respect to any action pursuant

to this Contract or the Enabling Act provided such commissioner, supervisor, officer, employee or agent acts in good faith.

SECTION 14.05. Invalidity of Certain Provisions. If any section, term or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be or become invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law. EDA and the County agree to substitute for such section, term or provision of this Contract or the application thereof determined to be invalid or unenforceable, such other provision as closely approximating such invalid, illegal or unenforceable term or provision. If the EDA and the County do not agree, they shall apply to a court of competent jurisdiction to substitute such provision as the court deems reasonable and judicially valid, legal and enforceable. Such provision determined by the court shall automatically be deemed part of this Contract ab initio.

SECTION 14.06. Amendment of Contract. This Contract cannot be changed or terminated orally, but only by a written instrument of change, modification, waiver or termination executed by the party against whom enforcement of any change, modification, waiver or discharge is sought, and in accordance with the Trust Agreement.

SECTION 14.07. Governing Law and Forum. The laws of the State govern the validity, interpretation, construction, and performance of this Contract. Unless otherwise agreed in writing jurisdiction for the resolution of any disputes arising out of this Contract shall lie in a court of competent jurisdiction.

SECTION 14.08. No Joint Venture. Nothing herein is intended nor shall be deemed or construed to create a joint venture or partnership between EDA and the County or constitute either the agent of the other, nor to make EDA in any way responsible for the duties, responsibilities, obligations, liabilities, debts or losses of the County.

SECTION 14.09. Compliance with all Laws, Rules and Regulations. The parties hereto represent that each will comply with all applicable, binding laws, rules and regulations of any governmental authority relating to the use and occupancy of the Properties.

SECTION 14.10. Provision of Notices and Other Information to Rating Agencies. The County agrees to furnish to each Rating Agency requesting the same (i) copies of all filings made pursuant to its undertakings made pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, and (ii) any failure by the Board of Supervisors to appropriate timely amounts sufficient to pay the Basic Contract Payments and Additional Contract Payments due in the next fiscal year

SECTION 14.11. Entire Agreement. This Contract, and the Exhibits and Schedules hereto, contain all the promises, agreements, conditions, inducements and understandings between EDA and the County relative to the sale of the Project by EDA to the County.

IN WITNESS WHEREOF, EDA and the County have duly executed this Contract under Seal as of the day and year first above written.

[SEAL]

SELLER:

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

By:_____

ATTEST:

_____
Secretary

[SEAL]

PURCHASER:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By:_____

ATTEST:

_____
Secretary

EXHIBIT A

Legal Description

PROPERTIES DESCRIPTION

Mental Health Property:

To be inserted

Providence Community Center Property:

To be inserted

EXHIBIT B

PERMITTED ENCUMBRANCES

"Permitted Encumbrances" shall mean, all encumbrances affecting title to the properties as of the date hereof and all encumbrances listed below as of any particular time:

(1) leases, licenses, concessions or other similar arrangements or rights to property which relate to the Properties which are of a type that is customarily the subject of such leases, licenses, concessions or other similar arrangements or rights to property, such as food service facilities, newsstands, convenience shops or other specialty services necessary or incidental to the operation of the Properties;

(2) liens for taxes and special assessments which are not then delinquent, or if then delinquent are being contested in accordance with Section 7.03 hereof;

(3) utility, access and other easements and rights-of-way, restrictions, encumbrances and exceptions which do not materially interfere with or materially impair the operation or usefulness of the Properties for their intended purpose;

(4) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect thereof if payment is not yet due under the contract in question or if such lien is being contested in accordance with the provisions of Section 7.03 hereof;

(5) such liens, defects, irregularities of title and encroachments on adjoining property as normally exist with respect to property similar in character to the Properties and which do not materially adversely interfere with or materially impair the operation or usefulness of the Properties for their intended purpose;

(6) zoning laws and similar restrictions which are not violated by the Properties;

(7) all right, title and interest of the Commonwealth of Virginia, municipalities and the public in and to tunnels, bridges and passageways over, under or upon a public way;

(8) liens of or resulting from any judgment or award, the time for the appeal or petition for rehearing of which shall not have expired, or in respect of which the County shall at any time in good faith be prosecuting an appeal or proceeding for a review and in respect of which a stay of execution pending such appeal or proceeding for review shall be in existence; and

(9) such liens, covenants, conditions and restrictions, if any, which are other than those of the type referred to in clauses (i) through (vii) above, and which do not and will not, so far as can reasonably be foreseen, materially adversely affect the value of the Properties or materially interfere with or impair the operation or usefulness of the Properties for their intended purpose.

SCHEDULE 1

BASIC CONTRACT PAYMENTS

DUE DATE	BASIC CONTRACT PAYMENT

SCHEDULE 2

INSURANCE

REQUIRED INSURANCE

On the Effective Date, the County shall place, or cause there to be placed, into effect the following coverages:

(1) Property Insurance: an insurance policy providing "all risks" coverage for direct physical loss or damage to the structure (real and personal property), to be used in, incidental to, or during operation and maintenance of the Project (certain exclusions and limitations apply).

The coverage under the policy shall have a coverage limit equal to one hundred percent (100%) of the replacement cost value of such property, to be determined periodically at the request of the County, but not less frequently than annually, by one of the insurers or an appraiser, an architect or contractor chosen by the County.

(2) General Liability Insurance: a standard (1/73 Ed.) ISO occurrence Form Commercial General Liability Insurance policy, or its equivalent or better, covering the liability of the County for all operations and maintenance in connection with the Buildings.

The coverage under such insurance policy or policies, shall have not less than the following limits:

Personal Injury and Property Damage Liability

$5,000,000 combined aggregate limit each occurrence.

If necessary, elevator coverage will also be included.

MISCELLANEOUS

(1) All terms and conditions of the insurance procured and/or self insurance maintained by the County and its transferees shall be submitted to EDA and the Trustee within ninety 90 days of inception of said policies.

(2) The insurance policies described in this schedule shall provide that the policies shall not be changed or terminated without forty-five (45) days prior written notice to both EDA and the Trustee.

(3) Such insurance shall be issued by companies licensed to do business in the Commonwealth of Virginia with the Best's Key Rating of at least A-:VI.

NOTICE OF SALE

$_____*

FAIRFAX COUNTY (VIRGINIA) ECONOMIC DEVELOPMENT AUTHORITY

Fairfax County Facilities Revenue Bonds
Series 2102 A
(Community Services Facilities)

Electronic Bids, BiDCOMP/Parity Competitive Bidding System ("BiDCOMP/Parity") only, will be received by the Board of Commissioners of the Fairfax County (Virginia) Economic Development Authority (the "EDA") until 11:00 o'clock a.m., Fairfax, Virginia Time on,

_____, 2012*

for the purchase of EDA's $_____* Fairfax County Facilities Revenue Bonds Series 2012 A (Community Services Facilities) (the "Bonds"), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of September in the following years and in the following amounts, respectively:

Initial Maturity Schedule*

Maturity Date (September 1)	Principal Amount	Maturity Date (September 1)	Principal Amount
[2015	$	2025	$
2016		2026	
2017		2027	
2018		2028	
2019		2029	
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034]	

EDA reserves the right to change the date for receipt of bids (the "Scheduled Bid Date") in accordance with the section of this Notice of Sale entitled "Change of Bid Date and Closing Date; Other Changes to Notice of Sale."

* Preliminary, subject to change

BID PARAMETERS TABLE

INTEREST		**PRICING**	
Dated Date:	Date of Delivery	Max. Aggregate Bid Price:	%
Anticipated Delivery Date:	_____, 2012	Min. Aggregate Bid Price:	%
Interest Payments Dates:	3/1 and 9/1	Max. Price per Maturity	-
First Interest:	9/1/2012	Min. Price per Maturity	[__]% for bonds maturing after 9/1/20__
Coupon Multiples:	1/8 or 1/20 of 1%	High Coupon per Maturity	Not to Exceed __% per Maturity
Zero Coupons:	Not Allowed		
Split Coupons:	Not Allowed	**PROCEDURAL**	
PRINCIPAL		Sale Date and Time:	Bids due _____, 2012 at 11.:00 AM Local Time
Optional Redemption:	On and after September 1, 20__, callable on September 1, 20__ and thereafter at par	Bid Submission:	Electornic bids through PARITY Only
Post-bid Principal Increases in Aggregate:	10%	All or None?	Yes
Post-bid Principal Reductions in Aggregate:	10%	Bid Award Method:	Lowest TIC
Term Bonds:	Any two or more consecutive maturities may be designated as term bonds	Good Faith Deposit:	1% of aggregate par amount, or $_____, as more fully described on page 5, under "Good Faith Deposit"

Changes to Initial Maturity Schedule

The Initial Maturity Schedule set forth above represents an estimate of the principal amount of Bonds to be sold. EDA hereby reserves the right to change the Initial Maturity Schedule, based on market conditions immediately prior to the sale, by announcing any such change not later than one hour prior to the scheduled sale time, on the date for receipt of bids via TM3 (www.tm3.com). The resulting schedule of maturities will become the "Bid Maturity Schedule". If no such change is announced, the Initial Maturity Schedule will become the Bid Maturity Schedule.

Changes to Bid Maturity Schedule

EDA hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a 10% increase or decrease in the aggregate principal amount of the Bonds.

THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING TERMS (AS HEREAFTER DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the final aggregate principal amount of the Bonds. Such adjusted bid price will reflect changes in the dollar amount of the underwriters' discount and original issue discount/premium, if any, but will not change the selling compensation per $1,000 of par amount of Bonds from the selling compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Terms. The interest rates specified by the successful bidder for the various maturities at the Initial Reoffering Terms will not change. EDA anticipates that the final annual principal amounts and the final aggregate principal amount of the Bonds will be communicated to the successful bidder within twenty-four hours of EDA's receipt of the initial public offering prices and yields of the Bonds (the "Initial Reoffering Terms").

Book-Entry System

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of $5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable on September 1, 2012 and semiannually thereafter on March 1 and September 1, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. EDA will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) EDA determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, EDA will discontinue the book-entry system with DTC. If EDA fails to select another qualified securities depository to replace DTC, EDA will deliver replacement Bonds in the form of fully registered certificates.

The Bonds

The Bonds are limited obligations of EDA payable solely from the revenues pledged under the provisions of a Master Trust Agreement and a Second Supplemental Trust Agreement, each dated as of _____, 2012 (collectively, the "Trust Agreement") each between EDA and a trustee. The revenues pledged are derived from installment purchase payments made by Fairfax County, Virginia (the "County"), under an Installment Purchase Contract dated as of ____ 1, 2012 between EDA and the County (the "Contract") pursuant to which EDA will sell to the County EDA's interest in projects involving (i) the construction and equipping of a new 200,000 square foot 4 story building with a cellar level that is to house a new mental health center in the County along with a related parking facility and (ii) the construction and equipping of a new 32,000 square foot 2 story building to serve as a neighborhood community center in the County (collectively, the "Projects). The County's obligation to make payments under the Contract in any fiscal year of the County is subject to and contingent upon the annual appropriation of funds by the Board of Supervisors of the County for such purpose but is otherwise unconditional. Neither the faith and credit of the Commonwealth of Virginia, nor any political subdivision thereof (including EDA and the County), are pledged to the payment of the principal of or the interest or premium, if any, on the Bonds.

The Bonds are being issued by EDA to provide financing to construct and equip the Projects.

Term Bonds

The successful bidder may designate two or more of the consecutive serial maturities as any number of term bond maturities equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities.

Optional Redemption

Except under the circumstances described in the following paragraph, the Bonds maturing on or before September 1, 20__ are not subject to optional redemption prior to their stated date of maturity. The Bonds maturing after September 1, 20__ are subject to optional redemption at the option of the Authority, in whole or in part, at any time on or after September 1, 20__ at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to the redemption date.

Extraordinary Optional Redemption

The Bonds are subject to extraordinary optional redemption, in whole or in part, at a price equal to the principal amount thereof, together with interest thereon accrued to the date of redemption, upon the exercise by the Board of Supervisors of the County of its option to prepay all or a portion of the purchase price established in the Contract when proceeds of an insurance or condemnation award are received and such proceeds are not used to repair, reconstruct or restore the Projects or portions thereof that is subject of such an insurance or condemnation award.

Electronic Bidding and Bidding Procedures

Registration to Bid

All prospective bidders must be contracted customers of i-Deal LLC's BiDCOMP/Parity Competitive Bidding System. If you do not have a contract with BiDCOMP/Parity, call (212) 404-8102 to become a customer. By submitting a bid for the Bonds, a prospective bidder represents and warrants to EDA that such bidder's bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By contracting with BiDCOMP/Parity a prospective bidder is not obligated to submit a bid in connection with the sale.

IF ANY PROVISIONS OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BiDCOMP/Parity AS APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE OF SALE, AS IT MAY BE AMENDED BY EDA AS DESCRIBED WITHIN, SHALL CONTROL. Further information about BiDCOMP/Parity, including any fee charged, may be obtained from BiDCOMP/Parity at (212) 404-8102.

Disclaimer

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither EDA nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither EDA nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. EDA is using BiDCOMP/Parity as a communication mechanism, and not as EDA's agent, to conduct the electronic bidding for the Bonds. EDA is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via

BiDCOMP/Parity are the sole responsibility of the bidders; and EDA is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., the County's financial advisor, by telephone at (703) 741-0175. After receipt of bids is closed, EDA through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers, and does not constitute the award of the Bonds. Each bid will remain subject to review by EDA to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

Bidding Procedures

Bids must be submitted electronically for the purchase of the Bonds (all or none) by means of the Fairfax County (Virginia) Economic Development Authority AON Bid Form (the "Bid Form") via BidCOMP/Parity. Bids must be communicated electronically to BidCOMP/Parity by 11:00 a.m., Fairfax, Virginia Time on the Scheduled Bid Date unless postponed as described herein (see "Change of Bid Date and Closing Date"). Prior to that time, a prospective bidder may input and save the proposed terms of its bid in BiDCOMP/Parity. Once the final bid has been saved in BiDCOMP/Parity, the bidder may select the final bid button in BiDCOMP/Parity to submit the bid to BidCOMP/Parity. Once the bids are released electronically via BidCOMP/Parity to EDA, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on BiDCOMP/Parity shall constitute the official Fairfax, Virginia Time. For information purposes only, bidders are requested to state in their bids the true interest cost to EDA, as described under "Award of Bonds" below, represented by the rate or rates of interest and the bid price specified in their respective bids.

No bids will be accepted in written form, by facsimile transmission or in any other medium or on any system other than by means of the Bid Form via BiDCOMP/Parity. No bid will be received after the time for receiving such bids specified above.

Good Faith Deposit

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (Deposit) for $_____ to the County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit and the Bonds will not be awarded to such bidder until the County has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

[Bank Name: Bank of America VA/Rich
ABA: 026 009 593
Account Name: County of Fairfax
Account Number: 0000 7902 5799
Attention: Tammy Kennedy-Nichols, 410-547-4320]

Award of Bonds

Award or rejection of bids will be made by EDA, with the approval of the County, prior to 4:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 4:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by EDA within such five-hour period of time (11:00 a.m. – 4:00 p.m.).

The Bonds will be awarded to the bidder offering to purchase the Bonds at the lowest "True or Canadian" interest cost, such cost to be determined by doubling the semiannual interest rate (compounded semiannually) necessary to discount to the price bid the payments of the principal of and the interest on the Bonds from their payment dates to their date of delivery.

Change of Bid Date and Closing Date; Other Changes to Notice of Sale

EDA reserves the right to postpone, from time to time, the date established for the receipt of bids and will undertake to announce any such change via TM3 (www.tm3.com).

Any postponement of the bid date will be announced via TM3 not later than one hour prior to the scheduled sale time on the announced date for receipt of the bids. An alternative bid date and time will be announced via TM3 18 hours prior to such alternative bid date.

On such alternative bid date and time, EDA will accept bids for the purchase of the Bonds, such bids to conform in all respects to the provisions of this Notice of Sale, except for the changes in the date and time for bidding and any other changes announced via TM3 at the time the bid date and time are announced.

EDA may change the scheduled delivery date for the Bonds by notice given in the same manner as set forth for a change in the date for the receipt of bids.

EDA reserves the right to otherwise change this Notice of Sale. EDA anticipates that it would communicate any such changes via TM3 by 4:00 p.m., Fairfax, Virginia time on the date prior to the scheduled date for receipt of bids but no later than one hour prior to the sale time on the scheduled date for receipt of bids.

Conflict Waiver

Sidley Austin LLP is serving as Bond Counsel in connection with the issuance and sale of the Bonds. By placing a bid, each bidder represents that it understands that Sidley Austin LLP, in its capacity as Bond Counsel, represents the County and EDA, and the successful bidder agrees to waive any conflict of interest that Sidley Austin LLP's involvement in connection with the issuance and sale of the Bonds to such successful bidder presents.

Undertakings of the Successful Bidder

The successful bidder shall make a bona fide public offering of all of the Bonds to the general public (excluding bond houses, brokers, or similar persons acting in the capacity of underwriters or wholesalers who are not purchasing for their own account as ultimate purchasers without a view to resell) and will, within 30 minutes after being notified of the award of the Bonds, advise EDA in writing (via facsimile transmission) of the Initial Reoffering Terms. Prior to the delivery of the Bonds, the successful bidder will furnish a certificate acceptable to Bond Counsel as to the "issue price" of the Bonds. It will be the responsibility of the successful bidder to institute such syndicate reporting requirements, to make such investigation, or otherwise to ascertain the facts necessary to enable it to make such certification with reasonable certainty.

Delivery

The Bonds will be delivered on or about _____, 2012 in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Sidley Austin LLP, Washington, D.C., in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation.

CUSIP Numbers

CUSIP numbers are to be applied for by the successful bidder with respect to the Bonds. EDA will assume no obligation for the assignment of such numbers or for the correctness of such numbers, and no error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery or make payment for the Bonds.

Official Statements

Copies of the Preliminary Official Statement may be obtained without cost via the Internet at www.i-dealprospectus.com. The Preliminary Official Statement at its date was "deemed final" by EDA and the County for purposes of SEC Rule 15c2-12 but is subject to revision, amendment and completion.

After the award of the Bonds, EDA will prepare copies of the Official Statement (no more than 300) and will include therein such additional information concerning the reoffering of the Bonds as the successful bidder may reasonably request; provided, however, that EDA will not include in the Official Statement an "NRO" ("not reoffered") designation with respect to any maturity of the Bonds. The successful bidder will be responsible to EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering. EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to The Electronic Municipal Market Access System ("EMMA") administered by the Municipal Securities Rulemaking Board ("MSRB"). The successful bidder will be required to acknowledge receipt of such Official Statement, to certify that it has made delivery of the Official Statement to EMMA and to acknowledge that EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to certify that the Bonds will only be offered pursuant to such Official Statement and only in states where the offer is legal. The successful bidder will be responsible to EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering.

The Securities and Exchange Commission adopted Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"). In general, the Rule prohibits an underwriter from purchasing or selling municipal securities, such as the Bonds, unless it has determined that the issuer of such securities has committed to provide annually certain information, including audited financial information, and notice of various events described in the Rule, if material. The County will provide to EMMA annual information respecting the County, including audited financial statements. In addition, the County will provide to EMMA notice of the occurrence of any events described in the Rule if material.

Official Statements will be provided within seven (7) business days after the date of the award of the Bonds in such quantities as may be necessary for the successful bidder's regulatory compliance.

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175.

Reservation of Rights

The right to reject any or all bids and to waive any irregularity or informality in any bid is reserved.

FAIRFAX COUNTY (VIRGINIA)
ECONOMIC DEVELOPMENT AUTHORITY

By: Steven L. Davis, Chairman

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by Fairfax County, Virginia (the "County") in connection with the issuance by the Fairfax Economic Development Authority (the "Authority") of its $_____ Fairfax County Facilities Revenue Bonds Series 2012 A (Community Services Facilities) (the "Series 2012 A Bonds") pursuant to the provisions of resolution (the "Authorizing Resolutions") adopted by the Authority on March __, 2012 and under a Master Trust Agreement, dated as of January 1, 2005, and as supplemented by a Second Supplemental Trust Agreement dated as of _____, 2012 (collectively the "Trust Agreement"), each between the Authority and U.S. Bank National Association, as successor trustee (the "Trustee").

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the County acting on behalf of itself and the Authority, for the benefit of the holders of the Series 2012 A Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). Under the Rule, the County is an "obligated person". The County acknowledges that it is undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement.

SECTION 2. Definitions. In addition to the definitions set forth in the Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Dissemination Agent" shall mean the County, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

"Filing Date" shall have the meaning given to such term in Section 3(a) hereof.

"Fiscal Year" shall mean the twelve month period at the end of which financial position and results of operations are determined. Currently, the County's Fiscal Year begins July 1 and continues through June 30 of the next calendar year.

"Holder" or "holder" shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of the Series 2012 A Bonds.

"Listed Events" shall mean any of the events listed in subsection (b)(5)(i)(C) of the Rule, which are as follows:

principal and interest payment delinquencies;

non-payment related defaults; if material;

unscheduled draws on debt service reserves reflecting financial difficulties;

unscheduled draws on credit enhancements reflecting financial difficulties;

substitution of credit or liquidity providers, or their failure to perform;

adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 570-TEB) or other material notices or determinations with respect to or events affecting the tax status of the Series 2012 A Bonds;

modifications to rights of holders, if material;

bond calls, if material, and tender offers;

defeasances;

release, substitution, or sale of property securing repayment of the Series 2012 A Bonds, if material;

rating changes;

bankruptcy, insolvency, receivership or similar event of the County;

the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating any such actions, other than pursuant to its terms, if material; and

appointment of a successor or additional paying agent or the change of name of a paying agent, if material.

"Participating Underwriters" shall mean any of the original underwriters of the Series 2012 A Bonds required to comply with the Rule in connection with the offering of such Series 2012 A Bonds.

"Repository" shall mean The Electronic Municipal Market Access ("EMMA") system administered by the Municipal Securities Rulemaking Board. EMMA is recognized as a National Repository for purposes of the Rule.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

A. The County shall, or shall cause the Dissemination Agent to, provide to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date (the "Filing Date") that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year ending June 30, 2012). Not later than ten (10) days prior to the Filing Date, the County shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement, and (iii) shall include the County's audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the County must be submitted, if and when available, together with or separately from the Annual Report.

B. The annual financial statements of the County shall be prepared on the basis of generally accepted accounting principles and will be audited. Copies of the audited annual financial statements, which may be filed separately from the Annual Report, will be filed with the Repository when they become publicly available.

C. If the County fails to provide an Annual Report to the Repository by the date required in subsection (A) hereto or to file its audited annual financial statements with the Repository when they become publicly available, the County shall send a notice to the Repository in substantially the form attached hereto as Exhibit B.

SECTION 4. Content of Annual Reports. Except as otherwise agreed, any Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, annual financial information relating to the County, including operating data, updating such information relating to the County as described in Exhibit A, all with a view toward assisting the Participating Underwriters in complying with the Rule.

Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which the County is an "obligated person" (within the meaning

of the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Repository. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Listed Events. The County will provide within 10 business days to the Repository notice of any of the Listed Events.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of all the Series 2012 A Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the County shall be the Dissemination Agent.

SECTION 8. Amendment. Notwithstanding any other provision of this Disclosure Agreement, the County may amend this Disclosure Agreement, if such amendment is supported by an opinion of independent counsel with expertise in Federal securities laws, to the effect that such amendment is permitted or required by the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the County shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. Any person referred to in Section 11 (other than the County) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the County to file its Annual Report or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Series 2012 A Bonds outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the County hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Authorizing Resolutions, the Trust Agreement or the Series 2012 A Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the County to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 11. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the County, the Participating Underwriters, and holders from time to time of the County's bonds and notes, and shall create no rights in any other person or entity.

Date: _____ __, 2012

FAIRFAX COUNTY, VIRGINIA

By: _____

EXHIBIT A

CONTENT OF ANNUAL REPORT

Respecting Fairfax County, Virginia

(a) **Financial Information**. Updated information concerning General Fund revenues, expenditures, categories of expenditures, fund balances, assessed value of taxable property, tax rates, major taxpayers, and tax levies and collections.

(b) **Debt Information.** Updated information concerning general obligation bonds indebtedness, including bonds authorized and unissued, bonds outstanding, the ratios of debt to the market value of taxable property, debt per capita, and debt service as a percentage of General Fund disbursements.

(c) **Demographic Information.** Updated demographic information respecting the County, such as its population, public school enrollment and per pupil expenditure.

(d) **Economic Information.** Updated economic information respecting the County such as income, employment, unemployment, building permits and taxable sales data.

(e) **Retirement Plans.** Updated information respecting pension and retirement plans for County employees, including a summary of membership, revenues, expenses and actuarial valuation(s) of such plans.

(f) **Contingent Liabilities.** A summary of material litigation and other material contingent liabilities pending against the County.

In general, the foregoing will include information as of the end of the most recent fiscal year or as of the most recent practicable date. Where information for the fiscal year just ended is provided, it may be preliminary and unaudited. Where information has historically been provided for more than a single period, comparable information will in general be provided for the same number of periods where valid and available. Where comparative demographic or economic information for the County and the United States as a whole is contemporaneously available and, in the judgment of the County, informative, such information may be included. Where, in the judgment of the County, an accompanying narrative is required to make data presented not misleading, such narrative will be provided.

EXHIBIT B

NOTICE OF FAILURE TO FILE ANNUAL REPORT
[AUDITED ANNUAL FINANCIAL STATEMENTS]

Re: FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY
FAIRFAX COUNTY FACILITIES REVENUE BONDS
SERIES 2012 A
(COMMUNITY SERVICES FACILITIES)

CUSIP NOS. ___-___

Dated: _____ __, 20__

NOTICE IS HEREBY GIVEN that Fairfax County, Virginia has not provided an Annual Report [Audited Annual Financial Statements] as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds, the proceeds of which were to pay a portion of the principal amount of an outstanding note. [The County anticipates that the Annual Report [Audited Annual Financial Statements] will be filed by _____.]

Dated: _____

FAIRFAX COUNTY, VIRGINIA

By: _____

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Board Agenda Item **REVISED**
March 20, 2012

ACTION - 2

Authorization for the Fairfax County Redevelopment and Housing Authority to Loan Up to $2,725,900 to Pathway Homes, Inc. for the Purchase of Thirteen (13) Scattered Site Condominium, Townhouse and Single Family Units

ISSUE:
The Board of Supervisors is requested to authorize the Fairfax County Redevelopment and Housing Authority (FCRHA) to utilize federal Community Development Block Grant (CDBG) and HOME Investment Partnerships Program (HOME) funds to loan up to $2,725,900 to Pathway Homes, Inc. (Pathway Homes) for the acquisition of thirteen (13) scattered site units. The project will serve income-eligible persons with multiple disabilities. This request reallocates $2,387,000 within Fund 142, CDBG, and $338,900 within Fund 145, HOME. This proposed action represents an amendment to Fairfax County's Consolidated Plan.

In addition, authorization is requested to expend up to $125,000 in existing HOME funds, within the Senior/Homeless/Persons with Disabilities line item, to cover potential relocation costs.

RECOMMENDATION:
The County Executive recommends authorizing the FCRHA to loan up to $2,725,900 to Pathway Homes for the proposed acquisition, and the expenditure of existing HOME funds for potential relocation costs.

TIMING:
Board action is requested on March 20, 2012, in order to enable Pathway Homes to close on the transactions in a timely manner. This action further ensures compliance with federal expenditure thresholds.

BACKGROUND:
Pathway Homes, founded in 1980, is a 501(c)(3) charitable organization which provides housing and supportive services to adults with serious mental illness and co-occurring disabilities in Northern Virginia. Pathway Homes is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), an accrediting organization for mental health services in the United States.

Pathway Homes has extensive experience with successfully and cost effectively operating and managing supportive housing grants and programs for homeless and seriously mentally ill adults. Pathway Homes currently serves nearly 400 adults with psychiatric disabilities and substance abuse disorders in a wide range of permanent supportive housing programs in Fairfax County and other Northern Virginia communities. The organization owns 21 properties, including single family homes, townhouses and condominiums. In addition, Pathway Homes leases or operates by partnership contracts 18 other properties, and leases 125 rental apartments, which it sub-leases to homeless mental health consumers. The organization employs 100 staff members and has an annual operating budget of $8.5 million. Department of Housing and Community Development (HCD) staff recently conducted an analysis of the organization's financial condition based on independent auditors' reports from Fiscal Years 2009 through 2011; no issues were identified. In FY 2011, the organization had net assets of over $3.9 million, which was an increase of $1,168,207 from the previous fiscal year. Pathway Homes reports that they employ a wide range of funding strategies and sources, including private donations, public and private grants, federal, state and local government contracts and the creation of a variety of other innovative and flexible public and private partnerships.

Project Description

Pathway Homes proposes to acquire thirteen (13) scattered site condominium, townhouse and single family units.

This project will serve up to 22 homeless individuals and/or persons with disabilities who require supportive services in order to successfully live in the community. The goal of the project is to improve the quality of residents' lives by providing non-time limited housing linked to appropriate supportive and rehabilitative services.

Individuals will be provided housing in either a one-bedroom or 2-bedroom condominium, or a 3-bedroom townhome or single family dwelling, depending on their individual needs. This service model has been successfully used for many years by Pathway Homes to provide permanent supportive housing for those mental health consumers who have the greatest difficulty succeeding in larger congregate living situations, and who require or function best in an environment featuring stimulation and social complexity. The proposed project provides the ideal combination of privacy and availability of staff support.

Units to Be Acquired

Thirteen (13) units will be acquired by Pathway Homes through this project. Unit types will be comprised of a combination of condominiums, townhomes, and single family dwellings. Three properties are anticipated to be acquired for use as group homes by Fairfax-Falls Church Community Services Board (CSB). Ten condominiums are

anticipated to be purchased. Up to two of the ten condominiums are expected to be leased to and operated by the CSB at little or no cost. In addition to deeply discounted rents for the CSB condominium units, Pathway Homes will pay all utility and condominium association fee costs associated with the two CSB condominium units.

Five (5) of the condominium units will receive federal project-based vouchers. The project is anticipated to have an overall positive cash flow over a 10-year time span. Pathway Homes will be required to put aside $250 per unit per year to be held in escrow for maintenance reserve, and 50 percent of the annual net operating cash flow during the first five years. This then gets reduced to 25 percent, in a maintenance reserve, for the benefit of covering any operational expenses associated with this project.

The townhouse and single family units will be leased to CSB at deeply discounted lease terms, via a ten-year renewable lease executed between Pathway Homes and CSB. Pathway Homes will assume responsibility for operation and maintenance of the scattered site units. The monthly lease amount will remain fixed over the term of the lease without annual increases, thus providing CSB with significant cost savings over the lease period. The rental savings will permit CSB to provide enhanced services and housing options for CSB clients. In the event that CSB determines not to renew the lease, Pathway Homes will lease the units to mental health consumers on its waiting list. Any necessary rehabilitation identified in the scattered site townhouse and single family units will be assumed by Pathway Homes and is outside the scope of this project. Closing costs on all units will be paid by the seller. All units will be in close proximity to public transportation for the benefit of the clients served.

Pathways Homes has a total of thirteen (13) scattered site units currently under contract, including ten (10) condominium units in Penderbrook (Providence District), one townhouse in Reston (Hunter Mill District), one townhouse in Annandale (Mason District), and one single family house in Annandale (Braddock District).

Resident eligibility, rent structure and supportive services

Residents of units must have incomes at or below 50 percent Area Median Income (AMI). Pathway residents will be required to pay 30 percent of their gross income and residents in CSB-leased scattered site units will pay 30 percent of their gross income directly to the CSB. CSB will be responsible for rent payments to Pathway Homes. Residents in all units in this project will also receive services which meet their unique individual needs.

Initially, individuals will receive two to three visits a week from counselors to assist them through the transition process and to help them with establishing themselves within the community. The program will provide an ongoing assessment of needs and service

planning to develop targeted goal areas. Services provided will include assistance in managing overall health, support with grocery shopping and nutrition, medication oversight and monitoring, money management, linking individuals to educational and employment opportunities, housekeeping, crisis intervention, and other services designed to help residents be successful in their housing.

Relocation

HCD has been advised by Pathway Homes that the ten condominium units, one of the townhouses, and the single family house are vacant. The second townhouse to be acquired is currently owner-occupied. The federal Uniform Relocation Act (URA) requires that organizations purchasing units with federal funds: 1) "look back" at former tenants who previously moved out of the units within a period specified under the URA and related guidance; 2) provide notice to current tenants of the units (if any); and 3) potentially provide relocation compensation. To ensure full compliance with the URA, up to $125,000 in federal HOME funds will be designated and used to pay relocation benefits to eligible former tenants. HCD will administer the relocation plan and will make any applicable relocation benefit payments directly to eligible tenants. Under federal law, eligible former tenants, if any, will have 18 months to file a claim to receive relocation benefits.

Sources and Uses

Sources		Uses	
CDBG	$2,387,000	Acquisition of 13 scattered site units (condominiums, townhouses and single family homes)	$2,714,500
HOME	$ 463,900	Acquisition and related costs	$ 11,400
		Relocation Assistance	$ 125,000
Total Sources	**$2,850,900**	**Total Uses**	**$2,850,900**

Note: Closing costs to be paid by the seller on all units.

Loan Terms

The federal funds will be provided to Pathway Homes as a deferred 30 year loan at zero (0) percent interest rate from the FCRHA. After the end of the 30 year period, Pathway Homes will be obligated to pay an equity share if the property is sold or no longer used for affordable housing. (Federal regulations require that units purchased using CDBG funds must remain as affordable housing for at least five (5) years. Similarly, the group homes in this project are expected to be financed in part with HOME funds and must

remain affordable for at least fifteen (15) years. If Pathway Homes fails to perform during the federal control periods, the FCRHA may foreclose or otherwise ensure they remain affordable.)

The FCRHA approved this proposal on February 23, 2012. A deed of trust will secure the note and will provide that if the property is either sold or no longer used for affordable rental housing during the 30 year period, then Pathway Homes will be required to repay the greater of the loan proceeds or an equity share of 100 percent on all properties.

Closing

Closing will take place as soon as possible following Board approval and when all other requirements are satisfied. Requirements for the closing include, but are not limited to the following items being completed in form and substance acceptable to HCD on behalf of the FCRHA:

1. Environmental review clearances;
2. Completion of HCD-commissioned appraisals (funding will not exceed the appraised value);
3. Final underwriting by HCD;
4. Zoning letter issued by the Fairfax County Department of Planning and Zoning with respect to the property and the development;
5. Approval of tenant relocation plan by HCD staff, if necessary; and
6. Other factors as deemed necessary to protect the interest of the FCRHA and Fairfax County

Reallocation of CDBG and HOME Funds

CDBG funding in the amount of $1,600,000 will be reallocated from available balances currently earmarked but not needed for Section 108 Loan Repayments. The funds will be reallocated to the Senior/Homeless/Persons with Disabilities project component.

In addition, CDBG funding in the amount of $399,000 will be reallocated from the Planning line item, and $388,000 from General Administration to the Senior/Homeless/ Persons with Disabilities project.

HOME funding in the amount of $338,900 line item, will be reallocated from HOME Community Housing Development Organization (CHDO) Set-Aside funds to the Senior/ Homeless/Persons with Disabilities project. The required CHDO set-aside has been met and these funds are available.

Reallocation Summary

Amount:	From:	To:
$ 1,600,000	Section 108 Loan Repayments	Senior/Homeless/Persons with Disabilities
$ 399,000	Planning	Senior/Homeless/Persons with Disabilities
$ 388,000	General Administration	Senior/Homeless/Persons with Disabilities
$ 338,900	HOME CHDO Set Aside	Senior/Homeless/Person with Disabilities
$ 2,725,900	Total	

These allocations will be sufficient to fund the acquisition component of this project. The existing HOME balance in Project 014129, Senior/Disabled Housing Development is $141,487 (as of March 5, 2012) and will be sufficient to fund potential relocation expenses associated with this project.

Process Improvements

Underwriting and preparing this project for Board consideration has highlighted the need for certain process improvements. HCD has already developed a new process to help ensure, among other things, that Board members receive timely notice and information concerning proposed FCRHA financing or acquisition of affordable housing units in their districts. When a non-profit applies to HCD for funding real estate acquisition or development, an appraisal is required as a condition of closing. Typically, HCD has agreed to use appraisals already completed or commissioned by the non-profit as a way to save money and time. In cases, where there is a first trust lending institution, such as a bank or VHDA, HCD will also rely on that appraisal. Going forward, however, HCD will only use appraisals commissioned by a first trust lender or will commission its own appraisal.

FISCAL IMPACT:
Funding in an amount up to $1,600,000 in Fund 142, Community Development Block Grant, will be reallocated from the Project 013887, Section 108 Loan Payments (current balance of $1,648,625) to Project 014129, Senior/Disabled Housing Development. In addition, CDBG funding in the amount of $399,000 will be reallocated from Project 003915, Planning and Urban Design (current balance of $683,090) and $388,000 from Project 003916, General Administration (current balance of $764,073) to Project 014129, Senior/Disabled Housing Development.

The existing HOME balance of Project 014129, Senior/Disabled Housing Development is $141,487 of which up to $125,000 may be used for anticipated relocation expenses. Funding in the amount of $338,900 in Fund 145, HOME Investment Partnerships Program, will be reallocated from Project 013954, CHDO Undesignated (current balance of $1,323,892) to Project 014129, Senior/Disabled Housing Development.

Note: All balances reported are as of March 5, 2012.

ENCLOSED DOCUMENTS:
None

STAFF:
Patricia D. Harrison, Deputy County Executive
Paula C. Sampson, Director, HCD
John Payne, Deputy Director, Real Estate, HCD
Aseem K. Nigam, Director, Real Estate Finance and Grants Management Division, HCD
Robert C. Fields, Interim Associate Director, Real Estate Finance and Grants Management Division, HCD
Kehinde W. Powell, Housing Community Developer, Real Estate Finance and Grants Management Division, HCD

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Board Agenda Item
March 20, 2012

ACTION – 3

Adoption of a Resolution Opting Out of the Line of Duty Act Fund

ISSUE:
Board adoption of a resolution permitting the county to opt out of the Line of Duty Act Fund.

RECOMMENDATION:
The County Executive recommends that the Board adopt the attached resolution opting out of the VRS Line of Duty Act Fund.

TIMING:
Routine.

BACKGROUND:
The Line of Duty Act (LODA) was passed by Virginia's General Assembly in 1972 to provide a state-funded death benefit for public safety officers killed in the line of duty. Since that initial passage, the population covered by the LODA has been expanded and additional benefits added, including a health insurance component.

In 2010, the General Assembly shifted funding responsibility for LODA benefits from the state to local counties and municipalities for their covered populations. The legislature also created the LODA Fund as a voluntary, pooled funding mechanism and appointed the Virginia Retirement System (VRS) as the investment manager. Under the new law, local governments can either opt in or out of the VRS LODA trust. At this point, the State continues to be responsible for benefit eligibility determinations. Local governments opting out of the LODA fund can either pay claims on a self-insured basis or utilize other funding mechanisms, such as a "competing" trust created by the Virginia Municipal League (VML) and Virginia Association of Counties (VACO). The deadline for the opt out decision by localities is currently July 1, 2012.

After consideration of the options available, staff recommends that the county opt out of the VRS LODA Fund and fund LODA benefits on a self-insured basis. From the outset of this process, there has been a significant probability Fairfax, with its large pool of participants and low utilization, would be subsidizing the fund for poorer performing jurisdictions.

The opt out decision for the county was deferred waiting for the state to provide more comprehensive guidelines for the program, define the full extent of administrative fees and potentially even repeal the funding decision. Indications are that repeal is unlikely at this point. And, while guidelines and administrative fee decisions are still in a state of flux, the potential cost of participation in the VRS LODA fund appears to be significantly increasing. The Virginia Department of Accounts (DOA), which administers the program for the State, has confirmed that it will propose rates for FY2013 that represent a 74 percent increase over the rates originally expected. This could mean a funding obligation for the county of $1.58 million versus the state's initial estimate of $906,521 for FY2013 alone. Future years could mean even further increases.

New legislation has been introduced in the General Assembly that (1) further extends the opt-out deadline to 2013 and (2) moves benefit eligibility determination authority to either localities or the VML/VACO trusts if localities opt out. We will continue to monitor these legislative activities as well as further administrative clarifications issued by DOA to ensure the county is in full compliance.

FISCAL IMPACT:
The anticipated cost, if the county opts out, is approximately $700,000 which is funded in the FY 2013 Proposed Budget. The anticipated cost to remain in the LODA Fund for an additional year is approximately $1.58 million based on state staff estimates.

ENCLOSED DOCUMENTS:
Attachment 1: Resolution-Irrevocable Election Not to Participate in Line of Duty Act Fund

STAFF:
Susan Woodruff, Director, Department of Human Resources

ATTACHMENT 1

RESOLUTION

Irrevocable Election Not to Participate in Line of Duty Act Fund

WHEREAS, pursuant to Item 258 of the Appropriations Act, paragraph B, the Virginia General Assembly has established the Line of Duty Act Fund (the “Fund”) for the payment of benefits prescribed by and administered under the Line of Duty Act (Va. Code § 9.1-400 et seq.); and

WHEREAS, for purposes of administration of the Fund, a political subdivision with covered employees (including volunteers pursuant to paragraph B2 of Item 258 of the Appropriations Act) may make an irrevocable election on or before July 1, 2012, to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and

WHEREAS, it is the intent of The County of Fairfax, Virginia to make this irrevocable election to be a non-participating employer with respect to the Fund;

NOW, THEREFORE, IT IS HEREBY RESOLVED that The County of Fairfax, Virginia hereby elects to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and it is further

RESOLVED that the following entities,

[See Schedule A]

to the best of the knowledge of The County of Fairfax, Virginia, constitute the population of its past and present covered employees under the Line of Duty Act; and it is further

RESOLVED that, as a non-participating employer, The County of Fairfax, Virginia agrees that it will be responsible for, and reimburse the State Comptroller for, all Line of Duty Act benefit payments (relating to existing, pending or prospective claims) approved and made by the State Comptroller on behalf of The County of Fairfax, Virginia on or after July 1, 2012; and it is further

RESOLVED that, as a non-participating employer, The County of Fairfax, Virginia agrees that it will reimburse the State Comptroller an amount representing reasonable costs incurred and associated, directly and indirectly, with the administration, management and investment of the Fund; and it is further

RESOLVED that shall The County of Fairfax, Virginia reimburse the State Comptroller on no more than a monthly basis from documentation provided to it from the State Comptroller.

Adopted in _____, Virginia this _____ day of _____, _____.

_____

Authorized Signature- Title

Schedule A

Fairfax County Sheriff's Office

Fairfax County Police Department

Fire & Rescue Headquarters - 4100 Chain Bridge Road, Fairfax, VA 22030-7000

McLean, Station 1 - Volunteer Organization - 1455 Laughlin Avenue, McLean, VA 22101-5709

Vienna, Station 2 - Volunteer Organization - 400 Center Street SW, Vienna, VA 22180-4109

City of Fairfax, Station 3 - 4081 University Drive, Fairfax, VA 22030

Herndon, Station 4 - 680 Spring Street, Herndon, VA 20170-5124

Franconia, Station 5 Volunteer Organization - 6300 Beulah Street, Alexandria, VA 22310-2626

Annandale, Station 8 Volunteer Organization - 7128 Columbia Pike, Annandale, VA 22003-3106

Mount Vernon, Station 9 - 2601 Sherwood Hall Lane, Alexandria, VA 22306-3143

Bailey's Crossroads, Station 10 - Volunteer Organization- 3601 Firehouse Lane,
Falls Church, VA 22041-3684

Penn Daw, Station 11 - 6624 Hulvey Terrace, Alexandria, VA 22306-6631

Great Falls, Station 12 - Volunteer Organization- 9916 Georgetown Pike, Great Falls, VA 22066-2825

Dunn Loring, Station 13 - Volunteer Organization - 2148 Gallows Road, Dunn Loring, VA 22027-1023

Burke, Station 14 - Volunteer Organization - 9501 Old Burke Lake Road, Burke, VA 22015-3129

Chantilly, Station 15 - 14005 Vernon Street, Chantilly, VA 20151-2906

Clifton, Station 16 - 12645 Chapel Road, Clifton, VA 20124-1717

Centreville, Station 17 - Volunteer Organization - 5856 Old Centreville Road, Centreville, VA 20121-2426

Jefferson, Station 18 - 3101 Hodge Place, Falls Church, VA 22042-2509

Lorton, Station 19 - Volunteer Organization - 7701 Armistead Road, Lorton, VA 22079-1914

Gunston, Station 20 - 10417 Gunston Road, Lorton, VA 22079-3916

Fair Oaks, Station 21 - Volunteer Organization - 12300 Lee Jackson Memorial Highway, Fairfax, VA 22033-2810

Springfield, Station 22 - Volunteer Organization - 7011 Backlick Road, Springfield, VA 22150-3102

West Annandale, Station 23 - Volunteer Organization - 8914 Little River Turnpike, Fairfax, VA 22031-3123

Woodlawn, Station 24 - 8701 Lukens Lane, Alexandria, VA 22309-4103

Reston, Station 25 - 1820 Wiehle Avenue, Reston, VA 20190-5209

Edsall Road, Station 26 - 5316 Carolina Place, Springfield, VA 22151-4401

West Springfield, Station 27 - 6140 Rolling Road, Springfield, VA 22152-1511

Seven Corners, Station 28 - 2949 Sleepy Hollow Road, Falls Church, VA 22044-2002

Tysons Corner, Station 29 - 1560 Spring Hill Road, McLean, VA 22102-3004

Merrifield, Station 30 - 8739 Lee Highway, Fairfax, VA 22031-2103

Fox Mill, Station 31 - 2610 Reston Parkway, Herndon, VA 20171-2559

Fairview, Station 32 - 5600 Burke Centre Parkway, Fairfax Station, VA 22039-1420

City of Fairfax, Station 33 - 10101 Fairfax Boulevard, Fairfax, VA 22030-2055

Oakton, Station 34 - 10511 Rosehaven Street, Fairfax, VA 22030-2837

Pohick, Station 35 - 7801 Maritime Lane, Springfield, VA 22153-2170

Frying Pan, Station 36 - 2660 West Ox Road, Herndon, VA 20171-3530

Kingstowne, Station 37 - 7936 Telegraph Road, Alexandria, VA 22315-3703

West Centreville, Station 38 - 6001 ODay Drive, Centreville, VA 20120-1612

North Point, Station 39 - 1117 Reston Avenue, Herndon, VA 20170-2444

Fairfax Center, Station 40 - 4621 Legato Road, Fairfax, VA 22030-6133

Crosspointe, Station 41 - 9610 Hampton Road, Fairfax Station, VA 22039-2813

Future Station, Wolftrap area, Station 42 - Intersection of Beulah and Leesburg Pike, Fairfax, VA

Logistics Distribution Center - 6800A Industrial Road, Springfield, VA 22151-4205

Apparatus Shop, South - 6902 Newington Road, Lorton, VA 22079-1106

Apparatus Shop, North - 4612 West Ox Road, Fairfax, VA 22033-6124

EMS Training Center - 7921 Jones Branch Road, #127, McLean, VA 22102-3332

Training Academy - 4600 West Ox Road, Fairfax, VA 22033-6124

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Board Agenda Item
March 20, 2012

ACTION – 4

Approval of a Parking Reduction for Mosaic District – Parcel H of the Merrifield Town Center (Providence District)

ISSUE:
Board approval of a 9.4 percent reduction or 80 fewer parking spaces in required parking for Mosaic District – Parcel H of the Merrifield Town Center, Tax Map # 49-3 ((38)) (3) 1-7, further identified as Parcel H in RZ 2005-PR-041 (Merrifield Mixed Use, LLC), Providence District.

RECOMMENDATION:
The County Executive recommends that the Board approve a parking reduction of 9.4 percent (80 fewer parking spaces) in required parking for Mosaic District – Parcel H of the Merrifield Town Center, pursuant to paragraph 5, Section 11-102 of Chapter 112 (Zoning Ordinance) of *The Code of the County of Fairfax, Virginia*, based on an analysis of the parking requirements for each use on the site and a parking reduction study, #0561-PKS-03-1, on condition that:

1. A minimum of 770 parking spaces must be maintained on site at all times.

2. The uses permitted per this parking reduction are 531 multi-family dwelling units. Any additional uses must be parked at code and these uses must not exceed the approved F.A.R.

3. Implementation of the Transportation Demand Management (TDM) program proffered in conjunction with the approval of RZ 2005-PR-041 (Merrifield Mixed Use, LLC).

4. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map No. 49-3 ((38)) (3) 1-7, further identified as Parcel H in RZ 2005-PR-041 (Merrifield Mixed Use, LLC), shall submit a parking space utilization study for review and approval by the Board at any time in the future that the Zoning Administrator so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Board may rescind this parking reduction or require alternative measures to satisfy parking needs, which may include requiring all uses to comply with the full parking space requirements as specified in Article 11 of the Zoning Ordinance.

5. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of *The Code of the County of Fairfax, Virginia*, and the Zoning Ordinance in effect at the time of said parking utilization study submission.

6. Shared parking with any additional use(s) shall not be permitted without the submission of a new parking study prepared in accordance with the applicable requirements of the Zoning Ordinance and shall be subject to the Board's approval.

7. All parking provided shall be in accordance with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act (ADA).

8. The conditions of approval of this parking reduction shall be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:
Board action is requested on March 20, 2012.

BACKGROUND:
Mosaic District – Parcel H is a 4.9 acre site, zoned Planned Development Commercial (PDC), that is a part of the Merrifield Town Center mixed use development. The proposed development for this site consists of 531 multi-family dwelling units in two buildings with ground floor retail/commercial and a multilevel above-grade parking garage. The site is in the "Merrifield Commercial Revitalization Area" and within ¾ - 1 mile of the Dunn Loring-Merrifield metrorail station. The site is located on the east and south sides of District Avenue (formerly Festival Street) at its southern bend within the Mosaic District property. The site is governed by the rezoning associated with the 31.4 acre Merrifield Town Center development, RZ 2005-PR-041, approved by the Board on October 15, 2007, and PCA/FDPA 2005-PR-041-2 approved by the Board on July 26, 2011. This parking reduction request only applies to the residential component of Parcel H to be developed by AvalonBay Communities, Inc. Parcel H will also be served with an assortment of ground floor retail/commercial uses located along District Avenue and North Street under separate ownership that are currently planned to be parked at code.

The parking supply for the uses within Parcel H would be integrated in an eight (8) level above-grade parking garage. Approximately 170 parking spaces located on the first two

lower levels of the garage would be dedicated to retail/commerical parking serving the greater Mosaic District and a minimum of 770 parking spaces serving the subject residential uses would be located within the remaining six (6) upper levels. The residential parking is planned to be segregated from the retail parking by a security gate system. A portion of visitor parking for the residential uses may be located just outside of the gated area. The parking garage is located between the two proposed buildings.

Proffer V.3 permits future parking reductions or shared parking agreements pursuant to Article 11 of the Zoning Ordinance and as may be approved by the Board. Proffer IX requires establishment of a Transportation Demand Management (TDM) program to encourage the use of transit Metrorail and bus, other multiple occupant vehicle commuting modes, walking, biking and tele-working by employees, customers and residents who work and/or live in the buildings located on the property. The TDM Plan goal was to reduce residential trips by a minimum of 7% in Phase I (Pre-shuttle Phase) and 30% at Phase 4 (Post-shuttle Phase). Office trips would be reduced by a minimum of 9% in Phase I (Pre-build out) and 30% in Phase 2 (Post-build out).

Under the Zoning Ordinance, the Code requirement for the 531 proposed multi-family dwelling units would be 850 parking spaces or 1.6 spaces per dwelling unit. The applicant is seeking a 9.4 percent reduction (80 fewer parking spaces) resulting in a minimum of 770 parking spaces or 1.45 parking spaces per dwelling unit. The basis for the requested reduction is proximity to mass transit. The Zoning Ordinance does not specify the maximum distance for a site to be considered proximate to mass transit nor does it specify acceptable ranges for required parking supply. Generally, past practice has been that the farthest point of the site must be within one mile of the entrance to a metrorail station and staff has been using the established standards for the Planned Tysons Corner Urban District (PTC District) for comparison purposes. As stated above, the proposed multi-family dwelling units are within ¾ - 1 mile of the Dunn Loring-Merrifield metrorail station. If this project were located in Tysons Corner in the non-TOD District, the parking requirement would be 1.1 to 1.4 parking spaces per one-bedroom unit and 1.35 to 1.7 parking spaces per two-bedroom unit. The proposed development includes 312 one-bedroom/studio units and 219 two-bedroom units resulting in an overall requirement of 1.2 to 1.5 parking spaces per dwelling unit. The 1.45 parking spaces per dwelling unit proposed by the applicant is at the upper end of the range of what would be the parking requirement for a similar development in the Tysons Corner non-TOD District.

The parking reduction study contains an analysis of 2010 census tract data for areas located approximately one (1) mile from the Dunn Loring-Merrifield and Vienna/Fairfax-GMU metrorail stations to determine the average vehicles per household. Auto ownership data from the census block tract (4402-1) that encompasses the subject site and which includes an assortment of multi-family and single-family attached dwelling

units was 1.2 vehicles per household. Auto ownership data from the census block tract (4616-3) to the north that encompasses the DunnLoring-Merrifield metrorail station was 1.5 vehicles per household. The proposed parking ratio of 1.45 spaces per unit including visitors spaces is within this range.

The staff supports the applicant's request for a 9.4 percent parking reduction subject to the conditions listed above and compliance with all proffers associated with this site. The recommended parking reduction reflects a coordinated review by the Department of Public Works and Environmental Services and the Office of the County Attorney.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Parking reduction request and study dated November 3, 2011, from Kevin R. Fellin, P.E., Senior Associate, Wells and Associates.

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle A. Brickner, Deputy Director, DPWES

WELLS + ASSOCIATES

November 3, 2011

Mr. John Friedman, P.E.
Code Analysis Division
Department of Public Works & Environmental Services
12055 Government Center Parkway
Fairfax, Virginia 22035-5503

SUBJECT: Parking Code Reduction for Avalon Mosaic District – Parcel "H" Residential Parking Reduction
RZ 2005-PR-041, PCA 2005-PR-041-2

Dear Mr. Friedman:

Herein is an executive summary for a parking reduction submission specifically for the residential uses within Parcel "H" of the "Mosaic District" project. The parking reduction is primarily based on the proximity to a mass transit. A check made payable to the County of Fairfax was submitted with this application in the amount of $2,280.00 on August 29, 2011. A full size plan of the overall Mosaic District including and a full size site plan for Parcel "H" was included with the parking reduction study. A compact disc is attached to the back cover of the parking reduction study that includes electronic copies of this letter, the parking reduction study, and the overall plan reference above. The subject residential site **[Tax Map 49-3 ((37)) F (Portion of)]** would be developed with 531 multi-family dwelling units on approximately 4.87-acres zoned Planned Development Commercial (PDC). The Mosaic District is located in the "Merrifield Commercial Revitalization Area" within one (1) mile from the Dunn Loring-Merrifield metrorail station in the Providence Magisterial District. Specifically, the subject parcel is located on the east and south sides of District Avenue (formerly Festival Street) at its southern bend within the Mosaic District property.

This parking reduction assessment evaluates a plan limited to the following uses on Parcel "H":

- 531 multi-family dwelling units

<u>Residential Parking Reduction</u>. The code requirement for the proposed residential multi-family dwelling units is 850 parking spaces at a parking ratio of 1.6 spaces per dwelling unit. A residential parking reduction of **80 fewer parking spaces, or approximately 9.4%,** was requested for the residential uses within Parcel "H" for an effective parking ratio of 1.45 spaces per dwelling unit. The proposal would provide a minimum of 770 parking spaces to support the proposed residential uses at build out in an integrated above-grade parking garage. Based on final design and layout of the parking garage, the applicant would reserve the right to provide

11441 Robertson Drive, Suite 201 • Manassas, Virginia 20109 • 703.365.9262 • Fax: 703.365.9265
1420 Spring Hill Road, Suite 600 • McLean, Virginia 22102 • 703. 917.6620 • Fax: 703.917.0739

additional parking spaces beyond the requested required minimum. The residential parking is planned to be segregated from the retail parking with Parcel "H" by a security gate system. A portion of visitor parking may be located just outside of the gated area. Any additional uses would be parked to code and these uses would not exceed the approved F.A.R.

In order to permit a reduction in the number of parking spaces, a parking reduction is hereby requested on behalf of the residential portion of Mosaic District – Parcel "H".

Article 11, Section 102.4 provides for the requested reduction in the number of residential parking spaces.

Please contact me with any questions and/or comments you might have and thank you again for your assistance on this important project.

Sincerely,

Kevin R. Fellin, P.E.
Senior Associate

Enclosure

O:\Projects\5001-5500\5123 Avalon Mosaic Parking Reduction\Documents\Reports\Avalon Mosaic District Executive Summary Letter (8.29.11).doc

WELLS + ASSOCIATES

MEMORANDUM

TO: John Friedman, P.E.
Code Analysis Division

FROM: Kevin R. Fellin, P.E.
Michael J. Workosky, PTP, TOPS, TSOS

RE: RZ 2006-PR-041, PCA 2005-PR-041-2;
Avalon Mosaic – Parcel "H" Residential Parking Reduction Study;
Fairfax County, Virginia

SUBJECT: Parking Reduction Request

DATE: November 3, 2011

Introduction

This memorandum presents the results of a parking reduction analysis conducted in conjunction with only the residential portion of Parcel "H" within the Merrifield Town Center, mixed-use, transit related, project now referred to as the "Mosaic District" in Fairfax County, Virginia. Parcel "H" [Tax Map 49-3 ((37)) F (portion of)] encompasses approximately 4.87 acres within the Mosaic District. The Mosaic District is located in the "Merrifield Commercial Revitalization Area" and the subject Parcel "H" is located within one (1) mile from the Dunn Loring-Merrifield metrorail station. Specifically, the Mosaic District is located on the south side of Lee Highway (Route 29), east of Eskridge Road, and is generally bisected by the future Strawberry Lane extension and future District Avenue (formerly known as Festival Street) in the Providence Magisterial District, as shown on Figure 1.

The subject parcel is included within the future Mosaic District project and located specifically on the east and south sides of District Avenue (formerly Festival Street) at its southern bend. The subject parcel is bordered by District Avenue on its northwestern sides, North Street on its most north side, Penny Lane (formerly Park Street) on its most west side, and South Street on its south and east sides as identified on Figure 2.

This parking reduction request specifically applies to only the residential component of Parcel "H" to be developed by AvalonBay Communities, Inc. (the "Applicant"). The residential portion of Parcel "H" is planned for 531 multi-family dwelling units (DUs). Under separate ownership, Parcel "H" will also be served with an assortment of ground floor retail/commercial

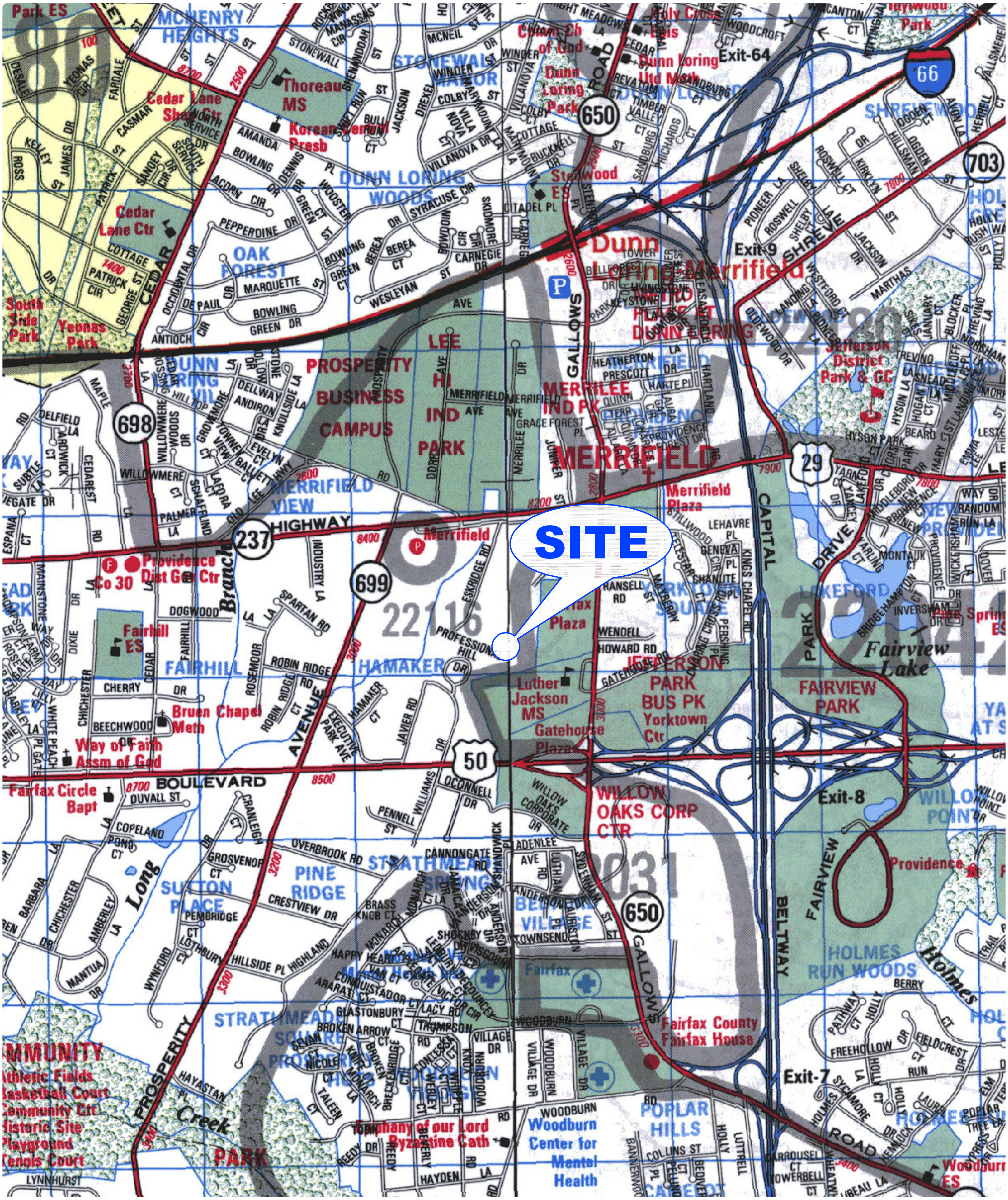

Figure 1
Site Location

North

Avalon Mosaic – Parcel H
Fairfax County, Virginia

Wells + Associates, Inc.

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JFC

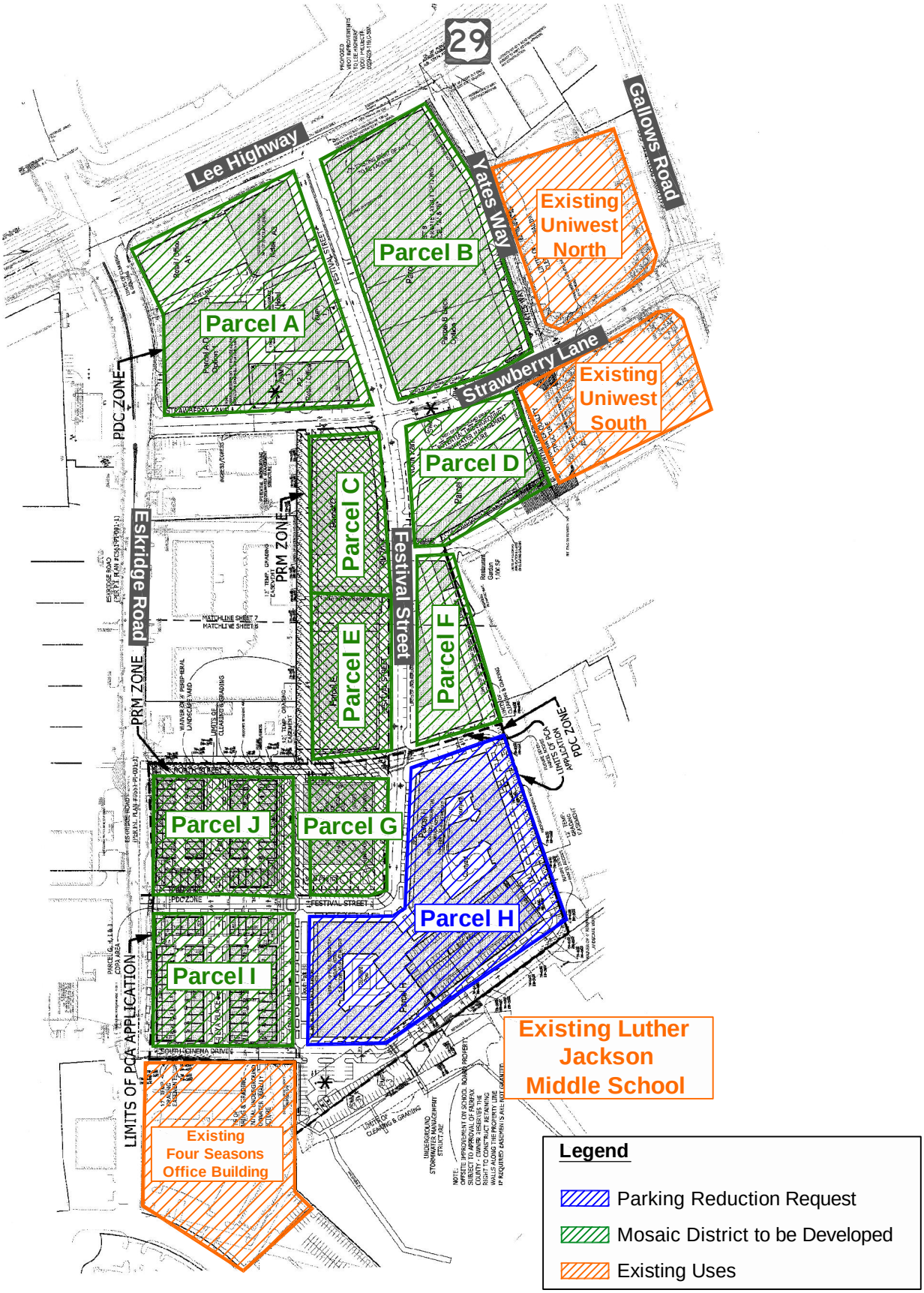

Figure 2
Overall Plan Reduction

North

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JFC

Avalon Mosaic – Parcel H
Fairfax County, Virginia

Wells + Associates, Inc.

uses located along District Avenue and North Street. The retail/commercial parking spaces within Parcel "H" would be completely separate from the residential spaces where the residential spaces would be specifically designated for residential use only.

Eskridge (E&A) LLC has begun construction of Phase 1 of the Mosaic District, a mixed-use development located on an approximate 31.37-acre site in Fairfax County, Virginia. These properties were rezoned by the Fairfax County Board of Supervisors on October 15, 2007 (RZ 2005-PR-041) subject to proffers dated April 7, 2006, as revised through October 15, 2007. As a result of the Board's actions, the subject site was split zoned: PDC (Planned Development Commercial) District and PRM (Planned Residential Mixed-Use) District. The development parcels comprising the PDC district are identified on the Conceptual/Final Development Plan (CDP/FDP) as Parcels A, B, D, F, H and I. Parcels C, E, G, and J comprise the PRM district. Additionally, the entire site is located within the Highway Corridor (HC) Overlay District. Recently, the Applicant filed a Proffer Condition Amendment (PCA 2005-PR-041) to modify the land use options associated with the development of Parcels A and D (Phase I) that was subsequently approved by the Board of Supervisors on February 8, 2011. This Board approval included a 24% parking reduction related to non-residential uses on Parcels A, B, and D. In order to further modify the plans for Mosaic District Parcels F, G, H, I, and J, Eskridge (E&A) LLC filed an additional PCA application (PCA 2005-PR-041-2) that was approved on July 26, 2011 to allow townhomes on Parcels I & J. The Board also approved a 20% parking reduction for the townhomes on Parcels I & J.

This parking reduction assessment evaluates a plan for <u>531 multi-family residential dwelling units</u> on Parcel "H". A 531 multi-family residential development would require 850 parking spaces pursuant to the Fairfax County Zoning Ordinance. The Applicant is requesting a reduction from the number of parking spaces that would be required by a strict application of the Fairfax County Zoning Ordinance. Specifically, a **residential parking reduction of 9.4% (or 80 fewer parking spaces)** for a total of 770 parking spaces to serve the new residential uses is requested.

The parking reduction request is primarily based on the proximity to a mass transit while also considering trends in auto ownership, elements from the approved Transportation Demand Management (TDM) program for the entire Mosaic District project, the target market for this type of housing, and a national trend of increased non-auto use.

Sources of data for this analysis include, but are not limited to, the files and library of Wells + Associates, AvalonBay Communties, Inc., Edens&Avant, plans prepared by VIKA Engineering, SK&I Architectural Design Group, the Institute of Transportation Engineers (ITE), Urban Land Institute's (ULI) *Shared Parking* 2nd Edition, and Fairfax County.

Background

The proposed residential plan for Parcel "H" reflects a total of 531 multi-family residential dwelling units. A reduced copy of the overall plan is provided as Figure 2. A full size copy of the overall plan and site plan is also provided for staff's convenience as Attachment I.

The 531 multi-family residential dwelling units would consist of 312 studio and one (1) bedroom dwelling units (58.7%) while the remaining 219 dwelling units would not exceed two (2) bedrooms (41.3%). A summary of the proposed mix of dwelling units is provided below in Table 1:

Table 1
Avalon Mosaic – Parcel "H" Residential Parking Reduction
Residential Unit Mix Breakdown

Unit Type	**Amount (DU)**	**Percent of Total**
Studio	57	10.7%
One Bedroom (without den)	224	42.2%
One Bedroom (with den)	31	5.8%
Total Studio and One Bedroom DUs	**312**	**58.7%**
Total Two Bedroom DUs	**219**	**41.3%**
Total (1 BR + 2 BR) DUs	**531**	**100%**

A parking management plan would provide the allocation of one (1) parking space per dwelling unit as part of the base rental agreement and additional parking spaces may be leased for an additional cost. Based on this plan, the subject site would require a minimum of 531 parking spaces to serve the baseline auto rental demands for residents (at one (1) space per unit). A total residential parking supply of 770 parking spaces is proposed with this parking reduction request. Therefore, a balance of 239 parking spaces would be available for residential building staff, residents, and visitors as shown in Table 2 below.

Table 2
Avalon Mosaic – Parcel "H" Residential Parking Reduction
Parking Supply Allocation Breakdown

Unit Type	**Amount (DU)**	**Parking Supply**
Studio	57	57
One Bedroom (without den)	224	224
One Bedroom (with den)	31	31
Two Bedrooms	219	219
Additional Spaces Available		239
Total Spaces Provided		770

PARKING REDUCTION REQUEST

Fairfax County Parking Requirements

Article 11 of the Fairfax County Zoning Ordinance establishes parking requirements for various land uses by providing parking rates per unit of land use (i.e., per residential dwelling unit, per 1,000 GSF of retail uses, etc.). According to the Ordinance, all required parking spaces shall be located on the same lot as the structure or uses to which they are accessory or on a lot contiguous thereto which has the same zoning classification, and is either under the same ownership, or is subject to arrangements satisfactory to the Director that will ensure the permanent availability of such parking spaces. A copy of the relevant Ordinance text is provided herein as Attachment II.

Article 11, Section 11-103 of the Ordinance outlines the parking requirements for residential uses as follows:

> Dwelling, Multiple Family – "One and six-tenths (1.6) spaces per unit"

As stated above and reflected on Table 3, based on a strict application of the Zoning Ordinance, 850 parking spaces would be required to accommodate the parking demand associated with the proposed 531 multi-family residential dwelling units.

Requested Parking Reduction

For purposes of this analysis and generally consistent with recent County initiatives in transit areas, parking for the multi-family residential units is requested to be reduced to an effective baseline rate of one and forty-five hundredths (1.45) parking spaces per unit or 770 total parking spaces for 531 multi-family dwelling units. Based on the above, the Applicant is requesting a **9.4% reduction** (or 80 fewer parking spaces) from the number of parking spaces that would be required by a strict application of the Ordinance.

Table 3
Avalon Mosaic - Parcel "H" Parking Reduction
Parking Requirement Summary

Land Use	Amount	Units [1]	Code Requirement [2]	**Parking Required**
Parking Required by Code				
Multi-Family Dwelling Units	531	DU	"One and six-tenths (1.6) spaces per unit"	**850**
Total Parking Provided				**770**
Difference (Provided minus Code)				**(80)**
Percent Difference (% Parking Reduction)				**-9.4%**
Effective parking Ratio (spaces per unit)				**1.45**

Note(s):
(1) DU = Residential Dwelling Unit
(2) Fairfax County Code based on the Fairfax County Zoning Ordinance (Article 11).

Proposed Parking Supply

The parking supply would be integrated within Parcel "H" in an eight (8) level above-grade parking garage. Approximately 170 parking spaces located on the first two lower levels of the garage would be dedicated to retail/commerical parking serving the greater Mosaic District and a minimum of 770 parking spaces serving the subject residential uses would be located within the remaining six (6) upper levels. The residential parking is planned to be segregated from the retail parking by a security gate system. A portion of visitor parking may be located just outside of the gated area. The location of the residential parking garage is highlighted on Figure 3.

Proximity to a Mass Transit

The 531 multi-family residential uses on Parcel "H' would be well served by public transportation. The nearest WMATA Metrorail station is the Dunn Loring-Merrifield station which is located approximately one (1)-mile north of Parcel "H" as shown on Figure 4. The Dunn Loring-Merrifield Metrorail station is served by the Orange Metrorail line as well as multiple WMATA Metrobus and Fairfax Connector routes. As shown on Figure 5, there are nine (9) Metrobus lines (1A, 1B, 1C, 1Z, 2A, 2B, 2C, 2G, 2T) and three (3) Fairfax Connector bus lines (401, 462, 463) serving the area at either the metrorail station, on Lee Highway (Route 29), Prosperity Avenue (Route 699), Gallows Road (Route 650), and/or Arlington Boulevard (Route 50).

Census Tract Information

Auto ownership for the area was determined based on data from the U.S. Census Bureau. Data from the 2010 Census was obtained for the census block tract (4402-1) that encompasses the subject site and the tract that encompasses the Dunn Loring-Merrifield metrorail station (4616-3) to the north. The data indicates that the average auto ownership in 2010 was 1.2 vehicles per household for the subject site area tract that includes an assortment of multi-family and single-family attached dwelling units located approximately 2/3 to approximately one (1) mile from the Dunn Loring-Merrifield metrorail station. The data indicates the average auto ownership for the census tract that includes the metrorail station to the north was 1.5 vehicles per household. The location of both census block tracts are shown on Figure 6.

The census data results suggest that a parking ratio of approximately 1.45 parking spaces per unit would adequately serve the resident parking needs within Mosaic District Parcel "H" given its distance from the Dunn Loring-Merrifield metrorail station and access to transit.

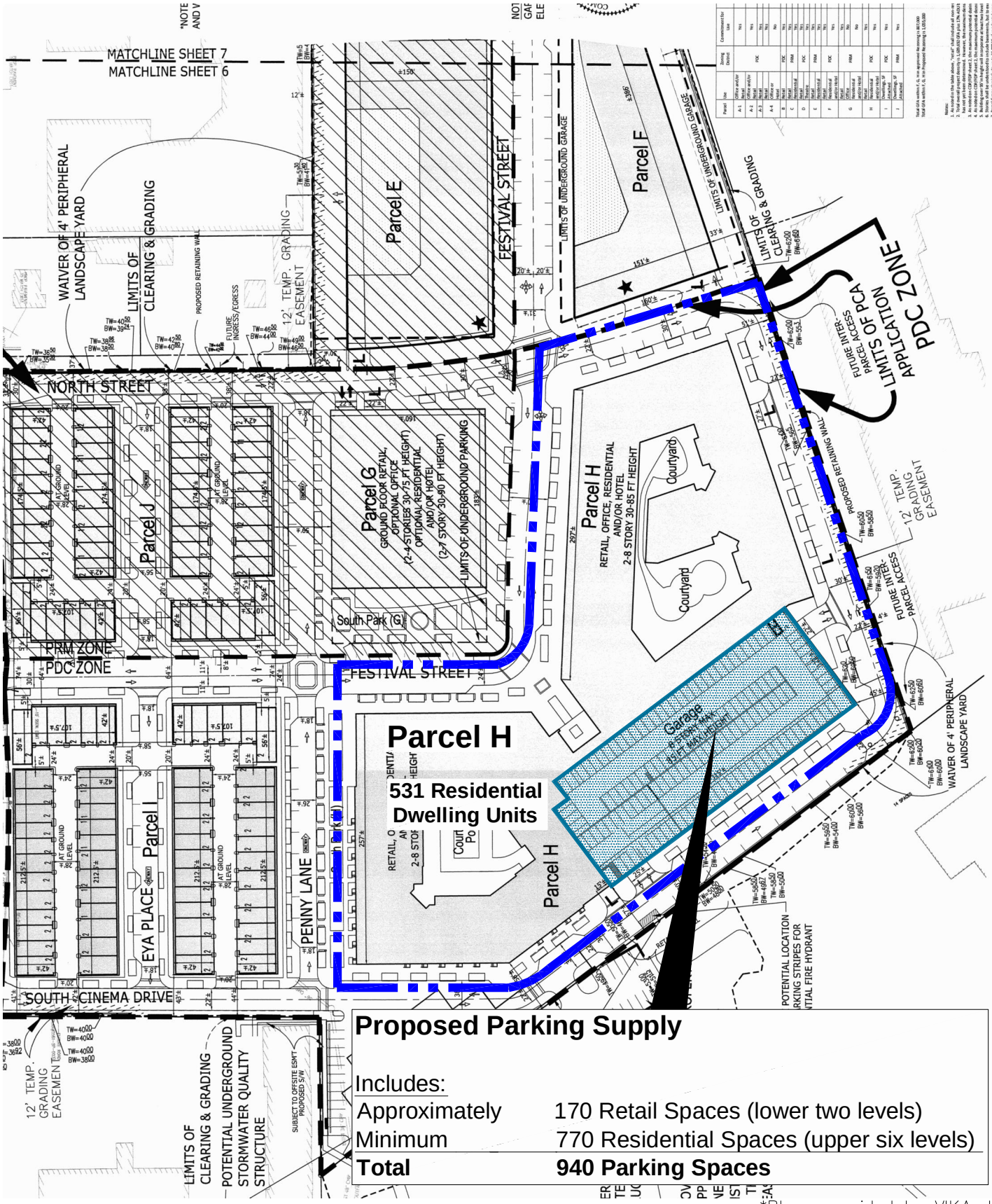

Figure 3
Parking Supply Location

North

Avalon Mosaic – Parcel H
Fairfax County, Virginia

Wells + Associates, Inc.

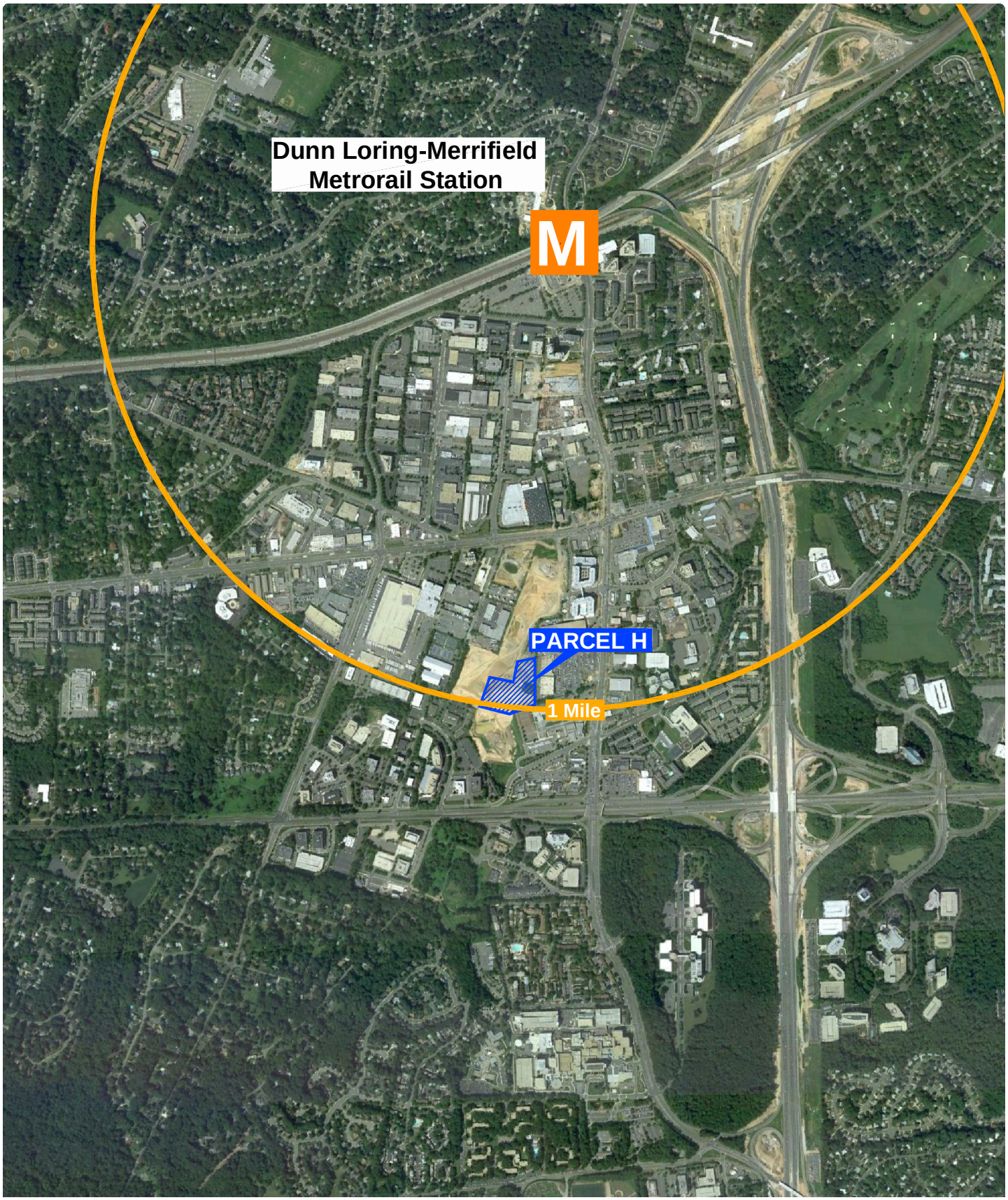

Figure 4
Distance from Metrorail Station

North

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Avalon Mosaic – Parcel H
Fairfax County, Virginia

Wells + Associates, Inc.

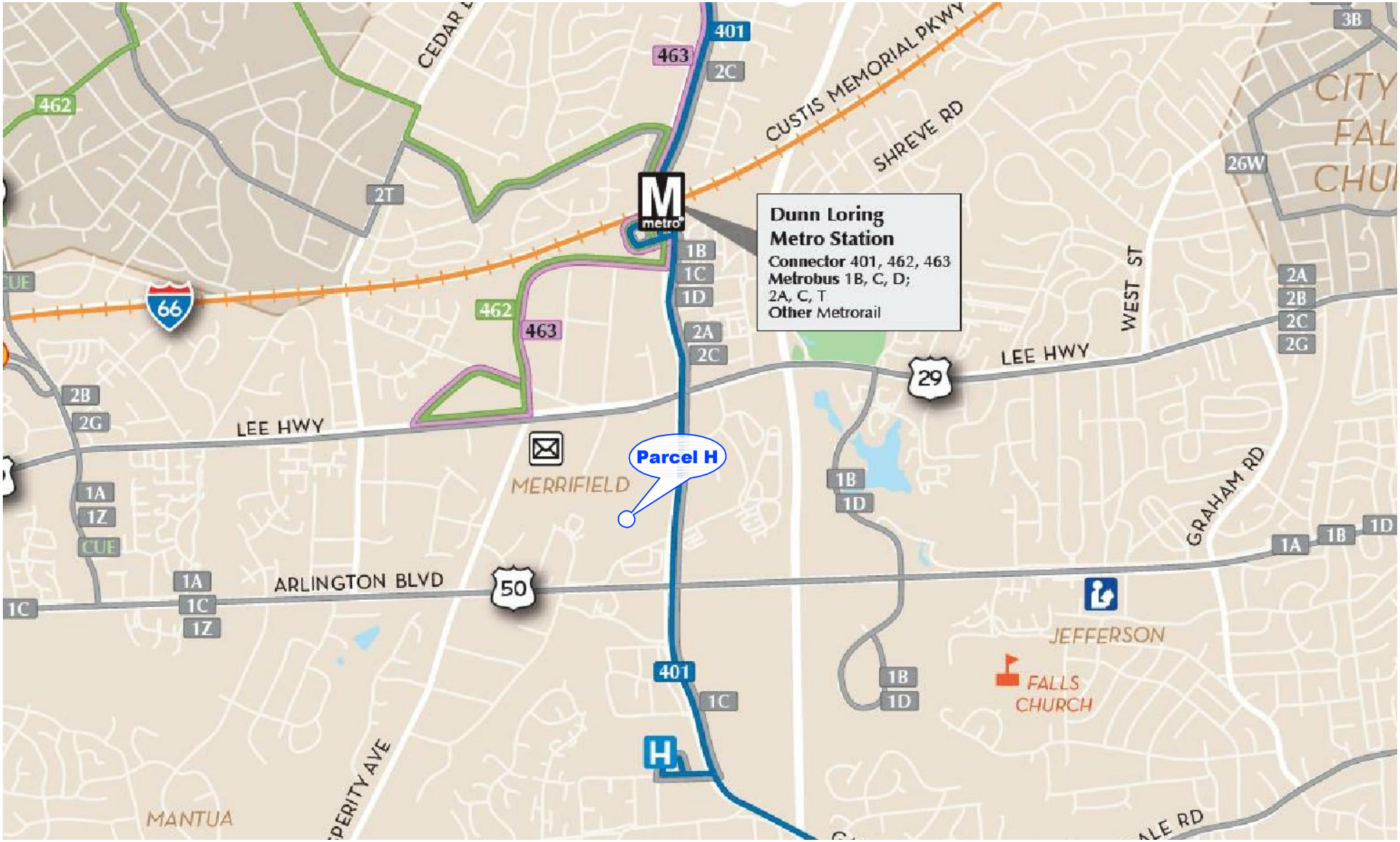

Figure 5
Existing Metrobus and Fairfax Connector Bus Routes

North

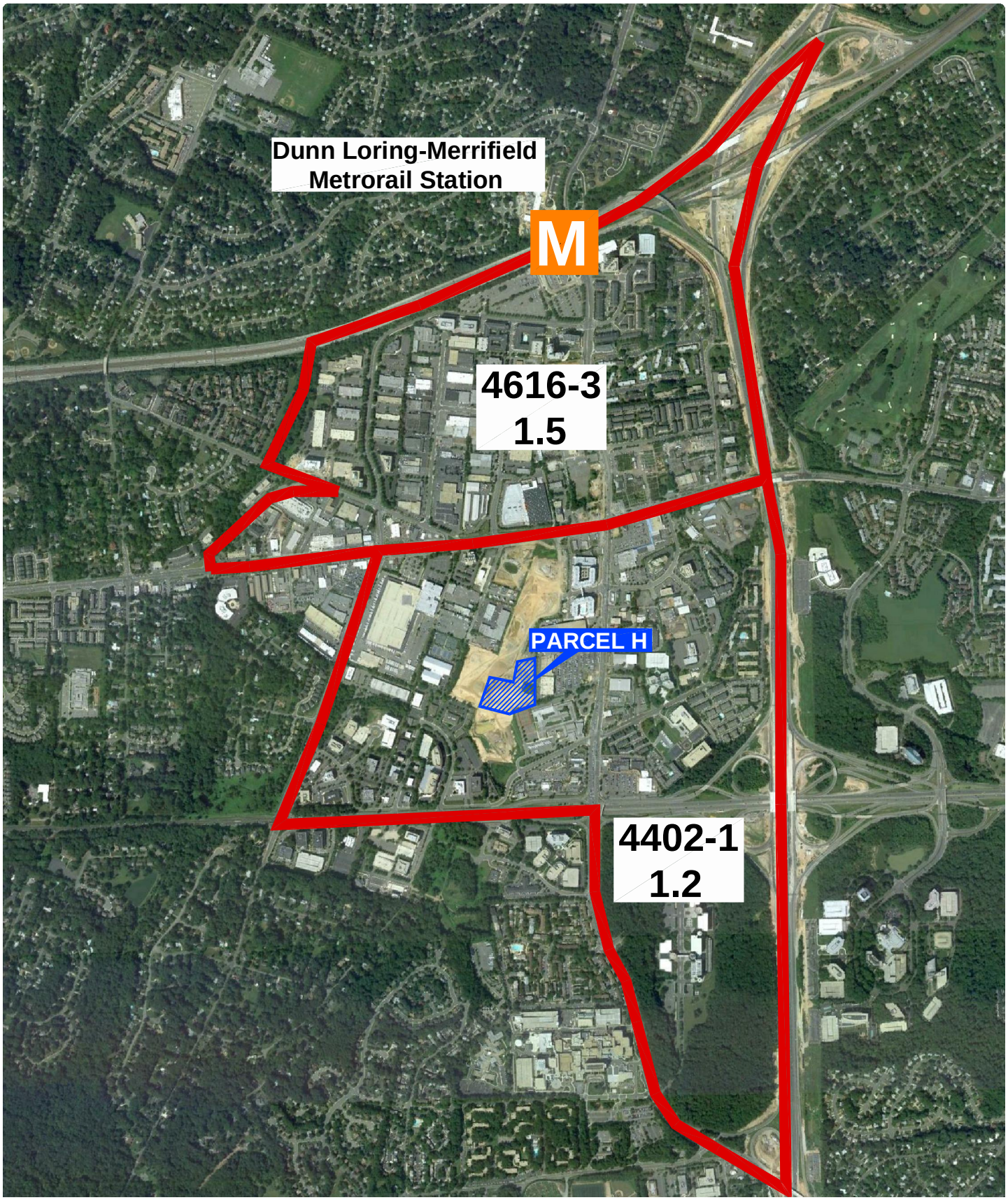

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Figure 6
Census Tract Locations

XXXX-X Census Tract Numebr
X.X Average Vehicles Per Household

North

JFC

Avalon Mosaic – Parcel H
Fairfax County, Virginia

Wells + Associates, Inc.

Transportation Demand Management (TDM)

As part of the approvals for the Mosaic District Development (RZ 2005-PR-041) and subsequent PCA's, a comprehensive TDM program was proffered by the Applicant. The proffered TDM program would, among other things, reduce residential site-generated vehicle trips by a minimum of 7% (TDM Phase I) with the ultimate goal of reducing residential trips by 30% at build out. A copy of the most recent approved proffers is provided in Attachment III.

It is recognized that several of these elements apply to the residential portions of the Mosaic District property. However, there are significant elements of the TDM plan that may specifically relate to the subject residential multi-family dwelling units, including:

1. Shuttle service provided to the Dunn Loring-Merrifield metrorail station. The shuttle would run on typical weekdays during the AM and PM peak periods and potentially on Saturday.

2. A targeted marketing program for residential sales/leases that encourages and attracts TDM-oriented people such as one and no-car individuals and families. Targeted marketing will also encourage persons to live where they work.

3. Residents would have access to the car sharing program.

4. A parking management plan. Parking within the property will be managed within the streets and parking structures. It is also noted that the homeowners association that will be established for the subject multi-family dwelling units will have strict rules regarding auto ownership and parking.

These elements are likely to assist in reducing the number of households within Parcel "H" that own multiple vehicles.

Area II: Tysons Corner Urban Center – Areawide Recommendations (Amended through 6-22-2010)

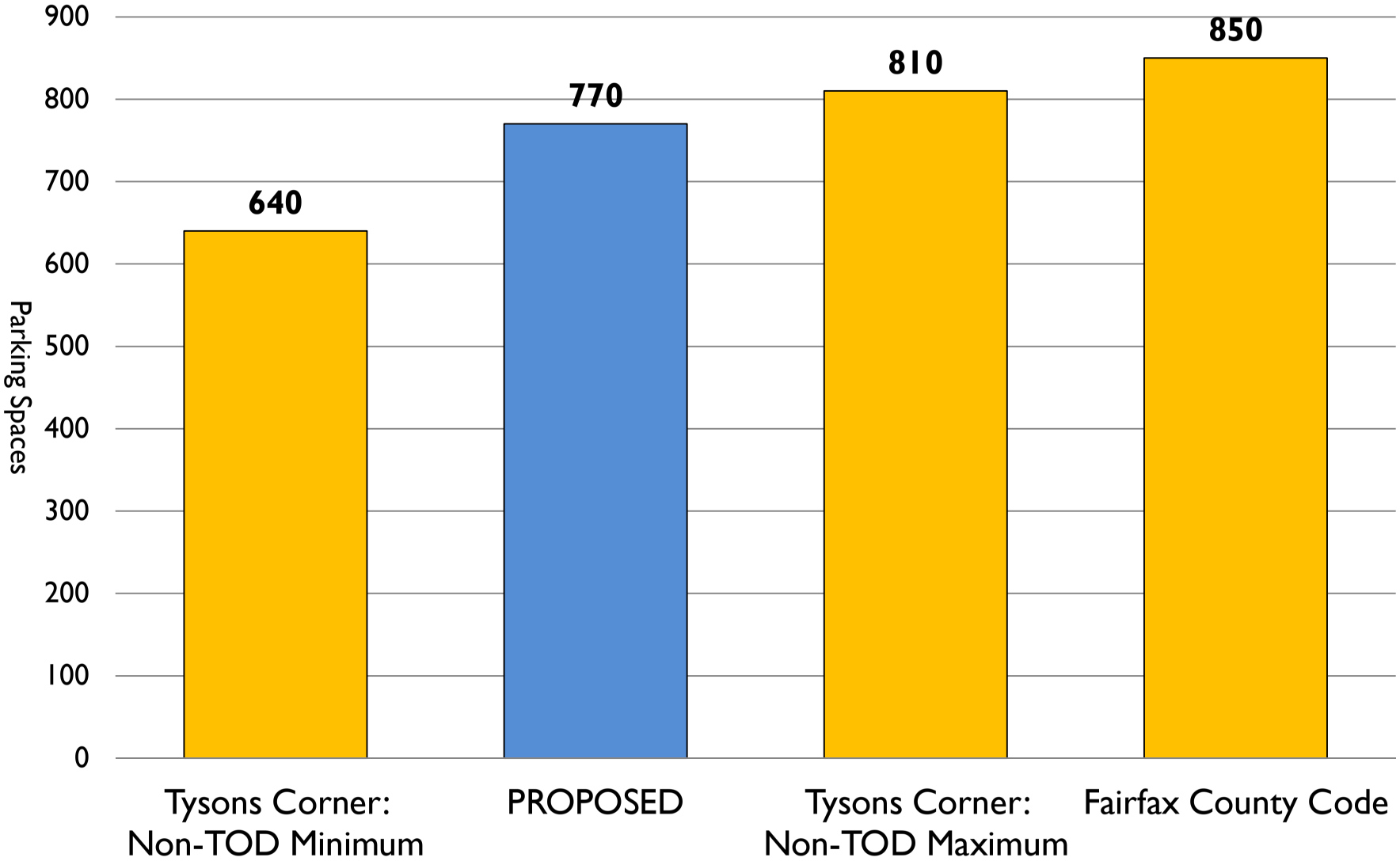
In response to the advent of Metrorail in Tysons Corner, the Board of Supervisors established minimum and maximum "Parking Ratios for Tysons Corner." According to Table 6 (page 64) from the Plan's Areawide Recommendations for Tysons Corner, minimum parking requirements should be substantially reduced from County wide standards proximate to a rail station and for Non-Transit Oriented Development (TOD) districts. These recommendations included minimum and maximum parking ratios for residential developments. For multi-family dwelling units located in non-TOD areas, the plan recommends a minimum of 1.1 and 1.35 parking spaces per one (1) bedroom units and two (2) bedroom units, respectively. The plan

also recommends a maximum of 1.4 and 1.7 parking spaces per one (1) and two (2) bedroom units, respectively. Based on these parking recommendations, the residential parking demand for Parcels H would range from 640 parking spaces to 810 parking spaces. This would correspond to a parking reduction range of approximately 24.7% to 4.7% from code requirements. The 770 parking spaces (or 9.4% reduction) proposed to serve Mosaic District Parcel "H" residents exceeds the minimum parking requirement for non-TOD multi-family units in Tysons Corner by 130 parking spaces and is only 40 parking spaces less than the Tysons Corner maximum. Relevant information for Tysons Corner (Parking Ratios for Tysons Corner) is contained in Attachment IV. A table and bar chart comparison for the Tysons Corner parking ratios versus the proposed reduction and the County code requirement is shown in Table 4 below and on Figure 7.

Table 4
Avalon Mosaic – Parcel "H" Residential Parking Reduction
Tysons Corner Urban Center Parking Ratio Comparison

Multi-Family Dwelling Units	Number of Bedrooms	Non-TOD Parking Ratio	Units by Number of Bedrooms	Parking Spaces
Tysons Corner Minimum Parking Ratios	0-1 Bedroom	1.1	312	344
	2 Bedroom	1.35	219	296
	3+Bedroom	1.6	0	0
Total (Tysons Min.)			531	**640**
Proposed Parking Ratios	0-1 Bedroom	1.45	312	452
	2 Bedroom	1.45	219	318
Total (Proposed)			531	**770**
Tysons Corner Maximum Parking Ratios	0-1 Bedroom	1.4	312	437
	2 Bedroom	1.7	219	373
	3+Bedroom	2.0	0	0
Total (Tysons Max.)			531	**810**
Total (County Overall)	All	1.6	531	**850**

Figure 7
Parking Requirement Comparisons
Tysons Corner Non-TOD (Min, Max) vs Proposed vs Fairfax County Code



Conclusions

Based on the documentation provided herein, the following can be concluded:

1. Under a strict application of the Zoning Ordinance at 1.6 parking spaces per mulit-family dwelling unit, 850 parking spaces would be required to accommodate the proposed 531 residential dwelling units.

2. Based on proximity to a mass transit, the Applicant is seeking a **parking reduction of 9.4% (or 80 fewer parking spaces)** for a total minimum of 770 parking spaces to serve the proposed new residential uses with Parcel "H" of the Mosaic District. This results in an effective parking ratio of 1.45 parking spaces per multi-family dwelling unit.

3. The requested parking reduction is specific to the residential uses within Parcel "H".

4. The location of the site is within one (1) mile of the Dunn Loring-Merrifield metrorail station as well as multiple WMATA Metrobus and Fairfax Connector routes.

5. The proposed residential project will consist of approximately 58.7% studios or one-bedroom dwelling units and approximately 41.3% two-bedroom. This project does not include any 3+ bedroom units as contemplated in the overall County parking ratio (1.6) for multi-family dwelling units.

6. Census tract data from 2010 suggests that a parking ratio of approximately 1.45 parking spaces per unit would adequately serve resident parking needs within the Mosaic District Parcel "H" given its proximity to the Dunn Loring-Merrifield metrorail station and access to transit.

7. The planned design of the Mosaic District mixed-use, transit related project will serve to support a reduced parking demand and attract residents who will be inclined to choose non-auto modes of travel through a comprehensive TDM plan.

8. The requested parking ratio of 1.45 parking spaces per residential multi-family dwelling unit falls within Fairfax County's recent parking ratio initiative in Tysons Corner for non-TOD residential multi-family dwelling units (effective 1.21 minimum to 1.53 maximum for the proposed dwelling unit mix).

Board Agenda Item
March 20, 2012

ACTION – 5

Approval of an Amended Parking Reduction for Mosaic District – Parcels I and J of the Merrifield Town Center (Providence District)

ISSUE:
Board approval of a 28.7 percent reduction or 87 fewer parking spaces in required parking for Mosaic District – Parcels I and J of the Merrifield Town Center, Tax Map # 49-3 ((37)) (1) A, 1 – 54 and # 49-3 ((37)) (2) B, 55 – 116, further identified as Parcels I and J in RZ 2005-PR-041 (Merrifield Mixed Use, LLC), Providence District.

RECOMMENDATION:
The County Executive recommends that the Board approve a parking reduction of 28.7 percent (87 fewer parking spaces) in required parking for Mosaic District – Parcels I and J of the Merrifield Town Center, pursuant to paragraph 5, Section 11-102 of Chapter 112 (Zoning Ordinance) of *The Code of the County of Fairfax, Virginia*, based on an analysis of the parking requirements for each use on the site and a parking reduction study, #0561-PKS-04-1, on condition that:

1. A minimum of 216 parking spaces must be maintained on site at all times.

2. The uses permitted per this parking reduction are 112 townhomes. Any additional uses must be parked at code and these uses must not exceed the approved F.A.R.

3. Implementation of the Transportation Demand Management (TDM) program proffered in conjunction with the approval of RZ 2005-PR-041 (Merrifield Mixed Use, LLC).

4. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map No. 49-3 ((37)) (1) A, 1 – 54 and # 49-3 ((37)) (2) B, 55 – 116, further identified as Parcels I and J in RZ 2005-PR-041 (Merrifield Mixed Use, LLC), shall submit a parking space utilization study for review and approval by the Board at any time in the future that the Zoning Administrator so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Board may rescind this parking reduction or require alternative measures to satisfy parking needs, which may include requiring all uses to comply with the full parking space requirements as specified in Article 11 of the Zoning Ordinance.

5. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of *The Code of the County of Fairfax, Virginia*, and the Zoning Ordinance in effect at the time of said parking utilization study submission.

6. Shared parking with any additional use(s) shall not be permitted without the submission of a new parking study prepared in accordance with the applicable requirements of the Zoning Ordinance and shall be subject to the Board's approval.

7. All parking provided shall be in accordance with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act (ADA).

8. The on-street parking spaces on Stella Blue Lane required to meet the parking requirements for the parking reduction conditions shall not be restricted or reserved except that they may be designated for the use of townhome residents and their visitors only.

9. The conditions of approval of this parking reduction shall be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:
Board action is requested on March 20, 2012.

BACKGROUND:
Mosaic District – Parcels I and J is a 3.9 acre site, zoned Planned Development Commercial (PDC) and Planned Residential Mixed-Use (PRM), that is a part of the Merrifield Town Center mixed use development. The proposed development for this site consists of 112 single-family attached garage style townhomes, 92 with two-car garages and 20 with single-car garages. The site is in the "Merrifield Commercial Revitalization Area" and within ¾ - 1 mile of the Dunn Loring-Merrifield metrorail station. The site is bounded by North Street, Penny Lane (a.k.a. Park Street), South Cinema Drive, and Eskridge Road. The site is governed by the rezoning associated with the 31.4 acre Merrifield Town Center development, RZ 2005-PR-041, approved by the Board on October 15, 2007, and PCA/FDPA 2005-PR-041-2 approved by the Board on July 26, 2011, to allow townhomes on Parcels I & J. The Board also approved a 20.0 percent parking reduction for the townhomes on Parcels I and J on July 26, 2011.

Proffer V.3 permits future parking reductions or shared parking agreements pursuant to Article 11 of the Zoning Ordinance and as may be approved by the Board. Proffer IX requires establishment of a Transportation Demand Management (TDM) program to encourage the use of transit Metrorail and bus, other multiple occupant vehicle commuting modes, walking, biking and tele-working by employees, customers and residents who work and/or live in the buildings located on the property. The TDM Plan goal was to reduce residential trips by a minimum of 7% in Phase I (Pre-shuttle Phase) and 30% at Phase 4 (Post-shuttle Phase). Office trips would be reduced by a minimum of 9% in Phase I (Pre-build out) and 30% in Phase 2 (Post-build out).

Under the Zoning Ordinance, the Code requirement for the 112 proposed townhomes is 303 parking spaces or 2.7 spaces per unit. The applicant is seeking a 28.7% reduction (87 fewer parking spaces) resulting in a minimum of 216 parking spaces or 1.93 spaces per unit. As noted above, the Board previously approved a 20.0 percent parking reduction for this development which assumed a parking supply of 231 spaces. That approval counted 27 parallel parking spaces along Penny Lane and District Avenue, which border and bisect the site respectively, as part of the parking supply for this site and were to be signed for use by residents and guests only. It was not realized at the time that the terms and conditions of the Mosaic District Community Development Authority (CDA) bond financing for these streets would not permit these spaces to be reserved for use by the townhome owners and guests. Because the 27 spaces cannot be reserved for use by the townhomes, are intended to be a part of the shared parking for the entire Mosaic development, and have a 5-hour time limit on parking, it has been determined that the 27 spaces should not be counted as part of the available parking supply for this residential use. Nonetheless, the 27 parking spaces along Penny Lane and District Avenue can be used for short-term parking by owners and visitors and can be considered as mitigating the need for onsite parking for visitors. These 27 spaces are among over 200 surface parking spaces (on-street and surface lot) that would not be restricted to any specific use and are available for townhome visitors as well as other uses within the entire Mosaic development being restricted only by a 5-hour time limit on parking.

The original parking reduction request has been amended based on a parking supply of 204 garage spaces and 12 parallel parking spaces along a private street, Stella Blue Lane, within the townhome development. The basis for the requested reduction is proximity to mass transit. The Zoning Ordinance does not specify the maximum distance for a site to be considered proximate to mass transit nor does it specify acceptable ranges for required parking supply. Generally, past practice has been that the farthest point of the site must be within one mile of the entrance to a metrorail station and staff has been using the established standards for the Tysons Corner Urban District for comparison purposes. As stated above, the proposed townhomes are within ¾ - 1 mile of the Dunn Loring-Merrifield metrorail station. The parking reduction study

contains an analysis of 2010 census tract data for areas located approximately one (1) mile from the Dunn Loring-Merrifield and Vienna/Fairfax-GMU metrorail stations to determine the average vehicles per household. The results indicate that the average vehicles per household rate ranged from 1.77 vehicles per household (Dunn Loring-Merrifield) to 1.91 vehicles per household (Vienna/Fairfax-GMU) within the sample census tracts. Based on this analysis, the applicant is proposing a parking ratio of 1.82 spaces per unit for owner parking with a total of 12 visitor spaces resulting in a final parking ratio of 1.93 spaces per unit. For comparison purposes, the minimum parking ratio for a similar type project in the Tysons Corner Urban Center non-TOD District would be 2.0 spaces per unit. The proffered TDM program and the availability of nearby non-reserved parking serving the Mosaic Development also mitigate the need for onsite parking for this residential use.

Staff supports the applicant's request for a 28.7 percent parking reduction subject to the conditions listed above and compliance with all proffers associated with this site. The recommended parking reduction reflects a coordinated review by the Department of Public Works and Environmental Services, the Department of Planning and Zoning, and the Office of the County Attorney.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Parking reduction request and study dated February 9, 2012, from Kevin R. Fellin, Senior Associate, Wells and Associates.

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Michelle A. Brickner, Deputy Director, DPWES

WELLS + ASSOCIATES

February 9, 2012

Mr. John Friedman, P.E.
Code Analysis Division
Department of Public Works & Environmental Services
12055 Government Center Parkway
Fairfax, Virginia 22035-5503

SUBJECT: Parking Code Reduction for Mosaic District – Parcels I and J
RZ 2005-PR-041, PCA 2005-PR-041-2

Dear Mr. Friedman:

Herein is an executive summary for the revised parking reduction submission for Parcels I and J within the "Mosaic District." A check was made payable to the County of Fairfax with the original application in the amount of $6,140.00. A full size plan of the Mosaic District including the subject Parcels I and J is included with the parking reduction study. A compact disc is attached to the back cover of the parking reduction study that includes electronic copies of this letter, the reduction study, and the overall plan reference above. The subject residential site **[Tax Map 49-3 ((37)) F (Portion of) and G (portion of)]** would be developed with 112 townhomes on approximately 3.9-acres partially zoned Planned Development Commercial (PDC) and Planned Residential Mixed-Use (PRM). The Mosaic District is located in the "Merrifield Commercial Revitalization Area" within one (1) mile from the Dunn Loring-Merrifield metrorail station. Specifically, the subject parcels are bisected by District Avenue and located between Penny Lane (formerly known as Park Street) and Eskridge Road in the Providence Magisterial District.

This parking reduction assessment evaluates a plan for the following uses on Parcels I and J:

- 112 single-family attached (townhome) dwelling units

Residential Parking Reduction. The code requirement for the proposed residential townhome uses is 303 parking spaces. A residential parking reduction of **87 fewer parking spaces, or approximately 28.7%,** was requested for the uses on Parcels I and J. The proposal would provide a minimum of 216 parking spaces to support the proposed residential uses at build out in townhome garage spaces and on-street spaces. Based on final design and layout of the parking areas, the applicant would reserve the right to provide additional parking spaces beyond the requested required minimum. Any additional uses would be parked to code and these uses would not exceed the approved F.A.R.

11441 Robertson Drive, Suite 201 • Manassas, Virginia 20109 • 703.365.9262 • Fax: 703.365.9265
1420 Spring Hill Road, Suite 600 • McLean, Virginia 22102 • 703. 917.6620 • Fax: 703.917.0739

In order to permit a reduction in the number of parking spaces, a parking reduction is hereby requested on behalf of the Mosaic District – Parcels I and J.

Article 11, Section 102.4 provides for the requested reduction in the number of residential parking spaces.

Please contact me with any questions and/or comments you might have and thank you again for your assistance on this important project.

Sincerely,

Kevin R. Fellin
Senior Associate

O:\Projects\5001-5500\5332 Mosaic District Parcels I&J\Documents\Reports\Mosaic District Executive Summary Letter (2.9.12).doc

WELLS + ASSOCIATES

MEMORANDUM

TO: John Friedman, P.E.
Code Analysis Division

FROM: Kevin R. Fellin, P.E.
Michael J. Workosky, PTP, TOPS, TSOS

RE: RZ 2006-PR-041, PCA 2005-PR-041-2;
Mosaic District Parcels I & J Parking Reduction Study;
Fairfax County, Virginia

DATE: June 9, 2011 revised through February 9, 2012

Introduction

This memorandum presents the results of a revised parking reduction analysis conducted in conjunction with the further development of the Merrifield Town Center, mixed-use, transit related, project now referred to as the "Mosaic District" in Fairfax County, Virginia. Parcels I & J [Tax Map 49-3 ((37)) F (portion of) and G (portion of)] encompass approximately 3.9 acres within the Mosaic District. The Mosaic District is located in the "Merrifield Commercial Revitalization Area" and the subject Parcels (I & J) are located within approximately one (1) mile from the Dunn Loring-Merrifield metrorail station. Specifically, the Mosaic District is located on the south side of Lee Highway (Route 29), east of Eskridge Road, and is generally bisected by the future Strawberry Lane extension and future District Avenue (formerly known as Festival Street) in the Providence Magisterial District, as shown on Figure 1.

This parking reduction request specifically applies only to Parcels I & J within the Mosaic District as identified on Figure 2. The subject parcels are bisected by District Avenue and located between Penny Lane (formerly known as Park Street) and Eskridge Road. The combined parcels are planned to be developed with 112 townhomes by EYA (the "Applicant").

Eskridge (E&A) LLC has begun construction of Phase 1 of the Mosaic District, a mixed-use development located on an approximate 31.37-acre site in Fairfax County, Virginia. These properties were rezoned by the Fairfax County Board of Supervisors on October 15, 2007 (RZ 2005-PR-041) subject to proffers dated April 7, 2006, as revised through October 15,

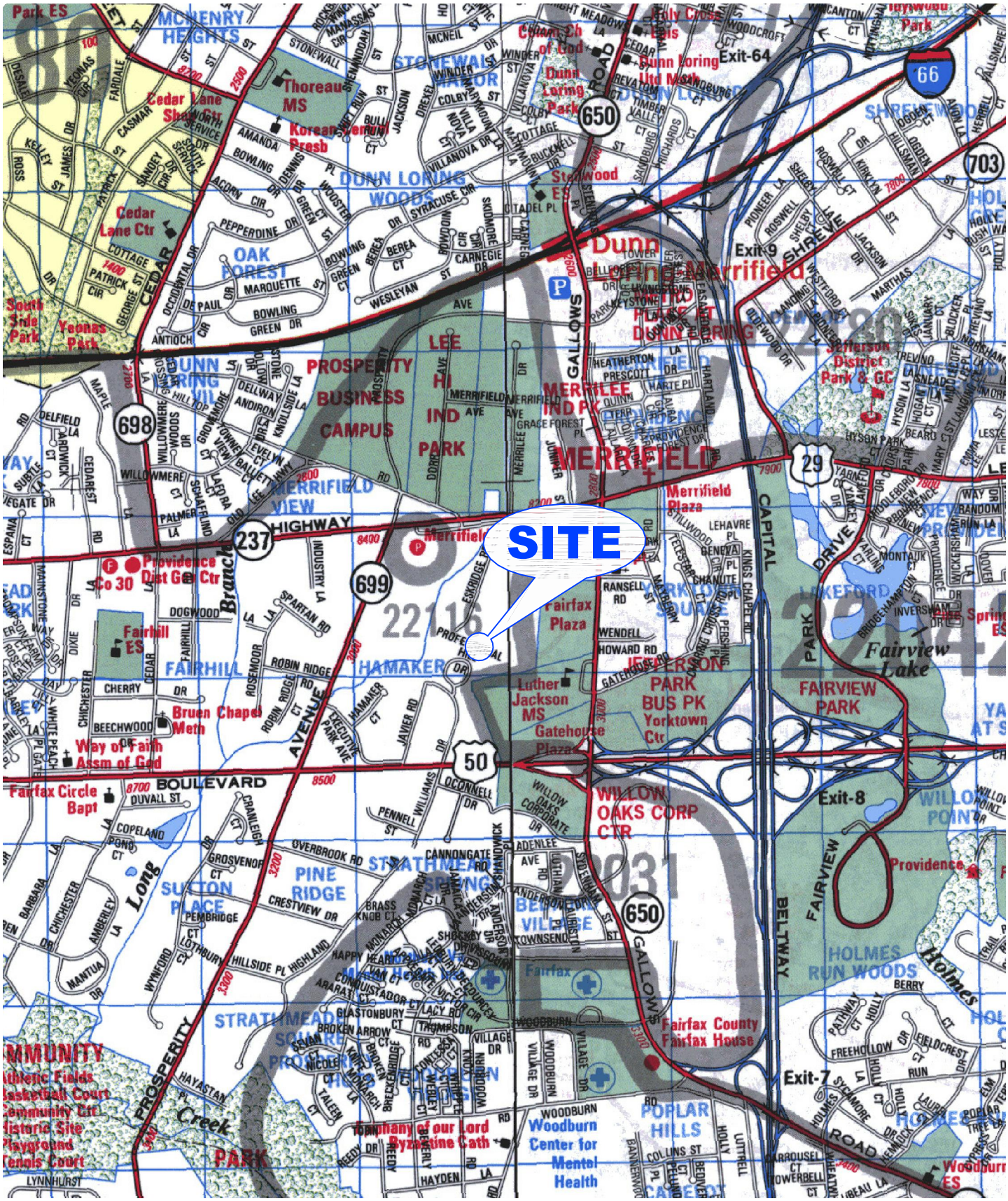


Figure 1
Site Location

North

Mosaic District – Parcels I & J
Fairfax County, Virginia

Wells + Associates, Inc.

O:\PROJECTS\5001-5500\5076 MOSAIC DISTRICT SOUTH PARKING\GRAPHICS\PARKING SUPPLY.DWG

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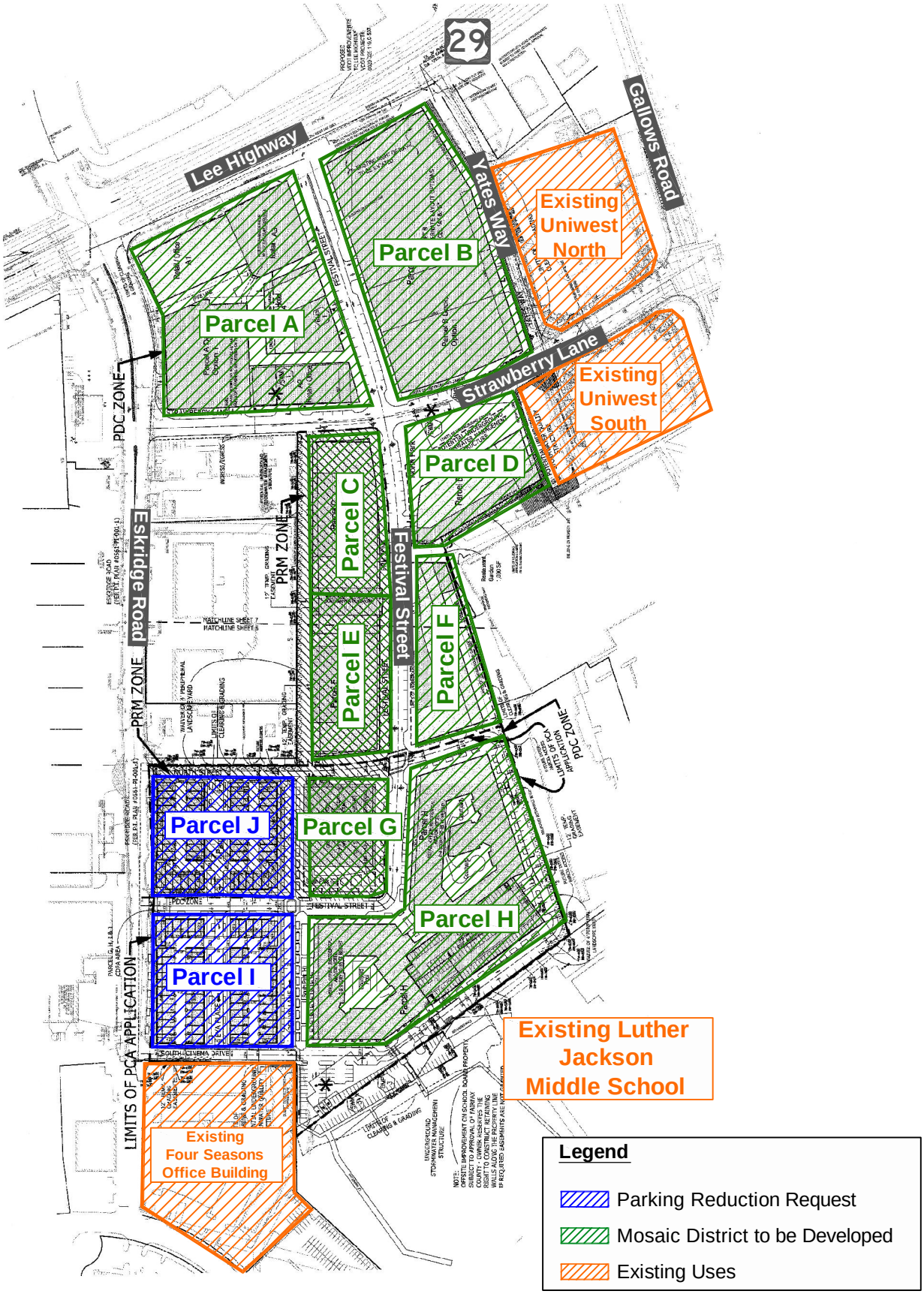

Figure 2
Overall Plan Reduction

North

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JFC

Mosaic District – Parcels I & J
Fairfax County, Virginia

Wells + Associates, Inc.

2007. As a result of the Board's actions, the subject site was split zoned: PDC (Planned Development Commercial) District and PRM (Planned Residential Mixed-Use) District. The development parcels comprising the PDC district are identified on the Conceptual/Final Development Plan (CDP/FDP) as Parcels A, B, D, F, H and I. Parcels C, E, G, and J comprise the PRM district. Additionally, the entire site is located within the Highway Corridor (HC) Overlay District. Recently, the Applicant filed a Proffer Condition Amendment (PCA 2005-PR-041) to modify the land use options associated with the development of Parcels A and D (Phase I) that was subsequently approved by the Board of Supervisors on February 8, 2011. This Board approval included a 24% parking reduction related to non-residential uses on Parcels A, B, and D. In order to further modify the plans for Mosaic District Parcels F, G, H, I, and J, the Applicant filed an additional PCA application (PCA 2005-PR-041-2) to allow townhomes on Parcels I & J.

This parking reduction assessment evaluates a plan for the following uses on Parcels I & J:

- 112 single-family attached (townhome) dwelling units

A 112 townhome development would require 303 parking spaces pursuant to the Fairfax County Zoning Ordinance. The Applicant is requesting a reduction from the number of parking spaces that would be required by a strict application of the Fairfax County Zoning Ordinance. Specifically, a residential **parking reduction of 28.7% (or 87 fewer parking spaces)** for a total of 216 parking spaces to serve the new residential uses is requested.

The reduction request is primarily based on the proximity to mass transit, trends in auto ownership, the target market for this type of housing, the availability nearby undesignated parking spaces throughout the Mosaic District, a national trend of increased non-auto use, and a planned Transportation Demand Management (TDM) program for the property

Sources of data for this analysis include, but are not limited to, the files and library of Wells + Associates, EYA, Edens&Avant, plans prepared by VIKA Engineering, the Institute of Transportation Engineers (ITE), Urban Land Institute's (ULI) *Shared Parking* 2nd Edition, and Fairfax County.

Background

The proposed plan for Parcels I & J reflects a total of 112 residential townhomes. A reduced copy of the overall plan is provided as Figure 2. A full size copy of the overall plan is also provided for staff's convenience as Attachment I.

The townhomes will consist of three (3) housing types, ranging in width from 16 feet to 19 feet. As summarized on Table 1, the majority of these units will include a garage for parking two (2),

Table 1
Mosaic District Parcels I & J
Development Summary [1]

Unit Type/Size	Number of Units	Garage Spaces	Total Designated Parking Spaces Provided
Type "A1" with 1 car only	20	1	20
Type "A2"	40	2	80
Type "B"	48	2	96
Type "C"	4	2	8
Totals	**112**		**204**

Notes: (1) Information provided by EYA.

or in some cases, one (1) vehicle. The owner and developer of the subject townhome property, EYA, will market and sell each townhome as to only assign the included townhome garage space(s) for that unit owner's designated parking space(s). That is a townhome with a two (2) car garage will only have its two (2) townhome garage parking spaces designated to that townhome. The one (1) car garage townhome will only have its one (1) townhome garage parking space designated to that townhome. All the parking information associated to these conditions will be included to every prospective townhome owner at the time of sale and will carry with the life of the property. In addition to the designated parking spaces within each townhome, the townhome units will have 12 on-site curb parking spaces designated exclusive for townhome use along EYA Street.

The townhome portion of the property is located within one (1) mile of the Dunn Loring Metrorail station. The balance of the Mosaic District development will consist of several parcels each containing a mix of retail, office, restaurant, cinema, and hotel uses. The majority of parking for this portion of the project (retail and related uses) is provided through unrestricted curbside and parking structures.

PARKING REDUCTION REQUEST

Fairfax County Parking Requirements

Article 11 of the Fairfax County Zoning Ordinance establishes parking requirements for various land uses by providing parking rates per unit of land use (i.e., per residential dwelling unit, per 1,000 GSF of retail uses, etc.). According to the Ordinance, all required parking spaces shall be located on the same lot as the structure or uses to which they are accessory or on a lot contiguous thereto which has the same zoning classification, and is either under the same ownership, or is subject to arrangements satisfactory to the Director that will ensure the permanent availability of such parking spaces. A copy of the relevant Ordinance text is provided herein as Attachment II.

Article 11, Section 11-103 of the Ordinance outlines the parking requirements for residential uses as follows:

> Dwelling, Single Family Attached– "Two and seven-tenths (2.7) spaces per unit, provided, however, that only one (1) such space must have convenient access to the street"

As stated above and reflected on Table 2, based on a strict application of the Zoning Ordinance, 303 parking spaces would be required to accommodate the parking demand associated with the proposed 112 townhomes at total build out.

Requested Parking Reduction

For purposes of this analysis and generally consistent with recent County initiatives in transit areas, parking for the residential units is requested to be reduced to an effective baseline rate of 1.928 parking spaces per unit or 216 total parking spaces for 112 townhomes. Based on the above, the Applicant is requesting a **28.7% reduction** (or 87 fewer parking spaces) of the number of parking spaces that would be required by a strict application of the Ordinance.

Table 2
Mosaic District Parcels I & J
Parking Requirement Summary

Land Use	Amount	Units [1]	Code Requirement [2]	**Parking Required**
Parking Required by Code				
Single-Family Attached	112	DU	"Two and seven-tenths (2.7) spaces per unit"	**303**
Proposed Parking Provided				
On-Site Parking				
Townhome Garage Parking Spaces				204
EYA Street				12
Subtotal				**216**
Total Parking Provided				**216**
Difference (Provided minus Code)				**(87)**
Percent Difference (% Parking Reduction)				**-28.7%**
Effective parking Ratio (spaces per unit)				**1.928**

Note(s):
(1) DU = Residential Dwelling Unit
(2) Fairfax County Code based on the Fairfax County Zoning Ordinance (Article 11).

Proposed Parking Supply

The parking supply would be provided through a combination of townhome garage parking spaces within the townhome units (204 parking spaces) and on-site curb parking spaces along EYA Street (12 spaces), as shown on Figure 3. This results in a total of 216 parking spaces, or an effective parking ratio of 1.928 parking spaces per dwelling unit. The parking totals are summarized on Table 2.

Additional Unrestricted Nearby Parking Spaces

In addition to the 216 parking spaces designated for the townhome use, the context of the entire Mosaic District (Merrifield Town Center) is to provide a variety of unrestricted parking garage and on-street parking spaces throughout the project not designated to any particular use. As shown on Figure 3, along the townhome project's eastern property line would be 20 on-street parking spaces on Penny Lane (formerly Park Street) and seven (7) on-street parking spaces on the portion of District Avenue (formerly Festivial Street) bisecting the subject townhome project. These 27 immediately adjacent on-street parking spaces are among over 200 surface parking spaces (on-street and surface lot) that would not be restricted to any specific use and be available for townhome visitors as well as other uses within the entire Mosaic District project.

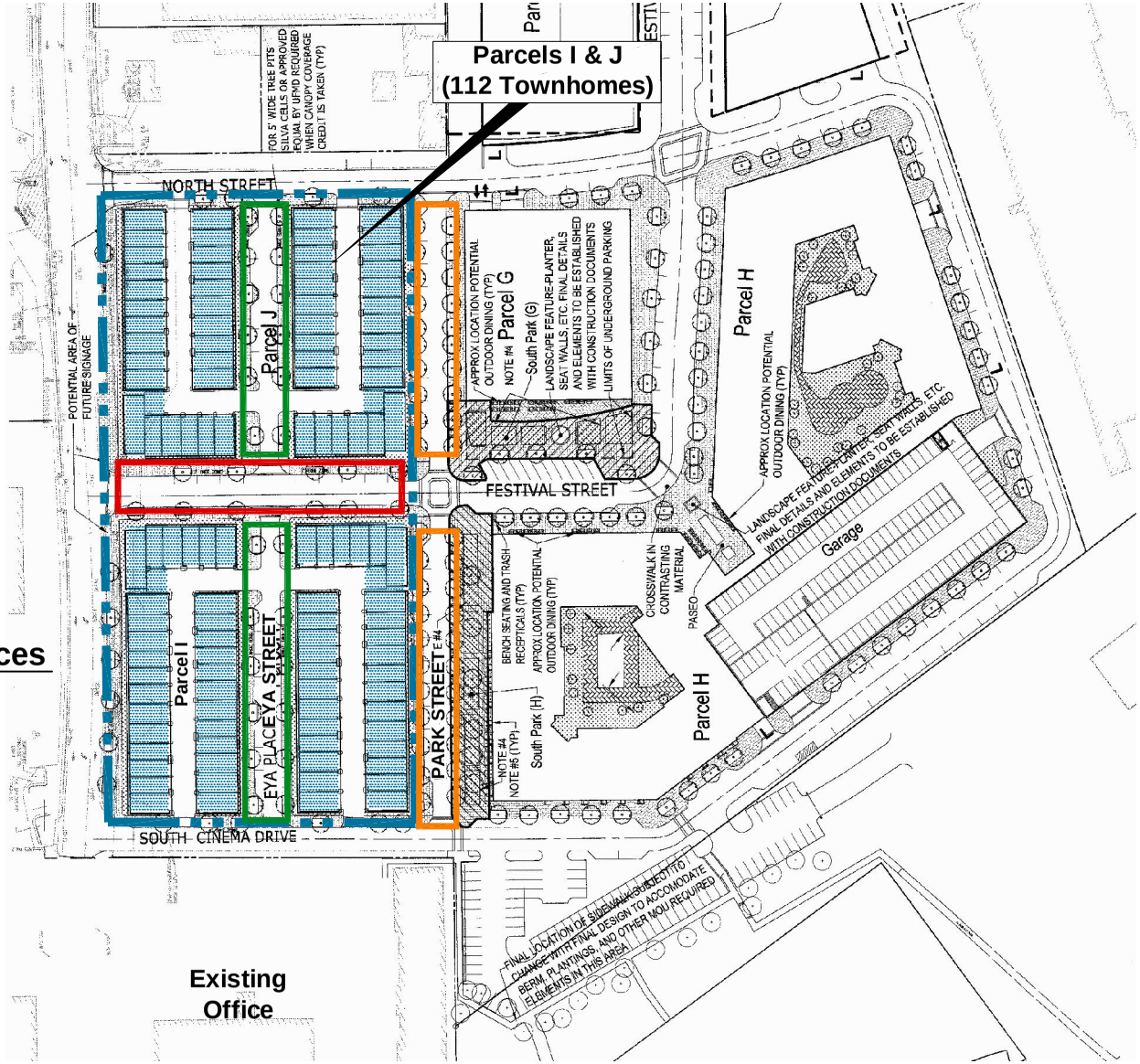
Townhome Parking Supply Locations

Townhome Garage	204 Spaces
EYA Street	12 Spaces
Total Site Parking	216 Spaces

Immediately Adjacent Off-Site Parking Spaces

Park Street (Penny Lane)	20 Spaces*
Festival Street (District Avenue)	7 Spaces*
Total Adjacent Off-Site Parking	27 Spaces

* Not restricted to any particular use.



*Plans provided by VIKA, INC.

Figure 3
Parking Supply Locations

North

Census Tract Information

A sample of census tract information for 2010 was obtained for areas located approximately one (1)-mile from the Dunn Loring-Merrifield and Vienna/Fairfax-GMU metrorail stations were evaluated to identify the average vehicles per household.

The results shown on Tables 3 (Dunn Loring-Merrifield) and Table 4 (Vienna/Fairfax-GMU) indicate that the average vehicles per household rate ranged from 1.77 vehicles per household (Dunn Loring-Merrifield) to 1.91 vehicles per household (Vienna/Fairfax-GMU) within the sample census tracts. This information is contained in Attachment III.

The census data results suggest that a parking ratio of approximately 1.928 parking spaces per unit would be adequate to serve the resident parking needs within the Mosaic District for Parcels I & J given their distance from the Dunn Loring-Merrifield metrorail station and access to transit.

Transportation Demand Management (TDM)

Overview. In cases where an applicant has proffered a TDM program, The Fairfax County Zoning Ordinance provides for a reduction in required off-street parking, as outlined in Article 11, Section 11-102.26 (see Attachment IV). As stated:

> "In conjunction with the approval of a proffer to establish a transportation demand management (TDM) program, or if a development is subject to an approved proffer for the establishment of a TDM program, the Board may, subject to conditions it deems appropriate, reduce the number of off-street parking spaces otherwise required by the strict application of the provisions of this Part when the applicant has demonstrated to the Board's satisfaction that, due to the proffered TDM program, the parking spaces proposed to be eliminated for a site are unnecessary and such reduction in parking spaces will not adversely affect the site or the adjacent area. In no event shall the reduction in the number of required parking spaces exceed the projected reduction in parking demand specified by the proffered TDM program.
>
> For the purposes of this provision, a proffered TDM program shall include: a projected reduction in parking demand expressed as a percentage of overall parking demand and the basis for such projection; the TDM program actions to be taken by the applicant to reduce the parking demand; a requirement by the applicant to periodically monitor and report to the County as to whether the projected reductions are being achieved; and a commitment and plan whereby the applicant shall provide additional parking spaces in an amount equivalent to

Table 3
Mosaic District Parcels I & J
Year 2010 Census Auto-Ownership Summary of Census Blocks within Approximately 1-mile of Dunn Loring-Merrifield Metrorail Station **(1)**

Census Tract	4402	4501	4616		4617	4714	Total
Block Group	1	1	3	4	3	2	
Vehicles Per Household:	**1.2**	**1.5**	**1.5**	**2.1**	**2.3**	**2.0**	**1.77**

Notes:

(1) Data Set: Census 2010 Data

Table 4
Mosaic District Parcels I & J
Year 2010 Census Auto-Ownership Summary of Census Blocks within Approximately 1-mile of Vienna/Fairfax-GMU Metrorail Station **(1)**

Census Tract	4615		4616		4617		4619	Total
Block Group	3	4	1	2	1	2	2	
Vehicles Per Household:	1.9	1.9	2.0	2.7	1.5	1.9	1.5	**1.91**

Notes:

(1) Data Set: Census 2010 Data

the reduction should the TDM program not result in the projected reduction in parking demand."

Transportation Demand Management Program (TDM). As part of the approvals for the Mosaic District Development (RZ 2005-PR-041) a comprehensive TDM program was proffered by the Applicant. The proffered TDM program would, among other things, reduce residential site-generated vehicle trips by a minimum of 7% (TDM Phase I) with the ultimate goal of reducing residential trips by 30% at build out. A copy of the Applicant's TDM proffer is provided in Attachment IV.

It is recognized that several of these elements apply to the residential portions of the Mosaic District property. However, there are significant elements of the TDM plan that may specifically relate to the residential townhomes, including:

1. Shuttle service provided to the Dunn Loring-Merrifield metrorail station. The shuttle would run on typical weekdays during the AM and PM peak periods and potentially on Saturday.

2. A targeted marketing program for residential sales/leases that encourages and attracts TDM-oriented people such as one and no-car individuals and families. Targeted marketing will also encourage persons to live where they work.

3. A car sharing program. Townhome residents would have access to the car sharing program utilized by the multi-family portion of the property.

4. A parking management plan. Parking within the property will be managed within the streets and parking structures. It is also noted that the homeowners association that will be established for the townhomes will have strict rules regarding auto ownership and parking.

These elements are likely to reduce the number of households within the townhome area that own multiple vehicles.

Urban Land Institute Data

The Urban Land Institute (ULI) *Shared Parking*, Second Edition publication suggests that a parking ratio of 0.15 parking spaces per dwelling unit be provided for residential visitors. Relevant data is provided in Attachment V. Based on the proposed 112 townhomes, this would suggest that 17 parking spaces should serve the townhome visitors. The subject parking reduction would reduce the number of designated visitor parking spaces from 17 to 12 based on the immediate proximity of unrestricted parking spaces serving the Mosaic District.

Conclusions

Based on the documentation provided herein, the following can be concluded:

1. Under a strict application of the Zoning Ordinance, 303 parking spaces would be required to accommodate the proposed 112 residential townhome dwelling units.

2. The Applicant is seeking a **parking reduction of 28.7% (87 fewer parking spaces)** for a total minimum of 216 parking spaces to serve the proposed new residential townhome uses. This equates to a requested parking ratio of 1.928 parking spaces per residential townhome.

3. The location of the site in proximity to the Dunn Loring-Merrifield metrorail station (within 1 mile) and the planned design of the site as a mixed-use, transit related project will serve to reduce parking demand and attract residents who will be inclined to choose non-auto modes of travel through a comprehensive TDM plan.

4. At the time of sale and running with the life of the unit, each townhome would only be designated the townhome garage space(s) included within that unit.

5. Census tract data from 2010 suggests that a parking ratio of approximately 1.928 parking spaces per unit would be adequate to serve resident parking needs within the Mosaic District Parcels I & J given their distance from the Dunn Loring-Merrifield metrorail station and access to transit.

6. ULI suggests a parking ratio of 0.15 parking spaces per dwelling unit be provided for residential visitors. Based on the proposed non-restrictive parking supply throughout the Mosaic District, residential visitors would be adequately accommodated through combination of on-site and off-site parking supplies. This includes the 12 on-site curb parking spaces along EYA Street exclusive for townhome use and the over 200 surface parking spaces (on-street and surface lot) throughout Mosaic District that would not be restricted to any specific use. Of the approximately 200 parking spaces, 27 on-street parking spaces would be immediately adjacent to the townhome project.

Board Agenda Item
March 20, 2012

ACTION - 6

Approval of Revisions to Chapters 2, 4, 5, 7, 10, and 16 of the Personnel Regulations Updating Terminology, Aligning Regulations with FOCUS System Requirements and Federal Laws Prohibiting Discrimination and Incorporating Administrative Changes

ISSUE:
Board approval of revisions to Chapters 2, 4, 5, 7, 10, and 16 of the Personnel Regulations.

RECOMMENDATION:
The County Executive recommends that the Board approve the proposed revisions to Chapters 2, 4, 5, 7, 10, and 16 of the Personnel Regulations. The Board Personnel and Reorganization Committee have reviewed these revisions.

TIMING:
Routine.

BACKGROUND:
Revisions in chapters 2, 4, 7, and 10 incorporate changes in advance of FOCUS implementation. Additional FOCUS-related changes will be brought forward during the coming months, as additional system modules are developed and finalized. Aligning policies and procedures with best practices and related SAP system requirements supports the FOCUS project philosophy.

Revisions in chapters 5, 7, and 16 ensure language aligns with federal laws prohibiting discrimination against veterans and disabled veterans.

Additional revisions are administrative in nature and are designed to promote consistent understanding and interpretation of county regulations.

The following list summarizes the proposed changes, by chapter:

Chapter 2 – *Definitions*
The following definitions were revised or added in advance of FOCUS, in order to introduce new concepts and align policy language with FOCUS terminology:

- FLSA eligible and FLSA exempt
- Full time position and full time employee
- Merit employee
- Part-time position and part-time employee
- Positive time reporting and negative time reporting
- Scheduled hours.

The definition of immediate family was revised and the definition of extended family added. These definitions, as they pertain to leave policy, promote consistency with bereavement and sick leave use, and leave transfer actions. (Attachment 1).

Chapter 4 – *Pay Plan, Hours of Work and Overtime*
Revisions bring promotional pay increase percentage bands for public safety promotions into line with non-public safety promotions of three grades or more, and establish positive and negative time and leave reporting as the methods to be used with FOCUS. (Attachment 2).

Chapter 5 – *Recruitment and Examination*
Revisions add veteran's status and disabled veteran's status as the basis for anti-discrimination protection, aligning with federal law. (Attachment 3).

Chapter 7 – *Certification and Appointment*
Revisions reflect the annual and sick leave accrual methods to be implemented with FOCUS. Additionally, applicant rights of appeal protections were expanded to include disabled veteran's status, aligning with federal law. (Attachment 4).

Chapter 10 – *Leave*
Revisions in this chapter promote consistent application of rules governing bereavement and sick leave use, and leave transfer actions; align county policies with FOCUS requirements; and provide administrative clarifications.
(Attachment 5).

Chapter 16 – *Reports and Records*
Revisions align antidiscrimination language in the Personnel Regulations with federal law, and prohibit employees from using discriminatory or disparaging language.
(Attachment 6).

The Board of Supervisors' Personnel and Reorganization Committee reviewed and supported these changes. In accordance with the Merit System Ordinance, the proposed revisions were forwarded to the Civil Service Commission for public hearing. The public hearing was held on Ferrari 27, 2012 and the Commission's comments are included as Attachment 7.

FISCAL IMPACT:
There is minimal fiscal impact associated with the revision to the public safety promotional pay calculation; the cost will be absorbed within public safety agencies' budgets.

ENCLOSED DOCUMENTS:
Attachment 1: Proposed revisions to Chapter 2 of the Personnel Regulations
Attachment 2: Proposed revisions to Chapter 4 of the Personnel Regulations
Attachment 3: Proposed revisions to Chapter 5 of the Personnel Regulations
Attachment 4: Proposed revisions to Chapter 7 of the Personnel Regulations
Attachment 5: Proposed revisions to Chapter 10 of the Personnel Regulations
Attachment 6: Proposed revisions to Chapter 16 of the Personnel Regulations
Attachment 7: Memorandum from the Civil Service Commission

STAFF:
Susan Woodruff, Director, Department of Human Resources
Edward E. Rose, Senior Assistant County Attorney, Office of the County Attorney

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CHAPTER 2

Definitions

Allocation

The assignment of a position to its appropriate class in relation to duties performed.

Appeal

An application or procedure for review of an alleged grievance submitted or instituted by an employee to the Civil Service Commission or to other higher authority.

Appointing Authority

The officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make appointments. The appointing authority is generally responsible for personnel administration within a given department. As used in these regulations, the term "appointing authority" is synonymous with the term "department head."

Appointment

The offer to and acceptance by a person of a position.

Assembled Examination

An examination for which applicants are required to appear at a specific place for the purpose of taking a test.

Break in Service

Any separation from the service of Fairfax County whether by resignation, lay-off, dismissal, unsatisfactory service, disability, retirement, or absence without leave of three days or more when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a "break in service."

Business Day

Calendar days exclusive of Saturdays, Sundays, and legal holidays.

Class

A group of positions, which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.

Class Series

A number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series and each is usually given a designation either by Roman numerals, beginning with the lowest level as I, next level II, or by rank adjectives such as the junior, intermediate or senior level, etc.

Class Specification

A written description of a class consisting of a class title, a general statement of the level of work, a statement of the distinguishing features of work, some examples of work, and the minimum qualifications for the class.

Classification

The grouping of positions in regard to: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay.

Classification Review or Reclassification Review

An evaluation of the duties and responsibilities of a position performed by the Department of Human Resources to determine the appropriateness of the present class. Appropriateness will be determined on the basis of: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay. The review will result in the position retaining its present class assignment; or being assigned to an existing lower class, or being assigned to an existing higher class; or being assigned to a new class created by amendment to the Classification and Compensation Plans.

Classification Plan

The official or approved system of grouping positions into appropriate classes, consisting of three parts: (1) a schematic index to the class specifications; (2) the class specifications; and (3) rules for administering the classification plan.

Compensation

The standard rates of pay, which have been established for the respective classes of work, as set forth in the compensation plan.

Compensation Plan

The official schedule of pay approved by the Board of Supervisors assigning one or more rates of pay to each pay grade.

Compensatory Leave

Time off in lieu of monetary payment for overtime worked.

Compensatory Time Eligible

Employees in pay grades S-26, P/O/C-27, F-31 or above and L-02 or above, excluding any classes designated as exceptions in a procedural memorandum issued by the Human Resources Director.

Competitive Promotion

A promotion based on a competitive examination with appointment to the higher-level position restricted to a specific number of persons receiving the highest ratings.

Competitive Service

All officers and positions in the service of Fairfax County as defined in the Merit System Ordinance.

Continuous Service

Employment without interruption, including merit service with the Fairfax County School System, except for absences on approved leave or absences to serve in the Armed Forces of the United States, or absences of less than one calendar year when followed by reemployment or reinstatement. Service prior to normal or early retirement from a County retirement system shall not be counted.

Deferred Retirement Option Plan (DROP)

An option in lieu of immediate retirement in which an employee remains employed by his/her department, but no longer contributes to his/her respective retirement system and must retire within 3 years of election to DROP. DROP participants retain the rights and privileges of merit employees.

Definition of Duties

The work requirements for each position in terms of the importance, difficulty, and extent of supervision and responsibility attaching thereto.

Demotion

Assignment of an employee from one class to another, which has a lower maximum rate of pay.

Department

An administrative branch including a line of work and a group of employees under the immediate charge of a chief executive officer or officers of a department, institution, court, board, or commission of the County government, which latter officer or officers shall be known as the department head.

Dismissal

Separation from County employment for cause.

Department Head

An employee appointed by the Board of Supervisors to oversee, direct or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in these regulations, the term "department head" is synonymous with the term "appointing authority."

Deputy

One or more individuals authorized to act in specific functional areas for the department head.

Eligible

A person who has successfully met required qualifications for a particular class.

Eligible List

The ranking of eligibles by class in order of score earned.

Employee

An individual who is legally employed by the County and is compensated through the County payroll for his services. Individuals or groups compensated on a fee basis are not included.

Examination

The process of testing, evaluating or investigating the fitness and qualifications of applicants.

Exempt Service

Those positions not included in the competitive service as defined in the Merit System Ordinance.

Extended Family Including Household Member

Includes employee's spouse, son, daughter, parents, parent in-laws, siblings, grandparents, grandchildren, aunt, uncle, niece, nephew, employee's respective in-laws, first cousin, or children the employee has legal guardianship or is designated as primary caregiver for and any person who resides in the employee's home .~~whose close association with the employee is equivalent of a family relationship~~.

Fire Protection Personnel

24-hour shift employees in the Fire and Rescue Department who perform suppression and rescue duties as defined in the Fair Labor Standards Act (29 CFR Sec. 553.3).

Fair Labor Standards Act (FLSA)

Legislation originally enacted by Congress in 1938, which establishes requirements with respect to minimum wage, overtime, compensation and record keeping.

FLSA Eligible (FLSA Non-exempt)

An employee who holds a position covered by the minimum wage, mandatory overtime, or recordkeeping provisions of the FLSA. FLSA Eligible employees must be compensated with overtime pay or compensatory time for all hours worked over the FLSA threshold for overtime, as outlined in the definition of overtime. FLSA Eligible e~~E~~mployees are in pay grades S-21, P-23, O/C-21, F-22 and below. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

FLSA Exempt

An employee who holds a position that is not covered by the mandatory overtime provisions of the Fair Labor Standards Act.

Full-Time Employee

Any employee who is regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel regularly scheduled to work at least 2, 912 hours in 12 consecutive months.

Full-Time Position

Any position which is authorized to be filled for at least 2,080 hours in 12 consecutive months or fire protection personnel position authorized for at least 2,912 hours in 12 consecutive months.

Hourly Rate of Pay

The hourly rate of pay is shown on the County pay plans for the minimum, midpoint, and maximum of each pay range. Public safety pay plans shall include such intermediate rates as deemed appropriate. Hourly rates are carried out to four places after the decimal. The hourly rate is derived by dividing annual salary by 2,080, which is the number of scheduled hours for a full time employee. The hourly rate for fire protection personnel assigned to a 24-hour shift is derived by dividing the annual salary by 2,912, which is the number of scheduled hours for a full time fire protection employee.

Immediate Family Including Household Member

Includes employee's spouse, ~~wife, husband,~~ son, daughter, ~~,~~ parents, parents-in-law~~mother, father~~, siblings, ~~,~~ grandparents, ~~brother or sister of employee~~, children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home ~~whose close association with the employee is the equivalent of a family relationship.~~ ~~and other close relatives.~~

Incumbent

An employee occupying a position in the County service.

Law Enforcement Personnel

Sworn employees of the Police Department (including animal control officers), Fire and Rescue Department, and Office of the Sheriff who are empowered to enforce laws, have the power of arrest and have undergone (or will be undergoing) on-the-job training or similar instruction as defined in the Fair Labor Standards Act (29 CFR Sec. 553.4). The term also includes security personnel in correctional institutions.

Lay-Off

Separation of an employee from a position to which he was legally certified and appointed as a result of the abolition of a position, lack of work or lack of funds.

Longevity Pay Increment

An increase in compensation established in the compensation plan as a reward for long and faithful service for public safety employees.

Merit Employee

Any employee in the competitive service, as defined in the Merit System Ordinance.

Merit System

The system of personnel administration applicable to the competitive service. It includes the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive, or Human Resources Director.

Minimum Wage

The minimum hourly wage to be paid to employees as designated by the United States Department of Labor.

Multi Rater Option

The use of feedback from persons in addition to the immediate supervisor as part of the performance review process.

Negative Time Reporting

The time and attendance reporting method for employees only required to report exceptions to scheduled hours.

Open Examination

An examination open to the public and not limited to applicants in County service.

Overtime (FLSA)

Time worked or on paid leave by an employee (excluding employees in law enforcement and fire protection as defined herein) in excess of 40 hours during his/her seven consecutive days work period. Overtime for law enforcement personnel shall be time worked or on paid leave in excess of 86 hours (82 hours for sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40-hour week) during his/her 14 consecutive day work period. Overtime for fire protection personnel shall be time worked or on paid leave in excess of 212 hours during his/her 28 consecutive day work period.
Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime stated above.

Overtime Pay

Compensation paid to an employee for overtime work performed in accordance with these rules. The rate of pay for overtime compensation will be either 1 times the hourly rate or 1 and 1/2 times the regular rate of pay as prescribed in Section 4.15 of these rules.

Part-Time Employee

An employee ~~individual~~ who is not regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel regularly scheduled to work at least 2, 912 hours in 12 consecutive months.~~does not meet the definition of full time employeeis assigned to a work day of less than eight hours or less than forty hours a week~~.

Part-Time Position

Any position, which does not meet the definition of ~~criteria set forth for~~ full-time position~~s in the Merit System Ordinance and these regulations~~.

Pay Grade

A combination of letter and number symbol indicating the pay range on a county pay schedule assigned to one or more classes in the Compensation Plan.

Pay Grade Reallocation Review

An evaluation of a class performed by the Department of Human Resources to determine the appropriateness of the present pay grade. The review will result in the class retaining its present pay grade assignment; or being assigned a higher or lower pay grade requiring amendment to the Compensation Plan. Such a review may include, but is not limited to pay factors including prevailing area levels of pay, internal evaluation of the relative worth of the class and economic and related fiscal concerns.

Pay Period

The 14 consecutive calendar day period utilized for the calculation of paychecks and the crediting of leave earned.

Pay Range

Rates of pay assigned to a pay grade on a County pay schedule in the Compensation Plan. For non-public safety employee classes, a pay range shall consist of the minimum and maximum rates of pay and the mid-point of the range. Pay ranges assigned to grades allocated to classes of public safety employees shall consist of the minimum and maximum rates of pay as well as intermediate steps.

Pay Rate

A specific dollar amount expressed as an annual rate, a bi-weekly rate, or an hourly rate, as shown in a County Pay Plan.

Pay Status

Any period in which an employee is actually working or using paid leave.

Performance Pay Bonus

A lump sum payment made to an employee who is earning the maximum salary in his/ her

pay grade. A department head or designee may grant an employee who is earning the maximum salary in his/her pay grade following his or her annual performance review, a bonus of up to 5 % of his/her salary if he/she meets or exceeds the performance requirements set for the award of such bonuses. The award of such a bonus does not change the employee's salary.

Performance Pay Increase

An increase in compensation, which may be granted to an employee by his/her department head or designee for performance that meets the requirements specified for such pay increases.

Performance Pay Increase Date

The date an employee's pay increase or bonus is effective.

Position

Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

Positive Time Reporting

The time and attendance reporting method for employees required to report all absences and hours worked.

Primary Position

When an employee holds more than one position with the County, one of the positions is designated as the primary and the other as the secondary for the purpose of calculating pay and benefits and tracking employment history. If the two positions are equal in pay and scheduled hours, the primary position is the one the employee occupied first. Otherwise, the primary position is the position with higher pay and/or hours.

Probationary Period

The working test or trial period of employment beginning with the date of appointment to a particular class.

Promotion

Assignment of an employee from one class to another, which has a higher maximum rate of pay.

Promotional Examination

A competitive examination restricted to persons who are on regular appointment in the County classified service or to persons who are eligible to reinstatement thereto.

Public Safety Employees

For the purposes of these regulations, public safety employees include all uniformed employees in the Police Department, Fire and Rescue Department and the Office of the Sheriff. It also includes all other job classes that are included on P/O/C/F pay scale~~s~~.

Qualifications

The minimum educational, experience and personal requirements, which must be fulfilled by a person preliminary to appointment or promotion.

Reduction in Rank

Assignment of an employee from one class to another class, which has a lower maximum rate of pay. Same as demotion.

Reemployment

Reappointment of a former merit employee, who had completed the probationary period and was separated in good standing but did not retire, which is not considered a reinstatement as defined herein.

Reemployment List

A list of names of former County employees with a break in service of less than one calendar year, arranged in order of their right to reinstatement as defined in Section 2.60, or reemployment in lower classes of the same or similar series as that in which the employee was serving at the time of termination.

Regular Rate of Pay

The rate of pay to be utilized for the calculation of overtime pay in accordance with FLSA requirements. The regular rate is derived by dividing the total amount of eligible pay for the work period (including the hourly rate and shift differential) by the number of hours worked during the work period.

Reinstatement

Reappointment of a former merit employee who had completed the probationary period and was separated in good standing, but did not retire, after a break in service of less than one calendar year to the position or class formerly held.

Restoration

A return to a position in a class in which status was formerly held where there has been no break in service.

Scheduled Hours

The number of hours that an employee is scheduled to work ~~each pay period~~ on a recurring basis as reflected in the personnel record for the position occupied. Scheduled hours serve as the basis for planning and budgeting activities as well as leave calculation rules as specified in Chapter 10 of the Personnel Regulations.

Self-Assessment

The completion of a performance evaluation form by the employee to provide his/her assessment of their performance during the review period.

Separation

Leaving a position including resignation, lay-off, dismissal, unsatisfactory service, disability and death.

Straight Pay Eligible

Employees in pay grades S-22 to S-25, P-24 to P-26, O-22 to O-26, C-22 to C-26, F-25 to F-29 and L-01. Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

Suspension

An enforced leave of absence without pay for disciplinary purposes or pending investigation of charges made against an employee.

Transfer

Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of different pay ranges, between positions of the same class or between positions of different classes.

Unassembled Examination

An examination in which qualifications are evaluated on the basis of records or education and experience submitted by the applicants, supplemented by any information obtained by an investigation.

Vacancy

A position which has been newly established or which has been rendered vacant by the resignation, death or other removal of the previous incumbent.

Veteran

Any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

Workday

Days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

Workweek

The seven consecutive day period beginning at 12:00 a.m. Saturday and ending the following Friday at 11:59 p.m. during which an employee (excluding law enforcement and fire protection personnel as defined herein) is scheduled to work.

Work Period

The period during which an employee is scheduled to work. For all employees except law enforcement and fire protection personnel as defined herein, the work period shall be the work week which comprises one half of a pay period. The work period for fire protection personnel shall be a 28 consecutive calendar day period beginning at 12:00 a.m. Saturday and ending at 11:59 p.m. Friday and covering two pay periods. The work period for law enforcement personnel shall be a 14 consecutive calendar day period beginning at 12:00 a.m. Saturday, ending at 11:59 p.m. Friday, and covering one pay period.

CHAPTER 4

Pay Plan, Hours of Work and Overtime

4.1 *Pay Ranges*

-1 In preparing the pay plan, consideration shall be given to the duties and responsibilities of the various types of positions, the prevailing rates paid for comparable services in public and private employment and to experience in recruiting for such positions. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class. Pay ranges assigned to classes consisting of public safety employees shall include such intermediate rates or steps as deemed necessary.

-2 The rate of pay set forth in the plan shall include total pay in every form, except that it shall not include allowance for actual and necessary travel expense authorized and included as incident to employment. If subsistence, quarters or other maintenance is furnished to an employee, the reasonable value thereof shall be deducted from the rate of pay set forth in the plan. Exceptions to this provision must be approved by the Board of Supervisors.

-3 When, in the opinion of the department head or deputy, following these rules results in an inequity, the Human Resources Director may authorize a salary adjustment if he /she concurs in the opinion of the department head or deputy.

-4 Except as provided in these rules, performance pay increase dates shall not be affected by the adoption of the new pay plan.

4.2 *Starting Rate of Pay*

-1 The minimum rate of pay for a class shall normally be paid upon appointment.

-2 Original appointment not to exceed the midpoint rate may be made if any of the following conditions exist:

a. The qualifications of the applicant significantly exceed the requirements for the class.

b. Difficulty of recruitment requires payment of a higher rate.

-3 Original appointment above the midpoint rate requires the approval of the Human Resources Director.

-4 A former employee being reinstated, as defined in Chapter 2, will be appointed at a rate of pay equal to or greater than the rate he/she was receiving at the time of his/her separation, adjusted to reflect any cost of living or market pay adjustments pay to that pay grade since his/her separation.

4.3 *Performance Pay Increase/Bonus*

-1 Performance pay increase or bonuses may be granted to those employees who meet the requirements specified for such increases or bonuses. Employees considered not qualified for performance pay increase shall be handled in accordance with the provisions of Chapter 12.

-2 Eligibility

A non-public safety employee receiving less than the maximum scheduled rate for his/her grade may be granted an annual percentage salary increase not to exceed the amount authorized by the Board of Supervisors. An employee receiving the maximum scheduled rate for his/her grade may be granted an annual percentage bonus not to exceed the amount authorized by the Board of Supervisors. In those cases where receipt of a performance pay increase would move an employee's salary beyond the maximum rate of pay for their pay grade, the employee's salary will be moved to the maximum rate of pay and he/she will receive the remainder of the increase as a bonus, assuming the rating would otherwise qualify for a bonus and provided the amount of the bonus does not exceed the maximum bonus amount for that rating. A performance pay increase for a public safety employee advances him/her to the next step in the grade. Eligibility for performance pay increases and bonuses are subject to available funding and the following:

a. His/her work has met or exceeded the performance requirements established by his/her department head or designee to qualify for a pay increase. Public safety employees' performance must exceed the minimum performance standards to qualify for a performance pay increase. Effective August 1, 1990 employees who enlist, or are inducted into military service, or who are members of a reserve component of the armed forces of the United States who are ordered to active duty and return to County employment; upon their release from active duty and whose service is other than dishonorable shall be deemed to have satisfied this requirement for the period they are on active duty. The total length of active military service may not exceed five years, unless the period beyond five years, up to one additional year, is at the request and for the convenience of the federal government.

b. A performance review period is 12 months. The only exception is for public safety employees who serve 2 years in step 8 before being eligible to move to step 9.

Notwithstanding the merit review periods listed above, effective July 13, 1991, the beginning of the first full pay period in FY 1992, all employees who have merit increment dates shall have their merit increment date extended by one year.

Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1991, which falls on July 13, 1991, would have a new increment date of the first day of payroll number 15 in 1992. An employee who had a merit increment date of the first day of payroll number 15 in 1992, which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994.

Notwithstanding the merit review periods listed above, effective July 11, 1992, the beginning of the first full pay period in FY 1993, all employees who have merit increment dates shall have their merit increment date extended by one year. Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1992 which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993 which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994 which falls on July 9, 1994. An employee who had a merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994, would have a new merit increment date of the first day of payroll number 15 in 1995 which falls on July 8, 1995.

-3 Each employee shall have a performance pay increase date established when he/she is initially appointed to a merit position. The performance pay increase date corresponds to the beginning of a pay period. Partial pay periods do not count towards the performance pay increase date. Performance pay increase dates consist of the payroll number and year the increase is effective.

-4 Creditable service in the completion of performance review periods includes:

a. Continuous employment in the competitive service not including overtime.

b. Period of involuntary separation initiated by the department head followed by reinstatement after appeal by the Civil Service Commission under the grievance procedure, for which the Commission determines that the

employee is entitled to back pay. In the event that the period that the Commission determines that the employee is entitled to back pay is less than the entire period of separation, the employee's performance pay increase date shall be adjusted accordingly.

c. Honorable service with the armed forces by employees who enlist or are inducted into military service or who are members of a reserve component of the United States who are ordered to active duty and who return to County employment upon their release from active duty. The total length of active military service, which can be credited, may not exceed four years, unless the period beyond four years, up to one additional year, is at the request and for the convenience of the Federal Government.

4.4 *Outstanding Performance Award*

-1 An employee who has completed their initial probationary period and performs the duties and responsibilities of his/her position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding performance award.

-2 An outstanding performance award may be recommended by a department head or designee. Such outstanding performance award recommendation shall be in writing, shall state the reason for such recommendation and shall be submitted through the Deputy County Executive to the Human Resources Director, as appropriate, for implementation.

-3 Outstanding performance awards may be granted in any dollar amount not to exceed $1,000 the amount authorized by the Board of Supervisors.

4.5 *Longevity Pay Increment for Public Safety Employees*

Public Safety employees shall receive a longevity increment increase after 15 years of service and reaching top step in grade. A second longevity increase is awarded after 20 years of service.

4.6 *Within-Grade Adjustment*

When in the opinion of the County Executive, it is in the best interest of the County to do so, he/she may authorize a salary adjustment to encourage retention of highly qualified County employees and address pay inequities not to exceed the maximum rate of pay assigned to the employee's class. The employee's performance pay increase date shall not change.

4.7 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Except Public Safety Employees*

If an employee other than a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

-1 When a position is filled by promotion, the appointee shall receive a salary increase equal to 10% for one and two-grade promotions and 15% for promotions of three or more grades not to exceed the maximum rate of pay assigned to the new job class or the minimum rate of pay for the new job class whichever is greater. In addition, the appointee will receive a pro-rated pay adjustment for time served in the current review period. Such pay adjustment will be determined using the average pay for performance percentage increased included in the adopted budget for that fiscal year. That percentage increase will then be pro-rated based on the number of pay periods the employee served prior to promotion. In all promotions, the appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

-2 With the exception of disciplinary demotions or demotions during a promotional probationary period, when an employee is demoted, he/she shall be placed at the same salary in the new pay grade. If the employee's salary is greater than the maximum salary of the new pay grade he/she shall be placed at the maximum salary for the new pay grade. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

-3 When an employee is demoted for disciplinary reasons he or she shall be placed at the salary in the new grade that is 5% less than his/her current salary not to exceed the maximum salary for the pay grade. The performance pay increase date shall not change.

-4 When an employee is demoted during a promotional probationary period, the employee's former rate of pay shall be reinstated in the new lower pay grade, not to exceed the maximum salary for the pay grade. If the pre-promotion performance pay increase (PPI) falls between the date of the promotion and the date of the subsequent demotion, the promotion date shall be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.

-5 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.

-6 Upon upward reclassification of a position, the incumbent shall receive a pay increase equal to 5% of the midpoint of the salary range for the new, higher pay job class or move to the minimum of the new range, which ever is greater not to exceed the maximum rate of pay for the new pay grade. The performance pay increase date shall not change.

-7 Upon review of a job class to determine if a regrade is warranted, the incumbents in the job class may be entitled to a pay adjustment regardless of whether the job class is regraded or not. The determination of pay increase eligibility and the amount of such pay increase will be made in accordance with procedures approved by the County Executive and the Board of Supervisors. In no case shall the employee's salary be less than the minimum or greater than the maximum for the new pay range.

4.8 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Public Safety Employees*

If a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

-1 When a position is filled by promotion, except as noted elsewhere in this chapter, the appointee shall receive the greater amount of the minimum rate for the class of the new position or an amount in excess of one normal within grade increase in the pay grade of the class of the position held prior to promotion. Such increase shall not be less than 6% and if the promotion is three grades or more, the employee shall be placed in the new grade at a step closest to, but not in excess of a 15 % increase. The appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

-2 When an employee is demoted, he/she shall be placed in the pay step in the new pay grade, which represents the closest dollar amount that is less than the former pay. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

-3 When an employee is demoted to his or her former job class during a promotional probationary period, the employee's former grade and step shall be reinstated. When an employee is demoted to a job class other than that in which he/she was serving at the time of promotion, he/she shall be placed at the step in the lower grade that is closest to, but not less than the employee was making prior to promotion. If the employee's pre-promotion performance pay increase (PPI) date falls between the date of promotion and the date of the subsequent demotion, the promotion date will be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.

-4 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.

-5 Upon upward reclassification/reallocation of a position, the incumbent shall receive the greater amount of either the minimum rate for the new grade or the next higher dollar rate in the new pay grade as compared to the dollar rate in the lower grade except in the following instances:

a. Employees who have served one year or more in a two year review period and who upon reclassification/reallocation, move to a step with a one year review period, shall receive an additional step upon reclassification/ reallocation to the new grade. The employee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of the reclassification/reallocation using the performance review period for the new step.

b. Except as noted above, the performance pay increase date shall not change unless the reclassification/reallocation moves the employee to a step with a shorter review period. In such cases, the year of the performance pay increase date is reduced if the time between the effective date of the reclassification/reallocation action and the employee's performance pay increase date is more than one year.

4.9 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Police Officers and Deputy Sheriffs*

-1 A Police Officer I promoted to Police Officer II or a Deputy Sheriff I promoted to Deputy Sheriff II shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

-2 A Police Officer II or Deputy Sheriff II who is receiving a proficiency pay adjustment and is promoted to Police Sergeant or Deputy Sheriff Sergeant respectively, shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

-3 In all other cases, the normal rules affecting promotion, demotion, reallocation of positions, and transfer for public safety employees shall apply.

4.10 *Allowances Granted Police Officers*

-1 Police Officers required to wear civilian clothes while on duty shall be granted a clothing allowance while such assignment lasts.

-2 A Police Officer II who has a minimum of five (5) years of service as a sworn officer with Fairfax County and who is certified by the Chief of Police or designee

as demonstrating exemplary expertise in an authorized Police Officer II specialty, may be eligible to receive a police proficiency pay adjustment and assume the work title of "Master Police Officer".

a. A Police Officer II who is eligible for a police proficiency pay adjustment shall be reassigned to pay grade O-19 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Police Officers receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Police Officer II positions.

4.11 *Allowances Granted Deputy Sheriffs*

-1 A Deputy Sheriff II who has a minimum of five (5) years of service as a sworn Deputy Sheriff with Fairfax County and who is certified by the Sheriff or designee as demonstrating exemplary expertise in an authorized Deputy Sheriff position, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Deputy Sheriff".

a. A Deputy Sheriff who is eligible for a proficiency pay adjustment shall be reassigned to pay grade C-19 and shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

b. The number of Deputy Sheriff II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Deputy Sheriff II positions.

4.12 *Allowances Granted Uniformed Fire Employees*

-1 A Fire Technician who has a minimum of five (5) years of service as a uniformed Fire employee with Fairfax County, and who is certified by the Chief of Fire and Rescue or designee as demonstrating exemplary expertise in an authorized Fire Technician specialty, may be eligible to receive a fire proficiency pay adjustment and assume the work title of "Master Firefighter."

a. A Fire Technician who is eligible for a fire proficiency pay adjustment shall be reassigned to pay grade F-20 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Fire Technicians receiving a fire proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Fire Technician positions.

4.13 *Allowances Granted Animal Control Officers*

-1 An Animal Control Officer II who has a minimum of five (5) years of service as an Animal Control Officer with Fairfax County and who is certified by the Chief of Police or designee as demonstrating exemplary expertise in an authorized Animal Control Officer specialty, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Animal Control Officer."

a. An Animal Control Officer II who is eligible for a proficiency pay adjustment shall be reassigned to pay grade P-21 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Animal Control Officer II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Animal Control Officer II positions.

4.14 *Hours of Work*

-1 The regular work period for all full-time County employees, excluding law enforcement and fire protection personnel, shall be 40 hours worked or on paid leave (excluding meal periods) within a seven consecutive calendar day period beginning and ending as defined in Chapter 2. The schedule of hours for the workweek shall be determined by the department head or designee.

-2 The regular work period for fire protection personnel shall be 28 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 28-day work period may vary depending on shift schedules and department needs.

-3 The regular work period for law enforcement personnel shall be 14 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 14-day work period may vary depending on shift schedules and department needs.

-4 The County Executive may authorize the inclusion of the meal period as actual work for shift positions.

-5 All employees in the Merit System shall be entitled to a 15 minute rest period for each four hours of assigned work, during a duty day, as scheduled by the department head or designee. Whenever possible, the rest period shall be scheduled at the middle of each such four-hour period of work.

-6 Shift Differential Premium Pay shall be authorized for all merit employees who are scheduled to work on fixed and/or rotating shifts that start at or after 1:00 P.M. wherein the hours scheduled on a shift after 4:00 P.M. are greater than the hours scheduled prior to 4:00 P.M., excluding employees who work flex-time schedules.

If an employee whose regular shift schedule qualifies him/her for shift differential premium pay, reports to work prior to the start of their regular shift hours, he/she remains eligible for shift differential premium pay for all hours worked after 1:00 P.M. regardless of the time he/she actually begins working on that day. The hours worked before the beginning of the regular shift schedule are not eligible for shift differential.

-7 The Evening Shift shall encompass all shift schedules, which begin between the hours of 1:00 P.M. and 7:59 P.M. The premium pay rate established for the Evening Shift shall apply for all regularly scheduled hours actually worked between 1:00 P.M. and 7:59 P.M.

-8 The Night Shift shall encompass all shift schedules, which begin at 8:00 P.M. and thereafter. The premium pay rate established for the Night Shift shall apply for all regularly scheduled hours actually worked between 8:00 P.M. and 6:59 A.M.

-9 Employees assigned to 24-Hour Shift Schedules shall be paid Shift Differential Premium Pay for all regularly scheduled hours actually worked between the hours of 4:00 P.M. and 7:00 A.M. and in accordance with established payroll procedures.

-10 Employees are paid and earn leave based on data recorded in official time and attendance records. An "online" timesheet is used to document time worked and leave taken. There are two types of time and attendance reporting:

a. Employees required to use positive time reporting must record all absences and hours worked each pay period.

b. Employees required to use negative time reporting only record exceptions to their scheduled work hours. If no exceptions are entered, the employee is paid a biweekly amount based on their scheduled hours.

4.15 *Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time*

-1 Overtime.

FLSA overtime shall include all hours worked or on paid leave by an FLSA eligible employee (other than law enforcement and fire protection personnel) in excess of 40 hours in a work week.

Overtime for FLSA eligible law enforcement personnel (excluding sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40 hour week) shall include all hours worked or on paid leave in excess of 86 hours in a 14-day work period. Overtime for FLSA eligible law enforcement personnel in the Police Department and Deputy Sheriffs scheduled to work a 40 hour week shall include all hours worked or on paid leave in excess of 82 hours in a 14-day work period. Overtime for FLSA eligible fire protection personnel shall include all hours

worked or on paid leave in excess of 212 hours in a 28-day work period. Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime. Overtime shall be kept to a minimum and shall be used to relieve occasional excessive workloads or emergencies, and not to provide for constant recurring requirements. Overtime may be mandated when related to the health, welfare or safety of either the public or employees. Except in emergency situations, all overtime worked by an employee shall be approved by the employee's supervisor or designee, verbally or in writing prior to the overtime being worked. Employees shall not work in excess of authorized scheduled hours without express approval of the supervisor.

-2 Eligibility.

Employees shall earn compensatory time or be paid for overtime hours actually worked in accordance with the following provisions:

a. FLSA eligible employees excluding law enforcement and fire protection personnel as defined in Chapter 2:

(1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 40 hours during the designated seven consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the time actually worked is less than forty hours in a seven day work period. If the employee's compensatory time leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.

b. Straight pay eligible employees shall, at the discretion of the department head or designee, earn straight compensatory time or be compensated at their hourly rate of pay for all time worked in excess of their scheduled work hours.

c. Compensatory time eligible employees shall earn straight compensatory time for time worked in excess of their scheduled work hours.

d. FLSA eligible fire protection personnel:

(1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 212

hours during the 28 consecutive day work period. If requested by the employee and approved by department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 212 hours in a 28 day work period. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at the hourly rate of pay must be awarded.

All other Fire and Rescue Department employees shall be treated as described in Section 4.15 - 2a, b, or c.

e. FLSA eligible law enforcement personnel:

(1) shall be compensated at one and one-half times their regular rate of pay for all hours worked or on paid leave in excess of 86 hours (82 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) during the 14 consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 86 hours (82 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) in a 14 day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.

(3) shall be compensated at one and one-half times their hourly rate of pay for actual court time worked when such court time falls on the employee’s scheduled day off or begins more than two hours prior to the employee’s scheduled shift, regardless of the number of hours worked in a given work period.

All other public safety employees shall be treated as described in Section 4.15 - 2a, b, or c.

-3 Holiday/Emergency Administrative Leave.

Pro-rata adjustments shall be made for the holiday usage rate for shift schedules other than 40 hours per week to ensure compliance with the provisions of Chapter 10.

a. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day on which a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

b. When an employee is required to work due to an emergency, staff shortage or hours worked that are a part of the regular work week on a holiday (actual or observed), the employee shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime, if applicable.

To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

In addition, employees shall receive holiday compensation as follows:

(1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday. If the employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.

(2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

(3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

c. When a holiday falls on an employee's scheduled day off, the employee shall be compensated as follows:

(1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not

exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay. If an employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.

(2) Straight pay eligible employees shall at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay.

(3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding eight hours (4 hours for a half-day holiday).

d. When a holiday falls on an employee's scheduled work day and the employee does not work, the employee shall receive holiday pay at the employee's hourly rate of pay. Full-time merit employees (other than Fire and Rescue Department employees on the 24-hour shift schedule) who are scheduled to work more than 8 hours due to departmental operational needs (this does not include employees who elect to work a compressed work week or flex schedule), shall be granted holiday time off with pay up to the regularly scheduled hours for a full holiday (or one-half of the regularly scheduled hours for a half holiday).

e. In the event of extreme inclement weather or other emergency, wherein the general County government is closed by the County Executive and all employees are granted Emergency Administrative Leave, those employees required to perform emergency services shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime. In addition, the employee shall be compensated as follows:

(1) FLSA eligible employees shall at the employee's discretion, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive. If the employee's compensatory leave balance is 240 hours (336 hours for fire protection personnel) or greater, the employee must be paid for these hours.

(2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

(3) Compensatory time eligible employees shall be granted compensatory time for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

-4 Compensatory Time.

Compensatory time shall be earned and credited to an employee's records on the basis of actual hours worked in excess of the employee's scheduled hours. FLSA eligible employees who earn compensatory time for FLSA overtime hours worked (as defined 4.15 – 2 a(l), d(l), and e(l) shall accrue 1 1/2 hours of compensatory time for each overtime hour worked.

All other compensatory time shall be accrued on an hour for hour basis. Compensatory time off for overtime worked shall be granted upon request of the employee, when approved by the department head or designee.

a. In the event that an employee is granted compensatory time off in excess of the employee's accrued balance, the excess shall be charged against the employee's annual leave balance.

b. Compensatory time not to exceed 240 hours may be carried forward from one calendar year to the next calendar year.

c. County employees shall be awarded a terminal leave payment for any accrued compensatory time not to exceed a maximum of 240 hours (336 hours for fire protection personnel). This will be paid at the employee's current hourly rate of pay at the time of termination with the exception that FLSA eligible employees will be paid at the current regular rate or at the average regular rate for the last 3 years, whichever is greater.

d. Notwithstanding the provisions of this section or any other provision of these personnel regulations or of the procedural directives governing the exempt service, effective July 1, 1998, senior managers shall not be eligible to earn or accrue compensatory leave. For purposes of this section, “senior managers” are noted in a procedural memorandum issued by the Human Resources Director.
Senior managers shall be credited with the amount of unused compensatory leave accrued as of July 1, 1998. Subject to the provisions of these regulations and any other applicable procedural directive, they may take such compensatory leave after July 1, 1998 until such leave balances are exhausted. Senior managers may carry over no more than 240 hours of previously accrued and unused compensatory leave into the 1999 calendar year. Upon separation, senior managers shall be granted a terminal leave payment for any such accrued and unused compensatory leave paid at the senior manager’s current rate of pay, on an hourly basis, at the time of separation not to exceed a maximum of 240 hours.

-5 Call-Back Time.

Call-back time refers to situations wherein an employee is off duty and is called to return to work after departing from the work place. It does not apply to those incidents where an employee is at work or has not departed from the work site and the work period is extended.

Employees called back to work shall be credited with a minimum of four hours overtime in each separate instance, excluding travel time, regardless of the hours actually worked.

(a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for call-back hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.

(b) Straight pay eligible employees shall, at department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all call-back time.

(c) Compensatory time eligible employees on all pay scales shall earn straight compensatory time for all call-back time.

-6 Consecutive Shift Time.

Consecutive Shift time refers to situations wherein an employee has completed a full eight or more hour shift and is required to remain on duty a second consecutive shift to perform essential services during an emergency situation or to meet minimum State certification standards in the Department of Public Works and Environmental Services.

Employees required to perform 2nd consecutive shifts shall be compensated as follows:

(a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for consecutive shift hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.

(b) Straight pay eligible employees shall, at the department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all consecutive shift time.

(c) Compensatory time eligible employees shall earn straight compensatory time for all consecutive shift time.

4.16 *Outside Employment and Conflict of Interest*

-1 Employees in the competitive service shall not engage in any employment, activity or enterprise which has been or may be determined to be inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their County employment.

-2 No employee in the competitive service shall hold any other position in any other governmental jurisdiction or in private employment, when such other position may have the effect of reducing the efficiency of such employee in the competitive service.

-3 Employees in the competitive service who desire to accept outside employment in addition to their regular County positions shall inform their respective department head or designee of the nature and extent of such outside employment. The department head or designee shall thereupon determine whether or not the holding of such employment conflicts with the duties and responsibilities of said employee to the County.

-4 Violation of the rules on outside employment and conflict of interest may be grounds for dismissal.

4.17 *Application of Pay Policies to Deferred Retirement Option Plan (DROP) Participants*

Notwithstanding any provision of this chapter to the contrary, employees who are participating in the Deferred Retirement Option Plan (DROP) are considered as merit employees and the pay provisions included in this chapter continue to apply during their DROP participation.

CHAPTER 5

Recruitment and Examination

5.1 *Overview of the Process*

-1 By law, appointments to positions in the competitive service of Fairfax County must be "on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, political affiliation, disability, ~~or~~ genetic information, veterans' status, or disabled veterans' status. " ~~(Sec. 3-1-1a (3) Fairfax County Code as Amended)~~ and "on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform" ~~(Sec. 15. 2-807, Code of Virginia, Annotated).~~

-2 To accomplish this end:

a. Positions in the competitive service are advertised periodically in a manner designed to reach a broad sector of qualified potential applicants. Resumes are accepted for an individual position or specified group of positions.

b. In the case of positions for which vacancies occur with some frequency or periodically in large numbers, resumes may be accepted at intervals for specific classes rather than for specific positions and qualified applicants may be placed on eligibility lists and certified from such lists for consideration by department heads or deputies as vacancies occur;

c. Applicants are screened through a variety of processes which may include written, oral, and performance testing, and evaluation of education and experience. The best qualified are certified for only those positions advertised.

d. Applicants are selected from certification lists for further screening, which usually includes either a personal or panel interview.

e. Successful applicants are appointed and serve a one-year probation period.

-3 When an adequate number of well qualified potential applicants for a position exist within the competitive service, competition may be restricted to County employees unless doing so would create or perpetuate a serious imbalance of the work force in terms of race or sex, in which case the position will be advertised for open competition. However, when there are an adequate number of well qualified applicants for a particular position in an agency, the Human Resources Director may restrict admission to the examination for that position to current employees of the department.

-4 The Human Resources Director is responsible for all aspects of the recruitment and certification process, except those aspects delegated by him/her to department heads as authorized in these regulations; and for ensuring that all appointments to positions in the competitive service comply with the Merit System Ordinance and these regulations. Periodically, the Human Resources Director will offer training on laws, regulations and techniques pertinent to interviewing potential employees.

-5 Any applicant who believes that his/her failure to receive an appointment was the result of illegal discrimination as defined in the Merit System Ordinance has certain appeal rights defined herein.

5.2 *Announcement of Vacancies*

-1 In the interest of minimizing delay in filling vacancies, department heads or designee should inform the Human Resources Director of actual or impending vacancies as soon as this information becomes available.

a. This is accomplished by submission of an on-line personnel requisition including a job description, and a list of any special or preferred qualifications desired.

b. A vacancy may be advertised and applicants certified before the vacancy occurs, but no appointment may become effective more than three pay periods before the position is vacant unless dual encumbrance has been authorized by the County Executive or his/her designee.

-2 The announcement period for job vacancies shall be at least two weeks unless otherwise authorized by the Human Resources Director.

a. If, in the opinion of the Human Resources Director, there is an adequate pool of potential applicants and there is an urgent need to fill the position the announcement period may be reduced to one week but in no case shall the announcement period be less than five business days.

b. Except for public safety uniformed jobs the Human Resources Director may accept resumes after the closing date if the eligibility or certification list for a position has not been issued.

c. Positions for which a continuing need for applicants exists or for which recruitment is particularly difficult may be announced with an open or indefinite closing date, and applicants may be placed on an eligibility list or certified at any time after the announcement has been open for five business days.

-3 Each announcement of a vacancy shall include information on the position (e.g., number of vacancies, title, salary, duties, minimum and preferred qualifications,

screening process, closing date) so applicants have sufficient information to be able to consider whether to apply for the position.

-4 Job announcements shall be available at the Department of Human Resources, all County Governmental Centers, all Fairfax County Public Libraries, and such other locations as the Human Resources Director may direct. Vacancies also may be announced in news media of general and special circulation, to include the internet, which are likely to reach a large and varied population.

5.3 *Evaluation of Applicants*

-1 The Human Resources Director or his/her designee may investigate any applicant's statements regarding their qualifications and experience to ensure their accuracy and completeness.

-2 The content of all evaluations, including interviews, shall be based on bona fide occupational qualifications pertinent to the duties to be performed. Department heads or deputies shall ensure that all interviewers are aware of legal restrictions on the types of questions, which may be asked of applicants.

-3 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

5.4 *Disqualification of Applicants*

-1 In addition to failure to meet basic qualifications, a finding of any of the following facts may be cause for rejection of an applicant.

a. The applicant has falsely stated any material fact or has attempted to practice deception or fraud in his/her resume/application.

b. The applicant has any disqualifying condition (mental or physical); although the mere finding of such shall not be disqualifying if reasonable accommodation can be made.

c. The applicant currently is a substance abuser, except that a history of substance abuse shall not in itself disqualify a person in recovery.

d. The applicant has been found guilty of a felony, misdemeanor, or crime involving moral turpitude, or has committed disgraceful conduct, such as to render him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.

e. The applicant has a recent record of previous unsatisfactory service in County employment or elsewhere of such a nature as to demonstrate

unsuitability for employment in a position of the class for which he/she is applying.

f. The applicant has used or attempted to use, prior to, during or subsequent to the examination, fraud or pressure of any kind for the purpose of bettering his/her grade on the examination or to obtain certification to any position.

g. The applicant has received a dishonorable discharge from the Armed Forces resulting from conviction by a general court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or the County service.

h. The applicant has received a bad conduct discharge from the Armed Forces resulting from conviction by a special court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.

-2 When such finding is made, the Human Resources Director may reject the application and may cancel the eligibility of the applicant if he/she already has been certified or has attained a place on an eligible list. In the event the applicant has already received an appointment, the Human Resources Director may take appropriate action to remove him/her from the County service. The applicant shall be informed in writing of the action taken under this provision and of the reason therefore, and shall be advised of the method of appeal outlined in the following subsection.

-3 Any person whose resume is rejected by order of the Human Resources Director, whose eligibility is canceled or who is removed from any position under the provisions of this rule may make a written request to the Human Resources Director for reconsideration, giving his/her reasons therefore, within fifteen business days of the date on which he/she received notice of this action. The decision of the Human Resources Director is final, except that an employee in the competitive service who is dismissed in accordance with this section after having completed his/her initial probationary period may grieve his/her dismissal under the provisions of Chapter 17.

5.5 *Investigations and Fingerprinting*

-1 Department heads or their designees are responsible for verifying references and claimed veteran status of prospective appointees.

-2 Investigations of the backgrounds of candidates for public safety positions will be conducted by the various public safety agencies. The backgrounds of candidates for other sensitive positions may be investigated at the request of a department head or designee with the concurrence of the Human Resources Director.

-3 Selected candidates receiving a conditional offer of employment in a sensitive position will be fingerprinted and the prints forwarded to the Federal Bureau of Investigation for checking against its records. Any such candidate who refuses to be fingerprinted shall be disqualified. Candidates with a conviction or convictions on their record that are incompatible with the nature of employment in the sensitive position may be denied employment and the conditional offer of employment rescinded.

-4 All appointees will be required to present evidence of United States citizenship or, in the case of non-citizens, evidence of eligibility to work in the United States as required by law. All appointees who have claimed veteran status will be required to present evidence of the status claimed.

5.6 *Medical Examinations*

-1 The Human Resources Director shall designate classes for which a pre-employment medical examination shall be required.

-2 Candidates who fail such examinations shall be disqualified, but such failure shall not disqualify any individual from consideration for a position for which the physical qualification he/she failed to meet does not apply.

5.7 *Security and Retention of Resumes and Related Records*

-1 Resumes of successful candidates will be retained in their central personnel files. Copies may be retained by departments.

-2 Resumes of unsuccessful candidates and related records shall be retained for at least five years.

-3 Retention of records may be in paper, photographic or electronic form.

5.8 *Promotional Public Safety/Uniformed Employee Examinations*

-1 Qualifying Scores

a. In establishing qualifying scores, the Human Resources Director or his/her designee may consider the following factors: projected staffing needs, minimum standards of job performance, distribution of candidates' raw scores in a particular examination, standard deviation of test scores, test reliability, adverse impact and standard error of measurement.

b. When an exam consists of several components, such as written, performance and physical portions, a candidate may be required to attain a qualifying score in each portion of the exam.

-2 Method of Breaking Ties

a. If two or more candidates attain the same final score, the tie shall be resolved in favor of the applicant who receives the highest score in the most heavily weighted portion of the examination. If a tie still exists, scores on the remaining portions of the examination will be considered in order of their relative weight. If a tie still exists, the tie shall be resolved in favor of the applicant, who is a veteran, if it is an initial hire opportunity for the veteran. If the tie is between an applicant who is a veteran and an applicant who is a veteran with a service-connected disability rating, the tie will be resolved in favor of the latter applicant if it is an initial hire opportunity for the veteran with a service-connected disability rating.

b. For promotional examinations for uniformed public safety job classes, if the tie extends beyond the procedure noted above, the tie shall be resolved in favor of the employee having the longest period of continuous service in the class series, beginning with date of appointment to the public safety class series (police, fire, sheriff).

-3 Notice of Examination Results for Public Safety Examinations

If an examination was conducted for the purpose of establishing a continuing eligibility list, all successful candidates will be advised of the results as soon as practicable after establishment of the list. Such notice shall include the following information:

a. The position class,

b. The length of time the list will be maintained,

c. The number of persons on the list, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible, and

d. The individual's position on the list as determined by applicable sections of Chapter 6 of these Regulations, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible.

-4 Examination Reevaluations

a. For written multiple choice exams that test the candidate’s technical knowledge (such as departmental operating manuals, standard operating procedures, etc.), candidates may request a reevaluation of their examination papers with a view towards obtaining a higher score providing such request is made to the Human Resources Director within 15 business days following

written notification of the examination results. Other types of written exams (including but not limited to situational judgment tests, multiple choice in-baskets, etc.) that measure other abilities are not subject to reevaluation.

b. Reevaluation of performance-based examinations (including but not limited to practical examinations and assessment centers) shall not be allowed. However, candidates may request an explanation of their performance rating in such exams providing such request is made to the Human Resources Director within 15 business days following written notification of the examination results. The explanation shall be provided by the examining staff of the Employment Division and the Agency Test Evaluators, if any. Staff shall answer questions of the candidate, including information on how the test was graded and how scores were obtained in general. Staff shall not normally reveal individual scores on specific dimension ratings.

c. When a request for reevaluation results in a candidate obtaining a higher score so that the relative standing of the candidate on an eligible list is changed, the Human Resources Director shall review certifications made subsequent to the promulgation of the eligible list and determine whether or not the initial and incorrect score resulted in the candidate's losing certification. When, as a result of error, a certification has been lost to an eligible candidate, the Human Resources Director shall place the name of the candidate on the eligible list so that he/she benefits from the next certification. Appointments already made from such eligible lists shall not be affected by such correction.

-5 Eligible Lists

The names of applicants who meet minimum qualifications as determined by an examination, which is numerically scored, shall be placed on the appropriate eligible list in order of their total scores or grouped into categories. In the event of a tie in scores, veterans, who are applying as initial hires, shall be listed ahead of non-veterans, and veterans with a service connected disability rating shall be listed ahead of other veterans. Within each category all eligibles will be considered tied.

CHAPTER 7

Certification and Appointment

7.1 *Appointments to the Competitive Service*

-1 Merit appointment indicates that the employee has been selected for appointment in accordance with the provisions of Chapters 5 and 6 of the Regulations. Merit employees shall receive annual and sick leave and other fringe benefits.

-2 Merit positions may be filled from within or outside the merit system. Appointments from within the system may be promotions, lateral transfers or demotions.

-3 Merit employees scheduled for 20 or more hours ~~(but less than 40 hours)~~ per week, ~~also encompassing~~ including those in ~~multiple benefits-eligible~~ more than one merit position, shall have all the benefits of full-time merit employees, including:~~. Leave benefits for such employees will accrue on a prorated basis according to scheduled hours, and employees will be subject to higher premium payments for certain benefits. Specific costs are delineated in a procedural memorandum issued by the Human Resources Director.~~

A. Leave Accrual: Annual and sick leave will accrue as stated in Chapter 10 of the Fairfax County Personnel Regulations.

~~A.~~B. Benefits: Employees scheduled to work less than 31 hours per week may be subject to higher premium payments for certain benefits, in accordance with county benefits policy.

~~B.~~C. Performance Pay Increases: ~~-4 Employees holding two part-time, benefits eligible positions shall receive benefits from and accrue leave in both positions, not to exceed benefit and leave eligibility for one full-time merit position.~~ Employees holding ~~multiple~~ more than one ~~two part-time~~ merit position are ~~will be~~ eligible to receive pay increases in all ~~from both~~ positions.

7.2 *Status of Employees and Positions*

-1 Merit employees normally occupy positions in the competitive service and exempt employees normally occupy positions in the exempt service. In exceptional circumstances, however, particularly when it is urgent that a position be filled without delay, a merit employee may occupy a position in the exempt service or an exempt employee may occupy a position in the competitive service.

-2 Except as provided in 7.2-3 below, a merit employee shall not have his/her status changed to exempt while assigned to a position in the exempt service when there has been no break in service. There shall be no change in the merit employee's rights and benefits entitlement while serving in an exempt service a position. When a merit employee is appointed to an exempt service a position, the personnel action request form shall indicate in what manner it is planned to return the employee to a merit position. The rules governing temporary acting promotion or demotion shall apply. Upon return to the merit position, the employee's grade, salary and performance pay increase date shall be determined as if the exempt appointment had not occurred.

-3 A merit employee may occupy an exempt position without a change in status for no longer than ninety days. A merit employee who accepts an appointment in excess of ninety days to an exempt position loses his/her merit status, but may be reinstated to a position in the competitive service at his/her former merit grade and salary within one calendar year of the end of the exempt appointment.

7.3 *Certification of Applicants*

-1 Upon receipt of a personnel requisition, the Human Resources Director or the Director's designee shall promptly announce the vacancy and certify applicants following the procedures specified in Chapters 5 and 6.

-2 When creating the certification list, in addition to the employment standards, necessary knowledge, skills and abilities as defined in the class specification, consideration shall be given to the following: the number of vacant positions to be filled from that list, preferred qualifications considered critical to successful performance in the job when approved by the Human Resources Director or designee, as well as the diversity needs as identified in the agency's Diversity Plan. Where possible, the certification list should contain at least ten applicants.

-3 Applicants shall be certified in accordance with the following rules.

a. If a position has been announced exclusively as a promotional opportunity open only to current employees, only current County employees shall be certified.

b. Applicants shall be listed in alphabetical order on certification lists furnished to departments. The certification list shall identify the applicants who are veterans and veterans with a service connected disability rating.

-4 The Human Resources Director may delegate some or all of the actions described in this section to department heads**.**

7.4 *Selection and Appointment*

-1 Before making any appointment, the department head or his/her designee shall review the resumes of all certified applicants and shall interview at least one more than half of those certified.

-2 For the purpose of this subsection, the department head's designee may be either an individual or a panel. Department heads are encouraged to use panels for all positions. When panels are used, either to review resumes or to conduct interviews, they should be constituted with due regard for the demographic characteristics of the certified applicants. Due to the scope and rigorous nature of the selection procedures used for public safety job classes, interviews are not required for these job classes except when deemed appropriate at the discretion of the department head or deputy**.**

-3 The department head or his/her designee should review and consider the performance records of current and former employees who are finalists for a job vacancy.

-4 Department heads or deputies normally should complete the process of screening, interviewing and appointing within 30 calendar days of receipt of a certification list. If a period longer than 30 days is required to make a selection, department heads or deputies shall consider the likelihood that the best qualified applicants may no longer be available. This subsection does not apply to applicants for uniformed public safety positions, who are required to undergo additional screening after initial certification and whose appointments may be timed to coincide with the convening dates of training academy classes.

-5 Appointment to a vacancy in the competitive service shall be made by the proper department head or deputy from those applicants certified by the Human Resources Director. Such appointment shall be indicated by the completion of a personnel action request form.

-6 No applicant shall seek or attempt to use any political endorsement in connection with any merit system appointment and no consideration shall be given to political or partisan affiliation, activity or endorsement in selecting candidates for original or promotional appointment in the merit service.

-7 Every appointee shall be required to show proof of identity and proof of eligibility to work in the United States, before his/her appointment becomes effective.

7.5 *Probationary Period*

-1 Except as noted in 7.5-2 below every merit appointee shall serve a probationary period of twelve months after original appointment (initial probationary period) or promotion (promotional probationary period). The probationary period shall be used for closely observing the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and for separating any new

employee or demoting any promoted employee whose performance does not meet the performance requirements.

-2 Sworn police officers, animal control officers**,** deputy sheriffs and uniformed firefighters shall serve an initial probationary period of twelve months commencing with the date of graduation from the appropriate training academy. Public safety communicators shall serve an initial probationary period of twelve months commencing upon graduation from the Department of Public Safety Communications Academy and the completion of a 10 week on the job training program. For all other merit employees, the initial probationary period shall commence with the date of appointment. The performance pay increase date shall be determined by the date of original appointment.

-3 With the approval of the Human Resources Director, a department head or deputy may extend the initial or promotional probationary period in limited circumstances situations where the employee has been unable to perform the duties for which he or she was hired due to extended absence or extended period of restricted duty for medical reasons due to FMLA for a period not to exceed 120 calendar days.

Requests for extension of the probationary period must be made in writing to the Human Resources Director stating the specific facts and circumstances justifying the request. The request for extension must be made in advance of the expiration of the employee's probationary period and may be granted under the following circumstances:

(1) when an employee is absent from work on an approved absence in excess of 30 calendar days during the probationary period;

(2) when an employee is unable to perform the assigned duties of the job for which he/she was hired for a period in excess of 30 days, such as when serving in a temporary light duty assignment to accommodate a medical condition.

b. Such extension shall commence on the date the employee resumes the assigned duties of the job for which he/she was hired.

-4 An employee serving in the initial probationary period is eligible to apply for, be certified to, and be appointed to a class of a higher level. Under such circumstances, a promotional probationary period begins with the date of the promotion but the initial probationary period expires twelve months from initial appointment date unless extended in accordance with the provisions of this action.

-5 Unless alleging illegal discrimination, an employee serving an initial appointment probationary period including extensions authorized in accordance with this section has no right to grieve or appeal under these rules. Any employee who has

satisfactorily completed an initial probationary period and who is serving a probationary period following promotion retains his/her grievance rights.

7.6 *Underfill Appointments*

-1 With the approval of the Human Resources Director, an applicant who does not meet all the employment qualifications for a merit class may be appointed competitively to fill a position in that class at a lower grade than that of the class under the conditions specified in this section.

-2 Underfills are appropriate under the following circumstances:

a. When recruitment difficulties exist for a class at the authorized grade.

b. When appointees require specialized training and work experience within a particular function to meet the performance standards for the position at the authorized grade.

c. When underfilling a position is part of an upward mobility program for career employees.

-3 When it is planned or likely that a position will be underfilled, the vacancy announcement will so state.

-4 Before making a formal offer of an underfill appointment, the department head or deputy shall prepare a written underfill agreement, which must be approved by the Human Resources Director or designee in advance of the offer. The agreement shall include at least the following information:

a. The specific training and experience requirements the employee must meet before promotion to the authorized grade.

b. The manner in which they are to be met and the time frame within which the appointee is expected to meet the performance standards for the position, which standards shall be included as an appendix to the agreement.

c. A statement to the effect that promotion will be made without further competition when the appointee meets the terms of the agreement and the performance standards of the position; and that if the appointee fails to do so within the allotted time the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation or a statement to the effect that after successfully completing the terms of the agreement, the employee will be required to compete for promotion to the higher level position and if not selected, the department head or deputy

will effect a transfer, demotion, dismissal or unsatisfactory service separation.

-5 Underfill agreements normally will be for a period of not more than one year but may be for periods of up to four years in multi-tiered underfill agreements. The department head or deputy may extend an underfill agreement if the employee necessarily is absent for more than 30 consecutive calendar days because of the unavailability for required training. The department head or deputy must inform the Human Resources Director of all such extensions.

7.7 *Appointment of Family Members, Members of Household or Extended Relationships*

-1 Except as provided herein, no applicant/employee shall be hired, reinstated, reemployed, transferred, promoted or demoted to a position which places him/her in a direct supervisory line as defined herein or otherwise permits them to participate in any personnel action relative to a family member or members of his/her household or extended relationships.

-2 This prohibition may also be extended to positions, in which the duties involve access, review, verification, authorization, or approval of the transactions of family members, members of household, or extended relationships in financial, personnel, purchasing, or other sensitive matters, even though the respective functions are in different departments. Such positions will be identified by an affected department head or designee, with the approval of the Human Resources Director.

-3 For the purposes of this regulation, "family member" is defined by the following relationships, including those legalized by adoption:

aunt	grandparent	sister-in-law
brother	half brother	son-in-law
brother-in-law	half sister	spouse
child	mother-in-law	stepbrother
daughter-in-law	nephew	stepchild
father-in-law	niece	stepparent
first cousin	parent or parent-in-law	stepsister
grandchild	sister	uncle

-4 For the purposes of this regulation, "Extended Relationships" is defined as those personal relationships creating a potential conflict of interest or having the possibly of creating adverse impact (actual or perceived) on supervision, safety, and security. Additionally, a direct supervisory line is defined as those situations where an employee, regardless of job description or title, has authority to hire, transfer, promote, assign, reward, discipline or terminate other employees or has responsibility to direct their work or conduct their performance evaluation. This also includes those situations where an employee effectively is able to

recommend these actions where such recommendations are given substantive weight in the final decisions being made.

-5 If a change occurs which causes employees to be in conflict with this regulation, one of the employees shall be transferred to a vacant position within the County. In the absence of an agreement which is satisfactory to all the concerned parties, the employee with the lower grade, or, if they are of the same grade, the employee with the fewer years of County service shall be transferred.

-6 Requests for exceptions to this policy shall be submitted in writing to the Human Resources Director, who has the authority to waive this regulation when it is in the best interest of the County to do so.

7.8 *Applicant Right of Appeal on Discriminatory Practices*

-1 An applicant who is not employed by the County at the time of his/her application and who believes he/she has been discriminated against on the basis of race, sex, color, religion, national origin, age, disability, political affiliation, genetic information or his or her status as a veteran or disabled veteran during the selection process may file an appeal on the alleged discriminatory practice. A bona fide occupational requirement for any position, the minimum age qualifications for public safety occupations, and the exclusion of family members, members of household, or extended relationships as defined in Section 7.7 shall not be appealable except as provided in Sec. 7.7-6.

-2 Such an appeal stating the alleged discriminatory practice and the corrective action desired must be filed in writing with the Director of the Office of Human Rights and Equity Programs within fifteen business days of the date the applicant knew or should have known that he/she was not selected for employment.

-3 The Director of the Office of Human Rights and Equity Programs shall investigate the allegations and respond in writing to the applicant within twenty business days.

-4 Should the applicant believe the Director of the Office of Human Rights and Equity Programs' response to be unsatisfactory, the applicant may file a written request for a hearing with the Civil Service Commission. The applicant's request for a hearing must contain a complete statement of the alleged discriminatory practice and the corrective action desired, and must be filed within fifteen business days of receipt of the Director of the Office of Human Rights and Equity Programs' response.

-5 The Civil Service Commission shall set a time and place for such hearing to be held not more than thirty workdays after receipt of such request. At its discretion, the Commission may appoint a hearing officer to hear the appeal.

-6 The hearing shall be conducted in accordance with hearing procedures adopted by the Civil Service Commission.

-7 After the hearing, the Commission shall forward an advisory finding on the merit of the appeal and disposition of the case to the County Executive. The Commission does not have the authority to award or recommend monetary damages.

CHAPTER 10

Leave

10.1 *Leave Defined*

Leave is any authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay. Absence without leave is considered unauthorized absence.

10.2 *Leave Policy*

All merit employees are encouraged to take annual leave for vacation purposes of two consecutive weeks each year. During the year, careful consideration shall be given to the desire and needs of employees in the granting of shorter periods of annual leave. Department heads or designees shall grant leave in accordance with these rules on the basis of the work requirements in the department, and whenever possible, the personal wishes of the employee.

10.3 *Maintenance of Leave Records*

The Department head or his/her designee shall be responsible for the maintenance of accurate leave records. Such records shall be kept on a form prescribed by the Human Resources Director, who may periodically inspect them to insure that departments are adhering to the provisions of these rules.

10.4 *Procedures for Requesting Leave*

-1 For all leave, with the exception of official holiday, unscheduled sick and administrative emergency leave, a request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of the leave. The request for leave should be submitted to the department head or designee the same number of days prior to beginning the leave as the number of days leave requested. In the case of sick leave, the request ~~leave form~~ shall be completed and submitted for approval immediately upon the employee's return to duty.

-2 Unless an absence is ~~substantiated by a leave form~~ approved by the department head or his/her designee, an employee shall not be paid for any absences from scheduled work hours.

10.5 *Unauthorized Absence*

-1 An employee who is absent from duty without approval shall:

a. Receive no pay for the duration of the absence;
b. Be subject to disciplinary action, which may include dismissal.

-2 It is recognized there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.

-3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

10.6 *Types of Leave*

The following types of leave, and no other, are officially established:

- 1 Annual leave (Section 10.7 - 10.12);

- 2 Sick leave (Section 10.13 - 10.21);

- 3 Extraordinary sick leave (Section 10.16);

- 4 Parental Leave (Section 10.23)

- 5 Leave for injury in line of duty (Section 10.24);

- 6 Bereavement leave (Section 10.25);

- 7 Compensatory leave (Section 10.26 - 10.28);

- 8 Military leave (Section 10.29);

- 9 Civil leave (Section 10.30);

- 10 Volunteer activity leave (Section 10.31);

- 11 Leave without pay (Section 10.32);

- 12 Education leave (Section 10.34);

- 13 Holiday leave (Section 10.35 - 10.36);

- 14 Administrative leave (Section 10.37);

- 15 Leave for inclement weather or other emergencies (Section 10.38).

10.7 *Granting Annual Leave*

Department heads or designees shall grant annual leave with pay ~~to merit employees~~ in accordance with the following provisions:

-1 Annual leave shall normally be granted ~~each calendar year~~ unless a department head or designee specifically defers an employee's ~~vacation~~ absence because of work requirements.

-2 Annual leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs.

10.8 *Crediting of Annual Leave*

Annual leave shall be credited as follows for merit employees and senior managers as designated in Chapter 4.

-1 During pay periods in which a merit employee is in paid status for at least one hour, annual leave shall be credited according to scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive the following annual leave credits, based on length of service:

a. Less than three years of service receive four (4) hours;
b. Three (3) years but less than fifteen (15) years receive six (6) hours;
c. Fifteen (15) and greater years of service receive eight (8) hours.

-2 Merit employees with scheduled hours other than 80 hours per pay period shall receive leave prorated according to total scheduled hours. Employees working in more than one merit position will accrue annual leave in all positions.

-3 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting annual leave.

~~-1 Annual leave shall be credited as indicated below to all full-time merit employees except those designated as senior management in 4.15-4d. Merit employees scheduled to work other than 80 hours per pay period shall have leave credited on a pro-rated basis. Employees working in two part-time merit positions will accrue prorated annual leave in both positions not to exceed maximums outlined below. a. Less than three years of service - four (4) hours per bi-weekly payroll period;~~

~~b. Three (3) years but less than fifteen (15) years - six (6) hours per bi-weekly payroll period;~~

~~c. Fifteen (15) and over years of service - eight (8) hours per bi-weekly payroll period;~~

-4 ~~d.~~ Employees reemployed or reinstated within one calendar year of their separation in good standing should have their annual leave computed on the basis of total years of service. Revised ~~L~~leave computation dates shall be rounded to the nearest day. ~~Excess hours shall be rounded to the next day.~~

~~-2 For a pay period in which an employee, except, a senior manager is paid for less than full standard hours, including paid leave, leave shall be credited in the proportion that the number of hours worked has to the number of regular work hours in the pay period.~~

-5~~3~~ Employees with less than ten (10) years of service may accumulate annual leave up to 240 hours. Employees with ten (10) or more years of service may accumulate annual leave up to 320 hours.

-6~~4~~ Annual leave in excess of the limits imposed by this section existing at the end of each calendar year shall be converted to sick leave.

-7~~5~~ Employees shall not receive dual compensation from the County for annual leave.

-8~~6~~ Employees designated as senior managers shall receive 208 hours (26 days) of annual leave at the beginning of each calendar year. Senior managers appointed after the start of a calendar year shall receive annual leave credit on a prorated basis for that year.

10.9 *Debiting Annual Leave*

Annual leave shall be debited as follows:

-1 The amount of annual leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.

-2 Annual leave shall be debited in no less than one-tenth hour units.

-3 Overdrawn annual leave shall be debited in the following order: compensatory leave, leave without pay.

10.10 *Transfer of Annual and Sick Leave*

Annual or sick leave may be transferred from one employee to another employee in the following situations:

-1 Annual or sick leave may be transferred from one employee to another when the employee-in-need has exhausted his/her sick leave and is facing an absence without pay due to his/her extended illness or that of an immediate family or household member as defined in Chapter 2, with the following provisions:

a. Annual or sick leave may be transferred to any County employee eligible to receive sick leave.

b. Employees transferring sick leave may not transfer more than 80 hours in any calendar year.

c. The employee transferring annual or sick leave relinquishes all rights to that leave. Annual or sick leave transferred under this policy cannot be recovered at a later date.

d. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.

e. Unused transferred leave may be transferred to another leave recipient or returned to the donor.

f. Transferred leave may be granted only to employees who have exhausted their sick leave balance and whose combined annual and compensatory leave balance does not exceed 80 hours (120 hours for 24-hour shift employees).

g. This policy does not preclude or in any way limit the right of an employee to apply for advanced or extraordinary sick leave under existing procedures.

h. Final approval of leave transfer requests rests with the department head or

designee.

i. An employee who returns to work before using all received transferred leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date transferred leave was approved.

-2 Annual leave may be transferred from one employee to another when the employee-in-need is a member of the National Guard or an organized military reserve of the United States who has volunteered or been ordered to active duty pursuant to an order by the President of the United States or a competent State authority. The transfer of annual leave under this Section is subject to the following conditions:

a. Annual leave may be transferred to any merit County employee who is a member of the National Guard or an organized military reserve of the United States.

b. The employee transferring annual leave relinquishes all rights to that leave. Annual leave transferred under this policy cannot be recovered at a later date. Once the leave has been used by the employee, it cannot be recovered.

c. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.

d. Transferred annual leave may only be used when the employee called to active military duty has reduced his/her accrued annual and compensatory leave to a combined balance no greater than 80 (120 hours for 24-hour shift employees) hours.

e. Final approval of leave transfer requests rests with the department head or designee.

10.11 *Effect of Transfers on Annual Leave Credits*

A merit employee who transfers from one department to another shall have his/her total annual leave credits transferred to the new department.

10.12 *Effect of Separation on Annual Leave Credits*

Upon separation, an employee shall be paid for the unused portion of his/her accrued annual leave, except as modified by the rules governing resignation without sufficient notice.

10.13 *Sick Leave Policy*

Sick leave shall be used when an employee is incapacitated by sickness or injury; for childbirth, placement of a child for adoption or foster care; for medical, dental, or optical diagnosis or treatment; for necessary care and attendance or death of a member of the

employee's immediate family or household member, as defined in Chapter 2; exposure to a contagious disease when the attendance at duty jeopardizes the health of others. Sick leave for childbirth and adoption/foster care placement shall comply with the provisions in Section 10.22 of these Regulations.

10.14 *Granting Ordinary Sick Leave*

Department heads or designees shall grant sick leave with pay to merit employees in accordance with the following provisions:

-1 Ordinary sick leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs;

-2 Leave without pay may be granted for sickness extending beyond the earned credit;

-3 For merit employees' annual or compensatory leave credits may be used for sick leave.

10.15 *Granting Advance Sick Leave*

-1 Advance sick leave, not to exceed 192 hours (288 hours for 24 hour shift employees), may be granted to merit employees qualified to earn ordinary sick leave in cases of serious disability or ailments of the employee, the spouse, minor or disabled child, parent or parent-in-law of an employee when it is to the advantage of the County to do so.

-2 Advance sick leave may be granted to employees whose combined annual and compensatory leave balance does not exceed 80 hours.

-3 Advance sick leave shall not normally be advanced to a merit employee qualified to earn ordinary sick leave during his/her first year of service with the County.

-4 Advance sick leave shall not be approved retroactively to restore hours previously charged to the employee's annual or compensatory leave balance for an ailment or disability.

-5 When a department head or designee believes that a request for advance sick leave is justified, a personnel action form shall be prepared with the following supporting documentation:

a. The circumstances and the need for such leave verified by a physician's statement;

b. The time and date when accrued sick leave will be exhausted;

c. The number of hours of advance sick leave requested and date to which such

leave will extend;

d. Probable return to duty and prospect for continued employment;

e. Recommendation of the department head or designee;

f. Statement notifying employee of the repayment requirement if advance sick leave is approved.

-6 The Human Resources Director shall consider the information provided and make a recommendation to the County Executive.

-7 Advance sick leave shall be approved by the County Executive or his/her designee.

-8 Advance sick leave shall be charged to future accruals of sick leave. An employee may not use regular sick leave until the approved advance sick leave is repaid.

-9 An employee who returns to work before using all approved advance sick leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date advance sick leave was first used.

-10 An employee returning to work before using all approved advance sick leave may request an adjustment to his/her leave record to eliminate or reduce the remaining approved advance sick leave.

-11 When an employee who receives advance sick leave leaves County service for any reason and the advance sick leave has not been repaid, the County will be financially reimbursed for the balance of sick leave remaining, except in the case of full disability or death.

10.16 *Granting Extraordinary Sick Leave*

-1 When the above provisions do not adequately allow for the illness or injury of a merit employee qualified to earn sick leave, and when the department head or designee believes that it is to the advantage of the County to do so, he/she may request of the County Executive, through the Human Resources Director, that the employee be granted an extraordinary sick leave not to exceed 4 hours (6.0 hours for 24-hour shift employees) for each month of service.

-2 Extraordinary sick leave shall be recorded on the employee's leave record but shall not be charged to future accrued leave of any kind.

10.17 *Crediting Sick Leave*

Sick leave shall be credited as follows for ~~to all full time~~ merit employees and ~~except those designated as~~ senior managers as designated in Chapter 4 ~~in Section 4.~~ ~~15-4d at 4 hours per 80-hour pay period~~.

-1 During pay periods in which a merit employee is in paid status for at least one hour, sick leave shall be credit based on scheduled hours. Incumbents in positions with 80 scheduled work hours per pay period will receive a four (4) hour sick leave credit.

~~Merit employees scheduled to work other than 80-hours per pay period shall have leave credited on a pro-rated basis.~~

-2 Merit employees with scheduled hours other than 80 shall receive sick leave prorated accordingly. Employees holding multiple merit positions are eligible to accrue sick leave on scheduled hours in all positions.

~~Employees working in two merit part-time positions will accrue prorated sick leave in both positions, not to exceed 4 hours per 80-hour pay period.~~

-3~~2~~ Unused sick leave may be accumulated without limit.

-4~~3~~ Employees, when separated in good standing and reemployed or reinstated within one calendar year of ~~their~~ separation, ~~in good standing~~ shall have their unused sick leave reinstated.

-5~~4~~ ~~Employees designated as s~~Senior managers shall receive 104 hours (13 days) of sick leave at the beginning of each calendar year. Sick leave balances granted s~~S~~enior managers appointed after the start of a calendar year shall ~~receive sick leave credit on a~~ be prorated accordingly~~basis for that year~~.

-6~~5~~ Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting sick leave.

10.18 *Debiting Sick Leave*

Sick leave shall be debited as follows:

-1 The amount of sick leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.

-2 Sick leave shall be debited in no less than one-tenth hour units.

-3 Overdrawn sick leave shall be debited in the following order: annual leave, compensatory leave, and leave without pay.

10.19 *Effect of Transfer on Sick Leave Credits*

A merit employee who transfers from one department to another shall have his/her total sick leave credits transferred to the new department.

10.20 *Effect of Separation on Sick Leave Credits*

1. Sick leave credits shall not be paid to an employee upon separation.

2. Upon application for retirement, an employee's sick leave credits can be applied towards membership service credit at the rate of one month of credit for each 172 hours of accrued unused sick leave, and prorated for any fraction of this amount.

3. Employees who are participants in the Deferred Retirement Option Plan may apply all sick leave credits towards membership service credit for retirement, or retain 40 hours as an initial sick leave balance, while the remaining sick leave credits are applied towards membership service credit for retirement.

10.21 *Other Factors Relative to Sick Leave*

-1 Reporting of sickness.
Employees who are absent from duty for reasons which entitle them to sick leave shall notify their respective supervisors within the time frame established by the Department unless physically unable to do so. Upon return to work, the employee shall submit immediately to his/her supervisor an authorization for leave form.

-2 Medical certificate.
A department head or designee may require a medical statement for sick leave when it occurs before or after a holiday or other scheduled day off, or when it is in excess of two workdays. When an employee has a record of repetitious usage of short amounts of sick leave over an extended period a department head or designe**e** may require a medical certificate for each day of sick leave taken. Employees shall be provided advance notice that a medical certificate will be required for future absences.

-3 The department head or designee may require an employee returning from sick leave to take a medical examination, or, with the concurrence of the Human Resources Director, on such other occasions that he/she deems it in the best interest of the County. The medical examination shall be given by a medical doctor designated by the Human Resources Director or his designee.

-4 Investigation of sickness. A department head or designee may investigate the alleged illness of an employee absent on sick leave.

-5 False or fraudulent use of sick leave. False or fraudulent use of sick leave shall be cause for disciplinary action against the offending employee. Such disciplinary action may include dismissal.

-6 An employee on annual leave who presents a medical certificate giving the dates of illness may have that portion of his/her annual leave converted to sick leave.

-7 Conversion of sick leave. Conversion of sick leave to annual leave shall not be permitted.

-8 State worker's compensation insurance. An employee, who is eligible to receive state worker's compensation payments beyond the year of injury leave, may elect to use accumulated sick leave and/or annual leave. The use of such leave will be coordinated with worker's compensation payments so that the total amount received from both sources does not exceed the employee's full wage or salary until such sick and/or annual leave is depleted or until the employee returns to work.

Leave hours used will be calculated only on that portion of total compensation over the workers' compensation payment. While using sick and/or annual leave the employee will continue accruing sick and annual leave.

10.22 *Family and Medical Leave*

Eligible employees, as defined by the implementing regulations of the Family and Medical Leave Act, may take job-protected, unpaid leave, or substitute appropriate paid leave, for up to a total of 12 workweeks in any 12 months for the birth of a child, for the placement of child for adoption or foster care, because the employee is needed to care for a family member (child, spouse, parent or parent-in-law) with a serious health condition, because the employee's own serious health condition makes the employee unable to perform the functions of his or her job, or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, parent or parent-in-law is a covered military member on covered active duty. In addition, eligible employees may take job-protected, unpaid leave or substitute appropriate paid leave for up to a total of 26 workweeks in a single 12-month period to care for a covered service member with a covered serious injury or illness. The terms "covered military member," "covered active duty," and "covered serious injury or illness" shall be defined as set forth in the Family and Medical Leave Act as amended.

Family and medical leave consists of any combination of sick leave, annual leave, compensatory leave, and leave without pay. Sick leave used for the purpose of family or medical leave must conform to the requirements in Section 10.13. If parental leave (Section 10.22) is taken for the birth, adoption, or foster care placement of a child, the leave must be applied towards the employee's Family and Medical Leave entitlement if applicable.

-1 Family and medical leave shall be granted to any merit employee for a period of up to twelve work weeks over a twelve-month period. The twelve-month period during which family leave may be taken for the birth of or placement of a child shall expire at the end of the twelve-month period beginning on the date of birth or placement. Service member caregiver leave is granted for up to 26 workweeks during a single 12-month period on a per-covered service member and per-injury/illness basis. Work week is defined as the hours an employee is regularly scheduled to work in a seven (7) consecutive day period.

-2 The twelve-month period for family and medical leave usage shall commence with the first use of family or medical leave. The single twelve-month period for service member caregiver leave shall commence with the first day the eligible employee takes service member caregiver leave and ends 12 months after that date regardless of the 12 month period established for prior FMLA qualifying events.

-3 Requests for leave beyond 12/26 work weeks are subject to regular leave policies with approval determined by the department head or designee.

-4 Requests for family and medical leave must be made in writing and submitted 30 calendar days in advance whenever the necessity for such leave is foreseeable.

-5 The mother may take six (6) weeks of sick leave immediately following the birth of her child. Use of additional sick leave requires medical certification. The father may take four (4) weeks of sick immediately following the birth of his child. Use of additional sick leave requires medical certification.

-6 Mothers and/or fathers may take four (4)weeks of sick leave immediately following placement of a child for adoption or foster care. Use of additional sick leave requires medical certification.

-7 Family leave to include exigency leave may be taken on an intermittent or reduced schedule basis with the approval of the department head or designee. Medical leave may be taken on an intermittent or reduced schedule basis if certified as necessary by the health provider.

-8 At the request of the department head or designee**,** the employee shall provide certification from a health care provider in connection with a request for medical leave. Additionally, an employee may be required to provide medical documentation concerning the continuing necessity for medical leave and in connection with any issue concerning his/her ability to return to work at the expiration of medical leave.

-9 At the request of the department head or designee, the employee shall provide certification of a qualifying exigency in connection with a request for exigency leave.

-10 At the discretion of the department head or designee**,** an employee requesting family leave for the birth or adoption of a child may be required to use accrued annual or sick leave prior to use of leave without pay. Employees requesting family or medical leave for all other reasons may be required to use accrued sick, and/or annual leave prior to use of leave without pay.

-11 During the leave period, the County will provide coverage under the health insurance plan which the employee had selected prior to going on leave at the level and under the conditions coverage would have been provided if the employee had not gone on leave.

-12 If the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition for him or herself, children, spouse, parents, parents-in-law, or injured family service member or other circumstances beyond the control of the employee, the County may recover the employer's contribution to the health insurance premium paid during any period of unpaid leave.

-13 No employee shall be prevented from returning to work prior to the expiration of the 12/26 week period.

-14 Employees shall return to the position vacated or, with the approval of the Human Resources Director, to another position in the same class.

-15 Employees who do not plan to return to work should notify their department no later than at the expiration of the leave. Failure to return to work without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation.

-16 This regulation shall be construed as to ensure compliance with the minimum requirements of the Family and Medical Leave Act of 1993.

10.23 Parental Leave

Paid leave granted for the birth, adoption, or foster care placement of a child. Merit employees are provided 80 hours per qualifying event (120 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall have parental leave ~~credited on a~~ pro-rated on the basis of scheduled hours. The parental leave must be applied towards the employee's Family and Medical Leave entitlement if applicable. If an employee has already exhausted that entitlement for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave (120 hours for full time 24-hour shift fire protection employees).

Mothers and/or fathers are entitled to take up to 80 hours of paid parental leave (120 hours for full time 24-hour shift fire protection employees) up to 12 months immediately following the birth, adoption, or foster care placement of a child. Such time will run concurrently with Family Medical Leave (FML) to the extent that FML is available to the employee. In some instances when deemed medically necessary, parental leave may be taken prior to the birth. ~~Merit employees scheduled to work less than 80 hours per pay period shall have parental leave credited on a pro-rated basis.~~ If an employee has already exhausted FML for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave.

10.24 *Leave for Injury in Line of Duty*

-1 A merit employee who is injured while performing the duties of his/her position, without fault or negligence on his/her part, and who is accepted as compensable under the Virginia Worker's Compensation Act, shall be granted injury leave with pay, as approved by the County Executive or his/her designee. Such eligibility for injury leave with pay begins on the first day of injury and shall expire not later than twelve calendar months from the original injury date. Reinjuries do not extend the period of eligibility for injury leave. Such leave requires a medical certificate from an approved licensed physician authorized by the County to treat worker's compensation claims. This certificate must set forth the nature and extent of the injury and the probable period of disability.

-2 Extensions of injury leave beyond twelve calendar months may be granted by the department head or designee**.** In no case shall the employee be granted injury leave in excess of 2080 (2912 for 24-hour shift fire protection employees) total hours. In evaluating such requests, the following elements shall be considered:

a. The circumstances in which the injury occurred to include consideration of the nature and extent of the injury;

b. The nature and extent of treatment providing that the employee has continued under the regular care of the authorized physician requiring an office visit at minimum intervals of at least once every three months; and providing that the medical records clearly substantiate a relationship between the current prescribed treatment and the original injury;

c. The likelihood of the employee's return to duty;

d. The employee's past injury, leave and service record;

e. The employee's compliance with injury leave policies and requirements.

-3 When possible, employees who have been injured but are not totally disabled, will be placed in temporary assignments without loss of pay with duties that fall within the medical restrictions prescribed by the treating physician.

-4 When injury leave is used other leave benefits shall not accrue.

-5 An employee on injury leave is expected to follow medical procedures and complete necessary forms/reports so as to insure that worker's compensation payment will be credited to the appropriate account.

-6 An employee on injury leave is specifically prohibited from engaging in activities that may impair his/her recovery. This includes:

a. Engaging in strenuous recreational or other physical activities without the approval of the authorized physician.

b. Being employed or self-employed to perform work of any kind without the prior written approval of the authorized physician and the Human Resources Director.

-7 An employee on injury leave is not required to remain at home, but is required to be available for contact by his/her supervisor and to notify the supervisor of any change of residence during authorized absence.

-8 Failure of an employee on injury leave to follow prescribed procedures or to accept appropriate medical treatment, vocational rehabilitation, or medically appropriate temporary assignments, may result in disallowal of full salary continuation and reversion to straight worker's compensation wages, if eligible, for the time period of noncompliance, with the employee being liable for repayment of the monetary differential.

10.25 *Bereavement Leave*

Bereavement leave may be used to cover an absence resulting from the ~~when a~~ death of ~~occurs in~~ an employee's extended ~~immediate~~ family or household member, as defined in Chapter 2. Department heads or designees shall grant bereavement leave with pay to merit employees in accordance with the following provisions:

-1 Full time merit employees shall be eligible to use up to 16 hours of bereavement leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for bereavement leave on a pro-rated basis.

-2 Bereavement leave may not be carried over from one calendar year to the next.

-3 The amount of bereavement leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.

-4 Bereavement leave shall be debited in no less than one-tenth hour units.

-5 Sick leave may be granted for absences extending beyond bereavement leave eligibility in accordance with the sick leave provisions herein.

10.26 *Compensatory Leave*

-1 Compensatory leave shall be credited to an employee as provided for in the rules governing overtime. Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting compensatory leave.

-2 Compensatory time for overtime worked shall be granted at the discretion of the employee at a time convenient to and approved by the department head or designee.

-3 Overdrawn compensatory leave shall be debited in the following order: annual leave, leave without pay.

10.27 *Effect of Transfers on Compensatory Leave*

An employee who transfers from one department to another shall have ~~, if possible, use~~ his/her compensatory leave ~~prior to the effective date of the transfer. If this is not possible, the total number of compensatory leave shall be recorded on the personnel action form and shall be~~ transferred to the new department.

10.28 *Effect of Separation on Compensatory Leave*

An employee who is separated from service may only be paid for any accrued overtime for which he/she has not been granted compensatory leave in accordance with the provisions of section 4.15-4.

10.29 *Military Leave*

-1 A merit employee who is a member of the National Guard or an organized military reserve of the United States, or is a former member of the Armed Services and has been reactivated by a competent authority shall be allowed military leave under the following circumstances:

a. Leaves of absence with pay not to exceed fifteen workdays during any one federal fiscal year (October 1 - September 30) to attend federally funded military duty, including duty for training. For the purposes of this section, one 24-hour shift workday shall equate to two military leave workdays. The employee shall report to work in accordance with the following schedule:

1. If the period of service is less than 31 days, the employee must report back to work not later than the beginning of the next regularly scheduled workday after the military duty, including travel time and an 8-hour rest period, is completed.

2. If the period of service is more than 30 days but less than 181 days, the employee must report back to work not later than 14 calendar days after completing service.

3. If the period of service is more than 180 days, the employee must report back to work not later than 90 days after completing service.

4. If the employee is hospitalized or convalescing from an injury or illness incurred during the period of service, then the time for the employee to report back to work will be extended.

b. Leaves of absence without pay for training not covered above. The employee shall report to work the next regularly scheduled workday after the training period, including travel time and an 8-hour rest period, is completed.

-2 A merit employee who is a member of the Virginia National Guard and who is called to emergency duty by the Governor to combat floods, riots, winter storms, hurricanes, or other disasters shall be allowed military leave with pay for each day of such service. A merit employee who is a member of any National Guard organization other than the State of Virginia and who is called to emergency duty by the competent authority of that state may elect to be placed on military leave without pay for each day of such service.

-3 The employee shall notify his/her supervisor as far in advance as possible when taking military leave. The employee's notice may be either verbal or written. A copy of military orders may be requested, but cannot be required. Failure to notify the County in advance shall not deprive the employee of rights and benefits.

-4 An employee who leaves the County service in order to join the military forces of the United States or who is inducted into such service has resigned and is not considered to be on military leave. (Section 9.2-5).

-5 In the event of any conflict between County regulations and federal or state law, the latter shall take precedence.

10.30 *Civil Leave*

A merit employee shall be given time off without loss of pay when performing jury duty, when subpoenaed or requested to appear before a court, public body or commission except when the employee is a party to the suit, when performing emergency civilian duty in connection with national defense, or for the purpose of voting. Leave for the purpose of voting shall only be granted when the employee's work schedule prohibits voting before or after duty hours or through absentee balloting.

10.31 *Volunteer Activity Leave*

Volunteer activity leave may be used to participate in volunteer activities and initiatives to support the neighborhoods in which employees live and work to include educational and charitable institutions, religious/faith-based, and community service entities. Department heads or designees shall grant volunteer activity leave with pay to merit employees in accordance with the following provisions:

-1 Full time merit employees shall be eligible to use up to 16 hours of volunteer activity leave per calendar year (24 hours for full time 24-hour shift fire protection employees). Merit employees scheduled to work less than 80 hours per pay period shall be eligible for voluntary activity leave on a pro-rated basis.

-2 Voluntary activity leave may not be carried over from one calendar year to the next.

-3 The amount of voluntary activity leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.

-4 Voluntary activity leave shall be debited in no less than one-tenth hour units.

10.32 *Leave Without Pay*

A department head or designee may grant a merit employee a leave without pay for a period not to exceed one year, subject to the following conditions:

-1 Leave without pay shall be granted only when it is in the interests of the County to do so. The interests of the employee shall be considered when he/she has shown by his/her record to be of more than average value to the County and when it is desirable to return the employee even at some sacrifice.

-2 At the expiration of a leave without pay, the employee shall be reinstated in the position he/she vacated or in any other vacant position in the same class.

-3 The employee does not earn leave while on leave without pay.

-4 Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal.

~~10.33 *Unauthorized Absence*~~

~~-1 An employee who is absent from duty without approval shall:~~

~~a. Receive no pay for the duration of the absence;~~

~~b. Be subject to disciplinary action, which may include dismissal.~~

~~-2 It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.~~

~~-3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.~~

10.34 *Education Leave*

A merit employee engaged in professional or technical work may be granted a leave of absence with full or partial pay for enrollment in a special institute or course of study of direct benefit to the County service, at the discretion of the department head or designee.

Such leave may be granted on the assumption that the employee will remain with the County service for a reasonable period to be recommended by the department head or designee, upon completion of the institute or course of study.

10.35 *Holiday Leave*

-1 The following holidays are observed by the County and shall be granted to merit employees with pay, unless such employees are required to be on scheduled duty.

a. New Year's Day (January 1);

b. Martin Luther King, Jr.'s Birthday (Third Monday in January);

c. Washington's Birthday (Third Monday in February);

d. Memorial Day (Last Monday in May);

e. Independence Day (July 4);

f. Labor Day (First Monday in September);

g. Columbus Day (Second Monday in October);

h. Veteran's Day;

j. Thanksgiving Day (Fourth Thursday in November);

k. Fall Holiday (Friday after Thanksgiving);

l. Christmas Eve (One-half day on December 24);

m. Christmas Day (December 25);

n. Inauguration Day (January 20, every fourth year) when it falls on a business day, Monday through Friday.

-2 The County Executive may also set aside other days as holidays.

10.36 *Granting Holiday Leave*

The granting of holidays observed by the County shall be subject to the following provisions:

-1 Holidays on a weekend.
When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed as the holiday.

-2 Holiday on scheduled workday

a. Holiday on scheduled workday; employee works.

Employees who are required to work on a holiday (actual or County observed) shall be compensated for the time worked in accordance with the rules governing hours and overtime. Holiday compensation will be provided on an hour for hour basis for an employee's regular scheduled hours not to include overtime hours. If an employee who would not normally work the holiday, is scheduled to work to meet staffing or other operational needs, the employee is entitled to receive holiday compensation for hours worked not to exceed the number of his/her regularly scheduled hours.

b. Holiday on scheduled workday; employee does not work. Employees who are required to work on a holiday (actual or County observed) but do not work, shall be compensated as follows. Holiday compensation will be provided on an hour for hour basis up to the number of regularly scheduled hours for that day.

-3 Holiday on scheduled day off. Within the policy established in the section on holiday leave, whenever one of the designated holidays falls on an employee's scheduled day off, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime. To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

-4 Holidays for merit part-time employees. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

-5 Holidays during paid leave. A holiday falling within a period of paid leave shall not be counted as a workday in computing the amount of leave debited.

-6 Holiday during unpaid leave. ~~When a holiday falls within a period of leave without pay or immediately preceding or following such leave, the employee shall receive no pay for the holiday. To be eligible for holiday compensation the employee must be in pay status for a full workday preceding on one side of the holiday and a minimum of one-half workday on the other side.~~When a holiday falls within a period of leave without pay, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime.

-7 Appointment on a holiday. The appointment of a merit employee shall not be effected on a holiday except when the employee works that day.

10.37 *Administrative Leave*

-1 Administrative leave shall be any paid leave authorized by the County Executive, which is not otherwise classified by these Regulations.

-2 Administrative leave will normally[1] be granted to any full-time or part-time employee by an appointing authority or the County Executive for any of the following reasons:

a. Where an employee is required to appear before a public body, public agency, board or commission during normal working hours on matters relating to County business.

b. For the attendance in an official capacity during normal working hours as a representative of the County at meetings, symposiums, conferences, conventions or hearings.

c. During the investigation of an alleged improper act by an employee which may result in formal disciplinary actions and/or when the retention of the employee on an active duty status may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers or the general public. Administrative Leave for this purpose will not exceed ten business days without prior approval of the County Executive. A memorandum to the Human Resources Director will be submitted by the department head or designee giving details of the Administrative Leave for all situations covered by this paragraph. In lieu of the use of Administrative Leave for situations of this type, a department head or designee may temporarily assign the employee to other duties.

d. For participation in the blood donor program for which purpose up to four hours may be granted, at the discretion of department head or designee, for each recuperative purpose.

e. For the purpose of undergoing a medical examination as may be required by the employee's department head or designee.

f. To recognize long term service to general county employees who earn length of service awards of 20, 25, 30, 35, 40 and 45 years or more shall be eligible for one day~~'s~~ of administrative leave (12 hours for 24 hour shift firefighters) in the year after they have qualified for the length of service award.

g. To recognize outstanding performance such as Outstanding Performance Awards or Team Excellence Awards. The number of hours received for Outstanding Performance Awards or Team Excellence Awards shall be equal to ~~one~~ two days of administrative leave (24~~12~~ hours for 24 hour shift firefighters).

h. For officers of the Employees Advisory Council and employee organizations, which participate in payroll dues deduction to attend conventions and training related to employee relations. Administrative Leave for this purpose shall not exceed 30 workdays (240-hours) per year per employee organization. In the accrual of hours toward the 240-hour limit, one 24-hour shift shall equate to 16 hours of

1 Exceptions to be justified and made a matter of record.

administrative leave. Employees must submit such leave requests as far in advance as possible and provide written verification upon return to duty of attendance at the convention or employee relations training.

-3 In addition to the provisions of paragraph -2 above, Administrative Leave may be granted to any full-time or part-time employee by the County Executive or his/her designee for any of the following reasons:

a. Breakdown of essential facility services such as heating, air conditioning, or water or other problems wherein facilities must be closed and employees released early from work or not required to report to work.

b. Breakdowns of equipment making it impossible to accomplish assigned tasks.

10.38 *Leave for Inclement Weather or Other Emergency*

-1 When extreme inclement weather or other emergencies occur, the County Executive or his/her designee shall have the option to declare one of the following types of leave:

a. Unscheduled Leave - may be declared by the County Executive or his/her designee when it is deemed advisable to provide employees flexibility regarding reporting to work due to inclement weather or other emergency. Unscheduled leave authorizes all employees, except those designated as emergency service personnel, to use their own leave to remain home from work or to leave work early without obtaining prior approval from their supervisor. Employees, however, must notify their supervisors if they opt to stay home on unscheduled leave. Employees may only use annual leave, compensatory leave, or leave without pay for this purpose. Such leave is authorized only for the period of time designated by the County Executive or his/her designee.

b. Emergency Administrative Leave - may be declared by the County Executive or his/her designee when it is determined necessary to close the general County government due to extreme inclement weather or other emergency. Emergency administrative leave authorizes all merit County employees, except those designated as emergency service personnel, to remain home from work or to leave work early without prior approval of the supervisor and without the use of personal leave or leave without pay. Such leave shall be limited to the time periods designated by the County Executive or his/her designee. Employees required to work during a period of such emergency administrative leave shall receive extra compensation in accordance with provisions contained in Chapter 4.

-2 When leave for inclement weather or other emergency is declared, emergency service personnel must report to work. Emergency service personnel are those employees, designated by the department head or designee, who due to the nature of the emergency, which has occurred, must report to work to ensure that public health and safety needs or critical departmental requirements are met.

CHAPTER 16

Conduct and Discipline

16.1 *Purpose and Scope*

The purpose of this Chapter is to establish the standards of conduct for County employees and to prescribe procedures for warning and the progressive discipline of such employees.

16.2 *Policy*

It shall be the policy of Fairfax County government to ensure that all employees observe the Code of Ethics and the Standards of Conduct as prescribed herein. It shall be the policy of the County to ensure that all department heads and supervisors treat and discipline employees under their respective jurisdictions in a fair and equitable manner. Employees who feel they have not been so treated have a right to present their grievances following the procedures outlined in Chapter 17.

16.3 *Definitions*

-1 Informal Warnings

Oral Warnings - such actions are excluded under the grievance procedure

-2 Formal Warnings

Written Reprimands

-3. Formal Disciplinary Actions

a. Suspensions

b. Dismissals

c. Disciplinary Demotions

16.4 Responsibilities

-1 Each employee will:

a. Observe the Standards of Conduct, code of ethics, and other workplace rules.

b. Conduct him/herself, both on and off the job, in a manner, which will reflect credit on the County government, and respective departments.

-2 Department heads and supervisors will:

a. Inform employees of rules governing conduct and discipline as well as other workplace rules and special requirements;

b. Treat employees in a fair and equitable manner;

c. Investigate apparent employee offenses obtaining complete facts and full justification, administer appropriate disciplinary action when warranted and as described in this Chapter; and

d. Consult with the Human Resources Director or his/her designees if necessary where disciplinary action involving loss of pay is contemplated.

-3 Human Resources Director and his/her staff will:

a. Provide information and guidance to supervisors at all levels on standards of conduct and effective use of progressive discipline;

b. Provide advice and assistance to supervisors in the uniform and equitable interpretation and application of the provisions of this Chapter;

c. Ensure that the workplace rules and special requirements established by department heads and supervisors are not in conflict with the provisions of this Chapter;

d. Evaluate management practices in the administration of discipline and compliance with standards of conduct within departments and provide recommendations to department heads when such management practices require changes; and

e. Advise department heads on policy and procedures and recommend appropriate action.

-4 Department heads will make the final decision on issuance of formal disciplinary actions of suspension, dismissal or disciplinary demotions.

16.5 *Disciplinary Actions*

Disciplinary action will be taken only for good cause and after careful review of allegations with a goal, where appropriate, of correcting problem situations. However, disciplinary action must be taken when warranted to promote the efficiency of the Fairfax County service. The severity of the disciplinary action will be determined by the severity of the misconduct and review of the employee's work record.

-1 Oral Reprimand or Warning. When a supervisor deems that an informal oral reprimand or warning is warranted, he/she will:

a. Advise the employee, in private, of the specific infraction of the rule or breach of conduct and the date it occurred;

b. Allow the employee an opportunity to explain and weigh the explanation;

c. If warranted, administer the reprimand or warning informally; and

d. Maintain an informal record of the discussion with the employee's knowledge of such a record.

-2 Written Reprimand. When a supervisor determines that an offense is of such a nature that a record should be placed in an employee's personnel file maintained within the Department of Human Resources, a letter of reprimand will be prepared. The letter will contain:

a. Statement of charges in sufficient written detail to enable the employee to understand fully the violation, infraction, conduct or offense for which he/she is being disciplined;

b. Statement that it is an official letter of reprimand and that it will be placed in the employee's official personnel folder;

c. Previous offenses in those cases where the letter is considered a continuation of progressive discipline; and

d. Statement that similar occurrences could result in a proposal that more severe disciplinary action be initiated, up to and including dismissal.

-3 Suspension. When a supervisor determines that an offense requires a more severe disciplinary action than a written reprimand, he/she will:

a. Investigate alleged employee offenses promptly; obtain all pertinent facts in the case (time, place, events and circumstances) including, but not limited to, making contact with persons involved or having knowledge of the incident;

b. Discuss the case including the length of suspension with higher levels of supervision, where appropriate;

c. Consult with the Human Resources Director or his/her designee if necessary when suspensions are contemplated;

d. Prepare and submit advance notice letter to appropriate levels for review and approval; and

d. Consider employee's reply to the advance notice letter and make final recommendation to department head. The department head will make the final decision.

-4 Dismissal. The dismissal of an employee shall constitute the most severe type of disciplinary action authorized under this Chapter. This action should only be taken when a department head has determined that an employee is unsuited for employment in Fairfax County. When this determination has been made, the procedures outlined in the preceding paragraphs under Suspensions will be followed.

-5 Disciplinary Demotion. Separate and apart from disciplinary actions described in the preceding paragraphs, a department head may initiate a non-job performance demotion when an employee willfully violates or fails to comply with the requirements imposed by the Standards of Conduct or when an employee willfully participates in prohibited conduct as described by this Chapter. When such action is contemplated, the procedure outlined in the preceding paragraphs under Suspensions will be followed.

-6 When disciplinary action is necessary, the department head may enter into an Employee Assistance Program Disciplinary Diversion Agreement under conditions set forth in procedures established by the Human Resources Director.

16.6 *Criteria for Advance Notice Letter*

-1 The advance notice letter must include:

a. Statement of charges in sufficient detail to enable the employee to understand fully the violation, infraction, conduct or offense for which he/she is being disciplined;

b. Type of disciplinary action (suspension, dismissal, or disciplinary demotion);

c. A list of previous offenses, if any, which have been considered in arriving at the current disciplinary action;

d. Effective date of disciplinary action (no sooner than ten (10) business days from the date of advance notice letter) and employee's right to reply (five (5)) business days from receipt of the letter);

e. Employee's right to grieve should the final decision result in a suspension, dismissal or disciplinary demotion; and

f. Statement that the action proposed, if implemented, will become a permanent part of his/her personnel file.

16.7 *Circumstances When Administrative Leave Is Appropriate Prior to Compliance with Advance Notice Letter Provisions*

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed or when circumstances are such that the retention of the employee in an active duty status may result in damage to County property or may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers, or the general public, the department head or designee may temporarily assign him/her to duties in which these conditions will not exist or place the employee on administrative leave until appropriate disciplinary action, if any, is determined and the provisions of Section 16.6 have been followed.

16.8 *Probationary Employees*

-1 The disciplinary procedures prescribed herein shall be applicable to those employees of the competitive service assigned to a merit position. Employees are not covered by the rules of progressive discipline until they have completed a probationary period of twelve (12) months and any extensions authorized in accordance with the provisions of Chapter 7 after original appointment and may be terminated without benefit of this procedure.

-2 All employees are required to observe the Code of Ethics and Standards of Conduct prescribed herein.

ADDENDUM NUMBER 1 TO CHAPTER 16

STANDARDS OF CONDUCT

All employees, regardless of grade, title or length of county service **are expected to adhere to the following Standards of Conduct.** Violation of the Standards of Conduct is grounds for disciplinary action up to and including dismissal.

Leave and Attendance

Employees are expected to:

Comply with rules and regulations governing hours of work, absences, use of leave.

Employees are prohibited from:

Failing to report to work as scheduled without proper notice to supervisor;

Leaving work without permission;

Arriving late for work on a consistent basis.

Personal Behavior and Conduct

Employees are expected to:

Demonstrate professionalism and support the county's commitment to excellent customer service at all times;

Exercise courtesy, respect and tact when dealing with fellow employees and the public regardless of age, race, color, religion, sex, creed, national origin, marital status, disability, ~~or~~ sexual orientation, genetic information, union or political affiliation, veterans' status, disabled veterans' status, or any other factor unrelated to the impartial conduct of county business.

Comply with a proper order of an authorized supervisor.

Employees are prohibited from:

Harassing fellow employees, county vendors, or members of the public on the basis of race, color, religion, sex, [sexual orientation], national origin, age, marital status, disability, genetic information, or any other characteristic now or hereafter protected by federal, state or county law. This prohibition includes, but is not limited to, sexual harassment;

Engaging in rude or unprofessional behavior or disorderly conduct even if the behavior is not expressly forbidden by regulation or law;

Using racial, sexist or ethnic slurs or other language that disparages any person on the basis of age, race, color, religion, sex, national origin, marital status, disability, or sexual orientation, ;creed, genetic information, union or political affiliation, veterans' status, or disabled veterans' status.

Being convicted of a crime that is committed on the job or a felony in Virginia of such nature that the public or other employees may be endangered if the employee remains in his or her position or of such nature that reasonably undermines the public trust in the employee's ability to perform his or duties.

Engaging in conduct on or off duty that violates federal or state law, county ordinances or policies when the violation is related to the employee's activity as a county employee or to county business or when it undermines public trust in the county or the employee's ability to perform his or her duties.

Manufacturing, distributing, possessing, using or being under the influence of alcohol or illegal drugs while at work or on county premises with the exception of attendance at events where alcohol is permitted during off duty hours;

Threatening, assaulting, intimidating, or harassing another employee or a member of the public;

Using obscene language toward fellow employees, supervisors, subordinates and/or members of the public;

Abusing supervisory authority through favoritism, harassment, discrimination or mistreatment of employees.

Protection and proper use of County data, property, funds, and records

Employees are expected to:

Use public property, resources, and funds in accordance with established procedures;

Maintain confidentiality with regard to client or customer information in accordance with state and federal law, county ordinance and county policy;

Maintain employee confidentiality by preventing the disclosure of personal information to any unauthorized party.

Employees are prohibited from:

Using County data, facilities, equipment, property or employees for other than officially approved activities, except as permitted under County policy or procedure;

Engaging in any action prohibited by county information technology policy or procedure;

Carelessly or willfully causing destruction of county property;

Knowingly falsifying or conspiring to falsify any county record or report whether paper or electronic, (e.g., resume, time and attendance reports, workers' compensation claims, travel and/or expense vouchers).

Driving

Employees are expected to:

Operate all county vehicles in accordance with federal, state and local driving laws;

Operate privately owned vehicles being used in the performance of County business in accordance with state and local driving laws;

Remain aware of status of operator's license and report any suspension or revocation of driving privileges to their supervisor immediately if job duties require the operation of a vehicle for county business.

Employees are prohibited from:

Knowingly operating a vehicle on county business without a valid operator's license;

Possessing, using, or being under the influence of alcohol, illegal drugs, or prescription drugs that might adversely affect one's ability to drive, while driving a county vehicle or while driving a personal vehicle on county business.

Safety

Employees are expected to:

Promote safe and healthy working environment by complying with all appropriate safety and health regulations;

Promptly report safety and health hazards so that they can be corrected before injuries result;

Dress in appropriate attire, uniform or safety equipment as specified by the standards and work rules for the agency and position;

Immediately report workplace violence to your supervisor or appropriate authority.

Employees are prohibited from:

Bringing a gun, knife or other weapon, either concealed or displayed, to work or onto county premises, unless specifically authorized by the appointing authority to do so.

Outside Employment/Conflict of Interest/Political Activities of Employees

Employees are expected to:

Disqualify themselves in any decision where a conflict of interest may be presumed to exist;

Obtain permission from their appointing authority prior to engaging in any private business activity, employment or other activity outside of work that conflicts or interferes with full discharge of their official duties or the work they perform as a county employee.

Employees are prohibited from:

Accepting anything of value for performing, or refraining from performing, an official job-related act; or accepting anything of value in order to assist another person in obtaining a county job, promotion, or contract;

Using information obtained in connection with county employment in order to obtain financial gain for the employee or others;

Accepting anything that might tend to influence the manner of performance of county employment or that might be intended to influence the manner in which a county employee performs his or her job;

Having a personal interest in any contract with the county;

Participating in matters related to their employment in which the interests of the county employee, or the interests of the county employee's family members or business associates, might be affected.

Engaging in political activities, as defined in state law and County ordinance, while on duty, in uniform, or on the premises of their employment with the County.[1]

Using their official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign or to discriminate against any employee or applicant for employment because of that person's political affiliations or participation in permitted political activities or failure to participate in political activities, whether permitted or not.[2]

Discriminating in the provision of public services, including, but not limited to, firefighting, emergency medical, or law enforcement services, or responding to requests for such services, on the basis of the political affiliation or political activities of the person or organization for which such services are provided or requested.[3]

Suggesting or implying that the County has officially endorsed a political party, candidate, or campaign.[4]

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1 *See* Va. Code Ann. § 15.2-1512.2(B) (Supp. 2010).
2 Va. Code Ann. § 15.2-1512.2(D).
3 Va. Code Ann. § 15.2-1512.2(E).
4 Va. Code Ann. § 15.2-1512.2(F).

ADDENDUM NUMBER 2 TO CHAPTER 16

CODE OF ETHICS FOR THE MERIT SERVICE OF FAIRFAX COUNTY, VIRGINIA

Fairfax County Code of Ethics is intended to inspire a superior level of conduct, sensitivity and sound judgment for all employees.5 The code is intended to complement, not replace, all professional code of ethics. Employees should be aware of and abide by their respective professional values and requirements. All employees must perform their designated function in a manner that reflects the highest standards of ethical behavior. All employees must uphold their responsibility as trusted public servants. All employees are obligated to respect, honor, and uphold the Constitution, laws and legal regulations, policies and procedures of the United States, the Commonwealth of Virginia, and the County of Fairfax.

The Code of Ethics is supported by six core principles that form the ethical foundation of the organization: Honesty, Public Service, Respect, Responsibility, Stewardship, and Trust.

I. **Honesty:** Be truthful in all endeavors; be honest and forthright with each other and the general public.

II. **Public Service:** Ensure all actions taken and decisions made are in the best interest of the general public and enrich and protect quality of life.

III. **Respect**: Treat all individuals with dignity; be fair and impartial; affirm the value of diversity in the workplace and in Fairfax County; appreciate the uniqueness of each individual; create a work environment that enables all individuals to perform to the best of their abilities.

IV. **Responsibility:** Take responsibility for actions; work a full day; conduct all workplace actions with impartiality and fairness; report concerns in the workplace, including violations of laws, policies and procedures; seek clarification when in doubt; ensure that all decisions are unbiased.

V. **Stewardship:** Exercise financial discipline with assets and resources; make accurate, clear and timely disclosures to the public; maintain accurate and complete records; demonstrate commitment to protecting entrusted resources.

VI. **Trust:** Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

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5 For the purpose of this document, the term employee includes all persons, volunteers and all elected and appointed officials working on behalf of Fairfax County.

County of Fairfax, Virginia

MEMORANDUM

DATE: March 1, 2012

TO: Susan Woodruff, Director
Department of Human Resources

FROM: Sara J. Simmons, Executive Director
Civil Service Commission

SUBJECT: Public Hearing on Proposed Revisions to the Personnel Regulations - Chapters 2, 4, 5, 7, 10, 12 and 16

Following an advertised public hearing held on February 27, 2012, the Civil Service Commission considered the above referenced proposed revisions to the Personnel Regulations. Members of the Commission present at the public hearing included: Rosemarie Annunziata; Ron Copeland; Irene Farquhar; Robert Frye; Tom Garnett; John Harris; Audrey Morton; Rich Stacy; and, John Townes.

Susan Woodruff, Director, Department of Human Resources, gave an overview regarding the proposed changes; Edward Rose, Senior Assistant County Attorney, County Attorney's Office was also available to respond to questions.

The Commission received testimony from one speaker: John Niemiec, President of the Fairfax County Professional Firefighters & Paramedics Union/ Local 2068, who spoke in support of the changes.

At the conclusion of the hearing, and after discussion, a motion was made to recommend approval of the package as proposed, subject to revisions discussed with Susan Woodruff, DHR during the public hearing. Attached are the changes that were discussed. This motion passed unanimously by those members present.

If the Commission can be of further assistance, please let me know.

cc: Board of Supervisors
Commissioners, Civil Service Commission
Anthony H. Griffin, County Executive
David Bobzien, County Attorney
Peter Andreoli, Deputy County Attorney
Randy Creller, Chair, Employee Advisory Council
John Niemiec, President, Fairfax County Professional Firefighters & Paramedics Union/ Local 2068
Karen Conchar, President, Fairfax County Government Employees Union/ SEIU

Civil Service Commission
12000 Government Center Parkway, Suite 258
Fairfax, Virginia 22035
Phone 703-324-2930 Fax 703-324-2936
www.fairfaxcounty.gov

Changes made as a result of CSC public hearing:

Chapter 2 - Definitions

Extended Family Including Household Member

Includes employee's spouse, son, daughter, parents, parent in-laws, siblings, grandparents, grandchildren, aunt, uncle, niece, nephew, employee's respective in-laws, first cousin, or children for whom the employee has legal guardianship or is designated as primary caregiver ~~for~~ and any person who resides in the employee's home. ~~whose close association with the employee is equivalent of a family relationship~~.

Immediate Family Including Household Member

Includes employee's spouse, son, daughter, parents, parents-in-law, siblings, grandparents, , children for whom the employee has legal guardianship or is designated as primary caregiver, and any person who resides in the employee's home ~~whose close association with the employee is the equivalent of a family relationship.~~

Part-Time Employee

An employee who is not regularly scheduled to work at least 2,080 hours in 12 consecutive months, or fire protection personnel not regularly scheduled to work at least 2, 912 hours in 12 consecutive months. ~~does not meet the definition of full time employee~~

Chapter 7.1-3 (B)

B. Health Benefits: Employees scheduled to work less than 31 hours per week may be subject to higher premium payments for certain benefits, in accordance with county benefits policy.

Chapter 10

10.4 *Procedures for Requesting Leave*

-1 For all leave, with the exception of official holiday, unscheduled sick and administrative emergency leave, a request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of the leave. The request for leave should be submitted to the department head or designee the same number of days prior to beginning the leave as the number of days leave requested. In the case of unscheduled sick leave, the request shall be completed and submitted for approval immediately upon the employee's return to duty.

10.7-1 Annual leave shall normally be granted unless a department head or designee specifically defers an employee's ~~vacation~~ absence because of work requirements.

All renumbering and font issues throughout the document will be corrected.

All references to 40-hour work week will be changed to reflect an 80-hour pay period for consistency.

[As an aside, Sue indicated before the meeting, in response to my question about the moratorium that 12.1-1d on supervisory responsibility to evaluate each employee should have been highlighted as part of the moratorium.]

Board Agenda Item
March 20, 2012

ACTION – 7

Approval of the Sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Laurel Hill Public Facilities Projects (South County Secondary School and Laurel Hill Golf Course)

ISSUE:
Board approval of a resolution to authorize and request the sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Laurel Hill Public Facilities Projects (South County Secondary School and Laurel Hill Golf Course) on or about April 3, 2012.

RECOMMENDATION:
The County Executive recommends Board approval of a Resolution which (i) requests the Fairfax County Economic Development Authority (“EDA”) to issue bonds to finance the Project (the “Refunding Bonds”), (ii) approves the form and authorizes the execution of the Installment Purchase Contract between the Fairfax County Economic Development Authority ("EDA") and Board of Supervisors which sets out the terms and conditions for the County to make payments to EDA to pay the debt service on the Bonds and the responsibilities of the parties relating to the " Project," (iii) approves the form of the Second Supplemental Trust Agreement, between EDA and a trustee which sets forth the terms for issuing the Refunding Bonds; the application of the proceeds of the Bonds and the pledging of funds for the payment of the Refunding Bonds (iv) approve amendments to Use and Funding agreements with the Fairfax County Park Authority and Fairfax County School Board relating to the respective facilities.

TIMING:
Board action is requested on March 20, 2012.

BACKGROUND:
In June 2003, EDA issued $70,830,000 of revenue bonds (Laurel Hill Public Facilities Project), backed by a contract with the County. Approximately $55,300,000 of the bonds were allocable to the financing of a new public secondary school and $15,530,000 of the bonds were allocable to the financing of new 18-hole public golf course (Laurel Hill) in the southern part of the County. The County is obligated by the terms of a contract with the EDA to pay amounts equal to debt service on the EDA’s

bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose.
Staff is presenting the Board with the necessary documents to proceed with a refunding sale for the purpose of reducing debt service payments through lower interest rates. The sale is expected to occur on or about April 3, 2012.

Additionally, the original bond documents incorporated a Use and Funding Agreement between the County, the Fairfax County School Board, and the Fairfax County Park Authority. This agreement placed responsibility for the development and construction of the school and golf course and related structures, facilities, and equipment on the School Board and Park Authority respectively. As such, amendments to this agreement per the County's recommendation to refund the bonds along with respective resolutions were approved at the School Board's March 8, 2012, meeting, and will be obtained at the Park Authority's March 14, 2012, meeting. The EDA will pass a resolution authorizing the refunding bond sale at their March 20 meeting.

FISCAL IMPACT:
Based on market conditions as of February 27, 2012, a refunding of $40.5 million of existing debt is estimated to generate net present value savings of $5.8 million or 14.3% of the refunded bonds. If interest rates rise 25 basis points (0.25 percent), the net present value savings would be approximately $4.8 million or 12.2% of the refunded par amount. If interest rates rise 50 basis points (0.50 percent), the net present value savings would be approximately $3.9 million or 10.5% (the refunding candidates will fall to $36.8 million). The Park Authority currently reimburses the County for the annual debt service payments for the Golf Course which are approximately $900,000 per year and will eventually build to a maximum level of $1.3 million per year. The Park Authority's debt service reimbursement will then be reduced in proportion to the total savings achieved from the bond sale. The County pays all debt service associated with the South County Secondary School portion of the bonds.

The County's last refunding bond sale in the amount of $192.36 million occurred on January 19, 2012. The sale generated net present value savings of $24.66 million or 11.28% of the refunded bonds with the savings spread over the life of the refunding bonds through FY 2024. The County has held an Aaa rating from Moody's since 1975, an AAA rating from Standard and Poor's since 1978, and an AAA rating from Fitch Ratings since 1997. As of January 2012, eight states, thirty-nine counties, and thirty-four cities have a triple-A bond rating from all three major rating agencies. As a result of the County's excellent triple-A bond rating, the County has saved an estimated $538.09 million from County bond and refunding sales.

Board Agenda Item
March 20, 2012

ENCLOSED DOCUMENT:
Attachment 1: Resolution of Approval
Attachment 2: Bond Sale Schedule of Events
Attachment 3: Continuing Disclosure Agreement
Attachment 4: Second Supplemental Trust Agreement
Attachment 5: Notice of Sale
Attachment 6: First Amendment to Use and Funding Agreement (High School)
Attachment 7: First Amendment to Use and Funding Agreement (Golf Course)
Attachment 8: School Board Resolution Requesting Sale of Refunding Bonds (School Board Approved on March 8, 2012)
Attachment 9: Park Authority Resolution Requesting Sale of Refunding Bonds (Park Authority Approved on March 14, 2012)
Attachment 10: Fairfax County Park Authority Subordinated Bond (Park Authority Approved on March 14, 2012)
Attachment 11: Preliminary Official Statement (Available in the Office of the Clerk of the Board)

STAFF:
Susan Datta, Chief Financial Officer, Department of Management and Budget
Leonard Wales, County Financing Advisor, Department of Management and Budget
Joseph LaHait, Debt Coordinator, Department of Management and Budget
Dean Tistadt, Chief Operating Officer, Fairfax County Public Schools
John Dargle, Director, Fairfax County Park Authority
Alan Weiss, Assistant County Attorney, Office of the County Attorney
Victor Garcia, Director, Department of Finance

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RESOLUTION REQUESTING THAT THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY ISSUE ITS FACILITIES REVENUE REFUNDING BONDS (LAUREL HILL PUBLIC FACILITIES PROJECTS) SERIES 2012A TO EFFECT THE REFINANCING OF CERTAIN OF THE COUNTY'S CURRENT OBLIGATIONS UNDER AN INSTALLMENT PURCHASE CONTRACT RELATING TO CERTAIN FACILITIES FINANCED WITH BONDS ISSUED BY THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY; APPROVING THE FORM OF A SECOND SUPPLEMENTAL TRUST AGREEMENT BETWEEN THE AUTHORITY AND A TRUSTEE, A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS, AND A NOTICE CALLING FOR BIDS TO PURCHASE THE BONDS; MAKING A CONTINUING DISCLOSURE UNDERTAKING; APPROVING AMENDMENTS TO USE AND FUNDING AGREEMENTS WITH THE FAIRFAX COUNTY PARK AUTHORITY AND THE SCHOOL BOARD OF THE COUNTY OF FAIRFAX RELATING TO SUCH FACILITIES; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH OTHER DOCUMENTS AND AGREEMENTS RELATING TO SUCH TRANSACTIONS AS MAY BE NECESSARY OR REQUIRED; AND DELEGATING TO THE COUNTY EXECUTIVE OR THE CHIEF FINANCIAL OFFICER POWER TO DETERMINE CERTAIN DETAILS OF SUCH TRANSACTIONS

WHEREAS, the Board of Supervisors (the "Board") of Fairfax County, Virginia (the "County") previously entered into two Use and Funding Agreements (the "Use and Funding Agreements") by the terms of which the County, with the assistance of the Fairfax Economic Development Authority ("EDA"), undertook to finance a new public high school and a new public golf course (the "Projects") in the Laurel Hill area of the southern portion of the County and convey the sites thereof to the School Board of Fairfax County (the School Board") and the Fairfax County Park Authority (the "FCPA"); and

WHEREAS, at the County's request, EDA issued its bonds (the "Prior Bonds") to finance of a portion of the cost of these Projects; and

WHEREAS, the Prior Bonds were issued pursuant to a Trust Agreement and a First Supplemental Trust Agreement, each dated as of June 1, 2003 (as so supplemented, the "Trust Agreement"), by and between EDA and the predecessor trustee to U.S. Bank National Association, as trustee (the "Trustee"); and

WHEREAS, under the terms of an Installment Purchase Contract, dated as of June 1, 2003 (the "Installment Purchase Contract"), EDA sold to the County EDA's interest in the Projects, and the County agreed to make Basic Payments and Additional Payments (as defined in the Installment Purchase Contract) therefor, on the terms and conditions therein set forth, sufficient to pay the principal of and interest on the Prior Bonds issued by EDA to pay a portion of the cost of the Projects; and

WHEREAS, the County hereby requests EDA to consider a resolution authorizing the refinancing of costs of the Projects by issuing refunding bonds pursuant to Section 209 of the Trust Agreement and a Supplemental Trust Agreement (as defined below) and approving the necessary documents to effect such refinancing and related transactions; and

WHEREAS, the Board has determined to approve the form of a second supplemental trust agreement (the "Supplemental Trust Agreement") between EDA and the Trustee, supplementing the Trust Agreement, and providing for the issuance of a series of Bonds, to be designated "Fairfax County Economic Development Authority Revenue Refunding Bonds (Laurel Hill Public Facilities Project) Series 2012A" (the "2012A Bonds"); and

WHEREAS, there have been presented to the Board proposed amendments to each Use and Funding Agreement (collectively, the "Use and Funding Agreement Amendments"); and

WHEREAS, there has been presented to the Board a proposed form of the notice calling for bids for the purchase of all (but not less than all) of the 2012A Bonds (the "Notice of Sale"); and

WHEREAS, there has been presented to the Board a proposed Preliminary Official Statement describing the 2012A Bonds, EDA, the County and the Projects (the "Preliminary Official Statement"); and

WHEREAS, the County will undertake primary responsibility for any annual and other reports, notices or disclosures that may be required under Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, and make a continuing disclosure undertaking in the form of the continuing disclosure agreement presented to the Board (the "Continuing Disclosure Agreement"); and

WHEREAS, the Board has duly reviewed and considered the forms of the Supplemental Trust Agreement, the Use and Finding Agreement Amendments, the Preliminary Official Statement, the Notice of Sale and the Continuing Disclosure Agreement and has determined that each is in acceptable form; and

WHEREAS, the Board has determined that it is necessary to delegate to the County Executive and the Chief Financial Officer of the County (each a "Delegate") the power to approve the sale of the 2012A Bonds and the details of these transactions but subject to the guidelines and standards established hereby; now, therefore,

BE IT RESOLVED by the Board as follows:

SECTION 1. EDA is hereby requested to authorize and issue the 2012A Bonds in an aggregate principal amount not to exceed $_____ (which includes underwriting and net bond discounts, closing costs, and issuance expenses), for the purpose of refinancing the costs of the Projects by refunding or defeasing all or any portion of the Prior Bonds; provided, the net present value of the savings to be obtained from the redemption or defeasance of Prior Bonds with the proceeds of the 2012A Bonds is not less than three percent (3%). Such 2012A Bonds may be sold in a competitive sale pursuant to bids received electronically via the PARITY Competitive Bidding System or similar electronic based competitive bidding system or through a negotiated sale to one or more underwriters chosen in compliance with County guidelines and regulations. If such 2012A Bonds shall be sold in a competitive sale such 2012A Bonds are requested to be awarded to the bidder submitting the best bid (determined in accordance with the requirements of the Notice of Sale and the terms set forth in an EDA Board of Commissioners resolution) and the Fairfax County Executive or Chief Financial Officer (each a "Delegate") are hereby authorized to request EDA to award the Bonds to such best bidder. The 2012A Bonds may upon the approval of the EDA Chairman, Vice Chairman or other authorized officer and with the consent of the County Executive or the Chief Financial Officer be sold in a negotiated

sale to one or more underwriters, subject to the following conditions: (i) the Financial Advisor to the County shall have recommended that due to financial market conditions such a negotiated sale best serves the interest of the County and (ii) the underwriter(s) of the bonds shall have been chosen pursuant to County guidelines and regulations. In the event of a negotiated sale, the Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such other officer or officers of the County as may be designated by any one of them, is hereby authorized and directed to execute or approve a bond purchase agreement, by and among the underwriters, EDA and the County, setting forth the terms of the sale of the bonds. Such bond purchase agreement shall only be executed (i) if such agreement does not contain any terms contradictory to the terms of this Resolution or the resolution to be approved by the EDA Board of Commissioners resolution relating to the 2012A Bonds and (ii) the Financial Advisor to the County shall recommend to the County the execution of such agreement.

SECTION 2. The form of the Supplemental Trust Agreement presented to this meeting, providing details for the custody, investment and disbursement of the proceeds of the 2012A Bonds, is hereby approved in such form and containing substantially the terms and provisions therein set forth.

SECTION 3. The form of each Use and Funding Agreement Amendment presented to this meeting be, and the same hereby is, approved, and the Chairman or Vice Chairman of the Board or the County Executive or the Chief Financial Officer of the County, as appropriate, and the Clerk or any Deputy Clerk of the County be, and they hereby are, authorized, directed and empowered to execute and deliver, under seal, in the name and on behalf of the County the Use and Funding Agreement Amendments in such form and containing substantially the terms and provisions therein contained, with such additions and modifications (including, but not limited to the amendment and restatement of the Use and Funding Agreements) as shall be approved by those executing the Use and Funding Agreement Amendments, their execution thereof being conclusive evidence of such approval.

SECTION 4. The form of the Notice of Sale presented to this meeting is approved, and the distribution, publication and use of the Notice of Sale for purposes of the sale of the 2012A Bonds is hereby approved. Alternatively, the Clerk may cause to be distributed a summary of the principal terms of the notice. Bids shall be received electronically via the PARITY Competitive Bidding System.

SECTION 5. The form of the Preliminary Official Statement is hereby approved and deemed "final" for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The distribution and use by the winning bidder or underwriters of the 2012A Bonds of a final Official Statement relating to the 2012A Bonds (the "Official Statement") is hereby approved. The Official Statement shall be completed with the pricing and other information in substantially the form of the Preliminary Official Statement approved this day with such minor changes, insertions and omissions as may be approved by a Delegate.

SECTION 6. The form of the Continuing Disclosure Agreement presented to this meeting be, and the same hereby is, approved, and the Chairman or Vice Chairman of the Board or a Delegate, as appropriate, be, and the same is hereby authorized, directed and empowered to execute and deliver, under seal, in the name and on behalf of the County, the Continuing Disclosure Agreement in such form and containing substantially the terms and provisions therein contained, with such additions and modifications as shall be approved by the person executing

the Continuing Disclosure Agreement, such execution thereof being conclusive evidence of such approval.

SECTION 7. The execution and delivery by a Delegate of the Continuing Disclosure Agreement and any other agreements, documents, closing papers and certificates executed and delivered pursuant to this Resolution shall be conclusive evidence of their approval of the changes, if any, in the forms thereof and of their authority to execute and deliver such agreements, documents, certificates and closing papers on behalf of the Board.

SECTION 8. The members, officers and employees of the Board and the County, EDA and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the 2012A Bonds, the Trust Agreement, the Supplemental Trust Agreement, the Installment Purchase Contract, the Use and Funding Agreements, the Use and Funding Agreement Amendments, the Notice of Sale and the Official Statement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the 2012A Bonds, the Trust Agreement, the Supplemental Trust Agreement, the Installment Purchase Contract, the Use and Funding Agreements, the Use and Funding Agreement Amendments, the Notice of Sale and the Official Statement and also to do all acts and things required of them by the provisions of this Resolution.

SECTION 9. The officers of the Board and the County are authorized to execute one or more certificates evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificate shall be conclusive evidence of the actions or determinations as stated therein.

SECTION 10. All actions taken by the Board and the members, officers and employees of the Board in connection with this Resolution, and the authorization, execution and delivery of the agreements, certificates and other documents to be executed by the Board and delivered in connection with this Resolution are hereby ratified and confirmed.

SECTION 11. Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict. All capitalized terms not defined herein shall have the meanings as set forth in the Trust Agreement.

SECTION 12. This resolution shall take effect immediately upon its adoption.

Attachment 2

DRAFT Critical Path Events
Fairfax County, Virginia
EDA Revenue Refunding Bonds (Laurel Hill), Series 2012

February 2012						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

March 2012						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

April 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Week Of	Activity and Event	Responsible Party
Feb 20th		
	First draft of Resolutions, POS, Supplemental Trust, & Installment Purchase contract ("Bond Documents") distributed	SID
	Thursday, Feb 23rd @ 2 pm – Call with S&P	FX, PFM
	Friday, Feb 24th @ 10 am – Call with Moody's	FX, PFM
	Friday, Feb 24th @ 11 am – Call with Fitch	FX, PFM
Feb 27th		
	Comments due on Bond Documents	PFM, FX
	Tuesday, Feb 28th – Board Title Due	FX
	Thursday, March 1st – Board Item Due	FX
March 5th		
	Second draft of Bond Documents distributed	SID
	Draft Bond Documents sent to Rating Agencies	PFM
	First draft of Escrow Deposit Agreement distributed	SID
	Documents needed for EDA Board [Confirm date]	SID
March 12th		
	Receive Bond Ratings	-
	Comments due on Escrow Deposit Agreement	PFM, FX
March 19th		
	Tuesday, March 20th – County Board considers Bond Documents	FX
	Tuesday, March 20th – EDA Board considers Bond Documents	FX, EDA
	Friday, March 20th – Finalize & Mail POS	SID
March 26th		
	Pre-marketing of bonds	PFM
April 2nd		
	Tuesday, April 3rd – Bond Sale	PFM, FX
April 9th		
	Finalize Official Statement	SID
	Finalize closing documents	SID
April 16th		
	Tuesday, April 17th – Closing & funding of escrow	All

Key:
FX = Fairfax County, Virginia
EDA = Fairfax County Economic Development Authority
PFM = Public Financial Management, Financial Advisor
SID = Sidley Austin, Bond Counsel

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by Fairfax County, Virginia (the "County"), in connection with the issuance by the Fairfax Economic Development Authority (the "Authority") of its $_____ Revenue Refunding Bonds (Laurel Hill Public Facilities Projects), Series 2012A (the "Series 2012A Bonds") pursuant to the provisions of resolution (the "Authorizing Resolution") adopted by the Authority on _____ __, 2012 and under a Trust Agreement, dated as of June 1, 2003, and as supplemented by a Second Supplemental Trust Agreement, dated as of _____, 2012 (collectively the "Trust Agreement"), each between the Authority and U.S. Bank National Association, as successor trustee (the "Trustee").

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the County acting on behalf of itself and the Authority, for the benefit of the holders of the Series 2012A Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). Under the Rule, the County is an "obligated person." The County acknowledges that it is undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement.

SECTION 2. Definitions. In addition to the definitions set forth in the Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Dissemination Agent" shall mean the County, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

"Filing Date" shall have the meaning given to such term in Section 3(a) hereof.

"Fiscal Year" shall mean the twelve month period at the end of which financial position and results of operations are determined. Currently, the County's Fiscal Year begins July 1 and continues through June 30 of the next calendar year.

"Holder" or "holder" shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of the Series 2012A Bonds.

"Listed Events" shall mean any of the events listed in subsection (b)(5)(i)(C) of the Rule, which are as follows:

principal and interest payment delinquencies;

non-payment related defaults; if material;

unscheduled draws on debt service reserves reflecting financial difficulties;

unscheduled draws on credit enhancements reflecting financial difficulties;

substitution of credit or liquidity providers, or their failure to perform;

adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 570-TEB) or other material notices or determinations with respect to or events affecting the tax status of the Series 2012A Bonds;

modifications to rights of holders, if material;

bond calls, if material, and tender offers;

defeasances;

release, substitution, or sale of property securing repayment of the Series 2012A Bonds, if material;

rating changes;

bankruptcy, insolvency, receivership or similar event of the County;

the consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating any such actions, other than pursuant to its terms, if material; and

appointment of a successor or additional paying agent or the change of name of a paying agent, if material.

"Participating Underwriters" shall mean any of the original underwriters of the Series 2012A Bonds required to comply with the Rule in connection with the offering of such Series 2012A Bonds.

"Repository" shall mean The Electronic Municipal Market Access ("EMMA") system administered by the Municipal Securities Rulemaking Board. EMMA is recognized as a National Repository for purposes of the Rule.

"Rule" shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

A. The County shall, or shall cause the Dissemination Agent to, provide to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date (the "Filing Date") that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year

ending June 30, 2012). Not later than ten (10) days prior to the Filing Date, the County shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement, and (iii) shall include the County's audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the County must be submitted, if and when available, together with or separately from the Annual Report.

B. The annual financial statements of the County shall be prepared on the basis of generally accepted accounting principles and will be audited. Copies of the audited annual financial statements, which may be filed separately from the Annual Report, will be filed with the Repository when they become publicly available.

C. If the County fails to provide an Annual Report to the Repository by the date required in subsection (A) hereto or to file its audited annual financial statements with the Repository when they become publicly available, the County shall send a notice to the Repository in substantially the form attached hereto as Exhibit B.

SECTION 4. Content of Annual Reports. Except as otherwise agreed, any Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, annual financial information relating to the County, including operating data, updating such information relating to the County as described in Exhibit A, all with a view toward assisting the Participating Underwriters in complying with the Rule.

Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which the County is an "obligated person" (within the meaning of the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Repository. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Listed Events. The County will provide within 10 business days to the Repository notice of any of the Listed Events.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of all the Series 2012A Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the County shall be the Dissemination Agent.

SECTION 8. Amendment. Notwithstanding any other provision of this Disclosure Agreement, the County may amend this Disclosure Agreement, if such amendment is supported

by an opinion of independent counsel with expertise in Federal securities laws, to the effect that such amendment is permitted or required by the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the County shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. Any person referred to in Section 11 (other than the County) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the County to file its Annual Report or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Series 2012A Bonds outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the County hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Authorizing Resolutions, the Trust Agreement or the Series 2012A Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the County to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 11. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the County, the Participating Underwriters, and holders from time to time of the County's bonds and notes, and shall create no rights in any other person or entity.

Date: _____ __, 2012

FAIRFAX COUNTY, VIRGINIA

By: _____
Title:

Attachment 3

EXHIBIT A

CONTENT OF ANNUAL REPORT

Respecting Fairfax County, Virginia

(a) **Financial Information**. Updated information concerning General Fund revenues, expenditures, categories of expenditures, fund balances, assessed value of taxable property, tax rates, major taxpayers, and tax levies and collections.

(b) **Debt Information.** Updated information concerning general obligation bonds indebtedness, including bonds authorized and unissued, bonds outstanding, the ratios of debt to the market value of taxable property, debt per capita, and debt service as a percentage of General Fund disbursements.

(c) **Demographic Information.** Updated demographic information respecting the County, such as its population, public school enrollment and per pupil expenditure.

(d) **Economic Information.** Updated economic information respecting the County such as income, employment, unemployment, building permits and taxable sales data.

(e) **Retirement Plans.** Updated information respecting pension and retirement plans for County employees, including a summary of membership, revenues, expenses and actuarial valuation(s) of such plans.

(f) **Contingent Liabilities.** A summary of material litigation and other material contingent liabilities pending against the County.

In general, the foregoing will include information as of the end of the most recent fiscal year or as of the most recent practicable date. Where information for the fiscal year just ended is provided, it may be preliminary and unaudited. Where information has historically been provided for more than a single period, comparable information will in general be provided for the same number of periods where valid and available. Where comparative demographic or economic information for the County and the United States as a whole is contemporaneously available and, in the judgment of the County, informative, such information may be included. Where, in the judgment of the County, an accompanying narrative is required to make data presented not misleading, such narrative will be provided.

Attachment 3

EXHIBIT B

NOTICE OF FAILURE TO FILE ANNUAL REPORT
[AUDITED ANNUAL FINANCIAL STATEMENTS]

Re: FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY
REVENUE REFUNDING BONDS
(LAUREL HILL PUBLIC FACILITIES PROJECT)
SERIES 2012A

CUSIP NOS. ___-___

Dated: _____ __, 20__

NOTICE IS HEREBY GIVEN that Fairfax County, Virginia has not provided an Annual Report [Audited Annual Financial Statements] as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds, the proceeds of which were to pay a portion of the principal amount of an outstanding note. [The County anticipates that the Annual Report [Audited Annual Financial Statements] will be filed by _____.]

Dated: _____

FAIRFAX COUNTY, VIRGINIA

By: _____

Attachment 4

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

to

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

SECOND SUPPLEMENTAL TRUST AGREEMENT

Dated as of _____, 2012

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SECOND SUPPLEMENTAL TRUST AGREEMENT

This **SECOND SUPPLEMENTAL TRUST AGREEMENT**, dated as of _____, 2012, by and between **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the "EDA"), and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association duly organized and existing under the laws of the United States of America, and having a corporate trust office in Richmond, Virginia, which is authorized under such laws to exercise corporate trust powers and is subject to examination by federal authority, trustee under the Trust Agreement hereinafter mentioned (the "Trustee"):

W I T N E S S E T H:

WHEREAS, the EDA has heretofore caused to be executed and delivered a trust agreement, dated as of June 1, 2003 (the "Trust Agreement"), by and between the EDA and the Trustee, for the purpose of fixing and declaring the conditions upon which bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and in order to secure the payment of all bonds at any time issued and outstanding thereunder, and the interest thereon, according to their tenor, purport and effect; and

WHEREAS, in accordance with the provisions of the Trust Agreement and a First Supplemental Trust Agreement, dated as of June 1, 2003, the EDA issued its $70,830,000 Revenue Bonds (Laurel Hill Public Facilities Projects) Series 2003 (the "Series 2003 Bonds") for the purpose of providing funds, together with any other available funds, to finance a new public high school and a new public golf course in the Laurel Hill area of the southern portion of Fairfax County (the "Projects") and to pay costs in connection with the issuance of the bonds; and

WHEREAS, Section 209 of the Trust Agreement contemplates the refunding from time to time of Bonds issued under the Trust Agreement; and

WHEREAS, the Authority has by resolution, adopted on _____, 2012 (the "Authorizing Resolution"), determined to issue refunding bonds, pursuant to Section 209 of the Trust Agreement, in an aggregate principal amount not to exceed $_____ for purposes of refunding certain maturities of the Series 2003 Bonds (the "Series 2012 Bonds"); and

WHEREAS, Section 209 of the Trust Agreement contemplates that the EDA may fix or provide for the aggregate principal amount of the Series 2012 Bonds, the maturity dates, the interest rates, the redemption provisions and other details thereof; and

WHEREAS, Section 1101(e) of the Trust Agreement provides that the EDA may enter into a supplement to the Trust Agreement, in form satisfactory to the Trustee, as shall not be inconsistent with the terms and provisions of the Trust Agreement to provide for the issuance and to fix the details of the bonds issued under Section 209 of the Trust Agreement; and

WHEREAS, the execution and delivery of this Second Supplemental Trust Agreement have been duly authorized by the Authorizing Resolution, and the EDA has requested the Trustee to join with it in the execution of this Second Supplemental Trust Agreement; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia and by the resolutions of the EDA to happen, exist and be performed precedent to and in the execution of this Second Supplemental Trust Agreement have happened, exist and have been performed as so required; and

WHEREAS, the Trustee has accepted the trusts created by this Second Supplemental Trust Agreement and in evidence thereof has joined in the execution hereof;

NOW, THEREFORE, THIS SECOND SUPPLEMENTAL TRUST AGREEMENT WITNESSETH, that in consideration of the premises and of the acceptance by the Trustee of the trusts created hereby and by the Trust Agreement, and also for and in consideration of the sum of One Dollar to the EDA in hand paid by the Trustee at or before the execution and delivery of this Second Supplemental Trust Agreement, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed and covenanted by and between the parties hereto, as follows:

Section 1. Terms of the Series 2012 Bonds. The Series 2012 Bonds shall be designated "Fairfax County Economic Development Authority Revenue Refunding Bonds (Laurel Hill Public Facilities Projects) Series 2012A". The Series 2012 Bonds shall be issued in registered form without coupons, registered in the name of CEDE & Co., as nominee of The Depository Trust Company, and numbered R-1 and upward. The definitive Series 2012 Bonds issued under the provisions of this Second Supplemental Agreement shall be in substantially the form set forth in the Trust Agreement. The Series 2012 Bonds shall be issued in the aggregate principal amount of $_____, shall be dated the 1st day of ____, 20__ and shall be issued in denominations of $5,000 or any multiple thereof, one bond per maturity. $_____ of the Series 2012 Bonds shall be serial bonds maturing in the years, in the principal amounts and bearing interest at the rates per annum (based upon a 360-day year of twelve 30 day months), as follows:

Year [___1]	Principal Amount	Interest Rate
20__	$	%
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		

20__
20__
20__
20__
20__
20__
20__

and $_____ of the Series 2012 Bonds shall be Term Bonds consisting of $_____ principal amount of Term Bonds maturing on ____ 1, 20__, and bearing interest at the rate of ____% per annum. Interest on the Series 2012 Bonds shall be payable on the 1st day of _____ and _____ in each year to maturity, commencing _____, 2012. The record date for the Series 2012 Bonds shall be the 15th day (whether or not a business day) of the calendar month next preceding the applicable Interest Payment Date.

The Sinking Fund Requirements, defined and referred to in Sections 101 and 301 of the Trust Agreement, for the Term Bond maturing _____, 20__ herein authorized, shall be the following amounts on _____ 1 of the following years:

Year	Principal Amount
20__	$
20__	
20__	
20__	
20__	
20__	
20__	
20__	
20__	
20__*	

_____
* Final maturity

At its option, to be exercised not less than forty-five (45) days prior to each such applicable Principal Payment Date, the EDA may (a) deposit money with the Trustee to be used to purchase Series 2012 Bonds, or direct the Trustee to cause money in the Debt Service Subfund to be used for such purchases, at a price not exceeding the principal amount thereof plus accrued interest to such applicable Principal Payment Date, or (b) receive a credit against the Sinking Fund Requirements for Series 2012 Bonds which prior to such date have been purchased by the EDA and presented to the Trustee for cancellation or redeemed (otherwise than in satisfaction of prior Sinking Fund Requirements) and canceled by the Trustee and, in either case, not theretofore applied as a credit against any Sinking Fund Requirement. Each such Series 2012 Term Bond so purchased, delivered or previously redeemed will be credited by the Trustee at

100% of the principal amount thereof against the current Sinking Fund Requirement with respect to Series 2012 Bonds due on the same date as the Term Bond so purchased, delivered or previously redeemed and canceled. Any excess over such current Sinking Fund Requirement will be credited against the future Sinking Fund Requirements of Term Bonds with the same maturity date in such manner as the EDA shall determine, and the principal amount of such Series 2012 Bonds with such maturity date to be redeemed by mandatory sinking fund redemption will be reduced accordingly.

Section 2. Redemption Provisions of the Series 2012 Bonds.

Mandatory Redemption. The Series 2012 Term Bonds stated to mature on ___ 1, 20__ shall be called for redemption, in the manner and under the terms and conditions provided in the Trust Agreement and in this Section 2 hereof, in part, on ____ 1, 20__ and on each ____ 1 thereafter in the principal amounts equal to the respective Sinking Fund Requirements for said Term Bonds set forth in this Section 2 (less the principal amount of any such Term Bonds retired by purchase and otherwise subject to adjustment as provided in the Trust Agreement) from moneys in the Debt Service Subfund at a Redemption Price equal to par plus accrued interest thereon to the date fixed for redemption.

Optional Redemption. The Series 20__ Bonds which are stated to mature after ____, 20__ are subject to redemption, in the manner and under the terms and conditions provided in the Trust Agreement, at the option of EDA, from any moneys that may be made available for such purpose, either in whole or in part, as determined by the EDA, on any date not earlier than _____ 1, ____, at the applicable Redemption Price (expressed as a percentage of the principal amount of the Series 2012 Bonds to be redeemed), together with the interest accrued thereon to the date fixed for redemption:

Redemption Period	Redemption Price
_____ 1, 20__ through _____ [31], 20__	%
_____ 1, 20__ through _____ [31], 20__	
_____ 1, 20__ and thereafter	

Extraordinary Optional Redemption. The Series 2012 Bonds are subject to extraordinary optional redemption in whole at a price equal to the principal amount thereof, together with interest thereon accrued to the date of redemption, upon the exercise by the Board of Supervisors of Fairfax County (the "County") of its option to prepay the Purchase Price pursuant to the Installment Purchase Contract when the following events occur:

(1) Circumstances Under Which County May Not Repair Damage. In the event that the Projects or any portion thereof is destroyed by fire or other casualty, the County may within 90 days after such damage or destruction, elect by written notice to EDA not to repair, reconstruct or restore the Projects, provided that the net proceeds of insurance payable as a result of such damage or destruction together with other moneys held for the payment of or as security for the Bonds and any additional sums paid by the County are sufficient to provide for payment of the Series 2012 Bonds. In such event the County shall, in its notice of election to EDA, state that such net proceeds and other moneys, if any, shall be applied to defease the lien of the Trust

Agreement securing the Bonds in accordance with its terms and such net proceeds shall be paid to EDA for the purpose of such defeasance. Alternatively, if the County shall determine that the destruction is limited to Parcel 1 and the Project thereon or Parcel 2 and the Project thereon, it shall constitute compliance with the provisions of this paragraph if the net proceeds of insurance payable as a result of such damage or destruction together with other moneys held for the payment of or as security for the Series 2012 Bonds and any additional sums paid by the County are sufficient to provide for payment of the bonds allocated as is provided in the Installment Purchase Contract and shall be so applied.

(2) Condemnation. If the County shall determine in accordance with the provisions of the Installment Purchase Contract that the utility of the Projects, cannot be maintained, restored or replaced following a taking, the net proceeds payable as a result of such taking shall be paid for the account of EDA to the Trustee and the County shall pay to the Trustee for the account of EDA such additional amount as shall be required, together with such net proceeds and all amounts held under the Trust Agreement and available for the purpose, for the payment of the Series 2012 Bonds. Alternatively, if the County shall determine that the taking is limited to Parcel 1 and the Project thereon or Parcel 2 and the Project thereon, it shall constitute compliance with the provisions of this paragraph if the net proceeds payable as a result of such taking together with other moneys held for the payment of or as security for the Series 2012 Bonds and any additional sums paid by the County are sufficient to provide for payment of the Series 2012 Bonds allocated pursuant to the destroyed parcel and shall be so applied.

To exercise such option, the County will give written notice to the EDA, and to the Trustee, and shall specify therein a specific direction to EDA to apply such prepayment to the purchase and cancellation, redemption, or defeasance of Bonds in accordance with their terms. The date provided as to when such prepayment is to occur may not be less than 45 days from the date such notice is mailed, and in case of a redemption of the Series 2012 Bonds in accordance with the provisions of the Trust Agreement shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Upon receipt by the EDA of the Purchase Price from the County, the EDA will release the County from its obligation under the Installment Purchase Contract or if such prepayment is only a partial amount of the amount owed under the Installment Purchase Contract the County's obligations under the Installment Purchase Contract will be reduced as provided in such contract. The Trustee must have sufficient moneys on deposit to effect such redemption before a notice of redemption is given.

Notice of Redemption. At least 30 but not more than 90 days before the redemption date of any Series 2012 Bonds, whether in whole or in part, the Trustee will cause notice of any such redemption to be mailed by certified mail, return receipt requested, to all holders of Series 2012 Bonds to be redeemed in whole or in part. Any defect in such notice or the failure to mail such notice, shall not affect the validity of the proceedings for the redemption of any other Series 2012 Bonds. While the Series 2012 Bonds are held in the name of DTC or its nominee, such redemption notices will be sent to Cede & Co., not to the beneficial owners of the Series 2012 Bonds.

Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available on the redemption date an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional

notice so given may be rescinded at any time before the payment of the redemption price of any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by EDA, the corresponding notice of redemption shall be deemed to be revoked.

If EDA gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If EDA gives a conditional notice of redemption and if on the redemption date money to pay the redemption price of the affected Bonds shall have been set aside in escrow with the Trustee or a depositary (either, a "depositary") for the purpose of paying such Bonds, then on the redemption date the Bonds will become due and payable. In either case, if on the redemption date EDA holds money to pay the Bonds called for redemption, thereafter, no interest will accrue on those Bonds, and a bondholder's only right will be to receive payment of the redemption price upon surrender of those Bonds.

Section 3. Authentication of Series 2012 Bonds. Upon their execution in the form and manner set forth in the Trust Agreement and this Second Supplemental Agreement, the Series 2012 Bonds shall be deposited with the Bond Registrar for authentication, and the Bond Registrar is hereby authorized and directed to authenticate and the Trustee shall cause the Bond Registrar to deliver the Series 2012 Bonds for the account of _____, representative [of the successful bidders], at The Depository Trust Company, New York, New York, against payment therefor in accordance with and subject to the provisions of Section 209 of the Trust Agreement and Section 5 hereof.

Section 4. Sale of the Series 2012 Bonds. The Series 2012 Bonds were awarded to [_____, as representative of the winning bidders, pursuant to the terms set forth in a Notice of Sale relating to the Bonds.]

Section 5. Application of the Proceeds of the Series 2012 Bonds. The proceeds (including accrued interest and any premium) of the Series 2012 Bonds shall be applied by the Trustee simultaneously with the delivery of said Series 2012 Bonds as follows:

(1) with the Trustee serving as escrow agent (the "Escrow Agent") under the Escrow Deposit Agreement, dated _____, between the Escrow Agent and the Authority, to the credit of the Escrow Fund created in the Escrow Deposit Agreement, an amount that shall equal $_____; and

(2) The Trustee shall deposit the balance of the proceeds of the Series 2012 Bonds to the special account in the Construction Subfund designated "Costs of Issuance Account."

Section 6. Tax Covenants. EDA covenants that it will not take any action that would, or fail to take any action which failure would, cause interest on the Series 2012 Bonds to become includable in gross income for federal income tax purposes pursuant to the provisions of the Code.

(a) As of a date not later than five years after the issue date of the Series 2012 Bonds (the "Initial Installment Computation Date"), and at least once every five years thereafter,

EDA shall cause the Rebate Liability to be computed and shall deliver a copy of the calculation of the Rebate Liability to the Trustee. Amounts paid for the purpose of funding the Rebate Liability, or otherwise made available therefor, shall be deposited by the Trustee in the Improvement Subfund.

(1) not later than sixty (60) days after each Initial Installment Computation Date, EDA shall pay, or direct the Trustee to pay from amounts in the Improvement Subfund, to the United States of America at least ninety percent (90%) of the Rebate Liability as calculated with respect to such installment computation date;

(2) no later than sixty (60) days after the installment computation date that is the fifth anniversary of the Initial Installment Computation Date and no later than sixty (60) days after every fifth anniversary date thereafter until final payment of the Series 2012 Bonds, the Authority shall direct the Trustee to pay from amounts in the Improvement Subfund transferred from the Construction Subfund and payments received pursuant to the Installment Purchase Contract for Rebate Liability purposes, to the United States of America not less than the amount, if any, by which ninety percent (90%) of the Rebate Liability set forth in the most recent Rebate Liability calculation exceeds the aggregate of all such payments theretofore made to the United States of America with respect to the Series 2012 Bonds;

(3) no later than sixty (60) days after final Payment of the Series 2012 Bonds, EDA shall pay, or direct the Trustee to pay from amounts in the Improvement Subfund, to the United States of America the amount, if any, by which 100% of the Rebate Liability calculated with respect to the date of final payment of the Series 2012 Bonds exceeds the aggregate of all payments theretofore made pursuant to this section.

(b) EDA represents that it will instruct the Trustee as to the final application of the amounts in the Improvement Subfund to the make payments to the United States of America of all or a portion of the Rebate Liability on such dates or amounts in order for the Authority to comply with the conditions in this section of this Second Supplemental Trust Agreement.

All such payments shall be made by, or at the direction of, an EDA Representative from any legally available source, including money in the Improvement Subfund.

Notwithstanding any provision of this Section to the contrary, no such Rebate Liability payment need be made if the Authority receives and delivers to the Trustee an opinion of bond counsel to the effect that such payment (1) is not required under the Code to prevent the Series 2012 Bonds from becoming "arbitrage bonds" within the meaning of Section 148 of the Code, or (2) may or should be calculated and paid on some alternative basis under the Code, and the Authority complies with such alternative basis.

Section 7. Second Supplemental Trust Agreement as supplemental agreement. This Second Supplemental Trust Agreement is executed and shall be construed as an agreement supplemental to the Trust Agreement, and shall form a part thereof, and, as hereby supplemented, the Trust Agreement is hereby ratified, approved and confirmed.

Section 8. Recitals, Statements and Representations made by EDA, not Trustee. The recitals, statements and representations contained herein shall be taken and construed as made by and on the part of the EDA and not by the Trustee, and the Trustee assumes and shall be under no responsibility for the correctness of the same.

Section 9. EDA, County, Trustee and Bondholders Alone to Have Rights. Nothing in this Second Supplemental Trust Agreement expressed or implied is intended or shall be construed to give to any person other than the EDA, the County, the Trustee and the holders of the Series 2012 Bonds issued under the Trust Agreement any legal or equitable right, remedy or claim under or in respect of the Trust Agreement, or this Second Supplemental Trust Agreement, or under any covenant, condition or provisions therein or herein or in said Series 2012 Bonds contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the EDA, the County, the Trustee and the holders of said Series 2012 Bonds issued under the Trust Agreement.

Section 10. Trustee to Perform Duties of Bond Registrar. The Trustee accepts and agrees to execute the trusts imposed upon it as Bond Registrar under the Trust Agreement and this Second Supplemental Trust Agreement, but only upon the terms and conditions set forth in the Trust Agreement and subject to the provisions of the Trust Agreement, to all of which the parties hereto and the owners of the Series 2012 Bonds agree.

Section 11. Headings Not Part of Agreement; Certain Definitions. (a) The title of Sections and any wording on the cover of this First Supplemental Trust Agreement are inserted for convenience only and are not a part hereof.

(b) All terms not defined shall have the meanings given to them in the Trust Agreement.

Section 12. Covenants to Bind Successors. All the covenants, stipulations, promises and agreements in this Second Supplemental Trust Agreement contained made by or on behalf of the EDA or for the Trustee shall inure to and bind their respective successors and assigns.

IN WITNESS WHEREOF, Fairfax County Economic Development Authority has caused this Second Supplemental Trust Agreement to be executed by its Chairman and its official seal to be impressed hereon and attested by its Secretary, and U.S. Bank National Association has caused this Second Supplemental Trust Agreement to be executed in its behalf by a Vice President, all as of the day and year first above written.

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

By _____
Chairman

[SEAL]

Attest:

_____
Secretary

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By _____
Vice President

Attachment 5

NOTICE OF SALE

$_____*

FAIRFAX COUNTY (VIRGINIA) ECONOMIC DEVELOPMENT AUTHORITY

REVENUE REFUNDING BONDS
(LAUREL HILL PUBLIC FACILITIES PROJECT)
SERIES 2012A

Electronic Bids, BiDCOMP/Parity Competitive Bidding System ("BiDCOMP/Parity") only, will be received by the Board of Commissioners of the Fairfax County (Virginia) Economic Development Authority (the "EDA") until 11:00 o'clock a.m., Fairfax, Virginia Time on,

_____, 2012*

for the purchase of EDA's $_____* Revenue Refunding Bonds (Laurel Hill Public Facilities Project), Series 2012A (the "Bonds"), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of _____ in the following years and in the following amounts, respectively:

Initial Maturity Schedule*

Maturity Date (_____1)	Principal Amount	Maturity Date (_____1)	Principal Amount
2013	$		$
2014			
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
[_____]			

* Preliminary, subject to change

EDA reserves the right to change the date for receipt of bids (the "Scheduled Bid Date") in accordance with the section of this Notice of Sale entitled "Change of Bid Date and Closing Date; Other Changes to Notice of Sale."

BID PARAMETERS TABLE

INTEREST		**PRICING**	
Dated Date:	Date of Delivery	Max. Aggregate Bid Price:	%
Anticipated Delivery Date:	_____, 2012	Min. Aggregate Bid Price:	%
Interest Payments Dates:	__/1 and __/1	Max. Price per Maturity	-
First Interest:	__/1/2012	Min. Price per Maturity	[__]% for bonds maturing after __/1/20__
Coupon Multiples:	1/8 or 1/20 of 1%	High Coupon per Maturity	Not to Exceed __% per Maturity
Zero Coupons:	Not Allowed		
Split Coupons:	Not Allowed	**PROCEDURAL**	
PRINCIPAL		Sale Date and Time:	Bids due _____, 2012 at 11.:00 AM Local Time
Optional Redemption:	On and after _____ 1, 20__, callable on _____ 1, 20__ and thereafter at par	Bid Submission:	Electornic bids through PARITY Only
Post-bid Principal Increases in Aggregate:	10%	All or None?	Yes
Post-bid Principal Reductions in Aggregate:	10%	Bid Award Method:	Lowest TIC
Term Bonds:	[Any two or more consecutive maturities may be designated as term bonds]	Good Faith Deposit:	1% of aggregate par amount, or $_____, as more fully described on page 5, under "Good Faith Deposit"

Changes to Initial Maturity Schedule

The Initial Maturity Schedule set forth above represents an estimate of the principal amount of Bonds to be sold. EDA hereby reserves the right to change the Initial Maturity Schedule, based on market conditions immediately prior to the sale, by announcing any such

change not later than one hour prior to the scheduled sale time, on the date for receipt of bids via TM3 (www.tm3.com). The resulting schedule of maturities will become the "Bid Maturity Schedule." If no such change is announced, the Initial Maturity Schedule will become the Bid Maturity Schedule.

Changes to Bid Maturity Schedule

EDA hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a 10% increase or decrease in the aggregate principal amount of the Bonds.

THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING TERMS (AS HEREAFTER DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the final aggregate principal amount of the Bonds. Such adjusted bid price will reflect changes in the dollar amount of the underwriters' discount and original issue discount/premium, if any, but will not change the selling compensation per $1,000 of par amount of Bonds from the selling compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Terms. The interest rates specified by the successful bidder for the various maturities at the Initial Reoffering Terms will not change. EDA anticipates that the final annual principal amounts and the final aggregate principal amount of the Bonds will be communicated to the successful bidder within twenty-four hours of EDA's receipt of the initial public offering prices and yields of the Bonds (the "Initial Reoffering Terms").

Book-Entry System

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of $5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable on _____ 1, 2012, and semiannually thereafter on _____ 1 and _____ 1, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. EDA will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) EDA determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, EDA will discontinue the book-entry system with DTC. If EDA fails to select another qualified securities depository to replace DTC, EDA will deliver replacement Bonds in the form of fully registered certificates.

The Bonds

The Bonds are limited obligations of EDA payable solely from the revenues pledged under the provisions of a Trust Agreement, dated as of June 1, 2003, and a Second Supplemental Trust Agreement, anticipated to be dated as of _____ 1, 2012 (collectively, the "Trust Agreement") each between EDA and a trustee. The revenues pledged are derived from installment purchase payments made by Fairfax County, Virginia (the "County"), under an Installment Purchase Contract, dated as of June 1, 2003, between EDA and the County (the "Contract") pursuant to which EDA has sold to the County EDA's interest in projects a public high school and a public golf course and related structures, facilities and equipment located in the Laurel Hill area of the southern part of the County (collectively, the "Projects). The County's obligation to make payments under the Contract in any fiscal year of the County is subject to and contingent upon the annual appropriation of funds by the Board of Supervisors of the County for such purpose but is otherwise unconditional. Neither the faith and credit of the Commonwealth of Virginia, nor any political subdivision thereof (including EDA and the County), are pledged to the payment of the principal of or the interest or premium, if any, on the Bonds.

The Bonds are being issued by EDA to refund [all or] a portion of certain prior EDA bonds that were issued to provide financing to construct and equip the Projects.

Term Bonds

The successful bidder may designate [two or more] of the consecutive serial maturities as [any number of] term bond maturities equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities.

Optional Redemption

Except under the circumstances described in the following paragraph, the Bonds maturing on or before _____ 1, 20__ are not subject to optional redemption prior to their stated date of maturity. The Bonds maturing after _____ 1, 20__ are subject to optional redemption at the option of the Authority, in whole or in part, at any time on or after _____ 1, 20__ at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to the redemption date.

Extraordinary Optional Redemption

The Bonds are subject to extraordinary optional redemption, in whole or in part, at a price equal to the principal amount thereof, together with interest thereon accrued to the date of redemption, upon the exercise by the Board of Supervisors of the County of its option to prepay

all [or a portion] of the purchase price established in the Contract when proceeds of an insurance or condemnation award are received and such proceeds are not used to repair, reconstruct or restore the Projects [or portions thereof] that are subject of such an insurance or condemnation award.

Electronic Bidding and Bidding Procedures

Registration to Bid

All prospective bidders must be contracted customers of i-Deal LLC's BiDCOMP/Parity Competitive Bidding System. If you do not have a contract with BiDCOMP/Parity, call (212) 404-8102 to become a customer. By submitting a bid for the Bonds, a prospective bidder represents and warrants to EDA that such bidder's bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By contracting with BiDCOMP/Parity a prospective bidder is not obligated to submit a bid in connection with the sale.

IF ANY PROVISIONS OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BiDCOMP/Parity AS APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE OF SALE, AS IT MAY BE AMENDED BY EDA AS DESCRIBED WITHIN, SHALL CONTROL. Further information about BiDCOMP/Parity, including any fee charged, may be obtained from BiDCOMP/Parity at (212) 404-8102.

Disclaimer

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither EDA nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither EDA nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. EDA is using BiDCOMP/Parity as a communication mechanism, and not as EDA's agent, to conduct the electronic bidding for the Bonds. EDA is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders; and EDA is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., the County's financial advisor, by telephone at (703) 741-0175. After receipt of bids is closed, EDA through BiDCOMP/Parity will indicate the apparent

successful bidder. Such message is a courtesy only for viewers, and does not constitute the award of the Bonds. Each bid will remain subject to review by EDA to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

Bidding Procedures

Bids must be submitted electronically for the purchase of the Bonds (all or none) by means of the Fairfax County (Virginia) Economic Development Authority AON Bid Form (the "Bid Form") via BidCOMP/Parity. Bids must be communicated electronically to BidCOMP/Parity by 11:00 a.m., Fairfax, Virginia Time on the Scheduled Bid Date unless postponed as described herein (see "Change of Bid Date and Closing Date"). Prior to that time, a prospective bidder may input and save the proposed terms of its bid in BiDCOMP/Parity. Once the final bid has been saved in BiDCOMP/Parity, the bidder may select the final bid button in BiDCOMP/Parity to submit the bid to BidCOMP/Parity. Once the bids are released electronically via BidCOMP/Parity to EDA, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on BiDCOMP/Parity shall constitute the official Fairfax, Virginia Time. For information purposes only, bidders are requested to state in their bids the true interest cost to EDA, as described under "Award of Bonds" below, represented by the rate or rates of interest and the bid price specified in their respective bids.

No bids will be accepted in written form, by facsimile transmission or in any other medium or on any system other than by means of the Bid Form via BiDCOMP/Parity. No bid will be received after the time for receiving such bids specified above.

Good Faith Deposit

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (Deposit) for $_____ to the County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit and the Bonds will not be awarded to such bidder until the County has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

[Bank Name: Bank of America VA/Rich
ABA: 026 009 593
Account Name: County of Fairfax
Account Number: 0000 7902 5799
Attention: Tammy Kennedy-Nichols, 410-547-4320]

Award of Bonds

Award or rejection of bids will be made by EDA, with the approval of the County, prior to 4:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 4:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by EDA within such five-hour period of time (11:00 a.m. – 4:00 p.m.).

The Bonds will be awarded to the bidder offering to purchase the Bonds at the lowest "True or Canadian" interest cost, such cost to be determined by doubling the semiannual interest rate (compounded semiannually) necessary to discount to the price bid the payments of the principal of and the interest on the Bonds from their payment dates to their date of delivery.

Change of Bid Date and Closing Date; Other Changes to Notice of Sale

EDA reserves the right to postpone, from time to time, the date established for the receipt of bids and will undertake to announce any such change via TM3 (www.tm3.com).

Any postponement of the bid date will be announced via TM3 not later than one hour prior to the scheduled sale time on the announced date for receipt of the bids. An alternative bid date and time will be announced via TM3 18 hours prior to such alternative bid date.

On such alternative bid date and time, EDA will accept bids for the purchase of the Bonds, such bids to conform in all respects to the provisions of this Notice of Sale, except for the changes in the date and time for bidding and any other changes announced via TM3 at the time the bid date and time are announced.

EDA may change the scheduled delivery date for the Bonds by notice given in the same manner as set forth for a change in the date for the receipt of bids.

EDA reserves the right to otherwise change this Notice of Sale. EDA anticipates that it would communicate any such changes via TM3 by 4:00 p.m., Fairfax, Virginia time on the date prior to the scheduled date for receipt of bids but no later than one hour prior to the sale time on the scheduled date for receipt of bids.

Conflict Waiver

Sidley Austin LLP is serving as Bond Counsel in connection with the issuance and sale of the Bonds. By placing a bid, each bidder represents that it understands that Sidley Austin LLP, in its capacity as Bond Counsel, represents the County and EDA, and the successful bidder agrees to waive any conflict of interest that Sidley Austin LLP's involvement in connection with the issuance and sale of the Bonds to such successful bidder presents.

Undertakings of the Successful Bidder

The successful bidder shall make a bona fide public offering of all of the Bonds to the general public (excluding bond houses, brokers, or similar persons acting in the capacity of underwriters or wholesalers who are not purchasing for their own account as ultimate purchasers without a view to resell) and will, within 30 minutes after being notified of the award of the Bonds, advise EDA in writing (via facsimile transmission) of the Initial Reoffering Terms. Prior to the delivery of the Bonds, the successful bidder will furnish a certificate acceptable to Bond Counsel as to the "issue price" of the Bonds. It will be the responsibility of the successful bidder to institute such syndicate reporting requirements, to make such investigation, or otherwise to ascertain the facts necessary to enable it to make such certification with reasonable certainty.

Delivery

The Bonds will be delivered on or about _____, 2012 in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Sidley Austin LLP, Washington, D.C., in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation.

CUSIP Numbers

CUSIP numbers are to be applied for by the successful bidder with respect to the Bonds. EDA will assume no obligation for the assignment of such numbers or for the correctness of such numbers, and no error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery or make payment for the Bonds.

Official Statements

Copies of the Preliminary Official Statement may be obtained without cost via the Internet at www.i-dealprospectus.com. The Preliminary Official Statement at its date was "deemed final" by EDA and the County for purposes of SEC Rule 15c2-12 but is subject to revision, amendment and completion.

After the award of the Bonds, EDA will prepare copies of the Official Statement (no more than 300) and will include therein such additional information concerning the reoffering of the Bonds as the successful bidder may reasonably request; provided, however, that EDA will not include in the Official Statement an "NRO" ("not reoffered") designation with respect to any maturity of the Bonds. The successful bidder will be responsible to EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering. EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to The Electronic Municipal Market Access System ("EMMA") administered by the Municipal Securities Rulemaking Board ("MSRB"). The successful bidder will be required to acknowledge receipt of such Official Statement, to certify that it has made delivery of the Official Statement to EMMA and to acknowledge that EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to certify that the Bonds will only be offered pursuant to such Official Statement and only in states where the offer is legal. The successful bidder will be responsible to EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering.

The Securities and Exchange Commission adopted Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"). In general, the Rule prohibits an underwriter from purchasing or selling municipal securities, such as the Bonds, unless it has determined that the issuer of such securities has committed to provide annually certain information, including audited financial information, and notice of various events described in the Rule, if material. The County will provide to EMMA annual information respecting the County, including audited

financial statements. In addition, the County will provide to EMMA notice of the occurrence of any events described in the Rule if material.

Official Statements will be provided within seven (7) business days after the date of the award of the Bonds in such quantities as may be necessary for the successful bidder's regulatory compliance.

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175.

Reservation of Rights

The right to reject any or all bids and to waive any irregularity or informality in any bid is reserved.

FAIRFAX COUNTY (VIRGINIA)
ECONOMIC DEVELOPMENT AUTHORITY

By: Steven L. Davis, Chairman

FIRST AMENDMENT TO USE AND FUNDING AGREEMENT

This First Amendment (this "Amendment"), dated as of _____ 1, 2012, to the Use and Funding Agreement (as defined below), by and between the County of Fairfax, Virginia and the School Board of the County of Fairfax, Virginia (the "School Board"). Capitalized terms used herein and not otherwise defined shall be the meaning set forth in the Use and Funding Agreement.

WHEREAS, the County and the School Board have previously entered into a Use and Funding Agreement, dated as of June 1, 2003 (the "Use and Funding Agreement"); and

WHEREAS, in connection with the proposed issuance of refunding bonds by the Fairfax County Economic Development Authority ("EDA"), the County and the School Board wish to amend the Use and Funding Agreement;

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and legal sufficiency of which are hereby acknowledged, the County and the School Board agree as follows:

Section 1. Amendment. The definition of "EDA Bonds" in "Section I. Definitions" is hereby amended and restated to read as follows:

"EDA Bonds" means the EDA Revenue Bonds (Laurel Hill Public Facilities Projects), Series 2003 issued in a sufficient amount for the EDA to make available to the County under the Trust Agreement securing the EDA Bonds, and for the County to make available to the School Board under this Agreement, an amount equal to the County Bond Proceeds Contribution, and any additional bonds and refunding bonds issued under the Trust Agreement.

Section 2. Third Party Beneficiaries. This Amendment shall inure to the benefit of the County and the School Board, and shall not create any rights in any holder of the EDA Bonds or any of the other Bonds or Parity Indebtedness (as such terms are defined within the Trust Agreement) of EDA.

Section 3. Counterparts. This Amendment may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Amendment shall become binding on both parties and such counterparts shall be deemed to be one and the same document.

Section 4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the County and the School Board have caused this Amendment to be executed by their respective duly authorized officers, all as of the date and year first written above.

FAIRFAX COUNTY, VIRGINIA

By:_____
Name:
Title:

[SEAL]

ATTEST:

By:_____,
Clerk to the Board of Supervisors

SCHOOL BOARD OF THE COUNTY OF FAIRFAX, VIRGINIA

By:_____
Name:
Title:

[SEAL]

ATTEST:

By:_____
Pamela Goddard,
Clerk School Board of Fairfax County, Virginia

FIRST AMENDMENT TO USE AND FUNDING AGREEMENT

This First Amendment (this "Amendment"), dated as of _____ 1, 2012, to the Use and Funding Agreement (as defined below), by and between the County of Fairfax, Virginia and the Fairfax County Park Authority ("FCPA"). Capitalized terms used herein and not otherwise defined shall be the meaning set forth in the Use and Funding Agreement.

WHEREAS, the County and FCPA have previously entered into a Use and Funding Agreement, dated as of June 1, 2003 (the "Use and Funding Agreement"); and

WHEREAS, in connection with the proposed issuance of refunding bonds by the Fairfax County Economic Development Authority ("EDA"), the County and the FCPA wish to amend the Use and Funding Agreement;

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and legal sufficiency of which are hereby acknowledged, the County and FCPA agree as follows:

Section 1. Amendments. A. The definition of "EDA Bonds" in "Section I. Definitions" is hereby amended and restated to read as follows:

"EDA Bonds" means (i) the EDA Revenue Bonds (Laurel Hill Public Facilities Projects), Series 2003 issued in a sufficient amount for the EDA to make available to the County under the Trust Agreement securing the EDA Bonds, and for the County to make available to the FCPA under this Agreement an amount estimated by the FCPA to be sufficient to pay all the costs of construction of the Project and (ii) any additional bonds and refunding bonds issued under the Trust Agreement."

B. The definition of "FCPA Bonds" in "Section I. Definitions" is hereby amended and restated to read as follows:

"FCPA Bonds" means the $15,530,000 Fairfax County Park Authority Subordinated Facilities Revenue Bond to be dated, and bear interest from, the Funding Date, and, any amendment and restatement thereof or additional FCPA Bonds issued and delivered pursuant to Section 3.01 hereof."

C. Section 3.01 of the Use and Funding Agreement is hereby amended and restated as follows:

"Section 3.01 Issuance of FCPA Bond. The FCPA agrees to issue the FCPA Bond on the Funding Date, and to amend and restate or deliver an additional FCPA Bond upon the issuance of any additional or refunding EDA Bonds so as to reflect the modified debt service on the County Loan. The County agrees to accept the FCPA Bond as evidence of the FCPA's obligation to repay the County Loan."

Section 2. Third Party Beneficiaries. This Amendment shall inure to the benefit of the County and FCPA, and shall not create any rights in any holder of the EDA Bonds or any of the other Bonds or Parity Indebtedness (as such terms are defined within the Trust Agreement) of EDA.

Section 3. Counterparts. This Amendment may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Amendment shall become binding on both parties and such counterparts shall be deemed to be one and the same document.

Section 4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the County and FCPA have caused this Amendment to be executed by their respective duly authorized officers, all as of the date and year first written above.

FAIRFAX COUNTY, VIRGINIA

By:_____
Name:
Title:

[SEAL]

ATTEST:

By:_____,
Clerk to the Board of Supervisors

FAIRFAX COUNTY PARK AUTHORITY

By:_____
Name:
Title:

[SEAL]

ATTEST:

By:_____
Secretary

A RESOLUTION OF THE SCHOOL BOARD OF FAIRFAX COUNTY APPROVING A FIRST AMENDMENT TO USE AND FUNDING AGREEMENT WITH THE COUNTY FOR THE PURPOSE OF PROVIDING FOR THE REFUNDING OF FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY REVENUE BONDS (LAUREL HILL PUBLIC FACILITIES PROJECTS) SERIES 2003 FUNDS OF WHICH WERE USED TO PAY THE COST OF CONSTRUCTION OF A NEW PUBLIC HIGH SCHOOL; APPROVING A SCHOOL BOARD TAX CERTIFICATE; ESTABLISHING STANDARDS AND DELEGATING THE RESPONSIBILITY AND AUTHORIZING THE OFFICERS OF THE SCHOOL BOARD TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, Fairfax County, Virginia (the "County"), received in 2002 the conveyance from the United States of America of approximately 116 acres of land in the Laurel Hill area of southern Fairfax County on terms limiting the development thereof to educational purposes ("Parcel 1"); and

WHEREAS, the County was authorized by Chapter 9, Title 22.1, Code of Virginia, 1950, as amended (the "Enabling Legislation"), to convey Parcel 1 to the School Board; and

WHEREAS, the School Board was authorized by the Enabling Legislation to accept conveyance of Parcel 1 from the County;

WHEREAS, the County conveyed Parcel 1 to the School Board provided the School Board construct on a portion of Parcel 1 a new public high school and related athletic fields and facilities, parking and other amenities (the "High School Project"), the County arranged financing through the Fairfax County Economic Development Authority ("EDA") and to make available to the School Board such a portion of the proceeds of such financing as, together with a County contribution (the "County Equity Contribution"), equal to the amount estimated by the School Board to be required to pay the Cost of Construction of the High School Project (the "Cost of Construction");

WHEREAS, the EDA on June 23, 2003, issued its $70,830,000 Revenue Bonds (Laurel Hill Public Facilities Projects) Series 2003 (the "Series 2003 Bonds") which provided funds in the amount of $53,300,000 ("School Board Funds") for the High School Project;

WHEREAS, the County and EDA entered into a Use and Funding Agreement, dated as of June 1, 2003 (the "Use and Funding Agreement"), pursuant to which the School Board agreed, among other items, (i) to use the School Board Funds and County Equity Contribution towards the cost of construction of the High School Project and (ii) to use restrictions on the High School Project; and

WHEREAS, EDA and the County now desire to refund certain outstanding maturities of the Series 2003, Bonds and the School Board is requested to enter into a First Amendment to Use and Funding Agreement to reflect the refunding of Series 2003 Bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL BOARD OF FAIRFAX COUNTY:

1. First Amendment to Use and Funding Agreement. The form of the First Amendment to Use and Funding Agreement, the terms of which reflect the contemplation of refunding of the Series 2003 Bonds or other bonds issued under the EDA's trust agreement, is hereby approved. The appropriate officers of the School Board are hereby authorized to execute and deliver the First Amendment to the Use and Funding Agreement in substantially the form appended hereto as Annex I, such officers being authorized to approve minor changes to such agreement (including, but not limited to, an amendment and restatement of the Use and Funding Agreement), their execution and delivery thereof to be conclusive evidence of their approval of any such changes.

2. School Board Tax Certificate. The form of a tax certificate attached to this resolution as Exhibit A (the "School Board Tax Certificate") to be executed by the School Board in connection with the issuance of the Fairfax County Economic Development Authority's Revenue Refunding Bonds (Laurel Hill Public Facilities Projects), Series 2012[A] is approved in all respects and the Chairman, Vice Chairman or any other member or officer of the School Board designated in writing by the Chairman of the School Board is hereby authorized and directed to approve, by execution and delivery, the School Board Tax Certificate in substantially the form presented to this meeting together with such changes, modifications, insertions and deletions as the Chairman, Vice Chairman or such designated member or officer, with the advice of counsel, may deem necessary and appropriate; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the School Board.

3. Ratification and Confirmation of Prior Actions. All actions taken by the School Board and the members, officers and employees of the School Board in connection with the purposes contemplated by this Resolution are hereby ratified and confirmed.

4. Further Actions. The members, officers and employees of the School Board are hereby authorized and directed to do all acts and things required of them by the provisions of the First Amendment to Use and Funding Agreement for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements thereof, and also, to do all acts and things required of them by the provisions of this Resolution.

5. Effective Date. This Resolution shall take effect immediately.

Attachment 8

School Board

EXHIBIT A

CERTIFICATE OF THE SCHOOL BOARD

This certificate is provided to the Fairfax County Economic Development Authority (the "**EDA**") and to the County of Fairfax, Virginia by the School Board of the County of Fairfax, Virginia (the "**School Board**") in connection with a portion of the issuance by the Fairfax County Economic Development Authority of its $__,___,000 Revenue Bonds (Laurel Hill Public Facilities Projects), Series 2012[A] (the "**Bonds**") a portion of the proceeds of which will be used [together with other available funds] to refund the EDA's Revenue Bonds (Laurel Hill Public Facilities Projects), Series 2003, a portion of proceeds of which were used for the Cost of Construction of a new public high school, sports facilities, parking and other amenities (the "**Project**").

The School Board recognizes that some of the representations made by EDA in its Tax Certificate, dated ____ __, 2012, and executed in connection with the issuance of the Bonds (the "**Tax Certificate**") must be based on the representations and certifications of the School Board and that the exclusion from gross income of the interest on the Bonds for federal income tax purposes depends on the use of proceeds of the Bonds.

Accordingly, the School Board certifies that it has reviewed the representations set forth in Section 1 of Part B of the Tax Certificate to which this certificate is attached regarding the use of proceeds of the Bonds and the Project and that such representations, to the extent they relate to the Project, are true and correct, except as follows: (i) with respect to paragraph (d) ("**Definition of Private Use**"), in the second paragraph, fourth line, after ("**General Public Use**"), there shall be deemed to be inserted "or other than as is excepted as private use by U.S. Treasury Regulations," and (ii) with respect to paragraph (e) ("**Management and Service Contracts**"), the references to Revenue Procedure 97-13 shall be deemed to include "or other applicable law." Furthermore, such provisions are hereby incorporated by reference in this certificate and shall be treated as representations made by the School Board with respect to the Project as if set forth herein. The School Board shall not take any action that is inconsistent with such representations.

The School Board further covenants that:

it shall not sell or otherwise dispose of the Project prior to the final maturity date of the Bonds of _____ __, 20__, except as shall be permitted in the opinion of an attorney or firm of attorneys, acceptable to the County, nationally recognized as experienced with respect to matters pertaining to the exclusion of interest on obligations of States and political subdivisions from gross income for federal income tax purposes; and

it shall not knowingly take any action which will, or fail to take any action which failure will, cause the interest on the Bonds to become includable in the gross income of the owners of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the regulations promulgated thereunder in effect on the date of original issuance of the Bonds and for purposes of assuring compliance with Section 141 of the Code.

School Board of the County of Fairfax, Virginia

_____

Name:
Title:

Date: _____ __, 2012

A RESOLUTION OF THE FAIRFAX COUNTY PARK AUTHORITY AUTHORIZING THE ISSUANCE, IN ACCORDANCE WITH A MASTER INDENTURE OF TRUST, DATED AS OF FEBRUARY 1, 1995, BY AND BETWEEN THE FAIRFAX COUNTY PARK AUTHORITY AND WACHOVIA BANK, NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE, OF A FAIRFAX COUNTY PARK AUTHORITY SUBORDINATED PARK FACILITIES REVENUE BOND IN THE PRINCIPAL AMOUNT OF UP TO $_____, FOR THE PURPOSE OF PROVIDING FUNDS TO REFINANCE COSTS OF CONSTRUCTION OF A PUBLIC GOLF COURSE; APPROVING A FIRST AMENDMENT TO USE AND FUNDING AGREEMENT WITH THE COUNTY; [APPROVING A TAX CERTIFICATE OF THE PARK AUTHORITY]; ESTABLISHING STANDARDS AND DELEGATING THE RESPONSIBILITY TO FIX CERTAIN DETAILS OF THE BOND, INCLUDING THE INTEREST RATES AND MATURITY SCHEDULE; MAKING CERTAIN COVENANTS; DIRECTING THE DELIVERY OF THE BOND; PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF THE BOND; AND AUTHORIZING THE OFFICERS OF THE AUTHORITY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, Fairfax County, Virginia (the "County") received in 2002 the conveyance from the United States of America of approximately 867 acres of land on terms limiting the use thereof to use as open space, park land or recreational use in the Laurel Hill area of southern Fairfax County ("Parcel 2"); and

WHEREAS, the County was authorized by Section 15.2-5711 of the Park Authorities Act, Chapter 57, Title 15.2 of the Code of Virginia of 1950, as amended (the "Park Authorities Act"), to convey Parcel 2 to the Fairfax County Park Authority ("FCPA"); and

WHEREAS, the FCPA was authorized by Subdivision 9 of Section 15.2-5704 of the Park Authorities Act to accept grant of Parcel 2 from the County; and

WHEREAS, the County conveyed Parcel 2 to the FCPA, upon a portion of which the FCPA has constructed a public eighteen hole golf course, clubhouse, practice driving range, practice putting green, parking and other amenities (the "Project"), the County arranged financing through the Fairfax County Economic Development Authority (the "EDA") and made available to the FCPA such a portion of the proceeds of such financing equal to the amount estimated by the FCPA to be required to pay the Cost of Construction of the Project (the "County Loan"), provided the FCPA agree to repay the County its cost of servicing the debt resulting from such financing; and

WHEREAS, the FCPA issued its subordinated bond (the "Prior FCPA Bond") to the County in evidence of the FCPA's obligation to repay the County Loan, together with interest thereon; and

WHEREAS, the EDA on June 23, 2003, issued its $70,830,000 Revenue Bonds (Laurel Hill Public Facilities Projects) Series 2003 (the "Series 2003 Bonds") which provided funds in the amount of $_____ ("FCPA Funds") for the Project; and

WHEREAS, the County and EDA entered into a Use and Funding Agreement, dated as of June 1, 2003 (the "Use and Funding Agreement"), pursuant to which the FCPA agreed, among other items, (i) to use the FCPA Funds towards the cost of construction of the Project and (ii) to use restrictions on the Project; and

WHEREAS, EDA and the County now desire to refund certain outstanding maturities of the Series 2003 Bonds and the FCPA is requested to enter into a First Amendment to Use and Funding Agreement to reflect the refunding of Series 2003 Bonds; and

WHEREAS, FCPA desires to amend and restate the Prior FCPA Bond or deliver an additional FCPA Bond (in either case, the "FCPA Bond") upon the issuance of any EDA refunding bonds so as to reflect the modified debt service on the County Loan; and

WHEREAS, the FCPA Bond will be issued as "Subordinate Debt" for purposes of the Master Indenture of Trust, dated as of February 1, 1995, as supplemented and amended (the "Indenture"), between the FCPA and U.S. Bank National Association, as successor Trustee; and

WHEREAS, under Subdivision 16 of Section 15.2-5704 of the Park Authorities Act, the County is authorized to make the County Loan to the FCPA, and the FCPA is authorized to issue its subordinated park facilities revenue bond to repay the County Loan; and

WHEREAS, the FCPA recognizes that the interest rates and maturity schedule for the EDA's financing and the portion thereof allocable to the proceeds to be made available by the County to the FCPA cannot be determined until the EDA actually obtains its financing and that such circumstance necessitates the delegation to a FCPA representative to set the interest rates, maturity schedule and other provisions of the FCPA Bond;

NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY PARK AUTHORITY:

1. First Amendment to Use and Funding Agreement. The form of the First Amendment to Use and Funding Agreement, the terms of which reflect the contemplation of refunding of the Series 2003 Bonds or other bonds issued under the EDA's trust agreement, is hereby approved. The appropriate officers of the FCPA are hereby authorized to execute and deliver the First Amendment to the Use and Funding Agreement in substantially the form appended hereto as Annex I, such officers being authorized to approve minor changes to such agreement (including, but not limited to, an amendment and restatement of the Use and Funding Agreement), their execution and delivery thereof to be conclusive evidence of their approval of any such changes.

2. Park Authority Tax Certificate. The form of a tax certificate attached to this resolution as Exhibit B (the "Park Authority Tax Certificate") to be executed by FCPA in connection with the issuance of the Fairfax County Economic Development Authority's Revenue Refunding Bonds (Laurel Hill Public Facilities Projects), Series 2012[A] (the "2012 Bonds") is

approved in all respects, and the appropriate officers of the FCPA are hereby authorized to execute and deliver the Park Authority Tax Certificate in substantially the form appended hereto as Exhibit B, such officers being authorized to approve minor changes to such agreement, their execution and delivery thereof to be conclusive evidence of their approval of any such changes.

3. Authorization of the FCPA Bond and Use of Proceeds. The FCPA hereby determines that it is advisable to issue to the County the FCPA Bond in the aggregate principal amount of up to $_____. The issuance of, and provision of security for, the FCPA Bond pursuant to this resolution (this "Resolution") and the above referenced Indenture in the aggregate principal amount of up to $_____ is authorized. The proceeds of the County Loan shall be used for the refunding of all or a portion of the 2003 Bonds and any costs of issuing the 2012 Bonds.

4. Pledge of Revenues. The FCPA Bond shall be a limited obligation of the FCPA and principal of and interest on the FCPA Bond shall be payable solely from the Net Revenues (as defined in the Indenture) and any other money available to the FCPA for such purpose. Nothing in this Resolution, the FCPA Bond or the Indenture shall be deemed to constitute a debt of the Commonwealth of Virginia or of any political subdivision of the Commonwealth or a pledge of the faith and credit of the Commonwealth or any political subdivision of the Commonwealth. In accordance with the Indenture, the FCPA hereby expressly makes the pledge of Net Revenues securing the FCPA Bond subordinate to the pledge of Net Revenues securing the Bonds and any Parity Indebtedness (as such terms are defined in the Indenture).

5. Approval of the FCPA Bond. The FCPA Bond is approved in substantially the form as appended hereto as Exhibit A. The Chairman or the Vice Chairman and other appropriate officers of the FCPA are hereby authorized to execute and deliver the FCPA Bond with such changes, insertions or omissions as may be approved by the Chairman or the Vice Chairman of the FCPA whose approval shall be evidenced conclusively by the execution and delivery of the FCPA Bond.

6. Details of the FCPA Bond. The FCPA Bond shall be issued subject to the conditions enumerated in this Section 5. The Chairman or the Vice-Chairman of the FCPA is authorized to determine and approve the final details of the FCPA Bond, including without limitation, the payment amount, the dated date, the interest rates, the maturity schedule and any other details of the FCPA Bond that cannot be determined except under the actual market conditions that will obtain when the EDA financing is accomplished, provided that:

(i) the principal of the FCPA Bond shall be payable in __ annual installments commencing [June] 1, 2012 and ending [June 1, 2033];

(ii) the FCPA Bond shall be a current interest bond, and the interest on the FCPA Bond shall be payable in semi-annual installments commencing [December] 1, 2012;

(iii) the sum of the principal installment and the interest installments payable on the FPCA Bond in each of the __ years when principal shall be payable shall be substantially equal; and

(iv) the installments of principal and interest shall be payable on the same dates and in the same amounts as the payments owing by the County to the EDA in respect of the sums to be made available by the EDA to the County and by the County under the Use and Funding Agreement to the FCPA for the Cost of Construction of the Project.

The determinations of the FCPA representative shall be conclusively evidenced by the execution and delivery of the FCPA Bond.

7. Execution and Delivery of the FCPA Bond. The Chairman or the Vice Chairman of the FCPA is authorized to execute, either by manual or facsimile signature, on behalf of the FCPA, the FCPA Bond and the Secretary of the FCPA is authorized and directed to affix or to cause to be affixed the seal of the FCPA to the FCPA Bond or to cause a facsimile copy of the seal to be imprinted onto the FCPA Bond and to attest such seal by either manual or facsimile signature. The delivery of and performance by the FCPA under the FCPA Bond are authorized. The FCPA hereby authorizes and directs any of the officers or agents of the FCPA to deliver the FCPA Bond to the County on the Funding Date.

8. Ratification and Confirmation of Prior Actions. All actions taken by the FCPA and the members, officers and employees of the FCPA in connection with the purposes contemplated by this Resolution are hereby ratified and confirmed.

9. Further Actions. The members, officers and employees of the FCPA are hereby authorized and directed to do all acts and things required of them by the provisions of the Use and Funding Agreement, the First Amendment to Use and Funding Agreement, and the FCPA Bond for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements thereof, and also, to do all acts and things required of them by the provisions of this Resolution.

10. Appointment of Paying Agent. The Director of the FCPA is hereby designated as the Paying Agent for the FCPA Bond.

11. Other Terms**.** All capitalized terms used but not defined in this Resolution shall have the meanings given by the Indenture.

12. Effective Date. This Resolution shall take effect immediately.

EXHIBIT A

R-1 $_____

United States of America
Commonwealth of Virginia

FAIRFAX COUNTY PARK AUTHORITY
SUBORDINATED PARK FACILITIES REVENUE BOND
SERIES 2003
AND REFUNDING SERIES 2012

FINAL MATURITY DATE	DATED DATE
_____1, _____	_____ __, 2012

PAYEE: FAIRFAX COUNTY, VIRGINIA

PRINCIPAL AMOUNT:

FAIRFAX COUNTY PARK AUTHORITY (the "FCPA"), for value received, promises to pay, solely from its Net Revenues (as defined in the Indenture hereinafter defined) and any other moneys available to the FCPA for such purpose, to the Payee of this FCPA Bond or legal representative, the principal of and the interest on this FCPA Bond in installments in the amounts and on the dates set forth in the Payment Record Sheet annexed to this FCPA Bond by wire transfer and without presentation or surrender, provided that the final such installment shall be payable upon presentation and surrender of this FCPA Bond at the corporate office of the FCPA, 12055 Government Center Parkway, Fairfax, Virginia 22035, Attention: Director. Interest on this FCPA Bond will be computed on the basis of a year of 360 days and twelve 30-day months. Principal of and interest on this FCPA Bond are payable in lawful money of the United States of America.

The principal of this FCPA Bond and the interest on this FCPA Bond are limited obligations of the FCPA and payable, on a subordinated basis to Bonds and Parity Indebtedness (as each such term is defined in the Indenture), solely from the Net Revenues pledged and assigned to the Trustee under the terms of the Indenture to secure payment of this FCPA Bond as Subordinate Debt (as such term is defined in the Indenture).

The County and the FCPA have entered into a Use and Funding Agreement dated as of June 1, 2003, as amended by the First Amendment to Use and Funding Agreement, dated as of _____ 1, 2012, by the terms of which the County agreed to convey to the FCPA approximately 867 acres of land in the southern part of the County ("Parcel 2"), and to use its best efforts to

make available to the FCPA prior to July 1, 2003 the loan of a portion of the proceeds of certain third party financing, and the FCPA agreed to apply the net proceeds to the Cost of Construction of a new public golf course in the County and to issue this FCPA Bond to the County in evidence of the FCPA's undertaking to repay the amount of such loan with interest.

NEITHER THE COMMONWEALTH OF VIRGINIA NOR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE FCPA, ARE OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON THIS FCPA BOND OR OTHER COSTS INCIDENT TO IT EXCEPT FROM THE REVENUES AND MONEY OF THE FCPA PLEDGED FOR SUCH PURPOSE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA OR ANY AUTHORITY, CITY, COUNTY OR OTHER SUBDIVISION OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS FCPA BOND. THE ISSUANCE OF THIS FCPA BOND DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE COMMONWEALTH OF VIRGINIA OR ANY COUNTY, CITY, AUTHORITY OR OTHER SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA TO LEVY ANY TAXES FOR THE PAYMENT OF THIS FCPA BOND. THE FCPA HAS NO TAXING POWER.

This FCPA Bond is a $_____ Subordinated Park Facilities Revenue Bond, Series 2003 and Refunding Series 2012, authorized and issued by the FCPA pursuant to the Park Authorities Act, Chapter 57, Title 15.2 of the Code of Virginia of 1950, as amended, and a resolution duly adopted by the FCPA on _____, 2012 (the "FCPA Bond Resolution"). This FCPA Bond is issued as "Subordinate Debt", and is thereby subordinate to the pledge of Net Revenues securing Bonds and any Parity Indebtedness, issued or incurred under a Master Indenture of Trust, dated as of February 1, 1995, as amended and supplemented (the "Indenture"), between the FCPA and _____, as successor Trustee.

Reference is made to the Indenture for a description of the revenues pledged and assigned and the provisions, among other things, with respect to the nature and extent of the security for this FCPA Bond. Reference is made to the Indenture for a description of the rights and obligations of the FCPA and the Trustee, the terms on which Bonds and Parity Indebtedness and other Subordinate Debt are issued, the rights of the registered owners of the Bonds and Parity Indebtedness and the provisions for defeasance of such rights. Additional Bonds and Parity Indebtedness may be issued subsequent to the issuance of this FCPA Bond that rank superior to this FCPA Bond with respect to the pledge of the Net Revenues securing this FCPA Bond. Subordinate Debt may be issued subsequent to the issuance of the FCPA Bond that ranks superior, inferior or equal to this FCPA Bond with respect to the pledge of the Net Revenues securing this FCPA Bond.

The County has no right to enforce the provisions of the Indenture or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect to the Indenture. Modifications or alterations in the Indenture, or any supplements to it, may be made to the extent and under the circumstances provided by the Master Indenture.

This FCPA Bond is issued as a single registered FCPA Bond without coupons.

This FCPA Bond may be transferred only with the prior written consent of the FCPA.

All acts and conditions required to happen, exist or be performed precedent to and in connection with the issuance of this FCPA Bond have happened, exist and have been performed.

IN WITNESS WHEREOF, the Fairfax County Park Authority has caused this FCPA Bond to be executed by the facsimile signature of its Chairman, a facsimile of its seal to be affixed on this FCPA Bond and attested by the facsimile signature of its Secretary.

FAIRFAX COUNTY PARK AUTHORITY

By: _____

Chairman,
Fairfax County Park Authority

[SEAL]

ATTEST:

By: _____

Secretary,
Fairfax County Park Authority

EXHIBIT A

PAYMENT RECORD SHEET

Payment Date	Principal Amount Due	Interest Due	Total

EXHIBIT B

PARK AUTHORITY TAX CERTIFICATE

The $_____ Fairfax County Park Authority Subordinated Facilities Revenue Bond Series 2003 and Refunding Series 2012 (the "Bonds") issued by the Fairfax County Park Authority (the "Issuer") will be issued to Fairfax County (the "County") in connection with a loan made by the County to the Issuer from the proceeds of the $_____ Revenue Bonds (South County Public Facilities Project), Series 2003 and the $_____ Revenue Refunding Bonds (Southern County Public Facilities Projects) Series 2012[A] (collectively, the "EDA's Bonds") issued by the Fairfax County Economic Development Authority (the "EDA"), pursuant to a Use and Funding Agreement, dated as of June 1, 2003, as amended pursuant to the First Amendment to Use and Funding Agreement, dated as of _____ 1, 2012. The proceeds of the Bonds were used to finance or refinance the acquisition, construction and equipping of an 18 hole public golf course, including clubhouse, practice driving range, practice putting green, parking and other amenities (the "Project") owned and/or operated by the Issuer. The Issuer recognizes that certain facts, estimates and representations set forth in the Tax Certificate executed by the EDA and the County in connection with the issuance of the EDA's Bonds must be based on the representations and certifications of the Issuer, upon which the EDA and the County and Sidley Austin LLP, its bond counsel ("Bond Counsel"), rely, and that the exclusion from gross income for federal income tax purposes of the interest on the EDA's Bonds depends on the use of proceeds of the EDA's and the Issuer's Bonds. Accordingly, the Issuer hereby covenants that:

Description of Project. The proceeds of the Bonds, including investment income thereon ("proceeds"), were used to finance or refinance the acquisition, construction, and equipping of the Project.

Governmental Use of Proceeds. The Issuer covenants the following with respect to the use of proceeds of the Bonds and the facilities financed therewith:

(a) In General.

(i) Private Business Use. No more than ten percent (10%) of the proceeds of the Bonds or the Project (based on the greatest of: (A) the cost allocated on the basis of space occupied, (B) the fair market value, and (C) the actual cost of construction) has been or, so long as the Bonds are outstanding, will be, used in the aggregate for any activities that constitute a "Private Use" (as such term is defined below in subsection (d) of this Section 2).

(ii) Private Security or Payment. No more than ten percent (10%) of the principal of or interest on the Bonds, under the terms thereof or any underlying arrangement, has been, or, so long as the Bonds are outstanding, will be, directly or indirectly, (A) secured by any interest in (I) property used for a Private Use or (II) payments in respect of such property or (B) derived from payments in respect of property used or to be used for a Private Use, whether or not such property is a part of the Project.

(b) No Disproportionate or Unrelated Use. With respect to private business use disproportionate to or not related to governmental use financed or refinanced with the proceeds of the Bonds, no more than five percent (5%) of the principal of or interest on such Bonds, under the terms thereof or any underlying arrangement, has been, or, so long as the Bonds are outstanding, will be, directly or indirectly, (x) secured by any interest in (I) property used for a Private Use or (II) payments in respect of such property or (y) derived from payments in respect of property used or to be used for a Private Use, whether or not such property is a part of the Project.

(c) No Private Loan Financing. No proceeds of the Bonds will be used to make or finance loans to any person other than to a state or local governmental unit.

(d) Definition of Private Use. For purposes of this Certificate, the term "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities other than state or local governmental entities. Any activity carried on by a person other than a natural person is treated as a trade or business. The leasing of property financed or refinanced with the proceeds of the Bonds or the access of a person other than a state or local governmental unit to property or services on a basis other than as a member of the general public shall constitute Private Use unless the Issuer obtains an opinion of Bond Counsel to the contrary. Use of property financed or refinanced with proceeds of the Bonds by any person, other than a state or local governmental unit, in its trade or business constitutes general public use only if the property is intended to be available and is in fact reasonably available for use on the same basis by natural persons not engaged in a trade or business ("General Public Use").

In most cases Private Use will occur only if a nongovernmental person has a special legal entitlement to use the financed or refinanced property under an arrangement with the Issuer. Such a special legal entitlement would include ownership or actual or beneficial use of the Project pursuant to a lease, management or incentive payment contract, output contract, research agreement or similar arrangement. In the case of property that is not available for General Public Use, Private Use may be established solely on the basis of a special economic benefit to one or more nongovernmental persons. In determining whether special economic benefit gives rise to Private Use, it is necessary to consider all of the facts and circumstances, including one or more of the following factors:

(i) whether the financed or refinanced property is functionally related or physically proximate to property used in the trade or business of a nongovernmental person;

(ii) whether only a small number of nongovernmental persons receive the economic benefit; and

(iii) whether the cost of the financed or refinanced property is treated as depreciable by the nongovernmental person.

As of the date hereof, no portion of the Project is leased (or will be so leased) by the Issuer (or a related party or agent) to a person or entity other than a state or local governmental unit or to members of the general public for General Public Use.

(e) Management and Service Contracts. With respect to management and service contracts, the determination of whether a particular use constitutes Private Use under this Certificate shall be determined on the basis of applying Revenue Procedure 97-13, 1997-1 C. B. 632, as modified by Revenue Procedure 2001-39, 2001-28 I.R.B. 38 (collectively, "Revenue Procedure 97-13"). As of the date hereof, no portion of the proceeds derived from the sale of the Bonds is being used to finance or refinance property subject to contracts or other arrangements with persons or entities engaged in a trade or business (other than governmental units) that involve the management of property or the provision of services with respect to property financed or refinanced with proceeds of the Bonds that does not comply with the standards of Revenue Procedure 97-13.

For purposes of determining the nature of a Private Use, any arrangement that is properly characterized as a lease for federal income tax purposes is treated as a lease. Consequently, an arrangement that is referred to as a management or service contract may nevertheless be treated as a lease. In determining whether a management contract is properly characterized as a lease, it is necessary to consider all of the facts and circumstances, including the following factors:

(i) the degree of control over the property that is exercised by a nongovernmental person; and

whether a nongovernmental person bears risk of loss of the financed or refinanced property.

Dispositions and Change in Use.

No Sale or Disposition. The Issuer expects to own and operate and do not expect to sell or otherwise dispose of the Project, or any component thereof, prior to the final maturity date of the EDA's Bonds (_____).

No Change in Use. The Issuer represents, warrants and covenants that the facilities financed or refinanced with proceeds of the Bonds will be used for the governmental purpose of the Issuer during the period of time the Bonds are outstanding, unless an opinion of Bond Counsel is received with respect to any proposed change in use of the Project.

No Sinking or Pledged Funds. The Issuer has not established and will not establish any funds or accounts that are reasonably expected to be used to pay debt service on the Bonds or that are pledged (including negative pledges) as collateral for the Bonds for which there is a reasonable assurance that amounts on deposit therein will be available to pay debt service on the Bonds if the Issuer encounters financial difficulty.

No Replacement Proceeds.

In General. No portion of the proceeds of the Bonds will be used as a substitute for other funds that prior to the Issuer's resolving to proceed with the issuance of the Bonds was used or is to be used to pay any cost of the Project.

Safe Harbor. In accordance with Section 1.148-1(c) of the Treasury Regulations regarding the safe harbor against the creation of "replacement proceeds", as of the date hereof, the weighted average maturity of the Bonds does not exceed 120% of the reasonably expected

economic life of the Project financed thereby.

No Refunding. The proceeds of the Bonds will not be used to provide for the payment of any principal of or interest on any obligations of the Issuer, other than the Bonds, incurred in the exercise of its borrowing power.

Composite Issue. There are no other obligations of the Issuer that have been, or will be (a) sold within 15 days of the Bonds, (b) sold pursuant to the same plan of financing together with the Bonds, and (c) paid out of substantially the same source of funds as the Bonds.

No Federal Guarantee. The Issuer shall not take or permit any action that would cause (a) the payment of principal of or interest on the Bonds to be guaranteed, directly or indirectly, in whole or in part by the United States or any agency or instrumentality thereof or (b) 5 percent or more of the proceeds of the Bonds to be (i) used in making loans the payment of principal of or interest on which is guaranteed in whole or in part by the United States or any agency or instrumentality thereof or (ii) invested directly or indirectly in federally insured deposits or accounts (except as permitted under Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code"), or the regulations promulgated thereunder). The Issuer has not, and will not enter into, any (i) long-term service contract with any federal governmental agency, (ii) service contract with any federal governmental agency under terms that are materially different from the terms of any contracts with any persons other than federal government agencies, and (iii) lease of property to any federal government agency that would cause the Bonds to be considered "federally guaranteed" within the meaning of Section 149(b) of the Code.

No Hedge Bonds. The Issuer reasonably expects that all of the net sale proceeds of the Bonds will be used to pay the cost of the Project within three years of the date hereof. Furthermore, not more than 50 percent of the proceeds of the Bonds will be invested in Nonpurpose Investments (as such term is defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more.

No Overissuance. The total proceeds derived by the Issuer from the sale of the Bonds and anticipated investment earnings thereon do not exceed the total of the amounts necessary to finance the Project.

Anti-Abuse Rules. None of the proceeds of the Bonds is being used in a manner that employs an abusive arbitrage device under Section 1.148-10 of the Treasury Regulations to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147 of the Code.

Private Activity Covenants. The Issuer represents, warrants and covenants that it will take no action that would cause either the Bonds or the EDA's Bonds to be private activity bonds within the meaning of Section 141(a) of the Code and that it will not fail to take any action that would prevent the EDA's Bonds and the Bonds from being private activity bonds, within the meaning of Section 141(a) of the Code. Furthermore, the Issuer has established reasonable procedures to ensure compliance with this covenant.

Covenant as to Arbitrage and Rebate. The Issuer represents, warrants and covenants that whether or not any of the Bonds remain outstanding, the money on deposit in any fund or

account maintained in connection with the Bonds, whether or not such money was derived from the proceeds of the sale of the Bonds or from any other sources, will not be used in a manner that would cause the Bonds or the EDA's Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the applicable regulations thereunder. Furthermore, the Issuer represents, warrants and covenants that it will comply with the rebate requirement as set forth in Section 148(f) of the Code and the Treasury Regulations with respect to the use, expenditure and investment of the gross proceeds of the Bonds and the timely payment of certain investment earnings to the U.S. Treasury necessary to maintain the exclusion from gross income of the interest on the Bonds and the EDA's Bonds for federal income tax purposes.

Tax Covenant. The Issuer represents, warrants and covenants that it will not take any action which will, or fail to take any action which failure will, cause the interest on the Bonds or the EDA's Bonds to become includable in the gross income of the owners of the Bonds or the EDA's Bonds for federal income tax purposes pursuant to the provisions of the Code and the regulations promulgated thereunder in effect on the date of original issuance of the Bonds and the EDA's Bonds.

FAIRFAX COUNTY PARK AUTHORITY

By:_____
Name:
Title:

Date:

R-1 $_____

United States of America
Commonwealth of Virginia

FAIRFAX COUNTY PARK AUTHORITY
SUBORDINATED PARK FACILITIES REVENUE BOND
SERIES 2003
AND REFUNDING SERIES 2012

FINAL MATURITY DATE	DATED DATE
_____1, _____	_____ __, 2012

PAYEE: FAIRFAX COUNTY, VIRGINIA

PRINCIPAL AMOUNT:

FAIRFAX COUNTY PARK AUTHORITY (the "FCPA"), for value received, promises to pay, solely from its Net Revenues (as defined in the Indenture hereinafter defined) and any other moneys available to the FCPA for such purpose, to the Payee of this FCPA Bond or legal representative, the principal of and the interest on this FCPA Bond in installments in the amounts and on the dates set forth in the Payment Record Sheet annexed to this FCPA Bond by wire transfer and without presentation or surrender, provided that the final such installment shall be payable upon presentation and surrender of this FCPA Bond at the corporate office of the FCPA, 12055 Government Center Parkway, Fairfax, Virginia 22035, Attention: Director. Interest on this FCPA Bond will be computed on the basis of a year of 360 days and twelve 30-day months. Principal of and interest on this FCPA Bond are payable in lawful money of the United States of America.

The principal of this FCPA Bond and the interest on this FCPA Bond are limited obligations of the FCPA and payable, on a subordinated basis to Bonds and Parity Indebtedness (as each such term is defined in the Indenture), solely from the Net Revenues pledged and assigned to the Trustee under the terms of the Indenture to secure payment of this FCPA Bond as Subordinate Debt (as such term is defined in the Indenture).

The County and the FCPA have entered into a Use and Funding Agreement dated as of June 1, 2003, as amended by the First Amendment to Use and Funding Agreement, dated as of _____ 1, 2012, by the terms of which the County agreed to convey to the FCPA approximately 867 acres of land in the southern part of the County (“Parcel 2”), and to use its best efforts to make available to the FCPA prior to July 1, 2003 the loan of a portion of the proceeds of certain third party financing, and the FCPA agreed to apply the net proceeds to the Cost of Construction

of a new public golf course in the County and to issue this FCPA Bond to the County in evidence of the FCPA's undertaking to repay the amount of such loan with interest.

NEITHER THE COMMONWEALTH OF VIRGINIA NOR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE FCPA, ARE OBLIGATED TO PAY THE PRINCIPAL OF OR INTEREST ON THIS FCPA BOND OR OTHER COSTS INCIDENT TO IT EXCEPT FROM THE REVENUES AND MONEY OF THE FCPA PLEDGED FOR SUCH PURPOSE, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA OR ANY AUTHORITY, CITY, COUNTY OR OTHER SUBDIVISION OF THE COMMONWEALTH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS FCPA BOND. THE ISSUANCE OF THIS FCPA BOND DOES NOT DIRECTLY, INDIRECTLY, OR CONTINGENTLY OBLIGATE THE COMMONWEALTH OF VIRGINIA OR ANY COUNTY, CITY, AUTHORITY OR OTHER SUBDIVISION OF THE COMMONWEALTH OF VIRGINIA TO LEVY ANY TAXES FOR THE PAYMENT OF THIS FCPA BOND. THE FCPA HAS NO TAXING POWER.

This FCPA Bond is a $_____ Subordinated Park Facilities Revenue Bond, Series 2003 and Refunding Series 2012, authorized and issued by the FCPA pursuant to the Park Authorities Act, Chapter 57, Title 15.2 of the Code of Virginia of 1950, as amended, and a resolution duly adopted by the FCPA on _____, 2012 (the "FCPA Bond Resolution"). This FCPA Bond is issued as "Subordinate Debt", and is thereby subordinate to the pledge of Net Revenues securing Bonds and any Parity Indebtedness, issued or incurred under a Master Indenture of Trust, dated as of February 1, 1995, as amended and supplemented (the "Indenture"), between the FCPA and _____, as successor Trustee.

Reference is made to the Indenture for a description of the revenues pledged and assigned and the provisions, among other things, with respect to the nature and extent of the security for this FCPA Bond. Reference is made to the Indenture for a description of the rights and obligations of the FCPA and the Trustee, the terms on which Bonds and Parity Indebtedness and other Subordinate Debt are issued, the rights of the registered owners of the Bonds and Parity Indebtedness and the provisions for defeasance of such rights. Additional Bonds and Parity Indebtedness may be issued subsequent to the issuance of this FCPA Bond that rank superior to this FCPA Bond with respect to the pledge of the Net Revenues securing this FCPA Bond. Subordinate Debt may be issued subsequent to the issuance of the FCPA Bond that ranks superior, inferior or equal to this FCPA Bond with respect to the pledge of the Net Revenues securing this FCPA Bond.

The County has no right to enforce the provisions of the Indenture or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect to the Indenture. Modifications or alterations in the Indenture, or any supplements to it, may be made to the extent and under the circumstances provided by the Master Indenture.

This FCPA Bond is issued as a single registered FCPA Bond without coupons.

This FCPA Bond may be transferred only with the prior written consent of the FCPA.

All acts and conditions required to happen, exist or be performed precedent to and in connection with the issuance of this FCPA Bond have happened, exist and have been performed.

IN WITNESS WHEREOF, the Fairfax County Park Authority has caused this FCPA Bond to be executed by the facsimile signature of its Chairman, a facsimile of its seal to be affixed on this FCPA Bond and attested by the facsimile signature of its Secretary.

FAIRFAX COUNTY PARK AUTHORITY

By: _____

Chairman,
Fairfax County Park Authority

[SEAL]

ATTEST:

By: _____

Secretary,
Fairfax County Park Authority

Attachment 10

EXHIBIT A

PAYMENT RECORD SHEET

Payment Date	Principal Amount Due	Interest Due	Total

Board Agenda Item
March 20, 2012

ACTION – 8

Approval of a Project Agreement for the Design and Construction of Braddock Road and Roanoke River Road Interim Improvements (Braddock District)

ISSUE:
Board approval to execute a project agreement with George Mason University (GMU) to undertake the design and construction of the interim improvements at Braddock Road and Roanoke River Road. Funding for this project is included in Project No. 2G40-015-000 (R12301), Braddock Road Interim improvements, in Fund 400-C40011 (124), County and Regional Transportation Projects.

RECOMMENDATION:
The County Executive recommends that the Board approve the project agreement in substantial form, including $1,192,000 in County and Regional Transportation Projects funding for all activities related to the design and construction of the interim improvements at Braddock Road and Roanoke River Road.

TIMING:
Board approval is requested on March 20, 2012.

DISCUSSION:
In November 2009, the Fairfax County Department of Transportation (FCDOT) completed a study of Route 123 and Braddock Road Interim Improvements and Conceptual Interchange Study. The study included several recommendations for interim improvements at Braddock Road and Roanoke River Road.

FCDOT prepared preliminary design plans for these improvements, and coordinated them with GMU. GMU notified FCDOT of their plans to widen GMU's Roanoke River Road approach to Braddock Road along with additional improvements to their parking structure on Roanoke River Road and Patriot Circle.

GMU is scheduled to begin their improvements sooner than FCDOT, so an agreement (Attachment I) was prepared to allow FCDOT to share the cost of the interim improvements at Braddock Road and Roanoke River Road with GMU. As part of the agreement, GMU will manage the design and construction of the public interim improvements at Braddock Road and Roanoke River Road, along with their other on-

campus improvements. FCDOT will cover a proportionate cost for the public improvements at that intersection.

FISCAL IMPACT:
Funding in the amount of $2,477,476 million is currently available in Project 2G40-015-000 (R12301), Braddock Road Interim Improvements, Fund 400-C40011 (124), County and Regional Transportation Projects. These funds were previously approved by the Board of Supervisors on March 29, 2011. Funding in the amount of approximately $1,192,000 of the available funds will be used for this action and is necessary to approve this agreement (Attachment I). No additional funding is required for this action.

ATTACHMENTS:
Attachment I: Project Administration Agreement between Fairfax County and George Mason University

STAFF:
Robert A. Stalzer, Deputy County Executive
Ellen F. M. Posner, Assistant County Attorney, Office of County Attorney
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
W. Todd Minnix, Chief, Transportation Design Division, FCDOT
Jeanmarie Roberson, Senior Engineer, Transportation Design Division, FCDOT
H. Demond Frazier, Project Manager, Transportation Design Division, FCDOT
Todd Wigglesworth, Section Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Andrew M. Kolaitis, Right of Way Project Coordinator, FCDOT
Karyn L. Moreland, Chief, Capital Projects Section, FCDOT
Seyed A. Nabavi, Senior Transportation Planner, Capital Projects Section, FCDOT
Ray Johnson, Senior Transportation Planner, Coordination and Funding Division, FCDOT

ATTACHMENT I

PROJECT ADMINISTRATION AGREEMENT
BETWEEN FAIRFAX COUNTY and GEORGE MASON UNIVERSITY

For transportation improvements at the Braddock Road and Roanoke River Road.

THIS AGREEMENT made and executed in triplicate on this the ____ day of _____, 2012, between the COUNTY OF FAIRFAX, VIRGINIA, hereinafter referred to as the "COUNTY" and the GEORGE MASON UNIVERSITY, hereinafter referred to as "GMU."

WITNESSETH

WHEREAS, the COUNTY and GMU desire the installation of transportation improvements to Braddock Road and Roanoke River Road; and

WHEREAS, the COUNTY's transportation improvements are shown in Exhibit A and described in Appendix A - Fairfax County Project Scope (" Original Project"); and

WHEREAS, GMU's transportation improvements have expanded County's original project as shown in Exhibit B - George Mason University Project Scope ("Mason Project").

WHEREAS, the parties wish to further modify the scope of transportation improvements as shown in Exhibit C and as may be further modified upon agreement of the Parties ("Expanded Project"). Collectively the Original Project, the Mason Project and the Expanded Scope are hereinafter referred to as the Expanded Project; and

WHEREAS, both parties concur that GMU shall administer the Expanded Project, including the design, utility coordination, permitting, and construction in accordance with applicable federal, state, and local laws and regulations; and

WHEREAS, both parties desire to have the COUNTY acquire private property land rights for the Expanded Project in accordance with applicable federal, state, and local laws and regulations; and

WHEREAS, the COUNTY has allocated funds to finance the Original Project as detailed in Appendix B; and

WHEREAS, GMU agrees to pay all costs associated with the Mason Project that exceed funds allocated to the Original Project; and

WHEREAS, the County's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 15.2-953 of the Code of Virginia authorizes both the COUNTY and GMU to enter into this arrangement;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

A. Definition:

Eligible Expenses- are expenses that are associated with/by the Original Project and not the Mason project.

B. The COUNTY shall:

1. Acquire the necessary land rights from two private property owners as identified by GMU for construction of the Expanded Project on Tax Map No. 068 12 Condo (Patriot Square) and TM 068 01 0009 (University Mall Shopping Center). County will commence right-of-way land acquisition only after VDOT has given final stamped approved project plans, and permanent utility easement documents and plats as prepared by each utility company, if required for the project, have been submitted to the COUNTY. Land acquisition to include all necessary functions and activities to clear right-of-way for construction including preparation of plats, title reports , appraisal reports, negotiations with property owners, and/or schedule Board of Supervisors property condemnation public hearings, preparation of certificates of take, AAC's (Agreement After Certificate) and pursue any court actions until final case resolution. Legal costs to condemn, property closings and recordation will be the cost responsibility of the COUNTY and are in addition to the Eligible Expenses.

2. Assist GMU with any utility coordination/relocation associated with the Original Project that may be determined during the utility coordination phase of project administration pursuant to C.3. COUNTY to pay for all utility relocation costs for the Original Project as agreed to by both parties.

3. Reimburse GMU for all Eligible Expenses. Eligible Expenses shall include the engineering design, permitting, utility relocation, construction and construction management, testing and inspections pursuant to paragraph D.2. All requirements for funds to be borne by Fairfax County shall be subject to annual appropriations by the Fairfax County Board of Supervisors.

4. Review engineering design contracts, quantity takeoffs, bid proposals and contracts for construction of the Expanded Project within 20 days of receipt thereof.

5. Upon receipt of GMU's invoices pursuant to paragraph C.9., reimburse GMU the cost of Eligible Expenses. Such reimbursements shall be payable by the COUNTY within 30 days of receipt of invoice provided by GMU.

6. Accept responsibility for Eligible Expenses. Eligible Expenses to be determined based on approved Original Project quantities and the unit cost of the lowest responsible bidder for the Expanded Project.

7. Will compensate GMU for a construction management, inspection and testing fee not to exceed 10% of the final construction Eligible Expense plus County approved change order costs.

7a. Accept responsibility for additional project costs resulting from unforeseeable circumstances related to the construction of the Original Project but only upon review and concurrence of the COUNTY. A written determination of acceptance of change order expenses will be provided to GMU within fifteen (15) working days of receipt of adequate supporting information and documentation necessary to determine eligibility of expenses incurred.

C. GMU shall:

1. Complete the design, utility coordination, permitting and construction of the Expanded Project, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties, and in accordance with applicable federal, state, and local law and regulations.

2. Subject to all applicable approvals, dedicate all land rights necessary for the Expanded Project on GMU property at no expense to the COUNTY. Upon request by the County, GMU to assist County with Expanded Project property condemnation public hearings and/or court actions until final case resolution.

3. Perform, or have performed, the necessary coordination with all utility companies located within the Expanded Project. Utility coordination to include utility designation, test hole verification, written verification from utility of concurrence and notification to COUNTY of any utility relocations or facility upgrade required for the Expanded Project prior to the authorization of the utility relocations.

4. Prepare, or cause to be prepared, construction quantity takeoffs for the Expanded Project at each project milestone or plan submission for review by COUNTY.

5. Provide the necessary contract administration for construction of the Expanded Project including design, materials testing, surveying and inspection services.

6. Acquire all permits necessary to construct the Expanded Project

7. In accordance with GMU procurement procedures, prepare, or cause to be prepared, the construction documents in accordance with the approved plans, advertise, bid and award the construction contract for the Expanded Project. The

construction contract award shall be given upon the COUNTY's concurrence pursuant to B.4 and determination/refinement of Eligible Expenses as mutually agreed by the parties.

8. Perform, or cause to be performed, the construction of the Expanded Project. Additional costs associated with a change order or cost overrun shall be provided to the COUNTY for review and determination of eligibility for partial or complete reimbursement.

9. Prepare and submit detailed accounting of all Original Project related costs to the COUNTY with each request for reimbursement. Eligible Original Project expenses shall include the engineering design, permitting, construction, construction management, inspections and testing.

10. Upon completion of the Expanded Project, GMU shall provide a full copy of the Expanded Project As-Built plans to the COUNTY, and the COUNTY shall have a non-exclusive, perpetual right and license to use, copy, and distribute the Expanded Project plans.

D. Both parties agree hereto:

1. The COUNTY shall advance 20% of the final eligible construction expense to GMU. The rest of the Eligible Expense will be reimbursed as indicated in paragraph C.9.

2. The estimated total cost for the Original Project is $1,192,000 as detailed in Appendix B, which is subject to revision pursuant to the terms herein. The final cost to be borne by the COUNTY shall be determined at completion of construction and receipt of all approved invoices and project expenses. Any Eligible Expense in excess of $892,000 is subject to appropriation by the COUNTY.

3. Agree that the Expanded Project shall be completed in a timely and expeditious manner; and will provide support to assist with this effort.

4. Upon notification of discovery of any hazardous substances in or on the property both parties agree to immediately confer and determine the scope of any investigation and the requisite response action.

5. Either party may terminate this Agreement prior to construction award upon thirty (30) days advance written notice. Before this Agreement is terminated, both parties agree to cooperate in seeking remedies for the cause of the proposed termination, including providing additional funding for the Expanded Project. However, the COUNTY and GMU shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation. Eligible expenses incurred through the date of termination shall be reimbursed to GMU, subject to the limitations established in this Agreement. All funds provided to GMU pursuant to paragraph D.1 shall be returned to the COUNTY, if not expended on the Original Project subject to the limitations established in this Agreement.

6. All notices under this Agreement shall be sent via U.S. Mail, postage prepaid, for Fairfax County to:

   Jeanmarie Roberson, P.E.
   Senior Engineer
   4050 Legato Road, Suite 400
   Fairfax, VA 22033-2895

   and for George Mason University to:

   Erik C. Backus, P.E., LEED AP
   Engineering Planner
   George Mason University
   Facilities, Campus Planning
   4400 University Drive, MS 2C1
   Fairfax, VA 22030

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.

THIS AGREEMENT may be modified in writing upon mutual agreement of both parties.

THIS AGREEMENT shall not be construed as creating any personal liability on the part of any officer, employee, agent of the parties, nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

THIS AGREEMENT shall not be construed as a waiver of the sovereign immunity of Fairfax County or the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

THE BOARD OF SUPERVISORS
COUNTY OF FAIRFAX, VIRGINIA:

_____ _____
County Executive Date

_____
Printed Name of Signatory

STATE OF
COUNTY OF

The forgoing instrument was acknowledged before me this_____day of
_____, 2012 by

_____
Notary Public

My commission Expires: _____

GEORGE MASON UNIVERSITY:

_____ _____
Title Date

_____
Printed Name of Signatory

STATE OF
COUNTY OF

The forgoing instrument was acknowledged before me this_____day of
_____, 2012 by

_____
Notary Public

My commission Expires: _____

FAIRFAX COUNTY BRADDOCK ROAD & ROANOKE RIVER ROAD IMPROVEMENTS ("ORIGINAL PROJECT")

The project scope was developed by Fairfax County as part of Project R0123 Preliminary Plan, Sheets 5 and 6, attached as exhibit A. The project consists of the following transportation improvements:

1. Close the westbound Braddock Road median opening east of Route 123 Ox Road and west of Roanoke River Road, lengthening the Braddock Road eastbound left turn lane by approximately 400 feet.
2. Removal of the split phasing of the Roanoke Road and University Mall/Patriot Square approaches by realigning and adding travel lanes to include:
    a. New mast arm signal with pedestrian improvements to all intersection quadrants
    b. Additional left turn lane on University Mall/Patriot Square site
    c. Widen Roanoke River Road to the east for one thru entering, raised median and a left turn, thru and a right turn exiting GMU.

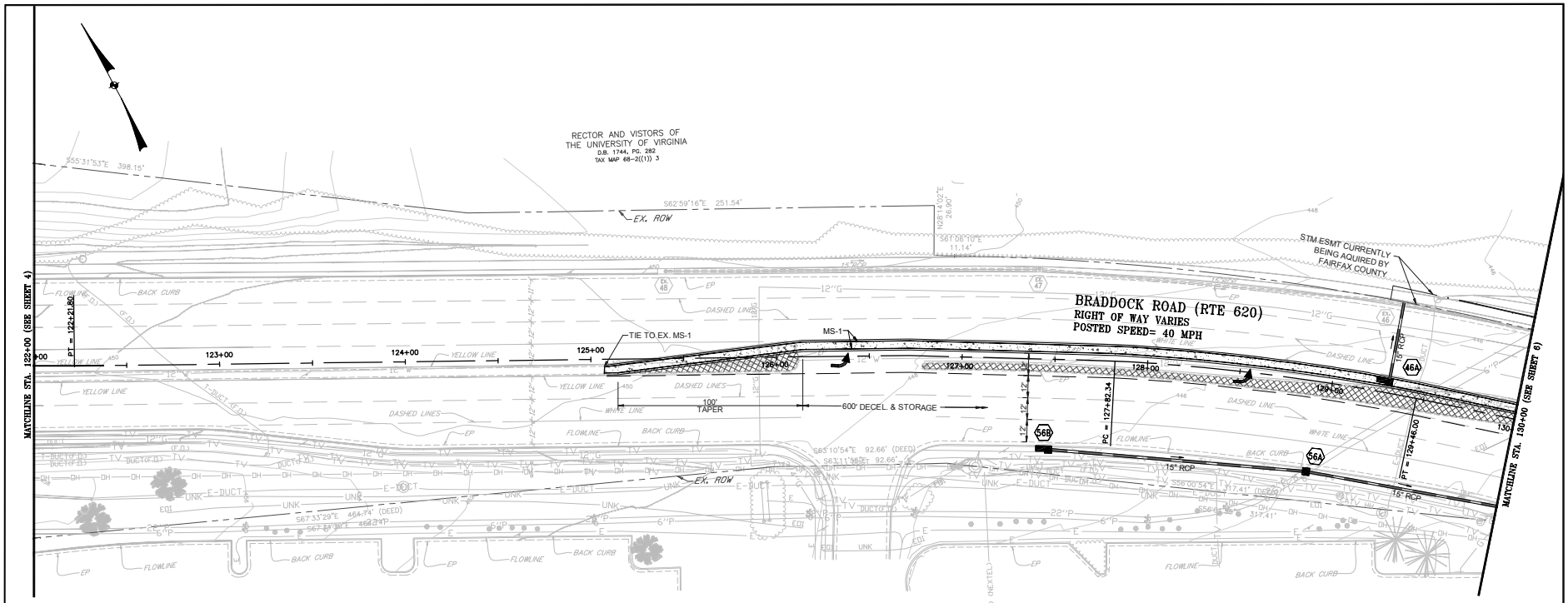
Original Project Estimate

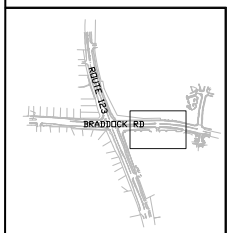
Braddock Road & Roanoke River Road Intersection Improvements - as defined in Appendix A

Phase Description	Estimated Cost
Engineering Design *(Agreement Paragraph C.1)*	$85,000
Right-of-Way *(Agreement Paragraph B.1)*	$300,000
Utility Relocation *(Agreement Paragraph B.2 and C.3)*	$50,000
Construction *(Agreement Paragraph C.7)*	$605,000
Construction Contingency *(Agreement Paragraph B.7a and C.8)*	$91,000
Construction Mgt. & Testing *(Agreement Paragraph B.7)*	$61,000
Total Project Estimate	**$1,192,000**
Total Estimated Eligible Project Expenses	**$892,000**
Advance Payment to GMU *(Agreement Paragraph D.1)* (20% of Eligible Expenses) (rounded)	**$180,000**

EXHIBIT A

PROJECT ADMINISTRATION AGREEMENT
BRADDOCK ROAD AND ROANOKE RIVER ROAD





KEY MAP

LEGEND

- MILL AND OVERLAY
- PROPOSED CONCRETE
- PROPOSED PAVEMENT
- TO BE REMOVED

SCALE
0 25 50

REVISIONS				
△#	DESCRIPTION	BY	APPROVED	DATE

APPROVED BY THE PLANNING AND DESIGN DIVISION

APPROVED BY THE OFFICE OF SITE DEVELOPMENT SERVICES

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL SERVICES
CAPITAL FACILITIES

ROUTE 123 AND BRADDOCK ROAD

PLAN SHEET

CONTRACT NO. XXXXXXX PROJECT NO. R12301

SCALE
HORIZ: 1"=25'
VERT: N/A

DESIGNED BY: C. DESISTO
DRAFTED BY: C. DESISTO
CHECKED BY: J. POWERS

SHEET 5

FUND No.

EXHIBIT A
1 OF 2

EXHIBIT A

PROJECT ADMINISTRATION AGREEMENT
BRADDOCK ROAD AND ROANOKE RIVER ROAD

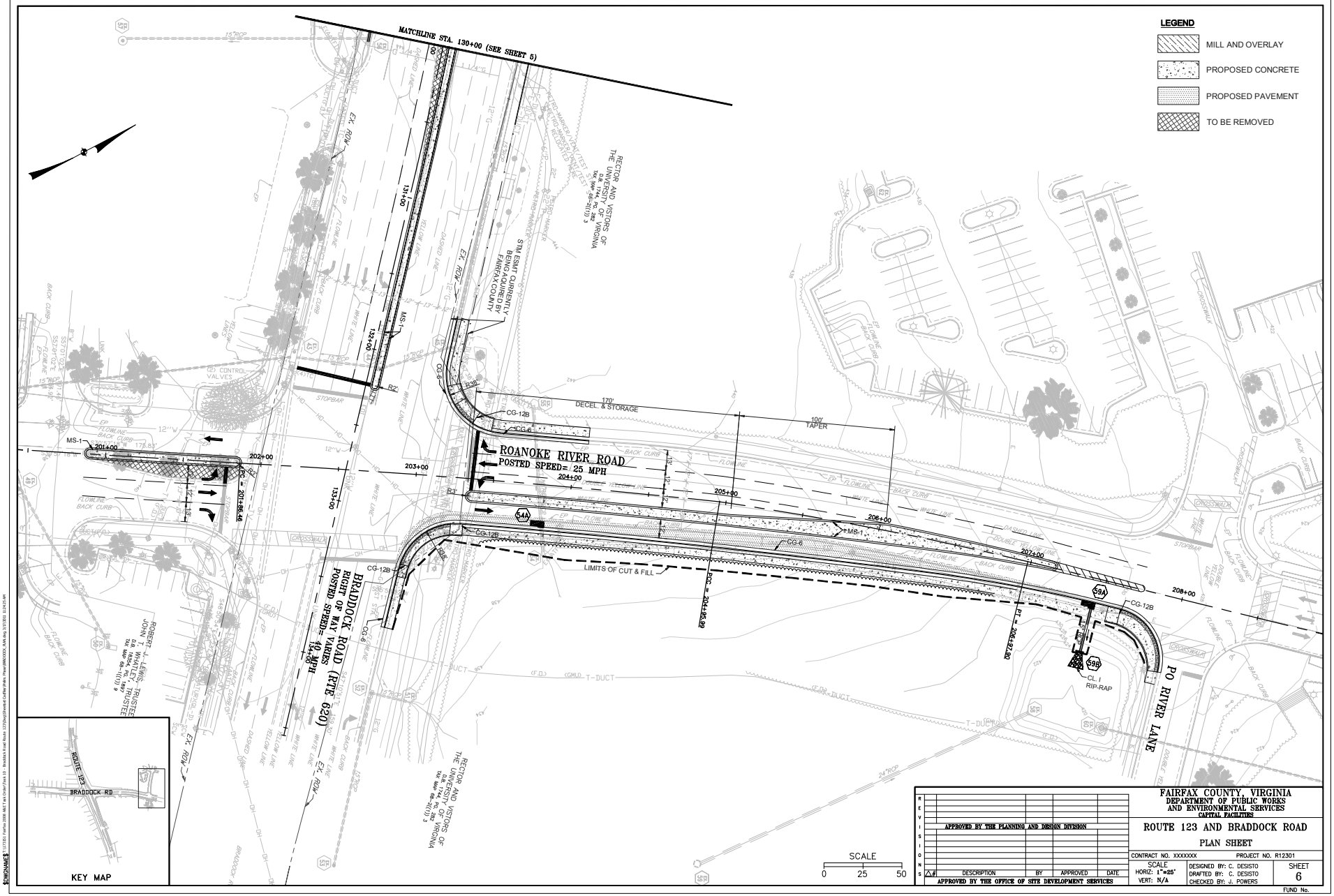


EXHIBIT A
2 OF 2

EXHIBIT B

PROJECT ADMINISTRATION AGREEMENT
BRADDOCK ROAD AND ROANOKE RIVER ROAD

FAIRFAX COUNTY BRADDOCK ROAD & ROANOKE RIVER ROAD IMPROVEMENTS ("MASON PROJECT")
The "Mason Project" scope was developed by George Mason University in conjunction with the University Transportation Master Plan and the planned improvements for Braddock Road as developed by Fairfax County. This is best illustrated in the color green in the attached diagram. This scope consists of the following transportations improvements:

1. Provide an additional inbound lane than was depicted and planned by Fairfax County.
2. Provide improvements at the intersection of Po River Lane and Roanoke River Lane as depicted on the attached diagram.
3. Provide sidewalk improvement on both sides of Roanoke River Lane.
4. Landscaping Improvements in the area of the project within the campus.
5. Improvements to Lot K traffic flow and parking.

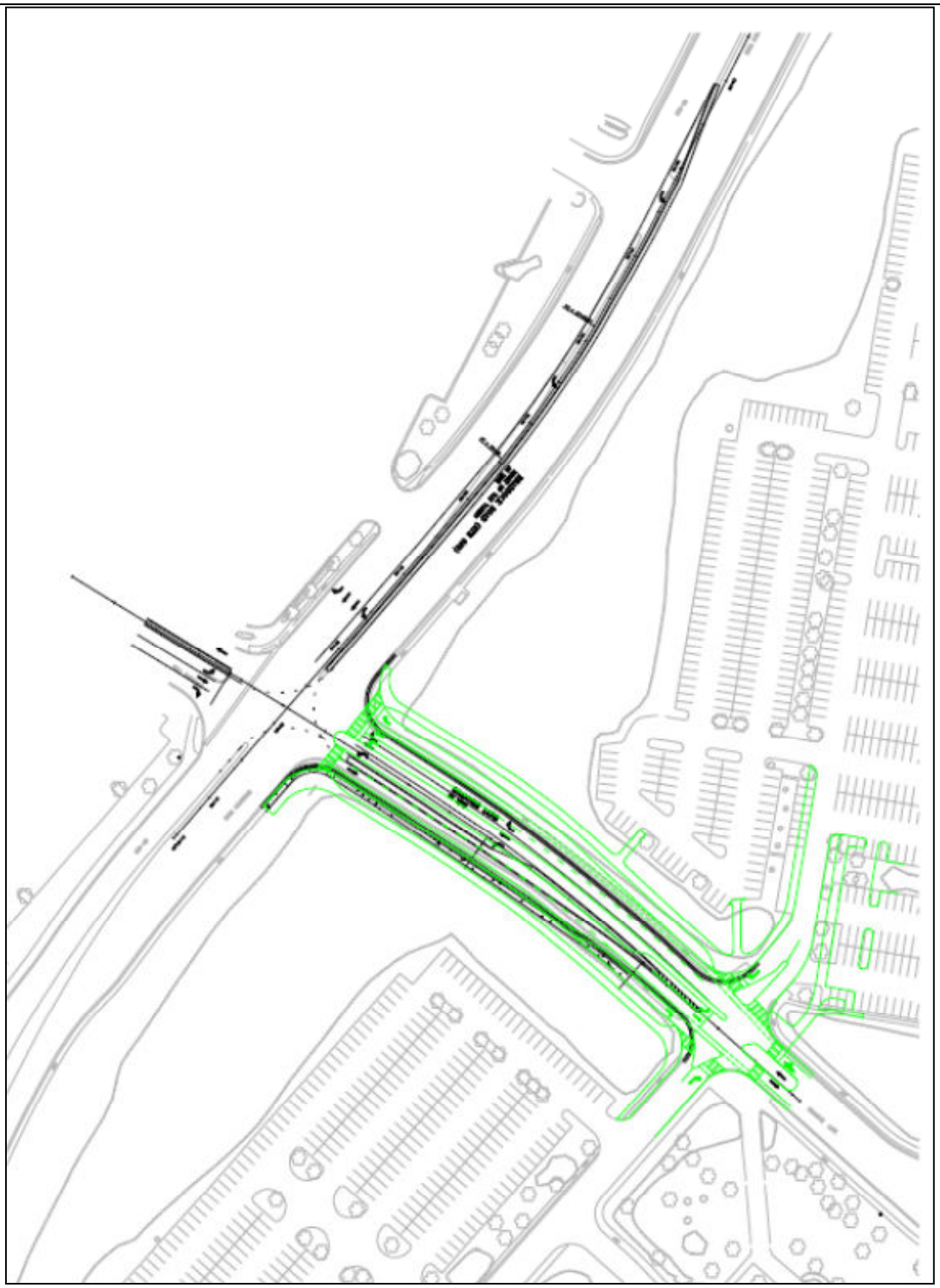


EXHIBIT B
2 OF 2

EXHIBIT C

PROJECT ADMINISTRATION AGREEMENT
BRADDOCK ROAD AND ROANOKE RIVER ROAD

FAIRFAX COUNTY BRADDOCK ROAD & ROANOKE RIVER ROAD IMPROVEMENTS ("EXPANDED PROJECT SCOPE")

The "Expanded Project Scope" is the scope of items that are derived as a consequence of project development and reviews conjointly executed by the County and the University, as well as VDOT, and entail items that would have otherwise been desired by the county or are items that are a result of comments made by VDOT that are determined to be required and mutually agreed to by the County and University to go forward. Current drawings that depict some of these elements are included in this exhibit. This scope consists of the following transportations improvements as well as others that may yet to be discovered:

1. Removal of the gutter pan on the south side of Braddock Road opposite from the Roanoke River Lane Entrance.
2. Additional two (2) crosswalks provided in the roadway than exist at present, with modifications to the medians in those locations.
3. Pedestrian improvements not necessitated by the signal arm emplacement, but none-the-less seen as desirable.

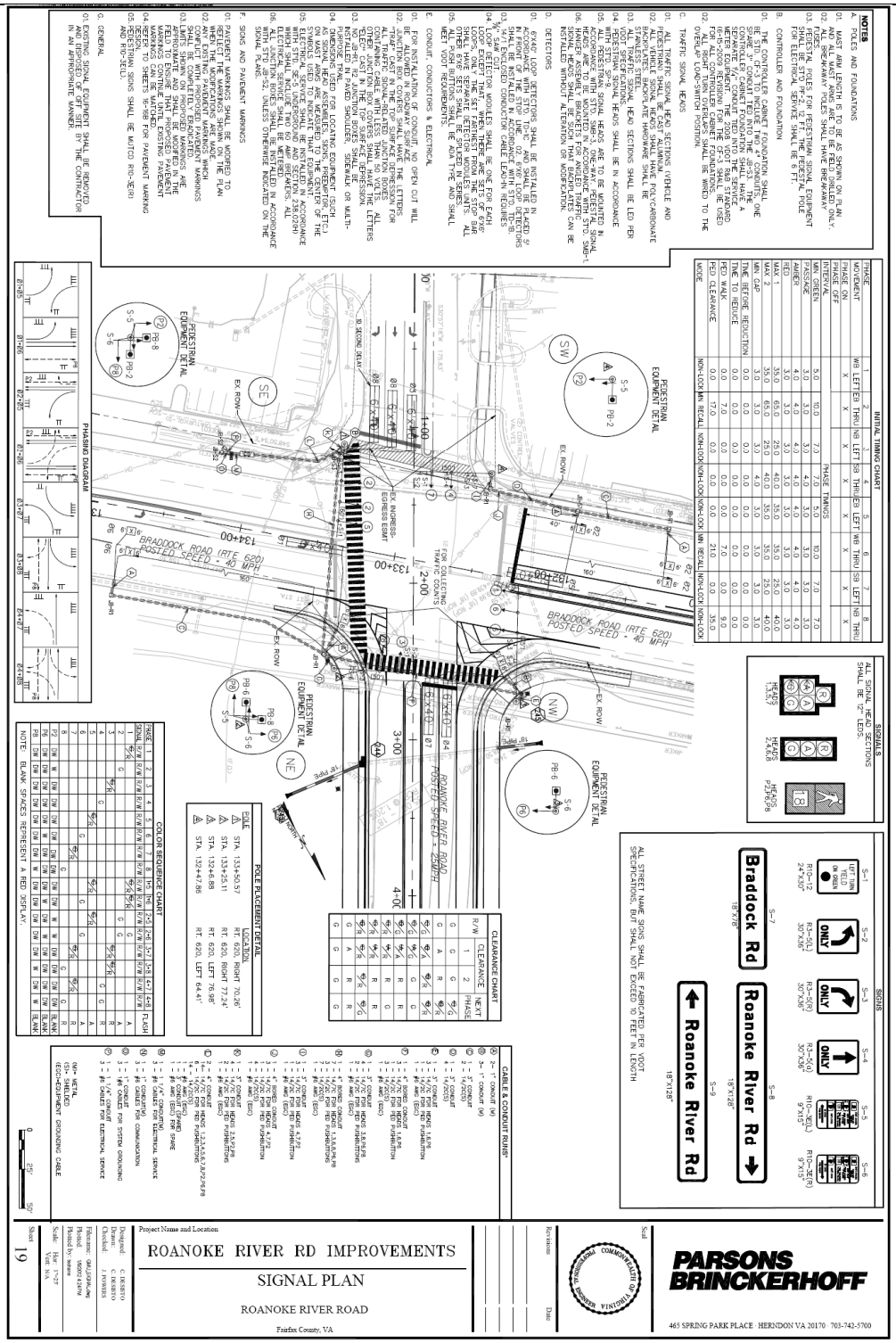


EXHIBIT C
2 OF 5

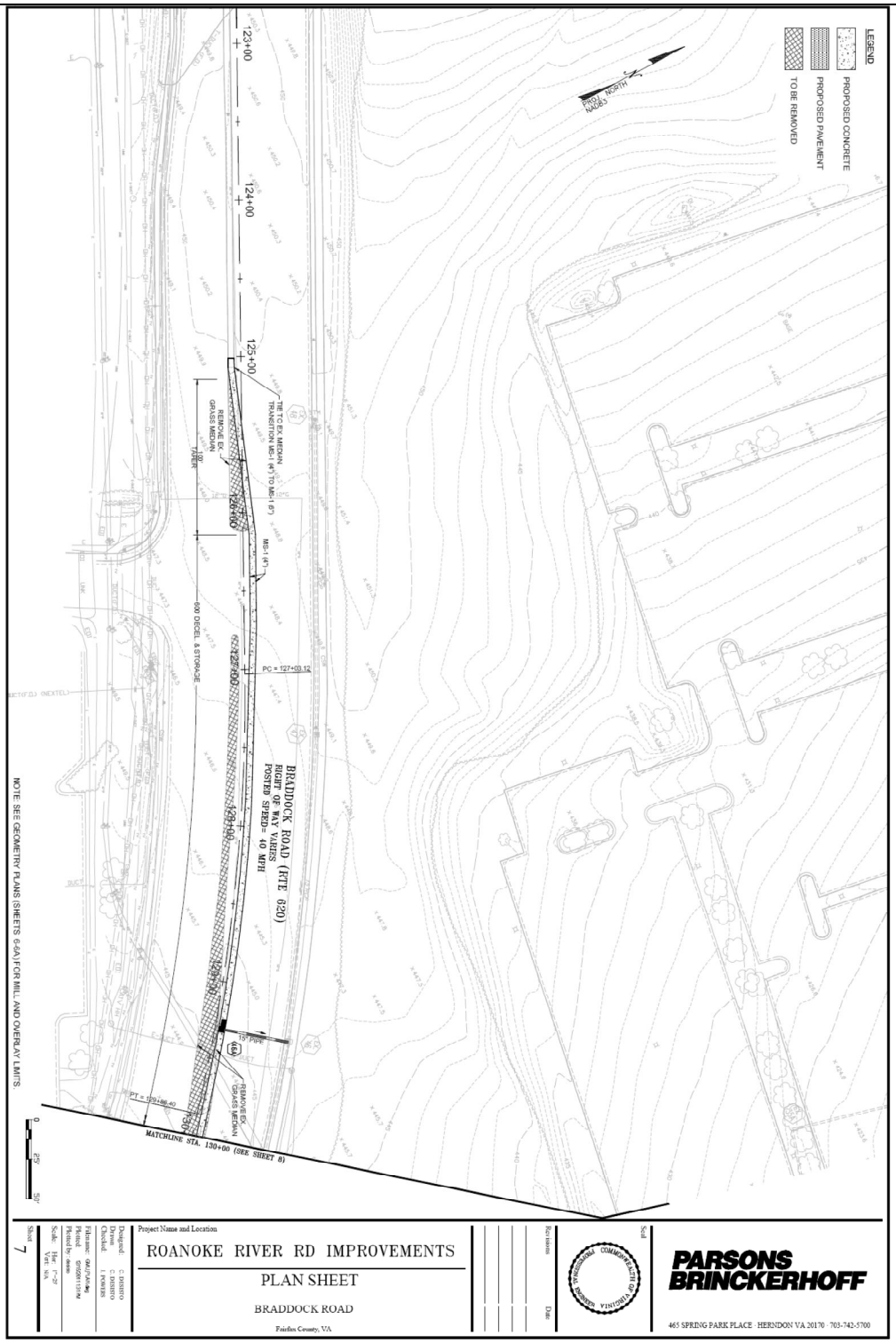


EXHIBIT C
3 OF 5

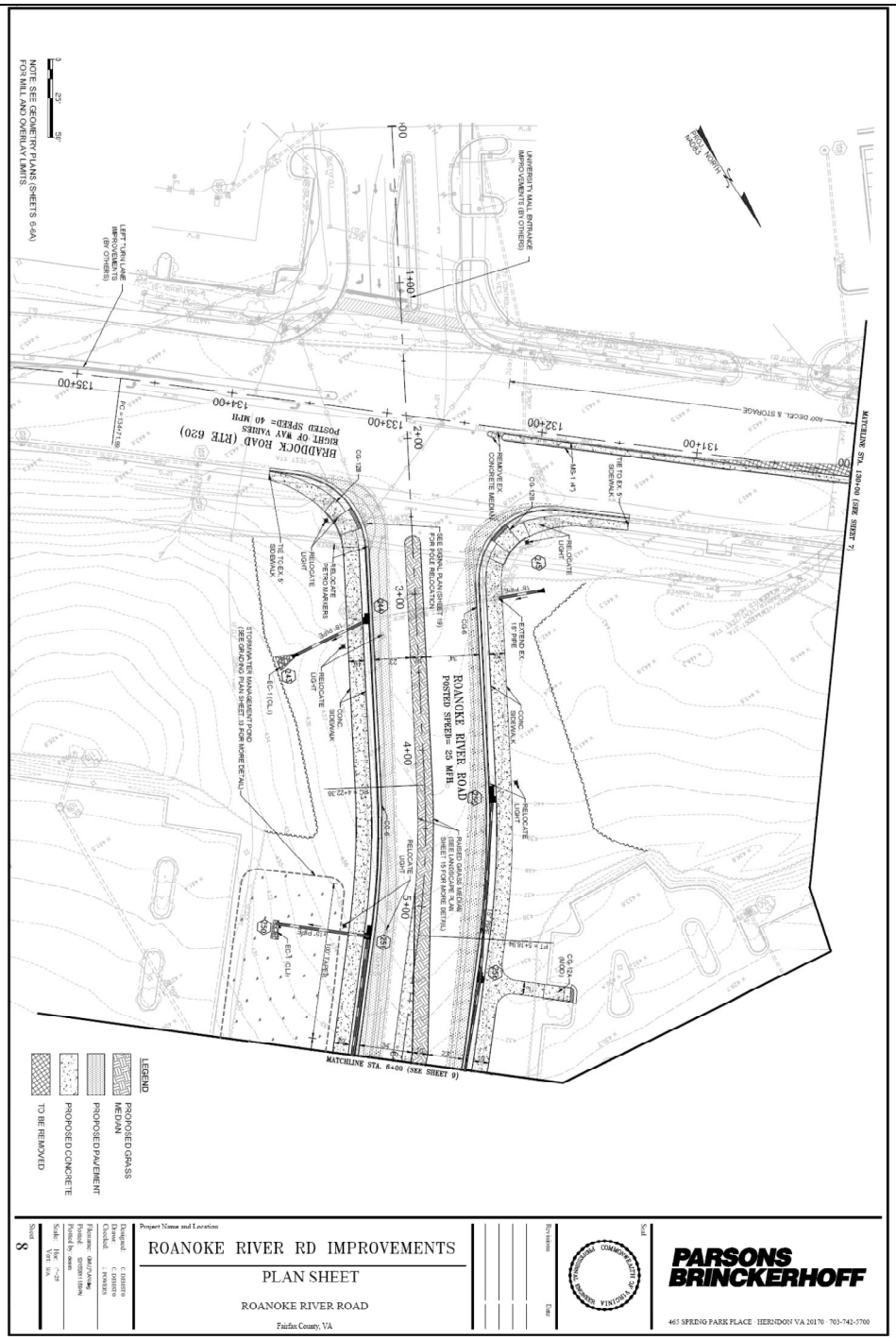


EXHIBIT C
4 OF 5

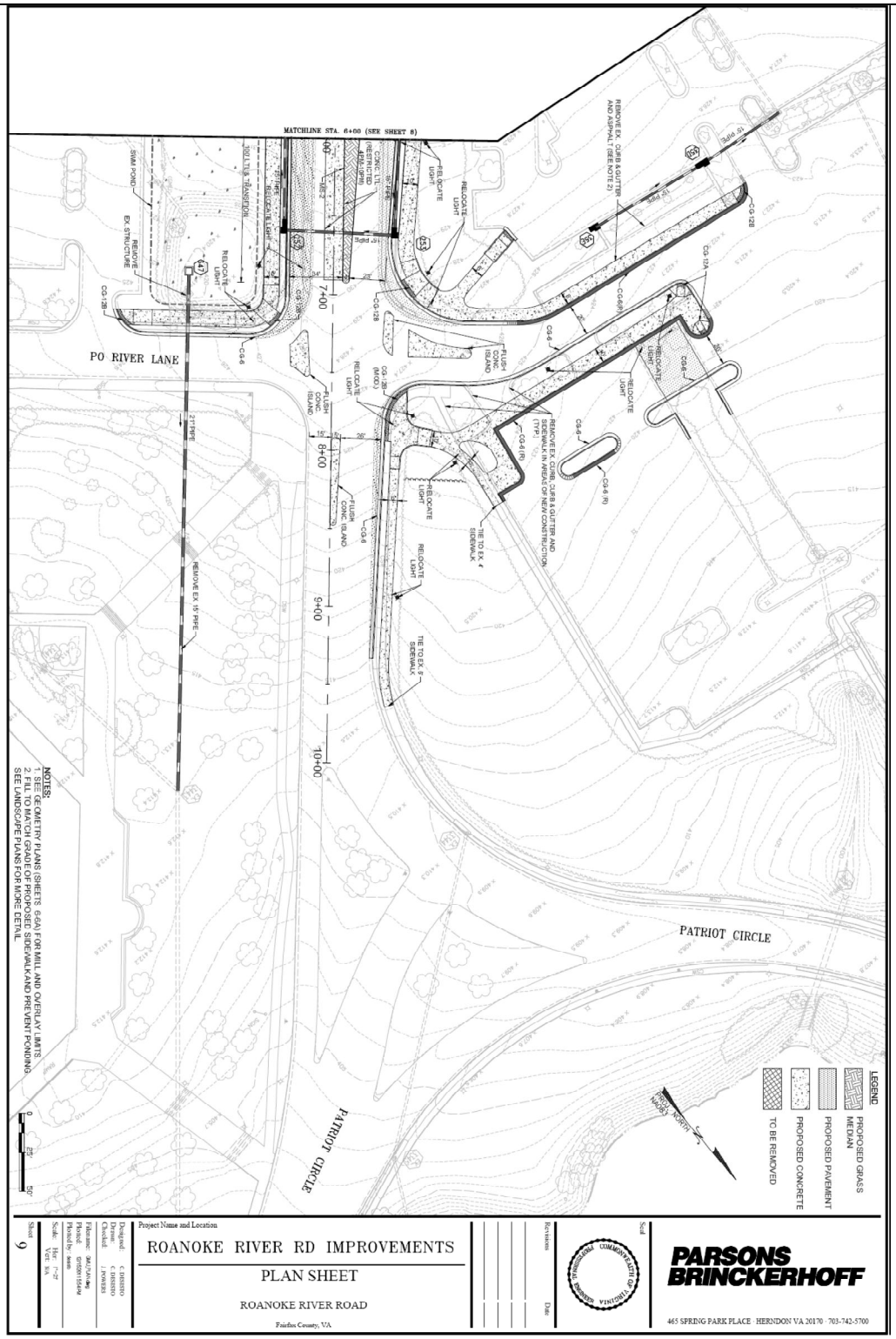


EXHIBIT C
5 OF 5

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Board Agenda Item
March 20, 2012

ACTION – 9

Approval of a Project Agreement for the Construction of Eskridge Road (Providence District)

ISSUE:
Board of Supervisors approval to execute a project agreement with Edens & Avant (E&A) to undertake the construction of the Eskridge Road extension to Williams Drive. Funding for this project is included in Project No. 2G40-029-000 (RZ0001), Eskridge Road Extension, in Fund 400-C40011 (124), County and Regional Transportation Projects.

RECOMMENDATION:
The County Executive recommends that the Board approve:

- The project agreement in substantial form, including $1,692,851 in County and Regional Transportation Projects funding for all activities related to construction of the Eskridge Road Extension.
- Increase the funding of the project by $1.5 million to reflect current estimate.

TIMING:
Board approval is requested on March 20, 2012, so that the project can move forward as expeditiously as possible, since E&A anticipates beginning construction in April 2012.

DISCUSSION:
E&A is developing the area around the project and reconstructing Eskridge Road at Route 29. Eskridge Road will be dedicated as a public street and has been reconstructed as a two lane roadway connecting directly to Route 29. The intersection of Merrilee Drive and Route 29 has been converted to a four leg intersection with Eskridge Road being the fourth leg.

The developer's proffers for rezoning case # RZ 2005-PR-041 set forth provisions for the completion of Eskridge Road from the terminus of the E&A project an additional 400 feet south to connect to Williams Drive. The preliminary design was prepared by the developer's consultant, Dewberry & Davis LLC, as part of the developer's proffers. The limits of the design for this project begin at approximately station 28+50 of the

preliminary plans dated August 2006, submitted by Dewberry & Davis LLC, and end at Williams Drive.

Per the developer's proffers, the County needs to provide final design, right-of-way acquisition, utility coordination and relocation, and funding for construction of the extension project, so that the developer can include the construction of Eskridge Road extension in their construction contract. In addition, E&A will provide 14 parking spaces on their site to address the impact of the County's project on the adjacent property owners.

The connection to Williams Drive will allow Eskridge Road to serve as an additional north-south link between Route 29 and Route 50. This connection will help to relieve traffic on Gallows Road which runs parallel to Eskridge Road to the east. This extension project was approved by the Board on May 25, 2008, and the project is to be funded by the County and Regional Transportation Projects.

FISCAL IMPACT:
The total cost of this project is currently estimated to be $4,500,000 million. $1,345,633 of the $4,500,000 million has already been expended. Funding in the amount of $1,654,367 is currently available in Project 2G40-029-000 (RZ0001), Eskridge Road Extension, Fund 400-C40011 (124), County and Regional Transportation. This action is requesting additional funding in the amount of approximately $1,500,000 to complete this project (as shown in Exhibit C). The additional $1,500,000 will also be allocated from the County and Regional Transportation Projects fund.

ATTACHMENTS:
Attachment I: Agreement for Construction Management and the Reimbursement of Costs for the Eskridge Road Extension

STAFF:
Robert A. Stalzer, Deputy County Executive
Cynthia L. Tianti, Deputy County Attorney
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Karyn L. Moreland, Chief, Capital Projects Section, FCDOT
Seyed A. Nabavi, Senior Transportation Planner, Capital Projects Section, FCDOT
Ray Johnson, Senior Transportation Planner, Coordination and Funding Division, FCDOT

ATTACHMENT I

AGREEMENT FOR CONSTRUCTION MANAGEMENT AND THE REIMBURSEMENT OF COSTS FOR THE

ESKRIDGE ROAD EXTENSION

This Agreement for Construction Management of Eskridge Road Extension ("Agreement") is made as of the_____day of_____, 2012, (the "Effective Date") by and between Eskridge (E&A), LLC ("E&A"), and THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA ("County"), a body corporate and politic.

RECITALS:

A. The parties acknowledge that E&A shall manage the construction of the improvements as shown on the plans prepared by Dewberry Davis titled Eskridge Road Extension (County Number 0561-SPV-005-A-1) that included sheets 1 - 22 all dated July 2011.

B. E&A, or its predecessor in interest, is the "Applicant" under PCA 2005-PR-041-2 and Proffer Statement dated October 15, 2007, February 1, 2011, April 15, 2011, May 13, 2011, June 2, 2011, June 10, 2011, June 16, 2011, and July 18, 2011 (the "Proffers") submitted to the County, and is the owner of a portion of the property subject to the Proffers;

C. E&A has a proffer obligation pursuant to Proffer No. VII.1 to reconstruct Eskridge Road as set forth in detail in the "PI Plan" (as defined in such proffer) from its intersection at Lee Highway to the southern end of the "Property" (as defined in such proffer statement) ("**E&A Construction Work Portion**");

D. Pursuant to Proffer No. VII.2, E&A prepared and submitted to the County a preliminary design ("**E&A's Extension Design Work**") for the extension of Eskridge Road ("**Eskridge Road Extension" or "Project")** from the southern Property boundary through to, and including, its intersection with Williams Drive (PI Plan Station 28+57 through Station 32+50);

E. Pursuant to Proffer No. VII.2, E&A further agreed under the circumstances set forth in such proffer to construct the Eskridge Road Extension provided the County made available to E&A the engineering design, approval, permitting, land acquisition, and sufficient funds for construction;

F. The County desires to have E&A manage and complete construction of the Eskridge Road Extension and the County has agreed to make available to E&A sufficient funds for the construction of the Eskridge Road Extension pursuant to this Agreement;

G. Both the County and E&A desire to have E&A manage the contractor, Innovative Infrastructure LLC ("Innovative") to construct the Eskridge Road Extension in connection with E&A Construction Work Portion.

H. Managing construction of the Eskridge Road Extension by E&A has been approved by the Director of Department of Transportation;

I. Both parties hereto agree that a need exists for the expeditious and timely completion of the Project;

J. Both parties hereto agree that the benefits of the installation of the Project are for the betterment of the general welfare of the citizens of County; and

K. The County deems it in best economic interest to cause the Eskridge Road Extension to be constructed in accordance with the terms herein.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows: The recitals of this Agreement set forth above are incorporated herein and made a part of this Agreement.

1. The above recitals are incorporated by reference.

2. The County shall:

a. Acquire all necessary rights-of-way and easements of sufficient area in order to permit the construction of the Eskridge Road Extension part of the Project, at no expense to E&A, including any necessary right-of-way from Tax Map Parcels 49-3-22-A, 49-3-22-3C, and 049-3-22-3D.

b. Use its best efforts in obtaining all necessary County and Virginia Department of Transportation ("VDOT") approvals so as to acquire necessary permits to construct the Project.

c. Contract and pay Dewberry & Davis LLC to provide construction administration services (e.g. shop drawing review, responding to RFI's and preparation of final punch list) for the Eskridge Road Extension.

d. Hereby approves the contract with Innovative for construction of the Eskridge Road Extension a copy of which is attached to the Agreement as Exhibit A and approves the contract with ECS Limited for testing and inspections for the Eskridge Road Extension a copy of which is attached to this Agreement as Exhibit B.

e. Reimburse E&A for one hundred percent (100%) of all costs associated with the Eskridge Road Extension. A budget for the costs to construct the Eskridge Road Extension is attached to this Agreement as Exhibit C is hereby approved by the County. The County shall reimburse E&A monthly for all costs E&A incurs for the Eskridge Road Extension within thirty (30) days of the receipt of a properly completed invoice as determined by the Director, Fairfax County Department of Transportation ("Director"). If the County fails to reimburse E&A within 30 days the amount due will accrue interest at a rate of 6% per annum. The County shall pay for and be responsible for obtaining the acceptance of the Eskridge Road Extension for maintenance by the County or by VDOT. For the purposes of this agreement, "costs" shall include but not be limited to the

following: construction, construction management fee, change orders, testing, surveying, permitting, and bonds.

f. Be responsible for the utility relocations, and the cost thereof, on the Eskridge Road Extension.

g. Confirm that the terms and conditions of this Agreement are in compliance with the County and State of Virginia procurement regulations and with all County regulations and ordinances.

h. Provide E&A with expeditious and timely review of shop drawings and submittals submitted to the County.

i. The County will compensate E&A a construction management fee of 10% of the final cost of the Eskridge Road Extension. Additional fees may apply for change orders or unanticipated Project delays beyond the original budget estimate and schedule. E&A will include within each invoice for the County's share of its construction costs, an amount not to exceed 10% of any such invoice for payment of the E&A construction management fee.

j. Encumber sufficient funds to cover the costs of the County's portion of the Project upon execution of this Agreement.

k. Provide bonding agreement for the Eskridge Road Extension bond as required by the County's Land Development Services Division.

l. Approve change orders to the contracts and contingency draws for the Eskridge Road Extension in a timely manner. It is understood that failure to approve the change orders may result in a delay to the completion of the Eskridge Road Extension. Any delays due to the approval of the above will be the responsibility of the County

m. Provide E&A with the appropriate Notice to Proceed by April 1, 2012, provided E & A has delivered to the County true and correct copies of the executed Performance Bond and the Labor and Materials Payment Bond referenced in paragraph 3(g) below.

3. E&A shall:

a. Pursuant to Proffer No. VII.2, E&A shall provide 14 parking spaces to the Fairfax Professional Center, Parcel 049-3-22-3D, prior to start of the construction.

b. E&A ensures that Innovative will do its best effort to minimize impact on the 22 parking spaces within the additional easement on Parcel 049-3-22-3D.

c. E&A will assist County in obtaining all permits from any government body necessary to construct the Project.

d. Provide to the County a detailed construction cost estimate of the costs associated with the Eskridge Road Extension portion of the Project, including contingency costs a copy of which is attached as Exhibit C and is hereby approved by the County.

e. Prepare the construction contract and general conditions with Innovative a copy of which is attached as Exhibit A and is hereby approved by the County.

f. Prepare a service contract with ECS Limited for testing and inspections a copy of which is attached to this agreement as Exhibit B and is hereby approved by the County.

g. Cause Innovative to provide E&A (i) a Performance Bond in an amount not less than one hundred percent (100%) of the Contract amount for the Eskridge Road Extension portion of the Project; and (ii) a Labor and Materials Payment Bond in an amount not less than one hundred percent (100%) of labor and material for the Eskridge Road Extension portion of the Project. A sample Performance Bond and the Labor and Materials Payment Bond are attached to this Agreement as Exhibit D and hereby approved by the County. True and correct copies of those bonds shall be delivered to the County prior to the issuance of the Notice to Proceed. The bonds shall name the County and E&A each as an obligee. The cost of such bonds shall be paid for by the County pursuant to paragraph 2(e) above.

h. Perform, or cause to be performed, the construction of the improvements in accordance with the Contract referred to in 3(e) above. Any work to be done in addition to that contained in the Contract (i.e., change orders and cost overruns), shall receive approval by both parties prior to the commencement of any additional work. The County agrees to respond to any proposed change orders and/or requests for proposed cost overruns within five (5) working days of receipt of information deemed adequate by the County to make a determination to approve or reject such proposed changes or cost overruns. E&A and or Innovative shall not be liable for damages due to an unreasonable delayed response from County.

i. Provide the necessary contract administration including quality control, materials testing, surveying and inspection services before and during construction.

j. Indemnify and hold the County harmless from liability associated with construction of the Eskridge Road Extension (except for negligence on the part of the County), and provide evidence of insurance coverage. E&A shall require Innovative and ECS Limited to name the County and E&A each as an additional insured on any insurance coverage obtained by Innovative. For insurance limits, please refer to section D, General Conditions Article 11 of County's Standards of Construction Contracts.

k. Submit to the County construction invoices in the AIA format approved by the Director as provided in paragraph 2(e) above. Payment terms shall be consistent with the negotiated Contract for efficient flow of funds in order to maintain construction progress.

l. Permit in-progress and post auditing of the Project by the County or its agent, and retain any and all documents necessary to conduct such auditing. The County shall provide 15 days prior notice of its intent to audit. Post-auditing, if any, shall be completed within 90 days of completion of this Agreement.

m. Ensure that Innovative provides access to all parcels during construction of the

Project; unless, prior coordination and written approval are obtained from the owners of the parcels adjoining the project. E&A shall ensure that Innovative maintains the access to the west side of the building in Parcel 049-3-22-3D (Fairfax Professional Center).

n. E&A is responsible for any damages claimed due to the failure of E&A to ensure that Innovative provides access to all parcels adjoining the project during construction of the Project and E&A will defend and will hold the County harmless for any such damages claimed by any person or entity to the extent that damages are caused by E&A or Innovative.

o. E&A is responsible for any damages claimed due to the failure of E&A to ensure that Innovative does not cause any interruption to any utility service; unless, prior coordination and approval are obtained from the utility service provided or parcels adjoining the project, including, but not limited to, any electric service, telephone service or internet service to the extent that damages are caused by E&A or Innovative during the construction of the Extension of Eskridge Road, but specifically excluding any interruption of any utility service by the provider of such service, to any of the parcels affected by or adjoining the construction, and E&A will defend and will hold the County harmless for any such damages claimed by any person or entity to the extent that damages are caused by E&A or Innovative.

p. E&A is responsible for any damages claimed due to the failure of E&A to ensure that Innovative does not interrupt water services during 7AM-7PM; unless, prior coordination and written approval are obtained from the water utility and the owners of the parcels adjoining the project and to the extent that damages are caused by E&A or Innovative during construction, and E&A will defend and will hold the County harmless for any such damages claimed by any person or entity to the extent that damages are caused by E&A or Innovative.

q. E&A ensures that Innovative provides written notification to the property owners and the tenant (Genetics and IVF Institute Inc.), at least 2 days in advance of construction of driveways, entrances, or areaways and at least 3 days in advance of any utility relocation and shut off (generator, fiber optic line, and water service) and 10 days in advance of any site work.

r. E&A shall provide one year warranty for the project after the substantial completion of the construction and acceptance of work by the County.

s. E&A is responsible for ensuring that Innovative completes the construction as per the schedule attached to this Agreement as Exhibit A. Liquidated damages will be assessed at the rate of $600 per day. Liquidated damages will be deducted from any monies due to E&A and Innovative for each calendar day of additional time consumed until final completion and acceptance of work by the County. Liquidated Damages will not be assessed if the County causes the delay or if differing site conditions or contaminated soils are un-earthed during the construction of the Eskridge Road Extension. The County also has to be current on its payments before Liquidated Damages can be assessed.

4. It is further agreed by the parties hereto that:

a. County staff and authorized representatives of the County shall have the right to inspect any construction within the limits of the Eskridge Road Extension portion of the Project.

b. All communications between the County and Innovative shall be through E&A, unless otherwise agreed to between the County and the Project Manager.

c. E&A shall advise the County of any construction progress meetings and the County shall have the option of attending such meetings.

d. All plans, profiles, specifications, special provisions, revisions, and other documents required to complete the construction of the work in an acceptable manner, shall be made a part of this Agreement.

e. In the event that Innovative files a claim on work relating to the Eskridge Road Extension portion of the Project:

i. E&A shall furnish the County a copy of all Notices of Intent to file a claim and a copy of any claim that is submitted by Innovative.

ii. The County shall have access to all E&A papers pertaining to the claim upon request and during normal business hours.

iii. The County must approve any settlement between E&A and Innovative for the Eskridge Road Extension portion of the Project.

f. Any matter not covered by the provisions of this Agreement shall be carried out as mutually agreed to between E&A and the County.

g. This Agreement is not made for the benefit of any third party.

h. If any provision of this Agreement is determined to be void or invalid by a court of competent jurisdiction, such provision shall be stricken and the remainder of this Agreement shall not be affected thereby.

i. The total costs for the Eskridge Road Extension portion of the Project <u>excluding</u> the right-of-way acquisition, utility relocation and bonding is $1,692,851 as detailed in Exhibit C attached hereto and incorporated herein. The above cost does not include any approved change orders or contingencies. Any costs or expenses in excess of $1,692,851 are subject to appropriation by the County.

j. Any dispute regarding this Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of laws principles, and the forum for resolving any such dispute shall be the Circuit Court of Fairfax County, Virginia.

k. E&A reserves the right to pursue all legal remedies and charge the County interest if they do not reimburse 100% of the cost of the Project.

l. E&A reserves the right to terminate this agreement if the County does not reimburse payment with 60 days of a request.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

Date: _____ By: _____

Anthony H. Griffin
County Executive

STATE OF VIRGINIA)
) To-wit:
COUNTY OF FAIRFAX)

The foregoing instrument was acknowledged before me by Anthony Griffin, County Executive, on behalf of the Board of Supervisors of Fairfax County, Virginia, this_____day of _____, 2012.

_____
Notary Public

My Commission Expires: _____

[SIGNATURE BLOCK FOR ESKRIDGE (E&A), LCC)

INNOVATIVE INFRASTRUCTURE

February 28, 2012

Merrifield Mixed-Use LLC.
c/o Edens and Avant
7200 Wisconsin Avenue, Suite 400
Bethesda, Maryland 29814

Attn: Steven F. Teets

Re: Eskridge Road Improvements Project – Extension to Williams Drive, Fairfax, Virginia

Subject: **Revised Cost Proposal – Eskridge Extension to Williams Drive**

Gentlemen:

Innovative Infrastructure, LLC (Hereafter "II") is pleased to provide this revised cost proposal for the **Extension of Eskridge Road to Williams Drive** as based on our negotiations and scope meeting. The total revised lump sum cost for this work is **$1,487,000.00**, as shown on the attached Exhibit C - Schedule of Values (Revised 2-28-12), and is based on the following scope of work:

1. Plans entitled "*Eskridge Road Extension*" prepared by Dewberry & Davis, LLC dated July, 2011, Fairfax County Number 0561-SPV-005-A-1.
2. Notice to Proceed no later than April 2, 2012. Based on this NTP, we will achieve Substantial Completion, defined as the roadway available for its intended use, by October 31, 2012. A Preliminary Schedule for the work is attached for your reference.
3. Final Acceptance, defined as the one-time completion of a single punchlist generated from the final inspection, will be achieved within 30 days of receipt of the punchlist, weather permitting. Bonds and bond-release work are excluded.
4. Notice to Proceed will be assumed to be issued upon completion, by others, of right-of-way acquisition, utility relocations, permits, plan approvals, and all other items necessary to allow for unencumbered commencement of construction.
5. Contractor will maintain the limits of disturbance during construction until Substantial Completion.
6. Right-of-way, easements and access provided by others as requested on sketch provided by Shirley in meeting with Fairfax County on January 27, 2012.
7. Coordination of utility relocations in conflict with the work. Cost for these relocations, easements, engineering, permits, or any other costs are not included.
8. Offsite disposal of all excess/waste material generated by the work.
9. Relocation of the existing emergency generator to the location shown on the Plans. Proposal includes installation of a temporary generator during the relocation process and assumes that the existing generator can be relocated without any modification, repairs, or improvements. II does not warrant the existing condition of the existing emergency generator.
10. Proposal assumes that existing subgrade meets design CBR values without manipulation. Changes to the pavement structure as a result of different CBR values will be handled on a unit price basis for undercut & backfill with aggregate.

Cc: Field/File

8435 Backlick Road Lorton, Virginia 22079-1498 Phone (703) 550-8100 FAX (703) 550-8326

INNOVATIVE INFRASTRUCTURE

11. Retaining wall will be constructed with a standard brick-pattern formliner finish, stained to a similar color as the adjacent building. Finish will apply only to the roadway-side face of the wall and parapet. Cost includes general layback, benching and sloping, but excludes soldier pile and lagging support of excavation, if necessary (cost provided as a unit price contingency).
12. Proposal is based on the prosecution of the work during normal work hours. However, it is understood that certain limited activities of a sensitive nature, such as the generator relocation, will require work on nights and weekends.
13. Proposal includes the relocation of the fire hydrant shown on the Plans to be in conflict with the work. No other waterline relocations are included.
14. We understand that there may exist an abandoned underground fuel tank that may conflict with the work. Proposal excludes any costs related to this as they are unknown at this time.
15. Proposal excludes handling and/or delays associated with any hazardous, contaminated or otherwise unsuitable material.
16. Proposal excludes QA/QC testing or inspection services.
17. Scope includes the relocation of the existing parking lot lighting shown on the Plans. Temporary lighting and street lighting are not included.
18. Scope includes the relocation of the existing private fiber optic line shown on Plan sheet 7A.
19. Owner will provide a staging area for our use at a suitable location adjacent to the Project limits.
20. Payment and performance bonds for the value of the work are included.

In addition to the fixed price cost proposal detailed above, II has prepared estimated contingency cost for the following items: potentially encountering material with poor CBR (A-undercut/aggregate backfill); watermain relocation (B) if found to be in conflict; potential underground concrete filled storage tank (C) that may be in conflict; and soldier pile and lagging support of excavation for the retaining wall (D) if the wall cannot be constructed by conventional sloping layback. All contingencies are estimates based on II's assumptions and are not included in the fixed price cost proposal. The total estimated additional contingency cost is $304,795.00. They are detailed in the attached Exhibit C and the previously provided estimated contingency costs dated February 24, 2012.

We appreciate the opportunity to work on this project and look forward to hearing from Edens and Fairfax County to complete this important project. Should you have any questions or require any additional information, please do not hesitate to contact the undersigned at 571-248-2989.

Sincerely,
INNOVATIVE INFRASTRUCTURE, LLC

Gregory S. Smith
Vice President

Enclosures – Exhibit C Schedule of Values (Revised 2-28-12) & Attachments
Cc: Field/File

8435 Backlick Road Lorton, Virginia 22079-1498 Phone (703) 550-8100 FAX (703) 550-7827

ESKRIDGE ROAD IMPROVEMENTS PROJECT

EXTENSION TO WILLIAMS DRIVE

INNOVATIVE INFRASTRUCTURE I²

EXHIBIT C

SCHEDULE OF VALUES (REVISED 2-28-12)

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	AMOUNT
1	MOBILIZATION	1	LS	$ 43,000.00	$ 43,000.00
2	MAINTENANCE OF TRAFFIC	1	LS	$ 64,000.00	$ 64,000.00
3	SURVEY AND LAYOUT	1	LS	$ 47,000.00	$ 47,000.00
4	DEMOLITION AND CLEARING	1	LS	$ 108,000.00	$ 108,000.00
5	EROSION AND SEDIMENT CONTROLS	1	LS	$ 65,000.00	$ 65,000.00
6	EARTHWORK	1	LS	$ 102,000.00	$ 102,000.00
7	STORM DRAINAGE	1	LS	$ 61,000.00	$ 61,000.00
8	RELOCATE FIRE HYDRANT	1	LS	$ 8,000.00	$ 8,000.00
9	PAVEMENT STRUCTURE	1	LS	$ 278,000.00	$ 278,000.00
10	CONCRETE FLATWORK	1	LS	$ 129,000.00	$ 129,000.00
11	DUMPSTER PAD & ENCLOSURE	1	LS	$ 52,000.00	$ 52,000.00
12	RETAING WALL	1	LS	$ 291,000.00	$ 291,000.00
13	PAVEMENT MARKINGS & SIGNAGE	1	LS	$ 12,000.00	$ 12,000.00
14	LANDSCAPING	1	LS	$ 12,000.00	$ 12,000.00
15	RELOCATE EMERGENCY GENERATOR	1	LS	$ 122,500.00	$ 122,500.00
16	RELOCATE PRIVATE FIBER OPTIC	1	LS	$ 23,000.00	$ 23,000.00
17	RELOCATE LIGHT POLES & CONDUIT	1	LS	$ 31,500.00	$ 31,500.00
18	FINAL GRADING & DRESSUP	1	LS	$ 38,000.00	$ 38,000.00

TOTAL: $ 1,487,000.00

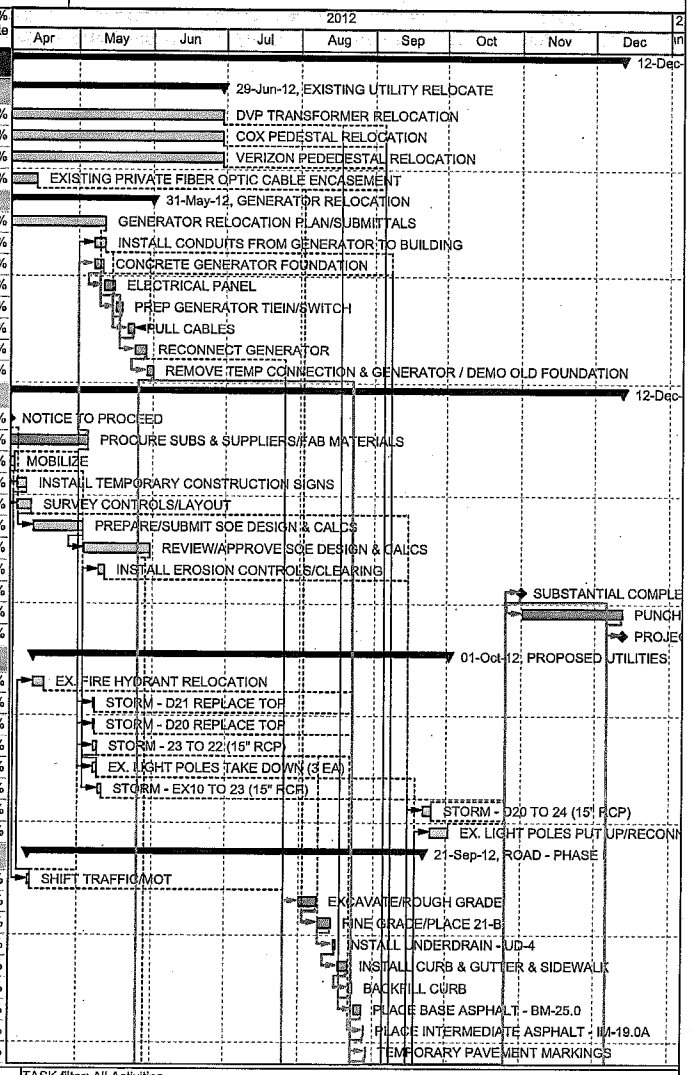
***CONTINGENCIES**

ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	AMOUNT
A	**UNDERCUT/AGGREGATE BACKFILL**	**1**	**LS**	**$ 146,895.00**	**$ 146,895.00**
-	UNDERCUT EXCAVATION & DISPOSAL	1630	CY	$ 35.00	$ 57,050.00
-	BACKFILL NO. 21-B AGGREGATE	3020	TN	$ 29.75	$ 89,845.00
B	**WATERMAIN RELOCATION**	**260**	**LF**	**$ 241.92**	**$ 62,900.00**
C	**REMOVE UNDERGROUND CONC. FILLED STORAGE TANK**	**1**	**LS**	**$ 34,400.00**	**$ 34,400.00**
D	**SUPPORT OF EXCAVATION RW-3**	**600**	**SF**	**$ 101.00**	**$ 60,600.00**

* Contingencies are not included in the total fixed price cost proposal Schedule of Values above and are provided for budget purposes only. Contingencies are to be added by Change Order with the actual cost (including labor, equipment, materials, subcontractor, administration, and fee) and impacts determined based on field conditions encountered and direction provided from the owner.

ESKRIDGE EXTENSION (28+58 TO 32+29) | SHIRLEY CONTRACTING COMPANY, LLC | 03-Feb-12 08:37

Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish	Total Float	Activity % Complete
ESKRIDGE EXTENSION (28+58 TO 32+29)		183	183	02-Apr-12	12-Dec-12	0	
EXISTING UTILITY RELOCATE		65	65	02-Apr-12	29-Jun-12	39	
A1000	DVP TRANSFORMER RELOCATION	65	65	02-Apr-12	29-Jun-12	39	0%
A1010	COX PEDESTAL RELOCATION	65	65	02-Apr-12	29-Jun-12	39	0%
A1020	VERIZON PEDEDESTAL RELOCATION	65	65	02-Apr-12	29-Jun-12	39	0%
A1050	EXISTING PRIVATE FIBER OPTIC CABLE ENCASEMENT	10	10	02-Apr-12	13-Apr-12	83	0%
GENERATOR RELOCATION		44	44	02-Apr-12	31-May-12	0	
A1030	GENERATOR RELOCATION PLAN/SUBMITTALS	30	30	02-Apr-12	11-May-12	2	0%
A1040	INSTALL CONDUITS FROM GENERATOR TO BUILDING	5	5	07-May-12	11-May-12	5	0%
A1060	CONCRETE GENERATOR FOUNDATION	4	4	07-May-12	10-May-12	0	0%
A1070	ELECTRICAL PANEL	3	3	11-May-12	15-May-12	0	0%
A1080	PREP GENERATOR TIEIN/SWITCH	3	3	16-May-12	18-May-12	0	0%
A1090	PULL CABLES	3	3	21-May-12	23-May-12	0	0%
A1100	RECONNECT GENERATOR	3	3	24-May-12	28-May-12	0	0%
A1110	REMOVE TEMP CONNECTION & GENERATOR / DEMO OLD FOUND...	3	3	29-May-12	31-May-12	0	0%
GENERAL		183	183	02-Apr-12	12-Dec-12	0	
A1120	NOTICE TO PROCEED	0	0	02-Apr-12		0	0%
A1130	PROCURE SUBS & SUPPLIERS/FAB MATERIALS	25	25	02-Apr-12	04-May-12	0	0%
A1140	MOBILIZE	3	3	02-Apr-12	04-Apr-12	1	0%
A1180	INSTALL TEMPORARY CONSTRUCTION SIGNS	3	3	05-Apr-12	09-Apr-12	79	0%
A1190	SURVEY CONTROLS/LAYOUT	5	5	05-Apr-12	11-Apr-12	1	0%
A1150	PREPARE/SUBMIT SOE DESIGN & CALCS	15	15	12-Apr-12	02-May-12	1	0%
A1160	REVIEW/APPROVE SOE DESIGN & CALCS	20	20	03-May-12	30-May-12	1	0%
A1170	INSTALL EROSION CONTROLS/CLEARING	3	3	09-May-12	11-May-12	57	0%
A1200	SUBSTANTIAL COMPLETION	0	0		31-Oct-12	0	0%
A1205	PUNCHLIST/ACCEPTANCE	30	30	01-Nov-12	12-Dec-12	0	0%
A1210	PROJECT COMPLETE	0	0		12-Dec-12	0	0%
PROPOSED UTILITIES		123	123	12-Apr-12	01-Oct-12	22	
A1270	EX. FIRE HYDRANT RELOCATION	3	3	12-Apr-12	16-Apr-12	97	0%
A1230	STORM - D21 REPLACE TOP	1	1	07-May-12	07-May-12	82	0%
A1240	STORM - D20 REPLACE TOP	1	1	07-May-12	07-May-12	82	0%
A1260	STORM - 23 TO 22 (15" RCP)	2	2	07-May-12	08-May-12	70	0%
A1280	EX. LIGHT POLES TAKE DOWN (3 EA)	2	2	07-May-12	08-May-12	57	0%
A1250	STORM - EX10 TO 23 (15" RCP)	2	2	09-May-12	10-May-12	124	0%
A1220	STORM - D20 TO 24 (15" RCP)	2	2	21-Sep-12	24-Sep-12	27	0%
A1870	EX. LIGHT POLES PUT UP/RECONNECT & CONDUIT (3 EA)	6	6	24-Sep-12	01-Oct-12	22	0%
ROAD - PHASE I		119	119	10-Apr-12	21-Sep-12	22	
A1569	SHIFT TRAFFIC/MOT	2	2	10-Apr-12	11-Apr-12	79	0%
A1570	EXCAVATE/ROUGH GRADE	6	6	01-Aug-12	08-Aug-12	0	0%
A1580	FINE GRADE/PLACE 21-B	4	4	09-Aug-12	14-Aug-12	0	0%
A1590	INSTALL UNDERDRAIN - UD-4	2	2	15-Aug-12	16-Aug-12	0	0%
A1600	INSTALL CURB & GUTTER & SIDEWALK	3	3	17-Aug-12	21-Aug-12	0	0%
A1610	BACKFILL CURB	2	2	22-Aug-12	23-Aug-12	0	0%
A1620	PLACE BASE ASPHALT - BM-25.0	2	2	24-Aug-12	27-Aug-12	0	0%
A1630	PLACE INTERMEDIATE ASPHALT - IM-19.0A	1	1	28-Aug-12	28-Aug-12	0	0%
A1631	TEMPORARY PAVEMENT MARKINGS	1	1	29-Aug-12	29-Aug-12	0	0%



Actual Work | Critical Remaining Work | Summary
Remaining Work | Milestone

Page 1 of 3

TASK filter: All Activities

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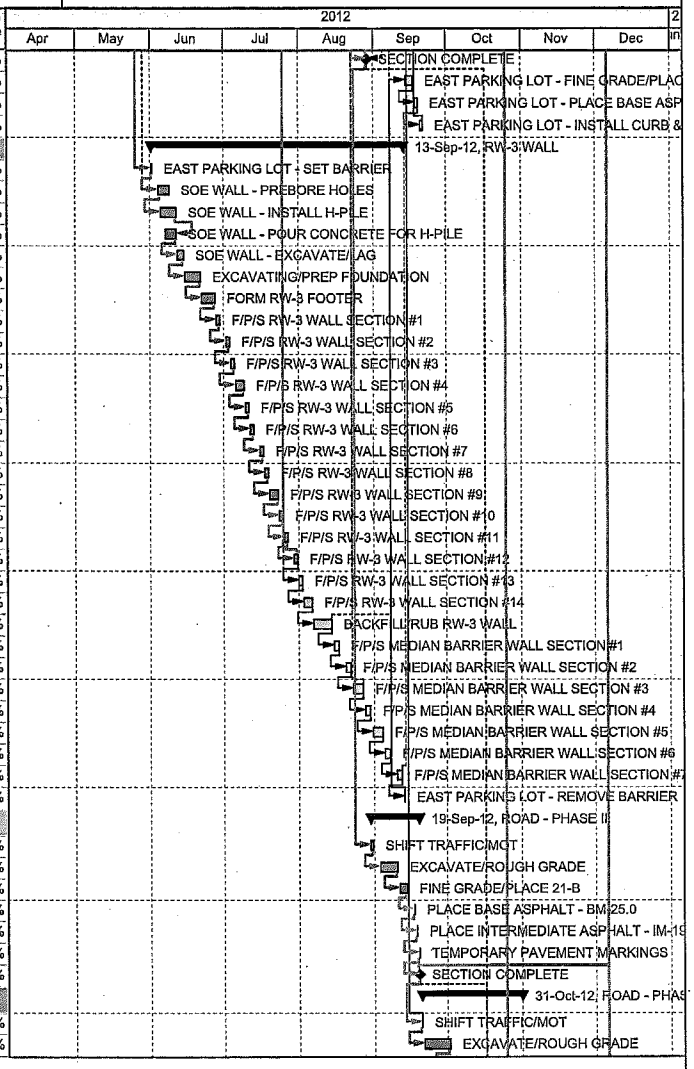
Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish	Total Float	Activity % Complete
A1640	SECTION COMPLETE	0	0		29-Aug-12	0	0%
A1650	EAST PARKING LOT - FINE GRADE/PLACE 21-A	2	2	14-Sep-12	17-Sep-12	22	0%
A1680	EAST PARKING LOT - PLACE BASE ASPHALT - BM-25.0	2	2	18-Sep-12	19-Sep-12	22	0%
A1690	EAST PARKING LOT - INSTALL CURB & GUTTER	2	2	20-Sep-12	21-Sep-12	22	0%
RW-3 WALL		75	75	01-Jun-12	13-Sep-12	22	
A1700	EAST PARKING LOT - SET BARRIER	1	1	01-Jun-12	01-Jun-12	0	0%
A1290	SOE WALL - PREBORE HOLES	5	5	04-Jun-12	08-Jun-12	0	0%
A1300	SOE WALL - INSTALL H-PILE	5	5	05-Jun-12	11-Jun-12	0	0%
A1310	SOE WALL - POUR CONCRETE FOR H-PILE	3	3	07-Jun-12	11-Jun-12	0	0%
A1320	SOE WALL - EXCAVATE/LAG	3	3	12-Jun-12	14-Jun-12	0	0%
A1330	EXCAVATING/PREP FOUNDATION	5	5	15-Jun-12	21-Jun-12	0	0%
A1340	FORM RW-3 FOOTER	4	4	22-Jun-12	27-Jun-12	0	0%
A1350	F/P/S RW-3 WALL SECTION #1	2	2	28-Jun-12	29-Jun-12	0	0%
A1360	F/P/S RW-3 WALL SECTION #2	2	2	02-Jul-12	03-Jul-12	0	0%
A1370	F/P/S RW-3 WALL SECTION #3	2	2	04-Jul-12	05-Jul-12	0	0%
A1380	F/P/S RW-3 WALL SECTION #4	2	2	06-Jul-12	09-Jul-12	0	0%
A1390	F/P/S RW-3 WALL SECTION #5	2	2	10-Jul-12	11-Jul-12	0	0%
A1400	F/P/S RW-3 WALL SECTION #6	2	2	12-Jul-12	13-Jul-12	0	0%
A1410	F/P/S RW-3 WALL SECTION #7	2	2	16-Jul-12	17-Jul-12	0	0%
A1420	F/P/S RW-3 WALL SECTION #8	2	2	18-Jul-12	19-Jul-12	0	0%
A1430	F/P/S RW-3 WALL SECTION #9	2	2	20-Jul-12	23-Jul-12	0	0%
A1440	F/P/S RW-3 WALL SECTION #10	2	2	24-Jul-12	25-Jul-12	0	0%
A1450	F/P/S RW-3 WALL SECTION #11	2	2	26-Jul-12	27-Jul-12	0	0%
A1460	F/P/S RW-3 WALL SECTION #12	2	2	30-Jul-12	31-Jul-12	0	0%
A1470	F/P/S RW-3 WALL SECTION #13	2	2	01-Aug-12	02-Aug-12	2	0%
A1480	F/P/S RW-3 WALL SECTION #14	2	2	03-Aug-12	06-Aug-12	2	0%
A1490	BACKFILL/RUB RW-3 WALL	6	6	07-Aug-12	14-Aug-12	2	0%
A1500	F/P/S MEDIAN BARRIER WALL SECTION #1	3	3	15-Aug-12	17-Aug-12	2	0%
A1510	F/P/S MEDIAN BARRIER WALL SECTION #2	3	3	20-Aug-12	22-Aug-12	2	0%
A1520	F/P/S MEDIAN BARRIER WALL SECTION #3	3	3	23-Aug-12	27-Aug-12	2	0%
A1530	F/P/S MEDIAN BARRIER WALL SECTION #4	3	3	28-Aug-12	30-Aug-12	22	0%
A1540	F/P/S MEDIAN BARRIER WALL SECTION #5	3	3	31-Aug-12	04-Sep-12	22	0%
A1550	F/P/S MEDIAN BARRIER WALL SECTION #6	3	3	05-Sep-12	07-Sep-12	22	0%
A1560	F/P/S MEDIAN BARRIER WALL SECTION #7	3	3	10-Sep-12	12-Sep-12	22	0%
A1880	EAST PARKING LOT - REMOVE BARRIER	1	1	13-Sep-12	13-Sep-12	22	0%
ROAD - PHASE II		15	15	30-Aug-12	19-Sep-12	0	
A1659	SHIFT TRAFFIC/MOT	2	2	30-Aug-12	31-Aug-12	0	0%
A1660	EXCAVATE/ROUGH GRADE	6	6	03-Sep-12	10-Sep-12	0	0%
A1670	FINE GRADE/PLACE 21-B	4	4	11-Sep-12	14-Sep-12	0	0%
A1710	PLACE BASE ASPHALT - BM-25.0	1	1	17-Sep-12	17-Sep-12	0	0%
A1720	PLACE INTERMEDIATE ASPHALT - IM-19.0A	1	1	18-Sep-12	18-Sep-12	0	0%
A1730	TEMPORARY PAVEMENT MARKINGS	1	1	19-Sep-12	19-Sep-12	0	0%
A1740	SECTION COMPLETE	0	0		19-Sep-12	0	0%
ROAD - PHASE III		30	30	20-Sep-12	31-Oct-12	0	
A1750	SHIFT TRAFFIC/MOT	1	1	20-Sep-12	20-Sep-12	0	0%
A1760	EXCAVATE/ROUGH GRADE	7	7	21-Sep-12	01-Oct-12	0	0%



Actual Work | Critical Remaining Work | Summary
Remaining Work | Milestone

TASK filter: All Activities

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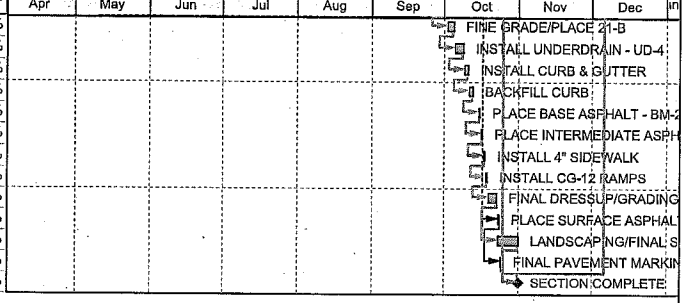
ESKRIDGE EXTENSION (28+58 TO 32+29) | SHIRLEY CONTRACTING COMPANY, LLC | 03-Feb-12 08:37

Activity ID	Activity Name	Original Duration	Remaining Duration	Start	Finish	Total Float	Activity % Complete
A1770	FINE GRADE/PLACE 21-B	3	3	02-Oct-12	04-Oct-12	0	0%
A1780	INSTALL UNDERDRAIN - UD-4	2	2	05-Oct-12	08-Oct-12	0	0%
A1790	INSTALL CURB & GUTTER	2	2	09-Oct-12	10-Oct-12	0	0%
A1800	BACKFILL CURB	2	2	11-Oct-12	12-Oct-12	0	0%
A1810	PLACE BASE ASPHALT - BM-25.0	1	1	15-Oct-12	15-Oct-12	0	0%
A1820	PLACE INTERMEDIATE ASPHALT - IM-19.0A	1	1	16-Oct-12	16-Oct-12	0	0%
A1821	INSTALL 4" SIDEWALK	1	1	17-Oct-12	17-Oct-12	0	0%
A1822	INSTALL CG-12 RAMPS	1	1	18-Oct-12	18-Oct-12	0	0%
A1823	FINAL DRESSUP/GRADING	2	2	19-Oct-12	22-Oct-12	0	0%
A1830	PLACE SURFACE ASPHALT - SM-9.5A	1	1	23-Oct-12	23-Oct-12	5	0%
A1840	LANDSCAPING/FINAL SEEDING	7	7	23-Oct-12	31-Oct-12	0	0%
A1850	FINAL PAVEMENT MARKINGS	1	1	24-Oct-12	24-Oct-12	5	0%
A1860	SECTION COMPLETE	0	0		31-Oct-12	0	0%



Actual Work | Critical Remaining Work | Summary
Remaining Work | Milestone

TASK filter: All Activities

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INNOVATIVE INFRASTRUCTURE

February 24, 2012

Merrifield Mixed-Use LLC.
c/o Edens and Avant
7200 Wisconsin Avenue, Suite 400
Bethesda, Maryland 29814

Attn: Steven F. Teets

Re: Eskridge Road Improvements Project – Extension to Williams Drive, Fairfax, Virginia

Subject: **Estimated Contingency Costs – Undercut/Aggregate Backfill (A); Watermain Relocation (B); Potential Underground Concrete filled Storage Tank (C)**

Gentlemen:

As requested Tuesday, February 21, 2012 by Edens and Fairfax County, Innovative Infrastructure, LLC (hereafter "II") has prepared the following estimated contingency cost for the potential extra work associated with the Eskridge Road Extension to Williams Drive proposal. The contingencies are for potentially encountering material with poor CBR, watermain relocation if found to be in conflict and potential underground concrete filled storage tank that may be in conflict. The total estimated contingency cost is **$244,100.00** as based on II's assumptions and details provided below.

Contingency "A" – Undercut/Aggregate Backfill ($146,800.00 / Lump Sum).

As per plan the proposed roadway pavement section is based on encountering subgrade material with a minimum CBR value of 10; however, our past experience adjacent to this project has demonstrated that the CBR values of the existing material may be less than this. Therefore, Contingency "A" is for the potential cost associated with correcting poor CBR material if encountered during roadway construction by undercutting and backfilling with aggregate. II has assumed that a two (2) foot below subgrade undercut backfilled with VDOT No. 21-B Aggregate may be necessary to provide an adequate pavement section over all areas of the Eskridge Road extension to Williams Drive. The ultimate pavement section design will be determined based on the actual field conditions and designers recommendations. The actual cost associated may vary from this contingency estimate as it is based on II's assumptions.

Contingency "B" – Watermain Relocation ($62,900.00 / Lump Sum).

II's proposal excludes the 12" watermain relocation shown on plan sheet 13 as initially requested because the actual conflicts with the roadway construction and extent of relocation required could not be fully determined at the time of proposal preparation. However as requested, II has prepared the Contingency "B" cost estimate to relocate approximately 290 linear feet of existing 12" watermain, fittings and accessories as shown on plan sheet 13. The actual watermain relocation required will be determined upon further field investigation and

Cc: Field/File

8435 Backlick Road Lorton, Virginia 22079-1498 Phone (703) 550-8100 FAX (703) 550-7897

INNOVATIVE INFRASTRUCTURE

utility data obtained. The actual cost associated may vary from this contingency estimate as it is based on II's assumptions.

Contingency "C" – Underground Concrete Filled Storage Tank ($34,400.00 / Lump Sum).

II's proposal excluded removal of the underground concrete filled storage tank that was abandoned in place potentially located in the vicinity of the generator pad for lack of sufficient information being available to estimate a cost. This underground concrete filled storage tank may or may not be in conflict with the proposed construction and the size and location cannot be determined until construction is underway. With that being said, II was requested to provide some type of estimate to demo, remove and dispose of portions of the underground abandoned tank that may be in conflict. We have done so, but do not warrant that our assumptions or estimate reflect the scope of work necessary should this be in conflict with the construction operations. II has assumed the chunk of concrete to be 15' wide X 30' long X 8' high. This contingency estimate excludes encountering any hazardous or contaminated material which may be present. Again, the abandoned underground storage tank is rumored to be present, but II does not know the actual scope of work that will be required to demo, remove and dispose of this should it be in conflict. The actual scope of work and costs required will be determined upon further field investigation and data obtained. The actual cost associated may vary from this contingency estimate as it is based on II's assumptions with very little information about what will actually be required.

The estimated costs for the three contingency items noted above are based on II's assumptions of the potential scope of work necessary. The actual cost and impacts will be determined based on field conditions encountered and direction provided from the owner. This was prepared as requested to assist Edens and Fairfax County in determining the potential total project construction costs. In addition to these three contingencies, Eden/Fairfax County may want to consider additional contingency for differing site conditions and scope changes that may be necessary during construction.

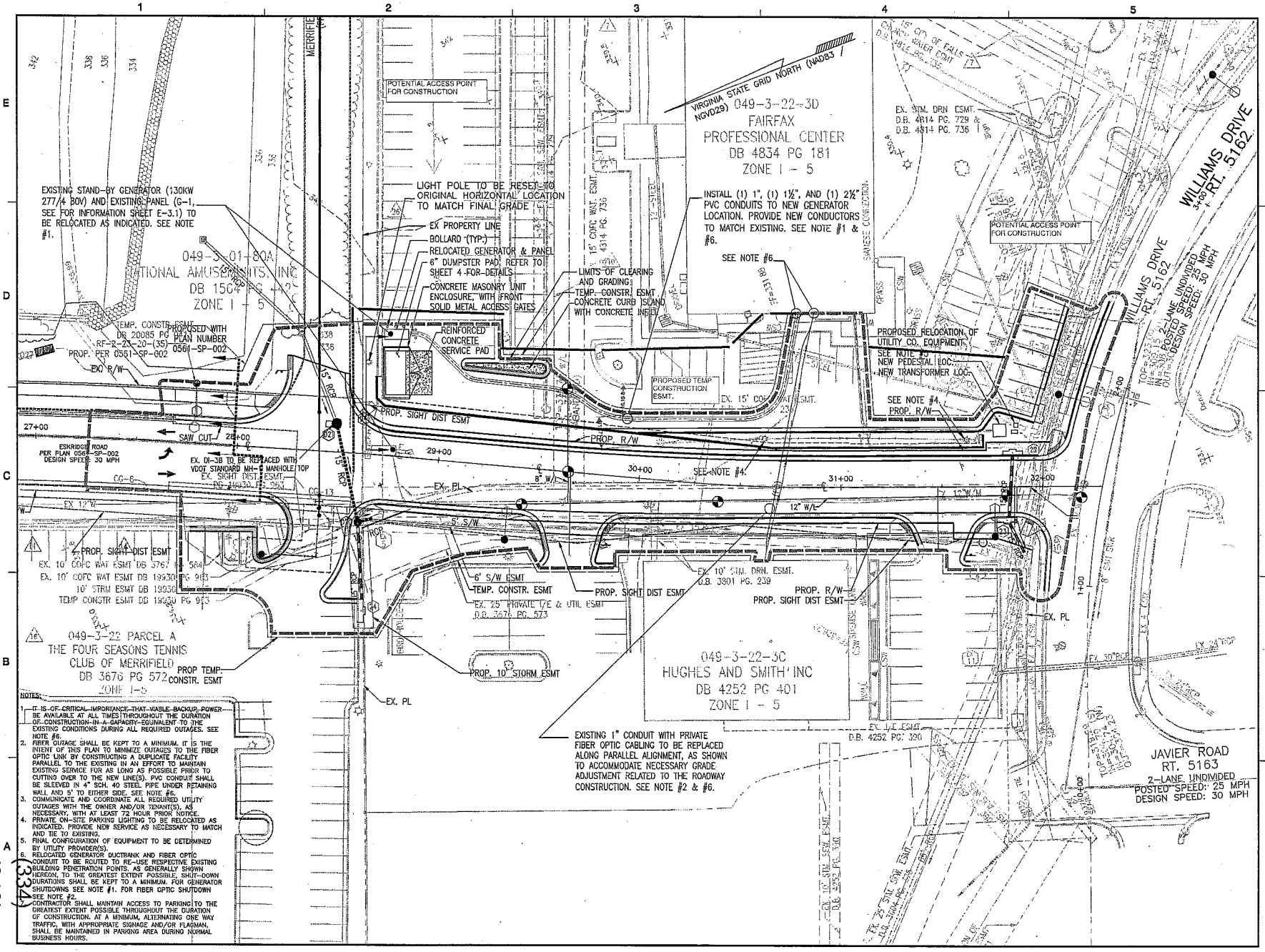
II is continuing to re-evaluate our initial proposal estimate as requested and the revised proposal will be provided next week. We appreciate the opportunity to work on this project and look forward to hearing from Edens and Fairfax County. Should you have any questions or require any additional information, please contact the undersigned at 571-248-2989.

Sincerely,
INNOVATIVE INFRASTRUCTURE

Gregory S. Smith
Vice President

Cc: Field/File

8435 Backlick Road Lorton, Virginia 22079-1498 Phone (703) 550-8100 FAX (703) 550-7897



NOTES:

1. IT IS OF CRITICAL IMPORTANCE THAT VIABLE BACKUP POWER BE AVAILABLE AT ALL TIMES THROUGHOUT THE DURATION OF CONSTRUCTION IN A CAPACITY EQUIVALENT TO THE EXISTING CONDITIONS DURING ALL REQUIRED OUTAGES. SEE NOTE #6.
2. FIBER OUTAGE SHALL BE KEPT TO A MINIMUM. IT IS THE INTENT OF THIS PLAN TO MINIMIZE OUTAGES TO THE FIBER OPTIC LINK BY CONSTRUCTING A DUPLICATE FACILITY PARALLEL TO THE EXISTING IN AN EFFORT TO MAINTAIN EXISTING SERVICE FOR AS LONG AS POSSIBLE PRIOR TO CUTTING OVER TO THE NEW LINE(S). PVC CONDUIT SHALL BE SLEEVED IN 4" SCH. 40 STEEL PIPE UNDER RETAINING WALL AND 5' TO EITHER SIDE. SEE NOTE #6.
3. COMMUNICATE AND COORDINATE ALL REQUIRED UTILITY OUTAGES WITH THE OWNER AND/OR TENANT(S), AS NECESSARY, WITH AT LEAST 72 HOUR PRIOR NOTICE.
4. PRIVATE ON-SITE PARKING LIGHTING TO BE RELOCATED AS INDICATED. PROVIDE NEW SERVICE AS NECESSARY TO MATCH AND TIE TO EXISTING.
5. FINAL CONFIGURATION OF EQUIPMENT TO BE DETERMINED BY UTILITY PROVIDER(S).
6. RELOCATED GENERATOR DUCTBANK AND FIBER OPTIC CONDUIT TO BE ROUTED TO RE-USE RESPECTIVE EXISTING BUILDING PENETRATION POINTS. AS GENERALLY SHOWN HEREON, TO THE GREATEST EXTENT POSSIBLE, SHUT-DOWN DURATIONS SHALL BE KEPT TO A MINIMUM. FOR GENERATOR SHUTDOWNS SEE NOTE #1. FOR FIBER OPTIC SHUTDOWN SEE NOTE #2.
7. CONTRACTOR SHALL MAINTAIN ACCESS TO PARKING TO THE GREATEST EXTENT POSSIBLE THROUGHOUT THE DURATION OF CONSTRUCTION. AT A MINIMUM, ALTERNATING ONE WAY TRAFFIC, WITH APPROPRIATE SIGNAGE AND/OR FLAGMAN, SHALL BE MAINTAINED IN PARKING AREA DURING NORMAL BUSINESS HOURS.

Dewberry

Dewberry & Davis LLC
8401 ARLINGTON BLVD.
FAIRFAX, VA 22031
PHONE: 703-849-0861
FAX: 703-849-0518
File Chris Champagne, P.E.

ESKRIDGE ROAD
EXTENSION TO WILLIAMS DRIVE

PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

SEAL

COMMONWEALTH OF VIRGINIA
CHRISTOPHER JAMES DEPASCALE
Lic. No. 46342
PROFESSIONAL ENGINEER

KEY PLAN

SCALE

0' 10' 20' 40'

No.	DATE	BY	Description

REVISIONS

DRAWN BY	A. Ahmadzadeh
APPROVED BY	C. dePascale
CHECKED BY	C. dePascale
DATE	August 2011

TITLE

UTILITY PLAN

PROJECT NO. 0561-SP-005

7A OF 22

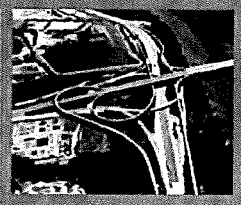
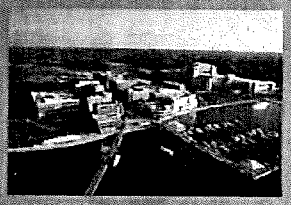
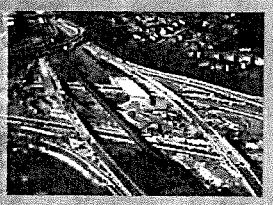
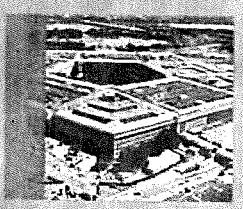
DAD FILE NO. PP-3819

ECS MID-ATLANTIC, LLC

GEOTECHNICAL • CONSTRUCTION MATERIALS • ENVIRONMENTAL • FACILITIES

NOT-TO-EXCEED COST PROPOSAL FOR CONSTRUCTION MATERIALS OBSERVATION AND TESTING SERVICES

MOSAIC – ESKRIDGE ROAD EXTENSION FALLS CHURCH, FAIRFAX COUNTY, VIRGINIA

www.ecslimited.com

February 29, 2012

Mr. Samuel Palmer
Edens & Avant
7200 Wisconsin Avenue
Suite 710
Artery Plaza
Bethesda, Maryland 20814

ECS Proposal No. 01:40001-CP

Reference: Not to Exceed Proposal for Materials Observation & Testing Services, Mosaic-Eskridge Road Extension, Fairfax County, Virginia

Dear Mr. Palmer:

As requested, ECS Mid-Atlantic, LLC is pleased to present the following not to exceed cost proposal for providing construction materials observation and testing services during construction of the Eskridge Road Extension at the Mosaic – Merrifield Town Center.

PROJECT OVERVIEW

The project consists of extending Eskridge Road to intersect with Williams Drive. We understand that ECS services will include conducting field and laboratory testing associated with these improvements for new concrete sidewalks, curbs and retaining walls; utility backfill, roadway subgrade, base stone and asphalt paving. The scope of services is outlined in Appendix I of this proposal.

UNIT RATE SCHEDULE

All services provided for this project will be billed in accordance with the unit rate schedule provided as Appendix II of this proposal. It is our belief that all required services have been included in our unit price list and accounted for in our estimated cost. Should supplemental services be deemed necessary at a later date, they would be invoiced at the rate noted on the fee schedule in effect at that time, unless otherwise agreed upon in advance. All unit prices listed herein shall remain as stated throughout the project. Should additional services be required beyond the NTE cost, they will not be provided without your prior written approval.

ECS field services will be rendered as on-site time only with no charge for travel time or mileage. There will be a 4 hour minimum charge for field related services. Our unit rates are based on a normal 8 hour work day, Monday through Friday, between normal business hours of 7:00 a.m. to 5:00 p.m. Overtime beyond 8 hours/day, outside normal hours and on Saturday, Sunday and Holidays will be invoiced at an overtime rate of 1.5 times the normal hourly rate.

NOT TO EXCEED COST $51,995.00

The NTE estimated cost has been prepared based on our review of the Shirley Contacting Company construction schedule. We understand construction is anticipated to take approximately 5 months and we have assumed 85 days of ECS involvement during that period for field and laboratory testing as detailed in the attached Appendix III cost estimate. Any deviations from the scheduled quantities and timeframes in the attached estimate are not included and will be considered as an addition to our proposed scope of service. Should additional services be required beyond the NTE cost, they will not be provided without your prior written approval.

BILLING AND CONTRACT CONDITIONS

Invoices will be issued on a monthly basis and will provide a week by week breakdown of billing units, unless modified by request of the client. Upon request, ECS will provide a separate invoice for services provided outside of the proposed scope of work. Invoices are normally processed on or around the 10th of each month and represent costs incurred during the previous month. These invoices will also display a monthly cumulative summary of project costs to date. This monthly summary will serve as a means of monitoring expenses as they relate to job progress. We request that payment be rendered within 60 days of receipt of the invoice. ECS reserves the right to assess a finance charge of 1.5% per month on the outstanding balance over 60 days. ECS also reserves the right to withhold final certifications until outstanding balances have been paid in full.

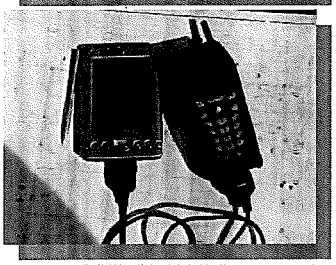
ELECTRONIC PAPERLESS REPORTING

ECS utilizes advanced communications and information technology to reduce the time from actual field reporting to the distribution of a report approved by the Project Manager and Principal Engineer. During each day of construction activities, ECS field technicians electronically enter test data into ETHEL (ECS Technician Handheld Electronic Logbook) while in the field. The test data is then transmitted to the branch office via wireless technology. The field report is then entered into our database and released into FRED (Field Report Electronic Distribution).

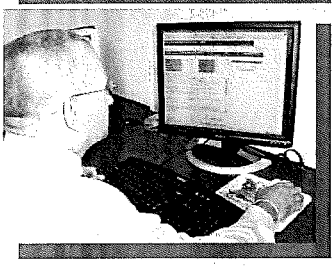
Once in FRED, the electronic copy of the field report is reviewed first by the Project Manager and then the Principal Engineer. Upon final review, electronic signatures and Professional Engineer's seal are applied to the report. The report is then printed, mailed, faxed or emailed to those on the distribution list and an electronic copy is archived on our servers for rapid retrieval. This system makes it possible to provide all project reports on a CD-ROM at the end of the project. The implementation of FRED has significantly improved efficiency in the review and approval process of reports through the office, while allowing managers to efficiently monitor progress of the project.

ECS daily field reports and laboratory reports are generally submitted and on your desk in electronic format within 24 to 36 hours of the performance date. If deficiencies or non-compliances are noted, a running punch list of deficiency items is maintained and the list is included with the reports so that problems may be resolved prior to the performance of additional work. Copies of reports will be forwarded to each party designated by the client, at no extra charge, as part of our service.

ECS Field Technician performs tests on materials at the job site, recording the test results directly into a Personal Digital Assistant (PDA).



Test results are transmitted to the office for review by the ECS Project Management team by way of cellular phone *before leaving the job site.*



Test reports are reviewed and transmitted to the client within 24 to 36 hours after tests have been completed in the field.

"Setting the Standard for Service"

SUMMARY AND ACCEPTANCE

The "Terms and Conditions of Service" utilized for this project will be the Edens & Avant Master Service Agreement with ECS dated March 27, 2009.

Our insurance carrier requires that we receive written authorization prior to initiation of work, and a signed contract prior to the release of any work product. This letter is the agreement for our services. Your acceptance of this proposal may be indicated by signing and returning the enclosed copy to us.

We are pleased to have this opportunity to offer our services and look forward to working with you on the project.

Respectfully,

ECS Mid-Atlantic, LLC

David P. Huggins, LEED® AP
Senior Project Manager

Paul D. Agutter, PE
Principal Engineer

Attachments:
Appendix I - Scope of Services
Appendix II - Project Unit Rates
Appendix III - Estimated Costs
Appendix IV – Proposal Acceptance

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APPENDIX I - SCOPE OF SERVICES

A. Earthwork & Retaining Wall Foundations:

1. Perform appropriate laboratory testing on materials proposed for use as fill, backfill, and paving subgrade in accordance with project specifications. Testing may include:
   a. Grain Size Distribution, ASTM D-422
   b. Liquid and Plastic (Atterberg) Limits, D-4318
   c. Proctor Moisture Density Relationships, VTM-1
   d. CBR Tests, VTM-8
2. Observe placement of fill and backfill (including backfill in utility trenches and against retaining walls) to test compliance with project requirements. Perform in-place density tests as required by project specifications, and test each lift for compaction.
3. Document the dimensions of retaining wall foundation elements; test surface bearing of soils at footing subgrades to verify that the soils meet or exceed design parameters through use of the Dynamic Cone Penetrometer, and reference to approved drawings.
4. Provide documentation of events in the field and notify the appropriate persons upon recognition of deficiencies.

B. Cast-in-Place Concrete (Sidewalks/Curbs/Ramps/Retaining Walls):

1. Test and report concrete for compliance with the provisions of ACI 318, 301, 214, 304, 305 and 306, local building codes and specific project requirements.
2. Observe placement of reinforcing steel and document proper size, grade, spacing cover, cleanliness, length, location and type of splices, and report compliance with project plans and specifications.
3. Sample concrete at the frequency stated in the project specifications and perform the following tests and functions:
   a. Confirm mix design
   b. Slump
   c. Air Content
   d. Temperature
   e. Batch-to-placement time
   f. Cast test cylinders

   Sampling, testing, and curing of specimens in the field shall be performed in accordance with applicable ASTM guidelines and project requirements. Additional tests shall be performed as needed in the event deficiencies are encountered.
4. Provide documentation of events in the field and notify the appropriate persons upon recognition of deficiencies.

C. Asphalt Paving:

1. Observe proofrolling of subgrades, and suggest and observe corrective action at excessively soft areas prior to placement of subbase course.
2. Observe placement of subbase course and perform appropriate in-place density tests as directed by specifications.
3. Observe placement and rolling operations and perform in-place nuclear density tests to document asphalt compaction.
4. Provide documentation of events in the field and notify the appropriate persons upon recognition of deficiencies.

APPENDIX II – PROJECT UNIT RATES

FIELD SERVICES	UNIT RATE
1. Certified Soil/Concrete/Asphalt Technician	$ 36.00/hour
2. Vehicle Mileage	**No Charge**
3. Technician Travel Time	**No Charge**
ENGINEERING/ADMINISTRATIVE SERVICES	
1. Project Manager	$ 95.00/hour
2. Professional Engineer	$ 140.00/hour
3. Secretary	**No Charge**
LABORATORY and RELATED SERVICES	
1. Standard Proctor Moisture Density Relationships VTM 1	$ 125.00/each
2. Atterberg Limits Tests	$ 70.00/each
3. Washed Sieve Analyses	$ 70.00/each
4. Nuclear Density Test Gauge	$ 70.00/day
5. California Bearing Ratio – CBR VTM 8	$ 255.00/each
6. Concrete Cylinder Pick Up	$ 45.00/each
7. Concrete Cylinder Compressive Strength Testing and/or Disposal	$ 8.00/each

ECS field services will be rendered as on-site time only with no charge for travel time or mileage. There will be a 4 hour minimum charge for field related services. Our unit rates are based on a normal 8 hour work day, Monday through Friday, between normal business hours of 7:00 a.m. to 5:00 p.m. Overtime beyond 8 hours/day, outside normal hours and on Saturday, Sunday and Holidays will be invoiced at an overtime rate of 1.5 times the normal hourly rate indicated above. Scheduling should occur prior to 2:00 p.m. on the day before services are required.

APPENDIX III – ESTIMATED COSTS
MOSAIC – ESKRIDGE ROAD EXTENSION

FIELD SERVICES (Assume 85 days of Technician Involvement)

	HOURS/DAY	DAYS/WEEK	WEEKS	RATE	TOTAL
Engineering Technician (assume 85 days)	8	5	17	$36.00	$24,480.00
Anticipate 2 hours per day of Overtime	2	5	17	$54.00	$9,180.00
Travel Time *(No Charge)*				$0.00	$0.00
Vehicle Mileage *(No Charge)*				$0.00	$0.00
				SUBTOTAL:	**$33,660.00**

ENGINEERING & SUPPORT

	HOURS/DAY	DAYS/WEEK	WEEKS	RATE	TOTAL
Project Manager (assume monthly site visits and/or meetings)	3	1	4	$95.00	$1,140.00
Project Manager (coordination, reporting, admin: average 4.0 hrs/week)	0.8	5	17	$95.00	$6,460.00
Principal Engineer (consultation, report review: average 1 hr/week)	0.2	5	17	$140.00	$2,380.00
Secretarial Support *(No Charge)*				$0.00	$0.00
				SUBTOTAL:	**$9,980.00**

LABORATORY TESTING/EQUIPMENT:

	UNITS	RATE	TOTAL
Proctor Tests (assume 2 samples)	2	$125.00	$250.00
Atterberg Limits (assume 2 samples)	2	$70.00	$140.00
Sieve Analysis (assume 2 samples)	2	$70.00	$140.00
CBR Tests (assume 2 samples)	2	$255.00	$510.00
Nuclear Gauge (assume 65 days	65	$70.00	$4,550.00
Concrete Cylinders (8 per day,25 days)	200	$8.00	$1,600.00
Concrete Cylinder Pick-Up (25 trips)	25	$45.00	$1,125.00
		SUBTOTAL:	**$8,315.00**
		TOTAL:	**$51,955.00**

APPENDIX IV - PROPOSAL ACCEPTANCE

ECS Mid-Atlantic, LLC

Proposal No.: 01:40001-CP
Scope of Work: Construction Materials Observation and Testing Services
Location: Mosaic – Eskridge Road Extension, Fairfax County, VA

Client Signature: _____ Date: _____

Please complete and return this page to ECS to indicate acceptance of this proposal and to initiate work on the above-referenced project. The Client's signature above also indicates that he/she has read or has had the opportunity to read Terms and Conditions of Service detailed in the Edens & Avant Master Service Agreement with ECS dated March 27, 2009 and agrees to be bound by such Terms and Conditions of Service.

BILLING INFORMATION
(Please Print or Type)

Name of Client: _____
Name of Contact Person: _____
Telephone No. of Contact Person: _____
E-mail Address of Contact Person: _____

Party Responsible for Payment: _____
Company Name: _____
Person/Title _____
Department: _____
Billing Address: _____
_____
_____

Telephone Number: _____
Fax Number: _____
E-mail Address: _____

Client Project/Account Number _____
Special Conditions for Invoice _____
Submittal and Approval _____

ECS offers a full array of services to assist you with *all* phases of your project, including but not limited to:

☐ *Phase I, II and III Environmental Site Assessments*	☐ *Third Party Mechanical, Electrical, Plumbing Inspections Services*	☐ *Building Envelope, Roofing, and Waterproofing Inspection and Consultation*
☐ *Archaeological Assessments*	☐ *Geotechnical Engineering Services*	☐ *Pre- and Post-Construction Condition Assessments*
☐ *Wetlands Delineations*	☐ *Construction Materials Testing*	☐ *Specialty Materials and Forensics Testing*
☐ *Asbestos/Lead Paint Services*	☐ *Septic/Drainfield Design Services*	
☐ *Indoor Air Quality Mold Services*	☐ *LEED® Consulting Services*	

Eskridge Road Extension
Fund No. 400-C40011 (124)
Project No. 2G40-029-000 (RZ0001)
Project Budget

Date: 3/1/2012 **By: WTM**

Base Construction Contract		$1,487,000.00
ECS Construction Testing & Inspection		$51,955.00
Subtotal		$1,538,955.00
E&A Fee for Construction Management		
10% of Base Construction Contract		$153,895.50
Total Agreement Cost		$1,692,850.50
Construction Allowances/Contingencies		
Undercut/Backfill	$146,895.00	
Watermain Relocation	$62,900.00	
Storage Tank Removal	$34,400.00	
Retaining Wall Excavation Support	$60,600.00	
		$304,795.00
E&A (10% of Allowances and Contingencies)		$30,479.50
Subtotal Allowances and Contingencies		
Total Construction Contract Budget		$2,028,125.00

Other Costs	
Base Construction Contract Contingency	$148,700.00
Dewberry & Davis CM Fee	$100,000.00
New Entrance to Parcel 3C	$400,000.00
Estimated Direct Fairfax County Costs	$10,000.00
VDOT Permit	$2,500.00
Condemnation (Additional)	$300,000.00
Utility Relocation Costs	$170,283.00
Total Other Costs	$1,131,483.00
Grand Total Estimated Cost to Complete	**$3,159,608.00**

Utility Relcation Costs

Verizon	$55,283.00	
Dominion	$90,000.00	
Cox	$25,000.00	$170,283.00

The numbers in red are estimates and not actual cost.

Total Estimate Cost to Complete	$3,159,608.00
Available as of 3/1/2012	$1,654,367.00
Expense up to date	$1,345,633.00
Additional Funding Needed	$1,505,241.00
Grand Total Cost	$4,505,241.00

Exhibit C

BUDGET ESTIMATE
For the Construction and the Management of the Eskridge Road Extension

INNOVATIVE INFRASTRUCTURE: CONSTRUCTION ESTIMATE

Item No.	Description	Units	Quantity	Unit Price / Rate	Estimated Budget
1	Mobilization	LS	1	$ 43,000.00	$ 43,000.00
2	Maintenance of Traffic	LS	1	64,000.00	64,000.00
3	Survey and Layout	LS	1	47,000.00	47,000.00
4	Demolition and Clearing	LS	1	108,000.00	108,000.00
5	Erosion and Sediment Controls	LS	1	65,000.00	65,000.00
6	Earthwork	LS	1	102,000.00	102,000.00
7	Storm Drainage	LS	1	61,000.00	61,000.00
8	Relocate Fire Hydrant	LS	1	8,000.00	8,000.00
9	Pavement Structure	LS	1	278,000.00	278,000.00
10	Concrete Flatwork	LS	1	129,000.00	129,000.00
11	Dumpster Pad & Enclosure	LS	1	52,000.00	52,000.00
12	Retaining Wall	LS	1	291,000.00	291,000.00
13	Pavement Markings & Signage	LS	1	12,000.00	12,000.00
14	Landscaping	LS	1	12,000.00	12,000.00
15	Relocate Emergency Generator	LS	1	122,500.00	122,500.00
16	Relocate Emergency Fiber Optic	LS	1	23,000.00	23,000.00
17	Relocate Light Poles & Conduit	LS	1	31,500.00	31,500.00
18	Final Grading & Dressup	LS	1	38,000.00	38,000.00
				Sub-Total:	$ 1,487,000.00

INNOVATIVE INFRASTRUCTURE: CONTINGENCIES ESTIMATE

Item No.	Description	Units	Quantity	Unit Price / Rate	Estimated Budget
A	**Undercut / Aggregate Backfill**	**LS**	**1**	**$ 146,895.00**	**$ 146,895.00**
-	Undercut Excavation & Disposal	CY	1630	35.00	57,050.00
-	Backfill No. 21-B Aggregate	TN	3020	29.75	89,845.00
B	**Watermain Relocation**	**LF**	**260**	**241.92**	**62,900.00**
C	**Remove Underground Conc. Filled Storage Tank**	**LS**	**1**	**34,400.00**	**34,400.00**
D	**Support of Excavation RW-3**	**SF**	**600**	**101.00**	**60,600.00**
				Sub-Total:	$ 304,795.00

ECS: QUALITY CONTROL AND TESTING SERVICES ESTIMATE

Item No.	Description	Units	Quantity	Unit Price / Rate	Estimated Budget
1	**Field Services**				**$ 33,660.00**
1a	Engineering Technician	HRS	680	36.00	24,480.00
1b	Anticipated 2 Hours Per Day Overtime	HRS	170	54.00	9,180.00
1c	Travel Time (No Charge)	HRS	0	-	-
1d	Vehicle Mileage (No Charge)	HRS	0	-	-
2	**Engineering & Support**				**$ 9,980.00**
2a	Project Manager (Assume Monthly Site Visits and/or Meetings)	HRS	12	95.00	1,140.00
2b	Project Manager (Coordination, reporting, admin: average 4.0 hrs / week)	HRS	68	95.00	6,460.00
2c	Principle Engineer (consultation, Report Review: Average 1 hr/week)	HRS	17	140.00	2,380.00
2d	Secretarial Support (No Charge)	HRS	0	-	-
3	**Laboratory Testing Equipment**				**8,315.00**
3a	Proctor Tests (Assume 2 Samples)	Samples	2	125.00	250.00
3b	Atterberg Limits (Assume 2 Samples)	Samples	2	70.00	140.00
3c	Sieve Analysis (Assume 2 Samples)	Samples	2	70.00	140.00
3d	CBR Tests (Assume 2 Samples)	Samples	2	255.00	510.00
3e	Nuclear Gauge (Assume 65 Days)	Days	65	70.00	4,550.00
3f	Concrete Cylinders (8 Per Day, 25 Days)	Cylinders	200	8.00	1,600.00
3g	Concrete Cylinders Pick-Up (25 Trips)	Trips	25	45.00	1,125.00
				Sub-Total:	$ 51,955.00

E&A: CONSTRUCTION MANAGEMENT FEE ESTIMATE

Item No.	Description	Units	Quantity	Unit Price / Rate	Estimated Budget
1	Construction Management Fee	% of Cost	10%	$ 1,843,750.00	$ 184,375.00
				Sub-Total:	$ 184,375.00
				Total	$ 2,028,125.00

Note:
The budget estimate provided above is an estimate only. Invoices will be based on actual costs for services rendered.

THE AMERICAN INSTITUTE OF ARCHITECTS

Bond #105071838

AIA Document A312

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
[redacted]

SURETY (Name and Principal Place of Business):
[redacted]

OWNER (Name and Address):
The Board of Supervisors, Fairfax County, VA
c/o Department of [redacted] TRANSPORTATION
[redacted] 4050 LEGATO ROAD, SUITE 400
[redacted] FAIRFAX, VA 22033

CONSTRUCTION CONTRACT
Date: November 17, 2008
Amount: [redacted]
Description (Name and Location): [redacted]

BOND
Date (Not earlier than Construction Contract Date): November 25, 2008
Amount: [redacted]

Modifications to this Bond: X None ☐ See Page 3

CONTRACTOR AS PRINCIPAL (Corporate Seal)
Company: [redacted]

Signature: _____
Name and Title: [redacted]

SURETY (Corporate Seal)
Company: [redacted]

Signature: _____
Name and Title: [redacted]

(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER:
[redacted]

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if not liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

THE AMERICAN INSTITUTE OF ARCHITECTS

Bond #105071838

AIA Document A312

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
[redacted]

SURETY (Name and Principal Place of Business):
[redacted]

OWNER (Name and Address):
The Board of Supervisors, Fairfax County, VA
c/o Department of [redacted] TRANSPORTATION
[redacted]

CONSTRUCTION CONTRACT
Date: November 17, 2008
Amount: [redacted]
Description (Name and Location) [redacted]
[redacted] BOND
Date (Not earlier than Construction Contract Date): November 25, 2008
Amount: [redacted]

Modifications to this Bond: X None

See Page 6

CONTRACTOR AS PRINCIPAL
Company: [redacted]
(Corporate Seal)
[redacted]
Signature: _____
Name and Title: [redacted]

SURETY
Company: [redacted]
(Corporate Seal)
[redacted]
Signature: _____
Name and Title: [redacted]

(Any additional signatures appear on page 6)

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER:
[redacted]

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this Bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

.1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

.2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

.3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this

Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		SURETY	
Company:	(Corporate Seal)	Company:	(Corporate Seal)
Signature: _____		Signature: _____	
Name and Title:		Name and Title:	
Address:		Address:	

Board Agenda Item
March 20, 2012

INFORMATION - 1

Consolidated Plan Certification for the Fairfax County Redevelopment and Housing Authority Public Housing and Housing Choice Voucher Annual Plan for Fiscal Year 2012

On February 23, 2012, the Fairfax County Redevelopment and Housing Authority (FCRHA) approved the submission of its Public Housing and Housing Choice Voucher Annual Plan for FY 2012 (FCHRA Fiscal Year 2013) to the U.S. Department of Housing and Urban Development (HUD). This plan update is required by the Quality Housing and Work Responsibility Act (QHWRA) of 1998, and submission to HUD is a requirement for receipt of federal Public Housing and Housing Choice Voucher funds. Certification that the plan is consistent with the Fairfax County Consolidated Plan is part of the required submission due to HUD by April 17, 2012. County policy requires that the Board be informed of Consolidated Plan certifications.

The Public Housing and Housing Choice Voucher Annual Plan articulates the FCRHA's mission for serving the housing needs of low-income and very low-income households, and the FCRHA's strategy for addressing those needs. The plan is presented in a HUD-mandated format, and has had extensive review by the FCRHA, the public, and the FCRHA's Resident Advisory Council (RAC), which represents Public Housing residents and Housing Choice Voucher participants. The Fairfax County Department of Housing and Community Development (HCD) received comments from the RAC on January 10, 2012; the RAC's comments and HCD's responses have been included in the Plan. The FCRHA made the plan available for public comment from November 1, 2011 through December 15, 2011. During the public comment period and the public hearing (held on January 20, 2012) HCD received comments from the Fairfax County Commission for Women; HCD's responses to these comments have been included in the plan.

Copies of the Plan are available through HCD upon request.

Unless directed otherwise by the Board, the County Executive will sign the Consolidated Plan certification and provide it to the FCRHA for inclusion in the Public Housing and Housing Choice Voucher Annual Plan for Fiscal Year 2012 to be submitted to HUD.

ENCLOSED DOCUMENTS:
Attachment 1: Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan (HUD Form)

Board Agenda Item
March 20, 2012

STAFF:
Patricia Harrison, Deputy County Executive
Paula C. Sampson, Director, Department of Housing and Community Development (HCD)
Carol Erhard, Director, Rental Services Division, HCD
Vincent Rogers, Senior Program Manager, Rental Services Division, HCD

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan	**U.S. Department of Housing and Urban Development** Office of Public and Indian Housing **OMB# 2577-0226** **Expires 08/30/2011**

Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan

I, Anthony H. Griffin the County Executive certify that the Five Year and Annual PHA Plan of the Fairfax County Redevelopment and Housing Authority is consistent with the Consolidated Plan of Fairfax County prepared pursuant to 24 CFR Part 91.

_____

Signed / Dated by Appropriate State or Local Official

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Board Agenda Item
March 20, 2012

INFORMATION - 2

Waste Delivery/Disposal Agreement with the District of Columbia

The County and the District of Columbia have a long history of cooperation in solid waste disposal programs. In the past, District waste has been disposed at the I-95 Energy/Resource Recovery Facility (E/RRF) through various agreements. An extension of the existing agreement through the period that the County currently controls access to the E/RRF maximizes the potential benefit of this relationship for both parties.

The I-95 Energy/Resource Recovery Facility continues to have excess capacity available at various times during the year. In 2010, the County and the District signed an agreement, authorizing the District to bring 200,000 tons of waste per year to the facility. The proposed agreement extends the District's access to the E/RRF through December 2015 and increases its potential use to up to 250,000 tons per year. This will allow the County to continue to utilize all available capacity in the Facility resulting in a lower average cost for processing waste at the Facility. The pricing structure in the agreement allows for full recovery of costs associated with disposal of District waste at the Facility.

Unless otherwise directed by the Board, the County Executive will proceed with execution of the agreement with the District which will be substantially in the form of the attached draft agreement.

FISCAL IMPACT:
All revenue and associated expenditures are included within Fund 400-C40160, Resource Recovery, and there are no General Fund issues associated with this Agreement. This revenue, expected to be between $3 and 4 million in the initial year, will be utilized to pay the associated costs for waste accepted and managed under the agreement.

ENCLOSED DOCUMENTS:
Attachment 1: Form of Waste Delivery/Disposal Agreement, Fairfax County, Virginia and the District of Columbia

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Steve Aitcheson, Deputy Director, DPWES, Solid Waste Management Program
Joyce M. Doughty, Director, Division of Solid Waste Disposal and Resource Recovery

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Attachment 1

Amended WASTE DELIVERY/DISPOSAL AGREEMENT
FAIRFAX COUNTY VIRGINIA AND THE DISTRICT OF COLUMBIA

This Amended Agreement dated _____, 2012, ("Agreement") is to the Waste Delivery/Disposal Agreement dated December 5, 2008, as amended on May 1, 2010, between Fairfax County, Virginia (the "County") and the District of Columbia, (the "District"); and

WHEREAS, the County and the District have had a mutually beneficial relationship in the shared use of solid waste management facilities since 1971; and

WHEREAS, the County has developed an Energy/Resource Recovery Facility (E/RRF) on property in Lorton, Virginia; and

WHEREAS, the District operates two solid waste transfer facilities; and

WHEREAS, the District hierarchy for waste disposal options identifies resource recovery as a preferred option to land disposal of waste; and

WHEREAS, the County finds it beneficial to make certain capacity at the E/RRF available to the District; and

WHEREAS, the County and the District have previously worked together to mutually resolve solid waste issues and agree to take all necessary and appropriate action in cooperation with one another, to carry out and be bound by this Agreement to the extent permitted by law.

NOW, THEREFORE, the parties agree as follows:

1. The District, and firms authorized as acting on behalf of the District in accordance with the terms of this Agreement, will use the E/RRF for the disposal of acceptable waste. "Acceptable Waste" means solid waste which can be processed in the E/RRF and is not one of the "Unacceptable Wastes" as listed in Schedule 3. Acceptable Waste shall also include only the types of waste allowed by the Virginia Department of Environmental Quality. The District will inform the County in writing of the names of the firms authorized to act on the District's behalf for the purposes of disposing Acceptable Waste provided that the District shall pay the disposal fees for such waste and such designation of private haulers shall not relieve the District of its obligations under this Agreement.

2. Vehicles delivering Acceptable Waste pursuant to this Agreement will access the E/RRF via U.S. Route 1 and Furnace Road. The County shall specify reasonable alternative means of access if these routes become impassable for any reason. Lorton Road, Route 624, shall not be used without prior County authorization.

3. The disposal fees charged to the District will be in accordance with Schedule 1 of this Agreement. Disposal fees established under this Agreement will be adjusted to reflect any state or

federally imposed surcharge, tax or fee on solid waste management or disposal which become effective after the date of this Agreement.

4. The County will invoice the District monthly for the disposal service provided at the E/RRF. The District shall pay the County within 45 days of the date of the invoice. The District will pay interest penalties on amounts due to the County under the Quick Payment Act, D.C. Official Code § 2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

a.) the 3rd day after the required payment date for meat or a meat product;
b.) the 5th day after the required payment date for an agricultural commodity; or
c.) the 15th day after the required payment date for any other item.

Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount. Failure to make payment when due may result in the suspension of services.

5. The County will make capacity at the E/RRF available to the District for disposal of Acceptable Waste on an as available basis. The District will divert all waste under its control to the E/RRF unless requested not to by the County. It is anticipated that the County will be able to accommodate up to 250,000 tons per year of Acceptable Waste.

6. If and to the extent events or circumstances beyond the County's reasonable control, excluding routine emergency and planned maintenance, cause the E/RRF to be unable to accept any of the District's Acceptable Waste to be delivered pursuant to paragraph 5, the County may redirect District Acceptable Waste to an alternate disposal site without notice. The County will pay disposal costs at the alternate site and include those diverted tonnages in the month billing to the District at the price in this Agreement. The District will pay its contractor any increased haul cost.

7. Delivery of Acceptable Waste to the E/RRF will be in accordance with the rules and regulations established by the County and by Covanta Fairfax, Inc. ("Covanta"), the owner/operator of the E/RRF. Any driver who does not abide by the rules and regulations may be restricted from making deliveries. The normal delivery hours will be in accordance with the Receiving Schedule provided in Schedule 2 of the Agreement.

8. a.) For waste hauling contracts already in place prior to the execution of this Agreement, the District shall require any contractor who delivers waste under this Agreement to the E/RRF or County facility to have (a) insurance with minimum per Person/Occurrence limits of $300,000.00/$600,000.00 for bodily injury and Occurrence/Aggregate limits of $150,000.00/$300,000.00 for property damage; and (b) motor vehicle insurance with per Person/Occurrence limits of $200,000.00/$500,000.00 for bodily injury and Occurrence/limits of $30,000.00 for property damage. The contractor's insurance shall cover all owned, hired, or non-owned motor vehicles used during the term of the contract.

b.) For waste hauling contracts executed subsequent to the effective date of this Agreement, the District shall require any contractor who delivers waste under this Agreement to the

E/RRF or County facility to have (a) insurance with minimum per Person/Occurrence limits of $500,000.00/$1,000,000.00 for bodily injury and Occurrence/Aggregate limits of $500,000.00/$1,000,000.00 for property damage; and (b) motor vehicle insurance with per Person/Occurrence limits of $500,000.00/$1,000,000.00 for bodily injury and Occurrence/limits of $100,000.00 for property damage. The contractor's insurance shall cover all owned, hired, or non-owned motor vehicles used during the term of the contract.

9. The administrators of this Agreement will be:

For the County:
Director, Division of Solid Waste Disposal and Resource Recovery
Suite 458
12000 Government Center Parkway
Fairfax, Virginia 22035

For the District:
Administrator, Solid Waste Management Administration
D.C. Department of Public Works
2750 South Capitol Street, S.E.
Washington, D.C. 20032

with a cc to:
General Counsel
D.C. Department of Public Works
2000 14th Street, N.W.
Washington, DC 20009

All notices, consents, approvals, and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and may be sent by facsimile, delivered by hand or mailed by first class registered or certified mail, return receipt requested, and shall be addressed to the Administrators at the above addresses.

10. The County and the District may provide support for each other on solid waste related special projects, emergency support, or other needs. Disposal fees for certain other materials, in addition to Acceptable Waste, are listed on Schedule 1. The cost of other support will be based on hourly rates for labor and equipment which will be exchanged prior to the start of each contract year.

11. The term of this agreement is effective upon execution through December 31, 2015. The annual charge will not exceed a ceiling of $8,750,000. On or before June 5, 2015, the County will advise the District of its future ability to continue providing disposal service, based on waste quantities, E/RRF capability, and County access to the capacity of the E/RRF. This agreement may be extended beyond December 31, 2015 on terms mutually agreeable to the County and the District if, by June 5, 2015, the County advises the District of its ability to continue to provide service, and the District indicates its willingness to continue by October 31, 2015.

12. Either party may terminate this Agreement for any reason by giving 90 days advance notice in writing to the other party. Should the County not have a Service Agreement with Covanta

Fairfax Inc., or should an unforeseen event occur which would prevent either party from complying with this contract, then this contract may be terminated with 60 days notice by either party.

13. The obligations of the County and the District under this Agreement are contingent upon the appropriation for each fiscal year for payments and services under this Agreement.

14. This Agreement may not be assigned by either party without the prior written consent of the other party.

15. From the effective date, this Agreement constitutes the entire and complete agreement of the parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous understandings, arrangements, commitments, and representations, all of which, whether oral or written, are merged into this Agreement. The terms of the Waste Delivery/Disposal Agreement dated May 1, 2010, govern performance prior to the effective date of this Agreement.

16. This Agreement shall bind and inure to the benefit of the parties to this Agreement and any permitted successor or assignee.

17. In the event irreconcilable differences arise between the County and the District the matter shall be referred to a mutually agreeable impartial arbitrator whose decision shall be binding. The County and District shall share in the cost of any arbitration.

18. The laws of the State of Virginia shall govern the validity, interpretation, construction, and performance of this Agreement.

19. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

20. If any provision of this Agreement shall be determined to be invalid, illegal, or unenforceable, the Parties shall make good faith efforts to modify this Agreement in a manner to implement the intent of the Parties as embodied herein. Any resulting modification and the remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

21. This Agreement may be amended by the written agreement of both parties. No party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other party and nothing in this Agreement shall be deemed to constitute one party a partner, agent, or legal representative of the other party or to create any fiduciary relationship between the parties.

FAIRFAX COUNTY, VIRGINIA

By _____ _____
Anthony H. Griffin Date
County Executive

DISTRICT OF COLUMBIA

By_____ _____
William O. Howland, Jr., Director Date
Department of Public Works

By_____ _____
James D. Staton, Jr. , Chief Procurement Officer Date
Office of Contracting and Procurement

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SCHEDULE 1
DISPOSAL FEE SCHEDULE

The disposal fees charged to the District pursuant to the Agreement will be as follows:

Acceptable Waste Disposal Fee

- The District shall pay the County a disposal fee for Acceptable Waste of ($29.00 per ton through June 30, 2012).

This fee will be escalated annually thereafter, as of July 1st, per Operations and Cost Adjustor in Schedule 9 to the Service Agreement between County and Covanta (attached).

The disposal fees charged to the District for other materials delivered to the County's I-95 Complex adjacent to the E/RRF will be as follows through June 30, 2012. The charge for future years will be determined by the County and provided to the District by July 1st of each year.

Tires (standard vehicle size/no rims)	$97.50/ton
Rim surcharge	$ 5.00/rim
Dirty Load surcharge	$15.00/ton
Brush	$32.00/ton

The total expenditure under this agreement, inclusive of all the items referenced in this schedule, shall not exceed $8,750,000 per year.

_____
Agreement Date

SCHEDULE 2
RECEIVING SCHEDULE

Normal delivery hours at the E/RRF are:

Monday through Friday	5:00 AM to 7:00 PM
Saturday	5:00 AM to 4:00 PM
Sunday	Closed

Holiday Schedule:

Thanksgiving	Early closing at 2:00 PM
Christmas Eve	Early closing at 4:00 PM
Christmas Day	Closed
New Year's Eve	Early closing at 4:00 PM
Other Holidays	Open regular hours

SCHEDULE 3
UNACCEPTABLE WASTE

The District of Columbia and its contractors will comply with the Covanta Fairfax, Inc. rules and regulations for operating on the Covanta tipping floor. A copy of the rules will be provided by the County or Covanta separately.

Unacceptable Waste at the E/RRF shall mean materials that are not acceptable by the operating permits required for the E/RRF and/or Virginia DEQ and that:

A) 1) in the reasonable judgment of the E/RRF operator,

a) would pose a threat to employee or public health or safety, or

b) would result in Residue being a material or substance described in clause (a) or (b) of the definition of "Hazardous Waste," or

c) are so large or bulky as a present a risk of blocking the waste feed chutes, or

2) are present in concentrations or quantities exceeding those normally found in Solid Waste generated in residences or non-industrial commercial establishments and, in the reasonable judgment of the operator, would either

a) pose a reasonable possibility of adversely affecting the operation of the E/RRF in any material respect, or

b) cause applicable air quality or water effluent standards to be violated by the normal operation of the E/RRF; and

B) Are listed on this schedule 3 or included in a written notice provided by the operator to the County stating that the material constitutes Unacceptable Waste.

A. <u>Explosives</u>
Dynamite
Hand Grenades
Blasting Caps
Shotgun Shells
Fireworks
Any Other Explosives

B. <u>Liquid Wastes</u>

Gasoline	Alcohol
Kerosene	Acids
Turpentine	Hydraulic Oil
Waste Oil	Petroleum
Ether	Caustics
Naphtha	Sewage or Process Wastewaters
Acetate	Leachate

Solvents	Sewage Sludge
Paints	Inflammable or Volatile Liquids

C. Demolition Debris
Aggregate
Brick
Stone
Cement
Gravel
Sand
Structural Clay Products
Soil
Asbestos
Roofing Materials
Plaster
Other Noncombustible Demolition Debris

D. Miscellaneous Materials
Pathological and Biological Waste
Autoclaved Waste
Ashes
Radioactive Materials
Human or Animal Remains
Agricultural and Farm Machinery and Equipment
Tar
Asphalt
Sealed Drums
Pressurized Containers

E. Tires
Tires mounted on Rims
Tires whose rims exceed 16-1/2”

F. White Goods
Refrigerators
Washing Machines
Other Large Metal Objects

G. Motor Vehicles and Motor Vehicle Parts
Motor Vehicles
Transmissions
Rear Ends
Springs
Fenders
Other large Motor Vehicle Parts

Schedule 9
To
Service Agreement
(As amended as of 2/28/2000 and
Updated as of 9/16/2005)

Operations Adjustor and Cost Adjustor

Any amount set forth in this Agreement which is subject to adjustment by the Operations Adjustor or the Cost Adjustor (each, an "Adjustor") shall be calculated for each Fiscal Year by multiplying such amount as in effect for the previous Fiscal Year by the Adjustor for the respective year.

The Adjustor for each Fiscal Year shall be equal to the greater of (a) one (1.0) or (b) a fraction the numerator of which is the Base Index for such Fiscal Year, and the denominator of which is the highest Base Index for any previous Fiscal Year since Fiscal Year 2005.

The Base Index for each Fiscal Year shall be an amount equal to the sum of:

(i) The product of (A) two and a half tenths (0.25), and (B) a fraction the numerator of which is the Materials Index for the Measurement Period for such Fiscal Year, and the denominator of which is the Materials Index for the Base Period,

(ii) The product of (A) two and a half tenths (0.25), and (B) a fraction the numerator of which is the Consumer Price Index for the Measurement Period for such Fiscal Year, and the

denominator of which is the Consumer Price Index for the Base Period,

(iii) The product of (A) two and a half tenths (0.25), and (B) a fraction the numerator of which is the Producer Price Index for the Measurement Period for such Fiscal Year, and the denominator of which is the Producer Price Index for the Base Period: and

(iv) The product of (A) two and a half tenths (0.25), and (B) a fraction the numerator of which is the National Employment, Hours, and Earnings Index for the Measurement Period for such Fiscal Year, and the denominator of which is the National Employment, Hours, and Earnings Index for the Base Period.

For the purposes of calculating the Base Index, "Measurement Period": shall mean the last publication date of each of the four components of the Base Index, described above, immediately prior to July 1 of that Fiscal Year.

For the purposes of calculating the Base Index, Base Period shall mean:

Consumer Price Index (CPI) - The May 2004 index (118.40) of CPI Series CWURA311SA0. Washington-Baltimore, DC-MD-VA-WV, not seasonally adjusted.

Materials Index (MI) – The June 2004 index (2344.60) of the Engineering News Record 20 City Average Index for Material Costs

Producer Price Index (PPI) –The June 2004 index (170.50) of the PPI Series 333994333994, Industrial process furnace & oven mfg, Industrial process furnace & oven mfg

National Employment, Hours and Earnings Index (NEHEI) – The June 2004 index (25.34) of the NEHEI, Series CEU4422000006, Utilities, Utilities - Average Hourly Earnings of Production workers.

For the purpose of illustration, the calculation of the Operations Adjustors for the Fiscal Years 2005 (Base Period) and 2006 (estimate) are shown on Attachment A of Schedule 9. Additionally, the Operations and Maintenance Costs for Fiscal Year 2005 is $22,818,120. This amount includes the Operations and Maintenance Costs per the Clean Air Act Agreement (dated May 18, 2000) and per the letter agreements concerning the Brominator System change (dated March 20, 1991), the Landfill Leachate tie in to OMSF Pump House (dated May 13, 1991), the Oversize and Bulky Waste Shredder (dated April 22, 1992); and the Operations and Maintenance fee per the Dolomitic Lime System Agreement (dated October 21, 2004).

COUNTY OF FAIRFAX
By: _____
Name: Joyce Doughty
Title: Directory, DSWDRR

COVANTA FAIRFAX, INC.
By: _____
Name: Paul Stauder
Title: Regional Business Manager

FAIRFAX COUNTY SOLID WASTE AUTHORITY
By: _____
Name: Joyce Doughty
Title: Authority Representative

NOTE: THIS SERVICE FEE CALC WILL BE FINALIZED UPON EXECUTION OF APPLICABLE AGREEMENT

COVANTA FAIRFAX, INC.
Service Fee Calculation
FISCAL YEAR 2006

Operations Adjuster = 1 or Base Index for Fiscal Year / Highest Base Index for any previous Fiscal Year since 2005 — Whichever is greater

Base Index = (MI / base)*.25 + (CPI / base) *.25 + (PPI/base)*.25 + (NEHEI/base)*.25

FY2005 O&M (incl. All Agreements) = $22,818,120

	Materials Index (MI)					Producer Price Index (PPI)					Consumer Price Index (CPI)					National Employment, Hours and Earnings Index (NEHEI)								
	Measurement Period		Base Period			Measurement Period		Base Period			Measurement Period		Base Period			Measurement Period		Base Period						
Fiscal Year	Date of Indices	MI Indices	6/04 Index	Ratio	MI Component	Date of Indices	PPI Indices	6/04 Index	Ratio	PPI Component	Date of Indices	CPI Indices	6/04 Index	Ratio	CPI Component	Date of Indices	NEHEI Indices	6/04 Index	Ratio	NEHEI Component	Base Index	Operation Adjustor	FY	O&M Costs
FY 2005	Jun-04	2344.60	2344.60	1.00000	0.25000	Jun-04	170.50	170.50	1.00000	0.25000	May-04	118.40	118.40	1.00000	0.25000	Jun-04	25.34	25.34	1.00000	0.25000	1.0000		FY05	$22,818,120
FY 2006	Jun-05	2407.90	2344.60	1.02700	0.25675	Jun-05	173.90	170.50	1.01994	0.25499	May-05	123.20	118.40	1.04054	0.26014	Jun-05	26.22	25.34	1.03473	0.25868	1.0306	1.0306	FY06	$23,516,354

Service Agreement Fiscal Year:

FY 2006		Operations Adjustor =	1.0306 / 1.00000	=		1.0306
	FY 2005	O&M Fee	22,818,120 X	1.0306	= $	23,516,354
		Fiscal Year 2006 O&M Fee			= $	23,516,354

Materials Index (MI) means the Engineering News Record 20 City Average Index for Material Costs

Producer Price Index (PPI) means PPI Series 333994333994, Industrial process furnace & oven mfg, Industrial process furnace & oven mfg

Consumer Price Index (CPI) means CPI Series CWURA311SA0, Washington-Baltimore, DC-MD-VA-WV, not seasonally adjusted

National Employment, Hours and Earnings Index (NEHEI) means NEHEI, Series CEU4422000006, Utilities, Utilities - Average Hourly Earnings of Production workers

FY2006 SERVICE FEE = $ 23,516,354

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Board Agenda Item
March 20, 2012

INFORMATION - 3

Planning Commission Action On Application 2232-M11-24, Fairfax County Department of Public Works and Environmental Services (Mason District)

On Thursday, March 8, 2012, the Planning Commission voted unanimously (Commissioners Donahue and Murphy absent from the meeting) to approve 2232-M11-24.

The Commission noted that the application, as amended, met the criteria of character, location and extent, and was in conformance with Section 15.2-2232 of the Code of Virginia.

Application 2232-M11-24 sought approval by the Fairfax County Department of Public Works and Environmental Services to develop a County Indigent Cemetery, located at 6271 Lincolnia Road, Alexandria. Tax Map 72-2 ((1)) 39.

ENCLOSED DOCUMENTS:
Attachment 1: Verbatim excerpts
Attachment 2: Vicinity map

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Chris Caperton, Public Facilities Branch Chief, Planning Division, DPZ
Barbara J. Lippa, Executive Director, Planning Commission Office

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Attachment 1

Planning Commission Meeting
March 8, 2012
Verbatim Excerpt

2232-M11-24 – DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

After the Close of the Public Hearing

Vice Chairman Alcorn: Close the public hearing; recognize Commissioner Hall.

Commissioner Hall: Thank you, Mr. Chairman. It's very straightforward. It's obviously – it has the support of the community and also the County so therefore I concur with the staff's conclusion that the proposal by the Fairfax County Department of Public Works and Environmental Services to develop a County indigent cemetery, located at 6271 Lincolnia Road, Alexandria, satisfies the criteria of location, character, and extent and as specified in the *Virginia Code* 15.2-2232, as amended. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION 2232-M11-24 SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Hart and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Hart and Lawrence. Any discussion on that motion? All those in favor, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Hall: Thank you all.

//

(The motion carried unanimously with Commissioners Donahue and Murphy absent from the meeting.)

JLC

PLANNING DETERMINATION

Section 15.2 -2232 of the Code of Virginia

Number: 2232-M11-24

District: Mason

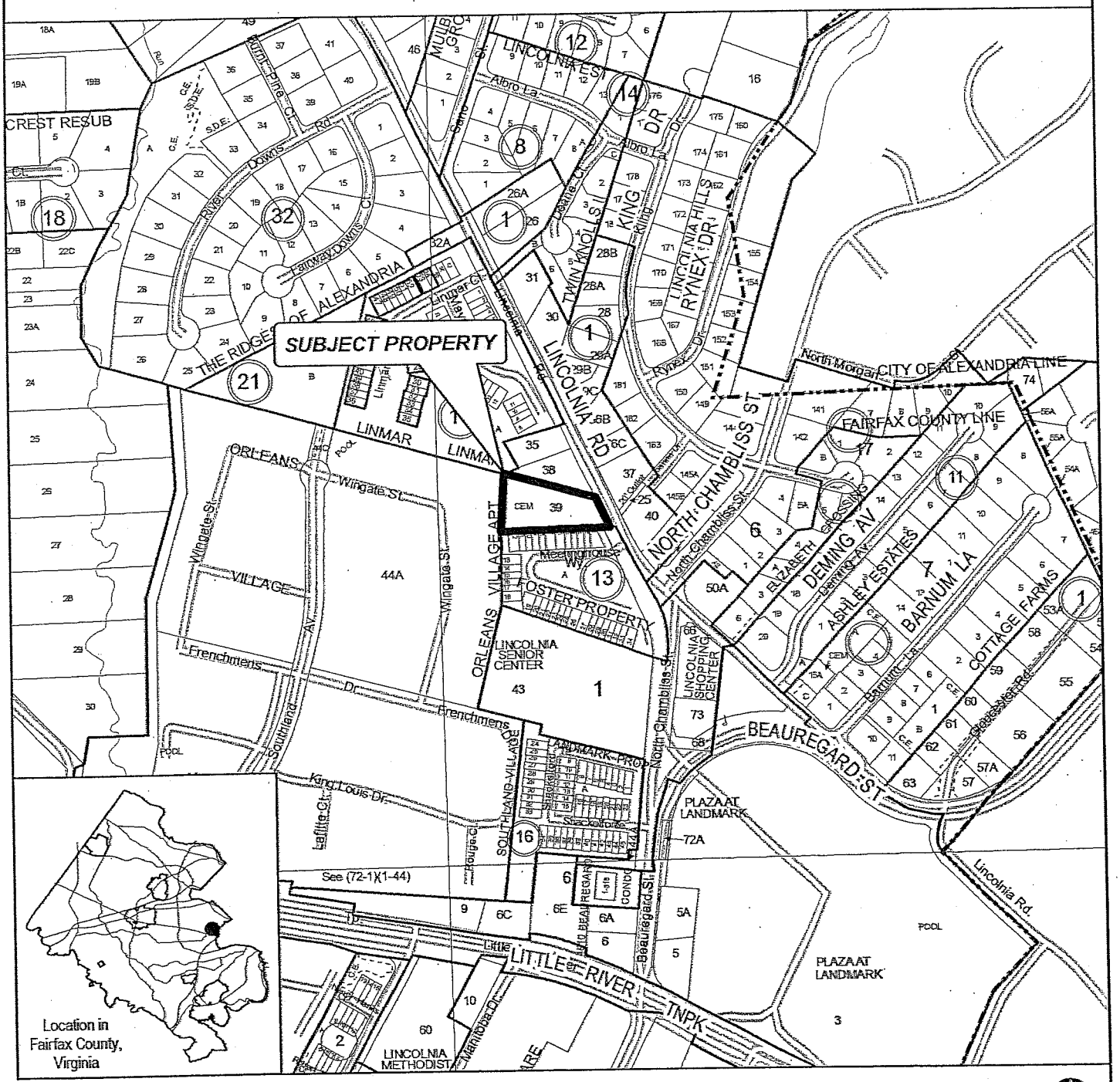
Acreage: 1.14 Ac.

Subject Property: 72-2 ((1)) 39

Planned Use: Public Facilities, Gov't. & Institutional

Applicant: Fairfax County Department of Public Works and Environmental Services

Proposed Use: County cemetery



500 FEET

PREPARED BY THE DEPARTMENT OF PLANNING AND ZONING
USING FAIRFAX COUNTY GIS

Board Agenda Item
March 20, 2012

11:00 a.m.

Matters Presented by Board Members

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Board Agenda Item
March 20, 2012

11:50 a.m.

CLOSED SESSION:

(a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).

(b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).

(c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).

1. *T-Mobile Northeast LLC v. Fairfax County, Virginia, and the Board of Supervisors of Fairfax County, Virginia*, Civil Action No. 1:10cv117 (E.D. Va.) (Dranesville District)

2. *Norma Bostick Hartwell, Elizabeth Ann Bostick, Warren E. Bostick, and Wycliffe on the Potomac Homeowners Association, Inc. v. The County of Fairfax and the Board of Supervisors of Fairfax County*, Case No. CL-2011-0003349 (Fx. Co. Cir. Ct.) (Mount Vernon District)

3. *James H. Blondell v. Officer Donald W. Amos, Jr., Officer Robin D. Wyatt, and Officer Katherine S. Wright*, Case No.1:10cv249 (E.D. Va.)

4. *Promila Rajput v. Detective Nicole Christian*, Case No. V12-426 (Arl. Co. Gen. Dist. Ct.); *Promila Rajput v. Renee Steele*, Case No. V12-427 (Arl. Co. Gen. Dist. Ct.)

5. *Alvin Mosier v. Commonwealth of Virginia, et al.*, Case No. 1:11cv1381 (E.D. Va.)

6. *Eileen M. McLane, Fairfax County Zoning Administrator v. Philip W. Bradbury*, Case No. CL-2011-0009319 (Fx. Co. Cir. Ct.) (Mount Vernon District)

7. *Eileen M. McLane, Fairfax County Zoning Administrator v. Roberta Couver*, Case No. CL-2011-0007717 (Fx. Co. Cir. Ct.) (Sully District)

8. *Eileen M. McLane, Fairfax County Zoning Administrator v. Oscar M. Quiroz and Santusa Quiroz*, Case No. CL-2011-0017313 (Fx. Co. Cir. Ct.) (Mason District)

9. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Frederick L. Yontz and Kay L. Yontz*, Case No. CL-2011-0013839 (Fx. Co. Cir. Ct.) (Hunter Mill District)

10. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kim-Anh Thi Nguyen and Lynda M. Phan*, Case No. CL-2011-0015710 (Fx. Co. Cir. Ct.) (Braddock District)

11. *Eileen M. McLane, Fairfax County Zoning Administrator v. Maqsood Ahmad*, Case No. CL-2011-0002341 (Fx. Co. Cir. Ct.) (Dranesville District)

12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Aimco Riverside Park, LLC*, Case No. CL-2012-0002528 (Fx. Co. Cir. Ct.) (Mount Vernon District)

13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Harold J. Douglas and Mary K. Douglas*, Case No. CL-2012-0002526 (Fx. Co. Cir. Ct.) (Dranesville District)

14. *Eileen M. McLane, Fairfax County Zoning Administrator v. Shafqat A. Khan and Bushra S. Khan*, Case No. CL-2012-0002666 (Fx. Co. Cir. Ct.) (Lee District)

15. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Ramiro Z. Herrera*, Case No. CL-2012-0002678 (Fx. Co. Cir. Ct.) (Lee District)

16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kevin R. Ankney and Roxanne L. Ankney*, Case No. CL-2012-0002740 (Fx. Co. Cir. Ct.) (Braddock District)

17. *Eileen M. McLane, Fairfax County Zoning Administrator v. Steven L. Kohls and Virginia L. Kohls*, Case No. CL-2011-0003175 (Fx. Co. Cir. Ct.) (Mount Vernon District)

18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Hollin Hall, L.L.C.*, Case No. CL-2012-0003174 (Fx. Co. Cir. Ct.) (Mount Vernon District)

19. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Zoila Ortega and Eric Acevedo*, Case No. CL-2012-0003236 (Fx. Co. Cir. Ct.) (Providence District)

20. *Eileen M. McLane, Fairfax County Zoning Administrator v. Russell J. Young and Kathryn L. Young*, Case No. CL-2012-0003527 (Fx. Co. Cir. Ct.) (Mason District)

21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Borith Nak and Polin Ang*, Case No. CL-2012-0003526 (Fx. Co. Cir. Ct.) (Mason District)

22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Community Baptist Church and Bishop Norman H. Howard, Rev. Harold L. Howard, Marc L. Lewis, William L. Stewart, Reba Burgess, Lajuana Howard, and Tonya Howard, Trustees*, Case No. CL-2012-0003528 (Fx. Co. Cir. Ct.) (Springfield District)

23. *Eileen M. McLane, Fairfax County Zoning Administrator v. Lowell Fine and Ethel V. Fine*, Case No. CL-2011-0003529 (Fx. Co. Cir. Ct.) (Lee District)

24. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Mark S. Beall and Karen L. Beall*, Case No. CL-2012-0003709 (Fx. Co. Cir. Ct.) (Dranesville District)

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Board Agenda Item
March 20, 2012

3:30 p.m.

Public Hearing on RZ 2011-SU-024 (Pohanka Stonecroft LLC) to Rezone from I-5, AN and WS to C-8, AN and WS to Permit Vehicle Sale, Rental, and Ancillary Service Establishment and Vehicle Major Service Establishment Located on Approximately 9.86 Acres of Land (Sully District)

This property located in the Northeast quadrant of the intersection of Stonecroft Boulevard and Stonecroft Center Court, Tax Map 34-3 ((1)) 1D. (Concurrent with SE 2011-SU-009).

and

Public Hearing on SE 2011-SU-009 (Pohanka Stonecroft LLC) to Permit Vehicle Sale, Rental, and Ancillary Service Establishment and Vehicle Major Service Establishment and Waiver of Certain Sign Regulations Located on Approximately 9.86 Acres of Land Zoned C-8, AN and WS (Sully District)

This property located at 4175 Stonecroft Boulevard, Chantilly,VA 20151, Tax Map 34-3 ((1)) 1D. (Concurrent with RZ 2011-SU-024).

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 9, 2012, the Planning Commission voted unanimously (Commissioner Hart recused himself) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of RZ 2011-SU-024, subject to the execution of proffers consistent with those dated February 7, 2012;

- Approval of SE 2011-SU-009, subject to the development conditions consistent with those January 13, 2012;

- Modification of the signage requirements as they pertain to the free standing signs, directional signs, and building mounting signs, in favor of the signage depicted on the Generalized Development Plan (GDP)/Special Exception (SE) Plat;

- Waiver of the trail requirement along Stonecroft Boulevard in favor of the existing condition depicted on the GDP/SE plat;

- Waiver of the transitional screening and barrier requirement along the southern property line, in favor of the existing vegetation depicted on the GDP/SE plat; and

- Modification of the interior and peripheral parking lot landscaping, in favor of the planting shown on the GDP/SE plat.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4374245.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Brent M. Krasner, Staff Coordinator, DPZ

Planning Commission Meeting
February 9, 2012
Verbatim Excerpt

RZ 2011-SU-024 – POHANKA STONECROFT LLC
SE 2011-SU-009 – POHANKA STONECROFT LLC

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I want to start off by first – I really want to thank the staff and the Pohanka dealerships because when we first deferred this a month ago, we have made very significant progress in the environmental area. I want to thank both of them for all their hard work. That said, as we mentioned earlier, this Planning Commission as we get to include judgment, fairness, and innovation in our decision making and that's what we're going to do tonight. Just for the record, both the Sully District Council and the West Fairfax County Citizens Association Land Use Committees voted unanimously to support this application. They were most impressed with the innovation that was incorporated here. That said, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ 2011-SU-024, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED FEBRUARY 7, 2012.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-SU-024, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Five more. I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2011-SU-009, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE JANUARY 13, 2012.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2011-SU-009, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE SIGNAGE REQUIREMENTS AS THEY PERTAIN TO THE FREE STANDING SIGNS, DIRECTIONAL SIGNS, AND BUILDING MOUNTING SIGNS, IN FAVOR OF THE SIGNAGE DEPICTED ON THE GENERALIZED DEVELOPMENT PLAN/SPECIAL EXCEPTION PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TRAIL REQUIREMENT ALONG STONECROFT BOULEVARD IN FAVOR OF THE EXISTING CONDITION DEPICTED ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENT ALONG THE SOUTHERN PROPERTY LINE, IN FAVOR OF THE EXISTING VEGETATION DEPICTED ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Lastly, I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE INTERIOR AND PERIPHERAL PARKING LOT LANDSCAPING, IN FAVOR OF THE PLANTING SHOWN ON THE GDP/SE PLAT.

Commissioners Flanagan and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. Lawrence. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously with Commissioner Hart recusing himself.)

JLC

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Board Agenda Item
March 20, 2012

3:30 p.m.

Public Hearing on RZ 2011-BR-014 (Midland Road LLC and Ridgewood Commercial Owners Property Association) to Rezone from PRM to PDH-12 with an Overall Density of 11.3 du/ac and PDC with an Overall FAR of 0.99, Approval of the Conceptual Development Plan, Located on Approximately 3.83 Acres of Land (Braddock District)

and

Public Hearing on PCA 2005-SP-019 (Midland Road LLC and Ridgewood Commercial Owners Property Association) to Amend the Proffers for RZ 2005-SP-019 Previously Approved for PRM to Permit Mixed Use Development and Associated Modifications to Proffers and Site Design with an Overall Density of 11.3 du/ac and FAR of 0.99, Located on Approximately 3.83 Acres of Land (Braddock District)

This property is located in the Northeast and Southeast quadrant of the intersection of Government Center Parkway and Ridge Top Road. Tax Map 56-2 ((1)) 37B, 37D and 37G.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 23, 2012, the Planning Commission voted unanimously (Commissioner Murphy absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of RZ 2011-BR-014 and the associated Conceptual Development Plans, subject to the execution of proffers consistent with those dated February 22, 2012;

- Approval of PCA 2005-SP-019, subject to the Board's approval of RZ 2011-BR-014;

- Waiver of the minimum district size for Planned Development Commercial districts; and

- Waiver of the 200 square foot privacy yard requirement for all single family attached units.

In addition, the Planning Commission voted unanimously (Commissioner Murphy absent from the meeting) to approve FDP 2011-BR-014, subject to the Board of Supervisors' approval of RZ 2011-BR-014.

Board Agenda Item
March 20, 2012

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4374997.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Suzianne Zottl, Staff Coordinator, DPZ

Planning Commission Meeting
February 23, 2012
Verbatim Excerpt

RZ/FDP 2011-BR-014 & PCA 2005-SP-019 – MIDLAND ROAD LLC & RIDGEWOOD COMMERCIAL OWNERS PROPERTY ASSOCIATION

Decision Only During Commission Matters

Commissioner Hurley: Yes, Mr. Chairman, I'll take this opportunity to thank the staff, particularly Suzie Zottl and Kris Abrahamson, for their work on the project of the Ridgewood work - and for taking the time to walk me through the multiple iterations of proffers for this application. It is clear that this rezoning has been improved by changes to the layout of the townhouse project and the addition of meaningful amenity open space at the entrance to the Government Center Parkway, on the half-acre privately-maintained pocket park, and within the townhouse community itself. I also want to thank the applicant for taking the time to thoroughly brief me on a project well into the review process at the time I was appointed. I think overall we have a good project here and it's clear that the Springfield APR Task Force - it used to belong to them - took a good deal of time looking at whether Fairfax Center was well served by this change to the Comprehensive Plan. The larger land bay is clearly in transition and the implementation of this modification will not close out the options for other future changes called for in the Comprehensive Plan. The changes also reflect the reality of the current office market. Therefore, Mr. Chairman, I MOVE FIRST THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 2005-SP-019, SUBJECT TO THE BOARD'S APPROVAL OF RZ 2011-BR-014.

Commissioner Migliaccio: Second.

Vice Chairman Alcorn: Okay. Motion is made and seconded - seconded by Commissioner Migliaccio. Are there development conditions associated with those, as contained in the staff report?

Commissioner Hurley: – as contained in the staff report.

Vice Chairman Alcorn: Okay. Discussion? Commissioner Hall?

Commissioner Hall: No.

Vice Chairman Alcorn: Oh, you –

Commissioner Hall: I'm being quiet now. Enjoy it, it won't last.

Vice Chairman Alcorn: Any actual discussion on that motion?

Commissioner Hart: Mr. Chairman?

Vice Chairman Alcorn: Yes, Commissioner Hart.

Commissioner Hart: Which was the first one of the three –

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: Actually, I don't believe there are conditions associated with the first PCA that was just announced.

Vice Chairman Alcorn: Okay. So there are no conditions? There are conditions associated with the rezoning, though?

Mr. Mayland: Correct.

Vice Chairman Alcorn: That is a combined motion.

Commissioner Hart: That was my – that was my concern.

Vice Chairman Alcorn: Okay, thank you.

Mr. Mayland: Subject to the Board's approval, so it was just - - was not - - we're not making a motion on rezoning this first one.

Vice Chairman Alcorn: Okay, all those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Commissioner Hurley.

Commissioner Hurley: Second, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2001-BR-014 [*sic*] AND THE ASSOCIATED CDP, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED 22 FEBRUARY, 2012.

Commissioner Migliaccio: Second.

Vice Chairman Alcorn: Seconded by Commissioner Migliaccio. Any discussion on that motion? All those in favor of the motion to recommend approval of RZ 2011-BR-014, subject to the development - to the proffers dated 22 February, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Commissioner Hurley.

Commissioner Hurley: Third, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2011-BR-014, SUBJECT TO THE BOARD'S APPROVAL OF THE ABOVE RZ 2000 - - 2001-BR-014 [*sic*].

Commissioner Migliaccio: Second.

Vice Chairman Alcorn: Seconded by Commissioner Migliaccio. Any discussion on that motion? All those in favor of approving of FDP 2011-BR-014, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Hurley: And finally, I MOVE THAT THE PLANNING COMMISSION RECOMMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE MINIMUM DISTRICT SIZE FOR PDC DISTRICTS AND THE 200 SQUARE FOOT PRIVACY YARD REQUIREMENT FOR ALL SINGLE FAMILY ATTACHED UNITS.

Commissioner Migliaccio: Second.

Vice Chairman Alcorn: Seconded by Commissioner Migliaccio. Any discussion on that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

//

(The motions carried unanimously with Commissioner Murphy absent from the meeting.)

JN

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Board Agenda Item **REVISED**
March 20, 2012

3:30 p.m.

Public Hearing on SE 2011-MA-013, Page Little River Turnpike, LLC, to Permit Vehicle Sales, Rental and Ancillary Service Establishment, Located on Approximately 5.31 Acres of Land Zoned C-6 and HC (Mason District)

This property located at 6500 Little River Turnpike, Alexandria, 22312. Tax Map 72-1 ((1)) 23A

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, March 14, 2012, the Planning Commission voted unanimously (Commissioner Donahue not present for the votes) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of SE 2011-MA-013, subject to development conditions dated March 14, 2012;
- Modification of transitional screening along the eastern and northern property lines;
- Modification of the interior parking lot landscaping requirement;
- Modification of the major paved trail requirement along Route 236; and
- Waiver of the on-road bike route requirement along Route 236.

In addition, the Planning Commission voted unanimously (Commissioner Donahue not present for the vote) to recommend that the Board of Supervisors direct the Director of the Department of Public Works and Environmental Services (DPWES) to waive frontage improvements associated with the dedication of the existing service drive and sidewalk along Little River Turnpike.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4379771.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Miriam Bader, Staff Coordinator, DPZ

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Planning Commission Meeting
March 14, 2012
Verbatim Excerpt

SE 2011-MA-013 – PAGE LITTLE RIVER TURNPIKE, LLC

After the Close of the Public Hearing

Chairman Murphy: The public hearing is closed; Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. This application enjoys the support of the Mason District Land Use Committee and so therefore I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2011-MA-013, SUBJECT TO DEVELOPMENT CONDITIONS DATED MARCH 14TH, 2012.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2011-MA-013, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

Commissioner Hall: Okay, this one's going to be a little bit on the long side. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE MODIFICATION OF TRANSITIONAL SCREENING ALONG THE EASTERN AND NORTHERN PROPERTY LINES, APPROVAL OF A MODIFICATION OF THE INTERIOR PARKING LOT LANDSCAPING REQUIREMENT, AND APPROVAL OF THE MODIFICATION OF THE MAJOR PAVED TRAIL REQUIREMENT ALONG ROUTE 236.

Commissioner Hart: Second.

Chairman Murphy: Approval of the waiver of the on-road bike route, too?

Commissioner Hart: There's one more.

Commissioner Hall: Yes… no, there is - - oh, I was going to stop and start again.

Chairman Murphy: Oh, all right. Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor of the motion of all them there things, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall: If I knew you were going to be that eloquent, I would have added the last one. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE WAIVER FOR THE ON-ROAD BIKE ROUTE REQUIREMENT ALONG ROUTE 236.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

Commissioner Hall: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO WAIVE FRONTAGE IMPROVEMENTS ASSOCIATED WITH THE DEDICATION OF THE EXISTING SERVICE DRIVE AND SIDEWALK ALONG LITTLE RIVER TURNPIKE.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

//

(The motions carried unanimously with Commissioner Donahue not present for the votes.)

JN

Board Agenda Item
March 20, 2012

3:30 p.m.

Public Hearing on SE 2011-LE-017, Hybla Center, LP, to Permit Vehicle Light Service Establishment and Waivers and Modifications in the Commercial Revitalization District (CRD), Located on Approximately 12,625 Square Feet of Land Zoned C-6, CRD and HC (Lee District)

This property located at 7800-7844 Richmond Hightway, Alexandria, 22309. Tax Map 101-2 ((6)) 507B pt.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, March 8, 2012, the Planning Commission voted unanimously (Commissioners Donahue and Murphy absent from the meeting) to recommend to the Board of Supervisors approval of the following actions pertinent to the subject application:

- Approval of SE 2011-LE-017, subject to the development conditions dated March 8, 2012;
- Modification of the minimum lot size requirement to permit a lot of 12,625 square feet instead of the required 40,000 square feet;
- Modification of the minimum lot width requirement to permit a lot width of 73 feet instead of the required 200 feet;
- Waiver of the open space requirement for the Special Exception area;
- Modification of the transitional screening requirement and a waiver of the barrier requirement along the eastern and western boundaries of the application site;
- Waiver of the peripheral and interior parking lot landscaping requirements; and
- Deviation from the tree canopy percentage in favor of the landscaping shown on the SE plat.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4378548.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nick Rogers, Staff Coordinator, DPZ

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Planning Commission Meeting
March 8, 2012
Verbatim Excerpt

SE 2011-LE-017 - HYBLA CENTER, LP

After the Close of the Public Hearing

Vice Chairman Alcorn: Close the public hearing; recognize Commissioner Migliaccio for action.

Commissioner Migliaccio: Thank you, Mr. Chairman. Tonight, you should have received a new set of development conditions dated March 8. These development conditions essentially address one item, noise mitigation for the neighbors. And what it does is – it requires that there will be a noise study six months after the SE is implemented. It will require that quiet guns are used in the Pep Boys and it will also require that the air compressor be enclosed inside to reduce the noise. Overall, this Special Exception will simply allow a current business to expand its operations into the existing footprint of the Mount Vernon Crossroads Shopping Center. It is going into a site that was recently a motorcycle repair shop. Our professional planning staff recommends approval of this SE, as does the Lee District Land Use Committee. Therefore, Mr. Chairman, I have a number of motions to make tonight.

Vice Chairman Alcorn: Okay.

Commissioner Migliaccio: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2011-LE-017, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MARCH 8, 2012.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Mr. Sargeant. Any discussion of that motion? All those in favor of recommending approval of SE 2011-LE-017, subject to the development conditions dated March 8, 2012, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Commissioner Migliaccio.

Commissioner Migliaccio: Thank you. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE MINIMUM LOT SIZE REQUIREMENT TO PERMIT A LOT OF 12,625 SQUARE FEET INSTEAD OF THE REQUIRED 40,000 SQUARE FEET.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Commissioner Migliaccio.

Commissioner Migliaccio: Thank you. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE MINIMUM LOT WIDTH REQUIREMENT TO PERMIT A LOT WIDTH OF 73 FEET INSTEAD OF THE REQUIRED 200 FEET.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Hurley: Thank –

Commissioner Migliaccio: A few more.

Vice Chairman Alcorn: Commissioner Migliaccio.

Commissioner Migliaccio: Thank you. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE OPEN SPACE REQUIREMENT FOR THE SPECIAL EXCEPTION AREA.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Migliaccio: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT AND A WAIVER OF THE BARRIER REQUIREMENT ALONG THE EASTERN AND WESTERN BOUNDARIES OF THE APPLICATION SITE.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Migliaccio: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE PERIPHERAL AND INTERIOR PARKING LOT LANDSCAPING REQUIREMENTS.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion on that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioner Migliaccio: And finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A DEVIATION FROM THE TREE CANOPY PERCENTAGE IN FAVOR OF THE LANDSCAPING SHOWN ON THE SE PLAT.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. All those in - any discussion? All those in favor of that motion, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? Oh sorry –

Commissioner Hurley: No, I said aye.

Vice Chairman Alcorn: All in favor, say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries as well.

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(The motions carried unanimously with Commissioners Donahue and Murphy absent from the meeting.)

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Board Agenda Item **REVISED**
March 20, 2012

3:30 p.m.

Public Hearing on PCA 1996-MV-037-08, Lorton Medical LLC, to Amend the Proffers for RZ 1996-MV-037 Previously Approved for Mixed Use Development to Permit Modifications to Proffers, Located on Approximately 3.95 Acres of Land Zoned PDC (Mount Vernon District)

This property located on the West side of Lorton Station Boulevard approximately 1,000 feet South of Pohick Road and on the East side of Fredericksburg and Potomac Railroad. Tax Map 107-2 ((19)) 300 and 310.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, March 14, 2012, the Planning Commission voted unanimously (Commissioner Donahue not present for the vote) to recommend that the Board of Supervisors approve PCA 1996-MV-037-08, subject to the proffers dated February 15, 2012.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4379171.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William Mayland, Staff Coordinator, DPZ

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Planning Commission Meeting
March 14, 2012
Verbatim Excerpt

PCA 1996-MV-037-08 – LORTON MEDICAL, LLC

After the Close of the Public Hearing

Chairman Murphy: The public hearing is closed; recognize Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. First of all, I would like to thank Mr. Kirk for his testimony tonight, which clearly outlined the evolution of the proffer - - amendment before the Planning Commission tonight for consideration. I'd also like to add that indeed the South County Land Use Committee and Federation have both unanimously supported the Amendment after much discussion as to the value of the original proffer to provide a second-floor space in a Lorton Medical, LLC building for community use. So the only thing that slowed this whole thing down was trying to find, you know - to come to agreement on just what was the value of that space that we were converting to other uses. I witnessed all those discussions and votes and recommended their approval to Supervisor Hyland as well. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 1996-MV-037-08, SUBJECT TO THE PROFFERS DATED FEBRUARY 15, 2012, AND CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioners Sargeant and Alcorn: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 1996-MV-037-08, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried unanimously with Commissioner Donahue not present for the vote.)

JN

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Board Agenda Item
March 20, 2012

4:00 p.m.

Public Hearing on Proposed Zoning Ordinance Amendment Re: Editorial and Minor Revisions

ISSUE:
Public Hearing on a proposed amendment that makes clarifying and minor revisions as well as correcting inconsistencies and errors that have resulted from the adoption of previous Zoning Ordinance amendments.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, February 23, 2012, the Planning Commission voted unanimously (Commissioner Murphy absent) to recommend approval of the proposed amendment as advertised with an effective date of 12:01 a.m. on the day following adoption. Notwithstanding the above, the Commission also recommended that the proposed changes to Par. 6B of Sect. 10-103 concerning substitute care providers for home child care facilities have an effective date of July 1, 2012. The delayed effective date for the Sect. 10-103 changes is to align with the anticipated effective date for the proposed amendments to Chapter 30 of the County Code regarding the same issue.

RECOMMENDATION:
The County Executive concurs with the Planning Commission's recommendation.

TIMING:
Board of Supervisors' authorization to advertise – January 10, 2012; Planning Commission public hearing – February 23, 2012; Board of Supervisors' public hearing – March 20, 2012 at 4:00 p.m.

BACKGROUND:
The proposed amendment is on the 2011 Priority 1 Zoning Ordinance Amendment Work Program and makes clarifying and minor revisions as well as correcting inconsistencies and errors that have resulted from the adoption of previous Zoning Ordinance amendments. Specifically, the amendment:

(1) Revises Sect. 2-506 to allow rooftop guardrails as required by the Virginia Uniform Statewide Building Code for safety reasons to be excluded from the building height.

(2) Revises Par. 6 of Sect. 10-103 to allow for a substitute child care provider to operate a home child facility in the absence of the provider for up to 240 hours

per calendar year in accordance with Chapter 30 of the Fairfax County Code and/or Title 63.2 Chapter 17 of the Code of Virginia.

(3) Reduces the special exception filing fee for home child care facilities in the PDH, PDC, PRM and PTC Districts from $16,375 to $1100.

(4) Removes the maximum allowable 5 horsepower limitation for lawnmowers that can be repaired and serviced in a repair service establishment.

(5) Replaces the reference to “mentally retarded” persons with the term “intellectually disabled” in the group residential facility definition, and replaces the term “mental retardation facilities” in the medical care facility definition with “intellectual disability care facilities”.

(6) Revises Par. 5 of Sect. 6-308 to clarify that the preceding Par. 3 does not apply to certain bonus units, bonus floor area, affordable dwelling units and workforce dwelling units.

(7) Revises Par. 1A of Sect. 8-924 to clarify that the paragraph is referring to residential districts.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

REGULATORY IMPACT:
The proposed amendment enhances existing regulations, by providing clarification, resolving inconsistencies, and updating the Zoning Ordinance.

FISCAL IMPACT:
The proposed amendment will not require any additional review by staff or cost to the public and, as such, there will be no fiscal impact to applicants or staff.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report
Attachment 2 – Planning Commission Verbatim

STAFF:
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Eileen M. McLane, Zoning Administrator, DPZ
Cathy S. Belgin, Senior Assistant to the Zoning Administrator, DPZ

ATTACHMENT 1

FAIRFAX COUNTY

V I R G I N I A

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Editorial and Minor Revisions

PUBLIC HEARING DATES

Planning Commission February 23, 2012 at 8:15 p.m.

Board of Supervisors March 20, 2012 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

January 10, 2012

CSB

Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment is on the 2011 Priority 1 Zoning Ordinance Amendment Work Program, corrects inconsistencies and errors that have resulted from the adoption of previous Zoning Ordinance amendments and makes other clarifying and minor revisions.

Exclusion of Certain Rooftop Guardrails from Building Height

Under Sect. 2-506 of the Zoning Ordinance certain rooftop structures are excluded from maximum building height restrictions, including parapet walls that do not exceed 3 feet in height. Parapet walls are provided on the perimeter of the building, protect the edge of the roof and help screen other rooftop structures. Guard rails around rooftop spaces with public access function similarly to parapet walls. For safety reasons, the Virginia Uniform Statewide Building Code requires 3 ½ foot tall guardrails to be provided around public rooftop spaces. However, such guardrails are included in building height under the current regulations. As more rooftop recreational activities are being provided, and more green roofs are being constructed for environmental purposes, there will be an increased need for rooftop guardrails. Given the increased rooftop activity and the Building Code requirement, staff believes it appropriate to exempt certain rooftop guardrails from the building height requirements. As such, the proposed amendment revises Sect. 2-506 to allow rooftop guardrails that are required by the Building Code to be 3½ feet in height to be excluded from the building height.

Error in Building Location for Freestanding Accessory Structures

Pursuant to Sect. 8-914 of the Zoning Ordinance, the Board of Zoning Appeals (BZA) may approve a special permit for a reduction to the minimum yard requirements based on an error in building location, provided that the error is greater than 10%. Additionally, pursuant to Sect. 2-419 of the Zoning Ordinance, the Zoning Administrator may approve an administrative reduction in the minimum yard requirements based on an error in building location when such errors are no greater than 10% of the minimum required yard. Paragraphs 10 and 12 of Sect. 10-104 of the Zoning Ordinance contain the locational regulations for freestanding accessory structures and, except for the rear yard setback, the locational regulations for freestanding accessory structures are based on the minimum yard requirements for the district in which located. Freestanding accessory structures that exceed 7 feet in height and freestanding accessory storage structures (sheds) that exceeds 8 ½ feet in height must be located a minimum distance equal to their height from the rear lot line. Although the minimum required setback from the rear lot line is a locational requirement and not a minimum yard requirement, it has been the longstanding practice to allow the rear yard locational requirement for freestanding accessory structures to be modified as an error in building location. As such, the proposed amendment codifies the longstanding practice and amends Sections 2-419 and 8-914 to allow error in building locations to be approved for the rear yard locational requirements for freestanding accessory structures.

BZA Approval of Errors in Building Location of Less than 10% in Conjunction with Other

Approvals

As was noted above, the BZA may only approve special permits for error in building location when the error exceeds 10% of the minimum required yard requirement. There are many instances when there is more than one error in building location on a lot and some of those errors may be 10% or less. In such instances, an applicant must seek both BZA approval and separate administrative approval from the Zoning Administrator as the BZA currently has no authority to grant an error in building location of less than 10%. The same situation may also occur in conjunction with an application for another special permit use. In order to streamline the process and eliminate the separate Zoning Administrator approval process, the proposed amendment modifies Sect. 8-914 to allow the BZA to approve errors in building location that are 10% or less when there are multiple errors and at least one error is greater than 10% and/or in conjunction with the approval of a special permit for another use.

Home Child Care Facilities Substitute Care Providers

Pursuant to the use limitations for home child care facilities contained in Par. 6B of Sect. 10-103 of the Zoning Ordinance, a home child care facility must be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider must be on the premises while the home child care facility is in operation. As written, this provision prohibits the home child care facility from operating at such times as the provider may take a vacation or have other reasons not to be present on the property during business hours. This presents a significant challenge to home child care providers if their business must be closed every time the operator needs to be away from the premises. Virginia state regulations, which govern home child care facilities that provide care for more than 5 children, allow for a substitute provider to operate the facility for up to 240 hours per year in place of the owner/resident/provider, to accommodate vacation and other necessary absences. Home child care facilities that provide care for 5 or fewer children are regulated by Chapter 30 of the County Code. A proposed amendment to Chapter 30 would also allow substitute care providers and it is anticipated that this amendment will be scheduled for a Board public hearing at about the same time as this amendment. The proposed amendment would align the Ordinance with the State regulations already in effect and the proposed County Code provision that would allow home child care facilities to operate with a substitute care provider to accommodate the reasonable needs of a home child care provider to be absent for vacation or other needs.

Home Child Care Facility Special Exception Application Fee

In the PDH, PDC, PRM and PTC Districts, a home child care facility is permitted by right if depicted on an approved development plan, or by special exception approval when not depicted on an approved development plan. Under the current fee structure in Sect. 18-106 of the Zoning Ordinance, the application fee for a special exception request for a home child care center in the PDH, PDC, PRM and PTC Districts is $16,375, whereas the special exception application fee for a child care center with up to 100 students in the same zoning districts is $1100. In all other districts where special permit approval is required to establish a home child care facility, the special permit application filing fee is $1100. In order to be consistent with the application fee for home child care facilities requiring special permit approval and smaller child care facilities in the P districts, the

proposed amendment reduces the special exception application fee for home child care facilities from $16,375 to $1100.

Repair Service Establishments

The Board requested staff to review the maximum allowable horsepower of lawnmowers that can be repaired and serviced in a repair service establishment. Under the current Zoning Ordinance definition, a repair service establishment is limited to 5000 square feet of net floor area wherein the primary occupation is the repair and general service of common home appliances, including lawnmowers not exceeding 5 horsepower. Further, it provides that a repair service establishment use no more than 3 vehicles that are not passenger cars.

The appropriateness of the 5 horsepower limitation has recently been questioned with the recognition that many lawn mowers currently contain engines with more than 5 horsepower. It is also understood that riding lawnmowers have become increasingly more common as standard equipment for many homeowners. Staff research has found that currently manufactured push lawnmowers contain engines with 5 to 7 horsepower, and manufactured riding lawnmowers have engines with, on average, 20 to 25 horsepower.

The above discussion calls into question whether the current definition of repair service establishment should be revised to reflect and accommodate the higher horsepower ratings that are commonly found in residential lawnmowers. In response, staff reviewed the repair service establishment definition and how repair services establishments are more broadly regulated under the Zoning Ordinance. As noted above, the repair service definition limits the size of the establishment, the kinds of appliances that can be repaired, and the number of non-passenger vehicles associated with the use. Repair services establishments are permitted by right in the C-5, C-6, C-7, C-8 and C-9 commercial retail districts subject to use limitations. One of the use limitations requires that all business, service, storage, and display of goods be permitted only on the same lot with and ancillary to a permitted use and that, except for 250 square feet of accessory outdoor storage and display, the outdoor area devoted to storage, loading and display of goods is limited to that area so designated on an approved site plan. The outdoor display of all goods is further subject to Sect. 2-504 of the Zoning Ordinance which, among other things, provides that no goods shall be displayed, stored or serviced in any minimum required yard in a commercial district.

In summary, the above use limitations and definition make clear both the scope and degree to which repair service establishments may operate. Furthermore, given that both riding and push lawnmowers are commonly used household tools, it is unnecessary to limit the horsepower ratings of such equipment when adequate self-governing provisions already exist that sufficiently limit the type and volume of items that can be repaired or serviced in a repair service establishment. Based on the above, staff believes that the repair service establishment definition is suitable in its present form, with the exception of the lawnmower horsepower limitation. As such, the proposed amendment deletes the 5 horsepower limitation for lawnmowers in the repair service definition.

Editorial Revisions

- On July 23, 1990, the Board adopted Zoning Ordinance Amendment ZO-90-193 which was

a major revision of the affordable dwelling unit provisions. At that time, Par. 5 of 6-308 of the Zoning Ordinance was adopted with an error as the paragraph only references previous Paragraphs 1 and 4, but it was the intent to also reference Paragraph 3. The amendment revises Par. 5 of Sect. 6-308 to clarify that the preceding Par. 3 does not apply to certain bonus units, bonus floor area, affordable dwelling units and workforce dwelling units.

- On November 20, 2006, the Board adopted ZO-06-391 which established a special permit for certain additions to an existing single family dwelling when the existing dwelling extends in a minimum required yard by more than 50% and/or is closer than 5 feet to a lot line, by adding a new Sect. 8-924. The word "district" was inadvertently omitted from Par. 1A of Sect. 8-924. The proposed amendment revises Par. 1A to clarify that the paragraph is referring to residential districts.

- The Board requested staff to replace all references to "mental retardation" in the Zoning Ordinance with references to "intellectual disabilities" as this is more in keeping with the currently accepted terminology. The group residential facility definition contains several such references which are being updated. Additionally, the phrase "mental retardation facility" is contained in the medical care facility definition, and the proposed amendment replaces this phrase in the definition with "intellectual disabilities care facility".

Conclusion

The proposed amendment clarifies certain provisions, corrects certain inconsistencies, and provides for a few minor revisions to the Zoning Ordinance. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of January 10, 2012 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 2, General Regulations, as follows:

- **Amend Part 4, Qualifying Lot and Yard Regulations, Sect. 2-419, Reduction in Minimum Yard Requirements Based on Error in Building Location, by revising the introductory paragraph and Paragraphs 1B, 1F and 3 to read as follows:**

Notwithstanding any other provision of this Ordinance, the Zoning Administrator shall have the authority, as qualified below, to approve a reduction in the minimum yard requirements in the case of any building <u>or a modification to the location regulations in the case of any freestanding accessory structure</u> existing or partially constructed which does not comply with such requirements applicable at the time such ~~building~~ <u>structure</u> was erected. Such a reduction may be approved by the Zoning Administrator in accordance with the following provisions:

1. The Zoning Administrator determines that:

   B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the ~~building~~ <u>structure</u> subsequent to the issuance of a Building Permit, if such was required, and

   F. To force compliance with the minimum yard requirements <u>or location regulations</u> would cause unreasonable hardship upon the owner, and

3. Upon the approval of a reduction for a particular ~~building~~ <u>structure</u> in accordance with the provisions of this Section, the same shall be deemed to be a lawful ~~building~~ <u>structure</u>.

- **Amend Part 5, Qualifying Use, Structure Regulations, Sect. 2-506, Structures Excluded From Maximum Height Regulations, by adding a new Par. 3 to read as follows:**

3. <u>Rooftop guardrails that are required by the Virginia Uniform Statewide Building Code to be three and one-half (3 ½) feet in height for safety reasons shall be excluded from building height.</u>

Amend Article 6, Planned Development District Regulations, Part 3, PRC Planned Residential Community District, Sect. 6-308, Maximum Density, by revising Par. 5 to read as follows:

5. The provisions of Paragraphs 1, 3 and 4 above shall not apply to affordable and market rate dwelling units which comprise the increased density pursuant to Part 8 of Article 2 or to proffered bonus market rate units and/or bonus floor area, any of which is associated with the provision of workforce dwelling units, as applicable.

Amend Article 8, Special Permits, Part 9, Group 9 Uses Requiring Special Regulation as follows:

- **Amend Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location, by revising the introductory paragraph and Paragraphs 2A, 2B, 2F and 4 to read as follows:**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building or a modification to the location regulations of any freestanding accessory structure existing or partially constructed which does not comply with such requirements applicable at the time such ~~building~~ structure was erected, but only in accordance with the following provisions:

2. The BZA determines that:

A. The error exceeds ten (10) percent of the measurement involved, however, when there are multiple errors and a minimum of one (1) error is greater than ten (10) percent and/or in conjunction with the approval of a special permit for another use, an error may be ten (10) percent or less, and

B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the ~~building~~ structure subsequent to the issuance of a Building Permit, if such was required, and

F. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

4. Upon the granting of a reduction for a particular ~~building~~ structure in accordance with the provisions of this Section, the same shall be deemed to be a lawful ~~building~~ structure.

- **Amend Sect. 8-924, Certain Additions to an Existing Single Family Detached Dwelling When the Existing Dwelling Extends into a Minimum Required Yard by More Than Fifty (50) Percent and/or is Closer Than Five (5) Feet to a Lot Line, by revising Par. 1A as follows:**

The BZA may approve certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line, but only in accordance with the following:

1. Only the following yard requirements shall be subject to such special permit:

   A. Minimum required yards, as specified in the residential districts in Article 3, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved special exception plat, special permit plat or variance plat or on a proffered generalized development plan.

Amend Article 10, Accessory Uses, Accessory Service Uses, and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-103, Use Limitations, by revising Par. 6B as follows:

6. The following use limitations shall apply to home child care facilities:

   B. A home child care facility shall be operated by the licensed or permitted home child care provider within the dwelling that is the primary residence of such provider, and except for emergency situations, such provider shall be on the premises while the home child care facility is in operation. Notwithstanding the above, a substitute care provider may operate a home child care facility in the absence of the provider for a maximum of 240 hours per calendar year.

Amend Article 18, Administration, Amendments, Violations, and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising the Category 3 Special Exception Application filing fee set forth in Par. 1 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

   Application for a:

   Category 3 special exception

   - Child care centers, nursery schools and private schools which have an an enrollment of less than 100 students daily, churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of less than 100 students daily, home child care facilities — $1100
   - Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which — $11025

has an enrollment of 100 or more students daily

- All other uses $16375

Amend Article 20, Ordinance Structure, Interpretations, and Definitions, Part 3, Definitions, by revising the Group Residential Facility, Medical Care Facility and Repair Service Establishment definitions to read as follows:

GROUP RESIDENTIAL FACILITY: A group home or other residential facility, with one or more resident counselors or other staff persons, in which no more than: (a) eight (8) mentally ill, ~~mentally retarded~~ intellectually disabled or developmentally disabled persons reside and such home is licensed by the Virginia Department of Behavioral Health and Developmental Services; or (b) eight (8) ~~mentally retarded~~ intellectually disabled persons or eight (8) aged, infirm or disabled persons reside and such home is licensed by the Virginia Department of Social Services; or (c) eight (8) handicapped persons reside, with handicapped defined in accordance with the Federal Fair Housing Amendments Act of 1988. The terms handicapped, mental illness and developmental disability shall not include current illegal use or addiction to a controlled substance as defined in Sect. 54.1-3401 of the Code of Virginia or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802).

For the purpose of this Ordinance, a group residential facility shall not be deemed a group housekeeping unit, or ASSISTED LIVING FACILITY and a dwelling unit or facility for more than four (4) persons who do not meet the criteria set forth above or for more than eight (8) handicapped, mentally ill, ~~mentally retarded~~ intellectually disabled or developmentally disabled persons shall be deemed a CONGREGATE LIVING FACILITY.

MEDICAL CARE FACILITY: Any institution, place, building, or agency, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board, by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical or nursing attention or service as acute, chronic, convalescent, aged, physically disabled, or crippled; including but not limited to general hospitals, sanatorium, sanitarium, assisted living facility, nursing home, intermediate care facility, extended care facility, mental hospital, ~~mental retardation~~ intellectual disabilities care facility, medical schools and other related institutions and facilities, whether operated for profit or nonprofit, and whether privately owned or operated by a local government unit. This term shall not include a physician's office, first aid station for emergency medical or surgical treatment, medical laboratory, CONGREGATE LIVING FACILITY, GROUP RESIDENTIAL FACILITY, or INDEPENDENT LIVING FACILITY.

REPAIR SERVICE ESTABLISHMENT: Any establishment containing no more than 5000 square feet of net floor area wherein the primary occupation is the repair and general service of common home appliances such as musical instruments, sewing machines, televisions and radios, washing machines, vacuum cleaners, power tools, electric razors, refrigerators, and lawnmowers ~~not exceeding five (5) horsepower~~; or any establishment wherein the primary occupation is interior decorating services which include reupholstering and/or the making of draperies, slipcovers and similar articles, but not to include furniture or cabinet-making establishments. Repair service establishments shall not include the use of more than three (3) vehicles other than passenger cars.

Planning Commission Meeting
February 23, 2012
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT – EDITORIAL AND MINOR REVIEWS

After the Close of the Public Hearing

Vice Chairman Alcorn: Without objection, I will waive the staff report and close the public hearing; recognize Commissioner Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. First, I'd like to thank Cathy Belgin for the detailed analysis of all these editorial amendments for the Zoning Ordinance Amendment; very helpful, very incisive, and very accurate. So, without further discussion, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE PROPOSED EDITORIAL AND MINOR REVISIONS ZONING ORDINANCE AMENDMENT BE APPROVED AS ADVERTISED WITH AN EFFECTIVE DATE OF 12:01 A.M. ON THE DAY FOLLOWING ADOPTION. NOTWITHSTANDING THE ABOVE, I WOULD MOVE THAT THE PROPOSED CHANGES TO PARAGRAPH 6B OF SECTION 10-103, CONCERNING SUBSTITUTE CARE PROVIDERS FOR HOME CHILD CARE FACILITIES, HAVE AN EFFECTIVE DATE OF JULY 1ST, 2012. The delayed effective date for the Section 10-103 changes will align the anticipated effective date for the proposed amendments to Chapter 30 of the County Code regarding the same issue.

Commissioners Migliaccio and de la Fe: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and de la Fe. All those in favor of the motion to approve the proposed Zoning Ordinance Amendment relating to Editorial and Minor Revisions as articulated by Commissioner Sargeant, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

//

(The motion carried unanimously with Commissioner Murphy absent from the meeting.)

JN

Board Agenda Item
March 20, 2012

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Northern Virginia Community College Residential Permit Parking District, District 39 (Braddock District)

ISSUE:
Public Hearing on proposed amendment to Appendix G, of *The Code of the County of Fairfax*, *Virginia*, to expand the Northern Virginia Community College (NVCC) Residential Permit Parking District (RPPD), District 39.

RECOMMENDATION:
The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of *The Code of the County of Fairfax*, *Virginia*, to expand the NVCC RPPD, District 39.

TIMING:
On February 28, 2012, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to take place on March 20, 2012, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or within 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of $10 per address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Staff has verified that the proposed RPPD is within 2,000 feet walking distance to the NVCC pedestrian entrance, is within 1,000 feet from the property boundaries of NVCC, and all requirements to expand the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated at $1,000 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to *The Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Hamid Majdi, FCDOT

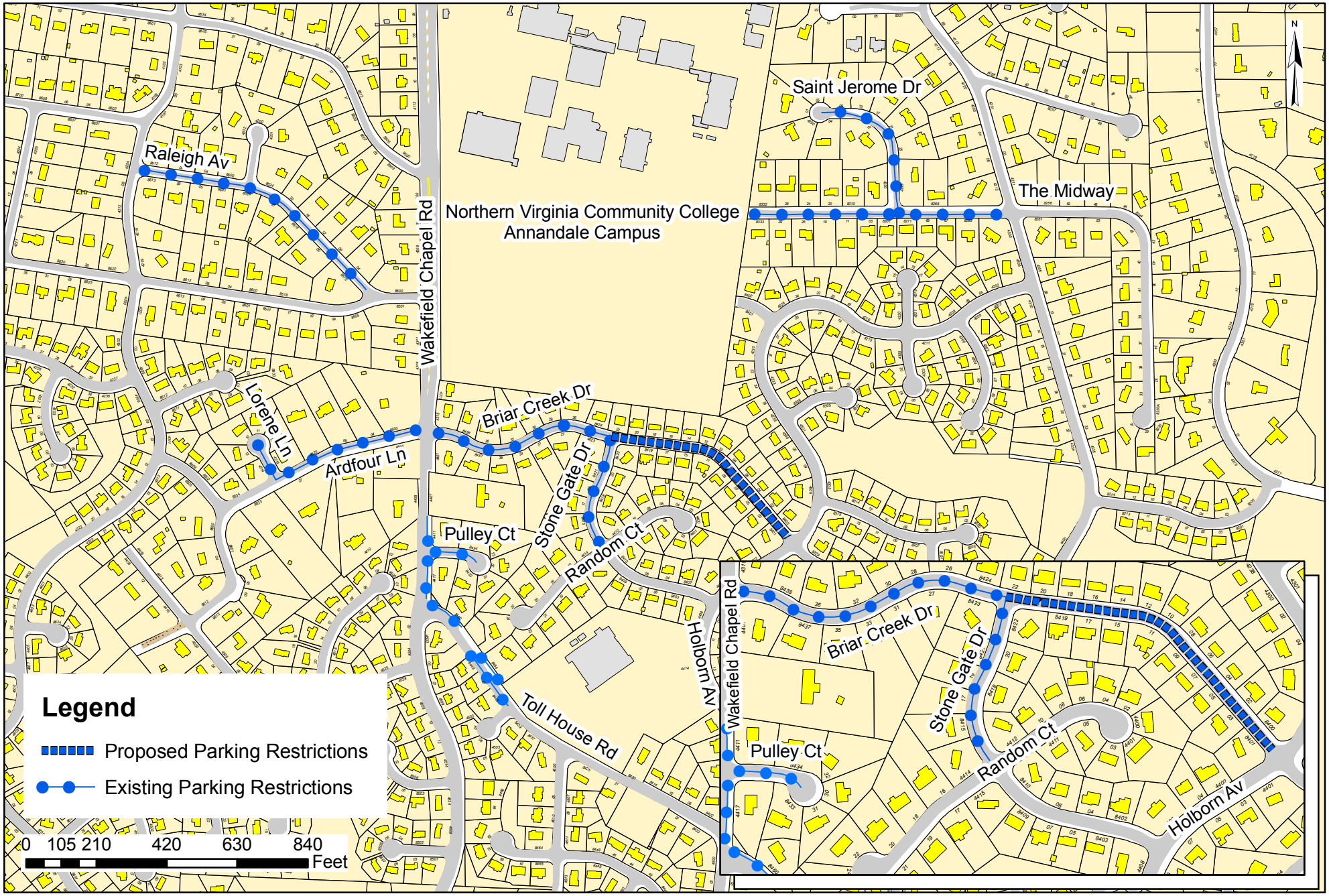
Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following streets to Appendix G-39, Section (b), (2), Northern Virginia Community College Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Briar Creek Drive (Route 4495)
From Stone Gate Drive to Holborn Avenue.

Attachment II



Fairfax County Department of Transportation
Traffic Operations Section
RESIDENTIAL PERMIT PARKING DISTRICT (RPPD)
Northern Virginia Community College (NVCC) # 39
Braddock District

February 29, 2012

Tax Map 70-1

Board Agenda Item
March 20, 2012

4:00 p.m.

Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2013

ISSUE:
Public hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2013, as issued by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:
The County Executive recommends that, following the public hearing, the Board forward comments received on the Proposed Consolidated Plan One-Year Action Plan for FY 2013 to the CCFAC for its consideration and recommendation to the Board, for final Board Action on April 24, 2012.

TIMING:
Board action on the Proposed One-Year Action Plan for FY 2013 is scheduled for April 24, 2012.

BACKGROUND:
A Proposed Consolidated Plan One-Year Action Plan for FY 2013 (One-Year Action Plan for FY 2013) has been issued by the CCFAC for public review and comment. In accordance with the Fairfax County Citizen Participation Plan for the Consolidated Plan, a public hearing is required to be held before the Board to allow citizens the opportunity to comment on the One-Year Action Plan for FY 2013. On February 28, 2012, the Board authorized advertisement of a public hearing on the proposed document to be held on March 20, 2012. Citizens may express their views on housing and community development needs, fair housing, and the County's community development programs. The document was released February 17, 2012 to meet the federal requirement for a 30-day public comment period.

The U.S. Department of Housing and Urban Development (HUD) requires the submission of this document as part of the planning and application aspects of four federal programs from which Fairfax County receives annual funding allocations. The four programs are the Community Development Block Grant (CDBG) Program, HOME Investment Partnerships Program (HOME), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). In addition, the document describes the Continuum of Care for homeless services and programs in the Fairfax

community, and the Consolidated Community Funding Pool (CCFP). The Proposed Consolidated Plan One-Year Action Plan for FY 2013 includes the first year of the two-year funding cycle for the CCFP. The CCFP was established by the Board and provides funding for community-based programs by nonprofit organizations through a competitive solicitation process. The FY 2013 CCFP funding awards will be made by the Board in April, subject to annual appropriations.

The One-Year Action Plan for FY 2013 also includes the public and private resources available for housing and community development activities, and the CCFP funding priorities adopted by the Board. In accordance with federal requirements, the One-Year Action Plan for FY 2013 contains several certifications, including drug-free workplace, affirmatively furthering fair housing, prohibition of excessive force, and lobbying requirements, which will be signed by the County Executive following Board action in April 2012.

The funding levels used for CDBG, HOME, and ESG are based on formal notification from HUD of actual grant levels. Funding for the HOPWA program is estimated at the FY 2011 expenditure level. Some prior year funds are recommended for reallocation. For CDBG, a total of $617,090 is being carried over for the same activities and an additional $274,016 is being reallocated to different activities. For HOME, a total of $325,796 is being carried over for the same activities and an additional $10,000 is being reallocated to different activities. The use of funds identified in the One-Year Action Plan for FY 2013 is summarized below. A description for each activity is provided in the Proposed One-Year Action Plan for FY 2013.

CDBG Funds	**FY 2013 Grant**	**Reallocated Prior Year Funds**	**Total**
Payments on Section 108 Loans	$1,123,357		$ 1,123,357
Home Repair for the Elderly Program	$ 199,608	$ 75,392	$ 275,000
Prior Year Home Repair for the Elderly Program		($ 75,392)	
Relocation Program	$ 132,360	$ 198,640	$ 331,000
Prior Year Relocation Program		($ 198,640)	
Homeownership Program	$ 98,308	$ 301,692	$ 400,000
Prior Year Homeownership Program		($ 301,692)	
Fair Housing		$ 41,366	$ 41,366
Prior Year Fair Housing		($ 41,366)	
Planning (Programs and Compliance)	$ 361,856		$ 361,856
General Administration	$ 479,623		$ 479,623
Affordable Housing Fund (Consolidated Community Funding Pool (CCFP))	$ 913,026	$ 200,420	$ 1,113,446
Planning		($ 200,420)	

Targeted Public Services - CCFP

(@maximum 15% of CDBG grant)	$ 662,133				$ 662,133
Senior/Disabled/Homeless Housing	$ 84,917		$ 73,596		$ 158,513
Planning			($ 73,596)		
Rehabilitation and/or Acquisition of FCRHA Properties	$ 359,036				$ 359,036
Total Allocations and Reallocations	**$4,414,224**	**+**	**$ 891,106**	**=**	**$ 5,305,330**

HOME Funds	**FY 2013 Grant**		**Reallocated Prior Year Funds**		**Total**
Tenant Based Rental Assistance (TBRA) Homeless Prevention, Partnership for Permanent Housing, Non-elderly and Elderly Disabled	$ 613,816				$ 613,816
CHDO Set-Aside	$ 210,805				$ 210,805
HOME Administration	$ 140,528		$ 88,107		$ 228,635
Prior Year HOME Administration			($ 88,107)		
Planning (Programs and Compliance)			$ 37,934		$ 37,934
Prior Year HOME Administration (Planning)			($ 37,934)		
Fair Housing			$ 58,268		$ 58,268
Prior Year Fair Housing			($ 58,268)		
Rehabilitation and/or Acquisition of FCRHA Properties	$ 440,134				$ 440,134
Homeownership Program			$ 10,000		$ 10,000
HOME Administration			($ 10,000)		
Senior/Disabled/Homeless Housing			$ 141,487		$ 141,487
Prior Year Senior/Disabled/Homeless Housing			($ 141,487)		
Total Allocations and Reallocations	**$1,405,283**	**+**	**$ 335,796**	**=**	**$ 1,741,079**

Based on program income during part of FY 2012, $300,000 in CDBG program income is estimated for FY 2013. The $300,000 estimated in CDBG program income is recommended for Senior/Disabled/Homeless Housing.

Emergency Solutions Grant (ESG) **$ 469,222**

The Emergency Solutions Grant program is an entitlement program replacing the old Emergency Shelter Grant under the federal HEARTH Act that was signed into law in May 2009. Full implementation of the new ESG program will begin in FY 2013. Under HEARTH, there is much greater emphasis on using funding to prevent homelessness and to rapidly re-house persons and families who do become homeless. The law requires that a minimum of 40 percent of the funding be used for prevention activities, and HUD has implemented this requirement by capping the amount that can be used for shelter operations at no more than 60 percent or the amount expended in FY 2010. In prior years, this funding has provided a revenue offset for county funding that supports shelter operations.

In light of the new federal emphasis, and consistent with the goals of the Fairfax-Falls

Church Plan to Prevent and End Homelessness, in FY 2013 the full allocation of Emergency Solutions Grant funds is proposed to be used to support prevention and rapid re-housing activities through the housing relocation and stabilization services that are provided by community case managers contracted through several nonprofit organizations.

Housing Opportunities for Persons with AIDS (HOPWA)	**$ 438,386**
Total FY 2013 Entitlement Funding	**$6,727,115**

This is the fourteenth year that the CCFP has been included in the Consolidated Plan One-Year Action Plan. Beginning with FY 2000, the former Community Funding Pool and the CDBG Affordable Housing funds and Targeted Public Services funds were merged into a single Consolidated Community Funding Pool. The CCFP consolidates the solicitation and award processes by establishing a single application process with a common set of funding priorities and proposal evaluation criteria for programs of community-based nonprofit organizations.

The funding available through the CCFP is allocated bi-annually through a competitive Request for Proposals process. The County Executive appoints a Selection Advisory Committee of citizens to review and rank applications received and make funding recommendations to the Board, which makes the final project funding awards. The One-Year Action Plan for FY 2013 will cover the first year of projects for the two-year funding cycle (FY 2012 – 2013). The Board will make final awards for FY 2013 in April 2012 with action on the annual County budget.

The following are estimated amounts that will be available for the CCFP for FY 2013:

*CDBG Affordable Housing Funds	$ 1,113,446
*CDBG Targeted Public Services Funds	$ 662,133
**Federal and State Community Services and Block Grant (CSBG) Funds	$ 390,157
**County General Funds	$ 8,580,530
Total Proposed CCFP Funding:	**$10,746,266**

*CDBG Affordable Housing Funds and CDBG Targeted Public Services Funds totaling $1,775,579 estimated to be available for the CCFP are a part of the total $4,414,224 in FY 2013 CDBG funds incorporated in the One-Year Action Plan for FY 2013. Approximately $200,000 of the $1,775,579 is prior year CDBG funds to be reallocated to CDBG Affordable Housing Funds.

**These amounts are based on the FY 2012 County budget and will be revised subject to the final federal entitlement amounts for the CSBG program and the appropriation of local General Funds by the Board for FY 2013.

Funding allocations under the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* have been reviewed by the Fairfax County Redevelopment and Housing Authority (FCRHA) and the CCFAC-FCRHA Working Advisory Group (WAG). The WAG is a group established to strengthen coordination between the FCRHA and the CCFAC in the proposed use of funds and was composed of seven members: three appointed by the FCRHA Chairman, three appointed by the CCFAC Chairman, and one who serves on both the FCRHA and the CCFAC. Recommendations from the WAG were forwarded to the CCFAC and the FCRHA. The final recommendations contained in the *Proposed Consolidated Plan One-Year Action Plan for FY 2013* are consistent with the WAG, the FCRHA and the CCFAC recommendations.

The funding levels reflect deep cuts in federal funding - an 18.5 percent cut in CDBG funds from the FY 2012 funding level and a 41.0 percent cut in HOME funds from the FY 2012 levels. The ESG program did receive a 14.6 percent increase from the FY 2012 level and the HOPWA amount is estimated at the FY 2011 expenditure level.

The WAG approached the cuts with the intent of minimizing their impact to the greatest extent possible by recommending the one-time reallocation of older, unused funds. In many cases, projects which did not go forward or came in under budget allowed some funding from prior years to be re-allocated to current projects with a higher and current priority.

The WAG notes that while it is important for the FCRHA and the Board of Supervisors to utilize prior year balances, using such balances to cover substantial federal funding reductions as a practice is unsustainable. In the *Proposed Consolidated Plan One-Year Action Plan for FY 2013,* reallocated prior year balances total $1,226,902. The WAG recommends that the Board consider funding the gap for federal reductions in future fiscal years, beginning in FY 2014, to the greatest extent possible. Alternatively, benefits provided by the funds in the County would have to be reduced.

Further, for FY 2013, the reduction in the CDBG federal allocation necessitates a reduction in Targeted Public Services which is statutorily capped at 15 percent of the CDBG grant amount. Targeted Public Services funds are made available to non-profits through the Consolidated Community Funding Pool. Because of the 15 percent cap, funds could not be reprogrammed for much needed public service activities from the CCFP such as emergency food programs and youth support services. <u>The WAG recommends that the Board consider restoring the FY 2012 funding level.</u>

The One-Year Action Plan for FY 2013 is being circulated for review and comment by citizens, service providers and other interested parties during the formal public comment period which ends with the closing of the public hearing on March 20, 2012. Following the March 20th public hearing and public comment period, the CCFAC will consider all

comments received on the One-Year Action Plan for FY 2013, and will forward its recommendation to the Board for final action on April 24, 2012.

FISCAL IMPACT:
Total entitlement funding anticipated of $6,727,115 has been recommended in this item: for CDBG - Fund 142 ($4,414,224), HOME – Fund 145 ($1,405,283), ESG ($469,222), and HOPWA ($438,386). In addition, the reallocation of prior year funds totaling $1,226,902 has also been recommended, as well as the use of program income, anticipated to be approximately of $300,000 for CDBG in FY 2013.

Funding for the HOPWA Program is estimated and actual funding will depend on the final allocation made available to Northern Virginia jurisdictions through the Northern Virginia Regional Commission and the District of Columbia, recipient of the funds. The CSBG and County General Funds for the CCFP are based on the FY 2012 County budget and will be revised subject to the final federal entitlement amounts for the CSBG program and the appropriation of local General Funds by the Board for FY 2013.

ENCLOSED DOCUMENTS:
None. The Proposed One-Year Action Plan for FY 2013 is the same document that was enclosed with the February 28, 2012 Board Item for authorization to advertise the public hearing. The document is also available on line at:
http://www.fairfaxcounty.gov/rha.

STAFF:
Paula C. Sampson, Director, Department of Housing and Community Development (HCD)
John Payne, Deputy Director, Real Estate and Development, HCD
Aseem K. Nigam, Director, Real Estate Finance and Grants Management Division, HCD
Robert C. Fields, Interim Associate Director, Grants Management, HCD
Stephen E. Knippler, Senior Program Manager, Grants Management, HCD

Board Agenda Item
March 20, 2012

4:00 p.m.

Public Hearing on a Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive as Part of the Residential Traffic Administration Program (Lee District)

ISSUE:
Public hearing on a proposed cut-through traffic mitigation plan for Farmington Drive, Edgehill Drive and Fort Drive as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends the Board endorse Farmington Drive, between Telegraph Road and North Kings Highway; Edgehill Drive, between Fort Drive and Jefferson Drive; and Fort Drive, between North Kings Highway and Edgehill Drive for a cut-through traffic mitigation plan as part of the RTAP. The proposed plan consists of the following traffic calming measures:

- Two Speed Humps on Farmington Drive
- Painted Parking Lane Striping on Farmington Drive between North Kings Highway and Edgehill Drive
- One Speed Hump on Fort Drive
- Double Yellow Centerline Striping on Fort Drive between North Kings Highway and Monticello Road

TIMING:
On February 28, 2012, the Board authorized advertisement of a public hearing scheduled for March 20, 2012, 4:00 p.m.

BACKGROUND:
In 2006, the Jefferson Manor Citizens Association requested that roads in their community be reviewed as candidate roadways for the RTAP Cut-Through Restriction program. Initial engineering studies and further cut-through analysis revealed that three roads, Farmington Drive, Edgehill Drive and Fort Drive, were viable roads for the Cut-Through Restriction program.

Board Agenda Item
March 20, 2012

On September 27, 2011, the Board of Supervisors approved a resolution requesting the Virginia Department of Transportation (VDOT) to consider cut-through or traffic calming measures for Farmington Drive, Edgehill Drive and Fort Drive. Concurrently, a neighborhood task force was offering community input and feedback concerning the development of a cut-through mitigation plan consisting of three traffic calming devices, painted parking lanes and centerline striping (Attachment I).

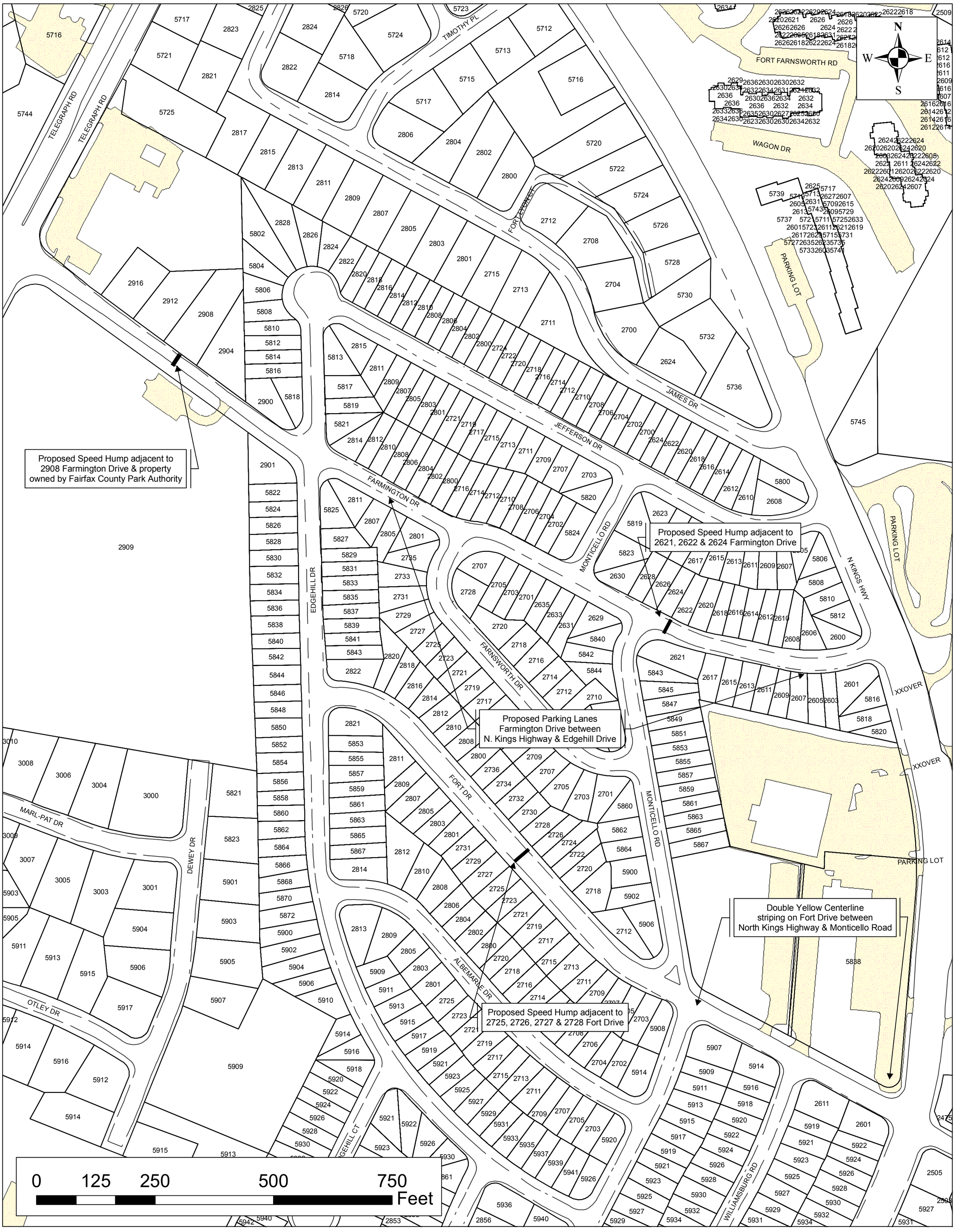
A properly advertised community meeting was held for discussion concerning the proposed cut-through mitigation plan and the Cut-Through Restriction program process. his meeting was followed by a community ballot process that successfully met the established program criteria.

For the plan to be implemented as part of the RTAP for Cut-Through Traffic Mitigation, a public hearing must be held pursuant to the policies and procedures adopted by the Commonwealth Transportation Board contained in the "Policy and Procedures, Control of Residential Cut-Through Traffic" dated May 9, 1996. In addition, a resolution (Attachment II) must be forwarded to VDOT requesting such measures.

FISCAL IMPACT:
Funding in the amount of $18,000 for the Cut-Through Traffic Mitigation measures is available in Fund 001, general fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Cut-Through Traffic Mitigation Plan for Farmington Drive, Edgehill Drive and Fort Drive
Attachment II: Proposed Resolution on Cut-Through Traffic Mitigation for Farmington Drive, Edgehill Drive and Fort Drive

STAFF:
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT



January 2012

Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED CUT-THROUGH RESTRICTION PLAN
FARMINGTON DRIVE, FORT DRIVE & EDGEHILL DRIVE
Lee District

Tax Map: 82-2, 82-4, 83-1, 83-3

(445)

A Fairfax County, Va., publication

Attachment II

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
CUT-THROUGH TRAFFIC MITIGATION PLAN
FARMINGTON DRIVE, EDGEHILL DRIVE AND FORT DRIVE
LEE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, held in the Board Auditorium of the Government Center in Fairfax, Virginia on Tuesday, March 20, 2012, at which time a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents of Jefferson Manor have petitioned the Fairfax County Department of Transportation (FCDOT) to provide the necessary measures to control cut-through traffic on Farmington Drive, Edgehill Drive and Fort Drive; and

WHEREAS, an engineering study by FCDOT indicates that basic cut-through criteria are met pertaining to functional classification of the roadway, identification of cut-through volume, and proof of community support for cut-through measures;

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to implement a cut-through traffic mitigation plan as part of the Residential Traffic Administration Program for Farmington Drive, Edgehill Drive and Fort Drive, consisting of traffic calming measures to include three speed humps, double yellow centerline striping and painted parking lane striping.

FURTHER BE IT RESOLVED, that the Virginia Department of Transportation is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 20th day of March, 2012.

Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
March 20, 2012

4:30 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)

ISSUE:
Public hearing to amend Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic) of the *Code of the County of Fairfax, Virginia*. This amendment would repeal outdated sections of the article that contain largely duplicate language of code sections previously adopted by reference into Section 82-1-6.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed amendment to Chapter 82.

TIMING:
Board of Supervisors authorized the advertisement of a public hearing on the proposed amendment on February 28, 2012; Board of Supervisors' public hearing scheduled for March 20, 2012 at 4:30 p.m. If approved, the provisions of this amendment will become effective immediately.

BACKGROUND:
Chapter 82, Article 4 (Regulation of Traffic) consists mostly of sections containing language that originally duplicated state code, but have since become outdated. In addition, the County has, where possible, adopted corresponding state code sections into Section 82-1-6, as authorized by State Code Section 46.2-1313. Repeal of outdated ordinances will eliminate confusion by police officers when writing violations, and should significantly reduce the likelihood of challenges in court due to duplicative and outdated language.

The following table displays proposed ordinances for repeal and their corresponding code sections from Section 82-1-6:

County Ordinance	Corresponding Adopted Code Section (82-1-6)	Description
82-4-1	46.2-852	Reckless driving generally
82-4-2	46.2-853, 46.2-854, 46.2-855, 46.2-856, 46.2-857, 46.2-858, 46.2-859, 46.2-860, 46.2-861, 46.2-863, 46.2-864	Reckless driving; specific instances
82-4-3	46.2-862, 46.2-870	Reckless driving; driving certain vehicles in excess of seventy-five miles per hour
82-4-4	46.2-862, 46.2-870	Reckless driving; driving certain vehicles in excess of sixty-five miles per hour
82-4-5	46.2-865	Reckless driving; racing
82-4-5.1	46.2-817	Failure to stop vehicle upon signal by Police
82-4-6	46.2-868	Reckless driving; penalty (unnecessary if 82-4-1 through 82-4-5.1 are repealed
82-4-7	46.2-392	Suspension of operator's license upon conviction of reckless driving generally
82-4-8	46.2-393	Suspension of operator's license upon conviction of reckless driving for exceeding speed of sixty-five or seventy miles per hour
82-4-8.1	46.2-396	Suspension of license for reckless driving in the death of any person
82-4-9	46.2-398	Disposition of surrendered licenses upon conviction requiring revocation or suspension
82-4-11	46.2-879	Prohibiting conviction for speeding in certain areas unless markers installed
82-4-12	46.2-920	Speed limits not applicable to certain vehicles under certain circumstances
82-4-14	46.2-882, 46.2-883	Checking on speed with electrical devices; certificate as to accuracy of device; arrest without warrant
82-4-15	46.2-1079	Prohibiting use of devices on motor vehicles to detect presence of radar upon highways or operation of motor vehicles so equipped
82-4-16	46.2-880	Table of speed and stopping distances
82-4-23	18.2-272	Driving after forfeiture of license
82-4-27	46.2-1077	Automobiles not to be equipped with television within view of operator of vehicle
82-4-28	46.2-1078	Unlawful to operate automobile while using earphones
82-4-29	46.2-814	Driving through safety zones prohibited
82-4-31	46.2-906	Riding bicycles without using handlebars
82-4-34	46.2-811	Coasting prohibited
82-4-35	46.2-812	Driving more than thirteen hours in twenty-four hours prohibited
82-4-36	46.2-802	Drive on right side of highways
82-4-37	46.2-807	Driving around rotary traffic islands
82-4-38	46.2-803	Keep to the right in crossing intersections or railroads
82-4-39	46.2-804	Special regulations applicable on streets and highways laned for traffic

County Ordinance	Corresponding Adopted Code Section (82-1-6)	Description
82-4-40	46.2-837	Passing vehicles proceeding in opposite directions
82-4-41	46.2-838	Passing upon overtaking a vehicle
82-4-43	46.2-841	When overtaking vehicle may pass on right
82-4-44	46.2-842	Driver to give way to overtaking vehicle
82-4-45	46.2-843	Limitations on privileges of overtaking and passing
82-4-46	46.2-816	Following too closely
82-4-48	46.2-846	Required position and method of turning at intersections; signs
82-4-49	46.2-848	Signals required on starting, stopping or turning
82-4-50	46.2-849	Signals required on starting, stopping or turning; how such signals are given
82-4-51	46.2-850	Signals required on starting, stopping or turning; change of course after giving signal
82-4-52	46.2-848	Signals required on starting, stopping or turning; duty of drivers receiving signals
82-4-53	46.2-851	Signals prior to moving standing vehicles into traffic
82-4-54	46.2-820, 46.2-821 46.2-822, 46.2-823	Right-of-way generally
82-4-55	46.2-825	Right-of-way when vehicle turns to left
82-4-56	46.2-826	Stop before entering public highway or sidewalk from private road; yielding of right-of-way
82-4-56.1	46.2-821	Vehicles before entering certain highways shall stop or yield right-of-way
82-4-57	46.2-827	Right-of-way of United States forces, troops, national guard
82-4-58	46.2-829	Approach of police or fire-fighting vehicles, rescue vehicles or ambulances; violation as failure to yield right-of-way
82-4-59	46.2-920	Police, fire-fighting and rescue vehicles and ambulances exempt from regulations in certain emergencies; exceptions and additional requirements
82-4-60	46.2-921	Following or parking near fire apparatus
82-4-61	46.2-922	Driving over fire hose

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic, Article 4 (Regulation of Traffic)

STAFF:
Colonel David M. Rohrer, Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

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CHAPTER 82

Motor Vehicles and Traffic

ARTICLE 4. Regulation of Traffic.

Division 1. Reckless Driving, Speeding, Driving While Intoxicated and Other Provisions Concerning the Operation of Automobiles.

Section 82-4-1. Reckless driving generally.44

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44. For similar state law, see Va. Code Ann., § 46.2-852, adopted in § 82-1-6.

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~~Irrespective of the maximum speeds provided in this Chapter, any person who drives a vehicle upon a highway recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person shall be guilty of reckless driving; provided, that the driving of a motor vehicle in violation of any speed limit provision of Section 82-4-10 shall not of itself constitute ground for prosecution for reckless driving under this Section. Reckless driving shall be unlawful. ((3-13-63; 1961 Code, § 16-62.)~~

Repealed.

Section 82-4-2. Reckless driving; specific instances.45

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45. For similar state law, see Va. Code Ann., § 46.2-853 et seq, adopted in § 82-1-6.

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~~(a) A person shall be guilty of reckless driving who shall:~~

~~(1) Drive a vehicle when not under proper control or with inadequate or improperly adjusted brakes upon any highway of this County;~~

~~(2) While driving a vehicle, overtake or pass another vehicle proceeding in the same direction, upon or approaching the crest of a grade or upon or approaching a curve in the highway, where the driver's view along the highway is obstructed, except where the overtaking vehicle is being operated on a highway having two (2) or more designated lanes of roadway for each direction of travel or on a designated one-way street or highway;~~

~~(3) Pass or attempt to pass two (2) other vehicles abreast, moving in the same direction, except on highways having separate roadways of three (3) or more lanes for each direction of travel, or on designated one-way streets or highways;~~

~~(4) Drive any motor vehicle, including any motorcycle, so as to be in and parallel to another vehicle in a lane designed for one vehicle, or drive any motor vehicle, including any motorcycle, so as to travel~~

~~parallel to any other vehicle traveling in a lane designed for one (1) vehicle; provided, that this Subsection shall not apply to any validly authorized parade, motorcade or motorcycle escort;~~

~~(5) Overtake or pass any other vehicle proceeding in the same direction at any steam, diesel or electric railway grade crossing or at any intersection of streets or highways unless such vehicles are being operated on a highway having two (2) or more designated lanes of roadway for each direction of travel or unless such intersection is designated and marked as a passing zone pursuant to the provisions of*Code of Virginia,* Section 46.2-830 and Section 46.2-803 or on a designated one-way street or highway, or while pedestrians are passing or about to pass in front of either of such vehicles, unless permitted so to do by a traffic light or police officers;~~

~~(6) Fail to stop when approaching from any direction a school bus, whether publicly or privately owned, which is stopped on any highway or school driveway for the purpose of taking on or discharging children, elderly, mentally or physically handicapped persons, and to remain stopped until all children, elderly, mentally or physically handicapped persons, are clear of the highway or school driveway and the bus is put in motion; except, that the driver of a vehicle upon a dual highway, when the roadways are separated by a physical barrier or barriers or an unpaved area, need not stop upon approaching a school bus which is on a roadway so separated from the one on which he is driving or an adjoining service road so separated, and except that the driver of a vehicle need not stop upon approaching a school bus which is loading or discharging passengers from or onto property immediately adjacent to a school if such driver is directed by a police officer or other duly authorized uniformed school crossing guard to pass such school bus. This Subsection shall apply to school buses which are equipped with warning devices prescribed in*Code of Virginia,* Section 46.2-1090, and are painted yellow with the words "School Bus, Stop, State Law" printed in black letters at least six (6) inches high on the front and rear thereof. If space is limited on the front, the words "School Bus" may be in letters at least four (4) inches high. Only school buses as defined in *Code of Virginia,* Section 46.2-100, which are painted yellow and equipped with the required lettering and warning devices shall be identified as school buses;~~

~~(7) Fail to give adequate and timely signals of intention to turn, partly turn, slow down or stop, as required in Sections 82-4-48 through 82-4-52;~~

~~(8) Exceed a reasonable speed under the circumstances and traffic conditions existing at the time regardless of any posted speed limit;~~

~~(9) Fail to bring his vehicle to a stop immediately before entering a highway from a side road when there is traffic approaching upon such highway within five hundred (500) feet of such point of entrance, unless a "Yield Right of Way" sign is posted; or where such sign is posted, fail, upon entering such highway, to yield the right of way to the driver of a vehicle approaching on such highway from either direction;~~

~~(10) Drive or operate any automobile or other motor vehicle upon any driveway or premises of a church, or school, or of any recreational facilities or of any business property open to the public, or on the premises of any industrial establishment providing parking space for customers, patrons or employees, or upon any highway under construction or not yet open to the public, recklessly or at a speed or in a manner so as to endanger the life, limb or property of any person; or~~

~~(11) Drive a vehicle when it is so loaded, or when there are in the front seat such number of persons as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle. ((3-13-63; 1961 Code, § 16-63; 37-76-82; 34-78-82; 19-79-82.)~~

Repealed.

Section 82-4-3. Reckless driving; driving certain vehicles in excess of seventy-five miles per hour.46

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46. For similar state law, see Va. Code Ann., §§ 46.2-862, 46.2-870, adopted in § 82-1-6.

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~~A person shall be guilty of reckless driving if he operates a motor vehicle, except as provided in Section 82-4-4, in this County at a speed in excess of seventy-five (75) miles per hour. ((3-13-63; 1961 Code, § 16-64.)~~

Repealed.

Section 82-4-4. Reckless driving; driving certain vehicles in excess of sixty-five miles per hour.47

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47. For similar state law, see Va. Code Ann., §§ 46.2-862, 46.2-870, adopted in § 82-1-6.

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~~A person shall be guilty of reckless driving if he operates any truck, tractor or tractor-truck or motor vehicle being used to tow a vehicle designed for self-propulsion, or a house trailer, or combination of vehicles designed to transport property upon the highways in the County at a speed in excess of sixty-five (65) miles per hour, unless upon the Interstate System of Highways or other limited access highways with divided roadways in which case exceeding seventy-five (75) miles per hour shall constitute reckless driving. ((3-13-63; 1961 Code, § 16-65.)~~

Repealed.

Section 82-4-5. Reckless driving; racing.48

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48. For similar state law, see Va. Code Ann., § 46.2-865, adopted in § 82-1-6.

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~~Any person who shall engage in a race between two (2) or more motor vehicles on the highways of this County or upon any driveway or premises of a church, school, recreational facility or business property open to the public in this County shall be guilty of reckless driving, unless authorized by the owner of the property or his agent. When any person shall be convicted of reckless driving under this Section, then in addition to any other penalties provided by law, the operator's or chauffeur's license of such person shall be suspended by the court or judge for a period of not less than six (6) months nor more than two (2) years. In case of conviction the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of Section 82-4-8. ((3-13-63; 1961 Code, § 16-66.)~~

Repealed.

Section 82-4-5.1. Failure to stop vehicle upon signal by Police. 49

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49. For similar state law, see Va. Code Ann., § 46.2-817, adopted in § 82-1-6.

~~Any person who having received a visible or audible signal from any police officer to bring his motor vehicle to a stop, shall operate such motor vehicle in a wilful or wanton disregard of such signal so as to interfere with or endanger the operation of the police vehicle or endanger other property or person, or who shall increase his speed and attempt to escape or elude such police officer, shall be guilty of reckless driving, and, upon conviction thereof shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00) or by imprisonment in jail for not less than sixty (60) days nor more than one (1) year, or both such fine and imprisonment. When any person shall be convicted of penalties provided herein, the operator's or chauffeur's licenses of such person may be suspended by the court or judge for a period not to exceed one (1) year; provided, however, in any case where the speed of the accused is determined to have exceeded the maximum allowed by fifteen (15) miles per hour where the maximum speed is fifty-five (55) miles per hour or greater, the operator's or chauffeur's license shall be suspended by the court or judge trying the case for a period of not less than ninety (90) days. In case of conviction and suspension the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of*Code of Virginia,* Section 46.2-398. ((37-76-82; 30-89-82.)~~

Repealed.

Section 82-4-6. Reckless driving; penalty.~~49~~ 50

~~49~~ 50. For similar state law, see Va. Code Ann., §§ 46.2-868~~, 46.2-392~~, adopted in § 82-1-6.

~~Every person convicted of reckless driving under Sections 82-4-1 through 82-4-5.1 shall, for the first violation, be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment. For each second or subsequent conviction for the offense of reckless driving, under any of such Sections, committed within twelve (12) months before or after the date of another act of reckless driving for which he has been convicted, such person shall be punished by a fine of not less than One Hundred Dollars ($100.00), nor more than One Thousand Dollars ($1,000.00) or by imprisonment in jail for not less than ten (10) days nor more than twelve (12) months, or by both such fine and imprisonment. ((3-13-63; 1961 Code, § 16-67.)~~

Repealed.

Section 82-4-7. Suspension of operator's license upon conviction of reckless driving generally.~~50~~ 51

~~50~~ 51. For similar state law, see Va. Code Ann., § 46.2-392, adopted in § 82-1-6.

~~(a) In addition to the penalties for reckless driving prescribed in Section 82-4-6 and except in those cases for which a revocation of license is provided in*Code of Virginia,* Section 46.2-389.A.5 any court may suspend any license issued to a convicted person under *Code of Virginia,* Ch. 3, Subtitle II, Title 46.2, Section 46.2-300 et seq. for a period of not less than ten (10) days nor more than six (6) months~~

~~and such court shall require the convicted person to surrender his license so suspended to the court where it shall be disposed of in accordance with Section 82-4-9.~~

~~(b) If a person convicted has not obtained the license required by such Chapter, or is a nonresident, the court may direct in the judgment of conviction that such person shall not, for a period of not less than ten (10) days nor more than six (6) months as may be prescribed in the judgment, drive or operate any motor vehicle in this State. The court or the clerk of court shall transmit the license to the Commissioner along with the report of the conviction requiring revocation under*Code of Virginia,* Section 46.2-389, the court shall suspend the operator's or chauffeur's license of such person and thereupon transmit the same to the Division of Motor Vehicles as provided by law. ((3-13-63; 1961 Code, § 16-68.)~~

Repealed.

Section 82-4-8. Suspension of operator's license upon conviction of reckless driving for exceeding speed of sixty-five or seventy-five miles per hour.~~51~~ 52

~~51~~ 52. For similar state law, see Va. Code Ann., § 46.2-393, adopted in § 82-1-6.

~~When any person shall be convicted of reckless driving for exceeding a speed of sixty-five (65) or seventy-five (75) miles per hour, as the case may be, upon the highways in this County under Section 82-4-3 or 82-4-4, then in addition to any other penalties provided by law, except in those cases for which revocation of licenses is provided in*Code of Virginia,* Section 46.2-389, the operator's or chauffeur's license of such person may be suspended by the court or judge for a period of not less than sixty (60) days nor more than six (6) months. In case of conviction the court or judge shall order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of *Code of Virginia,* Section 46.2-398. Where the conviction is a second conviction which would require revocation under the provisions of *Code of Virginia,* Section 46.2-389, the court shall suspend the operator's or chauffeur's license of such person and thereupon transmit the same to the Division of Motor Vehicles as provided by law. If such person so convicted has not obtained a license required by *Code of Virginia,* Ch. 3, Subtitle II, Title 46.2, Section 46.2-300 et seq. or is a nonresident, such court shall direct in the judgment of conviction that such person shall not drive or operate any motor vehicle in this State for a period of not less than sixty (60) days nor more than six (6) months. ((3-13-63; 1961 Code, § 16-69.)~~

Repealed.

Section 82-4-8.1. Suspension of license for reckless driving resulting in the death of any person. 53

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53. For similar state law, see Va. Code Ann., § 46.2-396, adopted in § 82-1-6.

~~When any person shall be convicted of reckless driving as provided in Section 82-4-2 and such reckless driving was the cause of the death of any person, then in addition to any other penalties provided by law, the operator's or chauffeur's license of such person may be suspended by the court or judge for a period not to exceed twelve (12) months. In case of conviction the court or judge may order the surrender of the license to the court where it shall be disposed of in accordance with the provisions of Section 46.2-398 of the*Code of Virginia.* If such person so convicted has not obtained a license required by Chapter 3 of Title 46.2 in the *Code of Virginia* or is a~~

~~nonresident, such court may direct in the judgment of conviction that such person shall not drive nor operate any motor vehicle in this State for a period not to exceed twelve (12) months. The fact of such suspension shall not be admissible as evidence in any related civil proceeding. ((37-76-82; 30-89-82.)~~

Repealed.

Section 82-4-9. Disposition of surrendered licenses upon conviction requiring revocation or suspension.~~52~~ 54

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~~52~~ 54. For similar state law, see Va. Code Ann., § 46.2-398, adopted in § 82-1-6.

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~~(a) In any case in which the accused is convicted of an offense, upon the conviction of which the law requires or permits revocation or suspension of the operator's or chauffeur's license of the person so convicted, the court shall order the surrender of such license, which shall remain in the custody of the court during the period of such revocation or suspension if such period does not exceed thirty (30) days, or until: (1) The time allowed by law for appeal has elapsed, when it shall be forwarded to the Commissioner; or (2) An appeal is effected and proper bond posted, at which time it shall be returned to the accused.~~

~~(b) When the time of suspension or revocation coincides or approximately coincides with the appeal time, the court may retain the license and return the same to the accused upon the expiration of the suspension or revocation. ((3-13-63; 1961 Code, § 16-70.)~~

Repealed.

Section 82-4-10. Maximum and minimum speed limits; posting of school zones.

(a) Whenever the speed limits incorporated by reference pursuant to § 82-1-6 have been increased or decreased for any highway or portion thereof pursuant to Virginia Code § 46.2-878 or § 46.2-1300, it shall be unlawful for any person to drive a motor vehicle at a speed in excess of such increased or decreased limits, when the same are properly indicated by signs on such highway. As provided for in Virginia Code § 46.2-878, whenever the speed limit on any highway has been increased or decreased or a differential speed limit has been established and such speed limit is properly posted, there shall be a rebuttable presumption that the change in speed was properly established in accordance with the provisions of Virginia Code § 46.2-878.

(b) It shall be unlawful for any person to drive or operate a motor vehicle upon the highways in the county at a speed in excess of the maximum limits established in Virginia Code §§ 46.2-870—46.2-878.2. (3-13-63; 1961 Code, § 16-71; 9-78-82; 26-81-82; 25-10-82.)

Section 82-4-11. Prohibiting conviction for speeding in certain areas unless markers installed.~~54~~ 55

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~~54~~.55 For similar state law, see Va. Code Ann., § 46.2-879, adopted in § 82-1-6.

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~~No person shall be convicted of a violation of an ordinance enacted by local authorities pursuant to the provisions of the Va. Code Ann., § 46.1-180 decreasing the speed limit established in the Va. Code Ann., § 46.1-193 when such person has exceeded the speed limit in an area where the speed limit has been decreased, unless such area is clearly indicated by a conspicuous marker at the termini of such area. ((3-13-63; 1961 Code, § 16-72.)~~

Repealed.

Section 82-4-12. Speed limits not applicable to certain vehicles under certain circumstances.~~55~~ 56

~~55~~ 56. For similar state law, see Va. Code Ann., § ~~46.2-918~~ 46.2-920, adopted in § 82-1-6.

~~(a) The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police or in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violations, or in response to emergency calls, or in testing the accuracy of the radio microwave or other electrical devices specified in Section 82-4-14, nor to Fire Department vehicles when traveling in response to a fire alarm or pulmotor call, nor to ambulances when traveling in emergencies.~~

~~(b) These exemptions, hereinbefore granted to such a moving vehicle, shall apply on when the operator of such vehicle displays a flashing, blinking or alternating red light and sounds a siren, bell, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle standard automobile liability insurance covering injury or death to any one (1) person in the sum of at least One Hundred Thousand Dollars ($100,000.00) in any one (1) accident, and subject to the limit for one (1) person, to a limit of Three Hundred Thousand Dollars ($300,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and to a limit of Ten Thousand Dollars ($10,000.00) because of injury to or destruction of property of others in any one (1) accident. Such exemptions shall not protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this Section shall be construed to release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation. ((3-13-63; 1961 Code, § 16-73; 37-76-82.)~~

Repealed.

Section 82-4-13. Suspension of license where speed limit exceeded by more than five miles per hour.

When any person shall be convicted for the second and each subsequent time within the period of one (1) year of violating any law of this State which designates the maximum speed limit for the operation of motor vehicles and the judge or jury shall find in each case that such person exceeded the prescribed speed limit by more than five (5) miles per hour, then in addition to any other penalties provided by law, the operator's license of such person shall be suspended for a period of sixty (60) days. The provisions of this Section shall not apply in any case unless the applicable legal speed is forty-five (45) miles per hour or more. In case of conviction the court or judge shall require the delivery of the operator's permit to the court, where it shall be held in accordance with *Code of Virginia,* Section 46.2-398. The provisions of *Code of Virginia,* Section 46.2-411, shall not apply to any person whose license is revoked under the provisions of this Section. (1961 Code, § 16-74; 30-89-82.)

Section 82-4-14. Checking on speed with electrical devices; certificate as to accuracy of device; arrest without warrant.~~56~~ 57

~~56~~ 57. For similar state law, see Va. Code Ann., § 46.2-882, 46.2-883, adopted in § 82-1-6.

~~(a) The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. In any court or legal proceedings in which any question arises about the calibration or accuracy of any radio microwave or other electrical device used to check the speed of any motor vehicle, a certificate, executed and signed by the officers calibrating or testing such device for its accuracy, and stating the time of such test, type of test and results of testing when such certificate is accompanied by a certificate, or a true copy thereof, showing the calibration of accuracy of the speedometer of any vehicle employed in calibrating or testing such device, and when and by whom such speedometer calibration was made, shall be admissible when attested by one such officer who executed and signed it as evidence of the facts therein stated and the results of such testing.~~

~~(b) The driver of any such motor vehicle may be arrested without a warrant under this Section; provided, the arresting officer is in uniform and displays his badge of authority; provided, that such officer has observed the registration of the speed of such motor vehicle by the radio microwaves or other electrical device or has received a radio message from the officer who observed the speed of the motor vehicle registered by the radio microwaves or other electrical device; provided, in the case of an arrest based on such a message, that such radio message has been dispatched immediately after the speed of the motor vehicle was registered and furnished the license number or other positive identification of the vehicle and the registered speed to the arresting officer.~~

~~(c) Signs to indicate the legal rate of speed and that the speed of motor vehicles may be measured by radio microwaves or other electrical devices shall be placed at or near the State boundary on those interstate and primary highways which connect the State to the other jurisdictions at such locations as the State Highway Commissioner, in his discretion, may select. There shall be a prima facie presumption that such signs were in place at the time of the commission of the offense of exceeding the legal rate of speed, and a certificate by the State Highway Commissioner as to the placing of such signs shall be admissible in evidence to support or rebut the presumption. Such legal rate of speed and notice of measurement of speed by radio microwaves or other electrical devices may be posted on different signs and need not be posted on the same sign. ((3-13-63; 1961 Code, § 16-75.)~~

Repealed.

Section 82-4-15. Prohibiting use of devices on motor vehicles to detect presence of radar upon highways or operation of motor vehicles so equipped.~~57~~ 58

~~57~~ 58. For similar state law, see Va. Code Ann., § 46.2-1079, adopted in § 82-1-6.

~~(a) It shall be unlawful for any person to operate a motor vehicle upon the highways of this State when such vehicle is equipped with any device or mechanism to detect the emission of radio microwaves in the~~

~~electromagnetic spectrum, which microwaves are employed by police to measure the speed of motor vehicles upon the highways of this State for law enforcement purposes; it shall be unlawful to use any such device or mechanism upon any such motor vehicles upon the highways; it shall be unlawful to sell any such device or mechanism in this State. Provided, however, that the provisions of this Section shall not apply to any receiver of radio waves utilized for lawful purposes to receive any signal from a frequency lawfully licensed by any State or federal agency.~~

~~(b) Any person violating any provision of this Section shall be guilty of a traffic infraction pursuant to Section 82-1-35 and Code of Virginia, Section 19.2-254.1 and shall, upon conviction thereof, be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00). This section shall not be construed to authorize the forfeiture to the Commonwealth of any device or mechanism. Any such device or mechanism may be taken by the arresting officer if needed as evidence, and shall, when no longer needed, be returned to the person charged with a violation under this Section, or at the person's request, and his expense, mailed to an address specified by him.~~

~~(c) Except as provided under Subsection (b) of this Section, the presence of any such prohibited device or mechanism in or upon a motor vehicle upon the highways of this State shall constitute prima facie evidence of the violation of this Section. The Commonwealth need not prove that the device in question was in an operative condition or being operated.~~

~~(d) No person shall be guilty of a violation of this Section when the device or mechanism in question, at the time of the alleged offense, had no power source and was not readily accessible for use by the driver of any passenger in the vehicle.~~

~~(e) This Section shall not apply to motor vehicles owned by the Commonwealth or any political subdivision thereof and which are used by the police of any such government nor to law enforcement officers in their official duties, not to the sale of any such device or mechanism to law enforcement agencies for use in their official duties. ((Va. Code Ann., 1962, c. 125; 3-13-63; 1961 Code, § 16-76; 37-76-82; 34-78-82.)~~

Repealed.

Section 82-4-16. Table of speed and stopping distances.~~58~~ 59

~~58. Editor's note--This Section is set out for information purposes and may be used by a locality for that purpose, if desired.~~

~~(a) All courts shall take notice of the following table of speed and stopping distances of motor vehicles, which shall not raise a presumption, in actions in which inquiry thereon is pertinent to the issues.~~

~~(b) The courts shall further take notice that such table is the result of experiments made with motor vehicles unloaded except for the driver, equipped with four wheel brakes, in good condition, on dry, hard, approximately level stretches of highway free from loose material.59~~

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59. For similar state law, see Va. Code Ann., § 46.2-880, adopted in § 82-1-6.

~~TABLE INSET:~~

~~Speed In~~	~~Average Stopping Distance~~				~~Total Stopping Distances: Driver and~~	
~~Miles Per Hour~~	~~Feet Per Second~~	~~Automobile Brakes (In Feet)~~	~~Truck Brakes (Brakes On All Wheels) (In Feet)~~	~~Average Driver Reaction Time (3/4 Second) (In Feet)~~	~~Automobiles (In Feet)~~	~~Trucks (In Feet)~~
~~10~~	~~14.67~~	~~5~~	~~7~~	~~11~~	~~16~~	~~18~~
~~15~~	~~22.0~~	~~12~~	~~17~~	~~16~~	~~28~~	~~33~~
~~20~~	~~29.34~~	~~21~~	~~30~~	~~22~~	~~43~~	~~52~~
~~25~~	~~36.62~~	~~32~~	~~47~~	~~27~~	~~59~~	~~74~~
~~30~~	~~44.0~~	~~47~~	~~67~~	~~33~~	~~80~~	~~100~~
~~35~~	~~51.3~~	~~63~~	~~92~~	~~38~~	~~101~~	~~130~~
~~40~~	~~58.7~~	~~82~~	~~120~~	~~44~~	~~126~~	~~164~~
~~45~~	~~66.0~~	~~104~~	~~152~~	~~50~~	~~154~~	~~202~~
~~50~~	~~73.3~~	~~128~~	~~187~~	~~55~~	~~183~~	~~242~~
~~55~~	~~80.7~~	~~155~~	~~227~~	~~61~~	~~216~~	~~288~~
~~60~~	~~88.0~~	~~185~~	~~270~~	~~66~~	~~251~~	~~336~~
~~65~~	~~95.3~~	~~217~~	~~316~~	~~71~~	~~288~~	~~387~~
~~70~~	~~102.6~~	~~252~~	~~367~~	~~77~~	~~329~~	~~444~~
~~75~~	~~109.9~~	~~289~~	~~422~~	~~82~~	~~371~~	~~504~~
~~80~~	~~117.2~~	~~328~~	~~480~~	~~88~~	~~416~~	~~568~~
~~90~~	~~132.0~~	~~425~~	~~607~~	~~99~~	~~524~~	~~706~~
~~100~~	~~146.6~~	~~514~~	~~750~~	~~109~~	~~623~~	~~859~~

~~((3-13-63; 1961 Code, § 16-77.)~~

Repealed.

Section 82-4-17. Driving motor vehicle, engine, etc., while intoxicated, etc.[60]

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60. For similar state law, see Va. Code Ann., § 18.2-266, adopted in § 82-1-6.

Repealed by 36-90-82.

Section 82-4-18. Analysis of breath to determine alcoholic content of blood.61

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61. For similar state law, see Va. Code Ann., § 18.2-267, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-19. Use of chemical test to determine alcohol or drug content of blood; procedure; qualifications and liability of person withdrawing blood; costs; evidence; suspension of license for refusal to submit to test; localities authorized to adopt parallel provisions.62

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62. For similar state law, see Va. Code Ann., § 18.2-268, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-20. Presumptions from alcoholic content of blood.63

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63. For similar state law, see Va. Code Ann., § 18.2-269, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-21. Penalty for driving while intoxicated; subsequent offense; prior conviction.64

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64. For similar state law, see Va. Code Ann., § 18.2-270, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-22. Forfeiture of driver's license for driving while intoxicated.65

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65. For similar state law, see Va. Code Ann., § 18.2-271, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-22.1. Probation, education and rehabilitation of person convicted; person convicted under law of another state.66

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66. For similar state law, see Va. Code Ann., § 18.2-271.1, adopted in § 82-1-6.

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Repealed by 36-90-82.

Section 82-4-23. Driving after forfeiture of license.67

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67. For similar state law, see Va. Code Ann., § 18.2-272, adopted in § 82-1-6.

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~~If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this County, he shall be guilty of a misdemeanor and may be confined in jail not more than six (6) months and may in addition be fined not more than Five Hundred Dollars ($500.00). Nothing in this Section or Section 82-4-17, Section 82-4-21, or Section 82-4-22 shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance. ((3-13-63; 1961 Code, § 16-84; 32-73-16; 37-76-82; 28-88-82.)~~

Repealed.

Section 82-4-24. Operator to give full time and attention to driving.

No person shall operate a motor vehicle upon the highways of this County without giving his full time and attention to the operation of the vehicle. ((3-13-63; 1961 Code, § 16-85.)

Section 82-4-25. Vehicle to be kept under control.

No person shall operate a motor vehicle upon the highways of this County, failing to keep the vehicle under proper control at all times. ((3-13-63; 1961 Code, § 16-86.)

Section 82-4-26. Penalty for violation of Sections 82-4-24 and 82-4-25.

Any person who violates Sections 82-4-24 and 82-4-25 shall, upon conviction thereof, be punished according to the provisions of Section 82-1-35. ((3-13-63; 1961 Code, § 16-87; 19-76-82.)

Section 82-4-27. Automobiles not to be equipped with television within view of operator of vehicle.68

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68. For similar state law, see Va. Code Ann., § ~~46.2-812~~ 46.2-1077, adopted in § 82-1-6.

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~~No motor vehicle operated in this County shall be equipped with, nor shall there be used therein, a television receiver forward of the driver's seat or the screen of which would otherwise be visible to the driver while operating the vehicle. This Section shall apply to all motor vehicles which are registered or should be registered in Virginia. The operator of a motor vehicle which is not registered in Virginia and is not required to be registered in Virginia shall not operate a television receiver which violates the provisions of this Section while driving through or within this County. Any person violating this Section shall be guilty of a misdemeanor. ((3-13-63; 1961 Code, § 16-88.)~~

Repealed.

Section 82-4-28. Unlawful to operate automobile while using earphones.69

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69. For similar state law, see Va. Code Ann., § 46.2-1078, adopted in § 82-1-6.

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~~(a) It shall be unlawful for any person to operate a motor vehicle on the highways of this Commonwealth while using earphones on or in both ears. Any person violating this Section shall be guilty of a traffic infraction punishable as provided in Section 82-1-35.~~

~~(b) For the purpose of this Section, "earphones" shall mean any device worn on or in the ears which converts electrical energy to sound waves or which impairs or hinders the person's ability to hear, but shall not include any prosthetic device which aids the hard of hearing, nor does it include the driver of any police vehicle, any fire vehicle used exclusively for fire fighting, any ambulance or rescue or lifesaving vehicle used for the principal purpose of emergency relief. ((1976; 9-78-82; 34-78-82.)~~

Repealed.

Division 2. Rules of the Road.

Section 82-4-29. Driving through safety zones prohibited.70

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70. For similar state law as to driving through safety zone, see Va. Code Ann., § 46.2-814, adopted in § 82-1-6.

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~~The driver of a vehicle shall not, at any time drive through or over a safety zone. ((3-13-63; 1961 Code, § 16-89.)~~

Repealed.

Section 82-4-30. Where operation of motorcycles prohibited.

(a) It shall be unlawful in Fairfax County for any person to ride, drive or operate any validly licensed and registered motorcycle on the sidewalks of this County, on any County property or other publicly owned property except for motorcycles owned by the Police Department and used by policemen in furtherance of their duties; provided, that any person may operate such a motorcycle on public driveways and highways unless otherwise prohibited by law.

(b) It shall be unlawful in Fairfax County for any person to operate any motorcycle which does not comply with the State and County registration and licensing requirements on the public highways, on the sidewalks of the County, or on the driveways or premises of the County or other publicly-owned property open to the public including but not limited to a school, recreational facility and/or business property.

(c) It shall be unlawful in Fairfax County for any person to operate any motorcycle, unless authorized by the owner of the property or his agent, on the driveways or premises of any privately-owned property including but not limited to a school, church, recreational facility, business property or other privately-owned area.

(d) If the owner of any privately-owned property under (c) of this Section desires enforcement upon his property of the provisions of this Section he or his agent shall notify the Chief of Police in writing of his desire and the owner or his agent shall post notices on the owner's property adequate to inform the public that operation of such vehicles upon the property is unlawful. Whenever notices are posted on the property in accord with the requirements of this Section, there shall be a prima facie presumption that the owner has complied with the required written notification to the Chief of Police.

(e) Where any officer with the enforcement of the motor vehicle laws of the State of Virginia or the County of Fairfax arrests any person and charges him with a violation under this section, he may seize any motorcycle which does not comply with the State or County registration or licensing requirements and deliver the same to the Chief of Police, or his designee, and the vehicle shall be held by the Chief of Police or his designee until the charge is disposed of by the court having jurisdiction, provided seizure shall not be made on any such unlicensed or unregistered motorcycle operated on private property unless the owner of such property complies with the notice requirements of this Section. In disposing of the charge, the court shall order the vehicle returned to its owner. When any person has been convicted of a second or subsequent violation of this Section, the Court may order such vehicle held by the Chief of Police or his designee for a period not to exceed ninety (90) days.

(f) A violation by any persons of any provision of this Section shall be a misdemeanor and, in addition to seizure of the vehicle as provided for in (e) of this Section, the penalty imposed shall be as provided for in Section 82-1-35 of this Code~~, with the exception that the penalty imposed on any person convicted of operating any motorcycle on the sidewalks of the County shall be fined not less than Five Dollars ($5.00) nor more than Twenty five Dollars ($25.00)~~. ((1961 Code, § 16-89.1; 3-75-16; 37-76-82; 16-77-82; 34-78-82.)

Section 82-4-31. Riding bicycles without using handlebars.[71]

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49. For similar state law, see Va. Code Ann., § 46.2-906, adopted in § 82-1-6.

~~No person shall ride a bicycle upon any street without having his hands upon the handle bars. ((3-13-63; 1961 Code, § 16-90.)~~

Repealed.

Section 82-4-32. Backing of vehicles.

The operator of any vehicle in the County shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic. ((3-13-63; 1961 Code, § 16-91.)

Section 82-4-33. Blocking intersections.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. ((3-13-63; 1961 Code, § 16-92.)

Section 82-4-34. Coasting prohibited.~~71~~ 72

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~~71~~ 72. For similar state law, see Va. Code Ann., § 46.2-811, adopted in § 82-1-6.

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~~The driver of a motor vehicle when traveling upon a downgrade upon any highway shall not coast with the gears of such vehicle in neutral. ((3-13-63; 1961 Code, § 16-93.)~~

Repealed.

Section 82-4-35. Driving more than thirteen hours in twenty-four hours prohibited.~~72~~ 73

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~~72~~ 73. For similar state law, see Va. Code Ann., § 46.2-812, adopted in § 82-1-6.

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~~(a) It shall be unlawful for any person to drive any motor vehicle on the highways of this State for more than thirteen (13) hours in any period of twenty-four (24) hours or for a period which, when added to the time such person may have driven a motor vehicle over the highways of any other state, would make an aggregate of more than thirteen (13) hours in any period of twenty-four (24) hours; provided, however, that the provisions of this Section shall not apply to the operation of motor vehicles used in snow removal or similar emergency situations by the State Department of Highways and Transportation or its contractors or agents of any county, city or town.~~

~~(b) It shall also be unlawful for the owner of any such vehicle to cause or permit the same to be driven in violation of this Section. ((3-13-63; 1961 Code, § 16-94; 34-78-82.)~~

Repealed.

Section 82-4-36. Drive on right side of highways.~~73~~ 74

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~~73~~ 74. For similar state law, see Va. Code Ann., § 46.2-802, adopted in § 82-1-6.

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~~Except as otherwise provided by law upon all highways of sufficient width, the driver of a vehicle shall drive the same upon the right half of the highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle, subject to the limitations applicable in overtaking and passing set forth in Sections 82-4-41 and 82-4-45. ((3-13-63; 1961 Code, § 16-95.)~~

Repealed.

Section 82-4-37. Driving around rotary traffic islands.~~74~~ 75

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~~74~~ 75. For similar state law, see Va. Code Ann., § ~~46.2-812~~, 46.2-807, adopted in § 82-1-6.

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~~The driver of a vehicle in passing around a rotary traffic island shall drive such vehicle only to the right of such island. ((3-13-63; 1961 Code, § 16-96.)~~

Repealed.

Section 82-4-38. Keep to the right in crossing intersections or railroads.~~75~~ 76

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~~75~~ 76. For similar state law, see Va. Code Ann., § 46.2-803, adopted in § 82-1-6.

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~~Except as otherwise provided by law, in crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right side is obstructed or impassable. Provided however, that in crossing an intersection of highways, the driver of a vehicle may overtake or pass another vehicle in the intersection if such intersection is designated and marked as a passing zone by the State Highway and Transportation Commission pursuant to its authority set out in *Code of Virginia*, Section 46.2-830, and shall be punished as provided in Section 82-1-35. ((3-13-63; 1961 Code, § 16-97; 34-78-82.)~~

Repealed.

Section 82-4-39. Special regulations applicable on streets and highways laned for traffic.~~76~~ 77

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~~76~~ 77. For similar state law, see Va. Code Ann., § 46.2-804, adopted in § 82-1-6.

~~(a) Whenever any highway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following regulations:~~

~~(1) Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing shall be driven in the lane nearest the right-hand edge or curb of the highway when such lane is available for travel, except when overtaking and passing another vehicle or in preparation for a left turn or as permitted in Paragraph (4) of this Subsection.~~

~~(2) A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.~~

~~(3) Upon a highway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted or marked to give notice of such allocation; provided that official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.~~

~~(4) The State Highway Commission or the County, with respect to highways under their jurisdiction, may designate right-hand lanes for slow-moving traffic and when such lanes are sign-posted or marked to give notice of such designation a vehicle may be driven in any lane allocated to traffic moving in the direction such vehicle is proceeding, but when traveling within such inside lanes vehicles shall be driven at approximately the speed authorized in such lanes and speed shall not unnecessarily be decreased so as to block, hinder or retard traffic.~~

~~(5) Whenever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line; except, that it shall be lawful to make a left turn for the purpose of entering or leaving a public, private or commercial road or entrance; provided, however, that where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of making a left turn into a public, private or commercial road or entrance, provided however that the vehicle may not travel in such lane for a distance greater than one hundred fifty (150) feet.~~

~~(6) Wherever a highway is marked with double traffic lines consisting of two (2) immediately adjacent solid lines, no vehicle shall be driven to the left of such lines; except, that it shall be lawful to make a left turn for the purpose of entering or leaving a public, private or commercial road or entrance. ((3-13-63; 1961 Code, § 16-98; 37-76-82; 19-79-82.)~~

Repealed.

Section 82-4-40. Passing vehicles proceeding in opposite directions. 78

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78. For similar state law, see Va. Code Ann., § 46.2-837, adopted in § 82-1-6.

~~Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other, as nearly as possible, one-half of the main-traveled portion of the roadway. ((3-13-63; 1961 Code, § 16-99.)~~

Repealed.

Section 82-4-41. Passing upon overtaking a vehicle. 79

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79. For similar state law, see Va. Code Ann., § 46.2-838, adopted in § 82-1-6.

~~The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two (2) feet to the left thereof and shall not again drive to the right side of the highway until safely clear of such overtaken vehicle, except as provided in this Article. ((3-13-63; 1961 Code, § 16-100.)~~

Repealed.

Section 82-4-42. Audible warning signal upon overtaking vehicle.

Repealed by 25-96-82.

Section 82-4-43. When overtaking vehicle may pass on right. 80

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80. For similar state law, see Va. Code Ann., § 46.2-841, adopted in § 82-1-6.

~~(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:~~

~~(1) When the vehicle overtaken is making or about to make a left turn, and the driver of such vehicle has given a signal as required.~~

~~(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction.~~

~~(3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.~~

~~(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement made by driving off the pavement or main traveled portion of the roadway. ((3-13-63; 1961 Code, § 16-102.)~~

Repealed.

Section 82-4-44. Driver to give way to overtaking vehicle. 81

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81. For similar state law, see Va. Code Ann., § 46.2-842, adopted in § 82-1-6.

~~Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle; provided however, that any over-width, or slow-moving vehicle as defined by Section 82-6-25.1 shall be removed from the traveled way at the nearest suitable location when necessary to allow traffic to pass. ((3-13-63; 1961 Code, § 16-103; 19-79-82.)~~

Repealed.

Section 82-4-45. Limitations on privileges of overtaking and passing. 82

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82. For similar state law, see Va. Code Ann., § 46.2-843, adopted in § 82-1-6.

~~(a) The driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.~~

~~(b) No person operating a truck or tractor and trailer shall pass or attempt to pass any truck or tractor and trailer going in the same direction on an upgrade hill if such passing will impede the passage of following traffic. ((3-13-63; 1961 Code, § 16-104.)~~

Repealed.

Section 82-4-46. Following too closely. 83

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83. For similar state law, see Va. Code Ann., § 46.2-816, adopted in § 82-1-6.

~~(a) The driver of a motor vehicle shall not follow another motor vehicle, trailer or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic upon, and conditions of, the highway at the time.~~

~~(b) The driver of any motor truck or bus shall not follow another motor truck or bus within two hundred (200) feet when upon any highway outside of cities or towns. ((3-13-63; 1961 Code, § 16-105.)~~

Repealed.

Section 82-4-47. Limitation upon turning so as to proceed in opposite direction.

(a) The driver of a vehicle in the County shall not turn such vehicle so as to proceed in the opposite direction except at an intersection of highways; provided, however, that no driver shall cause any vehicle to make a turn to proceed in the opposite direction at any intersection where there is a sign or other marking prohibiting such action.

(b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from any direction within five hundred (500) feet. ((3-13-63; 1961 Code, § 16-106.)

Section 82-4-48. Required position and method of turning at intersections; signs. 84

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84. For similar state law, see Va. Code Ann., § 46.2-846, adopted in § 82-1-6.

~~(a) The driver of a vehicle intending to turn at an intersection or other location on any highway, except as prohibited by the preceding Section or any other provision of this Chapter, shall do as follows:~~

~~(1) *Right turn.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.~~

~~(2) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.~~

~~(3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, and at any crossover from one roadway of a divided highway to another roadway thereof on which traffic moves in the opposite direction, the driver of a vehicle intending to turn left at any such intersection or crossover shall approach the intersection or crossover in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection or crossover the left turn shall be made so as to leave the intersection or crossover, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.~~

~~(4) When markers, buttons or signs are placed within or adjacent to intersections and thereby require and direct that a different course from that specified above in this Section be traveled, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. ((3-13-63; 1961 Code, § 16-107.)~~

Repealed.

Section 82-4-49. Signals required on starting, stopping or turning.~~77~~ 85

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~~77~~ 85. For similar state law, see Va. Code Ann., § 46.2-848, adopted in § 82-1-6.

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~~Every driver who intends to start, back, stop, turn or partly turn from a direct line shall first see that such movement can be made in safety and whenever the operation of any other vehicle may be affected by such movement shall give a signal as required in Section 82-4-50, 82-4-51 or 82-4-52 plainly visible to the driver of such other vehicle of his intention to make such movement. ((3-13-63; 1961 Code, § 16-108.)~~

Repealed.

Section 82-4-50. Signals required on starting, stopping or turning; how such signals are given.~~78~~ 86

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78 86. For similar state law, see Va. Code Ann., § 46.2-849, adopted in § 82-1-6.

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~~(a) The signal required in Section 82-4-49 shall be given by means of the hand and arm or by some mechanical or electrical device approved by the Superintendent, in the manner herein specified. Whenever the signal is given by means of the hand and arm, the driver shall indicate his intention to start, stop, turn, or partly turn by extending the hand and arm from beyond the left side of the vehicle, in the following manner:~~

~~(1) For left turn or to pull to the left, the arm shall be extended in a horizontal position straight from the level with the shoulder;~~

~~(2) For right turn or to pull to the right, the arm shall be extended upward;~~

~~(3) For slowing down or to stop, the arm shall be extended downward.~~

~~(b) Wherever the lawful speed is more than thirty-five (35) miles per hour, such signals shall be given continuously for a distance of at least one hundred (100) feet, and in all other cases at least fifty (50) feet, before slowing down, stopping, turning, partly turning or materially altering the course of the vehicle. ((3-13-63; 1961 Code, § 16-109.)~~

Repealed.

Section 82-4-51. Signals required on starting, stopping or turning; change of course after giving signal.~~79~~ 87

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~~79~~ 87. For similar state law, see Va. Code Ann., § 46.2-850, adopted in § 82-1-6.

~~Drivers having once given a hand, electrical or mechanical device signal must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change. ((3-13-63; 1961 Code, § 16-110.)~~

Repealed.

Section 82-4-52. Signals required on starting, stopping or turning; duty of drivers receiving signals.~~80~~ 88

~~80. Similar to former § 46.2-219, which has been repealed.~~
88. For similar state law, see Va. Code Ann., § 46.2-848, adopted in § 82-1-6.

~~Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal. ((3-13-63; 1961 Code, § 16-111.)~~

Repealed.

Section 82-4-53. Signals prior to moving standing vehicles into traffic.~~81~~ 89

~~81~~ 89. For similar state law, see Va. Code Ann., § 46.2-851, adopted in § 82-1-6.

~~Drivers of vehicles standing or stopped at the curb or edge before moving such vehicles shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction of the vehicle will proceed from the curb. ((3-13-63; 1961 Code, § 16-112.)~~

Repealed.

Section 82-4-54. Right-of-way generally.~~82~~ 90

~~82~~ 90. For similar state law, see Va. Code Ann., §§ 46.2-820--46.2-823, adopted in § 82-1-6.

~~Except as provided in Section 82-4-58, when two (2) vehicles approach or enter an intersection at approximately the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right unless a "Yield Right-of-Way" sign is posted. Where any such sign is posted, the driver of the vehicle approaching or entering such intersection on the highway, road or street on which such sign is posted shall yield the right-of-way to the driver of a vehicle approaching or entering such intersection from either direction. At traffic circles vehicles already in the circle shall have the right-of-way over vehicles approaching and entering the circle.~~

~~The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way which he might otherwise have hereunder. ((3-13-63; 1961 Code, § 16-113.)~~

Repealed.

Section 82-4-55. Right-of-way when vehicle turns to left.~~83~~ 91

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~~83~~ 91. For similar state law, see Va. Code Ann., § 46.2-825, adopted in § 82-1-6.

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~~The driver of a vehicle, intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute a hazard, provided, that where there is an automatic signal device governing the flow of traffic at any intersection and allowing turns to the left while all other vehicle traffic is required to stop, any vehicle making such turn shall have the right-of-way over all other vehicles approaching the intersection. ((3-13-63; 1961 Code, § 16-114.)~~

Repealed.

Section 82-4-56. Stop before entering public highway or sidewalk from private road; yielding of right-of-way.~~84~~ 92

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~~84~~ 92. For similar state law, see Va. Code Ann., § 46.2-826, adopted in § 82-1-6.

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~~The driver of a vehicle entering a public highway or sidewalk from a private road, driveway, alley or building shall stop immediately before entering such highway or sidewalk and upon entering such highway or sidewalk, shall yield the right-of-way to all vehicles approaching on such public highway or to all pedestrians or vehicles approaching on such public sidewalk. ((3-13-63; 1961 Code, § 16-115.)~~

Repealed.

Section 82-4-56.1. Vehicles before entering certain highways shall stop or yield right-of-way.93

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93. For similar state law, see Va. Code Ann., § 46.2-821, adopted in § 82-1-6.

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~~(a) The driver of a vehicle approaching an intersection on a highway controlled by a stop sign shall, immediately before entering such intersection, stop at a clearly marked stop line, but if none, shall stop before entering the crosswalk on the near side of the intersection, or, if none, shall stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting~~

~~roadway, and before proceeding shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction.~~

~~(b) Where a "Yield Right-of-Way" sign is posted, the driver of a vehicle entering such intersection shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, shall stop before entering the crosswalk on the near side of the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, and before proceeding shall yield the right-of-way to the driver of any vehicle approaching on such other highway from either direction. ((37-76-82.)~~

Repealed.

Section 82-4-57. Right-of-way of United States forces, troops, national guard.~~85~~ 94

~~85~~ 94. For similar state law, see Va. Code Ann., § 46.2-827, adopted in § 82-1-6.

~~United States forces or troops, or any portion of the Virginia national guard or naval militia, parading or performing any duty according to law, or any civil defense personnel performing any duty according to law, shall have the right-of-way in any street or highway through which they may pass; provided, that the carrying of the United States mails, the legitimate functions of the police and the progress and operation of fire engines and fire departments shall not be interfered with. ((3-13-63; 1961 Code, § 16-116.)~~

Repealed.

Section 82-4-58. Approach of police or fire-fighting vehicles, rescue vehicles or ambulances; violation as failure to yield right-of-way.~~86~~ 95

~~86~~ 95. For similar state law, see Va. Code Ann., § 46.2-829, adopted in § 82-1-6.

~~(a) Upon the approach of any vehicle listed in Section 82-4-59(a) giving audible signal by sirens, exhaust whistle, or air horn designed to give automatically intermittent signals, and displaying a flashing, blinking or alternating red light, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of highways, and shall stop and remain in such position unless otherwise directed by a police or traffic officer until such vehicle shall have passed. This provision shall not operate to relieve the driver of any such vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequences of an arbitrary exercise of such right-of-way.~~

~~(b) Violation of this Section shall constitute failure to yield the right-of-way. ((3-13-63; 1961 Code, § 16-117; 37-76-82.)~~

Repealed.

Section 82-4-59. Police, fire-fighting and rescue vehicles and ambulances exempt from regulations in certain emergencies; exceptions and additional requirements.~~87~~ 96

~~87~~ 96. For similar state law, see Va. Code Ann., § 46.2-920, adopted in § 82-1-6.

~~(a) The operator of (1) any law enforcement vehicle operated by or under the direction of a Federal, State, or local law enforcement officer in the chase or apprehension of violators of the law or persons charged with or suspected of any such violation, or in response to an emergency call; (2) any vehicle used for the purpose of fighting fire, including publicly owned State forest warden vehicles not to exceed two hundred (200) in number, when traveling in response to a fire alarm or emergency call; (3) any vehicle owned by a political subdivision of the Commonwealth for rescue purposes when traveling in response to a fire alarm or an emergency call; or (4) any ambulance or rescue or life-saving vehicle designed or utilized for the principal purposes of supplying resuscitation or emergency relief where human life is endangered, when such vehicle is being used in the performance of public services, and when such vehicle is operated under emergency conditions, may, without subjecting himself to criminal prosecution:~~

~~(1) Proceed past red signal, light, stop sign or device indicating moving traffic shall stop if the speed and movement of the vehicle is reduced and controlled so that it can pass a signal, light or device with due regard to the safety of persons and property.~~

~~(2) Park or stand notwithstanding the provisions of this Chapter.~~

~~(3) Disregard regulations governing a direction of movement of vehicles turning in specified directions so long as the operator does not endanger life or property.~~

~~(4) Pass or overtake, with due regard to the safety of persons and property, another vehicle at any intersection.~~

~~(5) Pass or overtake with due regard to the safety of persons and property, while en route to an emergency, other stopped or slow-moving vehicles, by going off the paved or main-traveled portion of the roadway on the right. Notwithstanding Subsection (b) hereof, vehicles exempted in this instance will not be required to sound a siren or any device to give automatically intermittent signals.~~

~~(b) These exemptions, hereinbefore granted to such a moving vehicle, shall apply only when the operator of such vehicle displays a flashing, blinking or alternating red light and sounds a siren, exhaust whistle, or air horn designed to give automatically intermittent signals, as may be reasonably necessary, and, only when there is in force and effect for such vehicle standard automobile liability insurance covering injury or death to any person in the sum of at least One Hundred Thousand Dollars ($100,000.00) because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of Three Hundred Thousand Dollars ($300,000.00) because of bodily injury to or death of two (2) or more persons in any one accident, and to a limit of Ten Thousand Dollars ($10,000.00) because of injury to or destruction of property of others in any one accident. Such exemptions shall not, however, protect the operator of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property. Nothing in this Section shall be construed to release the operator of any such vehicle from civil liability for failure to use reasonable care in such operation. (12-12-62; 3-13-63; 4-12-67; 1-10-68; 1961 Code, §§ 16-118, 16-121.2; 37-76-82; 9-78-82; 26-81-32.)~~

Repealed.

Section 82-4-60. Following or parking near fire apparatus. 97

97. For similar state law, see Va. Code Ann., § 46.2-921, adopted in § 82-1-6.

~~It shall be unlawful for the driver of any vehicle, other than one on official business, to follow any fire apparatus traveling in response to a fire alarm at any distance closer than five hundred (500) feet to such apparatus or to park such vehicle within five hundred (500) feet of where fire apparatus has stopped in answer to a fire alarm. (3-13-63; 1961 Code, § 16-119.)~~

Repealed.

Section 82-4-61. Driving over fire hose. 98

98. For similar state law, see Va. Code Ann., § 46.2-922, adopted in § 82-1-6.

~~It shall be unlawful for the driver of any vehicle to drive over any unprotected hose of a Fire Department when laid down on any street or private driveway for use at any fire or alarm of fire without the consent of the Fire Department official in command.(3-13-63; 1961 Code, § 16-120.)~~

Repealed.

Board Agenda Item
March 20, 2012

4:30 p.m.

Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) to Approve a PRC Plan Associated with RZ A-502 to Redevelop Existing Multi-Family Dwellings with Single-Family Attached and Multi-Family Dwellings and Bonus Density for Providing ADUs, Located on Approximately 18.82 Acres Zoned PRC (Hunter Mill District)

The application property is located at 11555 and 11627 North Shore Drive, Southwest corner of North Shore Drive and Fairways Drive and East of the intersection of North Shore Drive and Wainwright Drive. Tax Map 17-2 ((18)) 1 and 17-2 ((19)) 2A.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, July 28, 2011, the Planning Commission voted unanimously (Commissioners Alcorn and Donahue absent from the meeting) to recommend the following actions to the Board of Supervisors pertinent to the subject application:

- Approval of PRC A-502-02, subject to the development conditions consistent with those dated July 27, 2011;

- Modification of the loading space requirement to allow a total of nine loading spaces instead of ten;

- Approval of a Public Facilities Manual (PFM) waiver to allow pervious pavements for parking spaces, walkways, and pedestrian plazas within a single-family attached residential neighborhood.

The Commission also voted 9-0-1 (Commissioner Harsel abstaining; Commissioners Alcorn and Donahue absent from the meeting) to recommend to the Board of Supervisors a waiver of the PFM to allow use of an underground stormwater management vault in a residential development, subject to the Department of Public works and Environmental Services waiver of conditions dated April 21, 2011.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4354040.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, DPZ

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Planning Commission Meeting Attachment 1
July 28, 2011
Verbatim Excerpt

PRC A-502-02 - FAIRWAYS I & II RESIDENTIAL, LLC

Decision Only During Commission Matters
(Public Hearing held on July 7, 2011)

Commissioner de la Fe: Thank you, Mr. Chairman. I have a decision to make – to propose tonight on PRC A-502-02, Fairways I & II Residential, LLC. Mr. Chairman, the first public hearing for this case was held on July 15, 2010. At that public hearing, the staff recommended denial primarily based on its findings that the proposed development was not in keeping with the character of the neighborhood and that the proposed density was at the highest end of the allowed zoning. Although the Reston Planning and Zoning Committee had recommended approval, its endorsement came with a degree of division not usually seen on its recommendations. Of the eight speakers testifying at that time, the majority were opposed. After that public hearing, the Planning Commission deferred its decision in order for the applicant to address the issues raised. In the year since the original public hearing, the applicant worked to redesign its development in order to address the issues raised. The second public hearing on this application was held on July 7, 2011. The revised application reduced the density and changed the configuration of the site design by increasing the number of single-family attached units, eliminating high-rise structures, and one mid-rise – one of the mid-rise buildings. The changes have satisfied staff's major original reasons for recommending denial and it is now recommending approval. The Reston Planning and Zoning Committee again recommends approval on a vote of 11 to 1 and 1 abstention, reflecting its traditional high level of consensus on project recommendations. At that public hearing, the majority of the nine speakers were opposed. Most of the speakers at the second public hearing were the same ones appearing or representing the same organization and at the first public hearing, raising many of the same objections. In addition to the individuals appearing at the public hearings, numerous communications from interested neighbors have been received, mainly in opposition. The issues raised during this second public hearing were similar to the ones raised a year earlier, relating to density, design, and traffic. The redevelopment proposed affects a part of what is traditionally referred to as "Original Reston." The site was developed 40 – over 40 years ago – 40 years ago at a lower density and character than envisioned and zoned. It is totally residential, although part of it – it is zoned to permit commercial. The original proposal included both residential and neighborhood serving retail. The commercial part of the proposal disappeared very quickly in response to community reaction. In keeping with what was developed, it is now recommended to be purely residential. There were requests that this redevelopment await the results of the ongoing study to revise Reston's Master Plan as contained in the County's Comprehensive Plan. We, of course, must base our actions on the current provisions of the Comprehensive Plan, not on what may be in the future. The proposed development is in keeping with the current Plan. Although much has been said about traffic, the principal roads serving this development can handle the additional traffic. The major problem spots relate to the arrival and dismissal times of the elementary school across the street and at the intersection with Temporary Road. The applicant has agreed to provide a traffic signal warrant study and contribute its pro rata share of the cost of the signal if deemed necessary. The issue of site design has been the

one that has raised the most comments. Under Reston's covenants, the Reston Design Review Board has final say on the design of properties, subject to the Reston Association. The DRB has raised numerous concerns and will have final say on what the final redevelopment will look like. However, we have a distinct governmental responsibility – responsibilities and guides. Because of the DRB's ultimate say, we have imposed a development condition that will give us the opportunity to review and approve the final design. The issue of affordable housing has been raised with respect to the redevelopment. Although many refer to the current development as affordable, the fact is that none of the units are under any kind of governmental control. They are all market rate. As part of the redevelopment, the applicant will provide the required number of units for the townhouse portion and the 12-percent workforce units for the rest of the development. I could go on and address a number of other issues. However, as a final point, I would like to remind my fellow residents of Reston of Bob Simon's seventh goal for the community, which to paraphrase is: "Since Reston is being developed by the private sector, it must be financially successful." Here, we are presented with an opportunity to redevelop an aging residential complex by the private sector that meets the requirements of the Comprehensive Plan. I realize that this is not a perfect development. I doubt that there is such a thing. But I believe that it is time to move on. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PRC A-502-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JULY 27, 2011.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I further MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE LOADING SPACE REQUIREMENT TO ALLOW A TOTAL OF 9 LOADING SPACES INSTEAD OF 10.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Hart. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE PFM TO ALLOW USE OF AN UNDERGROUND STORMWATER MANAGEMENT VAULT IN A RESIDENTIAL DEVELOPMENT, SUBJECT TO THE DPWES WAIVER CONDITIONS DATED APRIL 21, 2011.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Litzenberger. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Harsel: Abstain.

Chairman Murphy: Ms. Harsel abstains.

Commissioner de la Fe: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE PFM TO ALLOW PERVIOUS PAVEMENTS FOR PARKING SPACES, WALKWAYS, AND PEDESTRIAN PLAZAS WITHIN A SINGLE-FAMILY ATTACHED RESIDENTIAL NEIGHBORHOOD.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Hart. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.
//
(The first, second, and fourth motion carried unanimously with Commissioners Alcorn and Donahue absent from the meeting from the meeting.)

(The third motion carried by a vote of 9-0-1 with Commissioner Harsel abstaining; Commissioners Alcorn and Donahue absent from the meeting.)

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Board Agenda Item
March 20, 2012

5:00 p.m.

Public Hearing on the Confirmation of Fairfax County's Participation in Phase 2 of the Dulles Corridor Metrorail Project (Dranesville, Hunter Mill, Providence Districts)

ISSUE:
Confirm participation in Phase 2 of the Dulles Corridor Metrorail Project, extending Metrorail from Wiehle Avenue in Reston west to Dulles Airport and Loudoun County.

RECOMMENDATION:
The County Executive recommends that the Board confirm Fairfax County's participation in Phase 2 of the Dulles Corridor Metrorail Project under the terms and conditions addressed in the 2011 Memorandum of Agreement (Attachment I) and the 2007 Funding Agreement. In addition, it is recommended the Board confirm its intent to pursue all alternative financing sources available, including the use of the Commercial and Industrial Real Estate (C&I) Tax Fund, to finance the balance of the County's obligation in excess of the special tax district contributions.

TIMING:
On February 28, 2012, the Board authorized a Public Hearing to consider the County's Participation in Phase 2, to take place on March 20, 2012, at 5:00 p.m. On March 6, 2012, the Metropolitan Washington Airports Authority (MWAA) released the 100 percent Preliminary Engineering (PE) design plans and Preliminary Engineering cost estimate for the Phase 2 project. Based on the 2007 Funding Agreement, the funding partners have 90 days following the release of the 100 percent PE plans and cost estimate to opt out of the project. If the parties take no action, they remain part of the project. The 90-day review period ends June 4, 2012.

BACKGROUND:
Phase 2 of the Dulles Corridor Metrorail Project (the Project) is an extension of Metrorail from west of Wiehle Avenue in Reston along the Dulles International Airport Access Highway and Toll Road to Dulles Airport and then west along the Dulles Greenway in Loudoun County to the proposed Route 772 Station, as generally described in the Federal Transit Administration (FTA) Record of Decision, as amended on November 17, 2006 (the ROD). Pursuant to agreements in 2006 and 2007 between MWAA and Virginia, MWAA was empowered to carry out construction of the

Project and to operate the Dulles Toll Road (DTR) and collect toll revenues as necessary to maintain the DTR and fund Project construction.

Pursuant to the Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor entered into by MWAA, Fairfax County, and Loudoun County in 2007 (the Funding Agreement), the total Project cost is to be paid, generally, 16.1 percent by Fairfax, 4.8 percent by Loudoun, 4.1 percent by MWAA, and 75 percent (less any federal and state funding) by DTR toll revenues. Since no federal funding and only $24 million in Virginia funds were anticipated to cover Phase 2 costs, it was expected that DTR toll revenues would be needed to pay close to 75 percent of Phase 2 costs (because substantial federal and state funds were made available to pay for Phase 1, County staff estimated that approximately 56 percent of the total Project cost would need to be paid from DTR revenues). On March 6, 2012, Fairfax County received the 100 percent Preliminary Engineering (PE) Plans, 100 percent Preliminary Engineering Reposts, 100 percent Preliminary Engineering Cost Estimate, and the Independent Cost Estimate completed by McDonough, Bolyard, and Peck (MBP). The 90-day review period began on March 7, 2012, and ends June 4, 2012.

The 100 percent engineer's PE cost estimate is $3.156B. The MBP independent cost estimate is $3.298B, which is slightly higher ($142M) than the engineer estimate. The differential is almost entirely due to a higher assumed escalation rate in the estimate (4.5 percent vs. 3.0 percent). Neither cost estimates were adjusted to include savings identified in the Memorandum of Agreement brokered by the Secretary of Transportation Ray LaHood and the value engineering items agreed upon by the project principles. All the cost reduction items will be given to the final engineering designer to incorporate into the project design. The cost estimate includes the aerial station at Dulles International Airport, all five parking garages, the Route 28 Station, and the 250 rail car maintenance and storage facility.

The Funding Agreement provides, among other things, that Fairfax and Loudoun shall notify MWAA whether each respective county will proceed with its financial participation in Phase 2 of the Project within 90 days following receipt of the documents comprising 100 percent preliminary engineering for Phase 2, and documents supporting the amount of the cost estimate for Phase 2 at 100 percent preliminary engineering. The 90-day review period began on March 7, 2012, and ends June 4, 2012.

Phase 2 Cost Issues

In spring 2011, concerns arose about increases in the estimated cost to construct Phase 2 of the Project (which at one point exceeded $3.8 billion) and the effect of that increased cost on Fairfax, Loudoun, and DTR users. Disagreements arose about the best way to address those cost concerns, in particular, whether the proposed station at the Airport should be constructed underground, as originally proposed and favored by

MWAA, or constructed above ground at a considerable cost saving, as favored by Fairfax and Loudoun counties.

Thereafter, United States Secretary of Transportation (USDOT) Secretary Ray LaHood offered to mediate the matter to try to find a resolution acceptable to all of the involved parties that reduced the cost of Phase 2 and provided relief to anticipated DTR toll rates; and on July 1, 2011, held the first of a series of meetings for that purpose. The initial USDOT proposal provided for building the Airport station above ground, but also suggested that Fairfax should take sole responsibility for funding the total cost of the Route 28 Station (currently estimated to be $83 million), the Route 28 Station parking garage (currently estimated to be $53.5 million), and the Herndon-Monroe Station parking garage (currently estimated to be $51.4 million) (collectively the Fairfax Facilities), while still remaining responsible for paying 16.1 percent of the total cost of all other Project facilities except for three parking garages located in Loudoun (collectively the Loudoun Facilities), which would become Loudoun County's sole responsibility.

Neither Fairfax, Loudoun, nor MWAA accepted USDOT's initial proposal as such. Instead, the governing bodies of each entity adopted resolutions saying, essentially, that they accepted the proposal but only if certain enumerated conditions were satisfied. The Board approved a qualified endorsement of the USDOT's initial proposal at its meeting on July 26, 2011.

The Board's conditions included (1) that any cost shifting must be contingent upon securing adequate financing through available options, including a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan from USDOT, to mitigate financial impacts of taking on the two Fairfax parking garages and Route 28 Station, (2) that if Fairfax is unable to secure an adequate financing alternative for the Fairfax Facilities, they should be funded as provided by the Funding Agreement, (3) that the parties negotiate in good faith an agreement to allow the Project to move forward without requiring Fairfax to fund an inequitable share of Project costs, (4) that MWAA accept an aerial station at the Airport, and (5) that any final agreement be subject to contingencies such as those set forth in the Funding Agreement pertaining to availability of funds, the constitutional requirement for annual appropriation if and as applicable, and the right to approve participation on funding Phase 2 for up to 90 days following a cost estimate based on 100 percent preliminary engineering.

Beginning in July of 2011, staff met on numerous occasions with representatives of the parties to the MOA to negotiate the terms of an MOA that would meet the conditions established by the Board, culminating on November 10, 2011, with a proposed MOA that was satisfactory to Secretary LaHood and Virginia Secretary of Transportation Sean Connaughton, and that staff of the other parties committed to recommend to their respective governing bodies for approval. The proposed MOA will result in a significant

reduction in the cost to build Phase 2, will reduce the impact on DTR toll rates, and does not require Fairfax County to absorb costs in excess of the 16.1 percent share already agreed to in the Funding Agreement.

TIFIA Allocation

One issue that arose during the negotiations was regarding the allocation of the assumed limited amount of TIFIA loan credit support available from the Federal government. Per the MOA, Fairfax and Loudoun may apply for the maximum amount of TIFIA credit assistance for which each will qualify based on their share of the total cost of the Project, and MWAA will apply for the balance available; however, Fairfax will not apply for a TIFIA loan greater than $315 million nor one using more than an $8.5 million credit subsidy (based on current estimates, a $315 million TIFIA loan could be supported with a $6.3 million credit subsidy). Based on current estimates, an assumed $30 million in TIFIA credit assistance could support TIFIA loans in the aggregate of approximately $315 million to Fairfax, $130 million to Loudoun, and $149 million to MWAA. This disparity is due entirely to the difference in credit quality assumed for the three parties. The potential pledge of higher quality Fairfax credit may allow Fairfax to leverage a much larger loan for minimal subsidy than a credit solely supported by the Dulles Toll Road revenues (MWAA) or parking fees (Loudoun). Staff has begun analyzing the various options available to Fairfax for the best, most cost effective use of the pledged TIFIA loan guarantees for Fairfax County taxpayers to support the Project.

In addition, in consideration for maximizing the County's ability to utilize available TIFIA support, Fairfax agreed in the MOA that if it is unable to find Additional Funding Sources for up to $62.5 million of the cost of the Fairfax Facilities, then Fairfax will ask USDOT to allow it to transfer to MWAA, by a separate agreement, a portion of the proceeds of a TIFIA loan to Fairfax equal to the lesser of the actual funding "gap" or $62.5 million. This will be used to reduce the cost of borrowing secured by DTR revenues, with MWAA required to repay Fairfax for any amount so transferred with interest and costs.

Furthermore, if the portion of the cost of the Fairfax Facilities not funded by additional funding sources exceeds $62.5 million, Fairfax will not include the unfunded portion of the cost of the Fairfax Facilities over $62.5 million but less than $187 million in its TIFIA loan application. In that case, MWAA may apply to USDOT to utilize the portion of any TIFIA credit subsidy not used by Fairfax to support a TIFIA loan directly to MWAA, i.e., not through Fairfax. However, regardless of what portion of the cost of the Fairfax Facilities is borne by additional funding sources, nothing shall prevent Fairfax from applying for at least $100 million in TIFIA loan proceeds.

Change to the Allocation Formula for Third Party Revenues

A significant concession made by the local funding partners as part of the total package of cost shifts, cost sharing, and loan allocation was a change in the allocation of savings

accruing from the use of third party revenues to fund any aspect of the Project. Per the 2007 Funding Agreement, any federal or state funds contributed to the Project would be applied directly to reduce the impact to the toll road users, but any third party revenues would be applied directly to the benefit of the local funding partners in proportion to their funding shares.

However, to benefit toll road users from any third party funding of the Fairfax Facilities or Loudoun Facilities, the MOA provides that the cost savings benefits from those third party revenues will be applied in accordance with the overall cost sharing formula, i.e., 75 percent to DTR users, 16.1 percent to Fairfax, 4.8 percent to Loudoun, and 4.1 percent to MWAA. The result is a potential shift of savings to toll road users of up to $242 million.

Funding the Fairfax Obligation

Including Phase 1 costs, the current total County contribution to both phases of the project is approximately $900 to $965 million, of which $730 million, or approximately 80 percent, will be funded by the tax districts, leaving approximately $170 to $235 million to be funded from other sources. Those sources include the potential capitalization of parking revenues or developer contributions at the station sites. Staff recommends consideration of the use of the County's Commercial and Industrial (C&I) Real Estate Transportation Tax to support financing the balance of the County's obligation. Currently, approximately $310 million of the Phase I tax district obligation has been satisfied through direct payments from tax collections and a bond issued in 2011. A final Phase I bond issue is expected later in 2012. Bond issues to support Phase II will be scheduled as necessary to meet Phase II construction requirements, perhaps starting as early as 2013. In addition, creative application of the TIFIA loan benefits to support County financing is anticipated to provide significant additional savings to financing costs.

Metrorail Operating Costs with Silver Line

Projections of the Metrorail operating costs with the Silver Line are provided below for FY 2013 thru FY 2028. WMATA provided estimates for FY 2013 and FY 2018. Other estimates are based the Constrained Long-Range Plan (CLRP) cost model, and projected system cost recovery in consultation with WMATA and Fairfax County. WMATA provided an estimate in FY 2018, if Loudoun were to opt-out of Phase 2 and the Silver Line terminated at the Dulles International Airport. It is not estimated that any major capital replacement costs will be incurred in the first 15 years of operations. The rail cars, systems, track, and facilities are all new equipment and the expected replacement life of this equipment, would extend beyond 15 years.

Estimated Total Annual Metrorail Operating Subsidy (with Silver Line) for FY 2013- FY 2028

Fiscal Year	Fairfax County Net Local Subsidy (millions) [1]
2013	$26.1
2014	$34.7
2015	$35.7
2016	$37.1
2017	$38.6
2018	$46.4[2]
2019	$48.2
2020	$50.0
2021	$51.9
2022	$53.9
2023	$55.9
2024	$58.0
2025	$60.2
2026	$62.5
2027	$64.9
2028	$67.4

Note:

- Phase 1 - projections through FY 2017
- Phase 1 and 2 - projections through FY 2018 to FY 2028
- Increase FY 2014 for startup costs and ½ year of operations
- FY 2015 full year Phase 1 operations
- FY 2016 and 2017 include 4 percent escalation rate
- Estimates FY 2018 thru FY 2028 include 3.8 percent escalation rate

[1] More than 70 percent of Metrorail operating *costs* are paid by passenger fares. Fairfax County's Metrorail operating *subsidies* are paid by state aid, regional gas tax revenues, County General Funds and other sources.

[2] If Loudoun County does not participate in Phase 2 and the termination station is at Dulles Airport, Fairfax County's operating cost would be $48 million in FY 2018.

Public Involvement

On April 26, 2011, the Board directed the County Executive to propose a process for informing and seeking input from the public about the cost, financing, and physical layout of Phase 2 of the Dulles Rail project. The public process was scheduled to follow release of the 100 percent Preliminary Engineering for Phase 2 and the Independent Cost Estimate. County staff conducted four community meetings:

Monday, March 12, 2012 – South County Government Center
Wednesday, March 12, 2012 – Hutchison Elementary School
Thursday, March 15, 2012 – Westgate Elementary School
Monday, March 19, 2012 – Fairfax County Government Center

In addition to the public meetings, an interactive "Dulles Rail Phase 2" section of the County's website was developed to gather public input and comment. Also, on March 9, 2012, staff conducted an "Ask Fairfax!" session through the County's website. A press release was provided for all events.

In general the public comments received are in favor of Phase 2. Most of the concerns are the toll rate projections and the impact increased toll rates would have on diverting traffic to other roads in the network. Several citizens provided suggestions that MWAA charge a surcharge at their garages and/or airport facilities with those fees to be used to reduce the toll rates. County staff received suggestions that MWAA toll the Dulles Airport Access Road to help fund the project and reduce the toll rates.

Summary
The conditions with respect to the cost of Phase 2 anticipated with the approval of the MOA have been satisfied, for the most part. Much additional work remains to be done to further reduce costs and obtain alternative financing for the parking garages and the Route 28 Station. However, staff believes that these challenges are manageable and well within the County's ability to achieve a favorable outcome. Therefore, it is recommended that the Board confirm the County's commitment and participation to Dulles Rail Phase 2. In addition, the Board is requested to confirm its intent to pursue all alternative financing sources available including the use of the C&I Tax fund to finance the balance of the County obligation in excess of the special tax district contribution.

FISCAL IMPACT:
Based on a USDOT cost estimate early last summer, the total Project cost, including the underground alignment for the Airport station, is $3.825 billion. Based on this MOA, cost reductions and the 100 percent Preliminary Engineering cost estimate, Project cost to be funded by the DTR and the funding partners may be reduced by as much as $1.14 billion, down to approximately $2.689 billion, depending on the level of third party revenue support that can be found by the two counties to fund the five garages and the Route 28 Station. Based on the funding allocation formula from the 2007 Funding Agreement and the changes proposed in the MOA, the savings are approximately $855 million to DTR users, $184 million to Fairfax County, $55 million to Loudoun County and $47 million to MWAA's airport revenues. The total Phase 2 cost to Fairfax County is therefore estimated to be approximately $433 to $498 million, depending upon the

County's success in securing third party revenues to fund the garages and the Route 28 Station, of which $330 million will be contributed by the Phase 2 Dulles Rail Transportation Improvement District. The use of revenue bonds supported by the C&I tax fund is recommended to fund the remaining County contribution. It is expected that these bonds will require approximately $13 million annually to support debt service. It is estimated that the annual Metrorail subsidy over the period of 15 years will grow from $26.1 million in 2013, to $46.4 million in 2018 (first full year of the Silver Line operation Phase 1 and 2), and $67.4 million in 2028. These operating costs will be paid for through a combination of state aid, gas tax revenues and County General Funds. No major capital replacement costs are included in the WMATA operating estimates. The system and rail cars are new and their replacement cycle is in excess of 15 years.

ENCLOSED DOCUMENTS:
Attachment I: Phase 2 Memorandum of Understanding

STAFF:
Anthony H. Griffin, County Executive
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Mark Canale, Dulles Rail Project Manager, FCDOT
Nick Perfili, Dulles Rail Project Planner, FCDOT
Len Wales, Financial Advisor
Joe LaHait, Fairfax County Debt Manager

MEMORANDUM OF AGREEMENT
AMONG UNITED STATES DEPARTMENT OF TRANSPORTATION, COMMONWEALTH OF VIRGINIA, FAIRFAX COUNTY, LOUDOUN COUNTY, THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, AND THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

1.0 Introduction

On this _____ day of _____, 2011, the United States Department of Transportation (US DOT), the Commonwealth of Virginia (Virginia), Fairfax County (Fairfax), Loudoun County (Loudoun), the Washington Metropolitan Area Transit Authority (WMATA), and the Metropolitan Washington Airports Authority (MWAA) (collectively, the Parties) hereby enter into this MEMORANDUM OF AGREEMENT (MOA) to set forth their mutual understandings, expectations, and commitments concerning the completion of the Dulles Corridor Metrorail Project (Project), and in particular Phase 2 of the Project (hereinafter defined).

2.0 Recitals

WHEREAS, US DOT, Virginia, Fairfax, Loudoun, WMATA and MWAA seek to enhance transportation service by bringing Metrorail service to Tysons Corner, Dulles International Airport, and along the Dulles Corridor into Loudoun County; and

WHEREAS, on December 29, 2006, the Virginia Department of Transportation and MWAA entered into a Master Transfer Agreement and a Dulles Toll Road Permit and Operating Agreement (Permit and Operating Agreement) that permits MWAA to operate the Dulles Toll Road and collect toll revenues to assist in funding the Dulles Corridor Metrorail Project; and

WHEREAS, on June 28, 2007, the Virginia Department of Rail and Public Transportation (DRPT) and MWAA entered into an Assignment and Assumption Agreement (Assignment and Assumption Agreement) that enables MWAA to carry out construction of the Project; and

WHEREAS, on July 19, 2007, Fairfax, Loudoun, and MWAA entered into an Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor (Funding Agreement); and

WHEREAS, the Funding Agreement provides, among other things, that Fairfax and Loudoun shall notify MWAA whether each respective county will proceed with its financial participation in Phase 2 of the Project within 90 days following receipt from MWAA of documents comprising 100% preliminary engineering for Phase 2, documents supporting the amount of the cost estimate for Phase 2 at 100% preliminary engineering, and documents demonstrating how that cost estimate was developed and computed; and

WHEREAS, the Funding Agreement also provides that if Fairfax and Loudoun elect to participate in funding Phase 2, then Fairfax, Loudoun, and MWAA would be responsible for funding 16.1%, 4.8%, and 4.1%, respectively, of the total capital cost to construct the entire Project; and

WHEREAS, upon the petition of affected taxpayers as required by Virginia law, Fairfax has created two transportation improvement districts to fund up to $400 million and $330 million of Fairfax's share of the capital cost to construct Phase 1 (hereinafter defined) and Phase 2, respectively, of the Project, with both petitions including provisions that Fairfax's share of the total capital cost to construct the Project should remain at approximately 16.1%; and

WHEREAS, pursuant to the Permit and Operating Agreement, MWAA is constructing a project consisting of an extension of Metrorail from the existing Orange Line near the West Falls Church Station, through Tysons Corner, along the Dulles Corridor from Tysons Corner to the boundary of Fairfax, into Dulles International Airport, and terminating at Route 772 in Loudoun (the Project); and

WHEREAS, for purposes of obtaining one or more Federal grants, construction of the Project has been divided into two phases, with Phase 1 of the Project described generally as that portion of the Project from the Metrorail Orange Line near the West Falls Church Station to and including the Wiehle Avenue Station (Phase 1), and Phase 2 of the Project described generally as that portion of the Project west of the Wiehle Avenue Station to the terminus of the Project at the Route 772 Station in Loudoun County (Phase 2); and

WHEREAS, on March 10, 2009, US DOT, through the Federal Transit Administration (FTA), entered into a Full Funding Grant Agreement (FFGA) with

MWAA to support the construction of Phase 1 at an estimated cost of $3.14 billion (including finance charges); and

WHEREAS, the estimated capital cost of Phase 2 is now $3.825 billion, up from an estimate of $2.5 billion as reported in the Funding Agreement; and

WHEREAS, the Parties recognize the need to modify the scope, design and finance plan for Phase 2 to reduce costs to a level closer to the original $2.5 billion cost estimate and recognize the need and opportunity to work cooperatively to accomplish that goal; and

WHEREAS, the Parties also recognize that in order to effect a further significant reduction in the amount of funds that will need to be derived from the operation of the Dulles Toll Road (DTR Funds) to pay for Phase 2, there is a need to secure funding for the design and construction of Phase 2 from sources other than funds of the parties to the Funding Agreement and DTR Funds (Additional Funding Sources), which Additional Funding Sources may include, but are not limited to, land use proffers, public-private partnerships, grants and loans from governmental entities other than the parties to the Funding Agreement, payments in lieu of taxes, and fees that may be imposed on the public for the use of Phase 2 parking facilities; and

WHEREAS, MWAA, Fairfax, and Loudoun believe that credit assistance from the Transportation Infrastructure Finance and Innovation Act (TIFIA) program based on an amount of budget authority in the amount of $30 million in the aggregate is vitally necessary for the success of the Project and the Project financing envisioned in this MOA, and accordingly, MWAA, Fairfax, and Loudoun intend to apply for TIFIA credit assistance as described herein, while recognizing that US DOT cannot and does not make any representation in this MOA regarding any TIFIA credit assistance other than as set forth below in Section 3.5; and

WHEREAS, on June 1, 2011, Secretary of Transportation Ray LaHood convened the first of several meetings among the Parties for the purpose of establishing a common, agreed-upon scope, design, and finance plan for Phase 2, and with the goal of completing the Project at a significantly reduced cost so as to lessen the financial burden on the Parties, local taxpayers, and the users of the Dulles Toll Road; and

WHEREAS, during meetings conducted since that date, the Parties discussed and debated the merits of scope reductions and design changes that offer

significant cost savings, maintain a cost effective approach to Phase 2 project construction and performance goals, sustain expected ridership, and minimize delays in implementing the project; and

WHEREAS, the Parties wish to set out, in general terms, the agreements they have reached regarding cost saving changes to the scope, design and finance plan for Phase 2, their expectations regarding further potential cost savings measures, and other matters.

3.0 Agreement

NOW THEREFORE, in consideration of the mutual promises and agreements, $1 consideration, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, US DOT, Virginia, Fairfax, Loudoun, WMATA, and MWAA agree as follows:

3.1 Adjustments to Phase 2 Project Alignment and Design

a. Subject to the receipt of any required environmental and other regulatory approvals, the Phase 2 Station at Dulles International Airport shall be an aerial station adjacent to the North Garage. The station shall be designed and constructed to provide passengers with climate controlled waiting areas at the station lobby level, with a protective windscreen along the platform level. "Climate controlled" means an enclosed area, protected from weather elements, with a controlled temperature.

b. The Metrorail yard and shop facilities at the "Y-15" site at Dulles International Airport shall be reduced in size and scope to the level that is necessary to support the service provided by Phase 2. There will be at least 21 Yard Storage tracks provided for a minimum of eight car trains. The Dulles Yard will be sized for 184 cars. These and other yard and shop requirements are consistent with formal letters to the FTA dated June 10, 2011, and June 28, 2011. WMATA may build additional or more extensive facilities at this site to support the service provided by other parts of the WMATA Metrorail network, but the costs of such expansion shall not be part of the Project costs and shall be the responsibility of WMATA.

c. The size of station canopies at Phase 2 stations shall be reduced to be generally consistent with Phase 1 project requirements and the finishes designed and installed at such stations shall be based on value engineering recommendations as approved by WMATA.

d. Where possible, cost savings will be implemented through the use of steel structures, in lieu of concrete, in accordance with WMATA standards.

3.2 Best Efforts to Seek Additional Funding Sources for Particular Project Phase 2 Facilities

a. Fairfax shall use its best efforts, consistent with the legislative powers, duties, and responsibilities of its Board of Supervisors, to secure Additional Funding Sources that will be sufficient to fund the cost of the design and construction of the parking facility at the Herndon-Monroe Station, the parking facility at the Route 28 Station and the Route 28 Station itself.

b. Loudoun shall use its best efforts, consistent with the legislative powers, duties, and responsibilities of its Board of Supervisors, to secure Additional Funding Sources that will be sufficient to fund the cost of the design and construction of the parking facility at the Route 606 Station and the two parking facilities at the Route 772 Station.

c. To the extent that Additional Funding Sources are used to pay any portion of the cost to design and construct any of the Phase 2 facilities described in Sections 3.2(a) or 3.2(b), then solely for purposes of computing the capital contribution percentages of the parties to the Funding Agreement, the amount paid by any such Additional Funding Sources shall not be credited as provided by the last sentence of Section 2.2(b)(3)(e) of the Funding Agreement, but instead shall be credited 16.1% against the Phase 2 funding obligation of Fairfax, 4.8% against the Phase 2 funding obligation of Loudoun, 4.1% against the Phase 2 funding obligation of MWAA from non-DTR Funds, and 75% against the obligation of MWAA to fund a portion of Phase 2 from DTR Funds, as those terms are used in the Funding Agreement.

d. To the extent that either Fairfax or Loudoun, despite their best efforts as described above, is unable to secure sufficient Additional Funding

Sources to fund the full cost to design and construct any of the Phase 2 facilities described in Sections 3.2(a) or 3.2(b) (any such insufficiency, individually or cumulatively, referred to hereinafter as a Funding Shortfall), then the amount of the Funding Shortfall shall be considered to be part of the total Dulles Rail Project Cost as that term is used in the Funding Agreement and as such will be funded as provided in the Funding Agreement.

e. All of the facilities described in this Section 3.2 shall continue to be regarded as included in Phase 2 of the Project for all other purposes.

f. All of the Parties will cooperate in the efforts to find Additional Funding Sources to help pay for the design and construction of the Phase 2 facilities described in this Section 3.2 as well as other Project facilities as opportunities to do so may arise.

g. Parking at the parking facilities described in this Section 3.2 shall be available concurrently with the opening of Phase 2 for revenue operations.

3.3 Flexibility and Cooperation

a. If and to the extent that Fairfax or Loudoun deem it appropriate to utilize fees for parking at any of the parking facilities described in Section 3.2 as an Additional Funding Source for such parking facility, then parking rates at any such parking facilities shall be determined solely by the responsible county as set forth in Section 3.2, and the revenues thus obtained from each such parking facility shall be retained by that county and applied as an Additional Funding Source for the design, construction and/or operation, as appropriate, of that parking facility. In order to facilitate the ability of Fairfax to do so, WMATA shall, at the request of Fairfax, agree to negotiate an amendment of the Surcharge Implementation Agreement dated June 11, 1999 by and between Fairfax and WMATA to make the Phase 2 facilities described in Section 3.2(a) part of the system covered by that Agreement, so as to allow all surcharge revenues to be used to support the debt remaining on the Vienna Metrorail Station and parking facilities and the debt incurred for the Phase 2 parking facilities described in Section 3.2(a). Fairfax and WMATA may also negotiate

additional agreements, as needed, to further facilitate the construction and future operations of these parking facilities.

b. The parking facilities described in Section 3.2 shall be constructed with at least the same number of parking spaces for Metrorail users as is called for in the final Phase 2 Preliminary Engineering plans, consistent with the Record of Decision governing the Project.

c. MWAA shall, to the extent permitted by law, provide to Loudoun, at no cost, such real property rights to land that is leased by MWAA from the federal government as are reasonably necessary for the construction, location, and operation of, and vehicular access to and from, the parking facility that is to be constructed to serve the Route 606 Station.

d. For purposes of this Section 3.3(a) and avoidance of doubt, the Fairfax parking facilities shall include the parking structures described in Section 3.2(a) and related equipment and facilities as well as improvements, including bridges, that provide access for WMATA customers to and from the entrance plazas, bus drop off areas, park and ride areas, and connecting sidewalks related to the associated Phase 2 transit stations.

e. WMATA and Fairfax shall cooperate in making such amendments, consistent with WMATA's Compact and WMATA's Gross Revenue Transit Bonds (WMATA Board Resolution numbers 2003-52, 2003-53 and 2009-39), as shall be necessary to implement the provisions of Section 3.3(a).

3.4 Further Phase 2 Cost Savings Opportunities

Over the course of the next few months, further cost reduction measures shall be considered by the Coordinating Committee created under Section 3.7 of this MOA with the goal of further reducing the current Phase 2 cost estimate, depending on the outcome of the analysis of additional potential scope reductions and cost saving measures. These further scope reduction and cost savings measures include, but are not limited to:

a. Savings resulting from the value engineering efforts conducted by MWAA and approved by the Coordinating Committee described below;

b. The donation of property to the Project by the Parties in lieu of right-of-way purchases;

c. In accordance with WMATA-approved simulations, a potential reduction in the number of Traction Power Substations (TPSS) and the associated re-estimating of TPSS costs; and

d. In accordance with WMATA's updated Rail Fleet Management Plan of July 2011, a potential reduction in the number of railcars purchased for the purpose of the Phase 2 project.

3.5 Credit Assistance

Through its Transportation Infrastructure Finance and Innovation Act (TIFIA) program, US DOT will provide credit assistance, in the form of Federal credit instruments, to Fairfax, MWAA, Loudoun and/or their partners for Project components that meet TIFIA's statutory and regulatory requirements. US DOT expects that the amount of budget authority available to the US DOT to support any such credit assistance will not exceed $30 million in the aggregate. The form of TIFIA credit assistance is to encompass several Project components, which may include the costs associated with the assumption of the Phase 2 parking facilities and Route 28 Station. Fairfax, MWAA, and Loudoun have agreed, as among themselves, that TIFIA credit assistance should be applied for as shown on Exhibit One attached hereto. In the event Fairfax, MWAA, and/or Loudoun applies for TIFIA credit assistance, each of Fairfax, MWAA, and Loudoun will provide to US DOT a written acknowledgement that all of those three entities agree to the financing structure proposed in each TIFIA application submitted.

Nothing in this MOA is intended to or shall preclude MWAA, Fairfax, or Loudoun from applying for additional TIFIA credit assistance for the Project, including under a future notice of funding availability, or preclude US DOT from considering any such application.

3.6 Financial Assistance

a. Virginia shall contribute an additional amount of $150 million toward the Project, provided that the funds are appropriated by the General Assembly and allocated by the Commonwealth Transportation Board

(CTB). Such funding shall be requested in the 2012 session of the Virginia General Assembly, shall be governed by the terms of a funding agreement between Virginia and MWAA, and shall not be provided until such funding agreement is executed. This assistance is intended to be used to pay interest on MWAA's Dulles Toll Road Revenue Bonds. The funds shall be held by the bond trustee and drawn to support the debt service payments in the first five years following their issuance. This assistance may be used or structured in a different manner with written approval from Virginia if another use or structure is determined to provide a greater benefit and further minimize the tolls paid by users of the Dulles Toll Road for construction of Phase 2.

b. In addition, Virginia and MWAA shall consider extending the term of the Permit and Operating Agreement to further extend the period over which Phase 2 can be financed if it is determined that doing so is in the best interest of the Commonwealth and will further mitigate toll increases to be imposed on Dulles Toll Road users for construction of Phase 2.

3.7 Coordinating Committee

Virginia, Fairfax, Loudoun, WMATA and MWAA agree to establish a Dulles Metrorail Project Coordinating Committee (Coordinating Committee).

The purpose of the Coordinating Committee will be (i) to implement the terms of this MOA and (ii) to regularly monitor the progress of planning, design, and construction of Phase 2 to ensure that the project is successfully deployed in a manner satisfactory to all of the Parties. Any cost reductions will not affect the delivery of a Project that is safe, reliable, and does not result in higher operations and maintenance costs later in the life of the Project.

The Coordinating Committee shall be comprised of the MWAA President/Chief Executive Officer, Virginia Secretary of Transportation, Fairfax County Executive, Loudoun County Administrator, and WMATA General Manager/Chief Executive Officer, or their designees. The Coordinating Committee shall be chaired by the MWAA President/Chief Executive Officer in his continuing role as the chief executive of the party

responsible under the Permit and Operating Agreement for the design, construction, and financing of Phase 2.

The Coordinating Committee shall function in a manner similar to the Principals Meetings that were held to coordinate certain activities of Phase 1.

The Coordinating Committee shall meet regularly upon the call of its Chairman but no less frequently than once per month, unless the members of the Coordinating Committee unanimously agree in advance that there is no need for a meeting in any particular month. Meetings shall continue until the Coordinating Committee determines that they are no longer needed.

In implementing the terms of this MOA, the Coordinating Committee shall operate on a consensus basis, with no member of the committee having the ability to "veto" an issue or matter that is under consideration by the committee.

It is understood by the Parties that WMATA, as the ultimate owner and operator of Phase 2 once it is open for revenue operations, will approve the design and construction plans for Phase 2, and any subsequent changes thereto for purposes of ensuring that Phase 2 is constructed in a manner that will allow its acceptance into the regional Metrorail system.

3.8 Toll Schedule

Consistent with (i) its obligations and rights under the Permit and Operating Agreement, including its obligation to design and construct the Project, its right to utilize Toll Road revenues to satisfy that obligation, and its right to utilize Toll Road revenues and reserves to redeem and defease Dulles Toll Road bonds, (ii) its obligations and rights under indentures of trust securing Dulles Toll Road Revenue Bonds, including the toll rate covenants in the indentures, and other agreements and MWAA policies relating to loans and other financings secured by Dulles Toll Road revenues, and (iii) its intention to maintain the ratings assigned by rating agencies to Dulles Toll Road Revenue Bonds, MWAA will use its best efforts to limit the size of future toll rate increases on the Dulles Toll Road.

MWAA will periodically publish projections of future Dulles Toll Road toll rates. The Parties acknowledge that these projections will change over time as factors affecting the setting of toll rates change. According to MWAA, as of the effective date of this MOA, Table 6-3 in the Wilbur Smith and Associates report for the Dulles Toll Road, entitled "Comprehensive Traffic and Revenue Study" and dated July 2009, contains a reasonable approximation of the current projection of future toll rates on the Dulles Toll Road.

Nothing in this MOA is intended to affect the exclusive right of MWAA, under the Permit and Operating Agreement, to set toll rates on the Dulles Toll Road.

3.9 Project Labor Agreements

Virginia and MWAA have reached a separate agreement on the matter of Project Labor Agreements for Phase 2. Any Project Labor Agreement contemplated for the Project shall be consistent with applicable Federal statutory and regulatory requirements and Virginia law.

4.0 Miscellaneous Provisions

4.1 Effective Date

This MOA is effective as of the date set forth in Section 1.0, and may be executed in counterparts.

4.2 Construction and Enforcement of this MOA

The meaning of this MOA is to be ascertained from the entire instrument. This MOA is intended to be enforceable, to the extent provided by applicable law. This MOA shall, in all respects, be governed by Federal law and/or the laws of the Commonwealth of Virginia, as may be applicable. The Parties may enforce this MOA as provided under applicable Federal law and Virginia law.

4.3 Permit and Operating Agreement

Virginia and MWAA agree that, in the event they mutually determine there to be a conflict between the terms of the MOA and those of the Permit and

Operating Agreement, the terms of the MOA will prevail and they will execute an appropriate amendment to the Permit and Operating Agreement that addresses the conflict.

4.4 Conditions of Approval

The Parties acknowledge that their approval of this MOA is conditioned upon the satisfaction of all legal requirements, including any requirements applicable only to their own Parties' jurisdictions. For example, WMATA's approval of the proposed changes to the location of the station at Dulles International Airport is subject to the public hearing requirements of the WMATA Compact and the approval of the WMATA Board of Directors, and WMATA agrees to use its best efforts to meet these requirements and present these proposed changes to the WMATA Board of Directors for approval within 75 days after the WMATA Compact Public Hearing has been held.

4.5 Role and Participation of WMATA

WMATA's role and participation in the Project shall continue to be in accordance with agreements executed with MWAA as they may be amended from time to time by mutual agreement between WMATA and MWAA.

4.6 Continuing Effect of Funding Agreement

All provisions of the Funding Agreement not specifically modified by this MOA, including, but not limited to, the provisions of Section 2.3 of the Funding Agreement, remain in full force and effect and are not superseded by the execution of this MOA. Nothing in this MOA requires Fairfax to pay or will result in Fairfax paying more than 16.1% of the total Dulles Rail Project Cost as such term is used in the Funding Agreement.

4.7 Federal Oversight

FTA will continue to oversee the Project using its project management oversight contractor resources. For Phase 2, the scope of FTA oversight will include project cost and schedule, and MWAA's implementation of its project management responsibilities.

MEMORANDUM OF AGREEMENT BETWEEN US DOT, VIRGINIA, FAIRFAX, LOUDOUN, WMATA, AND MWAA

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement as of the date set forth in Section 1.0.

FOR THE UNITED STATES DEPARTMENT OF TRANSPORTATION

Name: Ray LaHood
Title: Secretary of Transportation
DATE: December 14, 2011

[The remainder of this page intentionally left blank; subsequent signature pages follow.]

FOR THE COMMONWEALTH OF VIRGINIA

Name: Bob McDonnell
Title: Governor
Commonwealth of Virginia

DATE: 12-30-2011

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MEMORANDUM OF AGREEMENT BETWEEN US DOT, VIRGINIA, FAIRFAX, LOUDOUN, WMATA, AND MWAA

FOR THE COUNTY OF FAIRFAX

Name: Sharon Bulova
Title: Chairman, Board of Supervisors
Fairfax County

DATE: 12/15/11

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MEMORANDUM OF AGREEMENT BETWEEN US DOT, VIRGINIA, FAIRFAX, LOUDOUN, WMATA, AND MWAA

FOR THE COUNTY OF LOUDOUN

Name: Scott K. York
Title: Chairman, Board of Supervisors
Loudoun County

DATE: 12/20/11

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MEMORANDUM OF AGREEMENT BETWEEN US DOT, VIRGINIA, FAIRFAX, LOUDOUN, WMATA, AND MWAA

FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Richard Sarles

Name: Richard Sarles
Title: General Manager and Chief Executive Officer
DATE: Dec 19, 2011

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MEMORANDUM OF AGREEMENT BETWEEN US DOT, VIRGINIA, FAIRFAX, LOUDOUN, WMATA, AND MWAA

FOR THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

Name: Charles D. Snelling

Title: Chairman, Board of Directors

DATE: 16 Dec 2011

Name: John E. Potter

Title: President and Chief Executive Officer

DATE: 12/16/2011

[The remainder of this page intentionally left blank; Exhibit One follows.]

Exhibit One

This Exhibit One to the MOA reflects the agreement among Fairfax, Loudoun, and MWAA concerning the joint application or individual application(s) that Fairfax, Loudoun, and/or MWAA anticipate submitting to US DOT for consideration under its TIFIA program.

1. Fairfax, Loudoun and MWAA expect to apply to US DOT for TIFIA loans based on a credit subsidy in the amount of $30 million in the aggregate.
2. Fairfax and Loudoun may and likely will apply to US DOT for the maximum amount of TIFIA credit assistance for which they each qualify, based on their respective funding commitments for the Project (as defined in the Funding Agreement). However, in no event will Fairfax request TIFIA loan proceeds in excess of $315 million, or a TIFIA loan requiring a credit subsidy in excess of $8.5 million. MWAA expects to apply for a TIFIA loan in an amount supported by the credit subsidy not needed to support loans to Fairfax and Loudoun.
3. If Fairfax is not able to secure Additional Funding Sources for the entire cost of the Phase 2 Project facilities described in Section 3.2(a) of this MOA (the "Fairfax Facilities"), then the portion of the cost of the Fairfax Facilities not funded by an Additional Funding Source would be funded as provided in the Funding Agreement as set forth in Section 3.2(d) of this MOA. Further, Fairfax's application for TIFIA credit assistance will include a request to allow Fairfax to transfer to MWAA, by separate agreement between Fairfax and MWAA satisfactory to US DOT, a portion of the proceeds of a potential TIFIA loan to Fairfax equal to the lesser of the amount of such costs not funded by an Additional Funding Source or $62.5 million. MWAA would agree to repay, from Dulles Toll Road revenues, Fairfax in full for any such transfer, including any related interest and costs.
4. In the event that the portion of the cost of the Fairfax Facilities not funded by an Additional Funding Source exceeds $62.5 million, the Fairfax application will not include that portion of the cost of the Fairfax Facilities. The term "cost of the Fairfax Facilities," as used in this paragraph four, means the lesser of the actual cost of the Fairfax Facilities or $187 million. Notwithstanding the above provisions of paragraphs three and four of this Exhibit One, in no event shall Fairfax be prevented from applying for credit assistance that would result in total proceeds to be utilized by Fairfax to be less than $100 million.
5. Loudoun is expected to submit an application that will take into account the portion of the overall credit subsidy that is required to support a TIFIA loan sufficient to fund the cost of the Loudoun parking garages described in Section 3.2(b) of the MOA (the "Loudoun Facilities"). If Loudoun is not able to secure Additional Funding Sources for the entire cost of the Loudoun Facilities, then the portion of the cost of the Loudoun Facilities not funded by Additional Funding Sources will be funded as provided in the Funding Agreement, as set forth in Section 3.2(d) of this MOA. In that event, Fairfax, Loudoun and MWAA will request that US DOT consider an application from MWAA that would utilize that

portion of any unused credit subsidy that would have supported that portion of the cost of the Loudoun Facilities.

6. Provision will be made in any application by Loudoun, individually or jointly, for possible revisions of the application, prior to any loan distribution to Loudoun. Under these possible revisions, after securing Additional Funding Sources that would be pledged to support a TIFIA loan to fund all or a portion of the cost of the Loudoun Facilities (such as parking revenues and potentially other pledged revenues), Loudoun, were it to decide to do so, may bring some form of credit enhancement to that TIFIA application. The application will provide that US DOT should consider such a revision to the application only if it can be demonstrated that the creditworthiness of the Loudoun TIFIA loan is improved by the Loudoun enhancement. Any such credit enhancement would be at Loudoun's discretion, and any action on such a revision to the joint application would be at US DOT's discretion. Were such a credit enhancement to be approved by US DOT and to cause a reduction in the amount of credit subsidy that would be used by Loudoun, then Fairfax, Loudoun and MWAA will request that US DOT consider an application from MWAA that would utilize the portion of any unused credit subsidy.