FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 28, 2014

AGENDA

9:30	**Done**	Presentations
10:30	**Done**	Presentation of the Barbara Varon Award
10:45	**Done**	Presentation of the Fairfax County Small Business Commission Annual Report
11:00	**Done**	Board Appointments
11:10	**Done**	Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Supplemental Appropriation Resolution AS 15131 for the Department of Family Services to Accept Funding from the Department of Justice, Office on Violence Against Women in Support of the Fairfax County Domestic Violence Action Center (DVAC)
2	**Approved**	Extension of Review Periods for 2232 Review Applications (Springfield, Providence, and Mason Districts)
3	**Approved**	Authorization to Advertise a Public Hearing to Repeal the November 18, 1996, Resolution that Imposed Certain Limitations on the Fairfax County Spot Blight Abatement Program
4	**Approved**	Authorization to Advertise a Public Hearing to Amend Chapter 46 of the Fairfax County Code Regarding Public Nuisance for Fairfax County, Virginia
5	**Approved**	Authorization to Advertise Proposed Amendment to The Code of the County of Fairfax, Virginia, to Add a New Chapter, Chapter 125 (Resident Curator Program Ordinance)
6	**Approved**	Authorization to Advertise a Public Hearing on an Increase in Taxicab Rates and Revisions to Penalty Provisions for Operating an Uncertificated Taxicab
7	**Approved**	Authorization to Advertise a Public Hearing on the Issuance of a County Revenue Bond to Finance Silver Line Parking Garages Through the Fairfax County Economic Development Authority
8	**Approved**	Authorization to Advertise a Public Hearing to Establish the Old Columbia Pike Community Parking District (Mason District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 28, 2014

ADMINISTRATIVE ITEMS

9	**Approved**	Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Virginia (Code) Regarding Adjustment of the Fees Charged by Land Development Services for Plan Review, Permits, and Inspection Services
10	**Approved**	Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Virginia (Code) Regarding Adjustment of the Fees Charged by the Fire Marshal for Plan Review, Permits, and Inspection Services
11	**Approved**	Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair-Lift Equipped Vehicles
12	**Approved**	Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options
13	**Approved**	Authorization for Various Fairfax County Agencies to Apply for and Accept Funding from the U.S. Department of Housing and Urban Development Through the Continuum of Care Program, and Authorization for Consolidated Plan Certification
14	**Approved**	Authorization to Advertise a Public Hearing on a Proposed Ordinance to Approve a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program

ACTION ITEMS

1	**Approved**	Approval of the Issuance of a Solicitation for Police-Directed Towing Services
2	**Approved**	Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated
3	**Approved**	Approval of an Amendment to the Parking Surcharge Agreement Between the Washington Metropolitan Area Transit Authority (WMATA) and Fairfax
4	**Approved**	Endorsement of Applications for the FY 2016 Virginia Department of Transportation's Transportation Alternatives Grant Program

FAIRFAX COUNTY
BOARD OF SUPERVISORS
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	ACTION ITEMS (Continued)	
5	**Approved**	Authorization to Execute an Agreement with the Tysons Partnership to Provide Funding to and Operation Standards for the Tysons Transportation Management Association
6	**Approved**	Approval of a New Pay Structure for General County Employees
	INFORMATION ITEMS	
1	**Noted**	Fairfax-Falls Church Community Services Board Fee Schedule
11:20	**Done**	Matters Presented by Board Members
12:10	**Held**	Closed Session
	PUBLIC HEARINGS	
3:30	**Approved**	Public Hearing on SE 2014-MA-012 (AAA Mid-Atlantic, Inc.) (Mason District)
3:30	**Approved**	Public Hearing on SEA 84-D-004-3 (Sunoco, Inc. (R&M)) to Amend SE 84-D-004 (Dranesville District)
3:30	**Deferred to 11/18/14 at 3:00 p.m.**	Public Hearing on RZ 2013-PR-009 (Tysons Westpark, L.C.) (Providence District)
3:30	**Approved**	Public Hearing on AR 97-D-002-02 (Charles E. Jenkins, TR.) (Dranesville District)
3:30	**Approved**	Public Hearing on SE 2014-SU-023 (Meenakshi Verma Stringfellow Home Child Care) (Sully District)
4:00	**Approved**	Public Hearing on SEA 90-S-021 (Milestone Tower LP, III D/B/A Milestone Communications and Cellco Partnership D/B/A Verizon Wireless) to Amend SE 90-S-021 (Sully District)
4:00	**Approved**	Public Hearing on SE 2014-SU-021 (Gay Ann Schulte D/B/A Ms. Gay's Day Care) (Sully District)
4:00	**Approved**	Public Hearing on SE 2014-MV-014 (Fozia Hussain/Kids Club Infant Day Care) (Mount Vernon District)
4:00	**Approved**	Public Hearing on the Proposed Comprehensive Plan Amendment 2013-CW-T2, Including Adoption of the Fairfax County Bicycle Master Plan and Related Modifications to the Transportation Policy Plan and 2002 Countywide Trails Plan Map

FAIRFAX COUNTY
BOARD OF SUPERVISORS
October 28, 2014

PUBLIC HEARINGS
(Continued)

4:00	**Approved**	Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Planned Development District Recreational Fees
4:00	**Approved**	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Telecommunication Facilities - Modifications to Permit Antennas & Related Equipment on Existing or Replacement Utility Poles or Light/Camera Standards
4:30	**Approved**	Public Hearing on SEA 2011-MV-002 (Uzma Tanveer Butt/Sunny Day Care One LLC) to Amend SE 2011-MV-002 (Mount Vernon District)
4:30	**Approved**	Public Hearing on a Proposal to Prohibit Through Truck Traffic on Spring Valley Drive, Mitchell Street, Clinton Road and Canard Street (Mason District)
5:00	**Held**	Public Comment

R E V I S E D

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
October 28, 2014

9:30 a.m.

A. Recognition of Fairfax County by the Federal Emergency Management Agency for achieving a Class 6 Community Rating System, resulting in a 20 percent discount on flood insurance premiums for residents who own structures in a special flood hazard area.

B. Report from the Fire and Rescue Department on the recent analysis by the Insurance Services Offices, Inc., which resulted in the highest fire suppression rating possible.

PRESENTATIONS

- PROCLAMATION – To designate October 28, 2014, as Frog Pond Early Learning Center Day in Fairfax County. Requested by Supervisors McKay and Hyland.

- CERTIFICATE – To recognize staff from Centreville, Chantilly and Westfield High Schools for providing assistance for the training drills conducted by the Police Department. Requested by Supervisor Frey.

- PROCLAMATION – To designate November 2014 as Adoption Awareness Month in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
October 28, 2014

- RESOLUTION – To recognize Doug Downer and the Dulles Regional Chamber of Commerce Friday Night Live! Committee for producing the free outdoor summer concerts on the Herndon Town Green. Requested by Supervisor Foust.

- CERTIFICATE – To recognize Sousan Frankeberger, Park Services staff and Park Foundation staff who produce the free concerts in county parks for residents during the summer. Requested by Supervisor Frey.

- RESOLUTION – To recognize the Chantilly Pyramid Minority Student Achievement Committee for its 30th anniversary and encouraging students to maintain high levels of achievement in school. Requested by Chairman Bulova and Supervisors Frey, Herrity and Hudgins.

- PROCLAMATION – To designate November 2014 as American Indian Heritage Month in Fairfax County. Requested by Chairman Bulova.

STAFF:
Tony Castrilli, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
October 28, 2014

10:30 a.m.

Presentation of the Barbara Varon Award

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
The Honorable Emili Miller, Barbara Varon Volunteer Award Selection Committee

Board Agenda Item
October 28, 2014

10:45 a.m.

Presentation of the Fairfax County Small Business Commission Annual Report

ENCLOSED DOCUMENTS:
None. Report delivered under separate cover.

PRESENTED BY:
Gerarda Culipher, Small Business Commissioner (Springfield District)

Board Agenda Item
October 28, 2014

11:00 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard October 28, 2014
(An updated list will be distributed at the Board meeting.)

STAFF:
Catherine A. Chianese, Assistant County Executive and Clerk to the Board of Supervisors

FINAL COPY

APPOINTMENTS TO BE HEARD OCTOBER 28, 2014

(ENCOMPASSING VACANCIES PROJECTED THROUGH OCTOBER 31, 2014)

(Unless otherwise noted, members are eligible for reappointment)

ADVISORY SOCIAL SERVICES BOARD

(4 years – limited to 2 full consecutive terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kelsey M. Phipps; appointed 2/11-9/12 by McKay) Term exp. 9/16 *Resigned*	Lee District Representative		McKay	Lee
VACANT (Formerly held by Edwina Dorch; appointed 2/13 by Hyland) Term exp. 9/16 *Resigned*	Mount Vernon District Representative	**Virginia "Ginny" Lehner Peters**	Hyland	Mount Vernon

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Arthur R. Genuario; appointed 4/96-5/12 by Hyland) Term exp. 9/13 *Resigned*	Builder (Single Family) 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

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

ALCOHOL SAFETY ACTION PROGRAM LOCAL POLICY BOARD (ASAP)
(3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Frieda A. Tatem (Appointed 10/93-10/96 by Davis; 9/99-10/02 by Hanley; 10/05-10/08 by Connolly; 11/11 by Bulova) Term exp. 10/14	At-Large #1 Representative		By Any Supervisor	At-Large

CONFIRMATIONS NEEDED:

- Mr. John Murray as the Commonwealth Attorney Alternate Representative
- Mr. James Davis as the Fairfax Bar Association Representative

ARCHITECTURAL REVIEW BOARD (3 years)
[NOTE: Members shall be appointed by the Board of Supervisors as follows: at least two (2) members shall be certified architects; one (1) landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.]

Incumbent History	Requirement	Nominee	Supervisor	District
Michele C. Aubry (Appointed 10/09-10/11 by Hyland) Term exp. 9/14	Archaeologist Representative		By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James Pendergast (Appointed 7/12 by Cook) Term exp. 6/13	Braddock District Alternate Representative		Cook	Braddock
VACANT (Formerly held by Michael Rodgers; appointed 5/09-4/13 by McKay) Term exp. 4/15 *Resigned*	Lee District Principal Representative		McKay	Lee
Clarke Gray (Appointed 1/08-1/13 by Smyth) Term exp. 9/14	Providence District Alternate Representative	**Clarke Gray**	Smyth	Providence

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
Glenda DeVinney (Appointed 5/12-6/13 by McKay) Term exp. 6/14	Lee District Representative		McKay	Lee

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
VACANT (Formerly held by Wayne Bryan; appointed 1/10-2/13 by Bulova) Term exp. 2/17 *Resigned*	Alternate #2 Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(2 years – limited to 3 consecutive terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Steve Sherman (Appointed 9/08-9/13 by McKay) Term exp. 9/14 ***Not eligible for Reappointment***	At-Large #1 Representative	**Karen Pica** (McKay)	By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kanthan Siva; appointed 1/13 by Frey) Term exp. 9/15 *Resigned*	Sully District Representative		Frey	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Courtney Park (Appointed 2/10-9/12 by Hudgins) Term exp. 9/14	Hunter Mill District Representative	**Courtney Park**	Hudgins	Hunter Mill
VACANT (Formerly held by Pamela Nilsen; appointed 6/13-9/13 by McKay) Term exp. 9/15 *Resigned*	Lee District Representative		McKay	Lee
VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon
VACANT (Formerly held by Joan C. Holtz; appointed 5/09 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Adeel Mufti; appointed 7/06-5/12 by Hudgins) Term exp. 5/14 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill

COMMISSION FOR WOMEN (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Nancy Krakover; appointed 11/09-10/12 by Cook) Term exp. 10/15 *Resigned*	Braddock District Representative		Cook	Braddock
Miriam S. Erickson (Appointed 11/11 by Smyth) Term exp. 10/14	Providence District Representative	**Miriam S. Erickson**	Smyth	Providence
Jeanie Jew (Appointed 9/06 by McConnell; 10/08-10/11 by Herrity) Term exp. 10/14	Springfield District Representative	**Kathryn M. Winters**	Herrity	Springfield

COMMISSION ON ORGAN AND TISSUE DONATION AND TRANSPLANTATION (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Howard Leroy Kelley; Appointed 8/01-1/13 by Hudgins) Term exp. 1/17 *Resigned*	At-Large Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Benjamin Gibson; appointed 4/11 by McKay) Term exp. 1/15 *Resigned*	Lee District Representative		McKay	Lee
VACANT (Formerly held by Carmen A. Cintron; appointed 2/13 by Hyland) Term exp. 1/15 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon

CONSUMER PROTECTION COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael J. Roark (Appointed 1/08-10/11 by Hyland) Term exp. 7/14	Fairfax County Resident #2 Representative		By Any Supervisor	At-Large

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michael R. Sanio; appointed 1/13 by Hudgins) Term exp. 1/15 *Resigned*	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 Services 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 Ann Pimley; appointed 9/03-11/06 by Frey) Term exp. 11/09 *Resigned*	Sully District Representative		Frey	Sully

FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL (2 years)

CONFIRMATIONS NEEDED:

- Ms. Jocelyn Rappaport as the Fairfax City Representative
- Dr. Terence McCormally as the Medical Community #3 Representative
- Ms. Judy Seiff as the Long Term Care Providers #3 Representative
- Ms. Mary Jayne Panek as the Long Term Care Providers #5 Representative
- Ms. Karen Brown as the Long Term Care Providers #7 Representative
- Dr. Heisung Lee as the Long Term Care Providers #8 Representative
- Ms. Marie Woodard as the Long Term Care Providers #21 Representative

FAIRFAX COUNTY CONVENTION AND VISITORS CORPORATION BOARD OF DIRECTORS (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
David Eisenman (Appointed 8/04-6/11 by Hudgins) Term exp. 6/14 ***Not eligible for reappointment*** (need 1 year lapse)	Hunter Mill District Representative		Hudgins	Hunter Mill

HEALTH CARE ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Judith Beattie; appointed 6/96-9/12 by Frey) Term exp. 6/16 *Resigned*	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
VACANT (Formerly held by Andrew A. Painter; appointed 2/11 by Smyth) Term exp. 6/13 *Resigned*	Consumer #4 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Carol Ann Coryell; appointed 6/05-6/08 by Frey) Term exp. 6/11 *Resigned*	Consumer #6 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Samuel Jones; appointed 12/09 by Gross) Term exp. 6/12 *Resigned*	Provider #1 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Daoud Khairallah (Appointed 11/05-9/11 by Gross) Term exp. 9/14	At-Large #8 Representative	**Daoud Khairallah** (Gross)	By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Richard Gonzalez (Appointed 7/97-7/05 by Kauffman; 8/09 by McKay) Term exp. 7/13	Lee District #1 Representative		McKay	Lee
Colonel Marion "Barney" Barnwell (Appointed 4/03-7/10 by Hyland) Term exp. 7/14	Mount Vernon District #2 Representative		Hyland	Mount Vernon

JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Paul Langley; appointed 4/10-1/12 by Cook) Term exp. 1/14 *Resigned*	Braddock District Representative		Cook	Braddock

LIBRARY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kristin Cabral; appointed 7/09-7/13 by Foust) Term exp. 7/17 *Resigned*	Dranesville District Representative		Foust	Dranesville

OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Eileen Nelson; appointed 3/04-6/07 by Connolly; 6/10 by Bulova) Term exp. 6/13 *Resigned*	At-Large Chairman's Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Richard Nilsen; appointed 3/10-6/10 by McKay) Term exp. 6/13 *Resigned*	Lee District Representative		McKay	Lee
Tina Montgomery (Appointed 9/10-6/11 by Smyth) Term exp. 6/14	Providence District Representative		Smyth	Providence

ROAD VIEWERS BOARD (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by Smyth) Term exp. 12/12 *Resigned*	At-Large #4 Representative		By Any Supervisor	At-Large

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michelle Burchett; appointed 3/05-3/14 by Hudgins) Term exp. 3/15 *Resigned*	Fairfax County #2 Representative	**Sylvie Ludunge** (Hudgins)	By Any Supervisor	At-Large
VACANT (Formerly held by Lilia Jimenez-Simhengalu; appointed 4/10-9/12 by Hudgins) Term exp. 3/14 *Resigned*	Fairfax County #3 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Robert Dim; appointed 3/05-3/12 by Hudgins) Term exp. 3/14 *Resigned*	Fairfax County #5 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by Smyth) Term exp. 1/14 *Deceased*	Condo Owner Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Evelyn McRae; appointed 6/98-8/01 by Hanley; 12/04-1/08 by Connolly; 4/11 by Bulova) Term exp. 1/14 *Resigned*	Tenant Member #2 Representative		By Any Supervisor	At-Large
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
Jan Reitman (Appointed 3/08-1/12 by Gross) Term exp. 1/14	Mason District Representative		Gross	Mason

TRANSPORTATION ADVISORY COMMISSION (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michal D. Himmel; appointed 6/13 by Smyth) Term exp. 6/14	Providence District Representative		Smyth	Providence

TREE COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Lyle C. McLaren (Appointed 6/09-11/11 by Bulova) Term exp. 10/14	At-Large Chairman's Representative		Bulova	At-Large Chairman's
Eleanor F. Quigley (appointed 3/00-10/11 by Hyland) Term exp. 10/14	Mount Vernon District Representative		Hyland	Mount Vernon
Charles "Rick" Ayers (Appointed 12/13 by Smyth) Term exp. 10/14	Providence District Representative	**Charles "Rick" Ayers**	Smyth	Providence

TRESPASS TOWING ADVISORY BOARD (3 years)

[NOTE: Advisory board created effective 7/1/06 to advise the Board of Supervisors with regard to the appropriate provisions of Va. Code Section 46.2-1233.2 and Fairfax County Code 82.5-32.]
Membership: Members shall be Fairfax County residents. A towing representative shall be defined as a person who, prior to the time of his or her appointment, and throughout his or her term, shall be an operator of a towing business in Fairfax County.

Incumbent History	Requirement	Nominee	Supervisor	District
Fred Scheler (Appointed 7/06-9/11 by Bulova) Term exp. 9/14	Towing #1 Representative	**Fred Scheler** (Bulova)	By Any Supervisor	At-Large

WETLANDS BOARD (5 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Elizabeth Martin (Appointed 11/09 by Gross) Term exp. 12/13	At-Large #1 Representative	**Elizabeth Martin** (Hyland) *Deferred 12/3/13*	By Any Supervisor	At-Large

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)

CONFIRMATIONS NEEDED:

- Mr. E. J. Thomas as the Treasurer and Vienna Youth Incorporated Representative
- Mr. Dave Vennergrund as the Commisioner
- Mr. Gordon Austin as the Chairman
- Mr. Eric Cooksey as the Secretary and the Herndon Optimist Club Representative
- Mr. David Maher as the Arlington County Recreation Representative commissioner
- Mr. James Bosley as the Member At-Large Representative and Lee Mount Vernon Sports Club Representative
- Mr. Grady Bryant as the Member At-Large Alternate Representative
- Mr. Frank DeLatour as the Parliamentarian and the Annandale Boys and Girls Club Alternate Representative
- Mr. Charles Chandler as the Scheduler
- Mr. Christopher Pulley as the Fairfax County Recreation Representative
- Mr. Curtis Boxley as the Alexandria City Recreation Representative
- Mr. Marvin Elliott as the Alexandria City Recreation Alternate Representative
- Mr. Lezone Kenney as the Annandale Boys and Girls Club Representative
- Mr. Larry Barr as the Arlington County Alternate Representative
- Mr. Daryl Lucas as the Baileys Community Center Representative Representative

Continued on next page

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year) continued

CONFIRMATIONS NEEDED:

- Mr. Jim Watson as the Braddock Road Youth Club Representative
- Mr. Stew Clark as the Braddock Road Youth Club Alternate Representative
- Ms. Kathy Krug as the Burke Basketball Representative
- Mr. Cliff Krug as the Burke Basketball Alternate Representative
- Mr. John Enders as the Chantilly Youth Association Representative
- Mr. Rick Shryock as the Chantilly Youth Association Alternate Representative
- Mr. George Ragan as the Fairfax Police Youth Club Representative
- Mr. Chris Madison as the Falls Church Parks and Recreation Representative
- Mr. Scott Whitaker as the Falls Church Parks and Recreation Alternate Representative
- Mr. Alton Greene as the Fort Belvoir Youth Services Representative
- Mr. Herb Marshall as the Fort Belvoir Youth Services Alternate Representative
- Ms. Nicole Woody as the Fort Belvoir Youth Services Alternate #2 Representative
- Mr. Jack Lohrer as the Fort Hunt Youth Athletic Association Representative
- Mr. David Bruce Bauer, Jr. as the Gainesville Basketball Association Representative
- Mr. Richard Warrick as the Great Falls Basketball Representative
- Ms. Laura Bean as the Great Falls Basketball Alternate Representative
- Ms. Martha Coleman as the Gum Springs Community Center Representative
- Mr. Chris Watari as the Herndon Optimist Club Alternate Representative

Continued on next page

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year) continued

CONFIRMATIONS NEEDED:

- Mr. Mike Trivisonno as the James Lee Community Center Representative
- Mr. Tim Strike as the James Lee Community Center Alternate Representative
- Ms. Kim Thompson as the Lee District Basketball Representative
- Mr. Dennis McMinn as the Lee District Basketball Alternate Representative
- Mr. Lee Hingle as the Lee Mount Vernon Sports Club Alternate Representative
- Mr. Jeff Goettman as the McLean Youth Incorporated Representative
- Mr. Gerry Megas as the McLean Youth Incorporated Alternate Representative
- Mr. Andy Kim as the Mercer Representative
- Mr. Jason Murphy as the Mercer Alternate Representative
- Mr. David Fields as the Mount Vernon Youth Association Representative
- Mr. Stacey Johnson as the Mount Vernon Youth Association Alternate Representative
- Mr. John Schmid as the Reston Youth Basketball League Representative
- Mr. James Byrne as the Reston Youth Basketball League Alternate Representative
- Mr. Ed Knox as the Southwestern Youth Association Representative
- Mr. Chris Spera as the Springfield Youth Club Representative
- Mr. Spencer Kimball as the Springfield Youth Club Alternate Representative
- Mr. Scott Choate as the Turnpike Basketball Club Representative
- Mr. Mike Mastrota as the Turnpike Basketball Club Alternate Representative

Board Agenda Item
October 28, 2014

11:10 a.m.

Items Presented by the County Executive

Board Agenda Item
October 28, 2014

ADMINISTRATIVE – 1

Supplemental Appropriation Resolution AS 15131 for the Department of Family Services to Accept Funding from the Department of Justice, Office on Violence Against Women in Support of the Fairfax County Domestic Violence Action Center (DVAC)

ISSUE:
Board of Supervisors' approval of Supplemental Appropriation Resolution AS 15131 in the amount of $300,000 for the Department of Family Services (DFS) to accept a grant award from the Department of Justice, Office on Violence Against Women. The Domestic Violence Action Center is a public/private partnership created to provide a holistic response to individuals and families impacted by domestic violence and stalking. As indicated in the FY 2015 Adopted Budget Plan, it was anticipated that grant funding for the Fairfax County Domestic Violence Action Center would no longer be available and General Fund dollars would be needed beginning in FY 2016 in order to continue this program. Due to a change in Federal legislation, DFS was able to apply for continued funding; however, the grant funding available was decreased and no longer covers the full cost of the program. Therefore, while there is no Local Cash Match associated with the grant award, in order to continue the program at the current level, $217,350 in additional funding is needed to maintain the current program. Existing balances from the original grant award will be used to cover the shortfall in FY 2015. Beginning in FY 2016, additional General Fund dollars will need to be identified in order to continue the program at the current level. The grant period is October 1, 2014 to September 30, 2015, with two annually appropriated renewals for a total grant period of three years. Funding will continue to support 5/4.5 FTE existing grant positions.

RECOMMENDATION:
The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 15131 in the amount of $300,000. These funds will be used by the Department of Family Services in support of the County's Domestic Violence Action Center. There is no Local Cash Match associated with the grant award; however, the grant award no longer covers the full cost of the programs. Therefore, in order to continue the program at the current level, $217,350 in additional funding is needed. Existing balances from the original grant award will be used to cover the shortfall in FY 2015. Beginning in FY 2016, additional General Fund dollars will need to be identified in order to continue the program at the current level. Funding will continue to support 5/4.5 FTE existing grant positions.

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TIMING:
Board approval is requested on October 28, 2014.

BACKGROUND:
Four years ago, the Department of Family Services' Office for Women & Domestic and Sexual Violence Services (OFWDSVS) played a key role in the community's development of a family justice center, called the Fairfax County Domestic Violence Action Center (DVAC). OFWDSVS' Advocacy Services Supervisor serves as the Project Manager for DVAC. In addition to OFWDSVS, DVAC County partners include the Office of the Commonwealth's Attorney, Juvenile and Domestic Relations Court Services Unit, and the Fairfax County Police Department (the Domestic Violence Detective Team and the Victim Services Section). DVAC community non-profit partners include: A Way Forward, Ayuda, Legal Services of Northern Virginia, Northern Virginia Family Service, Tahirih Justice Center, Shelter House (Artemis House), and The Women's Center. Located in the County's courthouse complex, DVAC is a comprehensive, co-located service center that provides culturally responsive information and support services for victims of domestic violence and stalking and their families, as well as to promote the accountability of offenders of these crimes through specialized prosecution and offender supervision.

The DVAC project has been funded via the same funding source for two, two-year grant cycles (2010-2012 and 2012-2014) at $800,000 and $900,000 respectively. Under the current three-year funding cycle (2014-2017), the award of $900,000 will be utilized over three years, leaving a gap in the current project funding level. This will require local funding in the amount of $217,350 to sustain the project at current levels.

FISCAL IMPACT:
Grant funding in the amount of $300,000 is available from the Department of Justice, Office on Violence Against Women. These funds will be used by the Department of Family Services to sustain the County's Domestic Violence Action Center. There is no Local Cash Match associated with the grant award; however, the grant award no longer covers the full cost of the programs. Therefore, in order to continue the program at the current level, $217,350 in additional funding is needed. Existing balances from the original grant award will be used to cover the shortfall in FY 2015. Beginning in FY 2016, additional General Fund dollars will need to be identified in order to continue the program at the current level. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2015. Indirect cost recovery is allowed but the agency is not requesting the recovery of indirect costs in order to maximize funds available for service delivery.

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CREATION OF NEW POSITIONS:
Funding will continue to support 5/4.5 FTE existing grant positions. The County is under no obligation to continue these positions when the grant funding expires.

ENCLOSED DOCUMENTS:
Attachment 1 – Supplemental Appropriation Resolution 15131
Attachment 2 - Grant Award Document, Excerpt

STAFF:
Patricia Harrison, Deputy County Executive
Ina G. Fernández, Director, OFWDSVS

Attachment 1

SUPPLEMENTAL APPROPRIATION RESOLUTION AS 15131

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax Virginia on October 28, 2014, at which a quorum was present and voting, the following resolution was adopted:

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that in addition to appropriations made previously for FY 2015, the following supplemental appropriation is authorized and the Fiscal Planning Resolution is amended accordingly:

Appropriate to:

Fund:	500-C50000, Federal-State Grant Fund	
Agency:	G6767, Department of Family Services	$300,000
Grant:	1670051-2015, Domestic Violence Grant	

Reduce Appropriation to:

Agency:	G8787, Unclassified Administrative Expenses	$300,000
Fund:	500-C50000, Federal-State Grant Fund	

Source of Funds: U.S. Department of Justice, Office for Violence Against Women, $300,000

A Copy - Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

Department of Justice

Office on Violence Against Women

September 17, 2014

Washington, D.C. 20531

Mr. Edward L. Long Jr.
Fairfax County
12000 Government Center Parkway
Fairfax, VA 22035-0012

Dear Mr. Long:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office on Violence Against Women has approved your application for funding under the Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program in the amount of $900,000 for Fairfax County. The Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program encourages communities to treat sexual assault, domestic violence, dating violence and stalking as serious violations of criminal law requiring the coordinated involvement of the entire criminal justice system and community-based victim service organizations. This Program challenges the community to work collaboratively to identify problems and share ideas that will result in new responses to ensure victim safety and offender accountability.

Enclosed you will find the award package. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact Rudelle Handy at (202) 305-7493. For financial grants management questions, contact the OVW Grants Financial Management Division at (202) 514-8556, or by e-mail at ovw.gfmd@usdoj.gov. For payment questions, contact the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or by email at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Bea Hanson
Principal Deputy Director

Enclosures

Department of Justice

Office on Violence Against Women

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Marnie Shiels, Attorney Advisor

Subject: Categorical Exclusion for Fairfax County

The Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program (Arrest) implements certain provisions of the Violence Against Women Act, which was enacted in September 1994 as Title IV of the Violent Crime Control and Law Enforcement Act of 1994, reauthorized through the Violence Against Women Act of 2000, the Violence Against Women and Department of Justice Reauthorization Act of 2005, and the Violence Against Women Reauthorization Act of 2013. The program enhances victim safety and offender accountability in cases of domestic violence, dating violence, sexual assault and stalking by encouraging jurisdictions to implement pro-arrest policies as an effective intervention that is part of a coordinated community response. An integral component of the Arrest Program is the creation and enhancement of collaborative partnerships between criminal justice agencies, victim services providers, and community organizations which respond to sexual assault, domestic violence, dating violence and stalking.

None of the following activities will be conducted under the OVW federal action:
1. New construction.
2. Any renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year floodplain.
3. A renovation which will change the basic prior use of a facility or significantly change its size.
4. Research and technology whose anticipated and future application could be expected to have an effect on the environment.
5. Implementation of a program involving the use of chemicals. Consequently, the subject federal action meets the criteria for a categorical exclusion as contained in paragraph 4.(b) of Appendix D to Part 61 of the Code of Federal Regulations (adopted by OVW at 28 CFR § 0.122(b)).

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October 28, 2014

ADMINISTRATIVE – 2

Extension of Review Periods for 2232 Review Applications (Springfield, Providence, and Mason 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: FS-P14-25 to December 19, 2014, FS-M14-29 to December 20, 2014, 2232-M14-5 to January 26, 2015, and FSA-S06-10-1 to May 1, 2015.

TIMING:
Board action is required on October 28, 2014, 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. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission."

The Board should extend the review period for applications FS-P14-25, FS-M14-29, and 2232-M14-5, which were accepted for review by the Department of Planning and Zoning (DPZ) on July 22, 2014, July 23, 2014, and August 29, 2014 respectively. These applications are for a telecommunications facility and thus 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 should extend the review period for application FSA-S06-10-1, which was accepted for review by the DPZ on September 2, 2014. 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.

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The review periods for the following applications should be extended:

FS-P14-25	Verizon Wireless Installation of Telecommunications Facility 1651 Old Meadow Road McLean, VA Providence District Extend to December 19, 2014
FS-M14-29	AT&T Installation of Telecommunications Facility 5100 Backlick Road Annandale, VA Mason District Extend to December 20, 2014
2232-M14-5	AT&T Installation of Telecommunications Facility (Monopole) 3301 Peace Valley Lane Falls Church, VA Mason District Extend to January 26, 2015
FSA-S06-10-1	Fairfax County Park Authority Facility Planning at South Run District Park 7550 Reservation Drive Springfield, VA (Springfield District) Extend to May 1, 2015

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
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing to Repeal the November 18, 1996, Resolution that Imposed Certain Limitations on the Fairfax County Spot Blight Abatement Program

ISSUE:
Board authorization to advertise a public hearing to revoke the 1996 Spot Blight Abatement Resolution for Fairfax County, Virginia.

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

TIMING:
Authorization to hold a public hearing to be held Tuesday, December 2, 2014, at 4:00 P.M.

BACKGROUND:
At its regular meeting on February 11, 2014, Fairfax County Board of Supervisors ("the Board") directed staff to conduct a thorough review and analysis of State and County code provisions related to blight, public nuisance, derelict buildings, or those structures that are otherwise determined to be unsafe or in need of repair. The Board further directed staff to provide specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and polices so that existing enabling legislation can be fully implemented, and to analyze whether new enabling legislation is necessary to address existing problems.

In a memorandum dated June 3, 2014, from Jeffrey Blackford, Director Department of Code Compliance and Cynthia Bailey, Senior Assistant County Attorney, staff provided the outcome of the review as requested by the Board. Additionally, staff attended the June 10, 2014 Development Process Committee meeting and addressed additional questions from the Board. Based on feedback from the Board at that time, staff is forwarding this item for advertisement and subsequent consideration by the Board. The attached proposed amendments, if adopted, would better enable staff to address Public Health and Safety Menaces and would remove certain self-imposed limitations regarding the Fairfax County Spot Blight Abatement Ordinance, which is covered in detailed in the memorandum to the Board of Supervisors dated June 3, 2014.

Spot Blight.
Under the 1996 Resolution by the Fairfax County Board of Supervisors, a property was considered blighted if it met the standards set forth in Va. Code Ann. § 36-3 (2011) *and* if it met all of the following conditions:

1. It has been vacant and/or boarded up for at least one year.
2. It has been the subject of complaints.
3. It is no longer being maintained for useful occupancy.
4. It is in a dilapidated condition or lacks normal maintenance or upkeep.

The County's existing Spot Blight Abatement Program is more restrictive than what is currently authorized by state code, and it is used exclusively to demolish structures. There are instances when a property that would not otherwise constitute a "public nuisance" or an "unsafe structure" is nonetheless in such a condition of disrepair that it does create a blighted condition within a neighborhood. The current requirements that a property be boarded, vacant, or no longer maintained for useful occupancy for one year thwarts the ability of the County to address these properties. Similarly, the County's policy that the Spot Blight Abatement Program only be used for demolition is also overly restrictive. In certain situations, it would be useful for the County to have a Spot Blight Abatement Program that would permit the County to repair the property at the owner's expense if the owner fails to do so.

There are at least two important caveats to any such changes in the existing Spot Blight Abatement Program. First, it is strongly recommended that if the Board is inclined to liberalize what may constitute spot blight, any decision to place a property in the Spot Blight Abatement Program remain with the NETF. This committee, comprised of representatives from a variety of County agencies, can ensure that objective criteria and standards are developed and applied before a property can be identified for the Spot Blight Abatement Program. Second, staff is not recommending that the County routinely repair or renovate private property. Indeed, even in the unusual situations when such action is desirable, significant County resources are expended to effectuate a repair project. A scope of work must be developed, the project must be bid, and the actual construction project must be monitored and managed, all of which consumes valuable staff time. Any decision to expand County repair efforts is anticipated to have both a fiscal impact as well as require additional staff and associated support resources.

FISCAL IMPACT:
Provided that use of the County's Spot Blight Program is used to compel a property owner to repair his or her property, there is little, if any, fiscal impact to the proposed amendment. If, however, County resources are expended to effectuate repair projects, then resources to bid and manage those projects must be dedicated.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment 1: June 3, 2014 Blight memo
Attachment 2: November 18, 1996, Blight Abatement Resolution
Attachment 3: Proposed Resolution repealing the November 18, 1996, Resolution

STAFF:
Robert A. Stalzer, Deputy County Executive
Jeffrey L. Blackford, Director, Department of Code Compliance
Cynthia Bailey, Senior Assistant County Attorney, Office of the County Attorney
James Patteson, Director, Department of Public Works and Environmental Services
Dr. Gloria Addo-Ayensu, Director, Fairfax County Department of Health

ATTACHMENT 1

County of Fairfax, Virginia

MEMORANDUM

DATE: June 3, 2014

TO: Board of Supervisors

FROM: Jeffrey L. Blackford, Director
Department of Code Compliance

Cynthia Bailey, Senior Assistant County Attorney
Office of the County Attorney

SUBJECT: Properties that are in a State of Disrepair, Dilapidated, Public Nuisance or a Blight in the Community, February 11, 2014, Board Item 5c.

At its February 11, 2014, meeting, the Fairfax County Board of Supervisors ("the Board") directed staff to conduct a thorough review and analysis of the Virginia Code provisions related to blight, public nuisance, and derelict buildings or those that are otherwise unsafe or in need of repair. The Board further directed staff to provide specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and policies so that existing enabling legislation can be fully implemented, and to analyze whether new enabling legislation is necessary to address existing problems. This memorandum is in response to the Board's directions and concerns.

Summary

Although the overwhelming majority of properties that fall into disrepair can be resolved via existing processes, every year there are about two dozen properties that stubbornly remain in a state of disrepair. When it occurs, these properties become a huge source of strife within their communities. The Code of Virginia ("the State Code"), however, offers the County some additional tools that are currently not being employed. Specifically, the State Code does not have any requirement that properties be vacant and boarded for an entire year before they can be considered for the Spot Blight Abatement Program. The State Code also allows for properties deemed to be blighted to be repaired rather than simply demolished as is current County practice. In addition, the State Code provides that costs incurred to repair certain unsafe or nuisance properties can be treated as tax liens with a super-priority, rather than as a simple judgment. Often, the only option that remains when an owner refuses to bring his or her property into compliance with existing codes is for the County to undertake these efforts. When it does so, the County should maximize the likelihood that the costs so incurred will be repaid.

This report outlines in detail i) a summary of the County's current processes for dealing with blight, property maintenance code violations, and zoning ordinance violations; (ii) available enabling legislation

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Fairfax, VA 22035
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that the County is not currently using; and (iii) as noted above, specific recommendations to change the County's Spot Blight Abatement Program and the Fairfax County Code to maximize the County's available options and to ensure that costs incurred by the County when it chooses to repair certain properties will be repaid.

Background

As set forth more fully below, the Fairfax County Zoning Ordinance ("Zoning Ordinance"), the Virginia Property Maintenance Code ("Property Maintenance Code"), the Virginia Uniform Statewide Building Code (the "VUSBC" or "Building Code"),[1] the Spot Blight Abatement Program, and Chapter 46 of the Code of Fairfax County, Virginia ("County Code"), have been used to address property that is in disrepair, dilapidated, or that otherwise constitutes a blight on the community. Efforts to remedy these situations include fines, penalties, and substantial court action. Sometimes, however, and for a variety of reasons, some property owners remain unwilling or unable to bring their property into compliance with these codes.[2] When this happens, these properties become a huge source of strife and frustration within their communities and for staff. These properties are more than just unsightly; frequently they pose real and immediate dangers to public health, safety, and welfare.

Current enforcement tools

Property Maintenance Code and Zoning Ordinance; Civil Penalties. Many violations of the Property Maintenance Code and the Zoning Ordinance are prosecuted in the Fairfax County General District Court pursuant to a uniform schedule of civil penalties. This schedule provides that violations of the Zoning Ordinance are subject to a civil penalty of $200 for the first violation, and $500 for each subsequent violation, not to exceed $5,000.[3] *See* Va. Code Ann. § 15.2-2209; Zoning Ordinance § 18-903. Similarly, violations of the Property Maintenance Code are subject to a civil penalty of $100 for the first violation and $150 for each subsequent violation, not to exceed $3,000. County Code § 61-7-1. The civil penalty process allows violators to admit liability, prepay fines, and as such, it typically results in more timely compliance than for prosecutions initially brought in the Circuit Court. In 2013, approximately half of the total number of violations pursued via court action were pursued in the General District Court.

Property Maintenance Code and Zoning Ordinance; Injunctive Relief. Sometimes, it is clear for a variety of reasons that prosecution in the General District Court will not be effective. The property owner may be a repeat offender or the property is in such a state of disrepair that a property owner may simply conclude

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[1] Virginia Code Ann. § 36-97—36-119.1 (2011 and Supp. 2013).

[2] The reasons for this recalcitrance are as diverse as the County's population: some property owners have physical or mental disabilities that hinder compliance; some have financial difficulties that make repairs cost prohibitive; some refuse to comply for political reasons; language and cultural differences can also impede compliance; others are merely negligent or have concluded that repairing and maintaining the property is not a good investment.

[3] The Board may recall that on May 14, 2013, the Board amended Article 18 of the Zoning Ordinance to establish a uniform schedule of civil penalties for all zoning violations except for violations relating to signs on public property or the public right of way.

that it is "cheaper" to incur the fines rather than fix the property. In such instances, prosecution of the Property Maintenance Code and Zoning Ordinance violations are pursued in the Circuit Court of Fairfax County ("Circuit Court"). The main advantage that the Circuit Court has over the General District Court is that injunctive relief is available.[4] For violations that are easily repeated (such as the establishment of junk yards) or for violations that are expensive to abate (for example, roof or structural repairs) the availability of injunctive relief is useful.

In the Circuit Court, once a final order is obtained, a property owner is typically granted 30-60 days to bring the property into compliance. If he or she fails to do so, a second stage of prosecution, known as a Rule to Show Cause, begins. At this stage, in addition to the injunctive relief set forth above, the Circuit Court can also impose unlimited contempt sanctions if a property owner fails to come into compliance with a final order. The standard contempt sanction initially sought by the Office of the County Attorney is $100/day for each day that a property remains in violation of the applicable codes. At this rate, costs escalate rapidly and it is not cheaper to let sanctions accrue rather than making the repairs. In unusual situations, when even the substantial sanctions imposed under the Circuit Court's contempt powers do not garner compliance, the Circuit Court will direct the County to make the repairs, and upon review, the Circuit Court will impose a judgment for the cost of those repairs. Both contempt sanctions and repair costs accrue interest at the judgment rate and are recorded among the land records. Final orders are also recorded so that they may be enforced against subsequent owners.

Criminal Prosecution. Certain violations of the Building Code are currently prosecuted criminally; the Department of Code Compliance ("DCC") brings criminal charges against unpermitted construction, and the Land Development Services Division ("LDS") of the Department of Public Works and Environmental Services ("DPWES") criminally prosecutes uncompleted construction work after occupancy. A conviction constitutes a misdemeanor punishable by a fine of not more than $2,500. Va. Code Ann. § 36-106(A). This code section also provides for an escalating regimen of fines and possible jail time for subsequent offenses, e.g., a second conviction within five years from the first conviction is punishable by not less than a fine of $1,000; a third conviction within three years may be punished by a jail sentence of up to 10 days and/or a fine of not less than $2,500. *Id.* Moreover, each day a violation continues after conviction or the court-ordered abatement period constitutes a separate offense.

Spot Blight. Properties that have fallen into a substantial state of disrepair may be addressed through the County's Spot Blight Abatement Program. *See* Va. Code Ann. §§ 36-49.1:1. In Fairfax County, to qualify for blight, a property must (i) have been vacant and boarded for at least one year; (ii) have been the subject of complaints; (iii) no longer be maintained for useful occupancy; and (iv) be in a dilapidated condition or lacking normal maintenance and upkeep. *See* November 21, 1996, Blight Abatement Resolution. A property identified for the Spot Blight Abatement Program is first referred to an inter-agency team of County staff known as the Neighborhood Enhancement Task Force ("NETF"),[5] which by

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[4] There are two kinds of injunctive relief available in the Circuit Court: (1) mandatory, which directs a property owner to abate the violations; and (2) prohibitory, which prohibits the unlawful conduct in the future.

[5] The NETF is comprised of representatives from the following Departments: Police, Fire, Health, Tax Administration, and the Sheriff's Office, and two representatives from Public Works and Environmental Services—one on behalf of the Building Code Official and one from Maintenance and Stormwater

simple majority vote determines whether a property should be entered into the program and referred to the Board for consideration. Va. Code Ann. § 36-49.1:1(B).

Once the NETF recommends that a property be considered for the Spot Blight Abatement Program, the property owner is sent written notice specifying the reasons why the property is blighted.[6] *Id.* The property owner then has 30 days to develop a written abatement plan to address the spot blight ("the Abatement Plan") within a reasonable period of time. *Id.* If the property owners fail to develop an Abatement Plan, or if the Abatement Plan is inadequate to address the spot blight, then the County may declare the property to be spot blighted. Va. Code Ann. § 36-49.1:1(C). Any such declaration of blight must be established via an ordinance. *Id.*

The County is also required to notify the property owner in writing of how the County intends to remedy the blight ("the County Plan"), and no action to remedy the blighted condition may occur until after such notice and the enactment of an ordinance. Va. Code Ann. § 36-49.1:1(D). At such time, the County can then carry out the County Plan. *Id.* The County Plan in Fairfax has been exclusively limited to demolition of the structure on the blighted property. Finally, once the County Plan has been carried out, the County is entitled to a lien on the property to recover the costs of the County Plan. Any such lien accrues interest at the judgment rate, is recorded among the land records, and is treated in all respects as a tax lien, which means that it cannot be discharged in a foreclosure sale and it is given a super-priority in any bankruptcy proceedings. *See* Va. Code Ann. § 36-49.1:1(E). It is important to note that unlike the court proceedings for enforcement of the Property Maintenance Code, the Building Code, and the Zoning Ordinance which require court action as described above, the Spot Blight Abatement Program does not involve a court proceeding prior to filing the lien.

Public Health or Safety Menace. On occasion, property may become so dilapidated or fall into such a state of disrepair that it constitutes a threat to public health or safety. In such instances, the Director of the Health Department has the authority to require a property owner to abate any such condition. *See* Fairfax County Code § 46-1-3. Use of this authority, however, is rare and is used only when the use of other codes is not effective or when the situation constitutes an emergency.

The VUSBC.[7] Many of the properties at issue in this memorandum are currently under construction, and as such, the County's ability to address the condition of these properties is inherently different than it is for properties that have an occupancy permit. First, as a practical matter, a property owner usually has strong financial incentives to finish a construction project, and accordingly, construction violations are usually remedied without resort to court action. Second, given that the ultimate goal is completion, many

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Management Division ("MSMD"). Each of these representatives has one vote. The Office of the County Attorney provides legal advice to the NETF.

[6] Property owners are also sent a notice in advance of the NETF meeting.

[7] Part I of the VUSBC regulates *new* construction and alterations to existing buildings and structures under the Virginia Construction Code. It is supervised by the Building Official in Land Development Services, DPWES. Part III of the VUSBC regulates the upkeep and maintenance of *existing* buildings and structures under the Property Maintenance Code. It is supervised by the Property Maintenance Code Official in the Department of Code Compliance. Nonetheless, the reference to "The Building Code" or the "VUSBC" herein will refer only to Part I of the VUSBC that relates to construction.

of the remedies available under the Building Code, such as fines, revocation of the building permit, or the issuance of a stop work order, thwart that goal. Moreover, the Building Code expressly provides a six month period of time before a project can be considered suspended or abandoned. VUSBC § 110.6. In a direct response to this issue, DPWES has recently started sending out automated messages to building permit holders whose permits are near this six-month expiration period. *See* attached hereto as Exhibit A, the April 10, 2014, Memorandum from County Executive Edward L. Long Jr. regarding this issue.

Enabling legislation

As set forth above, the County primarily uses three processes to address properties that are in a state of disrepair: civil proceedings in General District Court and Circuit Court and the Blight Abatement Program.[8] These processes may result in fines, contempt sanctions, demolition, and/or court-ordered repairs that either garner compliance from a property owner or bring the property into compliance by County action. There are, however, other ways and other remedies that are available to the County under the Virginia Code, and this section will detail this authority.

Criminal Prosecution. Va. Code Ann. § 36-106 authorizes *any* violation of the VUSBC to be prosecuted criminally, not just unpermitted construction and uncompleted work, which is the County's current practice. As noted above, a conviction constitutes a misdemeanor punishable by a fine of not more than $2,500. Va. Code Ann. § 36-106(A). Subsequent offenses subject a defendant to an escalating regimen of fines and possible jail time. *Id.* Each day a violation continues after conviction or the court-ordered abatement period constitutes a separate offense.

In addition, the creation or maintenance of a public nuisance may also be criminally prosecuted. Under Va. Code Ann. § 48-5, upon any such conviction, a person shall be ordered to abate the violation, or reimburse the locality for the costs of any such abatement, and may also be fined not more than $25,000.

Increased Civil Penalties. It is noted that the County's schedule of civil penalties for Property Maintenance Code violations is less than what is provided under state code. Va. Code Ann. § 36-106 permits fines of up to $350 for subsequent offenses, whereas County Code § 67-7-1 limits this amount to $150.

Public Nuisance. Va. Code Ann. § 15.2-900 provides that a public nuisance:

> [I]ncludes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety or the occupants thereof or the public.

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[8] It should be noted that this memorandum addresses only individual properties; separate authority exists under the Housing Authorities Law to create redevelopment and conservation areas that deal with eliminating pervasive areas of blight. *See generally,* Va. Code Ann. § 36-2 (2011).

A locality may abate, raze, or remove any such public nuisance if it "presents an imminent and immediate threat to life or property." The costs to recover any such abatement can be recovered via court action, and under Va. Code Ann. § 15.2-906(4), if those costs remain unpaid, they can "constitute a lien against such property ranking on a parity with liens for unpaid local taxes."

Repair and/or Removal of Unsafe Structures. Va. Code Ann. § 15.2-906 (Supp. 2013) allows a locality to enact an ordinance to require property owners to "remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality." The process outlined by this statute requires notice to the property owner and advertisement in a newspaper of general circulation, but it does not involve the court system.

This statute also provides that any repairs made by the locality would be treated as tax liens. As noted above in the discussion of the Blight Abatement Program, this treatment of such amounts as tax liens means that any costs incurred in repairing or removing an unsafe structure cannot be discharged in a foreclosure sale and will have a priority in any bankruptcy proceeding. Va. Code Ann. § 15.2-906(4). Moreover, enactment of an ordinance of this nature also allows any costs incurred in the abatement of a public nuisance under Va. Code Ann. § 15.2-900 to be similarly treated. *Id.* In addition, when violations of the Property Maintenance Code create an emergency situation or when violations of the Building Code render a property unsafe, costs incurred by the County to remedy those conditions can also be recovered under this statute. *See* Property Maintenance Code § 105.9; VUSBC § 118.5.

Repair and/or Removal of Derelict Structures. Va. Code Ann. § 15.2-907.1 (2012). This statute provides tax and fee incentives to property owners to remove or repair derelict structures. The statute defines "derelict" in relevant part, as a "structure, whether or not construction has been completed, that for a six months period of time has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider." Va. Code Ann. § 15.2-907.1(1). Cooperating owners may receive refunds from certain land use and building permit fees as well as 15-year real property tax rebates linked to the cost of the demolition or renovation. Va. Code Ann. § 15.2-907.1(7) and (8).

Critically, however, the authority set forth in this statute is available only to those localities that have a real estate tax abatement program. Because the County's tax abatement program was recently discontinued, this authority is not available to Fairfax County unless that real estate tax abatement program is reinstituted.

Removal or Repair of Structures Harboring Illegal Activity. Va. Code Ann. § 15.2-907 (2012) sets forth the authority for a locality to address property that constitutes "drug blight." "Drug blight" is defined as a condition on the property that tends to endanger the public health or safety of the residents of a locality caused by the regular presence on the property of persons under the influence of controlled substances or who are possessing, manufacturing, or distributing such substances. Va. Code Ann. § 15.2-907(A). Similarly, Va. Code Ann. § 15.2-908.1 (2012) sets forth the authority for a locality to address buildings or structures used for lewdness, assignation, or prostitution. Both statutes require a locality to enact an ordinance in which an owner is given notice, an opportunity to abate the drug blight or bawdy place and if

no such abatement action occurs, gives the locality authority to abate the drug blight or bawdy place at the expense of the property owner. *See* Va. Code Ann. § 15.2-907 (B); Va. Code Ann. § 15.2-908.1(B).

Spot Blight. The County's Spot Blight Abatement Program offers remedies that are substantially narrower than the authority set forth in the Virginia Code. First, the definition of "blight" is much broader under the Virginia Code than adopted by the County. As set forth above, the County Spot Blight Abatement Program is used only for property that (i) has been vacant and boarded for at least one year; (ii) has been the subject of complaints; (iii) is no longer maintained for useful occupancy; and (iv) is in a dilapidated condition or lacking normal maintenance and upkeep. *See* November 21, 1996, Blight Abatement Resolution attached hereto as Exhibit B. The enabling legislation in the Virginia Code has no such constraints. In contrast to the County definition, the Virginia Code defines "Blighted Property" as "any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards." Va. Code Ann. § 36-3. Although any such property would have to meet a minimum threshold wherein it could be said to constitute a danger or harm to the "public's health, safety or welfare," it need not meet the narrow definition set forth in the Blight Abatement Resolution, such as being vacant and boarded for one year.

Second, as a practical matter the County currently only uses the Spot Blight Abatement Program to *demolish* blighted structures. Virginia Code § 36-49.1:1 also includes the power to *repair* or *condemn* the structure. It must be noted, however, that in the context of *condemnation*, the definition of "blight" is different, and narrower than the definition set forth in Va. Code Ann. § 36-3. *See* Va. Code § 1-219.1 (defining "blighted property" for condemnation purposes as "any property that endangers the public health or safety in its condition at the time of the filing of the petition for condemnation and is (i) a public nuisance or (ii) an individual commercial, industrial, or residential structure or improvement that is beyond repair or unfit for human occupancy or use.").[9] Thus, condemnation is not available in the repair context. In addition, condemnation is not available for residential property that is occupied if it would result in the displacement of persons living in the premises, unless the property had been condemned for human habitation for more than one year. Va. Code Ann. § 1-219(F).

Finally, there is no state code requirement for the establishment of an inter-agency task force in order to recommend properties into the Spot Blight Abatement Program. Va. Code Ann. § 36-49.1:1 merely provides that the "chief executive or designee of the locality shall make a preliminary determination that a property is blighted." Va. Code Ann. § 36-49.1:1.

Thus, under the same process outlined above, the County could both repair or condemn certain structures and still garner the same protections for the costs incurred in doing so. Va. Code Ann. § 36-49.1:1(E). This process is completely independent from any judicial or court process.

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[9] This statute also makes clear that to the extent that its terms conflict with any other law, Va. Code Ann. § 1-219.1 controls. Va. Code Ann. § 1-219.1(H).

Recommendations

Properties in Fairfax County that languish in a constant state of disrepair have one feature in common: a property owner who is unwilling or unable to make the requisite repairs. The following recommendations parallel the enabling legislation outlined above.

Criminal Prosecution. The County currently criminally prosecutes anyone responsible for either unpermitted work or incomplete work. Typically, such prosecutions are against unscrupulous builders and contractors, and occasionally, home owners. Criminal sanctions for Property Maintenance Code and Zoning Ordinance violations are not, however, recommended. As noted above, some property owners are not able to bring their property into compliance due to a variety of compelling circumstances: they lack the financial means to do so, or they are mentally or physically disabled. In any event, if a property owner fails to bring his property into compliance, even after the imposition of substantial fines that are typically imposed, it seems unlikely that the threat of criminal fines or jail time will prompt compliance.

Civil Penalties. Given that staff does not recommend criminal prosecution, seeking the maximum amount of civil penalties permitted may be warranted. Again, however, the inherent nature of the problem at issue is that certain property owners do not – or due to their economic situation cannot – respond to financial sanctions; thus, it is unclear that an increase from $150 to $350 would be much more of a deterrent.

Public Nuisance/Unsafe Structures. For both types of problems, the General Assembly authorizes the County to make actual repairs, and then be able to recover the cost of such repairs as if it were a tax lien. Va. Code Ann. § 15.2-906(4). Given the increasing number of times that the County ultimately has to make repairs to bring property into compliance, it is prudent for the County to garner the maximum amount of protection for that expenditure.

To do so, certain relatively minor amendments to the County Code would be necessary because Va. Code Ann. § 15.2-906(4) is not self-executing; it requires the affirmative enactment of an ordinance. It is important to note, however, that repairs that do not remedy unsafe or dangerous conditions are not eligible for such treatment.

Repair and/or Removal of Derelict Structures. This statute is not available to the County because we do not now have a tax abatement program as it was recently discontinued by the Board. Nonetheless, it is not recommended that this authority be implemented because offering tax rebates for property owners who have maintained derelict structures appears to reward bad behavior.

Removal or Repair of Structures Harboring Illegal Activity. Fortunately, the County does not have a substantial problem with structures that harbor drug activity or houses of prostitution. Accordingly, it is not recommended that this enabling legislation be implemented.

Spot Blight. The County's existing Spot Blight Abatement Program is more restrictive than what is currently allowed by state code, and is used exclusively to demolish structures. There are instances when a property that would not otherwise constitute a public nuisance or an unsafe structure nonetheless is in such a condition of disrepair that it does create a blighted condition within a neighborhood. The current

requirements that a property be boarded, vacant, or no longer maintained for useful occupancy for one year thwarts the ability of the County to address these properties. Similarly, the County's policy that the Spot Blight Abatement Program only be used for demolition is also overly restrictive. In some situations, a property that constitutes spot blight cannot be demolished because to do so would constitute an unlawful taking; rather, the better approach would be to enact a Spot Blight Abatement Plan that would permit the County to repair the property at the owner's expense if the owner failed to do so.

Similarly, there may also be situations when actually taking the property by eminent domain would be advisable. Indeed, the new constitutional amendment regarding eminent domain makes clear that the elimination of a public nuisance is a public purpose. Va. Const. Art. I, § 11. No existing policy permits such action.

There are at least two important caveats to any such changes in the existing Spot Blight Abatement Program. First, it is strongly recommended that if the Board is inclined to liberalize what may constitute spot blight, any decision to place a property in the Spot Blight Abatement Program remain with the NETF. This committee, comprised of representatives from a variety of County agencies, can ensure that objective criteria and standards are developed and applied before a property can be identified for the Spot Blight Abatement Program. Second, staff is not recommending that the County routinely repair or renovate private property. Indeed, even in the unusual situations when such action is desirable, significant County resources are expended to effectuate a repair project. A scope of work must be developed, the project must be bid, and the actual construction project must be monitored and managed—all of which consumes valuable staff time. Any decision to expand County repair efforts would have a significant fiscal impact that the Board must consider. It is anticipated that repairing even two dozen properties a year would require the hiring of additional staff and associated support resources. And although the cost of repairs would ultimately be charged to the property owner, the statute does not permit that any administrative costs could similarly be passed to the property owner.

New Legislation. The processes available to counties to abate nuisance properties are much more complicated than for municipal corporations. For example, municipal corporations do not have the same requirement to affirmatively enact an ordinance in order to abate certain nuisances. *Compare* Va. Code Ann. § 15.2-1115 *with* Va. Code Ann. § 15.2-906. It is not clear why the code makes this distinction, and seeking an amendment to Va. Code Ann. § 15.2-1115 so that it applies to all localities is advisable.

Currently, the super-priority afforded to County-incurred costs applies only when the property has been deemed blighted or when the needed repairs are to structures that are unsafe or dangerous to health and safety. *See* Va. Code Ann. § 15.2-900 (public nuisance requires a danger or menace to health and safety); Va. Code Ann. § 15.2-906 (remedying of dangerous conditions); Property Maintenance Code § 105.9 (remedying of emergencies); VUSBC § 118.5 (remedying of unsafe structures). There are many times when a property is in a substantial state of disrepair, but it does not quite rise to the level of being unsafe. If the County is required to make these repairs, the costs for doing so should also be treated as a tax lien and be given super-priority treatment.

Conclusion

Although the vast majority of properties that are in a state of disrepair are ultimately repaired by their owners, some property owners simply cannot or will not make such repairs. In such unusual instances, the County is the only entity that can step in and do the work. Currently, when the County undertakes such work, the costs of doing so are not fully protected. In many instances, the Virginia Code allows such costs to be treated as tax liens, and the County should take advantage of that protection. Doing so would require fairly modest amendments to the County Code. Similarly, there are instances when the Spot Blight Abatement Program could be used for more than just the demolition of buildings and structures. Although any expansion of this Program would have to be carefully reviewed, it offers another tool to address those properties that are in a constant state of disrepair.

Attachments: Exhibit A: April 10, 2014, Memorandum from County Executive Edward L. Long Jr.
Exhibit B: November 21, 1996, Blight Abatement Resolution
February 11, 2014 Board Matter

cc: Edward L. Long Jr., County Executive
Robert A. Stalzer, Deputy County Executive
Patricia D. Harrison, Deputy County Executive
David P. Bobzien, County Attorney
Dr. Gloria Addo-Ayensu, Director, Fairfax County Health Department
James W. Patteson, Director, Department of Public Works and Environmental Services
Pieter Sheehan, Director, Division of Environmental Health, Fairfax County Health Department
Audrey Clark, Acting Director, Land Development Services, DPWES

Exhibit A

County of Fairfax, Virginia

MEMORANDUM

DATE: APR 10 2014

TO: Board of Supervisors

FROM: Edward L. Long Jr.
County Executive

SUBJECT: Automated Notifications of Permit Expiration

Throughout the County, certain residential projects have languished in a state of incomplete construction for several years under building permits with approved extensions. These slowed or stalled projects have been the subject of complaints and neighborhood concerns pertaining to property values, criminal activity and raise questions about why the Building Official would extend the permits for such projects. The Uniform Statewide Building Code authorizes the Building Official to issue permit extensions as long as evidence of construction activity is provided to staff. Such evidence may include receipts for materials purchased, delivery manifest, or inspection reports that prove substantive progress has been made.

In a July 15, 2013 memorandum to the Board of Supervisors, staff outlined a plan to implement automated email notifications in the Fairfax Inspections Database Online (FIDO) system to improve permit holder awareness of permit timing restrictions and help promote more expedient project completion. Staff has completed the implementation of this initiative.

When a permit is nearing the six-month expiration threshold, FIDO will send an automated message (sample attached) to the permit holder(s) notifying them that their permit may be revoked and giving them further information regarding permit extension requirements. The messages will be automatically sent 30 days prior to the permit expiration date.

If you have any questions or need additional information, please contact James Patteson or Audrey Clark at 703-324-5033.

Attachments: Sample Automated Email
July 15, 2013 Memo to the Board

cc: Robert A. Stalzer, Deputy County Executive
James Patteson, Director, Department of Public Works and Environmental Services
Audrey Clark, Building Official
Jeffrey L. Blackford, Director, Department of Code Compliance

Office of the County Executive
12000 Government Center Parkway, Suite 552
Fairfax, VA 22035-0066
703-324-2531, TTY 703-222-5494, Fax 703-324-3956
www.fairfaxcounty.gov

Fairfax County Permit Expiration Notification

The subject and text below is a sample email that is being sent automatically through the Fairfax Inspections Database Online (FIDO) system.

Subject

Fairfax County Permit Expiration Notification

Text

Permit Number: 132830092
Permit Type: PLUMBING R
Permit Description: lawn irrigration system
Address: 7206 WARBLER LANE, MCLEAN, VA

Date of Issuance: 10-10-2013
Current Expiration Date: 04-10-2014

The building permit referenced above is set to expire on the date noted due to inactivity. Pursuant to the Virginia Uniform Statewide Building Code, the Building Official of Fairfax County has the authority to revoke building permits if work has not begun within six months of its issuance or if work has been abandoned for six month.

To extend the expiration date of a permit, the applicant must request an inspection or submit a written request to the Building Official with evidence that substantial work has been performed within the last six months.

If you have completed work and wish to extend your permit, prior to the expiration date noted above schedule an inspection or send a written request to dpwesbuildingpermits@fairfaxcounty.gov or to:

Permit Application Center
12055 Government Center Parkway
Fairfax, VA 22035-5504

Failure to obtain the minimum required inspections is a violation of Virginia law and can result in legal action.

For additional information or questions regarding this permit please contact 703-222-0801, TTY 711. Please visit fairfaxcounty.gov/buildingpermits to check the status of your permit or to schedule an inspection.

County of Fairfax, Virginia

MEMORANDUM

DATE: JUL 15 2013

TO: Board of Supervisors

FROM: Edward L. Long Jr.
County Executive

SUBJECT: January 29, 2013, Board Item 1c - Code Enforcement Pertaining to Incomplete Construction Projects and Building Permit Extensions

At the January 29, 2013, Board of Supervisors' meeting, Supervisor McKay inquired about the Board's authority to limit the extension of building permits (see attached board matter). Throughout the County, certain residential projects have languished in a state of incomplete construction for several years under building permits with approved extensions. These slowed or stalled projects have been the subject of complaints and neighborhood concerns pertaining to property values, criminal activity and fire risk and raise questions about why the Building Official would extend the permits for such projects. After reevaluating the procedures for permit extensions, the Building Official has identified ways to fine-tune the process and coordinate with Board members regarding sensitive projects.

Part I of the Virginia Uniform Statewide Building Code (USBC) regulates *new* construction and alterations to existing buildings and structures under the Virginia Construction Code as supervised by the Building Official in Land Development Services/Department of Public Works and Environmental Services. Part III of the USBC regulates the upkeep and maintenance of *existing* buildings and structures under the Virginia Maintenance Code as supervised by the Property Maintenance Code Official (PMCO) in the Department of Code Compliance (DCC). This distinction of authority is relevant in addressing the Board's concerns.

The USBC permits the Building Official to revoke a building permit if the work authorized therein has not begun within six months of its issuance or if the work has been abandoned for six months. Conversely, the Building Official has the authority to issue permit extensions for up to one year as long as evidence of construction activity is provided to staff. Such evidence may include receipts for materials purchased, delivery manifests, or engineering reports that prove activity had taken place within the six-month window. Additionally, the Building Official has the authority to limit the timeframe for the construction of a residential project by revoking the permit three years after issuance.

The intent of the USBC is to gain compliance with the USBC so buildings and structures can be built safely and economically. Therefore, before revoking a permit, careful consideration is given to the intent and ability of the permit holder to complete the work and the potential impact to the neighborhood. In cases where the permit has been revoked, the permit holder may reapply for a

new permit that would, in most cases, require an updated design and related plans showing compliance with the current code. When these conditions are met, the Building Official must issue the new permit, at which time the six-month timeframe begins again. Consequently, revoking the permit does not necessarily accelerate project completion. In these situations, staff has experienced greater success with bringing projects to completion while working with permit holders under their existing permits rather than revoking them and requiring new permits under the current and more restrictive code.

Staff is sensitive to the community's need for a balanced approach to permit extensions. Planned enhancements of the Fairfax Inspections Database Online (FIDO) system include automated email notifications of permit expiration. When implemented, the notifications would improve permit holder awareness of permit timing restrictions and help promote more expedient project completion. When a permit reaches the six-month or three-year threshold, FIDO would email the permit holders(s) notifying them that their permit may be revoked and giving them further information regarding permit extension requirements.

The Building Official proposes to work with Board Members on a case-by-case basis for challenging projects. Once identified, staff would be able to review the project's completion history and make contact with the permit holder to discuss proactive options to move the project forward. If the Building Official subsequently revokes the permit, the condition of the property then becomes a maintenance issue which can then be referred to and enforced by the PMCO in DCC. The PMCO will typically issue a notice of violation requiring remediation of the violation(s) within 30 days. The remedy would require the permit holder to complete the project, return the structure to its original condition, or demolish the entire structure. All options require a building permit under the current code in order to abate the violation. As such, once the permit is issued, the six-month timeframe begins again. If compliance cannot be obtained, the PMCO refers the property for legal action. As a practical matter, if a project has stalled because the (former) permit holder lacks the necessary funding to complete the project, gaining compliance through legal action may still be a challenge. Clearing maintenance violations often costs a substantial amount of money, which complicates the process of obtaining compliance.

It should also be noted that decisions by the Building Official, PMCO and their respective technical assistants working on their behalf, can be appealed to the Local Board of Building Code Appeals, the State Technical Review Board, and the state court system within a specific timeframe. Therefore, fair and consistent application of the USBC is essential to avoid excessive appeals.

Attached: Board Matter

cc: Robert A. Stalzer, Deputy County Executive
James Patteson, Director, Department of Public Works and Environmental Services
Michelle Brickner, Building Official
Jeffrey L. Blackford, Director, Department of Code Compliance
Michael Congleton, Property Maintenance Code Official

Departments of Transportation and the Department of Management and Budget (DMB). Those goals are set forth on page 26 of the Report.

Therefore, Supervisor Foust moved that the Board adopt the January 2013 Quarterly Report of the Office of Financial and Program Audit, and approve the list of study areas to be included in the work program of the Office of Financial and Program Audit as contained in his written Board Matter. Supervisor Gross seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board direct staff to report with recommendations regarding the nature and costs of the Silver Line CNPAs, noted earlier, and their impact on the Project budget. The recommendations should contain alternatives aimed at relieving the Project Funding Partners (both the County and Toll Road users) of these costs. The completed reported is requested by March 1, 2013. Supervisor Herrity and Chairman Bulova jointly seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board direct staff to consider and implement as appropriate, the best practices and recommendations made by the Auditor of the Board as part of the County Executive's Restoring Fiscal Stability Work Plan for CSB contained in this report. Supervisor Hyland seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board concur with the goals established by the Department of Transportation and the Department of Management and Budget for the management of the Northern Virginia Transportation Commission County Trust Funds as set forth on page 26 of the OFPA report. Supervisor McKay seconded the motion. Following a brief discussion regarding the motion, the question was called on the motion and it **CARRIED** by a recorded vote of nine, Supervisor Herrity voting "NAY."

PMH:pmh

53. **CODE ENFORCEMENT** (6:10 p.m.)

Supervisor McKay said that the County has made significant strides in streamlining code enforcement and making it more responsive to community needs. The General Assembly has supported the Board's efforts by passing legislation that reduced appeal periods on some zoning violations from 30 to 10 days, saved time by immediately posting violations on the property instead of mailing notices, and made inspection warrants easier to obtain.

However, there is an outstanding area where there are deficiencies, specifically in the building code. Currently, upon written request by the holder of a building permit, the County building official may grant one or more extensions of time, not to exceed one year per extension. In the Lee District, as well as across the County, these extensions can leave communities with partially built structures that

are both eyesores and hazards. There are several such properties in Lee District – the Calamo Street and Grace Street examples are well known – where unfinished structures have been the subject of neighborhood complaints for many years. The impact of these unfinished structures on a community is more than cosmetic. They affect property values, invite criminal activity, vagrants and squatters, and animal infestation. Furthermore, they can be a fire risk. They send a message that the community doesn't care and that the County cannot or will not enforce its zoning and building code. It is time to tighten up unlimited building permits and extensions.

Therefore, Supervisor McKay asked unanimous consent that the Board direct the County Attorney to review the Board's ability to act in this matter and report on whether it can limit building permit extensions or if it needs General Assembly enabling authority. Should the Board already have the authority to act, Supervisor McKay asked unanimous consent that the Board direct staff to report with recommendations for updating the building permit and permit extension process. Without objection, it was so ordered.

54. **REQUEST FOR RECOGNITION** (6:10 p.m.)

Supervisor McKay said that in the large and increasingly urban County, the job of keeping residential properties from deteriorating into dangerous storage lots and junkyards is an ongoing challenge overseen by the Department of Code Compliance, the Department of Solid Waste Collection and Recycling and the Department of Public Works and Environmental Services, Storm Water Management Division.

One such junkyard property in Lee District was in an area zoned R-1 and was originally estimated to have 375 vehicles parked on site in various states of disrepair, junk yard dogs, feral cats, oil and gasoline, old appliances and a steel girder bridge used to get across portions of the property. With all this, there was no residential structure left on the property.

After years of attempts to make the property owner clean up the site, legal action, fines, and finally the prospect of jail, it became clear that the owner could not or would not meet the timeline for compliance. At that point the County took on the site cleanup. The County Attorney obtained a court order to allow staff to clear the property and perform environmentally safe cleanup so that the land might be restored to a green space. Now the owner is required to build a residence on the site before returning anything to the property.

After this final clearing of the property, the tally of materials removed is impressive: almost 20 tons of auto parts, old appliances and scrap metal, six and a half tons of tires, 135 tons of trash and debris, 200 gallons of oil and 150 gallons of gasoline.

Approved by the Board of Supervisors, November 18, 1996, and by the Redevelopment Housing Authority, (RHA) on November 21, 1996.

Additional information

We will take referrals by telephone and do not require that the caller identify himself/herself. We do not require documentation but need, at a minimum, a street address of the potentially blighted property. any other pertinent information we can get at the time will be added to the file. We explain clearly that a referral does not automatically put a property on the blight list. The caller is told that staff will investigate the property, review County files for a history of violations or complaints and, if the property meets the definition of blight it will be referred to the FCRHA for a determination of blight. (Note: HCD is currently considering more than sixty previous referrals. Therefore it could be January before new properties are investigated.) At the time the FCRHA makes a blight determination and the property is officially added to the blighted properties list, the owner will be notified of the determination and the actions which will be taken.

Properties are considered blighted in accordance with Section 36-49 of the Code of Virginia, as amended, due to "dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors." The code also requires that properties be shown to be "detrimental to the safety, health, morals or welfare of the community" by reason of such dilapidation.
A property can be considered "blighted" if it meets all of the following conditions:

1. *It has been vacant and boarded for at least one year.*
2. *It has been the subject of complaints.*
3. *It is no longer being maintained for useful occupancy.*
4. *It is in dilapidated condition or lacks normal maintenance and upkeep.*

Referrals or questions should be forwarded to:

Kathleen A. Mitchell, Director
or
Gordon Goodlett
Revitalization Division
Department of Housing and Community Development
3700 Pender Drive
Fairfax, VA 22030-7444
Phone: (703) 246-5171
Fax: (703) 246-5110

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5c. **PROPERTIES THAT ARE IN A STATE OF DISREPAIR, DILAPIDATED, PUBLIC NUISANCE OR A BLIGHT IN THE COMMUNITY** (11:59 a.m.)

STALZER/BOBZIEN

In a joint Board Matter with Supervisor Smyth, Supervisor Foust noted that there are times in the County when some properties languish in a constant state of disrepair, are dilapidated, constitute a public nuisance or are otherwise a blight on the community. Efforts to remedy these situations include fines, penalties, and substantial court action, but for a variety of reasons, some property owners remain unwilling or unable to bring their property into compliance with the Zoning Ordinance, the Property Maintenance Code, or the Building Code. When this happens, these properties become a huge source of strife and frustration within their communities and for staff. These properties are more than just unsightly; frequently they pose real and immediate dangers to public health, safety, and welfare.

Supervisor Foust said that it recently come to his attention that the Virginia Code offers localities certain tools to address properties that are not being employed in the County. Specifically, Virginia Code Section 15.2-906 permits localities to remove or repair any structure that endangers the public health or safety and to recover the costs for doing so. Similarly, Virginia Code Section 15.2-907.1 allows localities to offer tax rebates for the repair or removal of certain buildings that have been vacant and boarded up for longer than six months. Finally, even the County's existing Blight Program includes conditions not required by the State Code; For example, there is no requirement in the State Code that a property be vacant and boarded for a year in order to be considered a blighted property, yet the County currently includes this criteria before a property can be deemed blighted. As such, the Blight Program cannot be used to address some of these longstanding problem properties.

There are many times in local government that the County is not able to address a problem because under the Dillon Rule, the County has not been given adequate authority from the General Assembly. Here, however, there are tools given to the County by Richmond that it appears it isn't adequately using. Certainly, no one is advocating that the County should routinely get in the business of repairing private property, but when every other reasonable effort fails, the County shouldn't hamstring itself from using more aggressive tools, particularly when those tools are clearly available.

Accordingly, Supervisor Foust moved, on behalf of himself and Supervisor Smyth, that the Board direct staff to conduct a thorough review and analysis of Virginia Code sections related to blight, public nuisance, derelict buildings, or those that are otherwise unsafe or in need of repair and provide to the Board specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and policies so that this enabling legislation can be fully implemented. Supervisor Smyth seconded the motion.

Chairman Bulova relinquished the Chair to Acting-Chairman Hyland and asked to amend the motion to include an examination of the tools the Board currently has or that have been added since the blight program was first adopted for review and consideration in the Development Process Committee. This was accepted.

Discussion ensued, with input from Cynthia A. Bailey, Senior County Attorney, concerning:

- The importance of determining the impact on property owners
- The inclusion in the review of protections for the County
- Implementation of protections provided by State Code
- Not limiting the evaluation to those powers expressively given to the Board in these Code sections
- Exploring past challenges and not limit it to whether or not it would fit within the existing Code section
- Potential impact on property owners

The question was called on the motion, as amended, and it carried by a vote of nine, Supervisor Gross being absent.

Approved by the Board of Supervisors, November 18, 1996, and by the Redevelopment Housing Authority, (RHA) on November 21, 1996.

Additional information

We will take referrals by telephone and do not require that the caller identify himself/herself. We do not require documentation but need, at a minimum, a street address of the potentially blighted property. any other pertinent information we can get at the time will be added to the file. We explain clearly that a referral does not automatically put a property on the blight list. The caller is told that staff will investigate the property, review County files for a history of violations or complaints and, if the property meets the definition of blight it will be referred to the FCRHA for a determination of blight. (Note: HCD is currently considering more than sixty previous referrals. Therefore it could be January before new properties are investigated.) At the time the FCRHA makes a blight determination and the property is officially added to the blighted properties list, the owner will be notified of the determination and the actions which will be taken.

Properties are considered blighted in accordance with Section 36-49 of the Code of Virginia, as amended, due to "dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors." The code also requires that properties be shown to be "detrimental to the safety, health, morals or welfare of the community" by reason of such dilapidation.
A property can be considered "blighted" if it meets all of the following conditions:

1. *It has been vacant and boarded for at least one year.*
2. *It has been the subject of complaints.*
3. *It is no longer being maintained for useful occupancy.*
4. *It is in dilapidated condition or lacks normal maintenance and upkeep.*

Referrals or questions should be forwarded to:

Kathleen A. Mitchell, Director
or
Gordon Goodlett
Revitalization Division
Department of Housing and Community Development
3700 Pender Drive
Fairfax, VA 22030-7444
Phone: (703) 246-5171
Fax: (703) 246-5110

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ATTACHMENT 3

RESOLUTION

WHEREAS, one of the goals of the Fairfax County Board of Supervisors ("Board") is the preservation and improvement of residential neighborhoods and commercial areas; and to ensure that structures located within the County are not dilapidated, deteriorated, or otherwise violate minimum standards of health and safety; and

WHEREAS, the Board has approved the implementation of a spot blight abatement program authorized as authorized by the Code of Virginia; and

WHEREAS, it has been determined that the Fairfax County Spot Blight Abatement Program contains certain self-imposed constraints that are not otherwise required under state law; and

WHEREAS, the Board desires to repeal these self-imposed constraints by the enactment of this Resolution,

NOW THEREFORE, BE IT RESOLVED, THAT the November 18, 1996, Resolution of the Board is hereby repealed.

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing to Amend Chapter 46 of the Fairfax County Code Regarding Public Nuisance for Fairfax County, Virginia

ISSUE:
Board authorization to advertise a public hearing to amend several portions of Chapter 46 of the Fairfax County Code, which governs public menaces and nuisances. The proposed amendment adds certain unsafe conditions defined in state code, the Building Code and the Property Maintenance Code to the definition of public health or safety menace or public nuisance as set forth in Chapter 46. In addition, the amendment changes the existing process to prosecute such violations, and further provides that the costs to the County to remedy or repair public nuisances may be treated as tax liens.

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

TIMING:
Authorization to advertise on October 28, 2014, a public hearing to be held Tuesday, December 2, 2014, at 4:00 P.M.

BACKGROUND:
At its regular meeting on February 11, 2014, the Fairfax County Board of Supervisors ("the Board") directed staff to conduct a thorough review and analysis of State and County code provisions related to blight, public nuisance, derelict buildings, or those structures that are otherwise determined to be unsafe or in need of repair. The Board further directed staff to provide specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and polices so that existing enabling legislation can be fully implemented, and to analyze whether new enabling legislation is necessary to address existing problems.

In a memorandum, dated June 3, 2014, from Jeffrey Blackford, Director Department of Code Compliance and Cynthia Bailey, Senior Assistant County Attorney, staff provided the outcome of the review as requested by the Board. Additionally, staff attended the June 10, 2014 Development Process Committee meeting and addressed additional questions from the Board. Based on feedback from the Board at that time, staff is

forwarding this item for advertisement and subsequent consideration by the Board. The attached proposed amendments, if adopted, would better enable staff to address Public Health and Safety Menaces and would remove certain self-imposed limitations regarding the Fairfax County Spot Blight Abatement Ordinance, which is covered in detailed in the memorandum to the Board of Supervisors dated June 3, 2014.

Public Health or Safety Menace.
On occasion a property may become so dilapidated or fall into such a state of disrepair that it constitutes a threat to public health or safety. In such instances, the Director of the Fairfax County Health Department has the authority, under Fairfax County Code § 46-1-3, to require a property owner to abate any such condition. This item seeks to amend several portions of Chapter 46 to better address this problem. First, it expands the definition of what constitutes a "public menace" and "public nuisance" to include certain unsafe conditions as defined in the Virginia Code the Virginia Uniform Statewide Building Code, and the Virginia Maintenance Code. These include, for example, dilapidated structures, unsecured vacant structures, or where a structure constitutes a menace to public health and safety. The proposed amendment also changes the existing process to prosecute such violations. It provides that the County shall give notice to a property owner by certified mail and publishing a corresponding advertisement in a newspaper of general circulation for two weeks. The proposed amendment further provides that except in cases of emergency, if after such notice, a property owner fails remedy the public menace or nuisance, the County may undertake such repairs and that the costs thereof may be collect in the same manner taxes are collected.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: June 3, 2014 Blight memo
Attachment 2: Proposed amendments to Chapter 46

STAFF:
Robert A. Stalzer, Deputy County Executive
Jeffrey L. Blackford, Director, Department of Code Compliance
Cynthia Bailey, Senior Assistant County Attorney, Office of the County Attorney
James Patteson, Director, Department of Public Works and Environmental Services
Dr. Gloria Addo-Ayensu, Director, Fairfax County Department of Health
Audrey Clark, Building Code Official, Dept. of Public Works and Environmental Services
Elizabeth Perry, Virginia Maintenance Official, Department of Code Compliance

County of Fairfax, Virginia

MEMORANDUM

1

DATE: June 3, 2014

TO: Board of Supervisors

FROM: Jeffrey L. Blackford, Director
Department of Code Compliance

Cynthia Bailey, Senior Assistant County Attorney
Office of the County Attorney

SUBJECT: Properties that are in a State of Disrepair, Dilapidated, Public Nuisance or a Blight in the Community, February 11, 2014, Board Item 5c.

At its February 11, 2014, meeting, the Fairfax County Board of Supervisors ("the Board") directed staff to conduct a thorough review and analysis of the Virginia Code provisions related to blight, public nuisance, and derelict buildings or those that are otherwise unsafe or in need of repair. The Board further directed staff to provide specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and policies so that existing enabling legislation can be fully implemented, and to analyze whether new enabling legislation is necessary to address existing problems. This memorandum is in response to the Board's directions and concerns.

Summary

Although the overwhelming majority of properties that fall into disrepair can be resolved via existing processes, every year there are about two dozen properties that stubbornly remain in a state of disrepair. When it occurs, these properties become a huge source of strife within their communities. The Code of Virginia ("the State Code"), however, offers the County some additional tools that are currently not being employed. Specifically, the State Code does not have any requirement that properties be vacant and boarded for an entire year before they can be considered for the Spot Blight Abatement Program. The State Code also allows for properties deemed to be blighted to be repaired rather than simply demolished as is current County practice. In addition, the State Code provides that costs incurred to repair certain unsafe or nuisance properties can be treated as tax liens with a super-priority, rather than as a simple judgment. Often, the only option that remains when an owner refuses to bring his or her property into compliance with existing codes is for the County to undertake these efforts. When it does so, the County should maximize the likelihood that the costs so incurred will be repaid.

This report outlines in detail i) a summary of the County's current processes for dealing with blight, property maintenance code violations, and zoning ordinance violations; (ii) available enabling legislation

Department of Code Compliance/Office of the County Attorney
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that the County is not currently using; and (iii) as noted above, specific recommendations to change the County's Spot Blight Abatement Program and the Fairfax County Code to maximize the County's available options and to ensure that costs incurred by the County when it chooses to repair certain properties will be repaid.

Background

As set forth more fully below, the Fairfax County Zoning Ordinance ("Zoning Ordinance"), the Virginia Property Maintenance Code ("Property Maintenance Code"), the Virginia Uniform Statewide Building Code (the "VUSBC" or "Building Code"),[1] the Spot Blight Abatement Program, and Chapter 46 of the Code of Fairfax County, Virginia ("County Code"), have been used to address property that is in disrepair, dilapidated, or that otherwise constitutes a blight on the community. Efforts to remedy these situations include fines, penalties, and substantial court action. Sometimes, however, and for a variety of reasons, some property owners remain unwilling or unable to bring their property into compliance with these codes.[2] When this happens, these properties become a huge source of strife and frustration within their communities and for staff. These properties are more than just unsightly; frequently they pose real and immediate dangers to public health, safety, and welfare.

Current enforcement tools

Property Maintenance Code and Zoning Ordinance; Civil Penalties. Many violations of the Property Maintenance Code and the Zoning Ordinance are prosecuted in the Fairfax County General District Court pursuant to a uniform schedule of civil penalties. This schedule provides that violations of the Zoning Ordinance are subject to a civil penalty of $200 for the first violation, and $500 for each subsequent violation, not to exceed $5,000.[3] *See* Va. Code Ann. § 15.2-2209; Zoning Ordinance § 18-903. Similarly, violations of the Property Maintenance Code are subject to a civil penalty of $100 for the first violation and $150 for each subsequent violation, not to exceed $3,000. County Code § 61-7-1. The civil penalty process allows violators to admit liability, prepay fines, and as such, it typically results in more timely compliance than for prosecutions initially brought in the Circuit Court. In 2013, approximately half of the total number of violations pursued via court action were pursued in the General District Court.

Property Maintenance Code and Zoning Ordinance; Injunctive Relief. Sometimes, it is clear for a variety of reasons that prosecution in the General District Court will not be effective. The property owner may be a repeat offender or the property is in such a state of disrepair that a property owner may simply conclude

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[1] Virginia Code Ann. § 36-97—36-119.1 (2011 and Supp. 2013).

[2] The reasons for this recalcitrance are as diverse as the County's population: some property owners have physical or mental disabilities that hinder compliance; some have financial difficulties that make repairs cost prohibitive; some refuse to comply for political reasons; language and cultural differences can also impede compliance; others are merely negligent or have concluded that repairing and maintaining the property is not a good investment.

[3] The Board may recall that on May 14, 2013, the Board amended Article 18 of the Zoning Ordinance to establish a uniform schedule of civil penalties for all zoning violations except for violations relating to signs on public property or the public right of way.

that it is "cheaper" to incur the fines rather than fix the property. In such instances, prosecution of the Property Maintenance Code and Zoning Ordinance violations are pursued in the Circuit Court of Fairfax County ("Circuit Court"). The main advantage that the Circuit Court has over the General District Court is that injunctive relief is available.[4] For violations that are easily repeated (such as the establishment of junk yards) or for violations that are expensive to abate (for example, roof or structural repairs) the availability of injunctive relief is useful.

In the Circuit Court, once a final order is obtained, a property owner is typically granted 30-60 days to bring the property into compliance. If he or she fails to do so, a second stage of prosecution, known as a Rule to Show Cause, begins. At this stage, in addition to the injunctive relief set forth above, the Circuit Court can also impose unlimited contempt sanctions if a property owner fails to come into compliance with a final order. The standard contempt sanction initially sought by the Office of the County Attorney is $100/day for each day that a property remains in violation of the applicable codes. At this rate, costs escalate rapidly and it is not cheaper to let sanctions accrue rather than making the repairs. In unusual situations, when even the substantial sanctions imposed under the Circuit Court's contempt powers do not garner compliance, the Circuit Court will direct the County to make the repairs, and upon review, the Circuit Court will impose a judgment for the cost of those repairs. Both contempt sanctions and repair costs accrue interest at the judgment rate and are recorded among the land records. Final orders are also recorded so that they may be enforced against subsequent owners.

Criminal Prosecution. Certain violations of the Building Code are currently prosecuted criminally; the Department of Code Compliance ("DCC") brings criminal charges against unpermitted construction, and the Land Development Services Division ("LDS") of the Department of Public Works and Environmental Services ("DPWES") criminally prosecutes uncompleted construction work after occupancy. A conviction constitutes a misdemeanor punishable by a fine of not more than $2,500. Va. Code Ann. § 36-106(A). This code section also provides for an escalating regimen of fines and possible jail time for subsequent offenses, e.g., a second conviction within five years from the first conviction is punishable by not less than a fine of $1,000; a third conviction within three years may be punished by a jail sentence of up to 10 days and/or a fine of not less than $2,500. *Id.* Moreover, each day a violation continues after conviction or the court-ordered abatement period constitutes a separate offense.

Spot Blight. Properties that have fallen into a substantial state of disrepair may be addressed through the County's Spot Blight Abatement Program. *See* Va. Code Ann. §§ 36-49.1:1. In Fairfax County, to qualify for blight, a property must (i) have been vacant and boarded for at least one year; (ii) have been the subject of complaints; (iii) no longer be maintained for useful occupancy; and (iv) be in a dilapidated condition or lacking normal maintenance and upkeep. *See* November 21, 1996, Blight Abatement Resolution. A property identified for the Spot Blight Abatement Program is first referred to an inter-agency team of County staff known as the Neighborhood Enhancement Task Force ("NETF"),[5] which by

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[4] There are two kinds of injunctive relief available in the Circuit Court: (1) mandatory, which directs a property owner to abate the violations; and (2) prohibitory, which prohibits the unlawful conduct in the future.

[5] The NETF is comprised of representatives from the following Departments: Police, Fire, Health, Tax Administration, and the Sheriff's Office, and two representatives from Public Works and Environmental Services—one on behalf of the Building Code Official and one from Maintenance and Stormwater

simple majority vote determines whether a property should be entered into the program and referred to the Board for consideration. Va. Code Ann. § 36-49.1:1(B).

Once the NETF recommends that a property be considered for the Spot Blight Abatement Program, the property owner is sent written notice specifying the reasons why the property is blighted.[6] *Id.* The property owner then has 30 days to develop a written abatement plan to address the spot blight ("the Abatement Plan") within a reasonable period of time. *Id.* If the property owners fail to develop an Abatement Plan, or if the Abatement Plan is inadequate to address the spot blight, then the County may declare the property to be spot blighted. Va. Code Ann. § 36-49.1:1(C). Any such declaration of blight must be established via an ordinance. *Id.*

The County is also required to notify the property owner in writing of how the County intends to remedy the blight ("the County Plan"), and no action to remedy the blighted condition may occur until after such notice and the enactment of an ordinance. Va. Code Ann. § 36-49.1:1(D). At such time, the County can then carry out the County Plan. *Id.* The County Plan in Fairfax has been exclusively limited to demolition of the structure on the blighted property. Finally, once the County Plan has been carried out, the County is entitled to a lien on the property to recover the costs of the County Plan. Any such lien accrues interest at the judgment rate, is recorded among the land records, and is treated in all respects as a tax lien, which means that it cannot be discharged in a foreclosure sale and it is given a super-priority in any bankruptcy proceedings. *See* Va. Code Ann. § 36-49.1:1(E). It is important to note that unlike the court proceedings for enforcement of the Property Maintenance Code, the Building Code, and the Zoning Ordinance which require court action as described above, the Spot Blight Abatement Program does not involve a court proceeding prior to filing the lien.

Public Health or Safety Menace. On occasion, property may become so dilapidated or fall into such a state of disrepair that it constitutes a threat to public health or safety. In such instances, the Director of the Health Department has the authority to require a property owner to abate any such condition. *See* Fairfax County Code § 46-1-3. Use of this authority, however, is rare and is used only when the use of other codes is not effective or when the situation constitutes an emergency.

The VUSBC.[7] Many of the properties at issue in this memorandum are currently under construction, and as such, the County's ability to address the condition of these properties is inherently different than it is for properties that have an occupancy permit. First, as a practical matter, a property owner usually has strong financial incentives to finish a construction project, and accordingly, construction violations are usually remedied without resort to court action. Second, given that the ultimate goal is completion, many

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Management Division ("MSMD"). Each of these representatives has one vote. The Office of the County Attorney provides legal advice to the NETF.

[6] Property owners are also sent a notice in advance of the NETF meeting.

[7] Part I of the VUSBC regulates *new* construction and alterations to existing buildings and structures under the Virginia Construction Code. It is supervised by the Building Official in Land Development Services, DPWES. Part III of the VUSBC regulates the upkeep and maintenance of *existing* buildings and structures under the Property Maintenance Code. It is supervised by the Property Maintenance Code Official in the Department of Code Compliance. Nonetheless, the reference to "The Building Code" or the "VUSBC" herein will refer only to Part I of the VUSBC that relates to construction.

of the remedies available under the Building Code, such as fines, revocation of the building permit, or the issuance of a stop work order, thwart that goal. Moreover, the Building Code expressly provides a six month period of time before a project can be considered suspended or abandoned. VUSBC § 110.6. In a direct response to this issue, DPWES has recently started sending out automated messages to building permit holders whose permits are near this six-month expiration period. *See* attached hereto as Exhibit A, the April 10, 2014, Memorandum from County Executive Edward L. Long Jr. regarding this issue.

Enabling legislation

As set forth above, the County primarily uses three processes to address properties that are in a state of disrepair: civil proceedings in General District Court and Circuit Court and the Blight Abatement Program.[8] These processes may result in fines, contempt sanctions, demolition, and/or court-ordered repairs that either garner compliance from a property owner or bring the property into compliance by County action. There are, however, other ways and other remedies that are available to the County under the Virginia Code, and this section will detail this authority.

Criminal Prosecution. Va. Code Ann. § 36-106 authorizes *any* violation of the VUSBC to be prosecuted criminally, not just unpermitted construction and uncompleted work, which is the County's current practice. As noted above, a conviction constitutes a misdemeanor punishable by a fine of not more than $2,500. Va. Code Ann. § 36-106(A). Subsequent offenses subject a defendant to an escalating regimen of fines and possible jail time. *Id.* Each day a violation continues after conviction or the court-ordered abatement period constitutes a separate offense.

In addition, the creation or maintenance of a public nuisance may also be criminally prosecuted. Under Va. Code Ann. § 48-5, upon any such conviction, a person shall be ordered to abate the violation, or reimburse the locality for the costs of any such abatement, and may also be fined not more than $25,000.

Increased Civil Penalties. It is noted that the County's schedule of civil penalties for Property Maintenance Code violations is less than what is provided under state code. Va. Code Ann. § 36-106 permits fines of up to $350 for subsequent offenses, whereas County Code § 67-7-1 limits this amount to $150.

Public Nuisance. Va. Code Ann. § 15.2-900 provides that a public nuisance:

> [I]ncludes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety or the occupants thereof or the public.

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[8] It should be noted that this memorandum addresses only individual properties; separate authority exists under the Housing Authorities Law to create redevelopment and conservation areas that deal with eliminating pervasive areas of blight. *See generally,* Va. Code Ann. § 36-2 (2011).

A locality may abate, raze, or remove any such public nuisance if it "presents an imminent and immediate threat to life or property." The costs to recover any such abatement can be recovered via court action, and under Va. Code Ann. § 15.2-906(4), if those costs remain unpaid, they can "constitute a lien against such property ranking on a parity with liens for unpaid local taxes."

Repair and/or Removal of Unsafe Structures. Va. Code Ann. § 15.2-906 (Supp. 2013) allows a locality to enact an ordinance to require property owners to "remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality." The process outlined by this statute requires notice to the property owner and advertisement in a newspaper of general circulation, but it does not involve the court system.

This statute also provides that any repairs made by the locality would be treated as tax liens. As noted above in the discussion of the Blight Abatement Program, this treatment of such amounts as tax liens means that any costs incurred in repairing or removing an unsafe structure cannot be discharged in a foreclosure sale and will have a priority in any bankruptcy proceeding. Va. Code Ann. § 15.2-906(4). Moreover, enactment of an ordinance of this nature also allows any costs incurred in the abatement of a public nuisance under Va. Code Ann. § 15.2-900 to be similarly treated. *Id.* In addition, when violations of the Property Maintenance Code create an emergency situation or when violations of the Building Code render a property unsafe, costs incurred by the County to remedy those conditions can also be recovered under this statute. *See* Property Maintenance Code § 105.9; VUSBC § 118.5.

Repair and/or Removal of Derelict Structures. Va. Code Ann. § 15.2-907.1 (2012). This statute provides tax and fee incentives to property owners to remove or repair derelict structures. The statute defines "derelict" in relevant part, as a "structure, whether or not construction has been completed, that for a six months period of time has been (i) vacant, (ii) boarded up in accordance with the building code, and (iii) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider." Va. Code Ann. § 15.2-907.1(1). Cooperating owners may receive refunds from certain land use and building permit fees as well as 15-year real property tax rebates linked to the cost of the demolition or renovation. Va. Code Ann. § 15.2-907.1(7) and (8).

Critically, however, the authority set forth in this statute is available only to those localities that have a real estate tax abatement program. Because the County's tax abatement program was recently discontinued, this authority is not available to Fairfax County unless that real estate tax abatement program is reinstituted.

Removal or Repair of Structures Harboring Illegal Activity. Va. Code Ann. § 15.2-907 (2012) sets forth the authority for a locality to address property that constitutes "drug blight." "Drug blight" is defined as a condition on the property that tends to endanger the public health or safety of the residents of a locality caused by the regular presence on the property of persons under the influence of controlled substances or who are possessing, manufacturing, or distributing such substances. Va. Code Ann. § 15.2-907(A). Similarly, Va. Code Ann. § 15.2-908.1 (2012) sets forth the authority for a locality to address buildings or structures used for lewdness, assignation, or prostitution. Both statutes require a locality to enact an ordinance in which an owner is given notice, an opportunity to abate the drug blight or bawdy place and if

no such abatement action occurs, gives the locality authority to abate the drug blight or bawdy place at the expense of the property owner. *See* Va. Code Ann. § 15.2-907 (B); Va. Code Ann. § 15.2-908.1(B).

Spot Blight. The County's Spot Blight Abatement Program offers remedies that are substantially narrower than the authority set forth in the Virginia Code. First, the definition of "blight" is much broader under the Virginia Code than adopted by the County. As set forth above, the County Spot Blight Abatement Program is used only for property that (i) has been vacant and boarded for at least one year; (ii) has been the subject of complaints; (iii) is no longer maintained for useful occupancy; and (iv) is in a dilapidated condition or lacking normal maintenance and upkeep. *See* November 21, 1996, Blight Abatement Resolution attached hereto as Exhibit B. The enabling legislation in the Virginia Code has no such constraints. In contrast to the County definition, the Virginia Code defines "Blighted Property" as "any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards." Va. Code Ann. § 36-3. Although any such property would have to meet a minimum threshold wherein it could be said to constitute a danger or harm to the "public's health, safety or welfare," it need not meet the narrow definition set forth in the Blight Abatement Resolution, such as being vacant and boarded for one year.

Second, as a practical matter the County currently only uses the Spot Blight Abatement Program to *demolish* blighted structures. Virginia Code § 36-49.1:1 also includes the power to *repair* or *condemn* the structure. It must be noted, however, that in the context of *condemnation*, the definition of "blight" is different, and narrower than the definition set forth in Va. Code Ann. § 36-3. *See* Va. Code § 1-219.1 (defining "blighted property" for condemnation purposes as "any property that endangers the public health or safety in its condition at the time of the filing of the petition for condemnation and is (i) a public nuisance or (ii) an individual commercial, industrial, or residential structure or improvement that is beyond repair or unfit for human occupancy or use.").[9] Thus, condemnation is not available in the repair context. In addition, condemnation is not available for residential property that is occupied if it would result in the displacement of persons living in the premises, unless the property had been condemned for human habitation for more than one year. Va. Code Ann. § 1-219(F).

Finally, there is no state code requirement for the establishment of an inter-agency task force in order to recommend properties into the Spot Blight Abatement Program. Va. Code Ann. § 36-49.1:1 merely provides that the "chief executive or designee of the locality shall make a preliminary determination that a property is blighted." Va. Code Ann. § 36-49.1:1.

Thus, under the same process outlined above, the County could both repair or condemn certain structures and still garner the same protections for the costs incurred in doing so. Va. Code Ann. § 36-49.1:1(E). This process is completely independent from any judicial or court process.

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[9] This statute also makes clear that to the extent that its terms conflict with any other law, Va. Code Ann. § 1-219.1 controls. Va. Code Ann. § 1-219.1(H).

Recommendations

Properties in Fairfax County that languish in a constant state of disrepair have one feature in common: a property owner who is unwilling or unable to make the requisite repairs. The following recommendations parallel the enabling legislation outlined above.

Criminal Prosecution. The County currently criminally prosecutes anyone responsible for either unpermitted work or incomplete work. Typically, such prosecutions are against unscrupulous builders and contractors, and occasionally, home owners. Criminal sanctions for Property Maintenance Code and Zoning Ordinance violations are not, however, recommended. As noted above, some property owners are not able to bring their property into compliance due to a variety of compelling circumstances: they lack the financial means to do so, or they are mentally or physically disabled. In any event, if a property owner fails to bring his property into compliance, even after the imposition of substantial fines that are typically imposed, it seems unlikely that the threat of criminal fines or jail time will prompt compliance.

Civil Penalties. Given that staff does not recommend criminal prosecution, seeking the maximum amount of civil penalties permitted may be warranted. Again, however, the inherent nature of the problem at issue is that certain property owners do not – or due to their economic situation cannot – respond to financial sanctions; thus, it is unclear that an increase from $150 to $350 would be much more of a deterrent.

Public Nuisance/Unsafe Structures. For both types of problems, the General Assembly authorizes the County to make actual repairs, and then be able to recover the cost of such repairs as if it were a tax lien. Va. Code Ann. § 15.2-906(4). Given the increasing number of times that the County ultimately has to make repairs to bring property into compliance, it is prudent for the County to garner the maximum amount of protection for that expenditure.

To do so, certain relatively minor amendments to the County Code would be necessary because Va. Code Ann. § 15.2-906(4) is not self-executing; it requires the affirmative enactment of an ordinance. It is important to note, however, that repairs that do not remedy unsafe or dangerous conditions are not eligible for such treatment.

Repair and/or Removal of Derelict Structures. This statute is not available to the County because we do not now have a tax abatement program as it was recently discontinued by the Board. Nonetheless, it is not recommended that this authority be implemented because offering tax rebates for property owners who have maintained derelict structures appears to reward bad behavior.

Removal or Repair of Structures Harboring Illegal Activity. Fortunately, the County does not have a substantial problem with structures that harbor drug activity or houses of prostitution. Accordingly, it is not recommended that this enabling legislation be implemented.

Spot Blight. The County's existing Spot Blight Abatement Program is more restrictive than what is currently allowed by state code, and is used exclusively to demolish structures. There are instances when a property that would not otherwise constitute a public nuisance or an unsafe structure nonetheless is in such a condition of disrepair that it does create a blighted condition within a neighborhood. The current

requirements that a property be boarded, vacant, or no longer maintained for useful occupancy for one year thwarts the ability of the County to address these properties. Similarly, the County's policy that the Spot Blight Abatement Program only be used for demolition is also overly restrictive. In some situations, a property that constitutes spot blight cannot be demolished because to do so would constitute an unlawful taking; rather, the better approach would be to enact a Spot Blight Abatement Plan that would permit the County to repair the property at the owner's expense if the owner failed to do so.

Similarly, there may also be situations when actually taking the property by eminent domain would be advisable. Indeed, the new constitutional amendment regarding eminent domain makes clear that the elimination of a public nuisance is a public purpose. Va. Const. Art. I, § 11. No existing policy permits such action.

There are at least two important caveats to any such changes in the existing Spot Blight Abatement Program. First, it is strongly recommended that if the Board is inclined to liberalize what may constitute spot blight, any decision to place a property in the Spot Blight Abatement Program remain with the NETF. This committee, comprised of representatives from a variety of County agencies, can ensure that objective criteria and standards are developed and applied before a property can be identified for the Spot Blight Abatement Program. Second, staff is not recommending that the County routinely repair or renovate private property. Indeed, even in the unusual situations when such action is desirable, significant County resources are expended to effectuate a repair project. A scope of work must be developed, the project must be bid, and the actual construction project must be monitored and managed—all of which consumes valuable staff time. Any decision to expand County repair efforts would have a significant fiscal impact that the Board must consider. It is anticipated that repairing even two dozen properties a year would require the hiring of additional staff and associated support resources. And although the cost of repairs would ultimately be charged to the property owner, the statute does not permit that any administrative costs could similarly be passed to the property owner.

New Legislation. The processes available to counties to abate nuisance properties are much more complicated than for municipal corporations. For example, municipal corporations do not have the same requirement to affirmatively enact an ordinance in order to abate certain nuisances. *Compare* Va. Code Ann. § 15.2-1115 *with* Va. Code Ann. § 15.2-906. It is not clear why the code makes this distinction, and seeking an amendment to Va. Code Ann. § 15.2-1115 so that it applies to all localities is advisable.

Currently, the super-priority afforded to County-incurred costs applies only when the property has been deemed blighted or when the needed repairs are to structures that are unsafe or dangerous to health and safety. *See* Va. Code Ann. § 15.2-900 (public nuisance requires a danger or menace to health and safety); Va. Code Ann. § 15.2-906 (remedying of dangerous conditions); Property Maintenance Code § 105.9 (remedying of emergencies); VUSBC § 118.5 (remedying of unsafe structures). There are many times when a property is in a substantial state of disrepair, but it does not quite rise to the level of being unsafe. If the County is required to make these repairs, the costs for doing so should also be treated as a tax lien and be given super-priority treatment.

Conclusion

Although the vast majority of properties that are in a state of disrepair are ultimately repaired by their owners, some property owners simply cannot or will not make such repairs. In such unusual instances, the County is the only entity that can step in and do the work. Currently, when the County undertakes such work, the costs of doing so are not fully protected. In many instances, the Virginia Code allows such costs to be treated as tax liens, and the County should take advantage of that protection. Doing so would require fairly modest amendments to the County Code. Similarly, there are instances when the Spot Blight Abatement Program could be used for more than just the demolition of buildings and structures. Although any expansion of this Program would have to be carefully reviewed, it offers another tool to address those properties that are in a constant state of disrepair.

Attachments: Exhibit A: April 10, 2014, Memorandum from County Executive Edward L. Long Jr.
Exhibit B: November 21, 1996, Blight Abatement Resolution
February 11, 2014 Board Matter

cc: Edward L. Long Jr., County Executive
Robert A. Stalzer, Deputy County Executive
Patricia D. Harrison, Deputy County Executive
David P. Bobzien, County Attorney
Dr. Gloria Addo-Ayensu, Director, Fairfax County Health Department
James W. Patteson, Director, Department of Public Works and Environmental Services
Pieter Sheehan, Director, Division of Environmental Health, Fairfax County Health Department
Audrey Clark, Acting Director, Land Development Services, DPWES

Exhibit A

County of Fairfax, Virginia

MEMORANDUM

DATE: APR 10 2014

TO: Board of Supervisors

FROM: Edward L. Long Jr.
County Executive

SUBJECT: Automated Notifications of Permit Expiration

Throughout the County, certain residential projects have languished in a state of incomplete construction for several years under building permits with approved extensions. These slowed or stalled projects have been the subject of complaints and neighborhood concerns pertaining to property values, criminal activity and raise questions about why the Building Official would extend the permits for such projects. The Uniform Statewide Building Code authorizes the Building Official to issue permit extensions as long as evidence of construction activity is provided to staff. Such evidence may include receipts for materials purchased, delivery manifest, or inspection reports that prove substantive progress has been made.

In a July 15, 2013 memorandum to the Board of Supervisors, staff outlined a plan to implement automated email notifications in the Fairfax Inspections Database Online (FIDO) system to improve permit holder awareness of permit timing restrictions and help promote more expedient project completion. Staff has completed the implementation of this initiative.

When a permit is nearing the six-month expiration threshold, FIDO will send an automated message (sample attached) to the permit holder(s) notifying them that their permit may be revoked and giving them further information regarding permit extension requirements. The messages will be automatically sent 30 days prior to the permit expiration date.

If you have any questions or need additional information, please contact James Patteson or Audrey Clark at 703-324-5033.

Attachments: Sample Automated Email
July 15, 2013 Memo to the Board

cc: Robert A. Stalzer, Deputy County Executive
James Patteson, Director, Department of Public Works and Environmental Services
Audrey Clark, Building Official
Jeffrey L. Blackford, Director, Department of Code Compliance

Office of the County Executive
12000 Government Center Parkway, Suite 552
Fairfax, VA 22035-0066
703-324-2531, TTY 703-222-5494, Fax 703-324-3956
www.fairfaxcounty.gov

Fairfax County Permit Expiration Notification

The subject and text below is a sample email that is being sent automatically through the Fairfax Inspections Database Online (FIDO) system.

Subject

Fairfax County Permit Expiration Notification

Text

Permit Number: 132830092
Permit Type: PLUMBING R
Permit Description: lawn irrigration system
Address: 7206 WARBLER LANE, MCLEAN, VA

Date of Issuance: 10-10-2013
Current Expiration Date: 04-10-2014

The building permit referenced above is set to expire on the date noted due to inactivity. Pursuant to the Virginia Uniform Statewide Building Code, the Building Official of Fairfax County has the authority to revoke building permits if work has not begun within six months of its issuance or if work has been abandoned for six month.

To extend the expiration date of a permit, the applicant must request an inspection or submit a written request to the Building Official with evidence that substantial work has been performed within the last six months.

If you have completed work and wish to extend your permit, prior to the expiration date noted above schedule an inspection or send a written request to dpwesbuildingpermits@fairfaxcounty.gov or to:

Permit Application Center
12055 Government Center Parkway
Fairfax, VA 22035-5504

Failure to obtain the minimum required inspections is a violation of Virginia law and can result in legal action.

For additional information or questions regarding this permit please contact 703-222-0801, TTY 711. Please visit fairfaxcounty.gov/buildingpermits to check the status of your permit or to schedule an inspection.

County of Fairfax, Virginia

MEMORANDUM

DATE: JUL 15 2013

TO: Board of Supervisors

FROM: Edward L. Long Jr.
County Executive

SUBJECT: January 29, 2013, Board Item 1c - Code Enforcement Pertaining to Incomplete Construction Projects and Building Permit Extensions

At the January 29, 2013, Board of Supervisors' meeting, Supervisor McKay inquired about the Board's authority to limit the extension of building permits (see attached board matter). Throughout the County, certain residential projects have languished in a state of incomplete construction for several years under building permits with approved extensions. These slowed or stalled projects have been the subject of complaints and neighborhood concerns pertaining to property values, criminal activity and fire risk and raise questions about why the Building Official would extend the permits for such projects. After reevaluating the procedures for permit extensions, the Building Official has identified ways to fine-tune the process and coordinate with Board members regarding sensitive projects.

Part I of the Virginia Uniform Statewide Building Code (USBC) regulates *new* construction and alterations to existing buildings and structures under the Virginia Construction Code as supervised by the Building Official in Land Development Services/Department of Public Works and Environmental Services. Part III of the USBC regulates the upkeep and maintenance of *existing* buildings and structures under the Virginia Maintenance Code as supervised by the Property Maintenance Code Official (PMCO) in the Department of Code Compliance (DCC). This distinction of authority is relevant in addressing the Board's concerns.

The USBC permits the Building Official to revoke a building permit if the work authorized therein has not begun within six months of its issuance or if the work has been abandoned for six months. Conversely, the Building Official has the authority to issue permit extensions for up to one year as long as evidence of construction activity is provided to staff. Such evidence may include receipts for materials purchased, delivery manifests, or engineering reports that prove activity had taken place within the six-month window. Additionally, the Building Official has the authority to limit the timeframe for the construction of a residential project by revoking the permit three years after issuance.

The intent of the USBC is to gain compliance with the USBC so buildings and structures can be built safely and economically. Therefore, before revoking a permit, careful consideration is given to the intent and ability of the permit holder to complete the work and the potential impact to the neighborhood. In cases where the permit has been revoked, the permit holder may reapply for a

new permit that would, in most cases, require an updated design and related plans showing compliance with the current code. When these conditions are met, the Building Official must issue the new permit, at which time the six-month timeframe begins again. Consequently, revoking the permit does not necessarily accelerate project completion. In these situations, staff has experienced greater success with bringing projects to completion while working with permit holders under their existing permits rather than revoking them and requiring new permits under the current and more restrictive code.

Staff is sensitive to the community's need for a balanced approach to permit extensions. Planned enhancements of the Fairfax Inspections Database Online (FIDO) system include automated email notifications of permit expiration. When implemented, the notifications would improve permit holder awareness of permit timing restrictions and help promote more expedient project completion. When a permit reaches the six-month or three-year threshold, FIDO would email the permit holders(s) notifying them that their permit may be revoked and giving them further information regarding permit extension requirements.

The Building Official proposes to work with Board Members on a case-by-case basis for challenging projects. Once identified, staff would be able to review the project's completion history and make contact with the permit holder to discuss proactive options to move the project forward. If the Building Official subsequently revokes the permit, the condition of the property then becomes a maintenance issue which can then be referred to and enforced by the PMCO in DCC. The PMCO will typically issue a notice of violation requiring remediation of the violation(s) within 30 days. The remedy would require the permit holder to complete the project, return the structure to its original condition, or demolish the entire structure. All options require a building permit under the current code in order to abate the violation. As such, once the permit is issued, the six-month timeframe begins again. If compliance cannot be obtained, the PMCO refers the property for legal action. As a practical matter, if a project has stalled because the (former) permit holder lacks the necessary funding to complete the project, gaining compliance through legal action may still be a challenge. Clearing maintenance violations often costs a substantial amount of money, which complicates the process of obtaining compliance.

It should also be noted that decisions by the Building Official, PMCO and their respective technical assistants working on their behalf, can be appealed to the Local Board of Building Code Appeals, the State Technical Review Board, and the state court system within a specific timeframe. Therefore, fair and consistent application of the USBC is essential to avoid excessive appeals.

Attached: Board Matter

cc: Robert A. Stalzer, Deputy County Executive
James Patteson, Director, Department of Public Works and Environmental Services
Michelle Brickner, Building Official
Jeffrey L. Blackford, Director, Department of Code Compliance
Michael Congleton, Property Maintenance Code Official

Departments of Transportation and the Department of Management and Budget (DMB). Those goals are set forth on page 26 of the Report.

Therefore, Supervisor Foust moved that the Board adopt the January 2013 Quarterly Report of the Office of Financial and Program Audit, and approve the list of study areas to be included in the work program of the Office of Financial and Program Audit as contained in his written Board Matter. Supervisor Gross seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board direct staff to report with recommendations regarding the nature and costs of the Silver Line CNPAs, noted earlier, and their impact on the Project budget. The recommendations should contain alternatives aimed at relieving the Project Funding Partners (both the County and Toll Road users) of these costs. The completed reported is requested by March 1, 2013. Supervisor Herrity and Chairman Bulova jointly seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board direct staff to consider and implement as appropriate, the best practices and recommendations made by the Auditor of the Board as part of the County Executive's Restoring Fiscal Stability Work Plan for CSB contained in this report. Supervisor Hyland seconded the motion and it carried by unanimous vote.

Supervisor Foust moved that the Board concur with the goals established by the Department of Transportation and the Department of Management and Budget for the management of the Northern Virginia Transportation Commission County Trust Funds as set forth on page 26 of the OFPA report. Supervisor McKay seconded the motion. Following a brief discussion regarding the motion, the question was called on the motion and it **CARRIED** by a recorded vote of nine, Supervisor Herrity voting "NAY."

PMH:pmh

53. **CODE ENFORCEMENT** (6:10 p.m.)

Supervisor McKay said that the County has made significant strides in streamlining code enforcement and making it more responsive to community needs. The General Assembly has supported the Board's efforts by passing legislation that reduced appeal periods on some zoning violations from 30 to 10 days, saved time by immediately posting violations on the property instead of mailing notices, and made inspection warrants easier to obtain.

However, there is an outstanding area where there are deficiencies, specifically in the building code. Currently, upon written request by the holder of a building permit, the County building official may grant one or more extensions of time, not to exceed one year per extension. In the Lee District, as well as across the County, these extensions can leave communities with partially built structures that

are both eyesores and hazards. There are several such properties in Lee District – the Calamo Street and Grace Street examples are well known – where unfinished structures have been the subject of neighborhood complaints for many years. The impact of these unfinished structures on a community is more than cosmetic. They affect property values, invite criminal activity, vagrants and squatters, and animal infestation. Furthermore, they can be a fire risk. They send a message that the community doesn't care and that the County cannot or will not enforce its zoning and building code. It is time to tighten up unlimited building permits and extensions.

Therefore, Supervisor McKay asked unanimous consent that the Board direct the County Attorney to review the Board's ability to act in this matter and report on whether it can limit building permit extensions or if it needs General Assembly enabling authority. Should the Board already have the authority to act, Supervisor McKay asked unanimous consent that the Board direct staff to report with recommendations for updating the building permit and permit extension process. Without objection, it was so ordered.

54. **REQUEST FOR RECOGNITION** (6:10 p.m.)

Supervisor McKay said that in the large and increasingly urban County, the job of keeping residential properties from deteriorating into dangerous storage lots and junkyards is an ongoing challenge overseen by the Department of Code Compliance, the Department of Solid Waste Collection and Recycling and the Department of Public Works and Environmental Services, Storm Water Management Division.

One such junkyard property in Lee District was in an area zoned R-1 and was originally estimated to have 375 vehicles parked on site in various states of disrepair, junk yard dogs, feral cats, oil and gasoline, old appliances and a steel girder bridge used to get across portions of the property. With all this, there was no residential structure left on the property.

After years of attempts to make the property owner clean up the site, legal action, fines, and finally the prospect of jail, it became clear that the owner could not or would not meet the timeline for compliance. At that point the County took on the site cleanup. The County Attorney obtained a court order to allow staff to clear the property and perform environmentally safe cleanup so that the land might be restored to a green space. Now the owner is required to build a residence on the site before returning anything to the property.

After this final clearing of the property, the tally of materials removed is impressive: almost 20 tons of auto parts, old appliances and scrap metal, six and a half tons of tires, 135 tons of trash and debris, 200 gallons of oil and 150 gallons of gasoline.

Approved by the Board of Supervisors, November 18, 1996, and by the Redevelopment Housing Authority, (RHA) on November 21, 1996.

Additional information

We will take referrals by telephone and do not require that the caller identify himself/herself. We do not require documentation but need, at a minimum, a street address of the potentially blighted property. any other pertinent information we can get at the time will be added to the file. We explain clearly that a referral does not automatically put a property on the blight list. The caller is told that staff will investigate the property, review County files for a history of violations or complaints and, if the property meets the definition of blight it will be referred to the FCRHA for a determination of blight. (Note: HCD is currently considering more than sixty previous referrals. Therefore it could be January before new properties are investigated.) At the time the FCRHA makes a blight determination and the property is officially added to the blighted properties list, the owner will be notified of the determination and the actions which will be taken.

Properties are considered blighted in accordance with Section 36-49 of the Code of Virginia, as amended, due to "dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors." The code also requires that properties be shown to be "detrimental to the safety, health, morals or welfare of the community" by reason of such dilapidation.
A property can be considered "blighted" if it meets all of the following conditions:

1. *It has been vacant and boarded for at least one year.*
2. *It has been the subject of complaints.*
3. *It is no longer being maintained for useful occupancy.*
4. *It is in dilapidated condition or lacks normal maintenance and upkeep.*

Referrals or questions should be forwarded to:

Kathleen A. Mitchell, Director
or
Gordon Goodlett
Revitalization Division
Department of Housing and Community Development
3700 Pender Drive
Fairfax, VA 22030-7444
Phone: (703) 246-5171
Fax: (703) 246-5110

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5c. **PROPERTIES THAT ARE IN A STATE OF DISREPAIR, DILAPIDATED, PUBLIC NUISANCE OR A BLIGHT IN THE COMMUNITY** (11:59 a.m.)

STALZER/BOBZIEN

In a joint Board Matter with Supervisor Smyth, Supervisor Foust noted that there are times in the County when some properties languish in a constant state of disrepair, are dilapidated, constitute a public nuisance or are otherwise a blight on the community. Efforts to remedy these situations include fines, penalties, and substantial court action, but for a variety of reasons, some property owners remain unwilling or unable to bring their property into compliance with the Zoning Ordinance, the Property Maintenance Code, or the Building Code. When this happens, these properties become a huge source of strife and frustration within their communities and for staff. These properties are more than just unsightly; frequently they pose real and immediate dangers to public health, safety, and welfare.

Supervisor Foust said that it recently come to his attention that the Virginia Code offers localities certain tools to address properties that are not being employed in the County. Specifically, Virginia Code Section 15.2-906 permits localities to remove or repair any structure that endangers the public health or safety and to recover the costs for doing so. Similarly, Virginia Code Section 15.2-907.1 allows localities to offer tax rebates for the repair or removal of certain buildings that have been vacant and boarded up for longer than six months. Finally, even the County's existing Blight Program includes conditions not required by the State Code; For example, there is no requirement in the State Code that a property be vacant and boarded for a year in order to be considered a blighted property, yet the County currently includes this criteria before a property can be deemed blighted. As such, the Blight Program cannot be used to address some of these longstanding problem properties.

There are many times in local government that the County is not able to address a problem because under the Dillon Rule, the County has not been given adequate authority from the General Assembly. Here, however, there are tools given to the County by Richmond that it appears it isn't adequately using. Certainly, no one is advocating that the County should routinely get in the business of repairing private property, but when every other reasonable effort fails, the County shouldn't hamstring itself from using more aggressive tools, particularly when those tools are clearly available.

Accordingly, Supervisor Foust moved, on behalf of himself and Supervisor Smyth, that the Board direct staff to conduct a thorough review and analysis of Virginia Code sections related to blight, public nuisance, derelict buildings, or those that are otherwise unsafe or in need of repair and provide to the Board specific recommendations regarding whether the Board should enact ordinances or change existing ordinances and policies so that this enabling legislation can be fully implemented. Supervisor Smyth seconded the motion.

Chairman Bulova relinquished the Chair to Acting-Chairman Hyland and asked to amend the motion to include an examination of the tools the Board currently has or that have been added since the blight program was first adopted for review and consideration in the Development Process Committee. This was accepted.

Discussion ensued, with input from Cynthia A. Bailey, Senior County Attorney, concerning:

- The importance of determining the impact on property owners
- The inclusion in the review of protections for the County
- Implementation of protections provided by State Code
- Not limiting the evaluation to those powers expressively given to the Board in these Code sections
- Exploring past challenges and not limit it to whether or not it would fit within the existing Code section
- Potential impact on property owners

The question was called on the motion, as amended, and it carried by a vote of nine, Supervisor Gross being absent.

Chapter 46: **HEALTH OR SAFETY MENACES**

Section 46-1-1. - Definitions.
Section 46-1-2. - Inspection for health or safety menaces.
Section 46-1-3. - Abatement of health or safety menaces ~~generally~~.
~~**Section 46-1-4.** - Failure to abate a health or safety menace.~~
Section 46-1-~~5~~4. - Hearing and appeals procedure.
~~**Section 46-1-6.** - Penalty~~.

Section 46-1-1. - Definitions.

(a) A *public health or safety menace* ~~*or public nuisance*~~ means any condition which might endanger the health or safety of the public, including but not limited to:

(1) Unsanitary or improper storage or disposal of trash, garbage, refuse, debris, other solid waste or hazardous waste;

(2) Unburied dead animals;

(3) Accumulation of water causing mosquito or other vector breeding or proliferation;

(4) Rodent or insect infestation;

(5) Accumulation of bees, fowl or animals in such a manner to create a condition that may be injurious to the public health or safety;

(6) Hazards such as open excavations, open wells, pits, trees or parts thereof in danger of falling~~, discarded refrigerators and freezers with doors attached, unsecured vacant structures~~, or habitation for bats, wasps or other venomous pests;

(7) Garbage which is not contained in a water-tight, rodent-proof container which is equipped with a tight-fitting lid;

(8) Improper disposal of medical, dental, veterinary or pharmaceutical equipment or supplies, including but not limited to syringes, needles, scalpels, and blades or other medicinal items in solid or liquid form, in such a manner as to make it possible for any other person to retrieve and utilize said equipment or supplies;

(9) Any building or structure that is deteriorated, improperly maintained, of faulty construction, deficient in adequate exit facilities, a fire hazard, or dangerous to life or the public welfare, or both;

(10) Any building or structure that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is likely;

(11) Any unsecured or open vacant structure.

(12) Any structure that is determined to be dangerous to the occupants or the public because of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment or if the required plumbing and sanitary facilities are inoperable.

(~~9~~13) Any other condition that may be injurious to the public health or safety.

(b) *County Executive* shall mean the County Executive or his designee.

(c) *Director* shall mean the Director of the Health Department ~~Services~~ or his designee.

~~(d) *Director of the Department of Public Works and Environmental Services or his designee* shall mean the designee of the Director responsible for the enforcement of the hazardous tree provision of this Chapter.~~

(d) *Code Official* shall mean the Building Code Official or the Property Maintenance Code Official as applicable or his designee.

(e) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, include groundwaters.

(f) *Hazardous waste* means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(g) *Occupant* shall include the lessee of vacant land.

(h) *Public nuisance* means, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public.

(~~h~~i) *Sanitary landfill* means a disposal facility for solid waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or groundwater.

(~~i~~j) *Solid waste* means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include (i) solid or dissolved material in domestic sewage (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended. (6-7-61; 1961 Code, § 15A-1; 4-78-46; 39-88-46; 3-92-46; 78-08-46.)

Section 46-1-2. - Inspection for health or safety menaces.

The Director is authorized to inspect occupied or vacant land or premises to ascertain the existence of health or safety menaces on such land or premises. The Director shall inspect the land or premises at reasonable daylight times in a reasonable manner. If the owner or occupant of the land or premises denies the Director free access for such purposes, the Director may inspect after obtaining a search warrant. (6-14-61, § 8; 1961 Code, § 15B-3; 36-74-15B; 4-78-46; 39-88-46.)

Section 46-1-3. - Abatement of health or safety menaces ~~generally~~.

(a) When any condition that constitutes a public health or safety menace is found on occupied or vacant land or premises, the Director shall notify in writing the owner or occupant of the land or premises on which the condition exists and/or any other person who he believes is responsible for the health or safety menace. Such notice shall contain a description of the health or safety menace and~~;~~ the time within which the menace shall be abated, corrected or eliminated.

(b) Any such notice shall be ~~; and a statement that the owner, occupant or other person responsible may request a hearing within ten (10) days of the receipt of the notice. Notice~~ (i) sent by registered or certified mail, return receipt requested, to the last-known address of the owner whose name is shown on the current real estate tax assessment records, or the occupant, or any other identified person responsible; and (ii) published once a week for two successive weeks in a newspaper having general circulation within the County.

(c) The County shall not take any action to remove, repair, or secure any building, wall, or other structure or to otherwise abate any public health or safety menace for at least 30 days following the later of the return of the certified mail receipt or the newspaper publication, except that the County may take action to prevent unauthorized access to the building or location of the public menace or nuisance within seven days of such notice if the condition is deemed to pose a significant threat to public safety, and that fact was stated in the notice. ~~Shall be deemed compliance with the notice requirement to the person responsible.~~ Nothing herein shall prevent the County from correcting or abating any condition determined by the Director to constitute an emergency.

~~(b) Upon receipt of the written notice from the Director, the owner, occupant or other person responsible shall abate, correct or health or safety menace. The amount of time allowed to abate, correct or eliminate the health or safety menace condition shall be determined by the Direct, and shall not be less than twenty-four (24) hours nor more than ten (10) days. If the Director determines that the menace cannot be abated, corrected or eliminated within ten (10) days, the Director may order temporary abatement measures and allow a longer period of time to abate, correct or eliminate the condition. The Director may allow such a longer period of time only upon request of the owner, occupant or other person responsible and only upon a good faith showing that such longer period of time is. (6-7-61; 1961 Code, § 15A-2, 15A-3; 3-10-71; 4-78; 4-78-46; 39-88-46.)~~

(d) Upon compliance with the notice provisions of this section, and except in the case of an emergency if the County, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure, or removes, corrects, or abates any condition that constitutes a public menace or public nuisance, then the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the County in the same manner that taxes are collected. Any such costs or expenses that remain unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and may be enforced in the same manner as provided in Article 3 and Chapter 39 of Title 58.1 of the Virginia Code, and as the same may be amended.

(e) Any lien as set forth herein may be waived by the Director only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

~~Section 46-1-4. Failure to abate a health or safety menace.~~

~~(a) After receipt of the written notice, it is unlawful for the owner, occupant or other person responsible to fail to abate, correct or eliminate the health or safety menace within the time determined by the Director.~~

~~(b) If the written notice is undeliverable, or if after receipt of the written notice, the owner, occupant or other person responsible fails to abate, correct or eliminate the health or safety menace, the Director may request the Director of the Department of Public Works and Environmental Services to take reasonable steps to abate, correct or eliminate the health or safety menace whether the land or premises are occupied or vacant. If the owner, occupant or other person responsible denies free access for such purposes, the Director may proceed after obtaining a warrant. Costs and expenses incurred by the Director in abating, correcting or eliminating a health or safety menace on private property shall be assessed against the owner and/or occupant of the land or premises and/or any other person responsible for the health or safety menace, and shall be recoverable from the owner in the same way as taxes and levies. Costs and expenses incurred by the Director in abating, correcting or eliminating a health or safety menace on public property shall be recoverable from the person or persons responsible for causing the health or safety menace. (6-7-61; 9-11-68; 1961 Code, §§ 15A-3, 15A-4; 3-10-71; 4-78-46; 39-88-46; 78-08-46.)~~

Section 46-1-~~5~~4. - Hearing and appeals procedure.

(a) In the case of an emergency, the Director may request the Director of the Department of Public Works and Environmental Services or Code Official to take reasonable steps to abate, correct or eliminate the health or safety menace without providing the owner, occupant or other person responsible an opportunity to be heard until after the health or safety menace is abated, corrected or eliminated. In such an emergency, the property owner or other responsible party may request a hearing within ten days after the condition is abated, corrected or eliminated.

(b) In the absence of an emergency, the Director may request the Director of the Department of Public Works and Environmental Services or Code Official to take reasonable steps to abate, correct or eliminate the health or safety menace only after providing the owner or occupant or other person responsible with the notice set forth herein and an opportunity to be heard. Such a hearing request shall be made within ten days after receipt by the owner, occupant or other person responsible of the notice to abate, correct or eliminate the health or safety menace. ~~In the case of an emergency, the Director may request the Director of the Department of Public Works and Environmental Services to take reasonable steps to abate, correct or eliminate the health or safety menace without providing the owner, occupant or other person responsible an opportunity to be heard until after the health or safety menace is abated, corrected or eliminated. In such an emergency the hearing request shall be made within ten days after the condition is abated, corrected or~~

[redacted]

~~eliminated.~~

(c) All hearing requests shall be in writing and directed to the Director, who shall forward the requests to the County Executive within two days of receipt. All hearings shall be before the County Executive or his designee. The County Executive shall set a time and place for the hearing, which shall occur within ten days of the request for the hearing, and shall so notify the Director and appellant. After the hearing, the County Executive may order the appellant to abate, correct or eliminate the health or safety menace in the same manner as the Director may require. Any person who fails, refuses or neglects to comply with any such order shall be guilty violating the provisions of this Chapter. (6 14 61, ~~§ 10~~; 1951 15B 20; 4 78 46; 39 88 46; 78 08 46.) Any request for a hearing as set forth herein shall be in addition to, and not in lieu of, any other hearing required under any other provision of Virginia law.

~~Section 46-1-6. Penalty.~~

~~If after receipt of the written notice or an order from the County Executive, the owner, occupant or other person responsible refuses or neglects to abate, correct or eliminate the condition as required, such individual shall, upon conviction, be guilty of a Class 2 misdemeanor as provided in Section 1-1-14 of the Fairfax County Code, with penalty as provided therein or of confinement in jail for not more than six (6) months and a fine of not more than Five Hundred Dollars ($500.00), either or both. Further, each day any violations of this Chapter shall continue shall constitute a separate offense.~~

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 5

Authorization to Advertise Proposed Amendment to *The Code of the County of Fairfax, Virginia,* to Add a New Chapter, Chapter 125 (Resident Curator Program Ordinance)

ISSUE:
Board authorization to advertise a proposed amendment to *The Code of the County of Fairfax, Virginia*, to add a new chapter, Chapter 125 (Resident Curator Program Ordinance), to establish a resident curator program.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the proposed amendment to *The Code of the County of Fairfax, Virginia*, as set forth in the Staff Report dated September 30, 2014, included as Attachment I.

TIMING:
Board action is requested on October 28, 2014, to provide sufficient time to advertise a public hearing before the Board on November 18, 2014, at 5:00 p.m.

BACKGROUND:
In January 2011, the General Assembly amended Va. Code Ann. § 15.2-2306 authorizing localities to develop resident curator programs. Va. Code Ann. §15.2-2306(A)(4) enables localities to create, by ordinance, "a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality."

At the direction of the Board, staff in the Department of Planning and Zoning and the Park Authority have worked with the History Commission to evaluate the potential costs and benefits that might result from the implementation of a resident curator program. John Milner Associates prepared a report for the County that examines how states and localities across the country have implemented resident curator programs as a way to foster the maintenance and preservation of publicly owned historic properties. The report also provides recommendations for the establishment of a resident curator program in Fairfax County. The report was provided to the Board and presented at the September 30, 2014, meeting of the Board's Development Process Committee.

Va. Code Ann. § 15.2-2306(A)(4) requires resident curator programs to be established by ordinance. The proposed ordinance is included as Attachment II.

PROPOSED AMENDMENT:
The proposed amendment adds a new chapter, Chapter 125, Resident Curator Program Ordinance, to *The Code of the County of Fairfax, Virginia* and establishes a resident curator program. This program, designed to preserve and maintain historic properties owned or leased by the County, will lease historic properties to individuals or businesses subject to regulations established by the County Executive or his designee. Such regulations will require that resident curators maintain and improve the leased properties according to the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68 (2013), as amended. Additionally, all leases for historic properties included within the resident curator program will provide for public access consistent with the historic property's nature and use.

REGULATORY IMPACT:
None.

FISCAL IMPACT:
The Fairfax County Park Authority has requested $241,187 be appropriated in the Fiscal Year 2016 budget to fund this program. The cost to administer the program in future years will depend on the number of properties included in the program. Page 65 of the John Milner Associates' report, previously provided to the Board, reviews the estimated costs and benefits to the County of the program. The report provides estimates of initial costs as well as savings that would be realized once maintenance is taken on by a curator.

ENCLOSED DOCUMENT:
Attachment I: Staff Report on Proposed Chapter 125 (Resident Curator Program Ordinance)
Attachment II: Proposed Chapter 125, Resident Curator Program Ordinance

The final Resident Curator Program report is available for review online at:
http://www.fairfaxcounty.gov/parks/plandev/downloads/resident-curator-program-final-report.pdf

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department Planning and Zoning (DPZ)
Leanna H. O'Donnell, Chief, Policy and Plan Development Branch (DPZ)
Linda C. Blank, Historic Preservation Planner IV (DPZ)

Attachment 1

STAFF REPORT

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

Proposed Amendment to *The Code of the County of Fairfax, Virginia*, to Add a New Chapter, Chapter 125 (Resident Curator Program Ordinance)

Authorization to Advertise	October 28, 2014
Board of Supervisors Hearing	November 18, 2014, 5:00 p.m.
Prepared by:	Planning Division Department of Planning and Zoning September 30, 2014

A. Issues:

Proposed amendment to *The Code of the County of Fairfax, Virginia*, to add a new chapter, Chapter 125 (Resident Curator Program Ordinance) to establish a resident curator program.

B. Recommended Action:

Staff recommends that the Board of Supervisors (the Board) adopt proposed Chapter 125 (Resident Curator Program Ordinance).

C. Timing:

Board of Supervisors Authorization to Advertise – October 28, 2014

Board of Supervisors Public Hearing – November 18, 2014, 5:00 p.m.

D. Source:

Department of Planning and Zoning (DPZ)

E. Background:

In January 2011, the General Assembly amended Va. Code Ann. § 15.2-2306 authorizing localities to develop resident curator programs. Va. Code Ann. § 15.2-2306(A)(4) enables localities to create, by ordinance, "a resident curator program such that private entities through lease or other contract may be engaged to manage, preserve, maintain, or operate, including the option to reside in, any such historic area, property, lands, or estate owned or leased by the locality."

At the direction of the Board, staff in the Department of Planning and Zoning and the Park Authority have worked with the History Commission to evaluate the potential costs and benefits that might result from the implementation of a resident curator program. John Milner Associates prepared a report for the County that examines how states and localities across the country have implemented resident curator programs as a way to foster the maintenance and preservation of publicly owned historic properties. The report also provides recommendations for the establishment of a resident curator program in Fairfax County. The report was provided to the Board and will be presented at the September 30, 2014 meeting of the Board's Development Process Committee.

Va. Code Ann. § 15.2-2306(A)(4) requires resident curator programs to be established by ordinance.

F. Proposed Amendments

The proposed amendment adds a new chapter, Chapter 125, Resident Curator Program Ordinance, to *The Code of the County of Fairfax, Virginia* and establishes a resident curator program. This program, designed to preserve and maintain historic properties owned or leased by the County, will lease historic properties to individuals or businesses subject to regulations established by the County Executive or his designee. Such regulations will require that resident curators maintain and improve the leased properties according to the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68 (2013), as amended. Additionally, all leases for historic properties included within the resident curator program will provide for public access consistent with the historic property's nature and use.

G. Regulatory Impact:

None.

H. Fiscal Impact:

The Fairfax County Park Authority has requested $241,187 be appropriated in the Fiscal Year 2016 budget to fund this program. The cost to administer the program in future years will depend on the number of properties included in the program. Page 65 of the John Milner Associates' report, previously provided to the Board, reviews the estimated costs and benefits to the County of the program. The report provides estimates of initial costs as well as savings that would be realized once maintenance is taken on by a curator.

I. Enclosed Documents:

Attachment: Proposed Chapter 125, Resident Curator Program Ordinance

The proposed amendment adds a new chapter, Chapter 125, Resident Curator Program Ordinance, to ***The Code of the County of Fairfax, Virginia***

The proposed amendment creates a resident curator program, which authorizes the Board of Supervisors to enter into contracts or leases with private entities for the purpose of preserving and maintaining publicly-owned or leased historic properties.

The new Chapter 125 proposes the following:

- *Purpose and Administration*
- *Definitions of relevant terms;*
- *Areas of Applicability;*
- *Provisions of the Ordinance*

Amend the code of the County of Fairfax, Virginia by adding new Chapter 125 Resident Curator Program Ordinance to read as follows:

CHAPTER 125.
Resident Curator Program Ordinance.

Article 1. General Provisions.

§ 125-1-1. Title.
§ 125-1-2. Authority.
§ 125-1-3. Purpose and Administration.
§ 125-1-4. Definitions.
§ 125-1-5. Areas of Applicability.
§ 125-1-6. Provisions of the Ordinance.

Section 125-1-1. Title.

This Chapter shall hereafter be known, cited, and referred to as the "Resident Curator Program Ordinance" of Fairfax County.

Section 125-1-2. Authority.

This ordinance to establish a resident curator program is enacted pursuant to Virginia Code Ann.§ 15.2-2306(A)(4) (2012) and as amended.

Section 125-1-3. Purpose and Administration.

The purpose and intent of this Chapter is to ensure the general health, safety, and welfare of the citizens of Fairfax County and to preserve and maintain for their use, observation, education, pleasure, and welfare historic properties by establishing a resident curator program whereby private entities are utilized to accomplish the management, preservation, maintenance, and operation of historic properties or structures within Fairfax County in accordance with

established Treatment Standards. The Treatment Standards will promote historic preservation best practices that will help to protect historic properties.

Section 125-1-4. Definitions.

The following words and terms used in this Chapter have the following meanings unless the context clearly indicates otherwise.

"Board" means the Fairfax County Board of Supervisors.

"Historic property" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation and as such is listed in or determined eligible for listing in *The Fairfax County Inventory of Historic Sites*.

“History Commission” means the Fairfax County History Commission appointed by the Board to help identify, document, record, and preserve the County's historic past.

“Inventory of Historic Sites” means Fairfax County’s list of properties that meet certain eligibility criteria and are officially designated by the County's History Commission.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of this Ordinance.

"Resident curator program" means a program in which private entities or persons are engaged to accomplish the preservation and maintenance of historic properties owned or leased by Fairfax County.

“Treatment standards” mean the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68 (2013), as amended.

Section 125-1-5. Areas of Applicability.

This Chapter and all provisions adopted hereunder are applicable to all historic properties located within Fairfax County, Virginia, and owned or leased by the Board.

Section 125-1-6. Provisions of the Ordinance.

This Chapter establishes the provisions of the Resident Curator Program in accordance with the provisions of Va. Code Ann. § 15.2-2306 and other applicable statutes.

1) There is hereby established within Fairfax County a Resident Curator Program, which shall be subject to the terms of this Ordinance.

2) The determination of whether any historic property is eligible for the Resident Curator Program shall be made by the County Executive or his designee subject to standards and criteria to be developed by the County Executive or his designee(s), and which shall be subject to the terms of this Ordinance.

3) The determination of whether any person or entity is eligible to serve as a Resident Curator shall be made by the County Executive or his designee subject to standards and criteria to be developed by the County Executive or his designee(s), and which shall be subject to the terms of this Ordinance.

4) In the event that the County Executive determines that an historic property may benefit from the engagement of a Resident Curator, then the County Executive shall develop a lease or other such contract with such Resident Curator that implements the terms of this Ordinance. Any such contract shall be upon a form reviewed and approved by the Office of the County Attorney.

5) The County Executive or his designee shall develop and implement regulations governing the Resident Curator Program and any lease or contract entered into with a Resident Curator shall require that the Resident Curator comply with all such regulations.

6) Any such lease or contract entered into with a Resident Curator shall require that all maintenance and improvement to the historic property shall be conducted in accordance with the Treatment Standards and the lease shall be conditioned on such compliance and on the preservation and maintenance of the historic character of the property at all times during the lease.

7) Any such leases or contracts entered into that preserve historic property shall provide for reasonable public access consistent with the historic property's nature and use.

This ordinance shall take effect upon adoption.

GIVEN under my hand this ____ day of _____, 2014.

_____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
October 28, 2014

ADMINISTRATIVE – 6

Authorization to Advertise a Public Hearing on an Increase in Taxicab Rates and Revisions to Penalty Provisions for Operating an Uncertificated Taxicab

ISSUE:
At its public hearing on September 16, 2014, the Consumer Protection Commission (CPC) approved recommendations to the Board for a 3.5 percent increase in taxicab fares and to revise penalty provisions for operating an unlicensed taxicab.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing on the Consumer Protection Commission's recommendations to the Board for a 3.5 percent increase in taxicab fares and to revise penalty provisions for operating an unlicensed taxicab.

TIMING:
Board authorization is requested on October 28, 2014 to advertise a public hearing for November 18, 2014, at 4 p.m. on the Consumer Protection Commission's recommendations for a 3.5 percent taxicab fare rate increase award and to revise penalty provisions for operating an unlicensed taxicab.

BACKGROUND:
Pursuant to Section 84.1-6 of the County Code, staff conducts an annual assessment of the adequacy of rates for taxicab services in Fairfax County. In recent years, this annual assessment was accompanied by a request for a rate increase by the Fairfax Drivers Association or by a certificated operator. However, no petitions for a rate increase were received in 2014 from either a drivers association or certificate holder.

Section 84.1-6-2(d) of the Code prescribes use of the Fairfax County Taxicab Industry Price Index (FCTIPI) when assessing the need for a rate change. The FCTIPI is a weighted average of five readily-available national indices compiled by the U.S. Bureau of Labor Statistics (BLS) that relate to the cost of providing taxicab services. The weights of the FCTIPI are designed to reflect the cost occurrence considered typical of taxicab providers. The FCTIPI analysis determines the weighted change in the five indices since the last adoption of taxicab rates, which then may be adjusted by plus or

minus 2 percent. Essentially, application of the FCTIPI formula yields a result that serves as the mid-point of a 4 percent range.

In conformance with Section 84.1-6-2, the FCTIPI is the primary measure used to assess the need for a change in taxicab rates since the last adoption of rates. The Board last approved a change in taxicab rates in October 2012, when it adopted an increase of 4.7 percent. In evaluating taxicab rates in 2014, staff applied the FCTIPI to the period from the last approved increase (2012) to the date of its analysis (2014). The results yielded a weighted change of 3.5 percent in the FCTIPI (see Attachment 1).

On March 25, 2014, the Board directed staff to provide updates on enforcement of illegal taxicab activity in Fairfax County. Following a review by the County Attorney's office, it was determined that in order to facilitate enforcement of illegal taxicab activity in Fairfax County, that a Code change to Section 84.1-9-1 be made in order to revise the County Code to more closely conform to state law.

On September 16, 2014, the Consumer Protection Commission held a public hearing on the matters of a proposed rate increase of 3.5 percent in taxicab fares and on a revision to the Code regarding penalties for the unauthorized provision of taxicab service. At the public hearing, two members of the public spoke, both of whom supported a rate increase for taxicab service. No comments were received on the proposed Code revision regarding penalties for the unauthorized provision of taxicab service. Following the receipt of public comment and discussion, the Consumer Protection Commission voted to recommend to the Board of Supervisors staff's proposal of a 3.5 percent increase in taxicab fares, as well as approval of a revision to the Code regarding penalties for the unauthorized provision of taxicab service.

Staff recommends that the Board authorize the advertisement of a public hearing on November 18, 2014 to consider the two recommendations made by the Consumer Protection Commission at its September 16, 2014 public hearing.

ENCLOSED DOCUMENTS:
Attachment 1 – Consumer Protection Commission Recommendations to the Board of Supervisors on Proposed Revisions to Fairfax County Code Chapter 84.1 Regarding Taxicab Rates and Penalties for Operating an Uncertificated Taxicab

STAFF:
David J. Molchany, Deputy County Executive
Michael S. Liberman, Director, Department of Cable and Consumer Services
Susan M. Hafeli, Utility Analyst, DCCS
John Burton, Assistant County Attorney

Attachment 1

Consumer Protection Commission Recommendations to the Board of Supervisors on Proposed Revisions to Fairfax County Code Chapter 84.1 Regarding Taxicab Rates and Penalties for Operating an Uncertificated Taxicab

Department of Cable and Consumer Services
Public Utilities Branch

October 28, 2014

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Introduction

This report was prepared on behalf of the Consumer Protection Commission (CPC or Commission) and the Board of Supervisors by staff of the Public Utilities Branch in the Department of Cable and Consumer Services (DCCS) as a result of the Commission's recommendations at its September 16, 2014 public hearing. Section 1 of this report provides an overview of the taxicab industry in Fairfax County. Sections II and III discuss recommendations regarding rates for taxicab services, and penalties for the unauthorized provision of taxicab service, respectively. Section IV is a concluding discussion that summarizes these recommendations. Section V contains the recommendations to the Board of Supervisors following the Consumer Protection Commission's public hearing of September 16, 2014.

I. The Taxicab Industry in Fairfax County

Five taxicab companies hold certificates to operate in Fairfax County. These five companies, which are authorized to operate a total of 654 taxicabs throughout the county, are identified in Table 1 below. Currently, 45 of the 654 taxicabs, or 6.9 percent of the county's taxicab fleet, are designated as wheelchair-accessible.

Table 1. Authorized Taxicab Operators

Owner	*Trade Name*	*Number of Taxicabs*		*Operating Since*
		Total Authorized	*Wheelchair-Accessible*	
Murphy Brothers, Inc. (owned by Transportation General, Inc.)	Fairfax Yellow Cab	306	21	1968
Fairfax Taxi, Inc. (owned by Transportation General, Inc.).	Red Top Cab of Fairfax	111	6	1989
Paul Wallace Management, Inc.	Springfield Yellow Cab and Reston-Herndon Cab	125	5	
L&Z Transportation, Inc.	White Top	73	3	1994
SuperTaxi, Inc. (owned by Veolia Transportation, Inc.)	enviroCAB	39	10	Authorized 2014

Chapter 84.1 of the County Code pertains to taxicab regulation. Under Section 84.1-6, the county's certificated taxicab companies are required to submit biennial reports in odd-numbered years that contain data on number of trips, paid miles, and other measures of taxicab services and the demand for those services. According to the companies' most recent reports, taxicabs operated by the county's certificated providers make approximately 2.4 million taxi trips per year, serve about 3 million passengers,

and generate in excess of $40 million in annual revenues. The average trip length is approximately seven miles.

The taxi industry is primarily a one-shift business in Fairfax County. It is provided by taxicab drivers who are independent contractors associated with one of the five certificate holders; the drivers are not company employees. According to FY2014 data, a total of 839 individuals maintain Fairfax County hack licenses authorizing them to drive a taxicab in the county. Taxicab drivers either lease their cabs from the taxicab companies, or own their own cabs and pay "stand dues" to a company. Lease fees/car payments and fuel represent the majority of the operating expenses for most drivers.

As independent operators, individual driver income is highly variable depending upon factors including the number of hours and days a driver chooses to work, the number of calls received by dispatch, a driver's awareness of market opportunities and ability to cultivate repeat customers, and economic growth and development within the County.

In the period April through June 2014, staff surveyed the county's taxicab drivers to obtain information about the taxicab business in Fairfax County, including estimates of drivers' incomes. Approximately 23 percent of the county's taxicab drivers were interviewed. The average net take-home pay for the drivers surveyed was $29,500 [1], with reported individual incomes ranging from $9,000 to $63,000.

II. Taxicab Rate Recommendations

A. The Fairfax County Code establishes the framework for rate reviews

Section 84.1 Article 6 of the Fairfax County Code sets the criteria for evaluation and establishment of rules, regulations, rates, fares, and charges applicable to taxicab service. A copy of Article 6 is provided as Exhibit 1. Under Section 84.1-6-1, the objective when setting rates is to "assure safe, economical, adequate, and reliable privately operated taxicab service for the riding public."

Under Section 84.1-6-2(a), "[c]hanges in any rule, regulation, rate, fare, charge, and or practice thereto, for taxicab services rendered by certificate holders, may be approved by the Board after notice and hearing held by the [CPC] or upon recommendation of the Director." Neither the taxicab companies nor the drivers association filed a petition with the county in 2014 requesting a change in rates.

Section 84.1-6-2(d) of the Code prescribes use of the Fairfax County Taxicab Industry Price Index (FCTIPI) when assessing the need for a rate change. The FCTIPI, shown in Table 2, below, is a weighted average of five readily-available national indices compiled by the U.S. Bureau of Labor Statistics (BLS) that relate to the cost of providing

[1] Bureau of Labor Statistics reported in May of 2013, that the five year average taxicab driver income in the Washington DC metropolitan area was $30,188.

taxicab services. The weights of the FCTIPI are designed to reflect the cost occurrence considered typical of taxicab providers:

Table 2. Fairfax County Taxicab Industry Price Index

Taxicab Cost Element	*BLS Index*	*Weight*
Salaries, wage and profits	Consumer Price Index	0.62
Vehicle purchase	New cars	0.14
Fuel	Motor fuel	0.11
Insurance and other	Other private transportation services	0.08
Maintenance, parts and equipment	Private transportation maintenance and repairs	0.05
TOTAL COMPOSITE INDEX		1.00

As provided in the Code, an FCTIPI analysis determines the weighted change in the five indices since the last adoption of taxicab rates, which then may be adjusted by plus or minus 2 percent. Essentially, application of the FCTIPI formula yields a result that serves as the mid-point of a 4 percent range.

B. The FCTIPI formula yields a total price index increase of 3.5 percent

In conformance with Section 84.1-6-2, the FCTIPI is the primary measure used to assess the need for a change in taxicab rates since the last adoption of rates. The Board last approved a change in taxicab rates in October 2012, when it adopted an increase of 4.7 percent.

In evaluating taxicab rates in 2014, staff applied the FCTIPI to the period from the last approved increase (2012) to the date of its analysis (2014). The results, as shown in Table 3 below, yield a weighted change of 3.5 percent [2]in the FCTIPI.

Table 3. FCTIPI Results 2012-2014

BLS Index	*% Change*	*x*	*Weight*	=	*Weighted Change*
Consumer Price Index	3.9%	x	0.62	=	2.4%
New cars	1.2percent	x	0.14	=	0.2%
Motor fuel	4.9%	x	0.11	=	0.5%
Other private transportation services	3.0%		0.08	=	0.2%
Private transportation maintenance and repairs	3.1%	x	0.05	=	0.2%

[2] Given the discretionary 2.0 percent plus/minus adjustment, the results indicate support for an increase in the range of 1.5 to 5.5 percent.

BLS Index	*% Change*	*x*	*Weight*	=	*Weighted Change*
TOTAL PRICE INDEX CHANGE					**3.5%**
FCTIPI Result of 3.5% ± 2% = 1.5% to 5.5%					

C. Other factors to consider

The Fairfax County Code permits the results of the FCTIPI analysis to be adjusted up or down by up to 2 percent. In developing its recommendation, staff considered a number of factors affecting the taxicab industry that might warrant an adjustment to the results of the FCTIPI analysis. These factors include: trends in gasoline prices, driver retention and attraction, increased competition from smartphone dispatch services, and regulated taxicab rates charged in neighboring jurisdictions. As discussed in the following paragraphs, it is staff's recommendation that the factors considered do not indicate the need for either an upward or downward adjustment of the FCTIPI result.

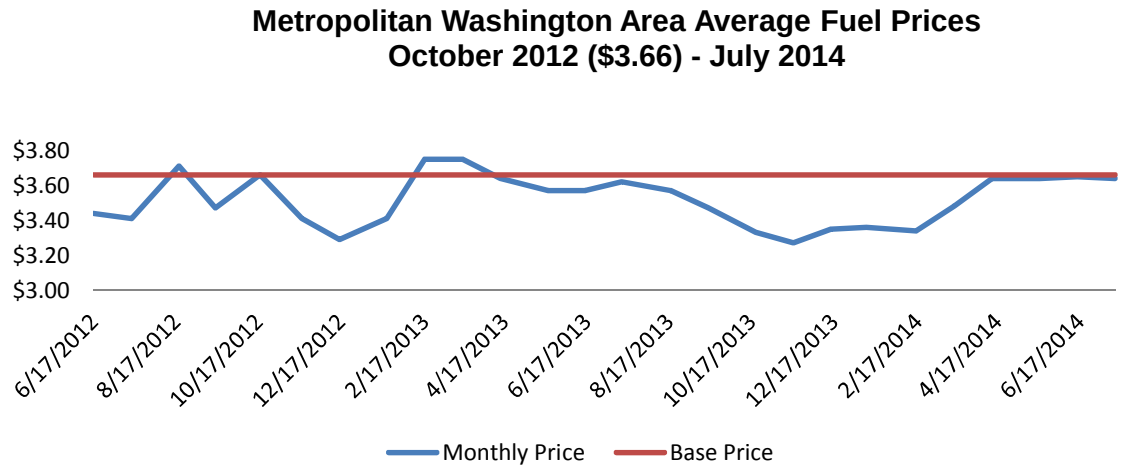
1. The cost of gasoline is comparable to or below the price in effect when rates were last changed

Fuel prices are a significant expense item, comprising the second highest expense item for taxicab drivers after lease fees or stand dues. The per-gallon cost of regular unleaded gasoline is comparable to or slightly below the cost when rates were last changed, indicating that an adjustment to the 3.5 percent increase may not be warranted.

In 2012, when rates were last changed, the price for a gallon of regular unleaded gasoline ranged from $3.74, when staff conducted its analysis (June 2012) to $3.66, when the Board adopted the 4.7 percent increase (October 2012). As of July 27, 2014, the cost of a gallon of regular unleaded gasoline in the Metropolitan Washington area was $3.55, or slightly below the 2012 prices.[3] Table 4 shows the fluctuations in gasoline prices since the Board's October 2012 action. For the most part gasoline prices today are roughly comparable to prices in October 2012.

[3] See *AAA Mid-Atlantic Weekend Gas Watch* (July 27, 2014), "Gas Prices Roll Back as Summer Driving Season Rolls On," available at http://midatlantic.aaa.com/pga/newsreleases.

Table 4. Trends in Gasoline Prices



2. Driver licensing data suggests rates are adequate to retain and attract taxicab drivers

As part of its analysis, staff reviewed data regarding taxicab driver license renewals and new issuances to assess whether existing rates are adequate to retain existing drivers and also to attract new drivers to the industry. Staff has considered stable or increasing issuance rates as an indication that license holders are generally satisfied with the income potential associated with driving a taxicab.

As shown in Table 5, below, in FY2014 DCCS issued a total of 839 taxicab driver licenses, or about a 7 percent increase from FY2013 license issuances. A portion of this increase may be related to the Board's February 2014 approval of 78 additional taxicab certificates. FY2014 taxicab license renewals reached 93 percent, a five-year high.

Table 5. Taxicab Driver License Issuances

Year	*New Licenses*	*License Renewals*	*Total Licenses*	*Percent Renewal*
FY2014	113	726	839	93%
FY2013	93	689	782	80%
FY2012	185	672	857	86%
FY2011	91	694	785	90%
FY2010	113	654	767	83%

3. Certificated taxicabs are facing competition from smartphone-dispatch services

Since taxicab rates were last increased in 2012, smartphone-dispatch service providers such as Uber Technologies, Inc. (Uber) have created networks of uncertificated operators that increasingly compete with Fairfax County taxicabs. The state appears to support this competition. On August 6, 2014, the offices of Governor Terry McAuliffe and Attorney General Mark Herring announced an agreement granting temporary operating authority to Uber and a similar service, Lyft.[4][1]

Uber provides a range of services, from high-end premium offerings to a low-cost option, UberX, that relies on individuals using their private vehicles to provide transportation service. Because it does not consider itself a taxi service, Uber has not sought county authorization and does not adhere to requirements applicable to county-regulated taxicabs, such as driver testing and licensing, vehicle insurance and inspection, and wheelchair-accessibility.

Uber publishes its rates on its website, subject to the caveat that "[a]t times of intense demand, our rates change over time to keep vehicles available" (i.e., "surge pricing").[5] These rates are shown in Table 6, below (along with Fairfax County's current and proposed rates). Uber also charges flat rates between certain specified locations.

Table 6. Uber Service Pricing in the Washington, D.C. Area versus Fairfax County Rates

Type of Uber Service	*Base Rate*	*Per-Mile Charge*	*Per-Minute Charge*	*Minimum Fare*	*Cancellation Fee*
UberSUV	$14.00	$3.65	$0.45	$25.00	$10.00
Uber Black	$7.00	$3.00	$0.35	$12.00	$10.00
UberXL (group service)	$4.00	$2.50	$0.35	$7.00	$5.00
UberX	$3.10	$1.40	$0.29	$5.70	$5.00

Fairfax County Taxicab Services	*Drop Charge*	*Per-Mile Charge*	*Waiting Time*	*Minimum Fare*	*Cancellation Fee*
Current rates	$3.25	$2.10	$0.30/51 sec.	N/A	N/A
Proposed rates	$3.50	$2.16	$0.36/61 sec.	N/A	N/A

Although the Uber pricing model makes a comparison with Fairfax County taxicab rates difficult, a standard-priced UberX trip may be less expensive than a taxicab trip provided

[4] *Virginia Reaches Temporary Agreement to Allow Safe, Regulated Operation of Uber and Lyft* (August 6, 2014) at https://governor.virginia.gov/news/newsarticle?articleId=5726. The agreement had not been released as of August 7, 2014.

[5] See https://www.uber.com/cities/washington-dc.

by a Fairfax County taxicab. Consequently, during the interviews with drivers in the April to June period 2014, some drivers expressed the concern that a rate increase may negatively affect their business. A rate increase would appear to have little or no effect on the competition provided by the higher-end Uber services, however, as these services are already priced more expensive than Fairfax County certificated taxicabs.

4. Proposed Fairfax County taxicab rates compared to other jurisdictions in the Washington D.C. region

So that the recommended increase does not disproportionately affect a single class of passengers (short-trips versus longer-trips), staff recommends that a 3.5 percent increase in taxi rates be implemented by increasing the two rate elements that comprise a passenger's taxicab fare: the initial (drop) charge and the per-mile charge. An increase that falls entirely on the drop charge has a disproportionate impact on customers that take primarily short-trips. An increase that falls entirely on the mileage charge has a disproportionate impact on customers that take primarily longer trips.

Under staff's proposal, the rate increase would be applied to both the drop and mileage charge, with the initial drop charge increasing $0.25, from $3.25 to $3.50, and the mileage charge increasing $0.06, from $2.10 to $2.16. The per-mile increase would be accomplished by changing the billing increment from one-seventh of a mile ($0.30 x 7 = $2.10) to one-sixth of a mile ($0.36 x 6 = $2.16). Additionally, the waiting-time increment and rate would change from $0.30 per 51 seconds to $0.36 per 61 seconds. Exhibit 2 provides the recommended changes to Section 84.1-6-3, regarding rates, charges, and fares. Exhibit 3 contains a sample billing comparison between current rates and those reflecting the 3.5 percent increase as recommended in the staff proposal.

Table 7 compares the (1) taxicab rates authorized by neighboring jurisdictions, (2) taxicab rates authorized by the Metropolitan Washington Airports Authority for Washington Flyer taxicabs providing service to and from Dulles International Airport, and (3) rates charged by certain Uber services. If the 3.5 percent increase were to be approved, a 7-mile trip would cost $18.26 (not including tip) in Fairfax County while a comparable 7-mile taxicab trip would cost $17.10 in Arlington County, $18.00 in Montgomery County, $18.08 if provided by Washington Flyer, $18.12 in the City of Alexandria, and $18.35 in the District of Columbia.

Table 7. Regional Rate Comparison[6]

	Drop Charge	*1st Mile*	*Per-Mile Charge*	*7-Mile Fare*
UberX	$3.10	$4.40	$1.40	$15.45*
Arlington County	$2.75	$4.50	$2.10	$17.10
Fairfax County – Current	**$3.25**	**$5.05**	**$2.10**	**$17.65**
Montgomery County	$4.00	$6.00	$2.00	$18.00
Washington Flyer (Dulles)	$3.50	$5.12	$2.16	$18.08
City of Alexandria	$3.36	$5.16	$2.16	$18.12
Fairfax County – 3.5% Increase	**$3.50**	**$5.05**	**$2.16**	**$18.26**
District of Columbia	$3.50	$5.39	$2.16	$18.35
Uber Black	$7.00	$10.00	$3.00	$28.00*

* UberX and Uber Black rates are variable and can change upward due to time of day and demand. Fares also include per-minute charges of $0.29 and $0.45, respectively, which are not reflected in the sample charges.

III. Recommendation regarding Penalties for Violation of Chapter 84.1

Operating an unlicensed taxicab within Fairfax County violates Section 84.1-2-1 of the County Code, which provides that "[n]o person will operate or permit to be operated a taxicab or taxicabs in the County without having been approved for and been issued operator's certificates by the County." Under Section 84.1-9, regarding penalties, violation of any provision of Chapter 84.1, including Section 84.1-2-1, is a Class 3 misdemeanor and enforcement rests primarily with the Fairfax County Police Department (FCPD). Va. Code Ann. § 46.2-2066 provides that violations of regulations of a governing body made pursuant to the authority granted in Chapter 46.2 are misdemeanors and punishable by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense. Therefore, staff recommends that Section 84.1-9-1 be revised to conform to state law. Provided below is the complete text of Section 84.1-9-1 as it currently reads and the proposed revision. The proposed revision, which is also provided in Exhibit 4, deletes the phrase "Class 3" and adds language that tracks the language of Va. Code Ann. Section 46.2-2066:

> CURRENT Section 84.1-9-1. General penalties.
> Any person who violates or causes to be violated any provision of this Chapter will be guilty of a Class 3 misdemeanor.

[6] Fare calculation for a seven mile taxicab trip assumes no waiting time. Under Section 84.1-6-3(c)(3), a passenger may be charged "waiting time" while a taxicab is stopped or slowed for a speed less than 10 miles per hour.

PROPOSED Section 84.1-9-1. General penalties.
Any person who violates or causes to be violated any provision of this Chapter will be guilty of a ~~Class 3~~ misdemeanor punishable by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense.

IV. Staff Findings and Recommendations

The following summarizes staff findings and recommendations regarding taxicab rates and penalties for operating an unlicensed taxicab:

Staff recommends a 3.5 percent increase in taxicab rates consistent with the weighted change shown by the Fairfax County Taxicab Industry Price Index (FCTIPI):

- The Code establishes the FCTIPI as the primary measure to assess the need for a change in taxicab rates and fares since the last adoption of rates. A rate change was last adopted in 2012.

- The FCTIPI shows a weighted change of 3.5 percent since the last approved increase (2012) to July 2014. Given that the Code establishes a range of plus or minus 2 percent, it appears a potential taxicab rate increase lies within the range of 1.5 to 5.5 percent.

- Staff examined a number of factors to determine the need for either an upward or downward adjustment of up to 2 percent, as permitted by the Code. On balance, these factors indicate that there is no need for an adjustment and therefore that a rate increase of 3.5 percent, which corresponds to the FCTIPI weighted change, is reasonable.

- A 3.5 percent increase in taxicab rates should be implemented in a manner that does not disproportionately affect a single class of passengers. Staff therefore recommends that a 3.5 percent increase be implemented by:
    - increasing the initial (drop) charge $0.25, or from $3.25 to $3.50;
    - increasing the per-mile charge by $0.06, or from $2.10 to $2.16;
    - revising the billing increment from 1/7th of a mile to 1/6th of a mile, or from $0.30 per 1/7th mile ($2.10) to $0.36 per 1/6th mile ($2.16); and
    - revising the waiting time increment and rate to correspond to the revised mileage billing increment, or from $0.30 per 51 seconds to $0.36 per 61 seconds.

Staff also recommends that Section 84.1-9 of the County Code be revised so that it conforms to state law.

V. Consumer Protection Commission Recommendations

On September 16, 2014, the Consumer Protection Commission held a public hearing on the matters of a proposed rate increase of 3.5 percent in taxicab fares, and on changes to the Code regarding penalties for the unauthorized provision of taxicab service. At the public hearing, two members of the public spoke, both of whom supported a rate increase for taxicab service. No comments were received on the staff recommendation to revise the Code regarding penalties for the unauthorized provision of taxicab service.

Following the receipt of public comment and discussion, the Consumer Protection Commission voted to recommend to the Board of Supervisors staff's proposal of a 3.5 percent increase in taxicab fares, as well as approval of changes to the Code regarding penalties for the unauthorized provision of taxicab service.

EXHIBIT 1

Fairfax County Code, Chapter 84.1, Article 6,
Rules, Regulations, Rates, Fares, and Charges

EXHIBIT 1

Section 84.1-6-1. Criteria for establishment of rules, regulations, rates, fares, and charges.

In the exercise of its authority to regulate taxicab service, the Board will consider factors relevant to the need to assure safe, economical, adequate, and reliable privately operated taxicab service for the riding public. (4-00-84.1; 56-08-84.1.)

Section 84.1-6-2. Changes to rules, regulations, rates, fares, and charges; procedures.

(a) Changes in any rule, regulation, rate, fare, charge, and or practice thereto, for taxicab services rendered by certificate holders, may be approved by the Board after notice and hearing held by the Commission or upon recommendation of the Director.

(b) On an annual basis the Board may consider changes in rates, fares or charges, upon petition by a certificate holder or a driver association. Any petition filed by a certificate holder or driver association for changes in rates, fares or charges must be filed simultaneously with the Clerk to the Board and the Director by June 30. A copy of such requests must be sent by the Director to the Commission, certificate holders, and any driver association within seven calendar days of submission to the Clerk to the Board.

(c) Any petition for a change in rates, fares or charges will contain the following:

(1) The rates, fares or charges which are proposed for approval; and

(2) A sample billing analysis which will show the cost to riders for trips ranging from one mile to twenty miles in one-mile increments, using existing rates and proposed rates, including for each increment, the percent change.

(d) Rate change petitions will be analyzed by the Director, using information submitted under Section 84.1-5-2, Subsection (c) of this Section, and other relevant data. The Director will use the following standard in consideration of whether the request is justified: The change in the Fairfax County Taxicab Industry Price Index since the last adoption of rates (plus or minus two percent), in the Fairfax County Taxicab Industry Price Index, which is in the following form:

Fairfax County Taxicab Price Index

Taxicab Cost Element	BLS Index	Weight
Salaries, Wages, and Profits	CPI	0.62

EXHIBIT 1

Vehicle Purchase	New Cars	0.14
Fuel	Motor Fuel	0.11
Insurance and Other	Other Private Transportation Services	0.08
Maintenance, Parts, and Equipment	Private Transportation Maintenance and Repairs	0.05
TOTAL COMPOSITE INDEX		1.00

(e) The Commission will review all recommendations or petitions for rate changes, along with the report of the Director, and the Commission will hold a hearing to consider evidence related to such recommendations or petitions for changes in rates, fares and charges, or any rule, regulation, or practice thereto, as soon as analysis and scheduling permit. After holding a public hearing and after such further investigation as the Commission may deem advisable, the Director will convey the recommendations of the Commission and the Director concerning the appropriate taxicab rates to the Board for consideration and approval.

(f) Except for emergency rate relief, certificate holders will provide notice to the public of proposed changes in fares, rates, charges, rules, regulations or practices thereto, by means of a sign posted in a conspicuous place in each of their vehicles operated as taxicabs in Fairfax County. Such notice will be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and will contain substantially the following legend:

Notice of Proposed Fare Change
(Insert the Name of the Certificate Holder)

A proposed change in taxicab fares is under consideration by the Fairfax County government. The proposed fares are: (Insert description of the proposed changes). The proposed taxicab fare change will be considered by the Consumer Protection Commission at a public hearing on (insert date, time, and location). Any interested person may appear before the Commission to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable Communications and Consumer Protection at 703-222-8435.

Notices with respect to the request for a rate change will be posted at least 15 calendar days prior to the Consumer Protection Commission public hearing and the

Board of Supervisor's public hearing and will remain posted until the change in fares is denied or becomes effective.

(g) Emergency rate relief requests will be considered in as timely a manner as possible, under the same procedures and criteria as set forth herein, except that emergency rate relief petitioners must demonstrate that dire financial needs as a result of circumstances beyond their control necessitate an increase prior to the next annual filing period. The filing date requirement found in 84.1-6-2(c) does not apply to an Emergency rate relief request. A rate review according to Section 84.1-6-2, Subsections (a) through (f) will supersede any rate change granted on an emergency basis. (4-00-84.1; 56-08-84.1.)

Section 84.1-6-3. Rates, fares, and charges established.

(a) Rates, fares, and charges for transportation and related services performed by certificate holders and their driver agents will be established as set forth herein upon the approval by ordinance by the Board.

(b) It will be unlawful for the certificate holder or driver of any taxicab to charge, or knowingly allow to be charged, any fare or service charge except as is provided in this Article.

(c) Taxicab Rates

(1) Mileage Rate

first one-seventh of a mile or fraction thereof $3.25

each subsequent one-seventh of a mile or fraction thereof $0.30

(2) Additional Passenger Rate

For each passenger over 12 years of age, entering and departing the taxicab at the same location as any other passenger $1.00

When more than one passenger enters a taxicab at the same time bound for different destinations, the fare will be charged as follows: Whenever a passenger gets out the fare will be paid and the meter will be reset, at the next destination when the passenger gets out the fare will be paid, and the meter will be reset.

(3) Waiting Time - For each 51 seconds of waiting time $0.30

Time begins five minutes after the appointed pickup time and arrival at the place where the taxicab was called. (No time will be charged for early response to the call.) Waiting time may be charged while the taxicab is stopped, or slowed for traffic for a speed less than ten miles per hour. While such time is charged, there will be no charge for mileage. Time consumed for delays or stopovers in route at the direction of the

passenger. Waiting time does not include time lost caused by the inefficiency of a taxicab or a taxicab driver.

(4) Other Charges - None of the charges authorized below will be allowed unless the driver informs the passenger of such charges at the point of pickup.

Grocery bags - or similar sized articles, per item handled by the driver in excess of two bags per passenger (Not to exceed $1.00 charge per passenger) $0.25

Luggage - per item (If handled by the driver) $0.50

Large luggage - minimum of three cubic feet. (If handled by the driver) $2.00

Personal service - Each time the driver is required to leave the vicinity of the taxicab at the request of the passenger will constitute a separate personal service. No such charge will be made for an individual with a disability $0.75

All service animals will be transported and free of charge when accompanying an individual with a disability .....No Charge

Animals (other) - will be transported only at the discretion of the driver and only if the passenger agrees to keep the animal under control. A charge for each animal will not exceed $1.00

(5) Tolls - paid by the driver along a route to a passenger's destination may be added to the passenger's fare provided the passenger was informed of the toll and given the option of taking an alternative route which does not require the payment of the toll. If more than one passenger is transported, the driver may not recover more than the total toll actually paid during the trip.

(6) Surcharge - Where the taxicab driver paid an airport surcharge the surcharge may be added to the fare of the trip.

(7) Cleaning Charge - If the taxicab is left in an unsanitary condition which requires the taxicab to be cleaned immediately after completion of the trip $4.00

(8) Rate cards provided by the Department of Cable Communications and Consumer Protection will be posted in such a manner as to be easily visible to all passengers in a taxicab.

(9) A notice, provided by the Department of Cable Communications and Consumer Protection will be posted in each taxicab in such a manner as to be easily visible to all passengers. That notice will advise passengers that comments and complaints about taxicab service may be directed to

the Fairfax County Department of Cable Communications and Consumer Protection, and the notice will include the address and phone number to which such comments and complaints may be forwarded.

(10) When a driver has taken into a taxicab a passenger for transportation and has actually begun the transportation of such passenger, no other person will be received by the driver into such taxicab until the destination is reached, without the consent of such original passenger; and except as otherwise provided herein, no charge will be made for an additional passenger except when the additional passenger rides beyond the original passenger's destination, and then only for the additional distance traveled.

(11) Operators may offer to senior citizens and persons with disabilities discounts for taxicab service in an amount not to exceed 25 percent for all applicable rates and charges for transportation and other services.

(A) Any operator offering a discount rate must make the rate available to both senior citizens and individuals with disabilities.

(B) Any such discount rate and the eligibility criteria for the discount rate must be posted by the operator offering the discount in each taxicab for which it holds a certificate.

(C) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified.

(D) Any such discount rate and a description of how it will be implemented must be registered with the Director 30 calendar days prior to the discount being offered.

(E) Discontinuance or modification of a discount rate program must be registered with the Director 30 calendar days prior to being discontinued or modified. (4-00-84.1; 2-01-84.1; 24-05-84.1; 56-08-84.1; 30-12-84.1.)

EXHIBIT 2

Proposed Revisions to Section 84.1-6-3,
Rates, Fares, and Charges Established
With Staff Recommended Changes

EXHIBIT 2

Section 84.1-6-3. Rates, fares, and charges established.

(a) Rates, fares, and charges for transportation and related services performed by certificate holders and their driver agents will be established as set forth herein upon the approval by ordinance by the Board.

(b) It will be unlawful for the certificate holder or driver of any taxicab to charge, or knowingly allow to be charged, any fare or service charge except as is provided in this Article.

(c) Taxicab Rates

(1) Mileage Rate

first one-seventh of a mile or fraction thereof .....~~$3.25~~ $3.50

each subsequent one-~~seventh~~ sixth of a mile or fraction thereof .....~~$0.30~~ $0.36

(2) Additional Passenger Rate

For each passenger over 12 years of age, entering and departing the taxicab at the same location as any other passenger $1.00

When more than one passenger enters a taxicab at the same time bound for different destinations, the fare will be charged as follows: Whenever a passenger gets out the fare will be paid and the meter will be reset, at the next destination when the passenger gets out the fare will be paid, and the meter will be reset.

(3) Waiting Time - For each ~~51~~ 61 seconds of waiting time .....~~$0.30~~ $0.36

Time begins five minutes after the appointed pickup time and arrival at the place where the taxicab was called. (No time will be charged for early response to the call.) Waiting time may be charged while the taxicab is stopped, or slowed for traffic for a speed less than ten miles per hour. While such time is charged, there will be no charge for mileage. Time consumed for delays or stopovers in route at the direction of the passenger. Waiting time does not include time lost caused by the inefficiency of a taxicab or a taxicab driver.

(4) Other Charges - None of the charges authorized below will be allowed unless the driver informs the passenger of such charges at the point of pickup.

Grocery bags - or similar sized articles, per item handled by the driver in excess of two bags per passenger (Not to exceed $1.00 charge per passenger) $0.25

Luggage - per item (If handled by the driver) $0.50

Large luggage - minimum of three cubic feet. (If handled by the driver) $2.00

Personal service - Each time the driver is required to leave the vicinity of the taxicab at the request of the passenger will constitute a separate personal service. No such charge will be made for an individual with a disability $0.75

All service animals will be transported and free of charge when accompanying an individual with a disability .....No Charge

Animals (other) - will be transported only at the discretion of the driver and only if the passenger agrees to keep the animal under control. A charge for each animal will not exceed $1.00

(5) Tolls - paid by the driver along a route to a passenger's destination may be added to the passenger's fare provided the passenger was informed of the toll and given the option of taking an alternative route which does not require the payment of the toll. If more than one passenger is transported, the driver may not recover more than the total toll actually paid during the trip.

(6) Surcharge - Where the taxicab driver paid an airport surcharge the surcharge may be added to the fare of the trip.

(7) Cleaning Charge - If the taxicab is left in an unsanitary condition which requires the taxicab to be cleaned immediately after completion of the trip $4.00

(8) Rate cards provided by the Department of Cable Communications and Consumer Protection will be posted in such a manner as to be easily visible to all passengers in a taxicab.

(9) A notice, provided by the Department of Cable Communications and Consumer Protection will be posted in each taxicab in such a manner as to be easily visible to all passengers. That notice will advise passengers that comments and complaints about taxicab service may be directed to the Fairfax County Department of Cable Communications and Consumer Protection, and the notice will include the address and phone number to which such comments and complaints may be forwarded.

(10) When a driver has taken into a taxicab a passenger for transportation and has actually begun the transportation of such passenger, no other person will be received by the driver into such taxicab until the destination is reached, without the consent of such original passenger; and except as otherwise provided herein, no charge will be made for an additional passenger except when the additional passenger rides beyond the

original passenger's destination, and then only for the additional distance traveled.

(11) Operators may offer to senior citizens and persons with disabilities discounts for taxicab service in an amount not to exceed 25 percent for all applicable rates and charges for transportation and other services.

(A) Any operator offering a discount rate must make the rate available to both senior citizens and individuals with disabilities.

(B) Any such discount rate and the eligibility criteria for the discount rate must be posted by the operator offering the discount in each taxicab for which it holds a certificate.

(C) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified.

(D) Any such discount rate and a description of how it will be implemented must be registered with the Director 30 calendar days prior to the discount being offered.

(E) Discontinuance or modification of a discount rate program must be registered with the Director 30 calendar days prior to being discontinued or modified.

EXHIBIT 3

Sample Billing Analysis

EXHIBIT 3

SAMPLE BILLING ANALYSIS

Initial (Drop) Charge of $3.50 and Mileage Charge of $2.16

Trip Length (Miles)	Current Trip Cost	Proposed Trip Cost	% Increase Over Current Trip Cost
1	$5.05	$5.30	5.0%
2	$7.15	$7.46	4.3%
3	$9.25	$9.62	4.0%
4	$11.35	$11.78	3.8%
5	$13.45	$13.94	3.6%
6	$15.55	$16.10	3.5%
7	**$17.65**	**$18.26**	**3.5%**
8	$19.75	$20.42	3.4%
9	$21.85	$22.58	3.3%
10	$23.95	$24.74	3.3%
11	$26.05	$26.90	3.3%
12	$28.15	$29.06	3.2%
13	$30.25	$31.22	3.2%
14	$32.35	$33.38	3.2%
15	$34.45	$35.54	3.2%
16	$36.55	$37.70	3.1%
17	$38.65	$39.86	3.1%
18	$40.75	$42.02	3.1%
19	$42.85	$44.18	3.1%
20	$44.95	$46.34	3.1%

EXHIBIT 4

Proposed Revisions to Section 84.1-9-1,
General Penalties
With Staff Recommended Changes

EXHIBIT 4

Section 84.1-9-1. General penalties.

Any person who violates or causes to be violated any provision of this Chapter will be guilty of a ~~Class 3~~ misdemeanor punishable by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense.

Board Agenda Item
October 28, 2014

ADMINISTRATIVE – 7

Authorization to Advertise a Public Hearing on the Issuance of a County Revenue Bond to Finance Silver Line Parking Garages Through the Fairfax County Economic Development Authority

ISSUE:
Authorization to advertise a public hearing on the issuance of a County Revenue Bond to finance Silver Line parking garages through the Fairfax County Economic Development Authority.

RECOMMENDATIONS:
The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing to be held on November 18, 2014, at 4:00 p.m. on the issuance of a County revenue bond to finance Silver Line parking garages through the Fairfax County Economic Development Authority.

TIMING:
Board action is requested on October 28, 2014, to allow for advertisement of a public hearing to be held on November 18, 2014, on the adoption of a plan of finance so that construction of the garages may begin in coordination with construction of Phase II of the Silver Line project.

BACKGROUND:
As part of the forthcoming Silver Line Phase 2 extension, the County plans to build two new parking garages at the to-be-built Herndon and Innovation Center Metrorail stations. The County will then own and operate these two parking facilities. Given the estimated costs of constructing these parking garages (approximately $120 million), it is recommended that the County finance these costs. Under the plan of finance developed by the Department of Management and Budget (DMB) and the Fairfax County Department of Transportation (FCDOT) staff, which was previously presented to the Board at its June 10, 2014, Transportation Committee meeting, a public hearing is required by state law.

Specifically, staff proposes that the Board request the Fairfax County Economic Development Authority issue Metrorail Parking System Revenue Bonds. The proceeds of these bonds would then be loaned to the County pursuant to the terms of the Loan Agreement (Attachment 1). The County would repay the EDA using a combination of parking surcharge revenues from the existing Metrorail Parking Facilities and revenues from new Metrorail Parking Facilities.

The Plan of Finance

The current parking fee at the Metrorail Parking Facilities in Fairfax County operated by the Washington Metropolitan Area Transportation Authority (WMATA) is composed of two parts: (1) a base fee used to pay for operation and maintenance costs; and (2) a surcharge, which is used to pay the outstanding debt service on existing Metrorail Parking Facilities. Under the existing surcharge agreement, WMATA holds the collected surcharge revenue and disburses it upon the County's request.

WMATA, however, has agreed to amend the surcharge agreement. The updated surcharge agreement, as fully detailed in the October 28, 2014, Action Item, transfers custody of the surcharge revenues to the County and will allow the County to use parking surcharge revenues to offset costs for financing the construction of the new garages at the Herndon and Innovation Center Stations.

In terms of numbers, the surcharge account has a balance of approximately $19 million and receives an additional $5 million annually, with $3 million of that available to the County following payment of $2 million in outstanding debt service on existing Metrorail Parking Facilities. Under the proposed surcharge agreement, "surcharge revenues can only be used for planning, development, financing (including, but not limited to, the payment of debt service), construction, operation, maintenance, insurance, improvement and expansion" of the Metrorail Parking Facilities.

In addition to the surcharge revenues, the County will use the full amount of the parking fees collected at the Herndon and Innovation Center Metrorail Parking Facilities to pay the financed costs of constructing the new parking facilities. These parking fees are projected to generate an additional $5 million annually.

FISCAL IMPACT:

The revenues received under the amended Surcharge Agreement and collected once the parking facilities are constructed will be deposited into a new Parking Revenue Fund that will be created to manage these surcharge and parking fees and the expenses associated with the County owned Metrorail parking facilities. It is estimated that the total revenue deposited annually into this new Parking Revenue Fund will be approximately $10 million annually, and all of this revenue will be dedicated to offset the financing costs, operations, and maintenance costs that are related to the County owned parking facilities. The one time transfer of approximately $19 million (as of June 2014) from the parking surcharge account balance at WMATA to the County is currently planned to be used to reduce the amount of debt issued to construct the Herndon and Innovation Metrorail Stations parking facilities. This is a similar financing structure that was used to construct previous County parking garages that included Huntington, Vienna I, and Vienna II.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment 1 – Loan Agreement
Attachment 2 – Form of Bond (Exhibit B to Loan Agreement)
Attachment 3—Resolution
Attachment 4—Trust Agreement

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Department of Transportation (FCDOT)
Todd Wigglesworth, Acting Division Chief, Coordination & Funding Division, FCDOT
Erin C. Ward, Senior Assistant County Attorney
Patricia Moody McCay, Assistant County Attorney
Joe LaHait, Debt Coordinator, Department of Management & Budget

County & EDA

LOAN AGREEMENT

This Loan Agreement (this "Loan Agreement"), dated as of _____, 201_, by and between the Fairfax County Economic Development Authority ("EDA") and the Board of Supervisors of Fairfax County, Virginia (the "County").

SECTION I. DEFINITIONS

For purposes of this Loan Agreement, unless the context clearly indicates otherwise, the words and terms defined in this Section I have the following respective meanings:

"Additional Payments" shall have the meaning set forth in Section 3.01(d).

"additional project" means any additional parking facilities, to be financed and controlled by the County, to be constructed and operated to provide parking for Metrorail patrons and designated as such by resolution of the Board of Supervisors of the County.

"Basic Payments" means the payments made or to be made by the County, to or for the account of EDA, in respect of scheduled interest and principal payments on the EDA Bonds.

"Bond Payment Date" means each Interest Payment Date and Principal Payment Date on the EDA Bonds.

"County Bond" means the bond, in the form as set forth in Exhibit B hereto, to be issued by the County to EDA to evidence the obligation of the County to make the Basic Payments.

"County Payments" means the Additional Payments and Basic Payments.

"EDA Bonds" means the $_____ Fairfax County Economic Development Authority Fairfax County Metrorail Parking System [Project] Revenue Bonds Series 201_, dated _____, 20__.

"fiscal year" means the fiscal year of the County. As of the date of this Loan Agreement, the County's fiscal year begins on July 1 of one calendar year and ends on June 30 of the next succeeding calendar year.

"Holder of the EDA Bonds" means collectively the registered owner and, if the registered owner is a nominee, the beneficial owners of the EDA Bonds.

"Interest Payment Date" means each _____ _ and _____ _, commencing ___ _, 201_ each such date being a date when interest is scheduled to be due and payable on the EDA Bonds.

"Loan Agreement" means this Loan Agreement as the same may be amended by written agreement of the parties with the consent of the Holder of the EDA Bonds as provided in Section 4.04 hereof.

"Net Metrorail Parking System Revenues" means the net revenues realized by the County from the operation of its Fairfax County Metrorail Parking System and credited to the County's Metrorail Parking System Revenues Subfund in the Special Fund, such net revenues in any period being the difference between the gross revenues of such System in such period and the current expenses of the County in such period in operating and maintaining such System.

"Pledged Revenues" has meaning given to such term in Section 3.02 hereof.

"Principal Payment Date means each _____ _ upon which the principal of any Bond is due and payable (whether at maturity or upon sinking fund redemption).

"Project" means collectively the parking facilities, to be financed and owned by the County, planned for the Herndon Station and the Innovation Center Station on WMATA's Silver Line and to be constructed and operated to provide parking for Metrorail patrons at such Stations.

"project" means any one, and "projects" means collectively all, of the parking facilities included in the definitions of Project and "additional projects."

"Purchaser" [means the underwriter or underwriters that shall have been awarded the EDA Bonds pursuant to [competitive bidding or negotiated sale] and shall purchase the EDA Bonds from EDA on the date hereof.]

"Special Fund" means the Metrorail Parking Pledged Revenues Fund, a special revenues fund established on the books of account of the County, containing two subfunds: the Metrorail Parking System Revenues Subfund and the Metrorail Parking System Surcharge Revenues Subfund.

"Surcharge Revenues" means certain parking surcharge fees on parking spaces within certain WMATA controlled parking facilities collected by WMATA and transferred to the County for deposit in the County's Metrorail Parking Surcharge Revenues Subfund in the Special Fund.

"System" or "Fairfax County Metrorail Parking System" means the initial system, created and defined by resolution, adopted on November 18, 2014, by the Board of Supervisors of the County, of parking facilities serving various Metrorail Stations in the County, being the County controlled parking garages at the Wiehle-Reston East, Herndon and Innovation Center Metrorail Stations, and includes any additional projects designated as such by resolution of the Board of Supervisors of the County.

"Trust Agreement" means the Trust Agreement, dated as of _____, 201_ between EDA and the Trustee, pursuant to which EDA assigns to the Trustee the County Bond and substantially all of EDA's rights under this Loan Agreement, including EDA's rights to receive County Payments under, and to enforce the terms and provisions of, this Loan Agreement.

"Trustee" means _____ with a principal corporate office in _____.

"WMATA" means Washington Metropolitan Area Transit Authority.

SECTION II. ISSUANCE OF THE EDA BONDS BY EDA

Section 2.01. Issuance of the EDA Bonds. EDA agrees to issue the EDA Bonds on or before _____, 20__. The Purchaser has agreed to buy the EDA Bonds from EDA on or about _____, 20__.

Section 2.02. Purpose for the Issuance of the EDA Bonds. EDA agrees to loan the net proceeds of the EDA Bonds to the County in order for the County to apply such funds, together with other funds available for the purpose, to the construction of the Project and to pay for certain costs of issuance of the EDA Bonds, all as approved by the County, and for no other purpose, all pursuant to the terms of the Trust Agreement.

SECTION III. UNDERTAKINGS BY THE COUNTY

Section 3.01. Basic Payments and Additional Payments. (a) The County hereby agrees to make Basic Payments on each Bond Payment Date as set forth on **Exhibit A** hereto subject to the provisions of Section 3.02. The County shall evidence its obligation to make the Basic Payments by issuing and delivering to EDA the County Bond in the form as set forth on **Exhibit B**.

(b) The County may, at its option, prepay the Basic Payments in whole or in part on any date on or after _____, 20__ 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 redemption of the EDA Bonds in accordance with their terms. Upon such redemption, EDA shall credit the principal amount of the EDA Bonds so redeemed against the Basic Payments and reduce the remaining Basic Payments otherwise payable in an amount equal to the sum of (i) the principal amount of the EDA Bonds so redeemed, (ii) the interest on the EDA Bonds so redeemed and (iii) the interest that would have accrued on such EDA Bonds so redeemed but for such redemption.

(c) The County also agrees to make as Additional Payments for the Project all other amounts (other than Basic Payments) payable by the County to EDA under this Loan Agreement as set forth below in subsection (d) of this Section 3.01.

(d) The County will pay as Additional Payments the following:

1) all reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) of the Trustee and, to the extent permitted by law, the costs and expenses of holding the Trustee harmless 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 including, without limitation, the reasonable fees and expenses of its counsel in connection with the financing the Project, the preparation of this Loan Agreement and the Trust Agreement, any expenses payable by EDA under the Trust Agreement and not otherwise payable by the County under this Loan Agreement, and, to the extent permitted by law, the costs and expenses of holding EDA harmless 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 Loan Agreement or the EDA Bonds or the Trust Agreement.

Section 3.02. Payments from Special Fund. The obligation of the County to make the County Payments under this Loan Agreement is limited to, and the County hereby pledges to such County Payments, the "Pledged Revenues" credited to the Special Fund, such Pledged Revenues being the (i) the Net Metrorail Parking System Revenues credited to the Metrorail Parking System Revenues Subfund of the Special Fund and (ii) the Surcharge Revenues credited to the Metrorail Parking Surcharge Revenues Subfund of the Special Fund.

Section 3.03. County Covenants. (a) The County covenants that it will set, maintain and adjust from time to time the rates and charges for the services of the Fairfax County Metrorail Parking System such that in each fiscal year the sum of the Pledged Revenues and the available funds in the Special Fund is at least sufficient to pay all of the obligations of the County payable from such Fund, including the County Payments scheduled to become due in such fiscal year. It shall not constitute a breach of the foregoing covenant if the sum of the Pledged Revenues in any fiscal year is less than the sum required by such covenant unless there is a default in payment on the EDA Bonds.

(b) The County may issue or incur additional indebtedness payable from Pledged Revenues for an additional project or additional projects or to refund or refinance the County Bond or any such additional indebtedness or other System obligation payable from Pledged Revenues, such additional indebtedness to be secured by a separate loan agreement or similar contract; provided, however, that other than the County Bond and the County Payments owing in respect of the County Bond and on account of the [initial] Fairfax County Metrorail Parking System [Project] Revenue Bond, Series ….., the County covenants that it will not issue or incur any additional indebtedness payable from the Pledged Revenues, whether for an additional project or to refund or pay any System indebtedness or other System obligation unless the County shall have first delivered to EDA or its assignee the following:

(i) A certificate of the County's chief financial officer that the County was in compliance with its covenant set forth in subsection (a) of this Section in each of the last [two] fiscal years [for which audited financial statements are available],

(ii) A certificate of the County's chief financial officer setting forth (A) the amount of the County Payments scheduled to become due in each fiscal year beginning with the current fiscal year and ending with the final maturity of the EDA Bonds, which County Payments may be reduced in each of the fiscal years by the amounts, if any, set aside with the Trustee from the proceeds of the EDA Bonds or from the balance to the credit of the Special Fund to pay interest on the EDA Bonds ("Adjusted County Payments") and (B) the maximum amount of Adjusted County Payments scheduled to become due in any fiscal year referred to clause (A) of this paragraph, and

(iii) A written estimate of the County's chief financial officer, who may rely on the forecast of another County employee or independent consultant, of, (I) separately, the Net Metrorail Parking System Revenues and the Surcharge Revenues to be received by the County in (W) any previous fiscal year for which audited financial statements are not available, (X) the current fiscal year, (Y) if applicable, each fiscal year prior to the first complete fiscal year in which the additional project for which the EDA Bonds are to be issued is projected to be placed in service, and (Z) the first five fiscal years following the last fiscal year in which any project for which EDA Bonds have been or are being issued and is not yet in service is projected to be placed in service or, if there is no such project, for the next three fiscal years, (II) the balances to the credit of the Special Fund as of the end of each such fiscal year, and (III) the anticipated transfers to the Special Fund of non-general funds to be appropriated for each such fiscal year, and

(c) A certificate of the chief financial officer of the County stating that the percentage derived by dividing (i) each of the amounts for each of the fiscal years referred to in the applicable subclauses (W), (X) and (Y) of clause (I) provided in the estimate required by paragraph (iii) of subsection (b) of this Section by the amounts for the same fiscal years set forth in the estimate required by clause (A) of paragraph (ii) of subsection (b) of this Section is not less than 100% and (ii) for each applicable fiscal year the sum of the amounts referred to in subclause (Z) of clause (I), in clause (II) and in clause (III) of paragraph (iii) of subsection (b) of this Section provided in the estimate required by such paragraph by the amount set forth in the certificate required by clause (B) of paragraph (ii) of subsection (b) of this Section is not less than 100%.

(d) (i) The County covenants that it will cause each project to be constructed in conformity with law and all requirements of all other governmental authorities having jurisdiction and that it will cause each project to be completed with all expedition practicable.

(ii) The County shall require adequate performance and payment bonds, or their legal equivalent, in connection with contracts for the construction of each project and will cause each contractor to carry such worker's compensation or employers' liability insurance as may be required by law and such public liability and property damage insurance, including provisions to

indemnify and save the County harmless, and such builders' risk insurance, if any, as the County may deem appropriate.

(iii) The County covenants that it will establish and enforce reasonable rules and regulations governing the use of the System and the operation thereof, that all conditions of employment and all compensation, salaries, fees and wages paid by it in connection with the maintenance, repair and operation of the System will be reasonable, that no more persons will be employed by it than are necessary, that all persons employed by it will be qualified for their respective positions, that it will maintain and operate the System in an efficient and economical manner, that, from the revenues of the System and from any other available moneys, it will at all times maintain the same in good repair and in sound operating condition and will make all necessary repairs, renewals and replacements of the System, and that it will, in a manner not inconsistent with this Loan Agreement, comply, subject to the right to contest, with all valid acts, rules, regulations, orders and directives of any legislative, executive, administrative or judicial body applicable to the System; provided, however, that nothing in this Loan Agreement shall prohibit the County from contracting on reasonable terms with others for the operation and/or maintenance of all or any part or function of the System.

(iv) The County covenants that, except as permitted by this Loan Agreement, it will not create or suffer to be created any lien or charge upon the System or upon the Pledged Revenues, and that, from the revenues of the System or other available funds, it will pay all taxes and assessments, or payments in lieu thereof, or other municipal or governmental charges lawfully levied or assessed upon the System or the Pledged Revenues, and that it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within sixty (60) days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System or the Pledged Revenues; provided, however, that nothing in this clause shall require the County to pay or cause to be discharged, or make provision for, any such tax, assessment, lien or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

(v) The County covenants that it will maintain, or cause to be maintained, a practical insurance program, with reasonable terms, conditions, provisions and costs, which the County determines (i) will afford adequate protection against loss caused by damage to or destruction of the System or any part thereof and (ii) will include reasonable liability insurance on the System for bodily injury and property damage resulting from the construction or operation of the System. All such insurance policies shall be carried in a responsible insurance company or companies authorized and qualified to assume the risks thereof, provided that the County may self insure against public liability for bodily injury and property damage, loss of revenues or other revenues normally covered by use and occupancy insurance and other risks not enumerated herein in accordance with and as permitted by law and up to such levels as the County's senior risk manager may be recommend.

(vi) The County further covenants that, immediately after any substantial damage to or destruction of the System or any part thereof, it will cause plans and specifications for

repairing, replacing or reconstructing the damaged or destroyed property (either in accordance with the original or a different design) and an estimate of the cost thereof to be prepared. The proceeds of all insurance received in the circumstances described in the preceding paragraph shall be credited to the Fairfax County Metrorail Parking System Revenues Subfund and to the extent necessary shall be applied to the repair, replacement or reconstruction of the damaged or destroyed property. Nothing in the foregoing sentence, however, shall obligate the County to repair or replace any System facility if the County determines otherwise and the Chief Financial Officer of the County states in writing that such failure is not expected to adversely affect the County's ability to comply with the provisions of its covenant in subsection (a) of this Section.

The Trustee shall in no way be liable or responsible for the collection of insurance moneys in case of any loss or damage.

(vii) The County covenants that it will:

(A) Keep accurate books and records of, and compile financial statements reflecting, the revenues credited and expenditures charged to the Special Fund, all in accordance with applicable generally accepted accounting principles.

(B) Cause an audit to be performed, and a report prepared thereon, of such financial statements for each fiscal year in accordance with generally accepted auditing standards by an independent public accountant, or firm of such accountants.

(C) Within thirty (30) days after receipt of the audit report mentioned above, make public a copy of the audited annual financial statements, accompanied by the opinion of the auditor.

(viii) The County may from time to time sell, exchange or otherwise dispose of any System facilities, equipment, motor vehicles, machinery, fixtures, apparatus, tools, instruments or other movable property if it determines that such articles are no longer needed or are no longer useful in connection with the System or that such disposition would not adversely affect the ability of the County to comply with its covenant in subsection (a) of this Section, and the proceeds thereof shall be credited to the Metrorail Parking System Revenues Subfund in the Special Fund.

(ix) The County covenants that, on or before the 90th day preceding the first day of each Fiscal Year, it will prepare with respect to the System a preliminary budget of Pledged Revenues, current expenses and capital expenditures for the ensuing Fiscal Year. The County further covenants that on or before the last day in such fiscal year it will finally adopt a budget of Pledged Revenues and System current expenses and the budget of capital expenditures for the System for the ensuing fiscal year (which budgets together with any amendments thereof or supplements thereto as hereinafter permitted being herein sometimes collectively called the "annual budget").

Each such budget of capital expenditures shall show separately the amounts, if any, to be expended during such fiscal year from moneys derived from indebtedness and from moneys credited to the Special Fund, together with a statement of the purposes for which such amounts are to be expended.

(x) The County covenants that moneys in the Special Fund used for the payment of the System current expenses and capital expenditures will not exceed an amount which is reasonable and necessary for maintaining, repairing and operating the System in an efficient and economical manner, and that the total amount of such current expenses and capital expenditures in any fiscal year will not exceed the amount provided therefor in the annual budget for such fiscal year or any amendment thereof or supplement thereto unless such expenses or expenditures shall be required by conditions beyond the control of the County happening during such fiscal year and which could not reasonably have been contemplated at the time of the adoption of the annual budget.

(xi) Notwithstanding any other provision of this Loan Agreement, the County may, at any time or from time to time, issue or incur subordinate indebtedness and obligations for any purpose of the County in connection with the System. Such subordinate indebtedness or obligations shall be payable out of and may be secured by a pledge of such amounts in the Special Fund as may from time to time be available therefor, provided that any such payment or pledge shall be, and shall be expressed to be, subordinate and junior in all respects to the pledge and lien created under the County Bond and this Loan Agreement in favor of EDA Bonds.Section 3.04. County Executive to Request Appropriations.

(a) [Alternative 1] In order to provide additional assurance of the timely payment of the Basic Payments, the Board of Supervisors of the County covenants that it will cause the County Executive in preparing the County's operating budget for each fiscal year subsequent to fiscal year 20____, so long as the EDA Bonds remain outstanding under the Trust Agreement, to include an appropriation from the County's General Fund of a sum sufficient to provide and pay on any and each Bond Payment Date in such fiscal year the amount, if any, by which (i) the interest on the EDA Bonds or the principal installment and the interest on the EDA Bonds payable on such Bond Payment Date exceed (ii) the amount of Pledged Revenues and any other available funds held by the Trustee for the purpose of making such payment of debt service. The obligation of the County under this subsection (a) of this Section 3.04 to make any such payment is in all respects subject to the provisions of subsection (b) of this Section 3.04.

[Alternative 2] In the event that at any time during any fiscal year while the EDA Bonds remain outstanding under the Trust Agreement, the Trustee shall notify the County in writing that the amount to the credit of the debt service reserve [fund/subfund/account] under the Trust Agreement is less than the requirement therefor established by the Trust Agreement, the County shall forthwith budget, appropriate and pay from its General Fund to the Trustee the amount of such deficiency. The obligation of the County under this subsection (a) of this Section 3.04 to make any such payment is in all respects subject to the provisions of subsection (b) of this Section 3.04.

(b) The obligation of the County to make any payments under this Loan Agreement other than from Pledged Revenues is contingent upon the appropriation by the Fairfax County Board of Supervisors for the relevant fiscal year of funds from which these payments can be made. The County shall not be liable for any amounts which may be payable pursuant to subsection (a) of this Section 3.04 unless and until such funds have been appropriated for payment and then only to the extent thereof. This Loan Agreement 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 of Virginia.

Section 3.05. Consent to Assignment. The County hereby agrees that EDA shall assign to the Trustee for the EDA Bonds substantially all of EDA's rights under this Loan Agreement, including EDA's rights to receive County Payments under, and to enforce the terms and provisions of, this Loan Agreement.

SECTION IV. MISCELLANEOUS

Section 4.01. Loan Agreement not a Debt. This Loan Agreement 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 of Virginia.

Section 4.02. Third Party Beneficiaries. This Loan Agreement shall inure to the benefit of EDA, the County and the Holder of the EDA Bonds, and no other persons shall be deemed third party beneficiaries of this Loan Agreement.

Section 4.03. Net Contract. The County shall make all County 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 3.01, and under no circumstances or conditions shall EDA be expected or required to make any payment of any kind with respect to the Project or be under any obligation or liability hereunder, except as provided in this Loan Agreement or the Trust Agreement.

Section 4.04. Amendments. This Loan Agreement may be amended or any of its terms modified only by a written document authorized, executed and delivered by EDA and the County and otherwise as provided in and subject to the requirements of the Trust Agreement.

Section 4.05. Effective Date. This Loan Agreement shall take effect immediately upon its execution and delivery.

Section 4.06. Termination. This Loan Agreement shall terminate upon the earlier of the retirement and the defeasance of all of the EDA Bonds.

Section 4.07. Counterparts. This Loan Agreement may be executed in one or more counterparts and when each party hereto has executed at least one counterpart, this Loan

Agreement shall become binding on both parties and such counterparts shall be deemed to be one and the same document.

Section 4.08. Governing Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

[This space left blank intentionally]

IN WITNESS WHEREOF, EDA and the County have caused this Loan Agreement to be executed by their respective duly authorized officers, all as of the date and year first written above.

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

By:_____

Chairman

[SEAL]

ATTEST:

By: _____
Secretary

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By:_____
County Executive

[SEAL]

ATTEST:

By: _____
Clerk to the Board of Supervisors

Exhibit A

Basic Payments

Bond Payment Date	Principal	Interest	Total
	$ -	$	$

Exhibit B

Form of County Bond

United States of America
Commonwealth of Virginia

FAIRFAX COUNTY, VIRGINIA
METRORAIL PARKING SYSTEM PROJECT REVENUE BOND
SERIES 201[_]

Fairfax County, Virginia (the "County"), a political subdivision of the Commonwealth of Virginia, for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the Fairfax County Economic Development Authority (in such capacity, the "Payee"), or its assigns, on the Bond Payment Dates set forth in Schedule I (or earlier as hereinafter referred to), without the presentation and surrender hereof, the respective Principal Installments set forth therein, in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay in like coin or currency interest on the sum of unpaid Principal Installments, such Principal Installments and interest being payable on the dates provided in Schedule I hereto, solely from such sources, from the date hereof until the final Principal Installment shall have been paid. Each Principal Installment and interest payment shall be paid on or before the due date thereof by wire transfer to the payee or its assignee at the address endorsed hereon.

This Bond is issued pursuant to a resolution adopted by the Board of Supervisors of the County on November 18, 2014, as supplemented and amended on _____ __, 201_ (the "Resolution"). This Bond is being issued in accordance with the provisions of a Loan Agreement, dated as of _____ _, 201_ (the "Loan Agreement"), between the County and the Fairfax County Economic Development Authority ("EDA"), to evidence the obligation of the County, pursuant to the terms of the Loan Agreement, to repay a loan from EDA at times and in amounts sufficient for EDA to pay in full the debt service on its "Fairfax County Metrorail Parking System Project Revenue Bonds, Series 201[_]" when and as the same shall become due and payable .

This Bond is a limited obligation of the County payable solely from the "Pledged Revenues" (as defined in the Resolution) credited to the County's "Metrorail Parking System Pledged Revenues Fund," a special revenue fund created on the books of account of the County (the "Special Fund"). The County's pledge of Pledged Revenues under the Resolution includes (i) first, the "Net Revenues" of the Fairfax County Metrorail Parking System (as defined in the Resolution) credited to the "Metrorail Parking System Revenues Subfund" established in the Special Fund and (ii) then, if and to the extent necessary, the "Surcharge Revenues" (as defined in the Resolution) credited to the "Metrorail Parking Surcharge Revenues Subfund" also created in the Special Fund.

The County has covenanted in the Loan Agreement that it will set the rates and charges for the services of the Fairfax County Metrorail Parking System such that in each fiscal year the

sum of the Pledged Revenues received in such year, together with any other available funds credited to the Fairfax County Metrorail Parking System Revenues Subfund and the Fairfax County Metrorail Parking Surcharge Revenues Subfund, will be not less than 100% of the sum of the Principal Installments and the interest thereon payable on the Bond Payment Dates in such year, all as provided in the Loan Agreement.

The County covenants that it will not issue or incur any additional bonds or other debt obligations payable from the Pledged Revenues except as provided and permitted in the Loan Agreement.

This Bond is issued and the Resolution was adopted under and pursuant to the Constitution and laws of the Commonwealth of Virginia, particularly in conformity with the provisions, restrictions and limitations of the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia, 1950, as amended, and other applicable law.

Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of the County are pledged to the payment of the Principal Installments or the interest thereon. The issuance of this Bond shall not directly or indirectly or contingently obligate the Commonwealth of Virginia or the County to levy any taxes whatever therefor or to make any appropriation for its payment except from the special funds pledged therefor.

The Principal Installments may be prepaid by the County prior to their respective due dates, on not less than 45 days' notice given to EDA or its assigns, either in whole or in part, on any date, at the option of the County, from any moneys that may be made available for such purpose, in the amount of the Principal Installment or Installments, or portion thereof, to be prepaid, together with the interest accrued thereon to the date fixed for prepayment.

Any notice of any such prepayment may state that it is conditioned upon there being available an amount of money sufficient to make the prepayment, including the interest accrued thereon to the prepayment date, and any conditional notice so given may be rescinded at any time before the prepayment is due if any such condition so specified is not satisfied. If a prepayment does not occur after a conditional notice is given due to an insufficient amount of funds, the corresponding notice of prepayment shall be deemed to be revoked.

This Bond is issued with the intent that the laws of the Commonwealth of Virginia shall govern its construction.

All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed as so required.

IN WITNESS WHEREOF, Fairfax County, Virginia has caused this Bond to be executed with [a facsimile of] the signature of the Chairman or Vice Chairman of its Board of Supervisors and its official seal to be impressed hereon and attested by the Clerk or any Deputy Clerk of its Board of Supervisors and this Bond to be dated the __ day of _____, 201_.

_____	_____
[Deputy] Clerk, Board of Supervisors	**[Vice] Chairman, Board of**

Fairfax County, Virginia **Supervisors,**
Fairfax County, Virginia

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____, as Trustee under that certain Trust Agreement, dated as of ____ _, 201_ as amended and supplemented (the "Trust Agreement") between the Fairfax County Economic Development Authority and the Trustee, relating to Fairfax County Economic Development Authority Fairfax County Metrorail Parking System Project Revenue Bonds, Series 201[_], the within Bond, and all rights thereunder.

Dated: _____

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Chairman

ASSIGNEE'S ADDRESS

The assignee _____, Trustee under the aforementioned Trust Agreement hereby advises that the address to which wire transfers of the aforementioned Principal Installments and interest payments are to be made is:

_____
_____
_____
_____

[_____]

By: _____
Authorized Representative

ACTIVE 59174998v.7

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, November 18, 2014, at which meeting a quorum was present and voting, the following resolution was adopted:

RESOLUTION MAKING CERTAIN FINDINGS AND DETERMINATIONS; CREATING THE FAIRFAX COUNTY METRORAIL PARKING SYSTEM; REQUESTING THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY TO AUTHORIZE AND ISSUE METRORAIL PARKING SYSTEM REVENUE BONDS; APPROVING THE FORM AND AUTHORIZING EXECUTION OF A LOAN AGREEMENT BETWEEN THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY AND THE COUNTY; APPROVING THE FORM OF A TRUST AGREEMENT BETWEEN THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY AND A TRUSTEE; AND GRANTING AUTHORITY TO EXECUTE AND DELIVER OTHER INSTRUMENTS.

WHEREAS, the Metrorail system ("**Metrorai**l") operated by the Washington Metropolitan Area Transit Authority ("**WMATA**") provides Fairfax County, Virginia (the "**County**") residents with access to one of the largest and most modern regional transit systems in the world. Prior to the construction of a new 23.1-mile extension of Metrorail, known as the Silver line, that will connect the Tysons, Reston, Herndon, and Dulles Airport areas of the County to the existing Metrorail, there were five Metrorail stations located in the County: the West Falls Church-VT/UVA, Dunn Loring-Merrifield and Vienna-Fairfax/GMU Stations on Metrorail's Orange line, the Franconia-Springfield Station on Metrorail's Blue line, and the Huntington Station on the Metrorail's Yellow line. The Van Dorn Station, which is located in the City of Alexandria, on Metrorail's Blue line, and the East Falls Church Station, which is located in Arlington County, on Metrorail's Orange line, also serve County residents. These seven Metrorail stations are referred to collectively as the "**Existing Fairfax County Metrorail Stations**."

WHEREAS, after completion of the Silver line, there will be eight additional Metrorail stations located in the County: McLean Station, Tysons Corner Station, Greensboro Station, Spring Hill Station, Wiehle - Reston East Station, Reston Town Center Station, Herndon Station and Innovation Center Station (collectively, the "**Silver Line Fairfax County Metrorail Stations**").

WHEREAS, the County has consistently determined and identified in both its Capital Improvement Programs and its Comprehensive Plans that "[i]t will be impossible to meet travel demand solely by roadways" and, as result, has determined and identified "[p]rovid[ing] public transportation facilities such as rail transit and commuter rail in major radial and intracounty commuter corridors" and "[p]rovid[ing] park-and-ride lots along major intercounty and intracounty corridors and at transfer points such as rail stations…" as objectives to be achieved.

WHEREAS, the Washington, D.C., metropolitan area (the "**D.C. Metro Area**"), including the County, has been designated by the U.S. Environmental Protection Agency (the

"**EPA**") as a marginal nonattainment area for the EPA's eight-hour ozone national ambient air quality standard ("**NAAQS**") and as a nonattainment area for the annual fine particulate matter ("**$PM_{2.5}$**") NAAQS. The County has consistently supported The Metropolitan Washington Council of Governments' efforts to improve air quality standards in the D.C. Metro Area, including meeting the EPA's eight hour ozone NAAQS and annual $PM_{2.5}$ NAAQS. Providing parking facilities at Metrorail stations in the County makes available commuting alternatives through the use of the Metrorail which will (i) reduce reliance on motor vehicles and congestion on County roadways and (ii) support efforts to improve air quality throughout the County and the entire D.C. Metro Area.

WHEREAS, reduction of traffic congestion in the County is a priority for the Board of Supervisors of Fairfax County, Virginia (the "**Board**"), and is a significant factor in transportation projects that are supported by the County. The County promotes transportation projects that reduce congestion during typically high volume periods and that maximize regional mobility to prevent or reduce the loss of life in the event of a homeland security emergency in the D.C. Metro Area. Promoting the use of the Metrorail by County residents by providing parking facilities for vehicles and bicycles at Metrorail stations reduces vehicle traffic on roads and highways within in the County, further advances the use of the Metrorail as an easier, efficient alternative to motor vehicle transportation and provides a safer, more efficient transportation system throughout the D.C. Metro Area.

WHEREAS, consistent with these objectives, the County, in cooperation with WMATA and the Fairfax County Economic Development Authority ("**EDA**"), has financed the construction of parking facilities at the Vienna-Fairfax/GMU Station and Huntington Station through the issuance of bonds payable from proceeds of a surcharge (the "**Surcharge**") on all WMATA-controlled park and ride spaces located in the County and at the East Falls Church Station and the Van Dorn Station (such parking facilities are referred to herein as the "**WMATA Controlled Parking Facilities**" and the parking spaces associated with such facilities being collectively referred to herein as the "**WMATA Controlled Parking Spaces**"). The Surcharge has been collected by WMATA since 1989 pursuant to the terms of agreements with the County - currently the Amended and Restated Surcharge Implementation Agreement, dated as of May 1, 1999 (the "**1999 Surcharge Agreement**") – and set aside and retained in the Surcharge Reserve Account created thereby, as reserve for the County, and held in trust by WMATA (the "**WMATA Surcharge Reserve Account**").

WHEREAS, the County has also financed the construction of a portion of a parking structure at the Wiehle – Reston East Station, the terminus of Phase I of the Silver line, through the issuance of bonds by EDA secured by an agreement with the County by the terms of which the County has agreed, subject to annual appropriation for the purpose, to pay from its general funds amounts equal to debt service on EDA's bonds. Such portion of such structure is referred to as the "**Wiehle Metrorail Parking Facility.**"

WHEREAS, the County agreed in a 2011 Memorandum of Understanding with the Metropolitan Washington Airports Authority, the Commonwealth of Virginia Department of Transportation, Loudoun County, WMATA and the United States Department of Transportation, that the County would, as part of its contribution to the development of Phase II of the Silver line (including the Reston Town Center Station, Herndon Station and Innovation Center Station) in

the County, subject to certain conditions, undertake to provide parking facilities at the Herndon Station and the Innovation Center Station, and WMATA agreed in principle to changes in the 1999 Surcharge Agreement that would enable the County to use Surcharge revenues to finance parking facilities at the Herndon Station and the Innovation Center Station.

WHEREAS, the Board of Supervisors approved on _____ __, 2014 a Second Amended and Restated Surcharge Implementation Agreement between WMATA and the County (the "**Surcharge Agreement**") by the terms of which WMATA will continue to levy and collect the Surcharge on WMATA Controlled Parking Spaces and, subject to certain withholding, will pay the balance in the Surcharge Reserve Account and future Surcharge revenues to the County for credit to a subfund within a special fund of the County known as the "**County Metrorail Parking System Pledged Revenues Fund**" and for application by the County to Metrorail parking purposes.

WHEREAS, the changes to the 1999 Surcharge Agreement reflected in the Surcharge Agreement will enable the County to finance with revenue bonds the cost of construction of the additional parking facilities at the Herndon Station and the Innovation Center Station and to pay the debt service associated with and cost of operation and maintenance of the Wiehle Metrorail Parking Facility and the parking facilities at the Herndon Station and the Innovation Center Station from the revenues thereof, the Surcharge revenues received by the County under the Surcharge Agreement and other available funds of the County; now therefore,

BE IT RESOLVED by the Board of Supervisors of Fairfax County, Virginia , as follows:

Section 1. **Findings and Determinations**. The Board hereby makes the following findings and determinations:

(a) The provision of the additional parking facilities at the Herndon Station and the Innovation Center Station (the "**Project**") will advance the objectives that the Board has set forth in its Comprehensive Plan and Capital Improvement Program. More broadly, the Wiehle Metrorail Parking Facility, the existing surface parking spaces proximate to the Herndon Station, and the Project (collectively, "**Fairfax County Metrorail Parking Facilities**"), along with the WMATA Controlled Parking Facilities, will further the purposes of enhancing the capacity and quality of service of public transportation corridors in the County, the effort to improve air quality and decrease pollution throughout the County and the entire D.C. Metro Area and reduce vehicle traffic congestion on County roads and highways.

(b) The construction of the Project will be particularly beneficial to the users of the WMATA Controlled Parking Facilities and the Wiehle Metrorail Parking Facility by, among other things, reducing overcrowding at such facilities. These benefits demonstrate conclusively that there is a beneficial, functional relationship between the WMATA Controlled Parking Facilities and the Fairfax County Metrorail Parking Facilities.

(c) The WMATA Controlled Parking Facilities and the Fairfax County Metrorail Parking Facilities will constitute an integrated, interdependent system of parking facilities

in the County that benefit all County residents and particularly all County residents using Metrorail.

(d) While the provision of additional parking spaces in the Fairfax County Metrorail Parking Facilities will benefit all County residents generally, such facilities will provide directly a particularized benefit to the Metrorail patrons who park there and indirectly a particularized benefit to the Metrorail patrons who park at WMATA Controlled Parking Facilities (by lessening congestion there).

(e) The final construction costs of the Wiehle Metrorail Parking Facility and the current estimated costs of construction of the Project at the Herndon Station and Innovation Center Station are such that were the Board to set rates for the parking spaces at the Fairfax County Metrorail Parking Facilities at levels intended to recover the entire costs of such spaces, such rates would substantially exceed what Metrorail patrons currently pay to park at WMATA Controlled Parking Spaces such that prospective patrons of Metrorail would be discouraged to pay to park at the Fairfax County Metrorail Parking Facilities and defeat the purpose of providing such spaces.

(f) The combination of the Surcharge on the WMATA Controlled Parking Spaces and rates at the Fairfax County Metrorail Parking Facilities to finance all the costs of construction of the Project and to pay the costs of operation and maintenance of the Fairfax County Metrorail Parking Facilities will result in the rates paid by Metrorail patrons at WMATA Controlled Parking Spaces in the County (which rates include the Surcharge) and the rates paid by Metrorail patrons at Fairfax County Metrorail Parking Facilities being approximately equal, thereby promote utilization of all parking spaces at Metrorail Stations in the County and thereby disperse Metrorail ridership among all Metrorail Stations in the County.

(g) The combination of the Surcharge on the WMATA Controlled Parking Spaces and rates at the Fairfax County Metrorail Parking Facilities will provide the County with revenues that with other available funds will be sufficient to finance all the costs of construction of the Project and to pay the associated debt service and costs of operation and maintenance of the Fairfax County Metrorail Parking Facilities.

Section 2. **Creation of Fairfax County Metrorail Parking System.** Based on its findings and determinations set forth above, the Board hereby creates for administrative and financing purposes the "**Fairfax County Metrorail Parking System**," consisting of all the identified Fairfax County Metrorail Parking Facilities and any additional parking facilities that the County controls and that the Board determines will serve Metrorail patrons with the goals of establishing and maintaining rates for all such spaces that are approximately equal to those (including the Surcharge) charged at WMATA Controlled Parking Spaces in the County and promoting utilization of all Metrorail stations in the County.

Section 3. **Creation of a Special Revenue Fund**. There is hereby created on the books of account of the County a special revenue fund to be designated "Metrorail Parking System Pledged Revenues Fund" (the "Special Fund") and within such special revenue fund two subfunds to be designated "Metrorail Parking System Revenues Subfund" and "Metrorail

Parking System Surcharge Revenues Subfund." The Special Fund is created for the purpose of recording the revenues of, transfers to and expenditures thereof for the Fairfax County Metrorail Parking System and the subfunds are created for recording separately the revenues of and expenditures of such revenues for the Fairfax County Metrorail Parking System and the transfers and expenditures of Surcharge revenues.

Section 4. **Request for Authorization of Bonds**. EDA is hereby requested to authorize the issuance of its revenue bonds ("**EDA Bonds**"), in one or more series, in an aggregate principal amount of up to $142,000,000 to pay the capital costs of the Project, including the funding of interest during construction, any debt service reserves, underwriting fees and original issue discount, closing costs, credit enhancement fees and other issuance expenses, such EDA Bonds to be known as "Fairfax County Metrorail Parking System Project Revenue Bonds, Series … [letter/year]" and to be secured as provided in the Trust Agreement hereafter mentioned.

Section 5. **Approval of the forms and authorization of the execution of certain documents.** There are hereby approved at this meeting of the Board of Supervisors, forms of the following documents:

a. A revenue bond or bonds, entitled "Fairfax County Metrorail Parking System Revenue Bond, Series … [letter/year – same as EDA Bonds] (the "**County Metrorail Parking System Revenue Bond**"), evidencing the obligation of the County to repay EDA for the loan of the EDA Bond proceeds from the County's "**Pledged Revenues**" credited to the Metrorail Parking System Pledged Revenues Fund.

b. A Loan Agreement between EDA and the County (the "**Loan Agreement**") by the terms of which EDA agrees to loan the proceeds of the EDA Bonds to the County and the County agrees to repay the loan from Pledged Revenues or, subject to appropriation, other funds and to issue the County Metrorail Parking System Revenue Bond in evidence of its obligation to repay from Pledged Revenues such loan.

c. A Trust Agreement between EDA and a bank or trust company that will provide for the issuance of and security for the EDA Bonds, such EDA Bonds to be payable solely from Pledged Revenues and either a debt service reserve or annual appropriations by the Board of funds to provide additional security for the EDA Bonds.

Section 6. **Miscellaneous**. Each of the Chairman or Vice Chairman of the Board or the County Executive or the Chief Financial Officer the County is authorized to execute and deliver, in substantially the forms approved by the Board in Section 5, each of the Loan Agreement and the County Metrorail Parking System Revenue Bond and such other certificates, documents or pleadings evidencing the determinations made or other actions carried out pursuant to the authority granted in this resolution, and their execution of any such document or other certificate,

document or pleading shall be conclusive evidence of their approval of any changes to the forms thereof presented to the Board and that they are in the best interests of the County.

Section 7. **Appointment of Counsel**. EDA is hereby requested to designate the law firm of Sidley Austin LLP as Bond Counsel for the EDA Bonds.

Section 8. **Effective Date**. This resolution shall take effect immediately upon its adoption.

A Copy Teste:

_____

Clerk to the Board of Supervisors

ATTACHMENT 4

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

Virginia

To

_____, Trustee

TRUST AGREEMENT

Dated as of _____, 201_

Authorizing the Issuance of and Securing
Fairfax County Metrorail Parking System Project/Refunding Revenue Bonds

[***In order to afford the Authority and the County flexibility in their choice of credit enhancement of the primary Parking Revenues credit for the Authority's Bonds, the Loan Agreement and this Trust Agreement have been prepared to provide as alternatives either (i) a funded debt service reserve and a County "moral obligation" debt service reserve deficiency makeup obligation or (ii) a County obligation to budget and appropriate a "sum sufficient" in each fiscal year to pay any debt service coming due in such fiscal year for which Parking Revenues are insufficient. Either obligation will be made expressly subject to the appropriation of the required amounts by the Board of Supervisors of the County for the applicable fiscal year. The Authority and the County will choose between these alternatives at the time of the issuance of the first series of the Initial Bonds, and the Loan Agreement and this Trust Agreement will be modified accordingly by deleting the inappropriate references to the alternative not selected***.]

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THIS TRUST AGREEMENT, dated for convenience of reference as of the 1st day of _____, 201_, by and between

FAIRFAX ECONOMIC DEVELOPMENT AUTHORITY,

a political subdivision of the Commonwealth of Virginia (the "Authority") created by Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended (together with other applicable law, the "Authority Act"), and

_____,

a banking corporation duly organized and existing under the laws of the [United States of America] and having a corporate trust office in _____, which is authorized under such laws to exercise corporate trust powers and is subject to examination by [federal] authority, as trustee (said banking corporation and any bank, banking association or trust company becoming successor trustee under this Trust Agreement being hereinafter sometimes called the "Trustee"),

W I T N E S S E T H:

WHEREAS, the Authority, under its Authority Act, is authorized to borrow money for any of its purposes and make loans to any governmental entity for the purposes of the Authority Act such as providing financing for parking facilities, including parking structures, and to issue its bonds, payable solely from the revenues and receipts derived from payments received by the Authority in connection with such loans; and

WHEREAS, the Authority has determined to borrow money for the purpose and issue its bonds to provide a portion of the funds required to enable the Fairfax County, Virginia (the "County"), to finance the construction of County controlled parking structures and surface lots and related facilities and improvements such as pedestrian bridges that provide access for Washington Metropolitan Area Transit Authority ("WMATA") customers to and from the entrance plazas, bus drop off areas, park and ride areas, and connecting sidewalks related to such parking facilities at WMATA Metrorail stations ("Parking Facilities")], such bonds to be payable from the revenues and receipts of the Authority derived from parking revenues collected from customers of parking facilities controlled by the County at WMATA Metrorail stations ("County Parking Revenues") and certain surcharge revenues collected from customers of certain parking facilities controlled by WMATA (the "Surcharge Revenues" and together with the "County Parking Revenues," the "Parking Revenues"); and

WHEREAS, the County and WMATA have entered into a Second Amended and Restated Surcharge Implementation Agreement, dated and effective as of _____, 2014 (the "Surcharge Agreement"), which provides, among other things, the agreement of WMATA to collect the Surcharge Revenues and provide them to the County; and

WHEREAS, the Authority and the County have entered into a Loan Agreement, dated _____, 2014 (the "Loan Agreement") which provides among other things, an agreement by the County to make the required Principal and Interest Requirements (hereinafter defined) payments on the Initial Bonds (hereinafter defined) from the Fairfax County Metrorail Parking System Pledged Revenues Fund, a special revenues fund created on the books of the County; and

WHEREAS, the County has requested the Authority to exercise its powers under the Authority Act and authorize the issuance of its bonds and enter into this Trust Agreement for the purpose of providing the funds necessary for the County to finance a portion of the Parking Facilities; and

[WHEREAS, under the Loan Agreement, the County has also agreed that in the event that the amount credited to the Reserve Subfund (hereinafter mentioned) created under this Trust Agreement is less than required, the County will, on the terms and conditions set forth in the Loan Agreement and subject to the appropriation by its Board of Supervisors of moneys for such purpose, pay to the Trustee for the account of the Authority an amount equal to the deficiency in the amount required to be on deposit to the credit of the Reserve Subfund ("County Reserve Payments"); and]*

[WHEREAS, under the Loan Agreement, in order to provide additional assurance of the timely payment of the Principal and Interest Requirements on the Initial Bonds, the Board of Supervisors of the County covenants that it will cause the County Executive in preparing the County's operating budget in each fiscal year for so long as the Initial Bonds remain outstanding, to include an appropriation from the County's General Fund of a sum sufficient to provide and pay on any Interest Payment Date and Principal Payment Date in such fiscal year, the amount, if any, by which (i) the amount of the interest on the Bonds payable on such Interest Payment Date or the principal installment payable on such Principal Payment Date exceeds (ii) the amount of Parking Revenues and any other available funds held by the Trustee for the purpose of making such payments (the "Sum Sufficient Payments"). The obligation of the County to make any such Sum Sufficient Payment is subject to appropriation by the County's Board of Supervisors for such purposes.]**[*]

WHEREAS, it may be necessary, convenient or appropriate for the Authority to issue additional Series of its obligations, payable on a parity with the Initial Bonds, to provide additional funds in respect of financing Parking Facilities and to refund obligations theretofore issued; and

WHEREAS, the Authority has determined that its bonds, the certificate of authentication to be endorsed by the Bond Registrar thereon as provided herein, and the form of assignment shall be, respectively, substantially in the following forms, with such variations, omissions and insertions as are required or permitted by this Trust Agreement, including any resolution supplementing or amending this Trust Agreement:

[*] The Authority and the County will select one of these two alternative provisions to enhance the credit of the Initial Bonds afforded by the Parking Revenues.

[Securities Depository Legend]
[Form of Face of the Bonds]

United States of America Commonwealth of Virginia

Fairfax County Economic Development Authority
Fairfax County Parking System Project Bonds
Series _____

No. _____ $_____

[Initial) Interest Rate	Maturity Date	Original Issue Date	CUSIP No.
_____	_____	_____	_____

Holder/Registered Owner:

_____
_____

Principal Amount _____Dollars

[1] Fairfax County Economic Development Authority (the "Authority"), a political subdivision of the Commonwealth of Virginia, for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the Holder named above, or registered assigns, on the Maturity Date set forth above (or earlier as hereinafter referred to), upon the presentation and surrender hereof, at the corporate trust office _____, in the _____ (the "Bond Registrar" and "Paying Agent"), the Principal Amount set forth above in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay in like coin or currency interest on said Principal Amount on [each _____ 1 and _____ 1, commencing _____1 _____,] solely from such sources, from the date hereof or the [_____ 1 or _____ 1] next preceding the date on which this Bond is authenticated unless it is authenticated on [_____ 1 or _____ 1], in which event from such date, (at the Interest Rate set forth above] until the principal amount hereof is paid. The interest so payable and punctually paid or duly provided for on any interest payment date will, as provided in the Trust Agreement hereinafter referred to, be paid to the person in whose name this Bond (or one or more Predecessor Bonds, as defined in the Trust Agreement) is registered at the close of business on the regular record date for such interest [, which shall be the _____ or_____ (whether or not a business day)] next preceding such interest payment date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such regular record date, and may be paid to the person in whose name this Bond

(or any Predecessor Bond) is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Bond Registrar, notice whereof being given by the Bond Registrar by mail to the Holders not less than 10 days prior to such special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Bonds of this Series may be listed and upon such notice as may be required by such exchange, or as more fully provided in the Trust Agreement. [Bonds not issued by means of a book-entry system shall contain the following statement: Such payment of interest shall be by check mailed to the registered owner at such owner's address as it appears on the bond registration books of the Authority maintained by the Bond Registrar.] All such payments shall be made in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts.

[A] Revise paragraph [1] as appropriate for Capital Appreciation Bonds and for such Bonds that become Current Interest Bonds.

[2] This Bond is one of a duly authorized Series of revenue bonds of the Authority, designated "Fairfax County Parking System Project Bonds, Series ____" (the "Initial Bonds"), issued under a Trust Agreement, dated as of _____, 201_, by and between the Authority and _____, Trustee, as amended and supplemented as permitted thereby, being hereinafter referred to as the "Trust Agreement"). The Initial Bonds are being issued to provide a portion of the funds, to finance the construction of Fairfax County, Virginia (the "County") controlled parking structures and surface lots and related facilities and improvements such as pedestrian bridges at Washington Metropolitan Area Transit Authority ("WMATA") Herndon and Innovation Center Metrorail stations and from the entrance plazas, bus drop off areas, park and ride areas, and connecting sidewalks related to such parking facilities.

_____, a corporation having trust powers, duly organized and doing business under the laws of the [United States of America], with a corporate trust office in _____, has been appointed Trustee, Bond Registrar [and Paying Agent for the Bonds] under the Trust Agreement. The Bonds, together with any Additional Bonds and Refunding Bonds (as defined in the Trust Agreement) issued and then outstanding are referred to herein as the "Bonds."

[Bonds issued pursuant to book-entry system shall contain the following paragraphs. The Bonds being issued shall be initially held by means of a book-entry system administered by the Securities Depository (as defined in the Trust Agreement). On receipt of the documents referred to in the Trust Agreement, the Trustee shall authenticate one Bond registered in the name of the Securities Depository Nominee, and issue such Bond to the Securities Depository to be immobilized in its custody; provided that if The Depository Trust Company, New York, New York ("DTC") is acting as Securities Depository, such Bond shall be issued to Cede & Co. to be immobilized in its custody pursuant to the rules and procedures of DTC. Thereafter, in the event that Bonds are issued to the Owners thereof in bond (physical) form, the Trustee will authenticate and deliver to the Owners new Bonds in the principal amount equal to the aggregate principal amount of Bonds then outstanding (less the principal amount of the Bonds not held by means of a book-entry system), registered in the name of the Owners, in exchange for the Bond then held by the Securities Depository and the Securities Depository shall surrender such Bond

then held by it to the Trustee for cancellation and destruction in accordance with the terms of the Trust Agreement.

If any Bonds are held by means of a book-entry system, such book-entry system will evidence beneficial ownership of the Bonds so held (or, as applicable, positions held by the Securities Depository's participants, beneficial ownership being evidenced in the records of such participants) in authorized denominations. Registration and transfers of ownership shall be effected on the records of the Securities Depository (and, as applicable, its participants) pursuant to rules and procedures established by the Securities Depository, and the Bond Registrar will provide the Securities Depository with all information required for such purposes. The Authority, the Trustee, the Paying Agent and the Bond Registrar will recognize the Securities Depository Nominee, while the registered owner of the Bonds so held, as the Owner of the Bonds for all purposes, including (i) payments of principal and purchase price of, and interest on, the Bonds, (ii) notices and (iii) voting. Transfer of principal, interest and purchase price payments to beneficial owners of the Bonds so held will be the responsibility of the Securities Depository (or, as applicable, its participants and other nominees of such beneficial owners). The Issuer, the Trustee, the Paying Agent and the Bond Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, the Securities Depository's participants (if any) or persons acting through such participants. While the Securities Depository Nominee is the owner of the Bonds so held, notwithstanding the provisions hereinabove contained, payments of principal and purchase price of and interest on such Bonds shall be made in accordance with the Authority's letter of representations. If, at any time, DTC shall be appointed and act as Securities Depository hereunder, the Paying Agent shall act as "Issuing and Paying Agent" in accordance with DTC's rules and procedures, with respect to the Series ____ Bonds.]

[3] The Bonds are limited obligations of the Authority payable solely from the Trust Estate (as defined in the Trust Agreement) and from other moneys pledged under the Trust Agreement. Neither the faith and credit of the Commonwealth of Virginia nor the faith and credit of any political subdivision thereof (including the Authority and the County) are pledged to the payment of the principal of or the interest or premium, if any, on this Bond. The issuance of this Bond shall not directly or indirectly or contingently obligate the Commonwealth of Virginia or any political subdivision thereof (including the Authority and the County) to levy any taxes whatever therefor or to make any appropriation for their payment except from the funds pledged therefor. The Authority has no taxing power.

[Printed Bonds shall contain the following statement: ADDITIONAL PROVISIONS OF THIS BOND ARE SET FORTH ON THE REVERSE HEREOF AND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH SET FORTH HERE.

(18] **IN WITNESS WHEREOF,** Fairfax County Economic Development Authority, Virginia has caused this Bond to be executed with the facsimile signatures of its Chairman and its Secretary and a facsimile of its official seal to be imprinted hereon and this Bond to be dated the 1st day of _____, _____.

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY VIRGINIA

By_____[FACSIMILE SIGNATURE]_____
Chairman of the Fairfax County Economic Development Authority Virginia

By_____[FACSIMILE SIGNATURE]_____
Secretary of the Fairfax County Economic Development Authority Virginia

[FACSIMILE OF OFFICIAL SEAL]

CERTIFICATE OF AUTHENTICATION

This Bond is a bond issued under the provisions of the within-mentioned Trust Agreement.

_____
Bond Registrar

By_____
Authorized Signatory

Date of authentication:

_____

[Form of Reverse of Printed Bonds]

[4] The Authority has entered into a Loan Agreement dated as of _____, 201_ (the "Loan Agreement") with the Fairfax County, Virginia Board of Supervisors (the "County") pursuant to which the County, subject to the terms and conditions of such agreement, has agreed to make Basic Payments (as defined in such Agreement) in amounts intended to be sufficient to pay the principal of and interest on the Initial Bonds. The obligation of the County under the Loan Agreement to make payments required thereby in any fiscal year of the County is payable solely from the Pledged Revenues (as defined in the Loan Agreement) credited to the Fairfax County

Metrorail Parking System Pledged Revenues Fund, a special fund created on the books of the County. "Pledged Revenues" consist of (i) the Fairfax County Metrorail Parking System Net Revenues (as defined in the Trust Agreement) credited to the Fairfax County Metrorail Parking System Revenues Subfund within the aforementioned special fund and (ii) the Surcharge Revenues (as defined in the Trust Agreement) credited to the Fairfax County Metrorail Parking Surcharge Revenues Subfund within the aforementioned special fund.

[Under the Loan Agreement the County has agreed, subject to the appropriation by the County of moneys for such purpose, to pay to the Trustee for the account of the Authority an amount equal to any deficiency in the Reserve Subfund held by the Trustee under the Trust Agreement and pledged to the payment of the Initial Bonds. Under the Trust Agreement and Loan Agreement, all such payments by the County are to be deposited to the credit of the Reserve Subfund.]* [Under the Loan Agreement, the County has agreed to cause the County Executive to include an appropriation in the County's operating budget in each fiscal year the Initial Bonds are outstanding of a sum sufficient to provide and pay on any interest payment date and principal payment date in such fiscal year, the amount, if any, by which (i) the interest on the Initial Bonds payable on such interest payment date or the principal installment of the Initial Bonds payable on such principal payment date exceeds (ii) the amount of Parking Revenues and any other available funds held by the Trustee for the purpose of making such payments.][*]

Under the Trust Agreement, the Authority has assigned to the Trustee as security for the Initial Bonds its rights to receive the payments of Parking Revenues sufficient to pay the debt service on the Initial Bonds, its rights to receive the appropriations described in the preceding paragraph and such payments [,together with the Debt Service Reserve Subfund,] constitute the "Trust Estate" that is pledged under the Trust Agreement to the payment of the Initial Bonds.

(4A) [<u>Insert as appropriate paragraphs concerning credit enhancement</u>.]

[5] Reference is made to the Trust Agreement for a more complete statement of the provisions thereof and of the rights and duties of the Authority, the Trustee, the Bond Registrar, the Paying Agent for the Bonds and the Holders. A copy of the Trust Agreement is on file and may be inspected at the corporate trust office of the Trustee in _____, _____. By the purchase and acceptance of this Bond, the Holder hereof signifies assent to all of the provisions of the aforementioned documents.

[6] This Bond is issued and the Trust Agreement was entered into under and pursuant to the Constitution and laws of the Commonwealth of Virginia, particularly in conformity with the provisions, restrictions and limitations of 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, and other applicable law.

[7] [The Initial Bonds are issuable as fully registered bonds in the denomination of $5,000 or any whole multiple thereof. At the corporate trust office of the Bond Registrar in _____, _____, in the manner and subject to the limitations and conditions provided in the Trust Agreement, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the

[*] The bracketed sentences in this paragraph are alternative provisions.

same Series and maturity, of any authorized denomination or denominations and bearing interest at the same rate.]

[8] The transfer of this Bond is registrable by the Holder hereof in person or by his attorney or legal representative at the principal corporate trust office of the Bond Registrar, but only in the manner and subject to the limitations and conditions provided in the Trust Agreement and upon surrender and cancellation of this Bond. Upon any such registration of transfer; the Authority shall execute and the Bond Registrar shall authenticate and deliver in exchange for this Bond a new Bond or Bonds, registered in the name of the transferee, of any authorized denomination or denominations, in an aggregate principal amount equal to the principal amount of this Bond, of the same Series and maturity and bearing interest at the same rate. Neither the Authority nor the Bond Registrar shall be required to make any exchange or registration of transfer of any Bond during the [fifteen (15)] days immediately preceding the date of the Authority's giving notice of redemption or after such Bond has been selected for redemption.

[9] The Initial Bonds are subject to redemption, at the option of the Authority, in whole on any date not earlier than _____ 1, 20__, or in part on any interest payment date not earlier than _____ 1, 20__. Any such redemption will be at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued interest to the redemption date:

[10] The Initial Bonds maturing on _____ 1,20__ are required to be redeemed on _____ and on _____ in each year thereafter in accordance with the sinking fund requirements of the Trust Agreement. Such redemption shall be at the principal amount thereof, plus accrued interest to the redemption date, and without premium.

[11] If less than all of the Initial Bonds of any one maturity shall be called for redemption, the particular Initial Bonds or portions of Initial Bonds to be redeemed shall be selected by the Trustee by such method as the Trustee in its sole discretion shall determine.

[12] At least [thirty (30)] days but not more than [ninety (90)] before the redemption date of any Initial Bonds, whether such redemption is in whole or in part, the Authority shall cause a notice of any such redemption signed by the Authority to be mailed, certified mail, return receipt requested, to all Holders (as defined in the Trust Agreement) of Initial Bonds to be redeemed in whole or in part, but any defect in such notice or the failure so to mail any such notice to the Holder of any Initial Bond shall not affect the validity of the proceedings for the redemption of any other Initial Bonds. On the date fixed for redemption, notice having been mailed in the manner provided in the Trust Agreement, the Initial Bonds or portions thereof called for redemption shall be due and payable at the redemption price provided therefor, plus accrued interest to such date; provided that any optional redemption shall be, and such notice of redemption shall state that such redemption is, conditioned upon there being available under the terms of the Trust Agreement moneys sufficient to pay such redemption price and accrued interest on such redemption date. If a portion of this Bond shall be called for redemption a new Initial Bond or Initial Bonds in principal amount equal to the unredeemed portion hereof will be issued to the Holder upon the surrender hereof.

[12A] <u>Insert as appropriate for Capital Appreciation Bonds, paragraphs concerning the Accreted Value</u>.

[13] The owner of this Bond shall have no right to enforce the provisions of the Trust Agreement or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Trust Agreement, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Agreement.

[14] Modifications or alterations of the Trust Agreement, or any resolution supplemental thereto, may be made only to the extent and in the circumstances permitted by the Trust Agreement.

[15] This Bond is issued with the intent that the laws of the Commonwealth of Virginia shall govern its construction.

[16] All acts, conditions and things required to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed as so required.

[17] This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Trust Agreement until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

[Form of Assignment]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

_____

[Please Print or Typewrite Name, Tax Identification Number and Address of Transferee] the Bond, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

_____

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

* * * * *

and

WHEREAS, under the Constitution and laws of the Commonwealth of Virginia, including the Authority Act, the Authority is authorized to enter into this Trust Agreement and to issue its bonds as hereinafter provided, to apply the proceeds of such bonds for the purposes

herein authorized, and to do or cause to be done all the acts and things herein provided or required to be done as hereinafter covenanted;

WHEREAS, the execution and delivery of this Trust Agreement have been duly authorized by resolution of the Authority; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist and be performed precedent to and in the execution and delivery of this Trust Agreement have happened, exist and have been performed as so required, in order to make this Trust Agreement a legal, valid and binding trust agreement for the security of the bonds in accordance with its terms; and

WHEREAS, the Trustee has accepted the trusts created by this Trust Agreement and in evidence thereof has joined in the execution hereof;

GRANTING CLAUSE

NOW, THEREFORE, this Trust Agreement witnesseth, that in consideration of the premises, of the acceptance by the Trustee of the trust hereby created, and of the purchase and acceptance of the bonds by the Holders (as hereafter defined) thereof and also for and in consideration of the sum of One Dollar to the Authority in hand paid by the Trustee at or before the execution and delivery of this Trust Agreement, the receipt and sufficiency of which is hereby acknowledged, and for the purpose of fixing and declaring the terms and conditions upon which the bonds are to be issued, authenticated, delivered, 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 the bonds at any time issued and outstanding hereunder and the interest and the redemption premium, if any, thereon according to their tenor, purport and effect, and covenants, agreements and conditions therein and herein contained, the Authority does hereby

(a) assign all rights, title and interest of the Authority in and to the Loan Agreement, including, without limitation, the County Bond (as defined in the Loan Agreement) and its rights to receive Parking Revenues and [County Reserve Payments] [Sum Sufficient Payments], reserving the rights of the Authority to receive notices, reports and other statements to be given to the Authority thereunder and its rights to indemnity for Authority Liabilities (as hereafter defined);

(b) pledge the payments received pursuant to the Loan Agreement, all moneys and securities (other than Excess Earnings as hereinafter defined) in the Debt Service Subfund [and Reserve Subfund (each][(as hereinafter defined), and, until applied in payment of any cost of the Project or otherwise applied as permitted under this Trust Agreement, all moneys and securities (other than Excess Earnings) in the Construction Subfund (as hereinafter defined);

to the Trustee, and unto its successors and assigns, in trust, forever;

HABENDUM CLAUSE

TO HAVE AND TO HOLD the same forever, subject, however, to the reserved rights of the Authority under the Loan Agreements and to the exceptions, reservations and matters

therein and herein recited but **IN TRUST, NEVERTHELESS,** for the equal and proportionate benefit and security of (i) the Holders from time to time of the bonds authenticated and delivered hereunder and issued by the Authority and outstanding, without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one bond over any other bond, by reason of priority in the issue, sale or negotiation thereof or otherwise and (ii) each Credit Facility (as hereinafter defined) issuer;

DEFEASANCE CLAUSE

PROVIDED, HOWEVER, that if, after the right, title and interest of the Trustee in and to the trust estate pledged and assigned to it under this Trust Agreement shall have ceased, terminated and become void in accordance with Article XIII hereof, the principal of and redemption premium, if any, and the interest on all of the bonds shall have been paid to the Holders of the bonds and all Authority Liabilities shall have been paid or otherwise discharged, then this Trust Agreement and all covenants, agreements and other obligations of the Authority hereunder shall cease, terminate and become void, and thereupon the Trustee shall cancel and discharge this Trust Agreement and execute and deliver to the Authority such instruments and writings as shall be required to evidence the discharge hereof; otherwise, this Trust Agreement shall be and remain in full force and effect.

This Trust Agreement further **WITNESSETH,** and it is expressly declared, that all bonds issued and secured hereunder are to be issued, authenticated and delivered and the Trust Estate and funds herein pledged and assigned are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes is as hereinafter expressed, and the Authority has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Holders of said bonds, as follows:

ARTICLE I.

DEFINITIONS

Section 101. Meaning of Words and Terms. In addition to words and terms defined in the Preamble or elsewhere defined in this Trust Agreement, the following words and terms as used in this Trust Agreement shall have the following meanings, unless some other meaning is plainly intended:

"Account or Accounts" means any one or more of the accounts from time to time created in any of the Subfunds established by a Trust Agreement.

"Accountant" means any nationally recognized certified public accountant or firm of independent public accountants or in the case of the computation of rebate liability a financial consulting corporation, in any case, of recognized experience and qualifications.

"Accreted Value" means, with respect to any Capital Appreciation Bond, the principal amount thereof plus accrued interest thereon, compounded on the Compounding Dates and at the approximate interest rate or rates set forth therein, all as more fully described in the Supplemental Trust Agreement authorizing the issuance of such Capital Appreciation Bond. The Accreted Value at any Compounding Date shall be the amount set forth in the Accreted Value Table as of such date. The Accreted Value on any date other than a Compounding Date shall be equal to the Accreted Value of such Capital Appreciation Bond as of the preceding Compounding Date plus a portion of the difference between the Accreted Value of such Capital Appreciation Bond as of the preceding Compounding Date (or the dated date if the date of computation is before the first Compounding Date) and the Accreted Value of such Capital Appreciation Bond as of the immediately succeeding Compounding Date, computed based on the assumption that interest accrues during any period in equal daily amounts on a basis of a 360-day year of twelve 30-day months.

"Accreted Value Table" means the table denominated as such which appears as an exhibit to a Supplemental Trust Agreement providing for the issuance of Capital Appreciation Bonds.

"Additional Bonds" means Fairfax County Metrorail Parking System Project Revenue Bonds authorized pursuant to Section 209 of this Trust Agreement.

"Authority" means the Fairfax County Economic Development Authority, created pursuant to the Authority Act, and its successors.

"Authority Act" means Chapter 643 of the 1964 Acts of the General Assembly of the Commonwealth of Virginia, as amended, and other applicable law including the Industrial Development and Revenue Bond Act (being Chapter 49 of Title 15.2, Code of Virginia, as amended from time to time).

"Authority Bonds" or **"Bonds"** (i) the Initial Bonds that may be issued by the Authority in connection with the financing of the Dulles Rail Phase II Parking Facilities, (ii) Additional Bonds and (iii) Refunding Bonds.

"Authority Liabilities" means all expenses and obligations of the Authority under this Trust Agreement (other than Bonds and the principal, interest and any redemption premiums thereon and amounts paid or provided for from the proceeds of Bonds) including, without limitation: (i) fees and expenses of the Trustee, Paying Agent and Bond Registrar as Trust Agreement Expenses and (ii) any amount payable by the Authority to the United States of America as Rebate Liability.

"Authority Representative" means any one of the persons designated to act on behalf of the Authority by written certificate furnished to a Trustee containing the specimen signature of such person and signed on behalf of the Authority by its Chairman or Vice-Chairman.

"Board of Supervisors" means the board of supervisors as the governing body of the County.

"Bond Counsel" means any attorney or firm of attorneys, selected by the Authority or the County, as applicable, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

"**Bond Owner**", "**Owner of Bonds**", "**Bondowner**", "**Owner**" or **"Holder"** means, when used with respect to Bonds, the registered owner of any Bond.

"Bond Registrar" means, for the Bonds of any Series, the Bond Registrar at the time serving as such under this Trust Agreement and performing the duties set forth herein and in the applicable Supplemental Trust Agreement, whether the original or a successor Bond Registrar.

"Bond Year" means the period commencing on the first day of [____] of any calendar year ending on the last day of [___] of the following calendar year or such other annual period commencing and ending on the dates specified in a Supplemental Trust Agreement.

"**Bonds**" means the Authority Bonds.

"**Business Day**" means any Day other than a Saturday, Sunday or other day on which The New York Stock Exchange or banks are authorized or required to close in New York, New York or Richmond, Virginia.

"Capital Appreciation Bonds" mean the Bonds in any Series designated as Capital Appreciation Bonds in the Supplemental Trust Agreement authorizing the issuance of the Series and on which all or a portion of the interest payable thereon is compounded on a specified Compounding Date or Dates and paid thereafter.

"Closing" means the date on which Bonds are delivered against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

"Commonwealth" means the Commonwealth of Virginia.

["Completion Date" means the date of completion of payment of the Costs of Parking Facilities Projects.]

"Compounding Date" means the date or dates on which accrued interest on Capital Appreciation Bonds is compounded as more fully set forth in the Supplemental Trust Agreement authorizing the issuance of such Bonds.

"Construction Subfund" means a Subfund by that name established by this Trust Agreement and includes any separate Accounts or subaccounts established by the terms of any Supplemental Trust Agreement or any agreement pursuant thereto.

"Construction Account" means a Construction Account within the Construction Subfund created and so designated by Section 501 of this Trust Agreement.

"Costs of Issuance" means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include, without limitation: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Registrar, Paying Agent and other fiduciaries; initial fees and charges of banks, insurers or other parties pursuant to guarantees, bond insurance policies and Credit Facilities; underwriters' discounts; fees and expenses of underwriters; legal fees and charges; consulting fees and charges including costs of traffic studies and other feasibility studies conducted in connection with the sale of the Bonds; auditing fees and expense; financial advisor's fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing such Bonds and investing the Bond proceeds.

"Costs of Issuance Account" means a Costs of Issuance Account within the Construction Subfund created and so designated by Section 501 of this Trust Agreement.

["Costs"] as applied to any Parking Facilities Project shall mean, without intending thereby to limit or restrict any proper definition of such word under the Authority Act, all items of cost set forth in Section 403 of this Trust Agreement.

"County" means the County of Fairfax, Virginia.

"County Executive" means either the County Executive of Fairfax County, Virginia, or any person succeeding to the principal functions thereof.

"County Parking Revenues" means the net revenues realized by the County from the operation of its Fairfax County Metrorail Parking System and credited to the Fairfax County Metrorail Parking System Revenues Subfund, such net revenues in any period being the difference between the gross revenues of the Fairfax County Metrorail Parking System in such

period and the current expenses of the County in such period in operating and maintaining the Fairfax County Metrorail Parking System.

"County Representative" means each of the persons at the time designated to act on behalf of the County in a written certificate furnished to the Trustee, any Paying Agent and the Bond Registrar, which certificate shall contain the specimen signature(s) of such person(s) and shall be signed on behalf of the County by the County Executive.

[**"County Reserve Payments"** means those payments, if any, under an applicable Payment Agreement in which the County has agreed, subject to the appropriation by the County of moneys for such purposes to pay to the Trustee for the account of the Authority an amount equal to any deficiency in the Reserve Subfund.]

"Credit Bank" means as to any particular Series of Bonds, the person (other than an Insurer) providing a letter of credit, a line of credit, a guaranty or another credit- or liquidity-enhancement facility, as designated in the Supplemental Trust Agreement providing for the issuance of such Bonds.

"Credit Facility" means as to any particular Series of Bonds, a letter of credit, a line of credit, a guaranty or another credit- or liquidity-enhancement facility (other than an insurance policy issued by an Insurer), as approved in the Supplemental Trust Agreement providing for the issuance of such Bonds.

"Current Interest Bonds" means Bonds the interest on which is payable on the Interest Payment Dates provided therefor in a Supplemental Trust Agreement.

"Days" means calendar days, unless otherwise designated.

"Debt Service Subfund" means the Subfund by that name created and so designated by Section 501 of this Trust Agreement, and includes any separate Accounts or subaccounts established by the terms of any Supplemental Trust Agreement or any agreement pursuant thereto.

"Debt Service Requirements" means, for any Bond Year, the aggregate of (a) the Principal and Interest Requirements on Bonds of all Series then outstanding for such Bond Year and (b) the payments required to be made in respect of Parity Indebtedness for such Bond Year; provided, however, that interest expense shall be excluded from the determination of Debt Service Requirements to the extent that such interest is to be paid from the proceeds of Bonds or Parity Indebtedness or from investment (but not reinvestment) earnings thereon [(other than proceeds and investment earnings on deposit in the Reserve Subfund)] if such proceeds shall have been invested in Defeasance Obligations and to the extent such earnings may be determined precisely. The Authority may provide in a Supplemental Trust Agreement that interest expense on Credit Facilities drawn upon to purchase but not to retire Bonds, to the extent such interest exceeds the interest otherwise payable on such Bonds, be included in the determination of Debt Service Requirements.

"Defaulted Interest" means Defaulted Interest as defined in Section 203 of this Trust Agreement.

"Defeasance Obligations" means Government Obligations and the obligations described in clause (C) of the definition of "Investment Obligations".

"Deposit Day" means the last Business Day of each ____ and ____ (or for any Series of Bonds any other day that may be designated in the Supplemental Trust Agreement as a "Deposit Day"), on which day a deposit is required in order that the sum of the available moneys on deposit on the next Interest Payment or Interest and Principal Payment Date shall be equal to the principal of and interest and redemption premium, if any, due and payable on the Bonds on such Date.

"Event of Default" means with respect to this Trust Agreement any of those events set forth in Section 801 of this Trust Agreement.

"Fairfax County Metrorail Parking System" means the initial system, created and defined by resolution, adopted on _____ __, 2014, by the Board of Supervisors of the County, of parking facilities serving various Metrorail Stations in the County, being the County controlled parking garages at the Wiehle [East Reston], Herndon and Innovation Center Metrorail Stations, and includes any additional projects designated as such by resolution of the Board of Supervisors of the County.

"Fairfax County Metrorail Parking Surcharge Revenues Subfund" means the subfund within the Fairfax County Metrorail Parking Pledged Revenues Fund in which the Surcharge Revenues are held.

"Fairfax County Metrorail Parking Pledged Revenues Fund" means the special revenues fund created on the books of account of the County, containing (i) the County Parking Revenues credited to the Fairfax County Metrorail Parking System Revenues Subfund and (ii) the Surcharge Revenues credited to the Fairfax County Metrorail Parking Surcharge Revenues Subfund.

"Fairfax County Metrorail Parking System Revenues Subfund"means the subfund within the Fairfax County Metrorail Parking Plegded Revenues fund in which the Parking Revenues are held.

"Fiduciary" or Fiduciaries" means the Trustee, the Registrar, the Paying Agent, and any escrow, authenticating or other agent of the Authority or County or of any other Fiduciary, or any or all of them, as the context may require.

"Fiscal Year" means the consecutive 12-month period beginning July 1 and ending June 30 of the following year, or such other fiscal year of twelve months as may be determined by the County and the Authority.

"Fitch" means Fitch, Inc., its successors and assigns, and if Fitch Investors Service, Inc., shall no longer perform the functions of a securities rating agency, "Fitch" shall be

deemed to refer to any other nationally recognized securities rating agency designated by the County or the Authority in its stead.

"Fund" means the Metrorail Parking Projects Project Fund established by this Trust Agreement.

"General Assembly" means the General Assembly of the Commonwealth.

"Generally Accepted Accounting Principles" or **"GAAP"** means such accepted accounting practice as, in the opinion of the Accountant, conforms at the time to a body of generally accepted accounting principles.

Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and the interest on which are fully and unconditionally guaranteed by, the United States of America, or evidences of indirect ownership of such obligations.

"Indebtedness" means (a) the Bonds, (b) any Parity Indebtedness, and (c) all other indebtedness of the Authority relating to Parking Facilities Projects and payable from the Trust Estate.

"Initial Bonds" has the meaning ascribed to it in Section 208.

"Initial Parking Facilities Project" means the parking facilities to be financed and owned by the County at the Herndon and Innovation Center WMATA Metrorail stations. The Initial Parking Facilities Project is within the definition of "Parking Facilities Projects" for purposes of this Trust Agreement.

"Insurer" means, as to any particular maturity or any particular Series of the Bonds, the person undertaking to insure such Bonds, as designated in the Supplemental Trust Agreement providing for the issuance of such Bonds.

"Interest Payment Date" means an [April 1] or [October 1], as the case may be; provided, however, that Interest Payment Date may mean, if so provided in a Supplemental Trust Agreement permitted by this Trust Agreement, such other date or dates provided therein or permitted thereby.

"Interest Period" means each period from and including an Interest Payment Date to and including the day immediately preceding the next Interest Payment Date.

"Interest Rate" means any interest rate borne or to be borne by a Series of Bonds.

"Interest Requirement" for any Bond Year, as applied to Bonds of a Series, means the total of the sums that would be deemed to accrue on such Bonds during such Bond Year if the interest on the Current Interest Bonds of such Series were deemed to accrue daily during such year in equal amounts; provided, however, that interest expense shall be excluded from the determination of Interest Requirement to the extent that such interest is to be paid from the proceeds of Bonds or from investment (but not reinvestment) thereof [(other than proceeds

and investment earnings on deposit in the Reserve Subfund)] if such proceeds shall have been invested in Defeasance Obligations and to the extent such earnings may be determined precisely. The Authority may provide in a Supplemental Trust Agreement that interest expense on Credit Facilities drawn upon to purchase but not to retire Bonds, to the extent such interest exceeds the interest otherwise payable on such Bonds be included in the determination of Interest Requirement.

"Investment Obligations" means Government Obligations and, to the extent from time to time permitted by the laws of the State, (A) the obligations of (i) Export-Import Bank, (ii) Government National Mortgage Association, (iii) Federal Housing Administration, (iv) Farmers Home Administration, (v) United States Postal Service and (vi) any other agency or instrumentality of the United States of America now or hereafter created, which obligations are backed by the full faith and credit of the United States of America; (B) the obligations of (i) Federal National Mortgage Association, (ii) Federal Intermediate Credit Banks, (iii) Federal Banks for Cooperatives, (iv) Federal Land Banks, (v) Federal Home Loan Banks; (vi) Federal Financing Bank, (vii) Federal Farm Credit System and (viii) Federal Home Loan Mortgage Corporation; (C) obligations of state or local government bond issuers, provision for the payment of the principal of and interest on which shall have been made by deposit with an escrow agent or trustee of Government Obligations the principal of and interest on which when due will be sufficient to pay the principal of and interest on such state or local government obligations when due, which obligations have been rated by Moody's, S&P and Fitch (or any two of the three if the third such rating agency does not provide a rating) in one of two highest rating categories (without regard to gradations such as "plus" or "minus" or numerical modifiers, of such categories); (D) investments pursuant to the Government Non-Arbitrage Act, Chapter 47, Title 2.2, Code of Virginia, 1950, as amended; (E) certificates of deposit or time deposits of (i) any bank, any branch of any bank, trust company or national banking association (including any Trustee, Bond Registrar, Paying Agent and their affiliates) that has a combined capital, surplus and undivided profits not less than $50,000,000; provided, however, that such certificates of deposit or time deposits shall be fully secured to the extent not secured by the Federal Deposit Insurance Corporation, by Government Obligations or by obligations described in (A) or (C) above; or (ii) a subsidiary trust company under the Trust Subsidiary Act, Title 6.1, Article 3.1, Code of Virginia, 1950, as amended, whose parent State bank or bank holding company has undertaken to be responsible for the acts of such subsidiary trust company pursuant to the provisions of Section 6.1-32.7(a) of the Trust Subsidiary Act, or any successor provision of law, and whose combined capital, surplus and undivided profits, together with that of its parent State bank or bank holding company, as the case may be, is not less than $50,000,000 ("a subsidiary trust company"); provided, however, that such certificates of deposit or time deposits shall be fully secured, to the extent not secured by the Federal Deposit Insurance Corporation, by Government Obligations or by obligations described in (A) or (C) above; (F) any repurchase agreement that is with (i) a bank or trust company (including any Trustee, Bond Registrar, Paying Agent and their affiliates) that has a combined capital, surplus and undivided profits not less than $50,000,000, or (ii) a subsidiary trust company described in item (E)(ii) above, or (iii) a government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York for Government Obligations or obligations described in (A) and (B) above and having on the date of the repurchase agreement a fair market value equal to at least 102% of the amount of the repurchase obligation of the bank or trust company; provided,

however, that such obligations purchased must be transferred to the Trustee or a third party agent by physical delivery or by an entry made on the records of the issuer of such obligations; (G) subject to the ratings requirements set forth below, shares in any money market mutual fund (including those of the Trustee or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated AAAm-G or AAAm by S&P or Aaa by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations and (H) any and all investments authorized by the Investment of Public Funds Act (Chapter 45, Title 2.2, Code of Virginia, 1950, as amended). Any investment in a repurchase agreement shall be considered to mature on the date the bank or trust company providing the repurchase agreement is obligated to repurchase the Investment Obligations. Any investment in obligations described in (A), (B) and (C) above may be made in the form of an entry made on the records of the issuer of the particular obligation.

"Loan Agreement" means the Loan Agreement dated as of _____, 201_ between the Authority and the Board of Supervisors pursuant to which the County, subject to the terms and conditions of such agreement, has agreed to make Basic Payments (as defined in such Agreement) in amounts intended to be sufficient to pay the principal of and interest on the Initial Bonds. The Loan Agreement is within the definition of "Payment Agreements." References to the Loan Agreement include the County Bond (as defined in the Loan Agreement) that evidences the County's obligation to make the payments required of it by the Loan Agreement.

"Moody's" means Moody's Investors Service, Inc., its successors and assigns, and, if Moody's Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the County or the Authority in its stead.

"[N]ewspaper" means a newspaper regularly published in the English language in each of five consecutive days each week.

"Opinion of Bond Counsel" means a written opinion of Bond Counsel.

"Opinion of Counsel" means a written opinion of an attorney or firm or firms of attorneys acceptable to the Authority and the Trustee and who (except as otherwise expressly provided herein) may be counsel for the Authority, the County or either of them, or the Trustee.

"Parity Indebtedness" means any Indebtedness incurred in accordance with the provisions of Section 704 hereof and payable on a parity with the Principal and Interest Requirements of Bonds issued under the provisions of this Trust Agreement. Parity Indebtedness does not include Bonds.

"Parking Facilities Projects" shall include Initial Parking Facilities Project and the financing, planning, developing, constructing and improving of County-controlled parking structures and surface lots and related facilities and improvements such as pedestrian bridges that provide access for WMATA patrons to and from the entrance plazas, bus drop off areas, park and ride areas, and connecting sidewalks related to such parking facilities at WMATA Metrorail stations.

"Parking Revenues" means the County Parking Revenues and the Surcharge Revenues.

"Paying Agent" means, for any Series of Bonds, the paying agent or tender agent designated as such and performing the duties set forth in the Supplemental Trust Agreement providing for the issuance of such Bonds.

"**Payment Agreement**" shall mean the Loan Agreement and any other note, loan agreement, lease agreement, installment purchase contract or other contract or obligation, or combination thereof, by the express terms of which the County shall be obligated to make (i) solely from Parking Revenues, Payments on such dates and in such amounts as shall be sufficient for the Authority to make timely payment of all amounts that may become due and payable on a Series of Bonds, and (ii) [County Reserve Payments][Sum Sufficient Payments] subject only to the appropriation by the Board of Supervisors of the County of funds for the purpose of the County's making such payments.

"**Payments**" shall mean payments of money that the County is or may become obligated to make under a Payment Agreement.

"Payment of Bonds" or **"Payment of a Series of Bonds"** means payment in full of all principal or purchase price of, redemption premium, if any, and interest on the applicable Bonds or Series of Bonds.

"[P]erson" means and includes an association, unincorporated organization, a corporation, a partnership, a joint venture, a business trust, or a government or an agency or a political subdivision thereof, or any other public or private entity, or a natural person.

"Predecessor Bonds" of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by such particular Bond. For purposes of this definition, any Bond authenticated and delivered under Section 212 of this Trust Agreement in lieu of a mutilated, destroyed, stolen or lost Bond shall be deemed to evidence the same debt as the mutilated, destroyed, stolen or lost Bond.

"[P]rincipal" means (i) with respect to the principal amount of any Capital Appreciation Bond, the Accreted Value thereof (the difference between the stated amount to be paid at maturity and the Accreted Value being deemed unearned interest) except as used in this Trust Agreement in connection with the authorization and issuance of Bonds and with the order of priority of payments of Bonds after an Event of Default, in which cases "principal" means the initial public offering price of a Capital Appreciation Bond (the difference between the Accreted Value and the initial public offering price being deemed interest) but when used in connection with determining whether the Holders of the requisite principal amount of Bonds then outstanding have given any request, demand, authorization, direction, notice, consent or waiver, "principal" means the Accreted Value and (ii) with respect to the principal amount of any Current Interest Bond, the principal amount of such Bond payable at maturity.

"Principal and Interest Requirements" for any Bond Year means the sum of the Principal Requirement and the Interest Requirement for such Year.

"Principal Payment Date" means each April 1 upon which the principal of any Bond is stated to mature or upon which the principal of any Term Bond is subject to sinking fund redemption; provided, however, Principal Payment Date may mean, if so provided by a Supplemental Trust Agreement, such other date or dates as may be provided thereby or permitted therein.

"Principal Requirement" means, for any Bond Year, as applied to Bonds of a Series, the total of the sums that would be deemed to accrue on such Bonds during such Bond Year if the principal of the Current Interest Bonds of such Series due on a particular Principal Payment Date were deemed to accrue daily, beginning on a date exactly 12 months previous, during such period in equal amounts and the Accreted Value of the Capital Appreciation Bonds of such Series, as of the applicable Principal Payment Date, were deemed to accrue daily during such Year in equal amounts to but not including the applicable Principal Payment Date.

"Rating Agency" means any one or more, as the context may require, of the following that as of the date of applying this definition maintain, at the Authority's request, a rating on the applicable Bonds: Fitch, Moody's and S&P.

"Rebate Subfund" means a Rebate Subfund created and so designated by Section 501 of this Trust Agreement, and includes any separate accounts or sub-accounts established by the terms of any Supplemental Trust Agreement or any agreement pursuant thereto.

"Rebate Liability" means the amount or amounts periodically determined by an Accountant selected by the Authority Representative, to be paid to the United States of America pursuant to Section 148(f) of the Internal Revenue Code of 1986, as amended.

"Record Date" as used with respect to any Interest Payment Date for any Series of Bonds offered and sold to the public means the date designated in any Supplemental Trust Agreement as the record date for the payment of interest on such Series of Bonds, or if no Record Date is so designated (i) with respect to interest not in default, the fifteenth day next preceding such Interest Payment Date with respect to such Series and (ii) with respect to defaulted interest, the fifth day preceding payment thereof.

"Redemption Date" means the date upon which any Bonds are to be redeemed prior to their respective stated maturities pursuant to the redemption provisions of any Supplemental Trust Agreement.

"Redemption Price" means, with respect to Bonds or a portion thereof, the principal amount of such Bonds or portion thereof plus the applicable premium, if any, payable upon redemption thereof in the manner contemplated in accordance with its terms and this Trust Agreement.

"Refunding Bonds" means Fairfax County Metrorail Parking System Refunding Revenue Bonds issued, in one or more Series, for the purpose of refunding a like or different principal amount of Authority Bonds and authenticated and delivered pursuant to this Trust Agreement.

[**"Reserve Subfund"** means the Fairfax Metrorail Parking System Debt Service Reserve Subfund created and so designated by Section 501 of this Trust Agreement.]

[**"Reserve Subfund Insurance Policy"** means the insurance policy or surety bond or irrevocable letter of credit or guaranty deposited in the Reserve Subfund in lieu of or in partial substitution for cash on deposit or to be deposited therein. Such Reserve Subfund Insurance Policy shall be payable (upon the giving of notice as required thereunder) on any Interest or Principal Payment Date (for the Series of Bonds in respect of which it was deposited) on which a deficiency exists in the Debt Service Subfund. The issuer providing such Reserve Subfund Insurance Policy shall be (A) an insurer that has been assigned for bonds insured by the issuer of such Policy, ratings by Moody's, S&P and Fitch (or any two of the three if the third such rating agency does not provide a rating) in one of two highest rating categories (without regard to gradations, such as "plus" or "minus" or numerical modifiers, of such categories) or (B) a commercial bank, insurance company or other financial institution the bonds payable or guaranteed by which have been assigned ratings by Moody's, S&P and Fitch (or any two of the three if the third such rating agency does not provide a rating) in one of the two highest rating categories (without regard to gradations such as "plus" or "minus" or numerical modifiers).]

[**"Reserve Subfund Requirement"** [as to Bonds, means as of any date of calculation, an amount of cash, securities or Reserve Subfund Insurance Policy, or a combination thereof, equal to the maximum amount of principal and interest scheduled to become due in the current or any future Fiscal Year on the Bonds outstanding ("MADS"); provided, however, (Y) for the initial Series of the Bonds issued pursuant to Section 208, the Reserve Subfund Requirement shall be MADS for any Fiscal Year subsequent to the Fiscal Year ending June 30, 20__ and (Z) to the extent the Code limits the amount of the proceeds of any Series that may be deposited to the credit of the Reserve Subfund, the Reserve Subfund Requirement upon and subsequent to the issuance of such Series shall be equal to the lesser of (I) MADS on the Bonds outstanding after the issuance of such Series of Bonds and (II) the sum of (a) the Reserve Subfund Requirement on the Bonds outstanding prior to the issuance of such Series of Bonds and (b) the maximum amount of proceeds of the Series of Tax-Exempt Bonds permitted by the Code to be used to fund the Reserve Subfund and invest the Reserve Subfund at an unrestricted yield, as more particularly provided in the applicable Supplemental Trust Agreement.]

In the event the Authority determines to provide for deposits to a separate account within the Reserve Subfund in respect of any Parity Indebtedness, the term "Reserve Subfund Requirement" may be amended to include such additional deposits.

"S&P" means Standard & Poor's Ratings Group, a Division of The McGraw-Hill Companies, its successors and assigns, and, if Standard & Poor's Ratings Group, a Division of The McGraw-Hill Companies, shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designed by the County or the Authority in its stead.

"Secretary" means the Secretary or any Assistant Secretary of the Authority or any person succeeding to the principal functions thereof.

"Securities Depository" means The Depository Trust Company, New York, New York or other recognized securities depository selected by the Authority, which maintains a book-entry system in respect of one or more Series of the Bonds, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

"Securities Depository Nominee" means, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by the Bond Registrar the Bond certificates to be delivered and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

"Serial Bonds" means the Bonds that are stated to mature in consecutive annual installments and that are so designated in a Supplemental Trust Agreement.

"Series" means Bonds identified as a separate Series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to any Supplemental Trust Agreement.

"Sinking Fund Requirement" means, with respect to Term Bonds of each maturity, the principal amount fixed or computed for the retirement of such Term Bonds by purchase or redemption, as contemplated in Section 301 of this Trust Agreement.

"Special Record Date" for the payment of any Defaulted Interest on Bonds means a date fixed by a Trustee or by the Bond Registrar pursuant to Section 203 of this Trust Agreement.

"State" means the Commonwealth of Virginia.

"Subfund" or **"Subfunds"** means any one or more, as the case may be, of the separate special subfunds established by this Trust Agreement or by any Supplemental Trust Agreement.

[**"Sum Sufficient Payments"** means those payments, made by the County, if any, under the provisions of an applicable Payment Agreement in which the County has appropriated from its General Fund a sum sufficient to provide and pay on any Interest Payment Date and Principal Payment Date, the amount by which (i) the amount of the Interest Requirements on Bonds payable on such Interest Payment Date or the Principal Requirements on Bonds payable on such Principal Payment Date exceeds (ii) the amount of Parking Revenues and any other available funds held by the Trustee for the purpose of making such payments.]

"Supplemental Trust Agreement" means an amendment or supplement, executed by the Authority and the Trustee, to this Trust Agreement, and in conformity with the provisions of Article XI hereof, providing for the issuance of a Series of Bonds or for the incurrence of Parity Indebtedness and setting forth the provisions and details thereof not inconsistent herewith including any amendments and supplements thereto permitted hereby and any other such agreement permitted by Article XI hereof.

"**Surcharge Agreement**" means the Second Amended and Restated Surcharge Implementation Agreement between the County and WMATA, dated and effective as of _____, 2014, which provides, among other things, the agreement of WMATA to collect the Surcharge Revenues and provide them to the County.

"Surcharge Revenues" means certain parking surcharge fees on parking spaces within certain WMATA controlled parking facilities collected by WMATA and transferred to the County for deposit is the Fairfax County Metrorail Parking Surcharge Revenues Subfund, as provided in the Surcharge Agreement.

"Tax-Exempt Bonds" means Bonds the interest on which is intended to be excludable from the gross income of the Owners thereof for federal income tax purposes.

"Term Bonds" means all or some of the Bonds of a Series, other than Serial Bonds, stated to be payable by their terms on one or more dates and so designated in a Supplemental Trust Agreement.

"Trust Agreement" means this Trust Agreement, authorizing the Initial Bonds and providing for the issuance of Series of Additional and Refunding Bonds, as supplemented and amended as permitted hereby.

"Trust Agreement Expenses" means those fees and expenses of the Trustee contemplated by Section 903 of this Trust Agreement and the fees and expenses of any Paying Agent and the Bond Registrar that shall been approved in writing by the Authority Representative.

"Trustee" means the trustee at the time acting as such under this Trust Agreement whether the original or a successor trustee.

"Trust Estate" means,

(a) the items enumerated in clauses (a) and (b) of the Granting Clause of this Trust Agreement; and

(b) proceeds of the foregoing.

"Virginia Code" or **"Code of Virginia"** means the Code of Virginia of 1950, as amended.

"WMATA" means Washington Metropolitan Area Transit Authority.

Section 102. Rules of Construction. (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Bond", "owner", "Holder" and "person" shall include the plural as well as the singular number.

(b) Where the character or amount of any asset, liability or term of income or expense is required to be determined or any consolidation, combination or other accounting computation

is required to be made for the purpose hereof or for the purpose of any document, affidavit or certificate to be executed and delivered in accordance with or pursuant to this Trust Agreement, the same shall be done in accordance with generally accepting accounting principles; provided, however, that whenever the context makes clear that the requirement is that cash, or its equivalent, be available to meet Indebtedness, computations regarding such requirement shall be computed on a cash, and not on a generally accepted accounting basis.

(c) All references to the payment of the principal amount of Bonds includes the payment of the Accreted Value of any Capital Appreciation Bonds. In any case where the principal amount of Bonds is required to be determined, the Accreted Value of any Capital Appreciation Bond at the time of such determination shall be treated as the outstanding principal amount thereof.

(d) All references to the principal corporate trust office for so long as U.S. Bank National Association is the Trustee, Bond Registrar, or Paying Agent shall mean its corporate trust office in the City of Richmond, Virginia.

[End of Article I]

ARTICLE II.

DETAILS OF BONDS; ISSUANCE OF BONDS

Section 201. Limitation on Issuance of Bonds. No Bonds may be issued under the provisions of this Trust Agreement except in accordance with the provisions of this Article.

Section 202. Form and Numbering of Bonds. Unless otherwise provided in the applicable Supplemental Trust Agreement, the definitive Bonds are issuable in fully registered form in the denomination of $5,000 or any whole multiple thereof. The definitive Bonds issued under the provisions of this Article shall be substantially in the form hereinabove set forth, with such appropriate variations, omissions and insertions as may be necessary or appropriate to conform to the provisions of this Trust Agreement and the applicable Supplemental Trust Agreement. All Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or of any securities exchange on which the Bonds may be listed or any usage or requirement of law with respect thereto.

Section 203. Details and Execution of Bonds. Unless otherwise provided in the applicable Supplemental Trust Agreement, the Bonds shall be dated, shall bear interest until their payment, such interest to the maturity thereof being payable semi-annually on April 1 and October 1 in each year, and shall be stated to mature (subject to the right of prior redemption), all as hereinafter provided.

Unless otherwise provided in the applicable Supplemental Trust Agreement, each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated unless it is (a) authenticated on an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date or (b) authenticated prior to the first Interest Payment Date in which event it shall bear interest from its date; provided, however, that if at the time of authentication of any Bond, interest is in default, such Bond shall bear interest from the date to which interest has been paid.

Unless otherwise provided in the applicable Supplemental Trust Agreement, the Bonds shall be executed with the signatures or facsimile signatures of the Chairman and of the Secretary and a facsimile of the official seal of the Authority shall be impressed or imprinted thereon.

In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and also any Bonds may bear the facsimile signatures of, or may be signed by, such persons as at the actual time of the execution of such Bonds shall be the proper officers to sign such Bonds although at the date of such Bonds such persons may not have been such officers.

Except as otherwise provided in a Supplemental Trust Agreement, both the principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of

America which is legal tender on the respective dates of payment thereof for the payment of public and private debts. Unless otherwise provided in the applicable Supplemental Trust Agreement, the principal of and premium on, if any, all Bonds shall be payable at the principal corporate trust office of the Bond Registrar upon the presentation and surrender of such Bonds as the same shall become due and payable. Provided, however, that if any arrangement concerning payment on Bonds exists between the Authority and a Securities Depository, the Trustee shall set aside and the Bond Registrar, or Paying Agent if any, shall remit by wire transfer to such Securities Depository, in Federal Reserve or other immediately available funds, the amounts required for paying principal of, and premium if any, on such Bonds as the same shall become due and payable. In no event shall such wire transfer be made later than 12:00 Noon, Fairfax County, Virginia time on the Principal Payment Date or date for the payment of premium, if any.

Interest on any Bond that is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid by the Trustee by check to any person who is not a Securities Depository Nominee in whose name that Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date for such Interest Payment Date. Provided, however, that if any arrangement concerning payment on Bonds exists between the Authority and a Securities Depository, the Trustee shall set aside and the Bond Registrar, or Paying Agent if any, shall remit by wire transfer to such Securities Depository, in Federal Reserve or other immediately available funds, the amounts required for paying interest on such Bonds as the same shall become due and payable. In no event shall such wire transfer be made later than 12:00 Noon, Fairfax County, Virginia time on the Interest Payment Date.

Any interest on any Bond that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date ("Defaulted Interest") shall forthwith cease to be payable to the Holder as of the relevant Regular Record Date solely by virtue of such Holder's having been such Holder on such Date; and such Defaulted Interest may be paid by the Authority, at its election in each case, as provided in subparagraph A or B below:

A. The Authority may elect to make payment of any Defaulted Interest on the Bonds to the persons in whose names such Bonds are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed in the following manner. The Authority shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be a date that will enable the Trustee to comply with the next sentence hereof), and at the same time the Authority shall deposit or cause to be deposited with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest as in this subparagraph provided. Thereupon, the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest that shall be not more than 15 days nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Authority of such Special Record Date and, in the name and at the expense of the Authority, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to

be mailed, first-class postage prepaid, to each Holder at his address as it appears in the registration books maintained under Section 206 of this Trust Agreement not less than 10 days prior to such Special Record Date. The Trustee may, in its discretion, in the name and at the expense of the Authority, cause a similar notice to be published at least once in a financial journal distributed in the Borough of Manhattan, City and State of New York, but such publication shall not be a condition precedent to the establishment of such Special Record Date. Notice of the proposed payment of such Defaulted Interest and of the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Bonds (or their respective Predecessor Bonds) are registered on such Special Record Date and shall no longer be payable pursuant to the following subparagraph B.

B. The Authority may make payment of any Defaulted Interest on the Bonds in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Bonds may be listed and upon such notice as may be required by such exchange, if, after notice given by the Authority to the Trustee of the proposed payment pursuant to this subparagraph, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Bond delivered under this Trust Agreement upon transfer of or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, that were carried by such other Bond, and each such Bond shall bear interest from a date such that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

Section 204. Authentication of Bonds. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form hereinabove set forth, duly executed by the Bond Registrar, shall be entitled to any benefit or security under this Trust Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication on the Bond shall have been duly executed by the Bond Registrar, and such certificate of the Bond Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Trust Agreement. The Bond Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized signatory of the Bond Registrar, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time.

Section 205. Exchange of Bonds. Bonds, upon surrender thereof at the principal corporate trust office of the Bond Registrar, together with an assignment duly executed by the Holder or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series and maturity, of any denomination or denominations authorized by this Trust Agreement and bearing interest at the same rate as the registered Bonds surrendered for exchange.

The Authority shall make provision for the exchange of the Bonds at the principal corporate trust office of the Bond Registrar.

Section 206. Registration of Transfer of Bonds. The Bond Registrar shall keep books for the registration, exchange and registration of transfer of Bonds and if so provided in a Supplemental Trust Agreement, Parity Indebtedness, as provided in this Trust Agreement and in the applicable Supplemental Trust Agreement. The Bond Registrar shall evidence acceptance of the duties, obligations and responsibilities of Bond Registrar by execution of the certificate of authentication on the Bonds.

The transfer of any Bond may be registered only upon the books kept for the registration of transfer of Bonds upon surrender of such Bond to the Bond Registrar, together with an assignment duly executed by the Holder or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar.

Upon any such exchange or registration of transfer, the Authority shall execute and the Bond Registrar shall authenticate and deliver in exchange for such Bond a new registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Trust Agreement, in the aggregate principal amount equal to the principal amount of such Bond surrendered, of the same Series and maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Authority shall execute and the Bond Registrar shall authenticate and deliver Bonds within a commercially reasonable time, according to then prevailing industry standards, in accordance with the provisions of this Trust Agreement. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. No service charge shall be made for any registration of transfer or exchange of Bonds, but the Authority and the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Bonds. Except as provided in a Supplemental Trust Agreement, neither the Authority nor the Bond Registrar shall be required (i) to issue, register the transfer of or exchange Bonds during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Bonds under Section 303 of this Trust Agreement and ending at the close of business on the day of such mailing or (ii) to register the transfer of or to exchange any Bond so selected for redemption in whole or in part.

Section 207. Ownership of Bonds. The Authority, the Trustee, any Paying Agent or the Bond Registrar and any agent of the Authority, the Trustee, any Paying Agent or the Bond Registrar, may treat the person in whose name any Bond is registered on the books of the Authority kept by the Bond Registrar pursuant to Section 206 hereof as the Holder of such Bond for the purpose of receiving payment of principal of and premium, if any, and interest on, such Bond, and for all other purposes whatsoever, whether such Bond be overdue, and, to the extent permitted by law, neither the Authority, the Trustee, any Paying Agent or the Bond Registrar nor any such agent shall be affected by any notice to the contrary.

Section 208. Authorization and Issuance of the Initial Bonds. There shall be initially issued at one time or in Series from time to time under and secured by this Trust Agreement revenue bonds of the Authority, designated "Fairfax County Economic Development Authority Fairfax County Metrorail Parking System Project Revenue Bonds" (the "Initial

Bonds"), in an aggregate principal amount not to exceed _____Dollars ($___,___,000), for the purpose of providing funds, together with any other available funds, for paying all or any portion of the Costs of the Initial Parking Facilities Project. Such Initial Bonds may be issued as Current Interest Bonds, Capital Appreciation Bonds, Serial Bonds, Term Bonds, or any combination thereof, shall have such Series designation or designations, if any, shall be dated and shall be stated to mature, subject to the right of prior optional and mandatory sinking fund redemption, if any, on the dates and in the principal amounts, shall have such other details, shall be sold in such manner to such purchasers upon the payment of such purchase price, may be insured and may be secured in whole or in part by a Credit Facility, all as shall be provided by the applicable Supplemental Trust Agreement.

Except as to any Credit Facility or insurance policy in respect of the Bonds [or any Reserve Subfund Insurance Policy] and as to any differences in the rate or rates of interest, the maturities or the provisions for redemption or purchase and except for such differences, if any, respecting the use of moneys in various accounts in the [Reserve Subfund or] Debt Service Subfund, the Initial Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Trust Agreement as all other Bonds, if any, hereafter issued under this Trust Agreement.

The Initial Bonds shall be executed substantially in the form and in the manner hereinabove set forth or as provided herein and in the applicable Supplemental Trust Agreement and shall be deposited with the Bond Registrar for authentication, but before each Series of the Initial Bonds shall be delivered by the Bond Registrar, there shall be filed or deposited with the Bond Registrar the following:

(a) an executed counterpart, or a copy, certified by the Secretary of the Authority, of this Trust Agreement;

(b) an executed counterpart, or a copy, certified by the Secretary, of the Supplemental Trust Agreement or Supplemental Trust Agreements fixing details of the Initial Bonds, approving any Credit Facility [or Reserve Subfund Insurance Policy], approving the sale of the Initial Bonds to the purchasers thereof, and directing the authentication and delivery of the Initial Bonds to or upon the order of such purchasers upon payment of the purchase price therein set forth and the accrued interest thereon;

(c) an executed counterpart or a copy, certified by a County Representative or the Secretary of the Authority, of the Loan Agreement;

(d) an opinion or opinions of counsel for the Authority, subject to customary exceptions and qualifications, to the effect that (1) this Trust Agreement has been duly executed and delivered by the Authority and is in full force and effect; (2) the Authority has all necessary power and authority to apply the proceeds of the Initial Bonds for the purposes described in this Trust Agreement; (3) the Supplemental Trust Agreement referred to in clause (b) above has been duly executed and delivered by the Authority and is in full force and effect, and the issuance of the Initial Bonds has been duly and validly authorized and all conditions precedent to the delivery of such Initial Bonds have been fulfilled and (4) no provision of such Initial Bonds or of the Trust

Agreement, including the applicable Supplemental Trust Agreement authorizing the Initial Bonds, results in or constitutes a default under any material agreement, indenture or other instrument to which the Authority is a party or by which the Authority is or may be bound;

(e) any additional documents or opinions required by the provisions of the Supplemental Trust Agreement or an agreement with a Credit Bank or Insurer and any Credit Facility or insurance policy issued by an Insurer in respect of a Series of the Initial Bonds [or any Reserve Subfund Insurance Policy];

(f) to the extent applicable, an original executed counterpart of any Credit Facility with respect to any such Initial Bonds upon the issuance thereof;

(g) an Opinion or Opinions of Counsel, subject to customary exceptions and qualifications, substantially to the effect that each of the Loan Agreement, including any supplement or amendment thereto, and any Credit Facility, and any such bond insurance policy [and any Reserve Subfund Reserve Policy] delivered in connection with the issuance of the Initial Bonds has been duly authorized, executed and delivered by the parties thereto and constitutes a valid and binding obligation of such parties enforceable in accordance with its terms; and

(h) an Opinion of Bond Counsel, subject to customary exceptions and qualifications, that the issuance of such Initial Bonds has been duly authorized, that such Bonds are valid and binding obligations of the Authority entitled to the benefits and security of this Trust Agreement and, if such Initial Bonds are to be Tax-Exempt Bonds, that the interest on such Initial Bonds is excludable from gross income of the Owners for purposes of federal income taxation or, if such interest is not excludable, that the issuance and the intended use of the proceeds of such Initial Bonds will have no adverse effect on the tax-exempt status of any other Tax-Exempt Bonds.

When the documents mentioned in paragraphs (a) to (h), inclusive, of this Section shall have been filed with the Bond Registrar and when the Series of the Initial Bonds shall have been executed and authenticated by the Bond Registrar upon the request of the Authority, as required by this Trust Agreement, the Bond Registrar shall deliver such Series of the Initial Bonds to or upon the order of the purchasers named in the Supplemental Trust Agreement mentioned in paragraph (b) of this Section, but only upon payment to the Authority of the purchase price of the Initial Bonds and of the accrued interest, if any, thereon.

The proceeds (including accrued interest, if any) of the Initial Bonds, together with any other funds made available to the Authority, shall be deposited by the simultaneously with the delivery of the Initial Bonds as follows:

(1) with the Trustee, to the credit of a special account in the Construction Subfund ("Construction Account");

(2) with the Trustee, to the credit of the Debt Service Subfund an amount equal to the accrued interest, if any, on the Initial Bonds;

[(3) with the Trustee, to the credit of the Reserve Subfund an amount or a Reserve Subfund Insurance Policy, or a combination thereof, equal to the amount required to make the amount then to the credit of the Reserve Subfund equal to the Reserve Subfund Requirement;] and

(4) with the Trustee, to the credit of a special account in the Construction Subfund (the "Costs of Issuance Account") the amount specified by an Authority Representative, the balance remaining after the foregoing deposits have been made.

Section 209. Additional Bonds. Additional Series of Bonds of the Authority ("Additional Bonds"), in addition to the Bonds issued under Sections 208 and 210 of this Article, may be issued from time to time under and secured by this Trust Agreement, subject to the conditions hereinafter provided in this Section, for the purpose of providing funds, with any other available funds, for paying all or any portion of the remaining unpaid Costs of the Initial Parking Facilities Project not funded by Initial Bonds or Costs of other Parking Facilities Projects. Before Additional Bonds of any Series shall be issued under this Section, the Authority shall enter into a Supplemental Trust Agreement authorizing the issuance of such Bonds, fixing the amount and the details thereof and the purpose thereof. Such Additional Bonds may be issued as Current Interest Bonds, Capital Appreciation Bonds, Term Bonds, Serial Bonds, or any combination thereof, shall have such Series designation or designations, if any, shall be dated and shall be stated to mature, subject to the right of prior optional and mandatory sinking fund redemption, if any, on the dates and in the principal amounts, shall have such other details, shall be sold in such manner to such purchasers upon the payment of such purchase price, may be insured and may be secured in whole or in part by a Credit Facility, all as shall be provided by the Supplemental Trust Agreement. Except as to any Credit Facility or insurance policy in respect of the Additional Bonds [or any Reserve Subfund Insurance Policy] and as to any differences in the rate or rates of interest, the maturities or the provisions for redemption or purchase and except for such differences, if any, respecting the use of moneys in various accounts in the [Reserve Subfund or] Debt Service Subfund, such Series of Additional Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Trust Agreement as all other Bonds theretofore or thereafter issued under this Trust Agreement.

Prior to or simultaneously with the delivery of such Additional Bonds by the Bond Registrar to or upon the order of the purchasers thereof, there shall be filed with the Bond Registrar items comparable to those described in paragraphs (b) through (h) of Section 208 and a certificate signed by the Chairman or Vice Chairman of the Authority and dated the date of such issuance, to the effect that to the best of knowledge of the signer:

(1) upon and immediately following such issuance, no Event of Default under the Trust Agreement, and no event or condition which, with the giving of notice or lapse of time or both, would become an Event of Default under this Trust Agreement, will have occurred and be continuing, or if such Event of Default or event or condition has occurred and is continuing, it will be cured upon the issuance of such Series of Additional Bonds; and

(2) all of the approvals, limitations, conditions and provisions precedent to the issuance of such Series of Additional Bonds in accordance with the Authority Act or otherwise have been obtained, observed, met and satisfied.

When (i) the documents mentioned above in this Section shall have been filed with the Bond Registrar, and (ii) the Additional Bonds shall have been executed by the Authority and authenticated by the Bond Registrar upon the request of the Authority as required by this Trust Agreement, the Bond Registrar shall deliver the Additional Bonds at one time to or upon the order of the purchasers named in the Supplemental Trust Agreement but only upon payment to the Authority of the purchase price of such Additional Bonds and the accrued interest, if any, thereon.

The proceeds (including accrued interest, if any) of such Additional Bonds together with any other funds made available by the Authority, shall be deposited by the Authority, simultaneously with the delivery of the Additional Bonds, the same as provided in paragraphs (1), (2), [and] (3) [and (4)] of Section 208 for the proceeds of the Initial Bonds.

Section 210. Refunding Bonds. Series of Refunding Bonds of the Authority may be also issued from time to time under and secured by this Trust Agreement, subject to the conditions hereinafter provided in this Section, for the purpose of providing funds, with any other available funds, for refunding all or any part of any Indebtedness then outstanding, including the payment of any redemption premium thereon and interest that will accrue on such Indebtedness to the redemption date or stated maturity date or dates and any expenses in connection with such refunding. Before any such Series of Refunding Bonds shall be issued under the provisions of this Section, the Authority shall enter into a Supplemental Trust Agreement authorizing the issuance of such Bonds, fixing the amount and the details thereof and describing the Indebtedness to be refunded. Such Refunding Bonds may be issued as Current Interest Bonds, Capital Appreciation Bonds, Serial Bonds, Term Bonds, or any combination thereof, shall have such Series designation or designations, if any, shall be dated and shall be stated to mature, subject to the right of prior optional and mandatory sinking fund redemption, if any, on the dates and in the principal amounts, shall have such other details, shall be sold in such manner to such purchasers upon the payment of such purchase price, may be insured and may be secured in whole or in part by a Credit Facility, all as may be provided in the Supplemental Trust Agreement authorizing the issuance of such Series of Refunding Bonds. Except as to any Credit Facility[,] [or] insurance policy [or Reserve Subfund Insurance Policy] and as to any differences in the maturities or the rate or rates of interest or the provisions for redemption and except for such differences, if any, respecting the use of moneys in various accounts in the [Reserve Subfund, or] Debt Service Subfund, such Refunding Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Trust Agreement as all other Bonds theretofore or thereafter issued under this Trust Agreement.

Such Refunding Bonds shall executed substantially in the form and in the manner hereinabove set forth or as provided herein and in the applicable Supplemental Trust Agreement and shall be deposited with the Bond Registrar for authentication, but before such Refunding Bonds shall be delivered by the Bond Registrar, there shall be filed with the Bond Registrar items comparable to those described in paragraphs (b) through (h) of Section 208 and a certificate signed by the Chairman or Vice Chairman of the Authority and dated the date of such

issuance, to the effect that to the best of knowledge of the signer no Event of Default under the Trust Agreement exists or if such Event of Default or an event or condition which, with the giving of notice or lapse of time or both, would become an Event of Default under this Trust Agreement has occurred and is continuing, it will be cured upon the issuance of such Series of Refunding Bonds.

The Trustee or any Credit Bank or Insurer may require the Authority to submit or cause to be submitted to it such other documents and certifications as such party in its judgment may reasonably require in connection with the issuance of such Refunding Bonds, including such documents showing that provision has been duly made for the payment or redemption or defeasance of all of the Indebtedness to be refunded.

When (i) the documents mentioned in the preceding paragraphs of this Section shall have been filed with the Trustee, and (ii) the Refunding Bonds described in the Supplemental Trust Agreement shall have been executed by the Authority and authenticated by the Bond Registrar upon the request of the Authority, as required by this Trust Agreement, the Bond Registrar shall deliver such Refunding Bonds, at one time to or upon the order of the purchasers thereof, but only upon payment to the Authority of the purchase price of such Bonds and the accrued interest thereon. The Bond Registrar shall not deliver such Refunding Bonds unless in the written determination of an Accountant, the proceeds (excluding accrued interest) of such Refunding Bonds, together with any other money deposited or to be deposited with the Trustee for such purpose, and the interest that shall accrue or accrete upon any Defeasance Obligations acquired pursuant to clause (3) below of this Section, shall be not less than an amount sufficient to pay the principal and the redemption premium, if any, of the Indebtedness to be refunded and the interest that will accrue or accrete thereon to the respective redemption and maturity dates.

The proceeds of such Refunding Bonds (including accrued interest, if any) and any other funds made available by the Authority shall be applied by the Secretary of the Authority simultaneously with the delivery of the Refunding Bonds in accordance with the provisions of Section 208 and then as follows:

(1) an amount that, together with the interest that shall accrue on the Defeasance Obligations acquired pursuant to this clause (1), shall be sufficient to pay the principal of and redemption premium, if any, and the interest on the Indebtedness to be refunded hereunder shall be paid to the Trustee as escrow agent, for deposit to the credit of a special account to be held in trust by the Trustee for the sole and exclusive purpose of paying such principal, redemption premium and interest; and money held for the credit of such account shall, as nearly as may be practicable and reasonable, be invested and reinvested by such Trustee, as directed by the Authority, in Defeasance Obligations that shall mature or be subject to redemption by the holder thereof at the option of such holder, at such time or times as shall be necessary or desirable to effectuate the purpose of such Refunding Bonds as stated in the applicable Supplemental Trust Agreement; and

[(2) such amount shall be paid to the Trustee for deposit to the credit of any account established in the Reserve Subfund as shall be required by reason of the issuance of the Refunding Bonds then proposed to be delivered and the Supplemental Trust Agreement authorizing the issuance of the Refunding Bonds under this Section (which

amount shall be not less than the minimum amount required, if any, to make the balance to the credit of the Reserve Subfund equal to the amount of the Reserve Subfund Requirement on account of all Series of Bonds outstanding immediately after the issuance of the Refunding Bonds); and]

(3)[(2)]any balance of such proceeds shall be paid to the Trustee for deposit to the credit of the Debt Service Subfund.

In the event that after a valuation by the Trustee of the amounts to the credit of the Debt Service Subfund [or Reserve Subfund] or any account created therein pursuant to this Trust Agreement, the Trustee determines that the balance of the credit of such Subfund or account exceeds the amount required to be on deposit therein on account of all Bonds and Parity Indebtedness to be outstanding after the issuance of the Refunding Bonds, such excess may, at the direction of an Authority Representative, be transferred to the escrow fund established for the refunded Indebtedness.

Section 211. Temporary Bonds. Until definitive Bonds are ready for delivery, there may be executed, and upon request of the Authority, the Bond Registrar shall authenticate and deliver, in lieu of definitive Bonds and subject to the same limitations and conditions, typewritten, printed, engraved or lithographed temporary Bonds, in the form of fully registered Bonds in the denomination (except as otherwise provided in the Supplemental Trust Agreement) of $5,000 or any whole multiple thereof, substantially of the tenor of the Bonds set forth in this Trust Agreement and with such appropriate omissions, insertions and variations as may be required.

Until definitive Bonds are ready for delivery, any temporary Bond may, if so provided by the Authority by resolution, be exchanged at the principal corporate trust office of the Bond Registrar, without charge to the Holder thereof, for an equal aggregate principal amount of temporary fully registered Bonds of authorized denominations, of like tenor, of the same maturity and bearing interest at the same rate.

If temporary Bonds shall be issued, the Authority shall cause the definitive Bonds to be prepared and to be executed and delivered to the Bond Registrar, and the Bond Registrar, upon presentation to it at its principal office of any temporary Bond, shall cancel the same and authenticate and deliver in exchange therefor at the place designated by the Holder, without charge to the Holder thereof, a definitive Bond or Bonds of an equal aggregate principal amount, of the same maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefit and security of this Trust Agreement as the definitive Bonds to be issued and authenticated hereunder.

Section 212. Mutilated, Destroyed, Stolen or Lost Bonds. In case any Bond secured hereby shall become mutilated or be destroyed, stolen or lost, the Authority shall cause to be executed, and the Bond Registrar shall authenticate and deliver, a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed, stolen or lost, and the Holder shall pay the reasonable expenses and charges of the Authority and the Bond Registrar in connection

therewith and, in case of a Bond destroyed, stolen or lost, the Holder shall file with the Bond Registrar evidence satisfactory to it and to the Authority that such Bond was destroyed, stolen or lost, and of his ownership thereof, and shall furnish the Authority and the Bond Registrar indemnity satisfactory to them. If any such Bond has matured or has been called for redemption, instead of issuing a new bond the Trustee may pay the same without surrender thereof upon receipt of the aforesaid evidence and indemnity.

Every Bond issued pursuant to the provisions of this Section in exchange or substitution for any Bond that is mutilated, destroyed, stolen or lost shall constitute an additional contractual obligation of the Authority, whether the destroyed, stolen or lost Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with any and all other Bonds duly issued under this Trust Agreement. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, stolen or lost Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

[End of Article II]

ARTICLE III.

REDEMPTION OF BONDS

Section 301. Redemption Dates and Prices. (a) The Bonds issued under the provisions of this Trust Agreement may be made subject to mandatory, extraordinary mandatory and optional redemption by the Authority, either in whole or in part, and at such times and prices as may be provided in the respective Supplemental Trust Agreements.

(b) In addition, the Term Bonds are required to be redeemed to the extent of the Sinking Fund Requirements, if any, therefor established by the Supplemental Trust Agreement providing for the issuance thereof.

Section 302. Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in the minimum denomination authorized by the applicable Supplemental Trust Agreement or in whole multiples of such minimum denomination. In selecting Bonds for redemption, the Trustee shall treat each Bond as representing the number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum denomination authorized by the applicable Supplemental Trust Agreement. If less than all of the Bonds of a particular maturity of a Series shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee by such method as the Trustee in its sole discretion shall determine.

Section 303. Redemption Notice. (a) Except as otherwise provided in a Supplemental Trust Agreement, at least thirty (30) but not more than ninety (90) days before the redemption date of any Bonds, whether such redemption be in whole or in part, the Trustee shall cause a notice of any such redemption signed by the Authority to be mailed, certified mail, return-receipt requested to all Holders owning Bonds to be redeemed in whole or in part, but any defect in such notice or the failure so to mail any such notice to any Holder owning any Bonds shall not affect the validity of the proceedings for the redemption of any other Bonds. Each such notice shall set forth the Bonds or portions thereof to be redeemed, the date fixed for redemption, the Redemption Price to be paid, the Series, and if less than all the Bonds of a Series shall be called for redemption, the maturities of the Bonds to be redeemed and, if less than all of the Bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond in principal amount equal to the unredeemed portion of such Bond and of the same Series and maturity will be issued.

(b) Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price, consisting of par 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 the Authority, the corresponding notice of redemption shall be deemed to be revoked.

(c) Except as otherwise provided in a Supplemental Trust Agreement, such redemption notices shall also be sent to each person to which the Authority shall have agreed in any agreement, with or for the benefit of the Holders, of the Authority entered into pursuant to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 304. Effect of Calling for Redemption. If the Authority gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If the Authority gives a conditional notice of redemption and if 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 the Trustee holds money available to pay the Bonds called for redemption, thereafter no interest will accrue on those Bonds, such Bonds shall cease to be entitled to any benefits or security under this Trust Agreement or to be deemed outstanding; and the Holders of such Bonds shall have no rights in respect thereof except to receive payment of the Redemption Price thereof, plus accrued interest to the date of redemption. Bonds and portions of Bonds for which irrevocable instructions to pay or to call for redemption on one or more specified dates have been given to the Trustee and the Bond Registrar in form satisfactory to them shall not thereafter be deemed to be outstanding under this Trust Agreement and shall cease to be entitled to the security of or any rights under this Trust Agreement, other than rights to receive payment of the Redemption Price thereof and accrued interest thereon, to be given notice of redemption in the manner provided in Section 303, and, to the extent hereinafter provided, to receive Bonds for any unredeemed portions of Bonds if money or Government Obligations, or a combination of both, sufficient to pay the Redemption Price of such Bonds or portions thereof, together with accrued interest thereon to the date upon which such Bonds are to be paid or redeemed, are held in separate accounts by the Trustee or the Bond Registrar in trust for the holders of such Bonds.

Section 305. Redemption of Portion of Bonds. If a portion of an outstanding Bond shall be selected for redemption, the Holder thereof or his attorney or legal representative shall present and surrender such Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the Authority shall execute and the Bond Registrar shall authenticate and deliver to or upon the order of such Holder or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond of the same Series and maturity and bearing interest at the same rate. The Bond Registrar, as soon as practicable after the becoming available of funds for such partial redemption, shall obtain new sets of CUSIP numbers pertaining to the respective refunded and remaining outstanding portions of Bonds of the like description or descriptions selected for redemption. Such new CUSIP numbers, shall be provided, if possible, with the original CUSIP numbers, in the applicable defeasance and redemption notices to be given with respect to such Bonds.

Section 306. Cancellation. Bonds so redeemed, presented and surrendered shall be cancelled upon the surrender thereof.

Section 307. Use of Defeasance Obligations to Redeem Bonds. For purposes of all Sections in this Article, Defeasance Obligations shall be deemed to be sufficient to pay or

redeem Bonds on a specified date including any such date available to redeem such Bonds under the applicable Supplemental Trust Agreement if the principal of and the interest on such Defeasance Obligations, when due, will be sufficient to pay on such date the Redemption Price of, and the interest accruing on, such Bonds to such date.

[End of Article III.]

ARTICLE IV.

CONSTRUCTION SUBFUND

Section 401. Construction Subfund. A special subfund within the Route Metrorail Parking Projects Project Fund is hereby established and designated "Metrorail Parking Projects Project Construction Subfund". The Trustee shall deposit in the Construction Subfund a portion of the proceeds of each Series of Bonds in the amount and manner directed under the Supplemental Trust Agreement providing for the issuance of such Series. The Trustee shall maintain within the Construction Subfund the Construction Account and the Costs of Issuance Account (as described below) and such additional accounts as may be provided for herein and in any Supplemental Trust Agreement. Deposits shall be made to the credit of the Construction Subfund and any special accounts as provided in the applicable Supplemental Trust Agreement.

Section 402. Payments from the Construction Subfund. The Trustee shall use money in the Construction Subfund solely as follows:

(a) (1) Money in the Construction Account shall be used solely to pay or reimburse the County for the payment of any Costs of the Parking Facilities Projects for which the County is liable, and pending such use, may be invested, at the direction of an Authority Representative but in accordance with a schedule of estimated disbursements furnished by and updated from time to time by the County, in Investment Obligations in accordance with the provisions of Article VI.

(2) All investment income resulting from the investment of the Construction Account shall be credited to a subaccount in the Construction Account as realized and, except in the case of any moneys reserved to pay any Rebate Liability, transferred on or before each Deposit Day. An Authority Representative may direct the Trustee to transfer any moneys reserved to pay Rebate Liability to the Rebate Subfund in accordance with the Supplemental Trust Agreement. Any losses resulting from the investment of the Construction Account shall be charged first against the investment income to the credit of the subaccount in the Construction Account and then against the principal to the credit of the Construction Account.

(3) To withdraw funds to the credit of the Construction Account to pay or reimburse the County for payment of Costs of Parking Facilities Projects, there shall be filed with the Trustee as a condition precedent to each disbursement a requisition in the form of Exhibit A to this Trust Agreement, signed by a County Representative, stating to the best knowledge of the signer, that (A) the obligation has been incurred by or is otherwise payable by the County to pay Costs of the Parking Facilities Project, (B) the item is a proper charge against the Construction Account, and (C) the obligation has not been the basis for a prior requisition which has been paid.

(4) If the maturities of all Bonds outstanding shall have been accelerated pursuant to Section 802, all of the money in the Construction Account shall be transferred to the Debt Service Subfund.

(b) (1) Money in the Costs of Issuance Account shall be used solely to pay or reimburse the Costs of Issuance incurred in connection with the issuance of Bonds, and pending such use,

may be invested, at the direction of an Authority Representative in Investment Obligations in accordance with the provisions of Article VI.

(2) All investment income resulting from the investment of the Costs of Issuance Account shall remain to the credit of such Account. Any losses resulting from the investment of the Construction Account shall be charged first against the investment income to the credit of the subaccount in the Construction Account and then against the principal to the credit of the Construction Account.

(3) To withdraw funds to the credit of the Costs of Issuance Account to pay or reimburse Costs of Issuance, there shall be filed with the Trustee as a condition precedent to each disbursement a requisition in the form of Exhibit B to this Trust Agreement, signed by a County Representative or an Authority Representative, stating that to the best knowledge of the signer, that (A) the obligation has been incurred by or is otherwise payable by the County to pay the Costs of Parking Facilities Projects for which the County is liable, (B) the item is a proper charge against the Costs of Issuance Account and (C) the obligation has not been the basis for a prior requisition which has been paid.

Section 403. Cost. For the purpose of this Trust Agreement, the Cost of the Parking Facilities Projects shall embrace such costs as are eligible costs within the purview of the Authority Act and, without intending thereby to limit or restrict any proper definition of such Cost, shall include the following:

(a) the cost of acquiring by purchase, and the amount of any deposit in court or award or final judgment in, or any settlement or compromise of, any proceeding to acquire by eminent domain, such lands, property, property rights, rights of way, easements, franchises and other interests as may be deemed necessary or convenient for, options and partial payments thereon, the cost of demolishing or removing or relocating any buildings or structures or land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, and the amount of any damages incident to or consequent upon, any costs related to any Parking Facilities Project and all other costs as certified by the County, as appropriate, which have been incurred by it;

(b) preparation of surveys, cost estimates, appraisals, plans and specifications for, and fees for architectural, engineering, supervisory and consulting services, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals for the construction, and any other fees or expenses necessary or incidental to determining the feasibility or practicability of any Parking Facilities Project;

(c) all other costs related to any Parking Facilities Project, including, without limitation, EDA Liabilities, initial or acceptance fees of the Trustee, the Bond Registrar or of any Trustee, Paying Agent, legal, accounting and financial advisory fees and expenses, underwriting or private placement fees, fees of any Insurer or Credit Bank, filing and rating agencies' fees and printing and engraving costs incurred in connection with the authorization, sale and issuance of the Bonds, the validation of the Bonds, the preparation, execution and filing of this Master Trust Agreement and any Payment Agreement and any financing statements and all other documents in connection therewith, and payment of all fees, costs and expenses for the preparation of

Payment Agreement(s), this Trust Agreement and the Bonds, including recording fees and documentary stamp taxes, if any, and any other fees, intangible taxes and expenses necessary or incident to the issuance and sale of the Bonds;

(d) repayment of all temporary borrowings made by and advances to the Authority or the County in connection with any Parking Facility Project; and

(e) interest to accrue on the Bonds during the estimated construction period of the Parking Facilities Projects and for a reasonable period thereafter.

Section 404. Disposition of Balance in Construction Subfund. If so directed by an Authority Representative and upon the Trustee's receipt of a certificate, signed by an Authority Representative, stating which items of the Costs of Parking Facilities Projects, if any, have not been paid (including amounts reimbursable to the Authority or the County) and for the payment of which money should be reserved in the Construction Subfund, whether in the Construction Account or in the Costs of Issuance Account, the balance of any money remaining in excess of the amount to be reserved for payment of unpaid items of the Costs of the Parking Facilities Projects or Costs of Issuance shall, at the direction of the Authority Representative, be applied to one or more of the following uses:

(a) to transfer to the Rebate Subfund any amounts representing earnings on proceeds of Bonds deposited in the Construction Subfund required to pay any applicable Rebate Liability;

(b) to deposit in a special account created in the Debt Service Subfund to purchase or redeem Bonds of the applicable Series in accordance with Section 503; or

(c) if the Authority shall cause to be delivered to the Trustee an Opinion of Bond Counsel that the exclusion from gross income of the Owners of interest on any Tax-Exempt Bonds will not be adversely affected, to pay scheduled installments of Debt Service Requirements on the applicable Series of Bonds.

[End of Article IV]

ARTICLE V.

PROJECT FUND AND SUBFUNDS

Section 501. Establishment of Fund and Subfunds. There is hereby created the Metrorail Parking Projects Project Fund as a discrete fund of the Authority.

In addition to any subfunds or accounts that may be created pursuant to a Supplemental Trust Agreement or other resolution not inconsistent herewith, there are hereby created within the Metrorail Parking Projects Project Fund of the Authority the following subfunds, each of which is to be held by the Trustee:

(i) Metrorail Parking Projects Debt Service Subfund (the "Debt Service Subfund");

(ii) [Metrorail Parking Projects Debt Service Reserve Subfund (the "Reserve Subfund");] and

(iii) Metrorail Parking Projects Rebate Subfund (the "Rebate Subfund").

The money in each of said Subfunds shall be held in trust and applied as hereinafter provided.

Section 502. Funds Received. Except as otherwise specifically provided by this Trust Agreement, all Trust Estate moneys received by the Trustee shall be deposited in the Metrorail Parking Projects Project Fund. The moneys to the credit of the Metrorail Parking Projects Project Fund shall be subject to a lien and charge in favor of the Holders until applied and paid out as herein authorized.

Semi-annually, on or before each Deposit Day the Trustee shall from moneys to the credit of the Metrorail Parking Projects Project Fund

(i) first, deposit into the Debt Service Subfund, after first taking into account any accrued interest deposited from the proceeds of any Bonds and then any amounts received pursuant to [Sections 402, 403, 504 and 506]

(1) an amount equal to the interest due on the Bonds on the next Interest Payment Date, and

(2) if the next Interest Payment Date is also a Principal Payment Date, the amount, if any, required to increase the amount then held for the credit of the Debt Service Subfund to an amount equal to the sum of (i) the amount of interest scheduled to become due on such date, (ii) the aggregate principal amount of the Serial Bonds that will become due and payable on such date, and (iii) the amount of the Sinking Fund Requirement for the Term Bonds on such date;

(ii) [second, deposit to the Reserve Subfund, an amount that, together with the amount credited to such Subfund on such date, is equal to the current Reserve Subfund Requirement;]

(iii) third, pay any Trust Agreement Expenses or Authority Liabilities for which other funds are not available, as determined by an Authority Representative, so much of any balance as such Representative may direct; and

(iv) fourth, deposit to the Rebate Account in respect of any Rebate Liability for which other funds are not available, as determined by an Authority Representative, so much of any balance as such Representative may direct.

The payments and deposits required pursuant to this Section shall be cumulative, and the amount of any deficiency on any Deposit Day shall be added to the amount otherwise required to be paid or deposited thereafter until such time as such deficiency shall have been made up.

[Five (5) days] prior to each Deposit Day, the Trustee shall notify the County and the Authority of the amount of investment income or other moneys available in the form of cash or Investment Obligations in the Debt Service Subfund [and the Reserve Subfund] on the Deposit Day or that will be available, without any reinvestment, on the next Interest Payment Date to pay principal, premium or interest coming due on the Bonds.

(b) Notwithstanding the foregoing provisions of clauses (i), (ii) and (iv) of subsection (a), if there shall be to the credit of the applicable Subfund or any special account created therein on a Deposit Day the amount required to be on deposit to the credit of the Subfund or any special account created therein on the next Interest Payment Date or the next Principal Payment Date or the next Parity Indebtedness payment date, no further deposit into such Subfund on account of the requirements of said clause (i), (ii) or (iv) shall then be required.

Section 503. Application of Moneys in Debt Service Subfund. All interest accruing on the Bonds up to the date of their delivery shall be paid from the amounts deposited in the Debt Service Subfund pursuant to Section 208, 209 or 210 of this Trust Agreement. Except as otherwise provided in this Trust Agreement, moneys in the Debt Service Subfund shall be used solely for the payment of Parity Indebtedness and the principal of and premium, if any, and the interest on the Bonds. The Trustee shall on each Interest Payment Date withdraw from such moneys and transfer to the Bond Registrar or Paying Agent, who shall remit to each Holder, the amounts required for paying the interest on such Bonds on such date, and on each Principal Payment Date the Trustee shall withdraw from such moneys and transfer to the Bond Registrar or Paying Agent who shall set aside in trust, the amounts required for paying the principal of and premium, if any, on the Bonds due on such date. Payment of Parity Indebtedness shall be timely made from moneys set aside for such purpose, and such amounts shall be paid or shall be deposited in trust with the Bond Registrar or any Paying Agent for such purpose.

The Trustee shall endeavor as directed by an Authority Representative to purchase Bonds prior to maturity at the most advantageous prices obtainable, such prices not to exceed the principal amount of such Bonds. The Trustee shall pay the purchase price and accrued interest

on such Bonds from the Debt Service Subfund; provided, however, that money in the Debt Service Subfund may be used by the Trustee at the direction of an Authority Representative, to purchase Bonds for cancellation only to the extent said moneys are in excess of the amount required for payment of the Bonds and Parity Indebtedness theretofore matured or called for redemption and the total amount of interest and principal scheduled to become due on the next succeeding Interest Payment Date or Principal Payment Date, respectively; and provided further that except as provided in a Supplemental Trust Agreement, no such purchase shall be made within the period of forty-five (45) days immediately preceding any Interest Payment Date on which the Bonds are subject to call for redemption under the provisions of this Trust Agreement except from moneys other than moneys set aside or deposited for the redemption of Bonds.

In the case of Bonds secured by a Credit Facility, amounts on deposit in the Debt Service Subfund may be applied as provided in the applicable Supplemental Trust Agreement to reimburse the Credit Bank for amounts drawn under such Credit Facility to pay the principal of and premium, if any, and interest on Bonds.

Section 504. [Application of Moneys in Reserve Subfund. Moneys to the credit of the Reserve Subfund shall be subject to a lien and charge in favor of the Holders.

(a) Not later than each Interest Payment Date for the Bonds then outstanding the Trustee shall transfer from the Reserve Subfund to the Debt Service Subfund

(1) if such Interest Payment Date is not a Principal Payment Date, the amount, if any, required to increase the amount then held to the credit of the Debt Service Subfund to an amount equal to the amount of interest scheduled to become due on such date; or

(2) if such Interest Payment Date is also a Principal Payment Date, the amount, if any, required to increase the amount then held for the credit of the Debt Service Subfund to an amount equal to the sum of (i) the amount of interest scheduled to become due on such date, (ii) the aggregate principal amount of the Serial Bonds that will become due and payable on such date, and (iii) the amount of the Sinking Fund Requirement for the Term Bonds on such date.

The Trustee shall notify the Authority and the County of any such withdrawal from the Reserve Subfund.

If the amount transferred from the Reserve Subfund to the Debt Service Subfund pursuant to the foregoing provisions of this Section shall be less than the amount required to be transferred under such provisions, any amount thereafter deposited to the credit of the Reserve Subfund shall be immediately transferred to the Debt Service Subfund as, and to the extent, required to make up any such deficiency.

(b) In the event that two or more accounts have been established in the Reserve Subfund as contemplated by Sections 208, 209, 210, and 704 the necessary withdrawals shall be made solely from and to the extent of moneys credited to the account corresponding to such Series of Bonds; otherwise, such accounts shall be drawn upon pro rata in accordance with the

amounts of principal and interest coming due on the Bonds of different Series to the extent necessary to remedy such deficiencies.

(c) Except as provided in a Supplemental Trust Agreement and consistent with the provisions with respect to Excess Earnings in Section 504(g) below, if on the last Business Day prior to any Deposit Day preceding each April 1st, the amount of moneys held for the credit of the Reserve Subfund shall exceed the Reserve Subfund Requirement as then calculated, the Trustee shall transfer from the Reserve Subfund the amount of such excess that does not consist of Excess Earnings to the Debt Service Subfund.

(d) Whenever the amount on deposit in the Reserve Subfund is less than the Reserve Subfund Requirement, the Trustee shall notify the Authority and the County of the amount of the deficiency. Upon notification, the Authority shall as soon as possible deliver to the Trustee the amount of such deficiency, [drawing upon the County Reserve Payments to be made available by the County pursuant to the Payment Agreements.]

(e) In the case of Bonds secured by a Credit Facility, amounts on deposit in a separate account in the Reserve Subfund may be applied as provided in the applicable Supplemental Trust Agreement to reimburse the Credit Bank for amounts drawn under such Credit Facility to pay the principal of and premium, if any, and interest on such Bonds.

(f) Any provision of this Trust Agreement to the contrary notwithstanding, no moneys to the credit of the Reserve Subfund may be withdrawn and applied to the payment of Parity Indebtedness unless the Authority shall have provided for deposits to a separate account within the Reserve Subfund with respect to such Parity Indebtedness.

(g) With respect to each applicable Series of Bonds, the Excess Earnings in the Reserve Subfund shall be transferred immediately upon receipt to the Rebate Fund but only to the extent that the amount to the credit of the Reserve Subfund exceeds the Reserve Subfund Requirement.

(h) In lieu of the required deposits or transfers to the Reserve Subfund specified in [Section 208, 209, 210 and 502 and 506], or from time to time after any such deposits and transfers have been made, the Authority may cause to be deposited into the Reserve Subfund for the benefit of the holders of the Bonds a Reserve Subfund Insurance Policy in an amount equal to (1) the difference between the Reserve Subfund Requirement and the sums, if any, then on deposit in the Reserve Subfund or being deposited in the Reserve Subfund concurrently with such Reserve Subfund Insurance Policy, or (2) any amount up to the Reserve Subfund Requirement, to be released at the direction of the Authority Representative. The Reserve Subfund Insurance Policy shall be payable (upon the giving of notice as required thereunder) on any due date on which money shall be required to be withdrawn from the Reserve Subfund for deposit into the Debt Service Subfund and applied to the payment of principal or interest on any Bonds if such withdrawal cannot be met by cash (including cash resulting from the liquidation of Investment Obligations) on deposit in the Reserve Subfund. If a disbursement is made pursuant to a Reserve Subfund Insurance Policy provided pursuant to this subsection, the Authority is obligated either (i) to reinstate the maximum limits of such Reserve Subfund Insurance Policy or (ii) to deposit into the Reserve Subfund funds in the amount of the disbursement made under

such Reserve Subfund Insurance Policy, or a combination of such alternatives, as shall provide that the amount in the Reserve Subfund equals the Reserve Subfund Requirement, all as provided in the applicable Supplemental Trust Agreement.

Notwithstanding anything contained in this Subsection, no deposit into the Reserve Subfund of a Reserve Subfund Insurance Policy will be effective until the Trustee receives written confirmation from each Rating Agency rating the Bonds, or any of them, at the request of the Authority that the rating for the affected Series of Bonds will not be downgraded or withdrawn as a result of the substitution.]

[Alternative Section 504. Sum Sufficient Payments.]

[No later than each Deposit Day, the Trustee shall notify the County and the Authority of the deficiency, if any, to the amount required to be on deposit in the Debt Service Subfund for payment of the interest due on the Bonds and if the next Interest Payment Date is also a Principal Payment Date, the amount, if any, required to increase the amount then held for the credit of the Debt Service Subfund to an amount equal to the sum of (i) the amount of interest scheduled to become due on such date, (ii) the aggregate principal amount of the Serial Bonds that will become due and payable on such date, and (iii) the amount of the Sinking Fund Requirement for the Term Bonds on such date. Upon notification, the Authority shall as soon as possible deliver to the Trustee the amount of such deficiency, drawing upon the Sum Sufficient Payments to be made available by the County pursuant to an applicable Payment Agreement.]

Section 505. Rebate Subfund.

(a) Except with respect to earnings on funds and accounts qualifying for exceptions to the rebate requirements of Section 148 of the Code, the Authority shall determine and pay or cause to be paid, from any legally available source, the Rebate Liability to the United States of America, as and when due, in accordance with Section 148(f) of the Code, as provided in this Section, and shall retain records of all such determinations until six years after Payment of Bonds.

(b) The Trustee shall hold the money deposited in the Rebate Subfund for payment to the United States in accordance with the Supplemental Trust Agreement. An Authority Representative may direct the Trustee to transfer to the Rebate Subfund all or any part of Excess Earnings from any Subfund or Account in accordance with the Supplemental Trust Agreement. **The Rebate Subfund is not pledged to and shall not be used for the payment of the Bonds.** After final Payment of the Bonds and final payment of any Rebate Liability pursuant to the Supplemental Trust Agreement, any amount remaining in the Rebate Subfund shall be paid to the Authority.

Section 506. Moneys Held in Trust. All moneys that the Trustee shall have withdrawn from the Debt Service Subfund or shall have received from any other source and set aside or transferred to the Bond Registrar or any Paying Agent for the purpose of paying any of the Bonds or Parity Indebtedness hereby secured, either at the maturity thereof or by purchase or call for redemption, or for the purpose of paying interest on the Bonds or Parity Indebtedness, shall be held in trust for the respective Holders. Except as otherwise provided in a Supplemental Trust Agreement, any moneys that are so set aside or transferred and that remain unclaimed by the Holders or by the owners of Parity Indebtedness for a period of three (3) years after the date

on which such Bonds or Parity Indebtedness have become payable shall be paid to the County, or to such successor as may then be entitled by law to receive the same, and thereafter the Holders or owners, as the case may be, shall look only to the County, or to such successor, as the case may be, for payment and then only to the extent of the amounts so received, without any interest thereon, and the Trustee, the Bond Registrar and any Paying Agent shall have no responsibility with respect to such money.

Section 507. Cancellation of Bonds. All Bonds paid, redeemed or purchased, either at or before maturity, shall be delivered to the Bond Registrar when such payment, redemption or purchase is made, and such Bonds shall be cancelled. All Bonds cancelled under any of the provisions of this Trust Agreement shall be destroyed by the Bond Registrar, which shall execute a certificate in duplicate, describing the details of the Bonds so cancelled and destroyed, and one executed certificate shall be filed with the Authority and one executed certificate shall be retained by the Bond Registrar.

Section 508. Disposition of Subfund Balances. After provision shall be made for the payment of all outstanding Bonds issued and Parity Indebtedness incurred under this Trust Agreement, including the interest thereon, and for the payment of all other obligations, expenses and charges required to be paid under or in connection with this Trust Agreement, the Trustee shall pay all amounts in any Subfund then held by it under this Trust Agreement to the County.

[End of Article V.]

ARTICLE VI.

DEPOSITARIES OF MONEYS, SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 601. Security for Deposits. Any and all moneys deposited under the provisions of this Trust Agreement shall, to the extent provided herein, be trust funds under the terms hereof and shall not be subject to any lien or attachment by any creditor of the Authority. Such moneys shall be held in trust and applied in accordance with the provisions of this Trust Agreement.

All moneys deposited with the Trustee hereunder in excess of the amount guaranteed by the Federal Deposit Insurance Corporation or other federal agency or held by the Authority shall be continuously secured, for the benefit of the Authority and the Holders, in the manner provided by State law for the security for public funds; provided, however, that it shall not be necessary for the Bond Registrar or any Paying Agent to give security for the deposit of any moneys with it for the payment of the principal of or the redemption premium or the interest on any Bonds, or, except as specifically required by this Trust Agreement, for the Authority or any Trustee to give security for any moneys that shall be represented by obligations purchased under the provisions of this Article as an investment of such moneys.

All moneys shall be credited to the particular subfund or account to which such moneys belong.

Section 602. Investment of Moneys. Moneys held for the credit of all subfunds and accounts therein shall be continuously invested and reinvested by or at the direction of an Authority Representative by telephonic communication subsequently confirmed in writing.

Moneys held for the credit of the Rebate Subfund and the Construction Subfund shall, as nearly as may be practicable, be invested and reinvested in Investment Obligations that shall mature, or that shall be subject to redemption at the option of the holder thereof, at the times required. Pending final disposition thereof, any moneys held for the credit of the Construction Subfund shall, as nearly as may be practicable, be invested and reinvested in Investment Obligations that shall mature, or that shall be subject to redemption at the option of the holder thereof, not later than one year after the date of such investment.

Moneys held for the credit of the Debt Service Subfund shall, as nearly as may be practicable, be invested and reinvested in Investment Obligations that shall mature, or that shall be subject to redemption at the option of the holder thereof, not later than the respective dates when the moneys held for the credit of said Subfund will be required for the purposes intended.

Moneys held for the credit of the Reserve Subfund shall, as nearly as may be practicable, be invested and reinvested to the extent permitted by law in Government Obligations or Investment Obligations described in clauses (A) and (B) of the definition of Investment Obligations in Section 101 of this Trust Agreement, which obligations shall mature, or shall be subject to redemption at the option of the holder thereof, not later than the final maturity of the Bonds; provided, however, that in the event of a withdrawal of and transfer by the Trustee of

moneys from the Reserve Subfund to the Debt Service Subfund with the result that the balance in the Reserve Subfund shall for any period be less than the Reserve Subfund Requirement, all such cash deposited or resulting from investments to the credit of the Reserve Subfund shall be invested in Investment Obligations that shall mature, or be subject to redemption at the option of the holder thereof, not later than the next Interest Payment Date after the date of such investment or reinvestment until there shall again be to the credit of the Reserve Subfund an amount equal to the Reserve Subfund Requirement. Provided, further, that notwithstanding the first sentence of this paragraph, moneys for the credit of the Reserve Subfund may be invested in repurchase obligations meeting the requirements described in clause (F) of the definition of Investment Obligations, and subject to the following requirements that (1) such obligations are flexible repurchase agreements with a term not greater than the final maturity of the applicable Series of Bonds, (2) the counterparty to the agreement or its guarantor, has ratings on its senior debt or claims paying ability of not less than "AA" from S&P, "Aa2" from Moody's and "AA" from Fitch, except that such ratings from any two of these three Rating Agencies shall suffice if the third rating agency provides no rating, (3) collateral is provided in the form of Government Obligations or obligations of federal agencies described in (A) of the definition of Investment Obligations, (4) such collateral is held in the amount of 102% of the amount of the repurchase amount, (5) such collateral is held by an independent third party agent and (6) such collateral is marked to market at least weekly. Provided, however, that if the ratings referenced in (2) above, from all three Rating Agencies are the highest given by such Rating Agencies, then the requirements described in (4) and (6) above are modified so that collateral may be held in the amount of 102% of the amount of the repurchase amount and marked to market at any interval which is not less often than monthly.

Investment Obligations acquired with moneys and credited to any Subfund or account held by or under the control of the Trustee or the Authority shall, while so held, be deemed at all times to be part of such Subfund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized upon the disposition or maturity of such investment shall be credited to or charged against such Subfund or account; provided, however, that the interest accruing thereon and any profit realized or any loss realized upon the maturity or disposition of such investment prior to the close out of the Construction Account in the Construction Subfund, as evidenced in accordance with the provisions of Section 403 of this Trust Agreement, shall, in the case of the Debt Service Subfund, the Reserve Subfund and the Rebate Subfund, be credited to or charged against the Subfund or Account of which it is a part, respectively. The Trustee, at the direction of the Authority Representative with respect to all Subfunds and Accounts, shall sell or cause to be sold at the best price obtainable or reduce to cash a sufficient amount of such Investment Obligations whenever it shall be necessary so to do in order to provide moneys to make any payment or transfer of moneys from any such Subfund or Account. The Trustee shall not be liable or responsible for any loss resulting from any such investment.

Whenever a payment or transfer of moneys between two or more of the Subfunds established pursuant to Articles IV and V of this Trust Agreement is permitted or required, such payment or transfer may be made in whole or in part by transfer of one or more Investment Obligations at a value determined in accordance with this Article, provided that the Investment

Obligations transferred are those in which moneys of the receiving Subfund could be invested at the date of such transfer.

Section 603. Valuation. For the purpose of determining the amount on deposit to the credit of any such Subfund or Account, obligations in which money in such Subfund or Account shall have been invested shall be valued at amortized cost if the average weighted life of the investments to the credit of such Subfund or Account is five years or less or if more than five years at the market value or the amortized cost thereof, whichever is lower. A Reserve Subfund Insurance Policy shall be valued at the amount that the Trustee is authorized to draw upon to pay debt service on Bonds.

The Trustee shall value the Investment Obligations in the Subfunds and Accounts held by it at least once in every Bond Year on the last Business Day prior to the Deposit Day each April 1st and report such balances to the Authority and the County. In addition, the Investment Obligations shall be valued by the Trustee at any time requested by an Authority Representative on reasonable notice (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Investment Obligations more than once in any calendar month.

[End of Article VI.]

ARTICLE VII.

GENERAL COVENANTS AND REPRESENTATIONS

Section 701. Payment of Principal, Interest and Premium. The Authority shall cause to be paid, when due, the principal of (whether at maturity, by call for redemption or otherwise) and the premium, if any, and the interest on the Bonds at the places, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof.

The Bonds are payable solely from the Trust Estate derived by the Authority from the Payment Agreements and other money pledged under this Trust Agreement. The Bonds issued under this Trust Agreement shall not be deemed to constitute a pledge of the faith and credit of the State or of any political subdivision thereof, including the Authority and the County. Neither the faith and credit of the State nor the faith and credit of the Authority or the County are pledged to the payment of the principal of or premium, if any, or interest on the Bonds, and the issuance of the Bonds shall not directly or indirectly or contingently obligate the County to levy any taxes whatever therefor or to make any appropriation for their payment except from the revenues and receipts provided for their payment under this Trust Agreement. The Authority has no taxing power.

Section 702. Covenant to Perform of the Authority. The Authority shall faithfully perform at all times all of its covenants, undertakings and agreements contained in this Trust Agreement and in any Bond executed, authenticated and delivered hereunder. The Authority represents that it is duly authorized under the Constitution and laws of the State, particularly the Authority Act, to issue the Bonds authorized hereby and to enter into this Trust Agreement and pledge the Trust Estate, in the manner and to the extent herein set forth as security for the Bonds; that all action on its part for the issuance of the Bonds initially issued hereunder and the execution and delivery of this Trust Agreement has been duly and effectively taken; and that such Bonds in the hands of the Holders thereof are and will be valid and binding limited obligations of the Authority according to their terms.

Section 703. Covenants with Credit Banks, Insurers, etc. The Authority may make such covenants as it may in its sole discretion determine to be appropriate with any Insurer, Credit Bank or other financial institution that shall agree to insure or to provide for Bonds of any one or more Series credit- or liquidity-support that shall enhance the security or the value of such Bonds and thereby reduce the Principal and Interest Requirements on such Bonds. Such covenants may be set forth in the applicable Supplemental Trust Agreement and shall be binding on the Authority, the Trustee, the Bond Registrar, the Depositaries and all the Holders of Bonds the same as if such covenants were set forth in full in this Trust Agreement.

Section 704. Limitations on Parity Indebtedness. (a) The Authority may incur and refund Parity Indebtedness, provided that the documents providing for such Parity Indebtedness shall specify the amounts and due dates of the Debt Service Requirements of such Parity Indebtedness and the principal and interest components of such Debt Service Requirements and that the Trustee shall determine that all the requirements of Section 209, or all the requirements of Section 210, as appropriate, of this Trust Agreement shall have been met the same as if such

Parity Indebtedness to be incurred were an additional Series of Bonds to be issued under the provisions of Section 209 or 210, respectively; provided however that [Parity Indebtedness shall not have a lien on the Reserve Subfund and that] at the election of the Authority, Parity Indebtedness may or may not have the benefit of the covenants of the County contained in Payment Agreements relating to [the Reserve Subfund][the Sum Sufficient Payments].

(b) The Authority covenants that it will faithfully fulfill all lawful requirements of all contracts or agreements creating such Parity Indebtedness and that it will require all other parties thereto to fulfill their lawful obligations thereunder.

Section 705. Further Instruments and Actions. At the request of the Trustee, the Bond Registrar or any other fiduciary for the owners of Parity Indebtedness, the Authority shall execute and deliver such further instruments or take such further actions as may be required to carry out the purposes of this Trust Agreement.

Section 706. County Appropriations. In the event that [the Trustee shall make a withdrawal from the Reserve Subfund pursuant to Section 504(a), and the amount to the credit of the Reserve Subfund shall be less than the Reserve Subfund Requirement, the Trustee shall notify the Authority of such withdrawal in accordance with Section 504(a) and the Authority hereby covenants that it shall, through an Authority Representative, (i) notify the County of such withdrawal and the date thereof, and the difference between the amount of the Reserve Subfund Requirement and the amount to the credit of the Reserve Subfund and (ii) request the County to budget, if it shall not have already done so, and appropriate and pay to the Trustee pursuant to [the Payment Agreements.] *OR* [Sum Sufficient Payments are required to be made pursuant to Section 504, the Trustee shall forthwith notify the County and the Authority of such requirement.]

[End of Article VII.]

ARTICLE VIII.

EVENTS OF DEFAULT AND REMEDIES

Section 801. Events of Default. Each of the following events is hereby declared an Event of Default:

(a) payment of any installment of interest on any Bonds or any Parity Indebtedness shall not be made when the same shall become due and payable; or

(b) payment of the principal of or the redemption premium, if any, on any Bonds or any Parity Indebtedness shall not be made when the same shall become due and payable, whether at maturity or by proceedings for redemption or pursuant to a Sinking Fund Requirement or otherwise; or

(c) default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Trust Agreement or any resolution supplemental hereto and such default shall continue for ninety (90) days after receipt by the Authority of a written notice from the Holders of a majority in aggregate principal amount of Bonds then outstanding specifying such default and requiring the same to be remedied; provided, however, that no Event of Default under the provisions of this paragraph (c) shall occur so long as the Authority is in good faith acting to remedy the default and such default is curable by such remedial action.

The foregoing provisions of subsection (c) of this section are subject to the following limitations: if by reason of force majeure, the Authority is unable in whole or in part to carry out any of its agreements herein contained, the failure of the Authority to carry out any such agreements shall not be deemed an Event of Default during the continuance of such inability, including a reasonable time for the removal of the effect thereof.

The term "force majeure" shall mean any cause, circumstance or event that is not reasonably foreseeable and that is not within the control of the Authority, including, without limitation, the following: 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 State or any of their departments, agencies, political subdivisions or officials, 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 of or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; or shortages of or inability to obtain labor, materials, supplies or transportation.

The Authority agrees, however, to use its best efforts to remedy with all reasonable dispatch any force majeure preventing it from carrying out its agreements.

Upon the occurrence of an Event of Default known to the Authority, the Trustee, shall give prompt written notice to the Authority specifying the nature of the Event of Default. The Authority shall give the Trustee notice of all events of which it is aware that either constitute

Events of Default under this Trust Agreement or, upon notice by or to the Authority or the passage of time, would constitute Events of Default hereunder.

Section 802. Acceleration of Maturities. Upon the happening and continuance of any Event of Default specified in paragraph (a) or (b) of Section 801, then and in every such case the Trustee may, and upon the written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall, declare the principal of all of the Bonds then outstanding (if not then due and payable) to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything contained in the Bonds or this Trust Agreement to the contrary notwithstanding; provided, however, that if at any time after the principal of the Bonds shall have been so declared to be due and payable, and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Trust Agreement, moneys shall have accumulated in the Debt Service Subfund sufficient to pay the principal of all matured Bonds and all arrears of interest, if any, upon all the Bonds then outstanding (except the principal of any Bonds not then due and payable by their terms and the interest accrued on such Bonds since the last Interest Payment Date) and sufficient to satisfy the Sinking Fund Requirements of the then current Bond Year, and the charges, compensation, expenses, disbursements, advances and liabilities of the Bond Registrar and the Trustee and all other amounts then payable by the Authority hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee, and any default in the observance or performance of any covenant, condition, agreement or provision contained in the Bonds or this Trust Agreement (other than a default in the payment of the principal of such Bonds then due and payable only because of a declaration under this Section) shall have been remedied to the satisfaction of the Trustee, then, in every case, the Trustee shall, by written notice to the Authority, rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 803. Enforcement of Remedies. Upon the happening and continuance of any Event of Default specified in Section 801 of this Article, then and in every such case the Trustee may proceed and upon the written request of the Holders of not less than a majority in aggregate principal amount of Bonds then outstanding shall proceed to protect and enforce its rights and the rights of the Holders under the laws of the State or under this Trust Agreement by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel chosen by the Trustee or by such Holders, shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy under this Trust Agreement, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any Event of Default becoming and remaining due from the Authority for principal, interest or otherwise under any of the provisions of this Trust Agreement or of the Bonds, together with interest on overdue payments of principal at the rate or rates of interest payable on any Bonds outstanding and all costs and expenses of collection and of all proceedings hereunder, without prejudice to any other right or remedy of the Trustee or of the Holders and to recover and enforce any

judgment or decree against the Authority, but solely as provided herein, for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect (but solely from money available for such purposes), in any manner provided by law, the money adjudged or decreed to be payable.

Section 804. Pro Rata Application of Funds. [***Verify that this provision applicable*** -- Anything in this Trust Agreement to the contrary notwithstanding, if at any time the moneys in the Debt Service Subfund shall not be sufficient to pay the interest on or the principal of the Bonds as the same shall become due and payable (either by their terms or by acceleration of maturities under the provisions of Section 802), such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied as provided in this Section.

(a) If the principal of all the Bonds shall not have become or shall not have been declared due and payable, all such moneys shall be applied

first: to the payment to the persons entitled thereto of all installments of interest on the Bonds then due and payable in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds that shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Trust Agreement), in the order of their due dates, with interest on the principal amount of such Bonds at the respective dates upon which such Bonds became due and payable, and, if the amount available shall not be sufficient to pay in full the principal of the Bonds due and payable on any particular date, together with such interest, then to the payment first of such interest, ratably, according to the amount of such interest due on such date, and then to the payment of such principal, ratably, according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds; and

third: to the payment of the interest on and the principal of the Bonds, to the purchase and retirement of Bonds and to the redemption of Bonds, all in accordance with the provisions of Article V.

(b) If the principal of all the Bonds, shall have become or shall have been declared due and payable, all such moneys shall be applied

first: to the payment to the persons entitled thereto of all installments of interest on the Bonds due and payable on or prior to maturity, if any, in the order in which

such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds, and then to the payment of any interest due and payable after maturity on the Bonds, ratably, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds and

second: to the payment of the principal of the Bonds, ratably, to the persons entitled thereto, without preference or priority of any Bond over any other Bond.

(c) If the principal of all the Bonds shall have been declared due and payable and if such declaration shall thereafter have been rescinded and annulled under the provisions of Section 802 then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all the Bonds shall later become due and payable or be declared due and payable, the moneys remaining in and thereafter accruing to the Debt Service Subfund shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for such application and the likelihood of additional moneys becoming available for such application in the future, the deposit of such moneys with any paying agents, or otherwise setting aside such moneys, in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Authority, to any Holder of Bonds or to any other person for any delay in applying any such moneys, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Trust Agreement as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee or Bond Registrar shall give such notice as it may deem appropriate of the fixing of any such date and shall not be required to make payment to the Holder of any Bond until such Bond shall be surrendered to the Trustee or the Bond Registrar for appropriate endorsement, or for cancellation if fully paid.]

Section 805. Effect of Discontinuance of Proceedings. If any proceeding taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, then and in every such case, the Authority, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no proceeding had been taken.

Section 806. Control of Proceedings by Holders. Anything in this Trust Agreement to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of

Bonds then outstanding shall have the right, subject to the provisions of Section 903 of this Trust Agreement, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall be in accordance with law and the provisions of this Trust Agreement.

Section 807. Restrictions Upon Actions by Individual Holders. Except as provided in Section 812 of this Article, no Holder shall have any right to institute any suit, action or proceeding in equity or at law on any Bond or for the execution of any trust hereunder or for any other remedy hereunder unless such Holder previously shall have given to the Trustee, the Authority and the Bond Registrar written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted, and unless also the Holder shall have made a written request of the Trustee after the right to exercise such powers or right of action as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceedings in its or their name, and unless, also, there shall have been offered to the Trustee, reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time. Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Trust Agreement or to any other remedy hereunder. Notwithstanding the foregoing provisions of this Section and without complying therewith, the Holders of not less than a majority in aggregate principal amount of Bonds then outstanding may institute any such suit, action or proceeding in their own names for the benefit of all Holders hereunder. It is understood and intended that, except as otherwise above provided, no one or more Holders shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security of this Trust Agreement, or to enforce any right hereunder except in the manner provided, that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Holders and that any individual rights of action or other right given to one or more of such Holders by law are restricted by this Trust Agreement to the rights and remedies herein provided.

Section 808. Enforcement of Rights of Action. All rights of action (including the right to file proof of claim) under this Trust Agreement or under any Bonds may be enforced by the Trustee without the possession of any Bonds or the production thereof in any proceedings relating thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any Holders hereby secured, and any recovery of judgment shall be for the equal benefit of the Holders.

Section 809. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 810. Delay Not a Waiver. No delay or omission by the Trustee or of any Holder in the exercise of any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence

therein; and every power or remedy given by this Trust Agreement to the Trustee and to the Holders may be exercised from time to time and as often as may be deemed expedient.

The Trustee may, and upon written request of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding shall, waive any default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Trust Agreement or before the completion of the enforcement of any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 811. Notice of Default. The Trustee shall provide to the Bond Registrar to mail, by certified mail, return receipt requested, to all Holders at their addresses as they appear on the registration books written notice of the occurrence of any Event of Default set forth in Section 801 of this Article, within thirty (30) days after the Trustee shall have notice of the same, that any such Event of Default shall have occurred.

Section 812. Right to Enforce Payment of Bonds Unimpaired. Nothing in this Article shall affect or impair the right of any Holder to enforce the payment of the principal of and the interest on his Bond or the obligation of the Authority to pay the principal of and the interest on each Bond to the Holder thereof at the time and place in said Bond expressed.

Section 813. Rights of Credit Bank and Insurer. Notwithstanding anything contained in this Trust Agreement to the contrary, until the Authority has reimbursed a Credit Bank or any Insurer for amounts paid under a Credit Facility or under an insurance policy to pay the interest on or the principal of any Bonds, (a) such Bonds shall be deemed to be outstanding and such Credit Bank or Insurer shall succeed to the rights and interests of the Holders to the extent of the amounts paid under the Credit Facility or insurance policy until such amount has been reimbursed and (b) upon presentation to the Bond Registrar, such Bond shall be registered in the name of the Credit Bank or Insurer or its nominee.

[End of Article VIII.]

ARTICLE IX.

CONCERNING THE TRUSTEE, BOND REGISTRAR, DEPOSITARY AND PAYING AGENT

Section 901. Acceptance of Duties. _____, with a corporate trust office in _____, is hereby appointed as Trustee under this Trust Agreement and accepts the duties, obligations and trusts imposed upon said bank by this Trust Agreement. The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee.

None of the provisions contained in this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur individual financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee, before the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

Section 902. Trustee Not Liable for Failure of the Authority to Act. The Trustee shall not be liable or responsible because of the failure of the Authority or of any of its employees or agents to make any collections or deposits or to perform any act herein required of the Authority or because of the loss of any money arising through the insolvency or the act or default or omission of any other Trustee in which such money shall have been deposited under the provisions of this Trust Agreement. The Trustee shall not be responsible for the application or investment of any of the proceeds of Bonds or any other money deposited with it and paid out, withdrawn or transferred hereunder if such application, investment, payment, withdrawal or transfer shall be made in accordance with the provisions of this Trust Agreement. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

Section 903. Compensation and Indemnification of Trustee. Subject to the provisions of any contract with the Authority or the County relating to compensation, the Authority shall pay the Trustee reasonable compensation for all services performed by it hereunder and also all its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties hereunder and shall indemnify and save the Trustee harmless against any liabilities that it may incur in the proper exercise and performance of its powers and duties hereunder but solely from moneys available for such purpose under the terms of this Trust Agreement.

Section 904. Trustee May Rely on Certificates. If at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee and in any case in which

this Trust Agreement provides for permitting or taking any action, the Trustee may rely upon any certificate required or permitted to be filed with it under the provisions of this Trust Agreement, and any such certificate shall be evidence of such fact or protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Trust Agreement, any request, notice, certificate or other instrument from the Authority or the County to the Trustee shall be deemed to have been signed by the proper party or parties if signed by any Authority Representative or County Representative respectively, and the Trustee may accept and rely upon a certificate signed by any Authority Representative and County Representative as to any action taken by the Authority and the County, respectively.

Section 905. Notice of Default. Except upon the happening of any event of default specified in clauses (a) or (b) of Section 801 of this Trust Agreement, the Trustee shall not be obliged to take notice or be deemed to have notice of any event of default hereunder, unless specifically notified in writing of such event of default by the owners of not less than a majority in aggregate principal amount of the Indebtedness hereby secured and then outstanding in respect of the Indebtedness.

Section 906. Trustee May Deal in Bonds. The bank or trust company acting as Trustee under this Trust Agreement, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued under and secured by this Trust Agreement, may join in any action that any bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee or a Trustee under this Trust Agreement, may engage or be interested in any financial or other transaction with the Authority or the County and may maintain any and all other general banking and business relations with the Authority or the County with like effect and in the same manner as if the Trustee were not a party to this Trust Agreement; and no implied covenant shall be read into this Trust Agreement against the Trustee in respect of such matters.

Section 907. Trustee Not Responsible for Recitals. The recitals, statements and representations contained herein and in the Bonds (excluding the Bond Registrar's certificate of authentication on the Bonds) shall be taken and construed as made by and on the part of the Authority and not by the Trustee, and the Trustee assumes and shall be under no responsibility for the correctness of the same.

Section 908. Reliance on Certain Documents. The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Trust Agreement, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, or upon the written opinion of any attorney, engineer, accountant or financial professional believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Trustee shall not be under any obligation to see to the recording or filing of this Trust Agreement or otherwise to the giving to any person of notice of the provisions hereof. The Trustee shall not be

responsible for insuring the Parking Facilities Projects or collecting any insurance moneys, or for the validity of the execution by the Authority of this Trust Agreement or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds.

Section 909. Resignation and Removal of Trustee Subject to Appointment of Successor. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 913.

Section 910. Resignation of Trustee. The Trustee may resign and thereby become discharged from the trusts hereby created, by notice in writing to be given to the Authority, the County and to be mailed to all owners of Bonds and Parity Indebtedness, not less than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee hereunder, if such new Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof.

Section 911. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing filed with the Authority executed by the owners of not less than a majority in principal amount of the Bonds and Parity Indebtedness hereby secured and then outstanding. A facsimile copy of each such instrument shall be delivered promptly by the Authority to the Trustee. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Trust Agreement with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Authority pursuant to resolution or of the owners of not less than a majority in aggregate principal amount of the Bonds and Parity Indebtedness then outstanding under this Trust Agreement. The Trustee may also be removed at any time, without regard to any action or omission by the Trustee, by the Authority provided that the Authority is not at such time in default under the provisions of this Trust Agreement.

Section 912. Appointment of Successor Trustee. If at any time hereafter the Trustee shall resign, be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the Authority shall appoint a Trustee to fill such vacancy. The Authority shall cause notice of any such appointment to be mailed to the County and all owners of Bonds and Parity Indebtedness.

At any time within one year after any such vacancy shall have occurred, the owners of a majority in principal amount of the Bonds and Parity Indebtedness hereby secured and then outstanding, by an instrument or concurrent instruments in writing, executed by such owners and filed with the Authority, may appoint a successor Trustee, that shall supersede any Trustee theretofore appointed by the Authority. Facsimile copies of each such instrument shall be delivered promptly by the Authority to the predecessor Trustee, to the Trustee so appointed and to the County.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within ten (10) days after the vacancy shall have occurred, the Authority, the County, the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction within the State to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any Trustee appointed shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than Fifty Million Dollars ($50,000,000).

Section 913. Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor, and also to the Authority and the County, an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts and subject to all the duties and obligations, of its predecessor; but such predecessor shall, nevertheless, on the written request of its successor or of the Authority or the County, and upon payment of the expenses, charges and other disbursements of such predecessor that are payable pursuant to the provisions of Section 903, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request be executed, acknowledged and delivered by the Authority.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Trust Agreement and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged or consolidated, or to which the assets and business of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

[End of Article IX.]

ARTICLE X.

EXECUTION OF INSTRUMENTS BY HOLDERS, PROOF OF OWNERSHIP OF BONDS, AND DETERMINATION OF CONCURRENCE OF HOLDERS

Section 1001. Execution of Instruments by Holders. Any request, direction, consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by any Holder may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Holders or their attorneys or legal representatives. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Trust Agreement and shall be conclusive in favor of the Authority with regard to any action taken by either under such instrument if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the verification of any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution. Where such execution is on behalf of a person other than an individual, such verification or affidavit shall also constitute sufficient proof of the authority of the signer thereof.

(b) The ownership of Bonds shall be proved by the registration books kept under the provisions of Section 206 of this Trust Agreement.

Nothing contained in this Article shall be construed as limiting the Authority to such proof, it being intended that the Authority may accept any other evidence of the matters herein stated which it may deem sufficient. Any request or consent of any Holder shall bind every future Holder of the same Bond in respect of anything done by such Holder or a Trustee in pursuance of such request or consent.

Notwithstanding any of the foregoing provisions of this Section, the Authority shall not be required to recognize any person as a Holder or to take any action at his request unless such Bonds shall be deposited with it.

[End of Article X.]

ARTICLE XI.

SUPPLEMENTAL TRUST AGREEMENTS

Section 1101. Supplemental Agreements Without Consent of Holders. The Authority from time to time and at any time, may enter into such supplements and amendments to this Trust Agreement as shall be consistent with the terms and provisions of this Trust Agreement (which Trust Agreement shall thereafter form a part hereof):

(a) to cure any ambiguity or formal defect or omission, or to correct or supplement any provision herein that may be inconsistent with any other provision herein, or

(b) to grant to or confer upon the Holders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders, or

(c) to add to the conditions, limitations and restrictions thereafter to be observed by the Authority under the provisions of this Trust Agreement, or

(d) to add to the covenants and agreements of the Authority in this Trust Agreement other covenants and agreements thereafter to be observed by the Authority or to surrender any right or power herein reserved to or conferred upon the Authority, or

(e) to provide for the issuance of Initial, Additional and Refunding Bonds and to provide for such other related matters as may be required or contemplated by or appropriate under this Trust Agreement, or

(f) to make change necessary to comply with the requirements of Moody's, S&P or Fitch, or their successors, or

(g) to make any other change that, in the judgment of the Authority, would not materially adversely affect the interests of the Holders of the Bonds.

Section 1102. Modification of Agreements with Consent of Holders. Subject to the terms and provisions contained in this Section, and not otherwise, the Holders of not less than a majority in aggregate principal amount of Bonds then outstanding that will be affected by a proposed supplement or amendment to this Trust Agreement shall have the right, from time to time, anything contained in this Trust Agreement to the contrary notwithstanding, to consent to and approve the entry by the Authority into such supplement or amendment as shall be deemed necessary or desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Agreement; provided, however, that nothing herein contained shall permit, or be construed as permitting (a) an extension of the maturity of the principal of or the interest on any Bonds issued hereunder, or (b) a reduction in the principal amount of any Bonds or the redemption premium or the rate of interest thereon, or (c) the creation of a pledge or lien on the moneys credited to the Debt Service Subfund, [Reserve Subfund,] or Construction Subfund other than the pledge and

lien created by this Trust Agreement, or (d) a preference or priority of any Bonds over any other Bonds, or (e) a reduction in the aggregate principal amount of Bonds required for consent to such supplemental agreement. Nothing herein contained, however, shall be construed as making necessary the approval by the Holders of the adoption and acceptance of any supplement or amendment to this Trust Agreement as authorized in Section 1101 of this Article.

If at any time the Authority shall determine that it is desirable to enter any supplement or amendment to this Trust Agreement for any of the purposes of this Section, the Authority shall cause notice of the proposed execution of such supplement or amendment to be mailed, first class, postage prepaid, to all Holders. Such notice shall briefly set forth the nature of the proposed supplement or amendment to this Trust Agreement and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Holders. The Authority shall not, however, be subject to any liability to any Holder by reason of its failure to mail the notice required by this Section, and any such failure shall not affect the validity of such supplement or amendment to this Trust Agreement when approved and consented to as provided in this Section.

Whenever, at any time within three years after the date of the first mailing of such notice, the Authority shall receive an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority in aggregate principal amount of Bonds then outstanding that are affected by a proposed supplement or amendment to this Trust Agreement, which instrument or instruments shall refer to the proposed supplemental resolution described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Authority may adopt such supplemental resolution in substantially such form, without liability or responsibility to any Holder, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of Bonds outstanding that are affected by a proposed supplement or amendment to this Trust Agreement at the time of the execution of such supplement or amendment shall have consented to and approved the execution thereof as herein provided, no Holder shall have any right to object to the execution of such supplement or amendment, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Authority from entering into the same or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplement or amendment to this Trust Agreement pursuant to the provisions of this Section, this Trust Agreement shall be and be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Trust Agreement of the Authority, the County, the Trustee, the Bond Registrar and all Holders shall thereafter be determined, exercised and enforced in all respects pursuant to the provisions of this Trust Agreement as so modified and amended.

Section 1103. Exclusion of Bonds. Bonds owned or held by or for the account of the Authority or the County shall not be deemed outstanding Bonds for the purpose of any consent or other action or any calculation of outstanding Bonds provided for in this Article or Article XII, and the Authority, the County as holders of such Bonds shall not be entitled to consent or

take any other action provided for in this Article or Article XII. At the time of any consent or other action taken under this Article or Article XII, the Authority shall furnish the Trustee a certificate or certificates signed by an Authority Representative or County Representative as applicable upon which the Trustee may rely, describing all Bonds so to be excluded.

Section 1104. Trustee Entitled to Exercise Discretion. In each and every case provided for in this Article, the Trustee shall be entitled to exercise its discretion in determining whether or not any proposed supplement or amendment to this Trust Agreement, or any term or provision therein contained, is desirable, having in view the purposes of such instrument, the needs of the Authority, the rights and interests of the Holders and the owners of any Parity Indebtedness, and the rights, obligations and interests of the Trustee, and the Trustee shall not be under any responsibility or liability to the Authority, the County or to any Holder or to any owner of Parity Indebtedness or to anyone whomsoever for its refusal in good faith to enter into any such supplement or amendment to this Trust Agreement if such agreement is deemed by it to be contrary to the provisions of this Article. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for the Authority, as evidence that any such proposed supplement or amendment does or does not comply with the provisions of this Trust Agreement, and that it is or is not proper for it, under the provisions of this Article, to join in the execution of such supplement or amendment.

[End of Article XI]

ARTICLE XII.

SUPPLEMENTS AND AMENDMENTS TO OTHER AGREEMENTS

Section 1201. Supplements and Amendments Not Requiring Holders' Consent. The Authority may enter into supplements and amendments to any Payment Agreements and any Credit Facility only in accordance with the provisions of this Article. From time to time and at any time, the Authority may enter into such supplements and amendments that, in the judgment of the Authority, would not materially adversely affect the interests of the Holders after 30 days' prior notice to, but without the consent of, the Trustee. From time to time and at any time, the Authority may enter into other supplements and amendments to such agreements, and the Trustee may consent to such amendments and supplements to such agreements that, in the judgment of the Authority, would not materially adversely affect the interests of the Holders (which supplements and amendments shall thereafter form a part thereof),

(a) to cure any ambiguity or formal defect or omission in any of such agreements or in any supplement or amendment thereto, or

(b) to grant to or confer upon the Authority or the Trustee, for the benefit of the Holders, any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Holders or the Authority or the Trustee, or

(c) to make any other change in any of such agreements, provided only that no such change would, in the judgment of the Authority, materially adversely affect the interests of the Holders.

Amendments or supplements to such agreements pursuant to this Section 1201 may be made without the consent of the Holders.

Section 1202. Supplements and Amendments Requiring Holders' Consent. Except for supplements or amendments provided for in Section 1201, the Authority shall not enter into and the Trustee shall not consent to any supplement or amendment to any of the Payment Agreements and any Credit Facility unless notice of the proposed execution of such supplement or amendment shall have been given and the Holders of more than a majority in aggregate principal amounts of the Bonds then outstanding shall have consented to and approved the execution thereof, in the same manner as provided for in Section 1102 hereof in the case of supplements and amendments to this Trust Agreement; provided that the Trustee shall be entitled to exercise its discretion in consenting or not consenting to any such supplement or amendment in the same manner as provided for in Section 1104 hereof in the case of supplements and amendments to this Trust Agreement.

[End of Article XII.]

ARTICLE XIII.

DEFEASANCE

Section 1301. Defeasance. When (a) the Bonds secured hereby shall have become due and payable in accordance with their terms or otherwise as provided in this Trust Agreement, and (b) the whole amount of the principal and the interest and premium, if any, so due and payable upon all Bonds shall be paid or if the Trustee, the Bond Registrar or any Paying Agent shall hold sufficient moneys or Defeasance Obligations the principal of and the interest on which, when due and payable, will provide sufficient moneys to pay the principal of, and the interest and redemption premium, if any, on all Bonds then outstanding to the maturity date or dates of such Bonds or dates fixed for Sinking Fund Redemption or to the date or dates specified for the optional redemption thereof, (c) if Bonds are to be called for redemption, irrevocable instructions to call the Bonds for redemption shall have been given by the Authority and (d) sufficient funds shall also have been provided or provision made for paying all other obligations payable hereunder by the Authority, then and in that case the right, title and interest of the Holders in the Subfunds mentioned in this Trust Agreement shall thereupon cease, determine and become void and, on demand of the Authority and upon being furnished with an opinion, in form and substance satisfactory to the Trustee, of counsel approved by the Bond Registrar, to the effect that all conditions precedent to the release of this Trust Agreement have been satisfied, the Trustee shall release this Trust Agreement and shall execute such documents to evidence such release as may be reasonably required by the Authority and shall turn over surplus in any and all balances remaining in all Subfunds in accordance with the provisions of Section 508 of this Trust Agreement, other than moneys held for the redemption or payment of Bonds. Otherwise, this Trust Agreement shall be, continue and remain in full force and effect; provided, that, in the event Defeasance Obligations shall be deposited with and held by the Bond Registrar or any Trustee or Paying Agent as hereinabove provided, (i) in addition to the requirements set forth in Article III of this Trust Agreement, the Authority, within thirty (30) days after such moneys or Defeasance Obligations shall have been deposited with it, shall cause a notice signed by the Bond Registrar to be mailed to all Holders and the respective information repositories and services specified in Article III setting forth (a) the date or dates, if any, designated for the redemption of the Bonds, (b) the deposit of such moneys or Defeasance Obligations so held by it, and (c) that this Trust Agreement has been released in accordance with the provisions of this Section, and (ii) the Bond Registrar shall retain such rights, powers and privileges under this Trust Agreement as may be necessary and convenient for the registration, transfer and exchange of Bonds.

All moneys and Defeasance Obligations held by the Trustee or any Paying Agent (or the Bond Registrar) pursuant to this Section shall be held in trust and applied to the payment, when due, of the obligations payable therewith.

[End of Article XIII.]

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

Section 1401. Effect of Dissolution of the Authority. In the event the Authority for any reason shall be merged or annexed or its legal existence shall otherwise be terminated, all of the covenants, stipulations, obligations and agreements contained in this Trust Agreement by or on behalf of or for the benefit of the Authority shall bind or inure to the benefit of the successor or successors of the Authority from time to time and any officer, board, authority, agency or instrumentality to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law, and the terms "Authority" as used in this Trust Agreement shall include its successor or successors.

Section 1402. Effect of Covenants. All covenants, stipulations, obligations and agreements of the Authority contained in this Trust Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations and agreements shall bind or inure to the benefit of the successor or successors thereof from time to time and any officer, board, body or commission to whom or to which any power or duty affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law.

Except as otherwise provided in this Trust Agreement, all rights, powers and privileges conferred and duties and liabilities imposed upon the Authority by the provisions of this Trust Agreement shall be exercised or performed by the Authority, or by such other officers, board, body or commission as may be required by law to exercise such powers or to perform such duties.

No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of the Authority or of any agent, officer or employee of the Authority in his individual capacity, and neither the members of the Authority nor any agent, officer or employee of the Authority nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 1403. Successorship of Paying Agent and Bond Registrar. (a) Any bank or trust company with or into which any Paying Agent or the Bond Registrar may be merged or consolidated, or to which the assets and business of such Paying Agent or the Bond Registrar may be sold, shall be deemed the successor of such Paying Agent and Bond Registrar for the purposes of this Trust Agreement. If the position of any Paying Agent or the Bond Registrar shall become vacant for any reason, the Authority, provided sufficient funds are available to pay all costs and expenses, if any, reasonably incurred by the Authority in connection therewith, shall appoint a bank or trust company having a combined capital surplus and undivided profits of not less than $50,000,000 to fill such vacancy within 30 days after the Authority receives notice of such vacancy.

(b) The Bond Registrar shall give notice of each appointment of such successor by mailing written notice of such event by first class mail, postage prepaid, to all registered owners

of the Bonds at their addresses as they appear on the registration books. Neither the Authority nor the Bond Registrar, however, shall be subject to any liability to any Bondholder by reason of its failure to mail any such notice.

Section 1404. Manner of Giving Notice. All notices, demands and requests to be given to or made hereunder by the Authority or the Trustee shall be given or made in writing and shall be deemed to be properly given or made if sent by United States registered mail, return receipt requested, postage prepaid, addressed as follows:

(a) As to the Authority --

Fairfax County Economic Developmental Authority
8300 Boone Boulevard, Suite 450
Vienna, Virginia 22182
Attention: Executive Director

With a copy thereof sent to:

Thomas O. Lawson, Esq.
Lawson and Silek, P.L.C.
10805 Main Street, Suite 200
Fairfax, Virginia 22030

With a second copy sent to:

Fairfax County
12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Attention: County Executive

(b) As to the Trustee --

Attention:

(c) As to the County,

Fairfax County
12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Attention: County Executive

Any such notice, demand or request may also be transmitted to the appropriate above-mentioned party by telegram, facsimile transmission or telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

Any of such addresses may be changed at any time upon written notice of such change sent by United States registered mail, postage prepaid, to the other parties by the party effecting the change.

All documents received by the Trustee or the Authority under the provisions of this Trust Agreement, or photographic copies thereof, shall be retained in its possession until this Trust Agreement shall be released under the provisions of Section 1301 of this Trust Agreement, subject at all reasonable times to the inspection of the Authority and any Holder and the agents and representatives thereof.

Section 1405. Substitute Mailing. If, because of the temporary or permanent suspension of postal service, the Authority or the Bond Registrar shall be unable to mail any notice required to be given by the provisions of this Trust Agreement, the Authority or the Bond Registrar shall give notice in such other manner as in the judgment of the Authority or the Trustee or the Bond Registrar shall most effectively approximate mailing, and the giving of notice in such manner shall for all purposes of this Trust Agreement be deemed to be in compliance with the requirement for the mailing thereof.

Section 1406. Parties, Bond Registrar, and Holders Alone Have Rights under Agreement. Except as herein otherwise expressly provided, nothing in this Trust Agreement, express or implied, is intended or shall be construed to confer upon any person, firm or corporation, other than the Trustee, the Bond Registrar, the Authority and the Holders, any right, remedy or claim, legal or equitable, under or by reason of this Trust Agreement or any provision hereof, this Trust Agreement and all its provisions being intended to be and being for the sole and exclusive benefit of the Trustee, the Bond Registrar, the Authority and the Holders.

Section 1407. Effect of Partial Invalidity. In case any one or more of the provisions of this Trust Agreement or of the Bonds shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Trust Agreement or the Bonds, but this Trust Agreement and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained therein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or this Trust Agreement shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Authority to the full extent permitted by law.

Section 1408. Effect of Covenants. All covenants, stipulations, obligations and agreements of the Authority contained in this Trust Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the Authority to the full extent permitted by the Constitution and laws of the State. This Trust Agreement is adopted with the intent that the laws of the State shall govern its construction.

Section 1409. No Recourse Against Members, Officers or Employees of the Authority. No recourse under, or upon, any statement, obligation, covenant, or agreement contained in this Trust Agreement; or in any Bond hereby secured; or in any Supplemental Trust Agreement; or in any document or certification whatsoever; or under any judgment obtained against the Authority or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any member, officer or employee or agent of the Authority, as such, for the payment for or to, the Authority or any receiver of either of them, or for, or to, any Holder or otherwise, of any sum that may be due and unpaid upon any such Bond. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member, officer or employee, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for, or to, the Authority or any receiver of either of them, or for, or to, any Holder or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, is hereby expressly waived and released as an express condition of, and in consideration for, the execution of this Trust Agreement and the issuance of the Bonds.

Section 1410. Expenses Payable under Trust Agreement. All expenses incurred in carrying out this Trust Agreement shall be payable solely from funds derived by the Authority from the Trust Estate in accordance with the provisions of this Trust Agreement.

Section 1411. Dealing in Bonds. The Trustee, the Bond Registrar and any bank or trust company acting as Paying Agent under this Trust Agreement and its directors, officers, employees or agents, and any officer, employee or agent of the Authority or the County, may in good faith, buy, sell, own, hold and deal in any Bonds issued under the provisions of this Trust Agreement and may join in any action which any Holder may be entitled to take with like effect as if such bank or trust company were not the Trustee, the Bond Registrar or a Paying Agent under this Trust Agreement or as if such officer, employee or agent of the Authority or the County did not serve in such capacity.

Section 1412. Payments Due on Sundays and Holidays. Except as otherwise provided in a Supplemental Trust Agreement, in any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be a Sunday or a legal holiday or not a Business Day, then payment of interest or principal and premium, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption or the interest payment date and no interest on such payment shall accrue for the period after such date.

Section 1413. Taxable Bonds. The Authority may, if it so elects, issue one or more Series of Bonds the interest on which is (or may be) payable to the Holder as a whole or in part, subject directly or indirectly to federal income taxes so long as each Bond of such Series states in the body thereof that interest payable thereon is (or may be) subject to federal income taxation and provided that the issuance thereof will not cause the interest on any other Bonds theretofore issued hereunder to be or to become subject to federal income taxation.

Section 1414. Headings. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, shall be solely for

convenience of reference and shall not constitute a part of this Trust Agreement, nor shall they affect its meaning, construction or effect.

Section 1415. Further Authority. The officers of the Authority and other agents or employees of the Authority are hereby authorized to do all acts and things required of them by this Trust Agreement for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bonds and this Trust Agreement.

Section 1416. Agreement Effective. This Trust Agreement shall take effect immediately upon its execution and delivery.

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

_____

Chairman of the Fairfax County
Economic Development Authority, Virginia

(SEAL)

Attest:

_____

Secretary of the Fairfax
County Economic Development
Authority, Virginia

_____

_____

[FORM OF REQUISITION]

Exhibit A

_____
_____
_____

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY - Trust Agreement dated as of [_____ __, 20__] Fairfax County Metrorail Parking System Project Revenue Bonds Requisition from the Construction Account of the Construction Subfund

Project: [Dulles Rail Phase II Parking Facilities]

Requisition No. _____
("item number")

This requisition for payment from the [Metrorail Parking Projects Project Construction Subfund] is submitted in accordance with the provisions of the Trust Agreement dated as [____ __, 20__], between the Fairfax Economic Development Authority and you as Trustee. You are hereby notified that you are authorized and directed by the undersigned County Representative to reimburse the County or to pay directly the vendor/contractor from the [_____ Construction Account] for payment of the following obligation:

(i) The item number of such payment:

(ii) The name and address of the Vendor/Contractor to whom reimbursement or payment is due:

[Name]
[Address]

(iii) The amount[s] to be paid: $_____

(iv) Purpose by general classification for which such obligation was paid:

[To reimburse the County for costs of the _____ Project paid by the County through _____ 20_;][1] as follows:
_____

or [To pay the vendor/contractor for _____ in connection with the _____ _____ Project as follows:_____
_____]

[1] The County represents that a check has been issued. Such checks need not clear in order for the County to be reimbursed.

(v) A copy of each supporting [invoice, work order statement] for which reimbursement is sought is attached hereto.

(vi) All of which is hereby certified.

(vii) The required written instructions and officer's certificate (concerning the availability of funds to meet anticipated rebate liability) of an Authority Representative are separately submitted by an Authority Representative for a requisition from the account that includes the applicable Excess Earnings.

Dated _____

[Name]

By:

County Representative

[FORM OF REQUISITION]

Exhibit B

_____
_____
_____

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY - Trust Agreement dated as of [_____ __, 20__ Fairfax County Metrorail Parking System Project Revenue Bonds Requisition from the Costs of Issuance Account of the Construction Subfund

Project: Dulles Rail Phase II Parking Facilities]

Requisition No. _____
("item number")

This requisition for payment from the _____ Costs of Issuance Account of the Construction Subfund is submitted in accordance with the provisions of the Trust Agreement dated as of [_____ __, 20__], between the Fairfax Economic Development Authority and you as Trustee. You are hereby notified that you are authorized and directed by the undersigned Authority Representative to reimburse the Authority/County or to pay directly the vendor from the _____ Costs of Issuance Account for payment of the following obligation:

(i) The item number of such payment:

(ii) The name and address of the Authority/County/Vendor to whom reimbursement or payment is due:

[Name]
[Address]

(i) The amount[s] to be paid: $_____

(ii) Purpose by general classification for which such obligation was paid:

[To reimburse Authority/County for costs of the _____ Bonds paid by Authority/County through _____ 20_;] as follows: _____

or [To pay the vendor for _____ in connection with the _____ Bonds as follows:_____
_____]

(iii) A copy of each supporting invoice for which reimbursement is sought is attached hereto.

(iv) All of which is hereby certified.

Dated _____

[Name]

By:

County/Authority
Representative

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Establish the Old Columbia Pike Community Parking District (Mason District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix M of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish the Old Columbia Pike Community Parking District (CPD).

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for November 18, 2014, at 5:00 p.m. to consider adoption of a Fairfax County Code amendment (Attachment I) to establish the Old Columbia Pike CPD.

TIMING:
The Board of Supervisors should take action on October 28, 2014, to provide sufficient time for advertisement of the public hearing on November 18, 2014, at 5:00 p.m.

BACKGROUND:
Fairfax County Code Section 82-5B-2 authorizes the Board to establish a CPD for the purpose of prohibiting or restricting the parking of watercraft; boat trailers; motor homes; camping trailers and any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 on the streets in the CPD.

No such CPD shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power or (iii) restricted vehicles temporarily parked on a public street within any such CPD for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip or (iv) restricted vehicles that are temporarily

parked on a public street within any such CPD for use by federal, state, or local public agencies to provide services.

Pursuant to Fairfax County Code Section 82-5B-3, the Board may establish a CPD if: (1) the Board receives a petition requesting such an establishment and such petition contains the names, addresses, and signatures of petitioners who represent at least 60 percent of the addresses within the proposed CPD, and represent more than 50 percent of the eligible addresses on each block of the proposed CPD, (2) the proposed CPD includes an area in which 75 percent of each block within the proposed CPD is zoned, planned or developed as a residential area, (3) the Board receives an application fee of $10 for each petitioning property address in the proposed CPD, and (4) the proposed CPD must contain the lesser of (i) a minimum of five block faces or (ii) any number of blocks that front a minimum of 2,000 linear feet of street as measured by the centerline of each street within the CPD.

Staff has verified that the requirements for a petition-based CPD have been satisfied.

The parking prohibition identified above for the CPD is proposed to be in effect seven days per week, 24 hours per day.

FISCAL IMPACT:
The cost of sign installation is estimated at $850 to be paid out of Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:
Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)
Attachment II: Area Map of Proposed Old Columbia Pike CPD

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Division Chief, Capital Projects and Operations Division, FCDOT
Neil Freschman, Section Chief, Traffic Operations Section, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

REVISED

Attachment I

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

M-~~80~~ **83** Old Columbia Pike Community Parking District

(a) *District Designation*.

(1) The restricted parking area is designated as the Old Columbia Pike Community Parking District.

(2) Blocks included in the Old Columbia Pike Community Parking District are described below:

Old Columbia Pike (Route 712)

From the western boundary of 4500 Old Columbia Pike to the eastern boundary of 4308 Columbia Pike, north side only, and from Little River Turnpike to Elmdale Road, south side only.

(b) *District Provisions*.

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82.

(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 is prohibited at all times on the above-described streets within the Old Columbia Pike Community Parking District.

(3) No such Community Parking District shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power or (iii) restricted vehicles temporarily parked on a public street within any such District for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip or (iv)

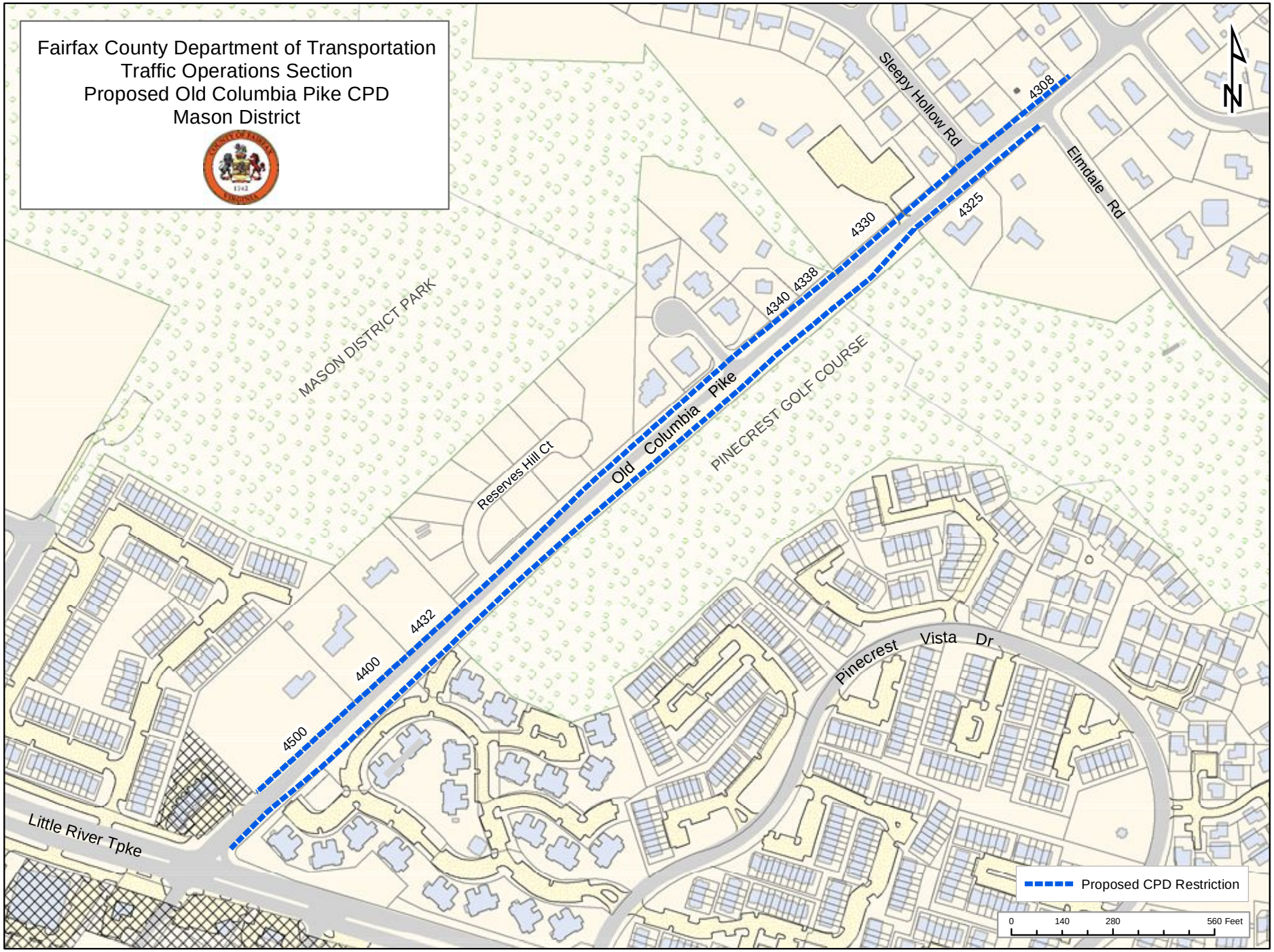
restricted vehicles that are temporarily parked on a public street within any such District for use by federal, state, or local public agencies to provide services.

(c) *Signs*. Signs delineating the Old Columbia Pike Community Parking District shall indicate community specific identification and/or directional information in addition to the following:

NO PARKING
Watercraft
Trailers, Motor Homes
Vehicles ≥ 3 Axles
Vehicles GVWR ≥ 12,000 lbs.
Vehicles ≥ 16 Passengers

FAIRFAX COUNTY CODE §82-5B

Attachment II



Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 9

Authorization to Advertise a Public Hearing on Proposed Amendments to the *Code of the County of Fairfax, Virginia* (Code) Regarding Adjustment of the Fees Charged by Land Development Services for Plan Review, Permits, and Inspection Services

ISSUE:
Adjustments to the fees charged for plan review, permits and inspection services in order to support Land Development Services' (LDS) efforts to enhance the land development review process.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the public hearing on the proposed amendments as set forth in the staff report dated October 28, 2014.

TIMING:
The Board is requested to take action on October 28, 2014, to provide sufficient time to advertise public hearings on November 12, 2014, before the Planning Commission and on December 2, 2014, before the Board of Supervisors, for the proposed amendments to become effective at 12:01 a.m. on January 1, 2015.

BACKGROUND:
The Department of Public Works and Environmental Services is proposing to adjust the LDS and Fire Prevention Division (Fire Marshal) fees for plan review, permits, and inspection services. The LDS fees were last increased in July, 2013 (FY 2014), by approximately 2.75% in line with the Consumer Price Index (CPI), with the exception of certain fees that remained unchanged due to rounding or because the existing fees adequately covered the actual costs of providing services. The Fire Marshall hourly rate fees were last increased in 2008 (FY 2009), from $96.00 per hour to $128.00 per hour, and fees for operational permits were increased in 2009 (FY 2010). At that time, the hourly rate fees were increased by approximately 33% and the fees for most operational permits contained in Chapter 62 of the County Code were increased by 25%. The fees were adjusted to cover the actual costs of providing services.

The July, 2013 (FY 2014) fee adjustment was in response to the Board's request in 2009 to regularly review and adjust LDS fees to avoid the large fee adjustments that were adopted in the past. The Board's request was based on input from industry representatives from the Northern Virginia Building Industry Association, the National Association of Industrial and Office Parks, and the Engineers & Surveyors Institute regarding the negative impact of large and unpredictable fee increases to land development projects.

Over the past two years, LDS has continued to review and control its costs. Although LDS has experienced an increase in revenue from the previous fee increase, LDS has also experienced an increase in costs primarily due to a rise in workload and associated expenses. There's been a rise in the number of permit applications and site and subdivision plans submitted to the County and increased complexity of plans. In addition, LDS is facing challenges due to the economic rebound, the implementation of new state and federal regulations, and the higher expectations of our customers for reduced review timeframes.

As a result, LDS is proposing a fee increase to the majority of its fees. The proposed fee increase will provide for additional staff resources to assist LDS and other regulatory agencies in improving customer service and work plan implementation efforts. Additionally, the fee increase will support minimum submission review for grading plans and tenant work, electronic plan submissions and other information technology initiatives, support an Enterprise Fund study and expand a fast track approach for tenant work.

The vetting process for the proposed amendment included meetings with industry representatives to discuss the proposed fee increases. During those meetings, representatives of the land development community did not express objections to the proposed increases which are thought to be fair and reasonable by staff and the development community. Below is a summary of the proposed amendments.

SUMMARY OF AMENDMENTS:

The proposed fee adjustments increase in the fees charged by LDS and the Fire Marshal's office. The proposed adjustments will assist LDS in efforts to improve the timeliness, quality and customer focus of the regulatory review process. In general, the fees will increase by approximately 20% with some fees increasing up to 21.9% due to rounding, with the following exceptions:

- The following fees remain constant because the existing fees adequately cover the actual costs or to minimize the impact to certain applicants: permit fees for

modular residential units; review of grading plans for building permits on existing lots that are not within a subdivision currently bonded with the County and parcels with lots of 5 acres or more; and the additional equipment fees related to vertical transportation lifts (elevators and escalators) permits remain constant (although the percentage of the contract value, used to calculate the permit fee, will increase).

- Pursuant to the current regulations and policies, no fee is charged to: (1) repair, replace, or otherwise re-construct a residential, commercial or industrial structure damaged as the result of a catastrophic event; (2) install solar energy equipment, replace defective sprinkler heads or construct radiation fallout or blast shelters; (3) review a recycling plan; (4) submit requests for exemptions under the Chesapeake Bay Preservation Ordinance; (5) submit requests for Director's approval to use an innovative water quality or detention facility; or (6) review second submission of site plans with public improvements only.

- Permit fees for amusement devices and carnival rides, will increase by as much as $50, in accordance with recent amendments to the Virginia Amusement Device Regulations (VADR). The specific fees currently listed in Appendix Q are being removed and replaced with a reference to the maximum fee in accordance with VADR.

- The electrical permit fees for generators and temporary wiring used exclusively with carnivals, fairs and other temporary amusement activities will be charged under the VADR, in accordance with recent amendments to the Virginia Uniform Statewide Building Code (USBC). The recent amendments to VADR now specify a maximum fee of $165 per event for such permits, which is less than the fees currently charged under the building code. The specific fees currently listed in Appendix Q are being removed and replaced with a reference to the maximum fee in accordance with VADR.

- Permit fees for discharges of stormwater from construction activities and the stormwater management/best management practices review fees, which became effective on July 1, 2014; are not being adjusted at this time.

- The Fire Marshal fees for plan review, inspection and testing and re-inspection are increasing by approximately 21.9%, from $128.00 per hour per reviewer or inspector to $156.00 per hour per reviewer or inspector. The proposed rate is evenly divisible by 4 in order to accommodate a fee of $39.00, when billed in ¼ hour increments.

The following editorial and other changes are being made to the fee schedule (Appendix Q). Please refer to Attachment A of the Staff Report for a copy of Appendix Q.

- Reformat the fee schedule to facilitate greater ease of document management. In general, the fee schedule has been reformatted to separate the numeric values that are embedded within the paragraph, designate the value when the permit fee amount is the "base fee", and reconfigure the tables.

- Revise the process for determining the building permit fee for Tenant Layouts to include the requirement that the applicant provide verifiable cost data in lieu of using a minimum construction cost, to align with current practice.

- Clarify that the permit fee is charged for ductwork, piping of equipment, or a combination of both, for use groups other than R-3, R-4 and R-5.

- Delete the mechanical permit fee for Automotive Lifts to align with recent amendments to the USBC that eliminated the permit.

- Modify the note referencing an allowance of a one-time reduction of the site inspection fee for agreement extensions to clarify current practice.

In addition, updates to Chapter 61 of the Code (Building Provisions) are being made to delete those fees that were relocated to Appendix Q under amendment #05-11-61, as adopted by the Board on April 12, 2011, and renumber paragraphs accordingly. A copy of the proposed changes to Chapter 61 is included as Attachment B to the Staff Report.

REGULATORY IMPACT:
The proposed fee amendments increase the fees charged by LDS for plan review, permits, and inspection services to support enhancements to the development review process. The proposed fees are necessary to allow LDS to apply staff resources where necessary to enhance customer service by improving the timeliness and quality of reviews, permits and inspections. Additional resources include a total of up to 28 positions in LDS and other agencies that support the land development process, as well as additional operating expenditures. Aside from the aforementioned fees that remain unchanged, the LDS and Fire Marshal fees will increase by approximately 20% with some variation due to rounding, the permit fees for amusement devices and carnival rides will increase in accordance with recent amendments to the VADR, and other fee related changes to align with recent amendments to state regulations and county policies. Editorial changes are also being made to the fee schedule.

Refer to Attachment A of the Staff Report for a copy of the proposed LDS Fee Schedule.
In addition, updates are being proposed to Chapter 61 (Building Provisions) to delete those fees that were relocated to Appendix Q under amendment #05-11-61, as adopted by the Board on April 12, 2011. A copy of the proposed changes to Chapter 61 is included as Attachment B to the Staff Report. All fees, if approved, shall become effective on January 1, 2015.

FISCAL IMPACT:
If adopted by the Board, it is anticipated that the proposed fee adjustments will generate increased revenue of approximately $2,144,933 in FY 2015. This revenue estimate is based on the FY 2014 actual revenue of $28.9 million and assumes that workload remains constant in FY 2015. It is anticipated that the proposed fee adjustments will generate increased revenue of approximately $5,147,840 in FY 2016. Any reduction in plan and permit activity may have a negative impact on the projected revenue. Staff in LDS will work in close coordination with the Department of Management and Budget to monitor these trends. The $2,144,933 in additional revenue will be reflected in the FY 2015 Revised Budget Plan. The $5,147,840 in additional revenue will be reflected in the County Executive's FY 2016 Advertised Budget Plan.

If adopted by the Board, it is anticipated that the proposed fee adjustments will be needed for the additional expenditure appropriations in FY 2015 and FY 2016. In FY 2015 personnel services will be increased by $1,585,536 to support the additional positions from the effective date of January 1, 2015 until June 30, 2015.The $1,585,536 in additional expenditures will be reflected in the County Executive's proposed *FY 2015 Third Quarter Review.*

In FY 2016, personnel services will be increased by $3,171,072 to support twenty-eight positions in LDS and other regulatory agencies. Operating expenditures will be increased by $946,495 and expenditures will total $4,117,567. The $4,117,567 in additional expenditures will be reflected in the County Executive's FY 2016 Advertised Budget Plan.

If the plan, permit and inspection workload is above and beyond the anticipated demand, LDS will utilize and increase contract services to provide plan and permit review, and inspection services to support the development review process.

Under the proposed fee increase, the developer's costs associated with plan and permit review and inspections, will increase by approximately 20%. If adopted, the additional revenue will be applied to increase staff and resources, and implement LDS work plan

improvements, which will improve efficiency and reduce regulatory review timeframes. It's expected that the additional costs to the developer will be offset by the reduced review times achieved by allowing the developer an opportunity to reduce their monthly carrying costs (e.g., mortgage) accrued during the overall project timeframe. Additionally, under the proposed amendment, there is no impact being proposed for the review of infill grading plans for single family residential development.

ENCLOSED DOCUMENTS:
Attachment I - Staff Report

STAFF:
Robert A. Stalzer, Deputy County Executive
James Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Audrey Clark, Acting Director, Land Development Services, DPWES
Chief Michael Reilly, Deputy Chief, Fire Prevention Division

Attachment I

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

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

Proposed Amendments to the *Code of the County of Fairfax, Virginia* Regarding Adjustment of the Fees Charged by Land Development Services, Department of Public Works and Environmental Services, for Plan Review, Permits, and Inspection Services.

Authorization to Advertise	October 28, 2014
Planning Commission Hearing	November 12, 2014
Board of Supervisors Hearing	December 2, 2014, 5:00 PM

Prepared by: Site Code Research and Development Branch
JBS (703) 324-1780

October 28, 2014

STAFF REPORT

A. Issue:

Adjustments to the fees charged for plan review, permits, and inspection services in order to support Land Development Services' (LDS's) and other regulatory agencies' efforts to enhance the land development review process.

B. Recommended Action:

Staff recommends that the Board of Supervisors adopt the proposed amendments to Chapter 61 and Appendix Q of the *Code of the County of Fairfax, Virginia* (County Code), with an effective date of 12:01 A.M. on January 1, 2015.

C. Timing:

Board of Supervisors' authorization to advertise – October 28, 2014
Planning Commission Public Hearing – November 12, 2014
Board of Supervisors Public Hearing – December 2, 2014, at 5:00 p.m.

D. Source:

Department of Public Works and Environmental Services (DPWES)

E. Coordination:

The proposed amendments were prepared by DPWES and coordinated with the Department of Management and Budget, Department of Planning and Zoning, Fairfax County Fire and Rescue Department Fire Prevention Division (Fire Marshal) and the Office of the County Attorney.

F. Background:

The Department of Public Works and Environmental Services is proposing to adjust the LDS and Fire Prevention Division (Fire Marshal) fees for plan review, permits, and inspection services. LDS fees were last increased in July, 2013 (FY 2014). At that time, the LDS fees were increased by approximately 2.75% in line with the Consumer Price Index (CPI), with the exception of certain fees that remained unchanged due to rounding or because the existing fees adequately covered the actual costs of providing services. The Fire Marshall hourly rate fees were last increased in 2008 (FY 2009), from $96.00 per hour to $128.00 per hour, and fees for operational permits were increased in 2009 (FY 2010). At that time, the hourly rate fees were increased by approximately 33% and the fees for most operational permits contained in Chapter 62 of the County Code were increased by 25%. The fees were adjusted to cover the actual costs of providing services.

The July, 2013 (FY 2014) fee adjustment was in response to the Board's request in 2009 to regularly review and adjust LDS fees to avoid the large fee adjustments that were adopted in the past. The Board's request was based on input from industry representatives from the Northern Virginia Building Industry Association, the National Association of Industrial and Office Parks, and the Engineers & Surveyors Institute regarding the negative impact of large and unpredictable fee increases to land development projects.

Over the past two years, LDS has continued to review and control its costs. Although LDS has experienced an increase in revenue from the previous fee increase, LDS has also experienced an increase in costs primarily due to a rise in workload and associated expenses. There's been a rise in the number of permit applications and site and subdivision plans submitted to the County and increased complexity of plans. In addition, LDS is facing challenges due to the economic rebound, the implementation of new state and federal regulations, and the higher expectations of our customers for reduced review timeframes.

As a result, LDS is proposing a fee increase to the majority of its fees. The proposed fee increase will provide for additional staff resources to assist LDS and other regulatory agencies in improving customer service and work plan implementation efforts. Additionally, the fee increase will support minimum submission review for grading plans and tenant layouts, electronic plan submissions and other information technology initiatives, support an Enterprise Fund study, and expand a fast track approach for tenant layout permits.

The vetting process for the proposed amendment included meetings with industry representatives to discuss the proposed fee increases. During those meetings, representatives of the land development community did not express objections to the proposed increases which are thought to be fair and reasonable by staff and the development community. Below is a summary of the proposed amendments.

G. Proposed Amendments:

The proposed fee adjustments increase in the fees charged by LDS. The proposed adjustments will assist LDS in efforts to improve the timeliness, quality and customer focus of the regulatory review process. In general, the fees will increase by approximately 20.0%, with some fees increasing by up to 21.9% due to rounding, with the following exceptions:

- The following fees remain constant because the existing fees adequately cover the actual costs or to minimize the impact to certain applicants: permit fees for modular residential units; review of grading plans for building permits on existing lots that are not within a subdivision currently bonded with the County and parcels with lots of 5 acres or more; and the additional equipment fees related to vertical transportation lifts (elevators and escalators) permits

remain constant (although the percentage of the contract value, used to calculate the permit fee, will increase).

- Pursuant to the current regulations and policies, no fee is charged to: (1) repair, replace, or otherwise re-construct a residential, commercial or industrial structure damaged as the result of a catastrophic event; (2) install solar energy equipment, replace defective sprinkler heads or construct radiation fallout or blast shelters; (3) review a recycling plan; (4) submit requests for exemptions under the Chesapeake Bay Preservation Ordinance; (5) submit requests for Director's approval to use an innovative water quality or detention facility; or (6) review second submission of site plans with public improvements only.

- Permit fees for amusement devices and carnival rides, will increase by as much as $50, in accordance with recent amendments to the Virginia Amusement Device Regulations (VADR). The specific fees currently listed in Appendix Q are being removed and replaced with a reference to the maximum fee in accordance with VADR.

- The electrical permit fees for generators and temporary wiring used exclusively with carnivals, fairs and other temporary amusement activities will be charged under the VADR, in accordance with recent amendments to the Virginia Uniform Statewide Building Code (USBC). The recent amendments to VADR now specify a maximum fee of $165 per event for such permits, which is less than the fees currently charged under the building code. The specific fees currently listed in Appendix Q are being removed and replaced with a reference to the maximum fee in accordance with VADR.

- Permit fees for discharges of stormwater from construction activities and the stormwater management/best management practices review fees, which became effective on July 1, 2014; are not being adjusted at this time.

- The Fire Marshal fees for plan review, inspection and testing and re-inspection are increasing by approximately 21.9%, from $128.00 per hour per reviewer or inspector to $156.00 per hour per reviewer or inspector. The proposed rate is evenly divisible by 4 in order to accommodate a fee of $39.00, when billed in ¼ hour increments.

The following editorial and other changes are being made to the fee schedule (Appendix Q). Please refer to Attachment A for a copy of Appendix Q.

- Reformat the fee schedule to facilitate greater ease of document management. In general, the fee schedule has been reformatted to separate the numeric values that are embedded within the paragraph, designate the value when the permit fee amount is the "base fee", and reconfigure the tables.

- Revise the process for determining the building permit fee for Tenant Layouts to include the requirement that the applicant provide verifiable cost data in lieu of using a minimum construction cost, to align with current practice.

- Clarify that the permit fee is charged for ductwork, piping of equipment, or a combination of both, for use groups other than R-3, R-4 and R-5.

- Delete the mechanical permit fee for Automotive Lifts to align with recent amendments to the USBC that eliminated the permit.

- Modify the note referencing an allowance of a one-time reduction of the site inspection fee for agreement extensions to clarify current practice.

In addition, updates to Chapter 61 of the Code (Building Provisions) are being made to delete those fees that were relocated to Appendix Q under amendment #05-11-61, as adopted by the Board on April 12, 2011, and renumber paragraphs accordingly. A copy of the proposed changes to Chapter 61 is included as Attachment B.

H. Regulatory Impact:

The proposed fee amendments increase the fees charged by LDS for plan review, permits, and inspection services to support enhancements to the development review process. The proposed fees are necessary to allow LDS to apply staff resources where necessary to enhance customer service by improving the timeliness and quality of reviews, permits and inspections. Additional resources include a total of up to 28 positions in LDS and other agencies that support the land development process, as well as additional operating expenditures. Aside from the aforementioned fees that remain unchanged, the LDS and Fire Marshal fees will increase by approximately 20.0%, with some variation due to rounding, the permit fees for amusement devices and carnival rides will increase in accordance with recent amendments to the VADR, and other fee related changes to align with recent amendments to state regulations and county policies. Editorial changes are also being made to the fee schedule. Refer to Attachment A for a copy of the proposed LDS Fee Schedule.

In addition, updates are being proposed to Chapter 61 (Building Provisions) to delete those fees that were relocated to Appendix Q under amendment #05-11-61, as adopted by the Board on April 12, 2011. A copy of the proposed changes to Chapter 61 is included as Attachment B. All fees, if approved, shall become effective on January 1, 2015.

I. Fiscal Impact:

If adopted by the Board, it is anticipated that the proposed fee adjustments will generate increased revenue of approximately $2,144,933 in FY 2015. This revenue estimate is based on the FY 2014 actual revenue of $28.9 million and assumes that workload remains constant in FY 2015. It is anticipated that the proposed fee adjustments will generate increased revenue of approximately $5,147,840 in FY 2016. Any reduction in plan and permit activity may have a negative impact on the projected revenue. Staff in LDS will work in close coordination with the Department of Management and Budget to monitor these trends. The $2,144,933 in additional revenue will be reflected in the FY 2015 Revised Budget Plan. The $5,147,840 in additional revenue will be reflected in the County Executive's FY 2016 Advertised Budget Plan.

If adopted by the Board, it is anticipated that the proposed fee adjustments will be needed for the additional expenditure appropriations in FY 2015 and FY 2016. In FY 2015 personnel services will be increased by $1,585,536 to support the additional positions from the effective date of January 1, 2015 until June 30, 2015.The $1,585,536 in additional expenditures will be reflected in the County Executive's proposed *FY 2015 Third Quarter Review*.

In FY 2016, personnel services will be increased by $3,171,072 to support twenty-eight positions in LDS and other regulatory agencies. Operating expenditures will be increased by $946,495 and expenditures will total $4,117,567. The $4,117,567 in additional expenditures will be reflected in the County Executive's FY 2016 Advertised Budget Plan.

If the plan, permit and inspection workload is above and beyond the projected demand, LDS will utilize and increase contract services to provide plan and permit review, and inspection services to support the development review process.

Under the proposed fee increase, the developer's costs associated with plan and permit review and inspections, will increase by approximately 20%. If adopted, the additional revenue will be applied to increase staff and resources, and implement LDS work plan improvements, which will improve efficiency and reduce regulatory review timeframes. It's expected that the additional costs to the developer will be offset by the reduced review times achieved by allowing the developer an opportunity to reduce their monthly carrying costs (e.g., mortgage) accrued during the overall project timeframe. Additionally, under the proposed amendment, there is no impact being proposed for the review of infill grading plans for single family residential development.

Attachments:

Attachment A: Proposed Amendments to the LDS Fee Schedule
Attachment B: Proposed Amendments to Chapter 61

		Current	Proposed
Appendix Q - Land Development Services Fee Schedule			
This fee schedule establishes the fees charged, by Land Development Services, Department of Public Works and Environmental Services and the Fire Marshal, for building and site development activities pursuant to the authority granted by §§ 15.2-2241(A) (9), 15.2-2286(A)(6), ~~10.1-562(I)~~ 62.1-44.15:54(J), 36-98.3, 36-105 ~~(A), 10.1-603.4~~, 62.1-44.15:28(A) and ~~10.1-603.4:1~~ 62.1-44.15:29 of the Code of Virginia and Chapters 2 (Property Under County Control), 61 (Building Provisions), 64 (Mechanical Provisions), 65 (Plumbing and Gas Provisions), 66 (Electrical Provisions), 101 (Subdivision Ordinance), 104 (Erosion and Sediment Control Ordinance), 112 (Zoning Ordinance), and 124 (Stormwater Management Ordinance) of the Code of the County of Fairfax, Virginia (the Code).			
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		Current	Proposed
I. BUILDING DEVELOPMENT FEES			
The following building development fees to cover the cost of reviewing plans, issuing permits, performing inspections, licensing, home improvement contractors and other expenses incidental to the enforcement of the Uniform Statewide Building Code, (USBC) and Chapters 61, 64, 65 and 66 of the Code are hereby adopted:			
A: STANDARD FEES			
Listed below are standard fees that apply to building, mechanical, electrical, plumbing, fire alarm, fire suppression and fire lane permits. The fees shall apply provided all of the applicable conditions set forth in § 61-1-3 of the Code are met.			
1. Base fee: The minimum fee charged for any permit. A reduced fee shall apply as noted below.		~~$90.00~~	$108.00
2. Reduced fees:			
• Multiple permits, per unit		~~$30.00~~	$36.00
• Fee for permits requiring no inspections		~~$30.00~~	$36.00
• Casualty Permits		$0.00	$0.00
3. After-hours inspection fee for each 30 minute period or fraction thereof		~~$201.00~~	$241.20
4. Amendment of permit • The fee shall be ~~$30.00~~ the fee for any equipment added or the fee for any additional work involved, whichever fee is greater. In no case shall the fee be less than:			$36.00
5. Annual permit fee	Same as Base Fee		$108.00
6. Asbestos removal/abatement	Same as Base Fee		$108.00
7. Re-inspection fee	Same as Base Fee		$108.00
8. Team inspections			
• Fee if all disciplines (i.e. building, electrical, plumbing, mechanical and/or the Fire Marshal) are involved in inspections		~~$423.00~~	$507.60
• Fee paid for each discipline taking part in the inspection, should the inspections not involve all disciplines		~~$90.00~~	$108.00
9. Modular residential units, including manufactured homes	~~50%~~ Percentage of the regular permit fee		50.00%
10. Non-permitted work		~~$90.00~~	$108.00
11. Permit extensions: Permit authorizing construction of:			
• Interior alteration to an existing building		~~$30.00~~	$36.00
• An addition(s) or exterior alteration(s) to an existing residential structure (R-3, R-4 and R-5 construction)		~~$30.00~~	$36.00
• An accessory structure(s) on a residential property (R-3, R-4 and R-5 construction)		~~$30.00~~	$36.00
• A new structure (other than noted above)		~~$201.00~~	$241.20
• An addition(s) to a non-residential structure		~~$201.00~~	$241.20
12. Replacement of defective sprinkler heads		$0.00	$0.00
13. Radiation, fallout or blast shelter		$0.00	$0.00
14. Solar Energy		$0.00	$0.00

		Current	Proposed
B. BUILDING PERMIT AND OTHER FEES			
(A) *New Buildings, Additions or Enlargements*: The fee for construction of a new building, or an addition or an enlargement to an existing building shall be based on the following:			
1. Except as noted in subsection 2 below, the fee for the construction of a new building, an addition or an enlargement shall be based on the area (as determined by the exterior dimension) of all floors, including basements or cellars and horizontally projected roof areas, for the following types of construction as defined in the USBC in effect, and specified in Table I below.			
2. New single family detached dwellings and townhouses: The fee for construction of a new single family detached dwelling or townhouse shall be based on Table I, or as determined by the permit applicant, on Table IIA for a new single family detached dwelling or Table IIB for a new townhouse. The square footage area reflected in Table IIA and Table IIB is to be calculated pursuant to American National Standard Institute, Inc. (ANSI) Standard Z765-2003 or its equivalent and based on the total area of the building's finished floor areas.			
TABLE I			
Residential Fees			
Type IA, and IB, per square foot		~~$0.180~~	$0.216
Type IIA, IIIA and IV, per square foot		~~$0.141~~	$0.169
Type IIB, IIIB and VA, per square foot		~~$0.095~~	$0.114
Type VB, per square foot		~~$0.095~~	$0.114
Commercial Fee			
Type IA, and IB, per square foot		~~$0.180~~	$0.216
Type IIA, IIIA and IV, per square foot		~~$0.141~~	$0.169
Type IIB, IIIB and VA, per square foot		~~$0.141~~	$0.169
Type VB, per square foot		~~$0.141~~	$0.169
TABLE IIA			
SINGLE FAMILY DETACHED DWELLINGS			
SFD A:	1 to 3,849 square feet	~~$470.00~~	$564.00
SFD B:	3,850 to 5,949 square feet	~~$710.00~~	$852.00
SFD C:	5,950 to 8,399 square feet	~~$985.00~~	$1,182.00
SFD D:	8,400 to 13,999 square feet	~~$1,440.00~~	$1,728.00
SFD E:	14,000 to 20,000 square feet	~~$2,435.00~~	$2,922.00
	Above 20,000 square feet	Use Table I	Use Table I
TABLE IIB TOWNHOUSES			
TH A:	1 to 2,249 square feet	~~$244.00~~	$292.80
TH B:	2,250 to 3,749 square feet	~~$386.00~~	$463.20
TH C:	3,750 + square feet	~~$630.00~~	$756.00
(B) Plan Resubmissions: A fee per plan review discipline (i.e. building, electrical, mechanical or plumbing) may be assessed for each resubmission of plans.			
• For all new commercial buildings and additions to existing commercial buildings		~~$170.00~~	$204.00
• For all new residential buildings and additions to existing residential buildings	Same as Base Fee		$108.00

		Current	Proposed
• For each resubmission of plans for alterations to existing commercial buildings	Same as Base Fee		$108.00
(C) New Structure: The fee for erection or installation of structures other than buildings (e.g. signs, retaining walls, canopies)			
• For structures accessory to R-3, R-4 and R-5 construction	~~2.00%~~ Percentage of the estimated cost of work		2.40%
• For other structures	~~3.4%~~ Percentage of the estimated cost of work		4.10%
(D) Basement Finishing (R-3, R-4 and R-5 construction)	Same as Base Fee		$108.00
(E) Demolition:			
• Entire Structure: The fee for a permit to demolish a structure	Same as Base Fee		$108.00
• Partial Demolition for renovation: The fee for a permit to partially demolish a structure in preparation for renovation	~~2%~~ Percentage of Estimated Cost of Demolition		2.40%
(F) Filing Fees for Permit Application and Plans Examination (does not apply to Fire Prevention Division fees for fire alarm, fire suppression and fire lane permits): To allow for permit application processing and plan examination in the event a building permit is not issued, the following fees shall be paid prior to plan review for such a permit.			
• For non-walk-through single-family residential projects	~~50%~~ Percentage of the permit fee		50.00%
• For all commercial work, apartment buildings, garden apartments, and high rise residential buildings	~~35%~~ Percentage of the permit fee		35.00%
• For walk-through residential projects	~~100%~~ Percentage of the permit fee		100.00%
(G) Home Improvements: See applicable fees for new buildings, additions, enlargements, repairs and alterations.			
(H) Modular Furniture: The fee for the installation of modular furniture per floor or portion thereof when:			
• The estimated cost of construction is $10,000 ~~of~~ or more		~~$339.00~~	$406.80
• The estimated cost of construction is less than $10,000	~~3.4%~~ Percentage of the estimated cost of construction		4.10%
	with a minimum fee of	~~$148.00~~	$177.60
(I) Partitions:	Same as Base fee		$108.00
(J) Removal and Relocation: The fee shall be based on a percentage of the cost of moving, plus a percentage of the cost of all work necessary to place the building or structure in its completed condition in the new location.	~~2.00%~~ Percentage of the cost of moving ~~+~~plus		2.40%
	~~2.00%~~ Percentage of the cost of work		2.40%

		Current	Proposed
(K) Repairs and Alterations: The fees for repairs and alterations of any building or structure where there is no addition or enlargement:			
• For commercial work	~~3.4%~~ Percentage of the estimated cost of work		4.10%
• For residential work (R-3, R-4, R-5 construction)	~~2.00%~~ Percentage of the estimated cost of work		2.40%
(L) Roof Repairs, New Roof Structures, Re-siding: Fees for repairs and alterations apply.			
(M) Swimming Pool: The fee for a building permit to construct a swimming pool.		~~$133.00~~	$159.60
(N) Temporary Structures	Same as Base Fee		$108.00
(O) Tenant Layouts:			
Except for those tenant layouts shown on the originally approved plans for a new building, separate building permits shall be required for each tenant layout. The fee shall be based on a percentage of the estimated cost of work. ~~A minimum construction cost of $15,000 shall be used to determine the permit fee.~~		~~3.4%~~ Percentage of the estimated cost of work	4.10%
~~If t~~The permittee ~~is able to prove through~~ must provide verifiable cost data ~~that~~ of the cost of construction ~~is less than $15,000, the permit fee shall be prorated accordingly.~~			
In no case, shall the permit fee be less than ~~$340.00.~~:			$408.00
Fee per plan review discipline for each resubmission of plans for alterations to existing commercial buildings	Same as Base Fee		$108.00
(P) Home Improvement Contractor License Fees:			
All contractor application and license fees are charged per individual for a sole proprietorship, per general partner for a partnership, or per corporate officer for a corporation.			
• Application processing fee		~~$86.00~~	$103.20
• Fee of license issuance		~~$53.00~~	$63.60
• Fee to renew expired license, in addition to license renewal fee*		~~$51.00~~	$61.20
• Fee to renew license		~~$71.00~~	$85.20
• Fee to maintain license in inactive state		~~$25.00~~	$30.00
*The fee to renew expired license. The Building Official or his designee has the authority to waive the penalty fee when the failure to renew a license is due to circumstances beyond the control of the licensee.			

		Current	Proposed
C: MECHANICAL PERMIT FEES			
(A) Mechanical Equipment Installation Fees: The permit fee for installation, repair, or replacement of all mechanical equipment installed in buildings other than within individual residences. This fee is in addition to the equipment fees listed below in this section.	~~2.00%~~ Percentage of the contract value less the value of listed equipment		2.40%
~~1. Automotive Lift~~		~~$101.00~~	
~~2~~1. Boilers:			
• Hot water heating to 200 MBH		~~$96.00~~	$115.20
▪ For each additional 100 MBH or fraction thereof		~~$14.85~~	$17.82
• Hot water storage tank		~~$96.00~~	$115.20
• Hot water supply to 500 MBH		~~$96.00~~	$115.20
▪ For each additional 500 MBH or fraction thereof		~~$14.85~~	$17.82
• Low-pressure steam to 200 MBH		~~$96.00~~	$115.20
▪ For each additional 100 MBH		~~$14.85~~	$17.82
• Indirect hot water heater		~~$96.00~~	$115.20
• Miniature		~~$121.00~~	$145.20
• Power		~~$121.00~~	$145.20
▪ Plus per boiler hp		~~$1.80~~	$2.16
~~3~~2. Crematorium		~~$146.00~~	$175.20
~~4~~3. Dumbwaiters	See Vertical Transportation		
~~5~~4. Elevators	See Vertical Transportation		
~~6~~5. Expansion tank		~~$96.00~~	$115.20
~~7~~6. Escalator	See Vertical Transportation		
~~8~~7. Furnaces:			
• Central heating up to 200 MBH		~~$39.20~~	$47.04
▪ Each additional 100 MBH or fraction thereof		~~$10.75~~	$12.90
• Duct-furnace up to 200 MBH		~~$24.35~~	$29.22
▪ Each additional 100 MBH or fraction thereof		~~$10.75~~	$12.90
• Oil and solid fuel furnace up to 220 MBH input		~~$39.20~~	$47.04
▪ Each additional 100 MBH or fraction thereof		~~$10.75~~	$12.90
• Electric furnace up to 30 KW		~~$39.20~~	$47.04
▪ Each additional 30 KWS or fraction there of		~~$5.55~~	$6.66
~~9~~8. Halon system	Same as Base Fee		$108.00
~~10~~9. Heat pump:			
• Up to 5 tons		~~$48.75~~	$58.50
▪ Each additional ton		~~$1.80~~	$2.16
• Auxiliary heat up to 100 MBH		~~$39.20~~	$47.04
▪ Each additional 100 MBH		~~$5.55~~	$6.66
• Incremental heating and air conditioning units per unit. This fee applies to heating and air conditioning units installed with boilers chillers and water towers in a building.		~~$11.30~~	$13.56
~~11~~10. Incinerator: • Per 100 lbs. per hour burning rate or fraction thereof		~~$48.75~~	$58.50
~~12~~11. Manlift	See Vertical Transportation		
~~13~~12 Oil burner (conversion to or replacement of oil burner):			
• Light oils – No. 1, 2 or 4		~~$48.75~~	$58.50

		Current	Proposed
• Heavy oils – No. 5 or 6		~~$59.35~~	$71.22
~~14~~13. Ductwork~~,~~ and/or Piping of equipment: The fee for ~~all~~ ductwork and/or piping of equipment for use groups other than R-3, R-4, and R-5.	~~2.00%~~ Percentage of the total contract value		2.40%
~~15~~14. Porch lift, handicapped/wheel chair lift, hand elevator	See Vertical Transportation		
~~16~~15. Prefab chimney		~~$24.35~~	$29.22
~~17~~16. Prefab fireplace, with or without prefab chimney		~~$24.35~~	$29.22
~~18~~17. Pump, circulating		~~$48.75~~	$58.50
~~19~~18. Range hood fire protection system: Range hood only is charged as ductwork	Same as Base Fee		$108.00
~~20~~19. Refrigeration (including but not limited to chillers, air conditioning units and cooling towers):			
• Refrigeration and refrigeration cycle of air conditioning systems up to 5 tons		~~$48.75~~	$58.50
▪ Each additional refrigeration ton or fraction thereof		~~$1.80~~	$2.16
~~21~~20. Sidewalk elevators	See Vertical Transportation		
~~22~~21. Space heater	See Unit Heater		
~~23~~22. Tanks (Above ground or underground tanks for hazardous or non-hazardous liquids, oil gas and propane):			
• Commercial	Same as Base Fee		$108.00
• Residential (R-3, R-4 and R-5 occupancies)	Same as Base Fee		$108.00
• Unfired pressure vessel (Air compressor receiving tank)		~~$96.00~~	$115.20
~~24~~23. Unit heater:			
• Gas and oil up to 500 MBH input		~~$24.35~~	$29.22
▪ For each additional 100 MBH input or fraction thereof		~~$5.65~~	$6.78
• Electrical up to 147 KW		~~$24.35~~	$29.22
▪ Each additional 30 KW or fraction thereof		~~$5.65~~	$6.78
• Woodstove, with or without prefab chimney		~~$10.90~~	$13.08
(B) Periodic Mechanical Inspection Fee:			
• Boilers			
▪ Hot water heating			
♦ 0-1000 MBH		~~$96.00~~	$115.20
♦ 1001-2000 MBH		~~$121.00~~	$145.20
♦ Over 2000 MBH		~~$146.00~~	$175.20
▪ Hot water supply		~~$96.00~~	$115.20
▪ Miniature		~~$121.00~~	$145.20
▪ Power			
♦ 0-100 HP		~~$146.00~~	$175.20
♦ 101-500 HP		~~$170.00~~	$204.00
♦ 501-1000 HP		~~$196.00~~	$235.20
♦ Over 1000 HP		~~$217.00~~	$260.40
▪ Steam			
♦ 0-1000 P/H		~~$128.00~~	$153.60
♦ 1001-2000 P/H		~~$146.00~~	$175.20
♦ 2001-4000 P/H		~~$170.00~~	$204.00
♦ Over 4000 P/H		~~$196.00~~	$235.20
• Hydrostatic test		~~$173.00~~	$207.60
• Incinerator			
▪ Up to 100 pounds		~~$101.00~~	$121.20
▪ Over 100 pounds		~~$154.00~~	$184.80

		Current	Proposed
• Range hood fire protection system.			
▪ Range hood is only charged as ductwork.		~~$96.00~~	$115.20
• Halon system		~~$96.00~~	$115.20
• Refrigeration system		~~$146.00~~	$175.20
• Unfired pressure vessel			
▪ With manhole		~~$146.00~~	$175.20
▪ Without manhole		~~$96.00~~	$115.20
D: ELECTRICAL PERMIT FEES			
(A) Electrical Equipment Installation Fees:			
Fees for the initial construction of new dwelling units in R-2, R-3, R-4 and R-5 use groups. The fees include the initial installation of equipment listed on the electrical permit application that includes the main electrical service for the dwelling. Any equipment installed pursuant to other electrical permit applications shall be charged in accordance with the fees prescribed in (B) below.			
1. Electrical service size:			
• 0-149 amps		~~$200.00~~	$240.00
• 150-399 amps		~~$212.00~~	$254.40
• 400 amps		~~$292.00~~	$350.40
• More than 400 amps-Use itemized fees in (B) below	See note		
(B) Electrical Equipment Installation Fees:			
1. Appliances, residential: Includes direct-wired appliances installed in dwelling units such as air cleaners, attic fans, central vacuums, dishwashers, disposals, clothes dryers, ovens, ranges or stoves, trash compactors and water heaters:			
• First appliance		~~$10.75~~	$12.90
▪ Each additional appliance		~~$5.65~~	$6.78
Receptacles for individual appliances installed in lieu of the appliance shall be charged at the same rate as if the appliance were installed.			
2. Circuits, new (Extensions are counted as circuits), each		~~$1.80~~	$2.16
3. Control wiring: Wiring less than 50 volts when penetrating fire rated assemblies, smoke barriers and non-combustible plenums (e.g. telephone wiring, television wiring, burglary/security systems, fire alarm systems, etc.)	Same as Base Fee		$108.00
4. Dental chairs		~~$10.75~~	$12.90
5. Electrical equipment rated by kilowatts (KW) to include space, baseboard and central heat, and commercial cooking units, water heaters, dishwashers, dryers, etc.:			
• 0 to 4 KW		~~$14.85~~	$17.82
▪ Each additional unit in this range		~~$5.65~~	$6.78
• 4 to 6 KW		~~$18.00~~	$21.60
▪ Each additional unit in this range		~~$10.75~~	$12.90
• 6 to 8 KW		~~$22.60~~	$27.12
▪ Each additional unit in this range		~~$14.85~~	$17.82
• 8 to 10 KW		~~$28.25~~	$33.90
▪ Each additional unit in this range		~~$18.00~~	$21.60
• 10 to 14 KW		~~$32.90~~	$39.48
▪ Each additional unit in this range		~~$22.60~~	$27.12
• 14 to 20 KW		~~$36.75~~	$44.10
▪ Each additional unit in this range		~~$28.25~~	$33.90
• 20 to 25 KW		~~$41.30~~	$49.56

		Current	Proposed
▪ Each additional unit in this range		~~$32.90~~	$39.48
• Over 25 KW		~~$45.45~~	$54.54
▪ Each additional unit in this range		~~$36.75~~	$44.10
6. Fan coil units		~~$5.65~~	$6.78
7. Fixtures, switches and receptacles, etc.:			
• First 10 or fraction thereof		~~$10.75~~	$12.90
▪ Each additional 10 or fraction thereof		~~$7.25~~	$8.70
8. Gasoline pumps: Submerged	Fee shall be the same as for motors		
9. Gasoline island pumps or dispensers:			
• First		~~$10.75~~	$12.90
▪ Each additional, each		~~$7.25~~	$8.70
10. Generators: (does not apply to generators used with amusement devices)			
• 0 to 5 KW		~~$24.35~~	$29.22
• Over 5 to 25 KW		~~$29.95~~	$35.94
• Over 25 to 35 KW		~~$39.20~~	$47.04
• Over 35 to 50 KW		~~$47.70~~	$57.24
• Over 50 KW		~~$73.00~~	$87.60
11. Heating and air conditioning – gas and oil:			
• Residential furnace – gas/oil or air conditioning			
▪ First unit		~~$14.85~~	$17.82
▪ Each additional unit		~~$5.65~~	$6.78
• Commercial furnace	See Motors		
12. Motors and electrical equipment rated horsepower (hp) to include commercial heating, cooling and ventilating equipment. On package equipment, such as pumps and commercial air handlers, fans, compressors and disposals, each motor shall be charged separately:			
• 1/8 horsepower or less	Charged as Fixtures		
• Over 1/8 to 1 hp			
▪ First		~~$14.85~~	$17.82
▪ Each additional motor		~~$5.65~~	$6.78
• Over 1 to 5 hp			
▪ First		~~$18.00~~	$21.60
▪ Each additional motor		~~$5.65~~	$6.78
• Over 5 to 10 hp			
▪ First		~~$24.50~~	$29.40
▪ Each additional motor		~~$10.75~~	$12.90
• Over 10 to 20 hp			
▪ First		~~$29.95~~	$35.94
▪ Each additional motor		~~$14.85~~	$17.82
• Over 20 to 30 hp			
▪ First		~~$34.40~~	$41.28
▪ Each additional motor		~~$18.00~~	$21.60
• Over 30 to 40 hp			
▪ First		~~$44.80~~	$53.76
▪ Each additional motor		~~$29.95~~	$35.94
• Over 40 to 50 hp			
▪ First		~~$53.00~~	$63.60
▪ Each additional motor		~~$38.50~~	$46.20

		Current	Proposed
• Over 50 hp			
▪ First		~~$64.00~~	$76.80
▪ Each additional motor		~~$48.75~~	$58.50
13. Parking lot lighting:			
• First pole		~~$10.75~~	$12.90
▪ Each additional		~~$5.65~~	$6.78
14. Services:			
• New or replacement, subservices, subpanels, submeters or meters for separate occupancies:			
▪ 0 to 800 amp		~~$50.00~~	$60.00
▪ Over 800 amp		~~$73.00~~	$87.60
• Temporary service on structures for construction of temporary or permanent service			
▪ 0 to 800 amp		~~$50.00~~	$60.00
▪ Over 800 amp		~~$73.00~~	$87.60
Circuits, fixtures, receptacles and equipment to be charged for under the circuit fixture and motor schedule			
15. Signs:			
• Fluorescent, each sign			
▪ 1 to 4 tubes		~~$14.85~~	$17.82
▪ Each additional 4 tubes or fraction thereof		~~$10.75~~	$12.90
• Incandescent, each sign		~~$14.85~~	$17.82
• Neon, each sign			
▪ First transformer		~~$14.85~~	$17.82
▪ Each additional transformer		~~$5.65~~	$6.78
16. Swimming pools, annual inspections fees:			
• Includes two inspections			
Fee must be paid before inspections will be performed. Additional inspections will require payment of re-inspection fee.		~~$133.00~~	$159.60
17. Temporary wiring:			
• Tree sales, produce stands, fireworks stands, tent sales and other temporary non-amusement activities	Same as Base Fee		$108.00
• Carnivals, fairs, circuses, generators and other temporary amusement activities. The fee shall be the maximum fee per Virginia Amusement Device Regulations (VADR) 2012 adopted July 14, 2014	Max Fee Per VADR	~~$170.00~~	
18. Transformers, UPS and step down transformers:			
• 0 to 10 KVA		~~$14.85~~	$17.82
▪ Each additional transformer in this range		~~$10.75~~	$12.90
• Over 10 to 50 KVA		~~$18.00~~	$21.60
▪ Each additional transformer in this range		~~$14.85~~	$17.82
• Over 50 to 75 KVA		~~$29.95~~	$35.94
▪ Each additional transformer in this range		~~$24.35~~	$29.22
• Over 75 to 200 KVA		~~$44.80~~	$53.76
▪ Each additional transformer in this range		~~$34.40~~	$41.28
• Over 200 KVA		~~$57.00~~	$68.40
▪ Each additional transformer in this range		~~$48.30~~	$57.96
19. Unit heaters		~~$5.65~~	$6.78

		Current	Proposed
20. UPS System	Fee shall be the same as transformers by KVA rating		
21. Welders		~~$6.35~~	$7.62
22. X-ray machines		~~$6.35~~	$7.62
E: PLUMBING PERMIT FEES			
(A) Plumbing and Gasfitting Equipment Installation Fees:			
1. New plumbing systems in new buildings, existing unplumbed buildings, or portions thereof, changes in existing systems		~~$48.75~~	$58.50
• Plus, for each fixture, each appliance, each appurtenance, including sill cock, and for each area-way drain, floor drain and roof drain		~~$7.25~~	$8.70
2. Setting or replacing fixtures without changes in existing system		~~$48.75~~	$58.50
• Plus, for each fixture		~~$5.65~~	$6.78
3. Sewer, new, replacement or repair		~~$48.75~~	$58.50
4. Sewer tapping		~~$48.75~~	$58.50
5. Sewage ejector pump		~~$7.25~~	$8.70
6. Sump pump		~~$7.25~~	$8.70
7. Swimming pool, public and semipublic	Fixture, appliance and appurtenance fee apply		
8. Water service, new, replacement or repair		~~$48.75~~	$58.50
F: HOUSEHOLD APPLIANCE PERMIT FEES			
(A) Household Appliance Fees:			
• Base permit fee, which includes the first appliance		~~$50.00~~	$60.00
▪ Plus, additional appliances added on the same permit, each		~~$12.05~~	$14.46
G: VERTICAL TRANSPORTATION PERMIT FEES			
(A) Mechanical Equipment Installation Fees: The permit fee for installation, repair, or replacement of all mechanical equipment installed in buildings other than within individual residences.	*~~1.96%~~ Percentage of the contract value less the value of the equipment listed below*		2.00%
This fee is in addition to the equipment fees listed below in this section.			
1. Commercial (new or replacement):			
• Chair/platform lifts		$142.00	$142.00
• Dumbwaiters/material lifts			
▪ Hand-operated		$142.00	$142.00
▪ Power-driven		$142.00	$142.00
• Elevators			
▪ Construction		$306.00	$306.00
▪ Freight, plus floor charge		$289.00	$289.00
▪ Passenger, plus floor charge		$289.00	$289.00
• Escalators, per floor/moving walks		$497.00	$497.00
• Man lifts		$146.00	$146.00
▪ Hand-driven		$113.00	$113.00
Floor charge: Fee charged for each floor in the building where a passenger or freight elevator is installed. This charge shall be computed and added to the cost of the first piece of equipment only.		$47.00	$47.00

	Current	Proposed
Alterations or repairs shall be charged at a percentage of the estimated cost of repairs, ~~1.5%~~ Percentage of the estimated cost of repairs		1.50%
With a minimum fee of	$135.00	$135.00
2. Residential, new or replacement		
• Chair/platform lifts	$142.00	$142.00
• Dumbwaiters		
▪ Hand-operated	$142.00	$142.00
▪ Power-driven	$142.00	$142.00
• Private residence elevators	$306.00	$306.00
(B) Periodic Mechanical Inspection Fee: All vertical transportation equipment, other than that which is installed within individual residences, and other than conveyors, requires an annual certificate of compliance. For an annual certificate of compliance, the annual fee payable by the owner of the building to the County of Fairfax on or before the expiration of the certificate shall be as follows:		
• Chair/platform lifts	$146.00	$146.00
• Dumbwaiters/material lifts		
▪ Hand-operated	$122.00	$122.00
▪ Power-driven	$134.00	$134.00
• Elevators		
▪ Construction	$266.00	$266.00
▪ Freight, plus floor charge	$266.00	$266.00
▪ Passenger, plus floor charge	$266.00	$266.00
• Escalators, per floor/moving walks	$146.00	$146.00
• Man lifts	$146.00	$146.00
• Sidewalk elevators		
▪ Hand-driven	$113.00	$113.00
▪ Power-driven	$150.00	$150.00
Floor charge: Fee charged for each floor in the building where a passenger or freight elevator is installed. This charge shall be computed and added to the cost of the first piece of equipment only.	$47.00	$47.00
Freight and passenger elevator tests: The following fees apply to freight and passenger elevator tests which are not performed in conjunction with regularly scheduled periodic inspections:		
• Temporary inspection	$246.00	$246.00
• Temporary inspection (extension)	$115.00	$115.00
• Governor test	$296.00	$296.00
• Load test	$445.00	$445.00
• Speed test	$296.00	$296.00
• Static pressure/hydraulic	$296.00	$296.00
• Fire and smoke test	$213.00	$213.00
H: FIRE PREVENTION DIVISION (FIRE MARSHAL) FEES		
(A) Plan Review Fees: Fees for all plan review are based on an hourly charge calculated on the quarter hour or part thereof, per reviewer. Fees are due upon completion of the plan review process. ~~$128.00~~Per Hour		$156.00

			Current	Proposed
(B) Acceptance Testing and Inspection Fees: Fees are based on an hourly charge calculated on the quarter hour or part thereof, per inspector. Fees for fire protection equipment and systems performance tests and inspections, other equipment and systems performance tests and inspections, occupancy or preoccupancy inspections, fire lanes and required retesting or reinspections shall be imposed per hour calculated on the quarter hour or part thereof, per required inspector.		~~$128.00~~Per Hour		$156.00
(C) Reinspection Fees: Reinspection fees shall be based on the hours reserved to perform the test and will be charged per hour calculated on the quarter hour or part thereof, per required inspector. The following matrix is to serve as a guideline in determining when a reinspection fee is required for acceptance testing and retesting. A minimum notice of 24 hours (one full business day) for test cancellation is required. The fee is charged when an inspection is not cancelled in time to save an unnecessary trip by inspectors.		~~$128.00~~Per Hour		$156.00
REINSPECTION FEES				
CIRCUMSTANCE	***CONDITION***	***INSPECTED***	RE-INSPECTION FEE	RE-INSPECTION FEE
Cancelled or rescheduled off site more than 24 hours prior to appointment	N/A	No	No	No
Cancelled or rescheduled off site less than 24 hours prior to appointment	N/A	No	Yes	Yes
Contractor shows, others do not or inspectors arrive, no one on site	Cannot test	No	Yes	Yes
Cancelled while inspectors on site; test not started	Not Ready	No	Yes	Yes
Regular inspection, test started, test not completed	Not Ready or Failure due to fault of contractor	Yes	Yes	Yes
Regular inspection, test started, test not completed	Failed, but not due to fault of contractor	Yes	No	No
Regular inspection, test completed	Substantially ready with minor deficiencies	Yes	No	No
Regular inspection, test completed	No punch list, sticker issued	Yes	No	No
Final inspection	Deficient	Yes	Yes	Yes
(D) Plan Reviews and Inspections Performed Outside Business Hours: Plan reviews and inspections may be performed outside business hours upon request at the sole discretion of the fire official. Fees for these plan reviews and inspections shall be assessed at twice the rate listed in (A), (B), and (C) above. Fees shall be assessed in 30 minute increments.				
I: AMUSEMENT DEVICE PERMIT FEES				
The permit fee for each amusement device or carnival ride shall be ~~as follows:~~ the maximum in accordance with the Virginia Amusement Device Regulations (VADR)				
~~Kiddie ride~~			~~$25.00~~	
~~Circular ride or flat-ride less than 20 feet in height~~			~~$35.00~~	
~~Spectacular ride that cannot be inspected as a circular ride or flat-ride due to complexity or height.~~			~~$55.00~~	
~~Roller coaster that exceeds 30 feet in height~~			~~$150.00~~	

		Current	Proposed
II. SITE DEVELOPMENT FEES			
The following site development fees to cover the cost of reviewing site and subdivision plans and related documents; processing site and subdivision plan agreements; making inspections of required site improvements; permitting any work or construction on any land dedicated or proposed for dedication to public use; and other fees incidental to the administration of these activities pursuant to Chapters 2, 101, 104, 112, and 124 of the Code and any fees paid to the County upon submission of any request for a waiver, exception, and modification of the County Ordinances, are hereby adopted:			
A: PLAN AND DOCUMENT REVIEW FEES			
The following fees are due upon submission to the County of the following plans and documents. The Fire Prevention Division review fees are listed in Part D.			
(A) Plats:			
1. Easement plat, per submission		~~$360.00~~	$432.00
2. Preliminary subdivision plat:			
• Initial Submission			
▪ Less than 10 lots		~~$3,494.00~~	$4,192.80
♦ Plus, fee per lot or division of land including outlots and parcels		~~$66.00~~	$79.20
▪ 10 lots or more		~~$5,688.00~~	$6,825.60
♦ Plus, fee per lot or division of land including outlots and parcels		~~$66.00~~	$79.20
Redate (reapproval): fee for reapproval of a previously approved preliminary plat submitted to the County for approval during the validity period of the preliminary plat, each.		~~$709.00~~	$850.80
• Resubmission, per submission	~~25.00%~~ Percentage of the Original Fee		25.00%
• Revisions, per submission	~~25.00%~~ Percentage of the Original Fee		25.00%
3. Record (final) subdivision plat:			
• Initial Submission		~~$606.00~~	$727.20
▪ Plus, fee per lot or division of land including outlots and parcels		~~$30.00~~	$36.00
• Resubmission Fee, per submission		~~$308.00~~	$369.60
• Redate (reapproval): fee for reapproval of a previously approved final plat that has expired, per submission		~~$529.00~~	$634.80
(B) Subdivision Plans, Site Plans, and Site Plans for Public Improvements Only: *The following schedule shall be used to tabulate the fees for review of subdivision and site plans, and site plans for public improvements only.*			
1. Base Fee:			
• Subdivision Plan			
▪ 1st submission		~~$4,830.00~~	$5,796.00
▪ Plus, fee per disturbed acre or any fraction thereof		~~$884.00~~	$1,060.80
• Site Plan			
▪ 1st submission		~~$7,296.00~~	$8,755.20
▪ Plus, fee per disturbed area or any fraction thereof		~~$884.00~~	$1,060.80
• Site plans for public improvements only including sanitary sewer, trail, sidewalk, storm sewer, channel improvements, waterline, and/or road construction pursuant to Chapter 2 of the Code.			
▪ 1st submission		~~$3,519.00~~	$4,222.80
▪ Plus, per linear foot or fraction thereof, of each improvement		~~$1.21~~	$1.45
2. Fees in addition to base fees:			

		Current	Proposed
• Additional plan review, as a result of an approved zoning action associated with the proposed construction to include the following,	with a maximum cumulative fee of	~~$3,465.00~~	$4,158.00
▪ Sites subject to rezoning		~~$2,035.00~~	$2,442.00
▪ Sites subject to special exception		~~$1,428.00~~	$1,713.60
▪ Sites subject to special permit		~~$1,428.00~~	$1,713.60
▪ Sites subject to variance		~~$1,058.00~~	$1,269.60
• Review resulting from site conditions and proposed improvements			
▪ SWM/BMP facility, for each facility serving the site (on or off-site), except as noted,	with a maximum cumulative fee of	$7,500.00	$7,500.00
♦ Constructed Wetland or Ponds		$3,200.00	$3,200.00
♦ Bioretention Basin or Filter, Infiltration Facility, Filtering Practice[1], Innovative BMP[2], or Detention-Only Facility[3]		$1,900.00	$1,900.00
♦ Dry Swale, Wet Swale, or Grass Channel (per linear foot),		$5.00	$5.00
	with a minimum of	$1,500.00	$1,500.00
♦ Rainwater Harvesting System, per square foot of collection area,		$0.12	$0.12
	with a minimum of	$1,900.00	$1,900.00
♦ Permeable Pavement, Vegetated Roof, per square foot of surface		$0.12	$0.12
	with a minimum of	$1,500.00	$1,500.00
· Manufactured BMP[4], Micro- or Urban Bioretention[5]		$1,200.00	$1,200.00
♦ Rooftop Disconnection, for each building served		$500.00	$500.00
♦ Sheet Flow to Vegetated Filter Strip or Conserved Open Space, Soil Amendments, Reforestation, flat fee per plan		$500.00	$500.00
▪ Floodplain area (existing and proposed)		~~$714.00~~	$856.80
▪ Natural drainage way (non-floodplain watersheds)		~~$714.00~~	$856.80
▪ Problem soils (area with soil types A or B, per the official map adopted by the Board or as deemed by the Director)		~~$1,058.00~~	$1,269.60
Footnotes; 1. Filtering practices include facilities such as sand filters. 2. BMPs not on the Virginia Stormwater BMP Clearinghouse approved list or listed with a Pilot Use Designation or Conditional Use Designation. 3. Vaults or other underground storage systems providing detention only. No ponds. 4. Includes proprietary devices. 5. Includes residential rain gardens, urban stormwater planters, expanded tree pits, and stormwater curb extensions.			
3. Resubmissions:			
• 2nd submission base fee: fee tabulated at a percentage ~~50%~~ of the first submission fee assessed in accordance with (B1) and (B2) above.	~~50.00%~~ Percentage of the Original Fee	50.00%	50.00%
▪ Plus, additional fees charged in accordance (B1) and (B2) above for changes in the amount of disturbed area, zoning action, site conditions, and/or proposed improvements from that indicated on the first submission.	Tabulated Fee		
• The maximum combined first and second submission base fees:			
▪ For subdivision plans		~~$13,256.00~~	$15,907.20
▪ For site plans		~~$47,310.00~~	$56,772.00

		Current	Proposed
• Resubmission site and subdivision plan after 2nd submission, per submission (does not apply to site plans with public improvements only)		~~$4,670.00~~	$5,604.00
• 2nd submission fee for site plans with public improvements only, per submission		$0.00	$0.00
• Resubmissions after 2nd submission for site plans with public improvements only, per submission: fee tabulated at a percentage ~~50%~~ of the first submission fee in accordance with (B1) and (B2) above.	~~50.00%~~ Percentage of the Original Fee	50.00%	50.00%
4. Revisions:			
• Fee, per submission		~~$1,058.00~~	$1,269.60
▪ Plus, additional fees charged in accordance with (B1) and (B2) above for changes in the disturbed area, zoning action, site conditions, and/or proposed improvements from that indicated on the original plan.	Tabulated Fee		
5. Plan extensions (redate), per request		~~$1,428.00~~	$1,713.60
(C) Minor Site Plans and Grading Plans:			
1. Minor Site Plans, per submission		~~$2,852.00~~	$3,422.40
2. Grading plans for building permits on existing lots within a subdivision currently bonded with the County:			
• 1st submission, first lot		~~$1,058.00~~	$1,269.60
▪ Each additional lot within the same subdivision submitted within the same plan set		~~$879.00~~	$1,054.80
• Resubmissions and revisions, first lot		~~$360.00~~	$432.00
▪ Each additional lot within the same subdivision submitted within the same plan set		~~$185.00~~	$222.00
3. Grading plans for building permits on existing lots that are not within a subdivision currently bonded with the County and parcels with lots of 5 acres or more:			
• 1st submission, per infill lot		$1,685.00	$1,685.00
• Resubmissions and revisions, per infill lot		$678.00	$678.00
4. Rough grading plan (RGP) and filling parcels:			
• 1st submission, per division of land or disturbed acre, or fraction thereof, whichever amount is greater		~~$660.00~~	$792.00
	Not to Exceed	~~$12,185.00~~	$14,622.00
• Resubmissions and revisions, per submission	~~25.00%~~ Percentage of the Original Fee		25.00%
5. Conservation plan without a grading plan, per submission		~~$1,007.00~~	$1,208.40
(D) Processing of Studies, Soils Reports and Other Plans:			
1. Studies:			
• Drainage study, per submission (non-floodplain watersheds)		~~$1,634.00~~	$1,960.80
• Floodplain study			
▪ Per submission, per linear foot of baseline or fraction thereof		~~$2.30~~	$2.76
▪ Plus, fee per road crossing and per dam,		~~$509.00~~	$610.80
Not to exceed total fee, ~~of $9355.00~~ per submission:			$11,226.00
• Parking study			
▪ Parking tabulation for change in use, per submission		~~$817.00~~	$980.40
▪ Parking redesignation plan, per submission		~~$817.00~~	$980.40
▪ Administrative parking reduction for churches, chapels, temples, synagogues and other such places of worship with child care center, nursery school or private school of general or special education, per submission		~~$817.00~~	$980.40
▪ Parking reduction based on hourly parking accumulation characteristics or hourly parking accumulation characteristics in combination with other factors when the required spaces are:			
♦ Under 225 spaces		~~$2,343.00~~	$2,811.60
♦ 225 to 350 spaces		~~$4,069.00~~	$4,882.80
♦ 351 to 599 spaces		~~$6,505.00~~	$7,806.00

	Current	Proposed
♦ 600 spaces or more	~~$13,626.00~~	$16,351.20
▪ Parking reduction based on proximity to a mass transit station	~~$2,343.00~~	$2,811.60
▪ Parking reduction based on a Transportation Demand Management Program	~~$2,343.00~~	$2,811.60
• Recycling study: When the plan or study is submitted to the County for the sole purpose of placing recycling containers on a commercial or industrial site, as required by the Fairfax County Business Implementation Recycling Plan, per submission.	$0.00	$0.00
• Water Quality Fees*		
▪ Resource Protection Area (RPA) Boundary Delineations and Resource Management Area (RMA) Boundary Delineations		
♦ Non-bonded lots, existing lots and acreage, rough grading and filling parcels, and parcels with lots of 5 acres or more not within a subdivision or site plan development currently bonded with the County, per submission	~~$349.00~~	$418.80
♦ Bonded lots: lots in conjunction with multiple construction within a subdivision currently bonded with the County, per submission:		
▫ Projects with 150 linear feet or less of baseline	~~$349.00~~	$418.80
▫ Projects with greater than 150 linear feet of baseline	~~$349.00~~	$418.80
▪ Plus, fee per linear foot of baseline or fraction thereof, in excess of 150 linear feet	~~$0.80~~	$0.96
▪ Water Quality Impact Assessments (WQIA)		
♦ Non-bonded lots: existing lots and acreage, rough grading and filling parcels, and parcels with lots of 5 acres or more not within a subdivision or site plan development currently bonded with the County, per submission	~~$360.00~~	$432.00
♦ Bonded lots: lots in conjunction with multiple construction within a subdivision or site plan currently bonded with the County, per submission	~~$1,377.00~~	$1,652.40
*In the event that a RPA and RMA Boundary Delineation and a WQIA are submitted simultaneously, only one fee shall be required and such fee shall be the higher of the fees required for the individual studies.		
2. Soils Reports:		
• Bonded lots: lots in conjunction with multiple constructions in a newly bonded subdivision development, site plan or site plan for public improvements only		
▪ 1st submission, per lot	~~$2,852.00~~	$3,422.40
▪ Resubmissions and revisions, per submission	~~$935.00~~	$1,122.00
• Non-bonded lots: existing lots and acreage, rough grading and filling parcels, and parcels with lots of 5 acres of more, not within a subdivision or site plan development currently bonded with the County, per submission		
▪ 1st submission, per lot	~~$1,834.00~~	$2,200.80
Not to Exceed	~~$3,655.00~~	$4,386.00
▪ Resubmissions and revisions, per submission	~~$935.00~~	$1,122.00
3. Other Plans:		
• As-built plans		
▪ Sanitary Sewer, per submission	~~$529.00~~	$634.80
▪ Site and subdivision, per submission	~~$360.00~~	$432.00
• Debris landfill design plan		
▪ Base fee, per submission	~~$1,120.00~~	$1,344.00
▪ Plus, per acres	~~$74.00~~	$88.80
• Debris landfill permit, semi-annual, each permit	~~$2,446.00~~	$2,935.20
• Environmental Site Assessment:		
▪ 1st submission	~~$2,651.00~~	$3,181.20

	Current	Proposed
▪ Resubmissions and revisions, per submission	~~$935.00~~	$1,122.00
• Photometric or Sports Illumination Plan, fee per submission when such plan is not submitted as part of a required site plan submission	~~$735.00~~	$882.00
• Tree removal permit, each permit	~~$185.00~~	$222.00
(E) Miscellaneous fees:		
• Sheet substitution (insert): fee paid prior to plan approval of any insert sheet to a study, report, plan or waiver.	~~$90.00~~	$108.00
• Lot Validation Application	~~$370.00~~	$444.00
B. BONDING AND AGREEMENT FEES		
The following fees shall be paid upon submission to the County of agreement packages.		
(A) Agreement Package Processing Fee, per agreement package:		
• Security value exceeding $10,000	~~$2,050.00~~	$2,460.00
• Security value of $10,000 or less	~~$283.00~~	$339.60
(B) Agreement Extensions, Replacements and Reductions:		
• Agreement extensions	~~$822.00~~	$986.40
• Replacement agreement: There shall be no replacement agreement fee if the rating for the corporate surety has fallen to a "B" level according to the A.M. Best Key Rating Guide and the replacement request is submitted to and approved by the Director prior to the expiration date of the agreement.	~~$1,464.00~~	$1,756.80
• Agreement security reductions in support of an agreement	~~$1,392.00~~	$1,670.40
• Agreement extension and reduction submitted simultaneously	~~$1,392.00~~	$1,670.40
Also see Part C, Site Inspection Fees, for inspection fee for agreement extensions.		
C. SITE INSPECTION FEES		
Unless otherwise noted, the following fees shall be paid at the time of bonding, or prior to issuance of a construction permit for land disturbing activity, whichever occurs first. The Fire Prevention inspection fees are listed in Part D.		
(A) Base Fee: Per disturbed acre per agreement month,	~~$38.55~~	$46.26
with a minimum of	~~$1,340.00~~	$1,608.00
and a maximum of	~~$24,125.00~~	$28,950.00
(B) Fees in Addition to the Base Fee:		
1. Public Utility Fees:		
• Storm drainage		
▪ Base fee for first 100 linear feet	~~$1,552.00~~	$1,862.40
▪ Plus, fee for each additional linear foot or fraction thereof	~~$3.35~~	$4.02
• Stormwater management ponds		
▪ Embankment less than or equal to 6 feet high	~~$1,547.00~~	$1,856.40
▪ Embankment greater than 6 feet high	~~$3,083.00~~	$3,699.60
• Dedicated streets		
▪ For first 100 linear feet	~~$2,168.00~~	$2,601.60
▪ Plus, fee for each additional linear foot or fraction thereof	~~$9.00~~	$10.80
• Private streets		
▪ For the first 100 linear feet	~~$1,759.00~~	$2,110.80
▪ Plus, fee for each additional linear foot or fraction thereof	~~$7.25~~	$8.70
• Other paved area, per square yard or fraction thereof	~~$1.60~~	$1.92
▪ Driveway entrances, for each entrance	~~$162.00~~	$194.40
▪ Pedestrian walkways/trails		
♦ For the first 100 linear feet	~~$372.00~~	$446.40

	Current	Proposed
♦ Plus, fee for each additional linear foot or fraction thereof	~~$1.85~~	$2.22
• Sanitary sewer systems		
▪ Base fee for first 100 linear feet of main	~~$2,162.00~~	$2,594.40
▪ Plus, fee for each additional linear foot or fraction thereof	~~$7.00~~	$8.40
*2. Other Bonded and Proffered Work: F*ee is based on a percentage of the bonded amount		
• Cast in place culverts		
▪ Percentage of bonded amount up to $50,000	~~14.90%~~	17.90%
♦ Plus, percentage of the bonded amount greater than $50,000 but less than or equal to $200,000	~~7.35%~~	8.80%
♦ Plus, percentage of bonded amount greater than $200,000	~~3.07%~~	3.70%
▪ All other work		
♦ Percentage of bonded amount up to $50,000	~~14.90%~~	17.90%
♦ Plus, percentage of bonded amount greater than $50,000	~~3.07%~~	3.70%
3. Inspection Fee for Agreement Extensions: per disturbed acre~~*~~, per agreement month ~~*When the amount of disturbed site area has been reduced to less than one-half of the original amount and the developer's agreement has not expired, a~~ A one-time fifty percent reduction of the ~~original disturbed area is~~ extension inspection fee may be permitted.	~~$38.55~~	$46.26
4. Inspection following a stop work order: each, payable at next bonding action	~~$617.00~~	$740.40
5. Inspection following a violation: each inspection, payable at next bonding action	~~$308.00~~	$369.60

		Current	Proposed
D. FIRE PREVENTION DIVISION (FIRE MARSHAL) FEES			
The following Fire Prevention Division fees shall be paid for the review and inspection of the following plans and plats. Plan review fees are due upon submission to the County of such plans and plats except that fees for plans submitted directly to the Fire Prevention Division shall be due upon completion of the plan review process or within 120 days of plan submission, whichever comes first. Inspection fees are due upon completion of the inspection.			
Site plans Site plan revisions Site plan extensions Rough grading plans As-built site and subdivision plans Plats	Subdivision plans Site plans for public improvements only Revisions and reapprovals to subdivision plans and site plans for public improvements only		
(A) Plan Review fees: Fees are based on an hourly charge calculated on the quarter hour or part thereof, per reviewer.	~~$128.00~~Per Hour		$156.00
(B) Testing and Inspection Fees: Fees are based on an hourly charge calculated on the quarter hour or part thereof, per inspector.	~~$128.00~~Per Hour		$156.00
E. SITE PERMIT FEES			
Before a permit is issued for any work or construction on any land dedicated or proposed for dedication to public use, the following fees shall be paid to the County. A separate utility permit is required for each of the following types of surface work, overhead installations or underground installations:			
(A) Surface work:			
• Private entrances by homeowner		~~$308.00~~	$369.60
• Private property being developed for sale by subdivision (i.e. land developer)		~~$308.00~~	$369.60
• Drainage structures		~~$308.00~~	$369.60
• Steps, sidewalks, curb and gutter, etc.		~~$308.00~~	$369.60
(B) Overhead installations:			
• Crossings		~~$308.00~~	$369.60
• Poles		~~$308.00~~	$369.60
• Guys and anchors		~~$308.00~~	$369.60
• Streetlights		~~$308.00~~	$369.60
(C) Underground installations:			
• Crossings		~~$473.00~~	$567.60
• Parallel installations, any length on one permit		~~$473.00~~	$567.60
• Emergency permits or permits for repairs of existing facilities		~~$308.00~~	$369.60
• Valve boxes		~~$308.00~~	$369.60
• Manholes (construction, reconstruction, adjust when on existing line)		~~$308.00~~	$369.60
• Test holes		~~$308.00~~	$369.60
• Fire hydrants, installed on existing line		~~$308.00~~	$369.60
• Service connections		~~$308.00~~	$369.60

	Current	Proposed
F. WAIVER, EXCEPTION, MODIFICATION AND EXEMPTION FEES		
Fees in accordance with the table below shall be paid to the County upon submission of any request for a waiver, exception, and modification of the County Ordinances, including but not limited to the Chesapeake Bay Preservation Ordinance (Chapter 118), the Subdivision Ordinance (Chapter 101), the Zoning Ordinance (Chapter 112), Stormwater Management Ordinance (Chapter 124), and the Public Facilities Manual (PFM). The fee assessed shall be based on the Ordinance requirement and the type of plan submitted pursuant to Chapter 101, 112 or 104 of the Code.		
Resource Protection Area (RPA) Applications		
County Ordinance		
1. Chapter 118-5-1(a): Exemption		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
2. Chapter 118-5-1(b): Exemption Reconstruction of structures destroyed/damaged by casualty, if such reconstruction is otherwise permitted by law and as long as the structure is reconstructed in the same location and creates no more impervious area than existed with the prior structure.		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
3. Chapter 118-5-2: Exemption for public utilities		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
4. Chapter 118-5-3(a): Exemption Water wells, site amenities for passive recreation, historic preservation, and archeological activities located within an RPA.		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
5. Chapter 118-5-3(b): Exemption for less than 2500 sf. disturbance in RMA.		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
6. Chapter 118-5-3(c): Exemption		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
7. Chapter 118-5-4(a): Waiver *Loss of buildable area in RPA for lots recorded prior to 10/01/89 with no encroachment into the seaward 50 feet of the RPA buffer area.*		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00

	Current	Proposed
8. Chapter 118-5-4(b): Waiver *Loss of buildable area in RPA for lots recorded between 10/01/89 and 11/18/03 for houses located within the RPA, with no encroachment into the seaward 50 feet of the RPA buffer area.*		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00
9. Chapter 118-5-5(a): Exception Waiver of the performance criteria for minor additions to principal structures established as of 7/01/93. No accessory structures or uses.		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00
10. Chapter 118-5-5(b): Exception Waiver of the performance criteria for minor additions to principal structures established between 7/01/93 and 11/18/03 and located within the RPA. No accessory structures or uses.		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00
11. Chapter 118-6-7: Exception Loss of buildable area in RPA for lots recorded prior to 1/18/03 that does not meet the requirements of 118-5-4. A Public Hearing is required. (see note 4)		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00
12. Chapter 118-6-8: Exception Construction of accessory structures and uses to principal structures that were established as of 7/1/93 and do not result in the creation of 1,000 sq. ft. of additional impervious area within RPA, or that exceeds 2 percent of the lot area up to maximum 2,500 sq. ft., whichever is greater. A Public Hearing is required. (see note 4)		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00
13. Chapter 118-6-9: General Exception *General exception for construction in an RPA.* *A Public Hearing is required. (see note 4)*		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112	~~$730.00~~	$876.00

	Current	Proposed
Best Management Practices (BMP) and Stormwater Management (SWM) Applications (see note 5)		
County Ordinance		
1. PFM 6-0402.4: SWM/BMP Modification: to use an innovative water quality or detention facility		
Pursuant to Chapter 101	No fee	No fee
Pursuant to Chapter 104	No fee	No fee
Pursuant to Chapter 112	No fee	No fee
2. Chapter 124-6-1, Chapter 118-3-2(e) ~~BMP waiver~~ Water Quality Exception for site and subdivision plans		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
3. Chapter 124-6-1, Chapter 112-7-808(1),PFM 6-0401. 2 ~~BMP waiver~~ Water Quality Exception for sites located in the Water Supply Overlay District		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
4. PFM 6-0301.2 General ~~SWM Waiver~~ Water Quantity Exception		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
5. PFM 6-0303.6 SWM Modification to locate an underground detention facility on a residential development. Must be approved by the Board in conjunction with a rezoning or special exception application.		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
6. PFM 6-1603.4: SWM Waiver of the dam breach analysis for dams <70 acres, <15 feet high and <25 acre-feet of storage.		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
7. PFM 6-1600: SWM Waiver of the dam standards.		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112	~~$730.00~~	$876.00
8. Chapter 124-6-1, Chapter 118-3-2(e),PFM 6-0401.3 9. ~~BMP Waiver~~ Water Quality Exception		
Pursuant to Chapter 101		
Pursuant to Chapter 104	~~$170.00~~	$204.00
Pursuant to Chapter 112		
9. Chapter 101-2-2(12), PFM 6-0303.7: SWM Modification to locate a detention facility on an individual residential lot.		
Pursuant to Chapter 101	~~$730.00~~	$876.00
Pursuant to Chapter 104		
Pursuant to Chapter 112		

	Current	Proposed
General Applications		
County Ordinance		
1. General Waiver: Except as noted otherwise in this section, the fee associated with a request for a waiver, exception, or modification of the requirements of the County's Ordinances, including but not limited to the Subdivision Ordinance, Zoning Ordinance, the Stormwater Management Ordiance, and the Public Facilities Manual.	~~$730.00~~	$876.00
2. *Chapter 101-2-2: Public Street Frontage Waiver* *Fee for a waiver of the public street frontage requirement. A Public Hearing is required (see note 4)*	~~$2,050.00~~	$2,460.00
3. *Minor Adjustment of Property Lines:* Fee for a waiver associated with the minor adjustment of property lines.	~~$260.00~~	$312.00
Notes:		
1. CBPO waivers and exception requests submitted under §§ 118-5 and 118-6 require submission of a concurrent Water Quality Impact Assessment (WQIA) and application fee.		
2. Water quality fees are not required for plans and permits reviewed under Chapter 104 for which fees have been paid in connection with the review and approval of WQIA's, RPA Boundary Delineations, RMA Boundary Delineations, and CBPO exceptions filed under Chapters 101 and 112 of the Code.		
3. In no instance shall the total fee for all waivers, exceptions and modifications associated with a subdivision, site plan or minor site plan exceed ~~$2,923.00.~~:		$3,504.00
CBPO waivers and exceptions associated with grading plans shall not exceed ~~$730.00.~~:		$876.00
4. An additional fee ~~of $365.00~~ shall be paid with the submission of an exception request when a public hearing is required under Article 6 of Chapter 118 of the Code~~.~~, in the amount of:		$438.00
5. A single fee ~~of $858.00~~ shall be paid when combined stormwater and BMP waivers are submitted simultaneously~~.~~, in the amount of:		$1,030.00
6. The cumulative fee for any modifications or waivers requested for the portion of a development in which affordable dwelling units are located, and which relate to typical street sections, sidewalks, and/or curb and gutter, shall not exceed ~~$730.00.~~:		$876.00
Case Review of Fees: In the event that, prior to plan approval for review fees or prior to bond release for inspection fees, the payor disputes the fee charged, he may request in writing to the Director a case review of costs incurred by the County. In the case where the review reveals that the fees paid exceed 100% of costs, then a refund of the difference shall be made. If the case review reveals that 100% of the costs incurred by the County exceed the fees paid, then the developer shall pay the difference to the County prior to plan approval for review fees, or prior to bond release for inspection fees.		
G. PERMITS FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITY FEES		
The following fees shall be paid for permits for Chesapeake Bay Preservation Act land-disturbing activities, General Permits for Discharges of Stormwater from Construction Activities, modification or transfer of coverage under a permit, and permit maintenance.		
(A) General / Stormwater Management - Base Fee		

	Current	Proposed
The state's portion of the fees for initial coverage under the General Permit for Discharges of Stormwater from Construction Activities shall be paid directly to the state in accordance with §124-3-3.		
1. Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; Sites with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre.	$308.00	$308.00
2. All land disturbing activities requiring General Permit coverage for Discharges of Stormwater from Construction Activities.	$308.00	$308.00
(B) General / Stormwater Management - Modifications		
Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities. If the permit modifications result in changes to stormwater management plans that require additional review by the County, such reviews shall be subject to the fees set out in this part. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the permit modification fee paid to the County, modifications resulting in an increase in total disturbed acreage shall pay to the state the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage.		
1. Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	$200.00	$200.00
2. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	$250.00	$250.00
3. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	$300.00	$300.00
4. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$450.00	$450.00
5. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	$700.00	$700.00
(C) General / Stormwater Management – Permit Maintenance		
Fees for annual permit maintenance including expired state permits that have been administratively continued. With respect to the General Permit for Discharges of Stormwater from Construction Activities, these fees shall apply until the state permit coverage is terminated. Fees for annual permit maintenance will be collected on a schedule consistent with the bond acceptance, approval, extension, reduction, and release process for bonded projects and as part of the process for acceptance and release of conservation deposits for non-bonded projects.		
1. Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; Sites with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre.	$20.00	$20.00
2. Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	$400.00	$400.00
3. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	$500.00	$500.00
4. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	$650.00	$650.00
5. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	$900.00	$900.00
6. Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	$1,400.00	$1,400.00

Proposed Amendments to Chapter 61 (Building Provisions)
of
The Code of the County of Fairfax, Virginia

Amend Section 61-1-3 (Fees), to read as follows:

Section 61-1-3. Fees.

(a) No permit to begin work for new construction, alteration, removal, replacement, demolition or installation of any building, structure or equipment, or any other building operations which are regulated by the USBC, shall be issued until the fees prescribed in paragraph (d) of this section have been paid; nor shall an amendment to a permit necessitating an additional fee because of an increase in the size of the building, an increase in the estimated cost of the work involved, or the installation of any additional equipment be approved until the additional fees have been paid.

(b) All fees for permits required under the provisions of the USBC shall be paid prior to issuance of the permit and prior to initiation of the work covered by such permits or as required by the Building Official.

(c) A building permit shall be issued to construct, improve or alter the following:

1. Each single-family attached or detached dwelling.

2. Dwelling units and common interior areas in a multiple-family dwelling.

3. Each space within a strip shopping center, and each warehouse bay in a strip warehouse.

4. Each unit and interior common area in a condominium office building.

5. Each commercial or residential structure not addressed above.

Separate electrical, mechanical, plumbing, fire alarm, fire suppression and fire lane permits are required to install or alter electrical, mechanical, plumbing, fire alarm, fire suppression and fire lane equipment in dwelling units, structures or areas of a structure for which a separate building permit has been issued.

(d) The fees for reviewing plans, issuing permits, performing inspections, licensing home improvement contractors and other expenses incidental to the enforcement of the USBC and Chapters 61, 64, 65 and 66 of the Code of the County of Fairfax are listed in Appendix Q of this Code. Fees shall be collected and paid in accordance with Appendix Q and the following provisions:

1. *Base fee:* The base fee shall be the minimum fee for any permit for which the fee charged would otherwise be less than the base fee except as noted below.

2. *Reduced fees (does not apply to Fire Prevention Division fees for fire alarm, fire suppression and fire lane permits):*

a. *Multiple permits:* Fees shall apply provided all of the following conditions are met:

(1) The permit application is one of a group of ten or more applications or a single application for ten or more units to be issued for the installation of the same or similar fixtures, appliances, or minimal alterations in existing dwellings on adjacent lots, in an existing multiple-family building or an existing commercial structure; and

(2) Plan review is required by only one plan review discipline, i.e., building, electrical, mechanical or plumbing, prior to permit issuance; and

(3) Only one inspection per permit is required; and

(4) Inspections are scheduled for no fewer than ten permits or units on the same day; and

(5) The request for the multiple permit fee shall be made in writing~~,~~; and

(6) The fee for the permit would otherwise be the base fee.

A re-inspection fee may be assessed for each unit for which an inspection is rejected and a re-inspection performed.

b. *Permits requiring no inspections:* This fee shall apply to those permits for which no individual inspections are required to be performed pursuant to policies and guidelines issued by the Building Official.

c. *Casualty Permits:* There shall be no fee or permits to repair, replace, or otherwise re-construct a residential, commercial, or industrial structure damaged as the result of a catastrophic event, subject to the following provisions:

(1) The declaration of a catastrophic event must have been proposed by the County Executive and must have been approved by the Board. Such declaration shall be subject to the notice and hearing requirements of Va. Code Ann. § 15.2-2204 and any amendments thereto~~.~~;

(2) The scope of the event shall be clearly delineated by means of the affected geographic area and/or a range of dates during which the disaster occurred;

(3) For purposes of this section, catastrophic events are limited to those resulting from natural causes such as floods, hurricanes, earthquakes, or other such "Acts of God," damage that results from an act or acts of terrorism, war, riot, or other such civil disturbance, and may also include situations where the destruction or damage from such causes was exacerbated by human agency, such as, for example, the construction of bridges, dams, or other such public works projects, but shall not include situations caused by the intentional acts or negligence of the owner or his agent~~.~~;

(4) Destroyed or damaged structures must have been lawfully established pursuant to a valid building permit, Residential Use Permit, or Non-Residential Use Permit, and compliant with applicable County ordinances and State codes;

(5) Destroyed or damaged structures must have been in a habitable condition or otherwise lawfully used or occupied immediately prior to the casualty;

(6) The casualty permit shall be limited to the reconstruction of or repair to the property that is damaged by the event and shall not be transferable to another property impacted by the event and further shall only be used to reconstruct the structure to its condition prior to the casualty event rather than used to construct an expansion, addition, or substantial renovation;

(7) The permit for the reconstruction or repair must be obtained within six months of the declaration of the catastrophic event. In the event that the scope of the catastrophe is of such a scope that the issuance of permits to all affected structures is impractical in such a time frame, the Board may, with approval from the County Executive, extend this period for an additional six months.

3. All fees for permits issued on a base fee or reduced fee basis shall be paid in full at the time of permit application.

4. *After-hours inspection fee (does not apply to Fire Prevention Division fees for fire alarm, fire suppression and fire lane permits):* A fee shall be charged for each thirty minute period, or fraction thereof, of inspection time requested to take place after regular working hours. Any such inspection(s) shall be authorized by the County and the fee paid prior to the inspection. This fee shall be in addition to the fee for the required permit which authorizes performance of the work.

5. *Amendment of permit:* This fee is to amend a permit application after creation of the permit record. Before a final inspection is approved, the appropriate fee shall be paid and a permit must be issued for all work performed which is not authorized by the original permit.

6. *Amusement Devices and carnival rides*: The permit fee for amusement devices and carnival rides, and associated electrical permits for generators and temporary wiring for

carnivals, fairs and other temporary amusement activities, shall be the maximum fee specified in the Virginia Amusement Device Regulations.

~~6~~7. *Annual permit fee:*

a. The fee for an annual permit which authorizes the performance of specified work for a 12-month period shall be the base fee.

b. The fees for any separate permits required pursuant to the policies and guidelines of an annual permit shall be as required by Appendix Q of the Code. The policies and guidelines for an annual permit may provide for the issuance of specific separate permits at the reduced fee.

~~7~~8. *Asbestos removal/abatement:* The fee for a permit to remove or abate asbestos from a structure shall be as prescribed in Appendix Q.

~~8~~9. *Demolition:* In the case of demolition of an entire structure, a signature bond in the amount of $1,000.00 for residential structures and $5,000.00 for commercial structures shall be posted. The bond shall remain in effect until the demolition permit has received an approved final inspection.

~~9~~10. *Expiration of permit applications:* An application for a permit for any proposed work shall be deemed to have been abandoned and expired six months after the date of filing, unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit or the permit has been issued. The burden of proof that the applicant has diligently sought to resolve any problems that are delaying issuance of a permit shall be on the permit applicant, owner of the property or other person affected by such determination of the Building Official. Filing fees for expired permit applications are not refundable.

The Building Official shall grant one or more extensions of time for additional periods if there is reasonable justification.

~~10~~11. *Fee payment credits:* All permit fees paid at the time of permit application shall be credited toward the full cost of the permit when the permit is issued.

~~11~~12. *Fee transfers:* Permit fees are not transferable.

~~12~~13. *Household Appliance Permits:*

~~12.~~ a. *Household appliance fees:* Permanently wired or plumbed appliances may be installed in an existing dwelling using a household appliance permit, provided the capacity of the electrical panel or gas service is not exceeded and the electrical circuitry, gas piping and plumbing is existing. A household appliance permit may also be used when a permit is required for the replacement of a listed appliance provided the above criteria are met.

PERMIT REQUIRED FOR NEW INSTALLATIONS ONLY

Air cleaner/filter
Air conditioning condensing unit
Bathtub
Clothes dryer, gas/electric
Dehumidifier
Disposal
Fan, attic
Fan, ceiling
Fan, exhaust
Furnace, electric
Heat pump
Hose bib
Humidifier
Ice maker
Laundry tub
Lighting Fixtures
Oven, gas/electric
Pressure reducing valve
Shower
Sink
Smoke detector (wired-in) – no fee
Solar energy equipment – no fee
Stove, gas/electric
Sump pump
Toilet
Trash compactor
Water heater, electric/gas/oil
Water treatment equipment

Permits are required for the replacement of the fixtures and appliances listed above if the installation requires a change to: 1) duct systems; 2) plumbing supply, drain waste or vent piping; 3) electrical circuits; 4) appliance vent system; or 4) gas piping.

PERMITS REQUIRED FOR BOTH NEW AND REPLACEMENT INSTALLATIONS

Centralized air-conditioning systems
Clothes dryers, gas
Furnace, gas/oil
Gas logs
Gas/oil
Gas stove/heater
Oven, gas
Prefabricated chimney

Prefabricated fireplace
Water heater, gas/oil
Wood stove/heater

b. Contractors authorized to take out permits to install or replace appliances: The following table indicates which contractors shall be authorized to obtain household appliance permits for the installation or replacement of appliances in the program:

Type of Equipment	Electrical	HVAC	Plumbing	Gas	HIC**
Air cleaner/filter, electrostatic	X	X			X
Air conditioning (central AC system)	X	X			
Air conditioning condensing unit	X	X			
Bathtub			X		
Clothes dryer, gas				X	
Dehumidifier	X	X			X
Dishwasher	X*		X		X
Disposal	X*		X		X
Fan, Attic	X	X			X
Fan, Ceiling	X				X
Fan, Exhaust	X	X			X
Furnace, electric	X	X			
Furnace, gas		X		X	
Furnace, oil		X		X	
Gas log				X	
Heat pump	X	X		X	
Hose bib, (outside faucet)			X		
Humidifier	X	X	X		
Ice maker			X		X
Laundry tub			X		X
Lighting fixtures	X				
Oven, electric	X				X
Oven, gas				X	X
Prefabricated chimney		X		X	
Prefabricated fireplace		X			
Pressure reducing valve			X		X
Shower			X		
Sink / lavatory			X		
Smoke detector (wired-in) - no fee	X				
Solar energy equipment - no fee	X	X	X		X
Stove, electric	X				X
Stove, gas				X	X
Sump pump	X*		X	X	
Trash compactor	X				X
Water closet (toilet)			X		X

Water heater, electric	**X***	**X**	**X**		
Water heater, gas		**X**	**X**	**X**	
Water heater, oil		**X**	**X***	**X**	
Water treatment equipment	**X***		**X**		
Wood stove/heater		**X**			**X**
Other	***Manual Check By Technician***				

X* Authorized for replacement only
HIC** State HIC classification (Not allowed by FFXHIC)

~~13~~14. *Modular residential units, including manufactured homes:* Fifty percent of the regular permit fee shall be imposed on residential units constructed and installed under the Virginia Industrialized Building Safety Regulations or the Virginia Manufactured Home Safety Regulations.

~~14~~15. *Non-permitted work:*

Failure to obtain a permit prior to beginning work: An additional fee shall be assessed for those permits obtained pursuant to a written directive or order from the Building Official or designee for failure to obtain a permit required by the USBC. This fee shall be in addition to any permit fees normally required and shall be assessed to defray the costs associated with administration and enforcement of the USBC.

~~25~~16. *Partitions:* A permit fee shall be paid for the erection of partitions (metal studs only) in unoccupied space in a previously unoccupied commercial structure, pending approval of tenant layout plans.

~~15~~17. *Permit extensions:* Upon written application of the permittee prior to the expiration of the permit, the Building Official or his designee may extend the permit for up to one year from the date of expiration of the permit. No fees shall be charged for the first permit extension allowed by the USBC and the Code of the County of Fairfax. Additional requests for permit extensions must be accompanied by the processing fees in Appendix Q of the Code.

Separate fees shall not be charged for extending mechanical, plumbing, electrical, fire alarm, fire suppression or fire lane permits associated with a request for the extension of a building permit.

~~16~~18. *Re-inspection fee (does not apply to Fire Prevention Division fees for fire alarm, fire suppression and fire lane permits):* A re-inspection fee may be assessed for each additional inspection that is required to be made because a scheduled inspection is rejected for one or more of the following reasons: 1) the work is not installed in accordance with applicable codes; 2) the work is not ready for inspection; or 3) access to the work to be inspected is not provided. A re-inspection fee may also be assessed for each inspection performed pursuant to a stop work order.

~~17~~19. *Refunds:* In the case of a suspension, revocation or expiration of a permit or the expiration of a permit application, the permittee, upon written request within 6 months after such suspension, revocation or expiration, may receive a refund for the amount of work the County has not performed. The amount of the refund shall be determined as follows:

- All plan examination and permit processing fees shall be deducted from the original permit fee.

- All costs that may have been imposed on the permit holder under the requirements of the USBC and the Code of the County of Fairfax shall be deducted from the original permit fee.

- The amount of work that has received an approved inspection by the County shall be determined and a proportionate share shall be deducted from the original permit fee. Any excess fee for the uncompleted work shall be returned to the permit holder. No refunds will be issued for base or reduced fee permits.

~~23~~20. *Removal and Relocation:* The permit fee for the removal of a building or structure from one lot to another or to a new location in the County shall be based on the cost of moving and the cost of all work necessary to place the building or structure in its completed condition in the new location. In addition to a building permit to construct the foundation at the new location, a separate building permit is required to demolish any foundation at the original location.

~~18~~21. *Replacement of defective sprinkler heads:* No fee shall be charged for a fire suppression permit to replace sprinkler heads determined to be defective by the Fairfax County Fire Marshal pursuant to the Virginia Statewide Fire Prevention Code.

~~19~~22. *Shelters:* No fee shall be charged for a building permit for a radiation fallout or blast shelter constructed on land occupied for residential purposes by not more than two families, for use as shelter only and constructed in accordance with one of the shelter types or designs approved by the Federal Emergency Management Agency.

~~20~~23. *Solar energy:* No permit fee shall be charged to install solar energy equipment, although a permit is required for such installations and the permit holder is subject to the re-inspection fee.

~~21~~24. *Team inspections:* A fee shall be paid for each inspection involving an application for a change in use, change in occupant or other special request which requires inspection by one or more of the following disciplines: Building, Electrical, Plumbing, Mechanical and/or the Fire Marshal. These fees are not credited toward the cost of permits. If the inspection is canceled 24 hours in advance by the applicant, and not conducted, the fee is refundable upon application in writing to the Building Official within three months of the date of payment.

~~22~~25. *Tenant layouts:* Except for those tenant layouts shown on the originally approved plans for a new building, separate building permits shall be required for each tenant layout. The fee shall be based on a percentage of the estimated cost of the work. A fee per plan review discipline~~.~~ (i.e., building, electrical, mechanical or plumbing) may be assessed for each resubmission of plans for alterations to existing commercial buildings.

~~23. *Removal and Relocation:* The permit fee for the removal of a building or structure from one lot to another or to a new location in the County shall be based on the cost of moving and the cost of all work necessary to place the building or structure in its completed condition in the new location. In addition to a building permit to construct the foundation at the new location, a separate building permit is required to demolish any foundation at the original location.~~

~~24~~26. *Temporary Structures:* The fee for temporary structures includes, but is not limited to tents, produce stands and sales office trailers. Sheeting and shoring are not considered temporary structures for the purpose of determining fees.

~~25. *Partitions:* A permit fee shall be paid for the erection of partitions (metal studs only) in unoccupied space in a previously unoccupied commercial structure, pending approval of tenant layout plans.~~

~~(2) *Reserved*~~[1]

~~(3) *Fire Prevention Division (Fire Official) fees:*~~

~~(A) *Plan Review Fees:* Fees for all plan review are based on an hourly charge of $128.00 per hour calculated on the quarter hour or part thereof, per reviewer. Fees are due upon completion of the plan review process.~~

~~(B) *Acceptance Testing and Inspection Fees:* Fees are based on an hourly charge of $128.00 per hour calculated on the quarter hour or part thereof, per inspector. Fees for fire protection equipment and systems performance tests and inspections, other equipment and systems performance tests and inspections, occupancy or preoccupancy inspections, fire lanes and required retesting or reinspections shall be imposed at the rate of $128.00 per hour calculated on the quarter hour or part thereof, per required inspector.~~

~~(C) *Reinspection Fees:* Reinspection fees shall be based on the hours reserved to perform the test and will be charged at the rate of $128.00 per hour calculated on the quarter hour or part thereof, per required inspector. The following matrix is to serve as a guideline in determining when a reinspection fee is required for acceptance testing and retesting. A minimum notice of 24 hours (one full business day) for test~~

[1] Staff note: Section 61-1-3, subparagraph (d)(2), deleted with 05-11-61, adopted April 12, 2011

~~cancellation is required. The fee is charged when an inspection is not cancelled in time to save an unnecessary trip by inspectors.~~

~~REINSPECTION FEES~~

~~CIRCUMSTANCE~~	~~CONDITION~~	~~INSPECTED~~	~~REINSPECTION FEE~~
~~Cancelled or rescheduled off site more than 24 hours prior to appointment~~	~~N/A~~	~~No~~	~~No~~
~~Cancelled or rescheduled off site less than 24 hours prior to appointment~~	~~N/A~~	~~No~~	~~Yes~~
~~Contractor shows, others do not or inspectors arrive, no one on site~~	~~Cannot Test~~	~~No~~	~~Yes~~
~~Cancelled while inspectors on site; test not started~~	~~Not Ready~~	~~No~~	~~Yes~~
~~Regular inspection, test started, test not completed~~	~~Not Ready or Failure due to fault of contractor~~	~~Yes~~	~~Yes~~
~~Regular inspection, test started, test not completed~~	~~Failed, but not due to fault of contractor~~	~~Yes~~	~~No~~
~~Regular inspection, test completed~~	~~Substantially ready with minor deficiencies~~	~~Yes~~	~~No~~
~~Regular inspection, test completed~~	~~No punch list, sticker issued~~	~~Yes~~	~~No~~
~~Final Inspection~~	~~Deficient~~	~~Yes~~	~~Yes~~

~~*(D) Plan reviews and inspections performed outside business hours: Plan reviews and inspections may be performed outside business hours upon request at the sole discretion of the fire official. Fees for these plan reviews and inspections shall be assessed at twice the rate listed in (A), (B), and (C) above. Fees shall be assessed in 30 minute increments.*~~

~~(4) *Other fees pertaining to mechanical permits, periodic inspections and licenses:*~~

~~(A) *Mechanical equipment installation fees:* The permit fee for installation, repair, or replacement of all mechanical equipment installed in buildings other than within individual residences shall include a charge which shall be calculated at the rate of 1.9% of the contract value less the value of the listed equipment. This fee is in addition to the equipment fees listed in this section.~~

~~Automotive lift~~	~~$ 95.00~~
~~Boilers:~~	
~~Hot water heating to 200 MBH~~	~~$ 91.00~~
~~For each additional 100 MBH or fraction thereof~~	~~$ 14.00~~
~~Hot water storage tank~~	~~$ 91.00~~
~~Hot water supply to 500 MBH~~	~~$ 91.00~~
~~For each additional 500 MBH or fraction thereof~~	~~$ 14.00~~
~~Low-pressure steam to 200 MBH~~	~~$ 91.00~~
~~For each additional 100 MBH~~	~~$ 14.00~~
~~Indirect hot water heater~~	~~$ 91.00~~
~~Miniature~~	~~$114.00~~
~~Power~~	~~$114.00~~
~~Plus, per boiler hp~~	~~$ 1.70~~
~~Crematorium~~	~~$138.00~~
~~Dumbwaiters, See Vertical Transportation Equipment~~	
~~Elevators, See Vertical Transportation Equipment~~	
~~Ductwork: The fee for ductwork is 1.9% of the total contract value.~~	
~~Expansion tank~~	~~$ 91.00~~
~~Escalator, See Vertical Transportation Equipment~~	
~~Furnaces:~~	
~~Central heating up to 200 MBH~~	~~$ 37.00~~
~~Each additional 100 MBH or fraction thereof~~	~~$ 10.15~~
~~Duct-furnace up to 200 MBH input~~	~~$ 23.00~~
~~Each additional 100 MBH or fraction thereof~~	~~$ 10.15~~
~~Oil and solid fuel furnace up to 220 MBH input~~	~~$ 37.00~~
~~Each additional 100 MBH or fraction thereof~~	~~$ 10.15~~
~~Electric furnace up to 30 KW~~	~~$ 37.00~~
~~Each additional 30 KWS or fraction thereof~~	~~$ 5.25~~
~~Halon System~~	~~Base Fee~~
~~Heat Pump up to 5 ton~~	~~$ 46.00~~
~~Each additional ton~~	~~$ 1.70~~
~~Auxiliary heat up to 100 MBH~~	~~$ 37.00~~
~~Each additional 100 MBH~~	~~$ 5.25~~
~~Incremental heating and air conditioning units, per unit~~	~~$10.65~~
~~This fee applies to incremental heating and air conditioning units installed with boilers, chillers and water towers in a building.~~	
~~Incinerator:~~	
~~Per 100 lbs. per hour burning rate or fraction thereof~~	~~$ 46.00~~
~~Manlift, See Vertical Transportation Equipment~~	
~~Oil burner:~~	

~~Conversion to or replacement of oil burner:~~
~~Light oils - No. 1, 2 or 4 $ 46.00~~
~~Heavy oils - No. 5 or 6 $ 56.00~~
~~Piping of equipment: The fee for piping of equipment is 1.9% of the total contract value (for use groups other than R-3, R-4, and R-5).~~
~~Porch lift, handicapped/wheel chair lift, hand elevator, See Vertical Transportation Equipment~~
~~Prefab chimney $ 23.00~~
~~Prefab fireplace, with or without prefab chimney $ 23.00~~
~~Pump, circulating: $ 46.00~~
~~Range hood fire protection system Base Fee~~
~~Range hood only is charged as ductwork.~~
~~Refrigeration: Including, but not limited to, chillers, air conditioning units, and cooling towers.~~
~~Refrigeration and refrigeration cycle of air conditioning system up to 5 tons $ 46.00~~
~~Each additional refrigeration ton or fraction thereof $ 1.70~~
~~Sidewalk elevators, See Vertical Transportation Equipment~~
~~Space heater: See Unit Heater.~~
~~Tanks:~~
~~Above ground or underground tanks for hazardous or nonhazardous liquids (oil, gasoline and propane)~~
~~Commercial Base Fee~~
~~Residential (R-3, R-4, and R-5 occupancies) Base Fee~~
~~Unfired pressure vessel $ 91.00~~
~~(Air compressor receiving tank)~~
~~Unit heater:~~
~~Gas and oil up to 500 MBH input $ 23.00~~
~~For each additional 100 MBH input or fraction thereof $ 5.35~~
~~Electric up to 147 KW $ 23.00~~
~~Each additional 30 KW or fraction thereof $ 5.35~~
~~Woodstove, with or without prefab chimney $ 10.30~~
~~Vertical Transportation Equipment:~~
~~Commercial: (new or replacement)~~
~~Chair/platform lifts $142.00~~
~~Dumbwaiters/conveyors/material lifts~~
~~Hand-operated $142.00~~
~~Power-driven $142.00~~
~~Elevators~~
~~Construction $306.00~~
~~Freight, plus floor charge $289.00~~
~~Passenger, plus floor charge $289.00~~
~~Escalators, per floor/moving walks $497.00~~
~~Manlifts, power-driven $146.00~~
~~Sidewalk elevators:~~

~~Hand-driven~~	~~$113.00~~
~~Power-driven~~	~~$150.00~~

~~Floor charge: A fee of $47.00 per floor shall be charged for each floor in the building where a passenger or freight elevator is installed. This charge shall be computed and added to the cost of the first piece of equipment only.~~

~~Alterations or repairs shall be charged at a rate of 1.5% of the estimated cost of repairs, with a minimum fee of $135.00.~~

~~Residential: (new or replacement)~~

~~Chair/platform lifts~~	~~$142.00~~
~~Dumbwaiters~~	
~~Hand-operated~~	~~$142.00~~
~~Power-driven~~	~~$142.00~~
~~Private residence elevators~~	~~$306.00~~

~~(B) *Periodic mechanical inspection fee:* All vertical transportation equipment, other than that which is installed within individual residences, and other than conveyors, requires an annual certificate of compliance. For an annual certificate of compliance, the annual fee payable by the owner of the building to the County of Fairfax on or before the expiration of the certificate shall be as follows:~~

~~Elevators: See Vertical Transportation Equipment~~	
~~Sidewalk elevators, See Vertical Transportation Equipment~~	
~~Dumbwaiters, See Vertical Transportation Equipment~~	
~~Escalator, See Vertical Transportation Equipment~~	~~$146.00~~
~~Manlift, See Vertical Transportation Equipment~~	~~$146.00~~
~~Boilers:~~	
~~Hot water heating:~~	
~~0-1000 MBH~~	~~$ 91.00~~
~~1001-2000 MBH~~	~~$114.00~~
~~Over 2000 MBH~~	~~$138.00~~
~~Hot water supply~~	~~$ 91.00~~
~~Miniature~~	~~$114.00~~
~~Power:~~	
~~0-100 HP~~	~~$138.00~~
~~101-500 HP~~	~~$160.00~~
~~501-1000 HP~~	~~$185.00~~
~~Over 1000 HP~~	~~$205.00~~
~~Steam:~~	
~~0-1000 P/H~~	~~$121.00~~
~~1001-2000 P/H~~	~~$138.00~~
~~2001-4000 P/H~~	~~$160.00~~
~~Over 4000 P/H~~	~~$185.00~~
~~Hydrostatic test~~	~~$163.00~~

~~Incinerator:~~
~~Up to 100 Pounds $ 95.00~~
~~Over 100 Pounds $146.00~~
~~Range hood fire protection system $ 91.00~~
~~Range hood only is charged as ductwork~~
~~Halon system $ 91.00~~
~~Refrigeration system $138.00~~
~~Unfired pressure vessel:~~
~~With manhole $138.00~~
~~Without manhole $ 91.00~~
~~Vertical Transportation Equipment (except for equipment installed within private residences):~~
~~Chair/platform lifts $146.00~~
~~Dumbwaiters/material lifts~~
~~Hand-operated $122.00~~
~~Power-driven $134.00~~
~~Elevators~~
~~Construction $266.00~~
~~Freight, plus floor charge $266.00~~
~~Passenger, plus floor charge $266.00~~
~~Escalators, per floor/moving walks $146.00~~
~~Manlifts, power-driven $146.00~~
~~Sidewalk elevators:~~
~~Hand-driven $113.00~~
~~Power-driven $150.00~~

~~Floor charge: A fee of $47.00 per floor shall be charged for each floor in the building where a passenger or freight elevator is installed. This charge shall be computed and added to the cost of the first piece of equipment only.~~

~~The following fees apply to freight and passenger elevator tests which are not performed in conjunction with regularly scheduled periodic inspections:~~

~~Temporary inspection $246.00~~
~~Temporary inspection (extension) $115.00~~
~~Governor test $296.00~~
~~Load test $445.00~~
~~Speed test $296.00~~
~~Static pressure/hydraulic $296.00~~
~~Fire and smoke test $213.00~~

~~(5) *Other fees pertaining to plumbing permits:*~~

~~*Plumbing and gasfitting equipment installation fees:*~~
~~New plumbing systems in new buildings, existing unplumbed buildings, or portions thereof, changes in~~

~~existing systems $ 46.00~~
~~Plus for each fixture, each appliance, each appurtenance, including sill cock, and for each area-way drain, floor drain and roof drain $ 6.85~~
~~Setting or replacing fixtures without changes in existing system $ 46.00~~
~~Plus, for each fixture $ 5.35~~
~~Sewer, new, replacement or repair $ 46.00~~
~~Sewer tapping $ 46.00~~
~~Sewage ejector pump $ 6.85~~
~~Sump pump $ 6.85~~
~~Swimming pool, public and semipublic:~~
~~Fixture, appliance and appurtenance fee apply.~~
~~Water service, new, replacement or repair $ 46.00~~
~~Sprinkler system for fire suppression . . . Base Fee~~

~~(6) *Other fees pertaining to electrical permits:*~~

~~(A) *Electrical equipment installation fees for initial construction of new dwelling units in R-2, R-3, R-4, and R-5 use groups:*~~
~~Electrical service size:~~
~~0-149 amps $190.00~~
~~159-399 amps $200.00~~
~~400 amps $275.00~~
~~More than 400 amps Use Itemized fees in (B)~~

~~These fees include the initial installation of equipment listed on the electrical permit application that includes the main electrical service for the dwelling. The fee for a permit amendment for additional equipment shall be $30.00. Any equipment installed pursuant to other electrical permit applications shall be charged in accordance with the fees prescribed in paragraph (B) of this section (Electrical equipment installation fees) below.~~

~~(B) *Electrical equipment installation fees:*~~

~~*Appliances, residential:* Includes direct-wired appliances installed in dwelling units such as air cleaners, attic fans, central vacuums, dishwashers, disposals, clothes dryers, ovens, ranges or stoves, trash compactors and water heaters:~~
~~First $ 10.15~~
~~Each additional $ 5.35~~

~~Receptacles for individual appliances installed in lieu of the appliance shall be charged at the same rate as if the appliance were installed.~~
~~Circuits, new (extensions are counted as circuits):~~
~~Each $ 1.70~~

~~Dental chairs~~	~~$ 10.15~~
~~Electrical equipment rated by kilowatts (KW) to include space, baseboard and central heat, and commercial cooking units, water heaters, dishwasher, dryers, etc.:~~	
~~0 to 4 KW~~	~~$ 14.00~~
~~Each additional unit in this range~~	~~$ 5.35~~
~~4 to 6 KW~~	~~$ 17.00~~
~~Each additional unit in this range~~	~~$ 10.15~~
~~6 to 8 KW~~	~~$ 21.35~~
~~Each additional unit in this range~~	~~$ 14.00~~
~~8 to 10 KW~~	~~$ 26.70~~
~~Each additional unit in this range~~	~~$ 17.00~~
~~10 to 14 KW~~	~~$ 31.00~~
~~Each additional unit in this range~~	~~$ 21.35~~
~~14 to 20 KW~~	~~$ 34.70~~
~~Each additional unit in this range~~	~~$ 26.70~~
~~20 to 25 KW~~	~~$ 39.00~~
~~Each additional unit in this range~~	~~$ 31.00~~
~~Over 25 KW~~	~~$ 42.90~~
~~Each additional unit in this range~~	~~$ 34.70~~
~~Control wiring: Wiring less than 50 volts when penetrating fire rated assemblies, smoke barriers and non-combustible plenums (e.g., telephone wiring, cable television wiring, burglary/security systems, fire alarm systems, etc.)~~	~~Base fee~~
~~Fan coil units~~	~~$ 5.35~~
~~Fixtures, switches and receptacles, etc.:~~	
~~First 10 or fraction thereof~~	~~$ 10.15~~
~~Each additional 10 or fraction thereof~~	~~$ 6.85~~
~~Gasoline pumps: Submerged: Fee same as for motors~~	
~~Gasoline island pumps or dispensers:~~	
~~First~~	~~$ 10.15~~
~~Each additional, each~~	~~$ 5.35~~
~~Generators:~~	
~~0 to 5 KW~~	~~$ 23.00~~
~~Over 5 to 25 KW~~	~~$ 28.25~~
~~Over 25 to 35 KW~~	~~$ 37.00~~
~~Over 35 to 50 KW~~	~~$ 45.00~~
~~Over 50 KW~~	~~$ 69.00~~
~~Heating and air conditioning - gas/oil:~~	
~~Residential furnace - gas/oil or air conditioning:~~	
~~First unit~~	~~$ 14.00~~
~~Each additional unit~~	~~$ 5.35~~
~~Commercial furnace - see motors~~	

~~Motors and electrical equipment rated by horsepower (HP) to include commercial heating, cooling, and ventilating equipment. On package~~

~~equipment, such as pumps and commercial air handlers, fans, compressors and disposals, each motor shall be charged for separately:~~

~~1/8 horsepower or less~~	~~Charged as fixtures~~
~~Over 1/8 to 1 hp:~~	
~~First~~	~~$ 14.00~~
~~Each additional motor~~	~~$ 5.35~~
~~Over 1 to 5 hp:~~	
~~First~~	~~$ 17.00~~
~~Each additional motor~~	~~$ 5.35~~
~~Over 5 to 10 hp:~~	
~~First~~	~~$ 23.10~~
~~Each additional motor~~	~~$ 10.15~~
~~Over 10 to 20 hp:~~	
~~First~~	~~$ 28.25~~
~~Each additional motor~~	~~$ 14.00~~
~~Over 20 to 30 hp:~~	
~~First~~	~~$ 32.50~~
~~Each additional motor~~	~~$ 17.00~~
~~Over 30 to 40 hp:~~	
~~First~~	~~$ 42.30~~
~~Each additional motor~~	~~$ 28.25~~
~~Over 40 to 50 hp:~~	
~~First~~	~~$ 50.15~~
~~Each additional motor~~	~~$ 36.30~~
~~Over 50 hp:~~	
~~First~~	~~$ 60.10~~
~~Each additional motor~~	~~$ 46.00~~

~~Parking lot lighting:~~

~~First pole~~	~~$ 10.15~~
~~Each additional~~	~~$ 5.35~~

~~Services (new or replacement, subservices, subpanels, submeters or meters for separate occupancies):~~

~~0 to 800 amp~~	~~$ 47.25~~
~~Over 800 amp~~	~~$ 69.00~~

~~Temporary service on structures for construction of temporary or permanent service:~~

~~0 to 800 amp~~	~~$ 47.25~~
~~Over 800 amp~~	~~$ 69.00~~

~~Circuits, fixtures, receptacles and equipment to be charged for under the circuit fixture and motor schedule:~~

~~Sign:~~

~~Fluorescent, each sign:~~

~~1 to 4 tubes~~	~~$ 14.00~~
~~Each additional 4 tubes or fraction thereof~~	~~$ 10.15~~

~~Incandescent, each sign $ 14.00~~
~~Neon, each sign:~~
~~First transformer $ 14.00~~
~~Each additional transformer $ 5.35~~
~~Swimming pools, annual inspection fees:~~
~~Includes 2 inspections $125.00~~
~~Fee must be paid before inspections will be performed.~~
~~Additional inspections will require payment of re-inspection fee.~~
~~Temporary wiring:~~
~~Tree sales, produce stands, fireworks stands, tent sales and other temporary non-amusement activities Base Fee~~
~~Carnivals, fairs, circuses, and other temporary amusement activities $160.00~~
~~Transformers and step-down transformers:~~
~~0 to 10 KVA $ 14.00~~
~~Each additional transformer within this range $ 10.15~~
~~Over 10 to 50 KVA $ 17.00~~
~~Each additional transformer within this range $ 14.00~~
~~Over 50 to 75 KVA $ 28.25~~
~~Each additional transformer within this range $ 23.00~~
~~Over 75 to 200 KVA $ 42.30~~
~~Each additional transformer within this range $ 32.50~~
~~Over 200 KVA $ 53.85~~
~~Each additional transformer within this range $ 45.60~~
~~Unit heaters $ 5.35~~
~~UPS System: Fee shall be the same as transformers by KVA rating.~~
~~Welders $ 6.00~~
~~X-ray machines $ 6.00~~

~~(7) *Household appliance permits:*~~

~~(A) *Household appliance fees:* Permanently wired or plumbed appliances may be installed in an existing dwelling using a household appliance permit, provided the capacity of the electrical panel or gas service is not exceeded and the electric circuitry, gas piping and plumbing is existing. A household appliance permit may also be used when a permit is required for the replacement of a listed appliance provided the above criteria are met.~~

~~PERMIT REQUIRED FOR NEW INSTALLATIONS ONLY~~

~~Air cleaner/filter~~
~~Air conditioning condensing unit~~
~~Bathtub~~
~~Clothes dryer, gas/electric~~
~~Dehumidifier~~
~~Dishwasher~~

~~Disposal~~
~~Fan, attic~~
~~Fan, ceiling~~
~~Fan, exhaust~~
~~Furnace, electric~~
~~Heat pump~~
~~Hose bib~~
~~Humidifier~~
~~Ice maker~~
~~Laundry tub~~
~~Lighting fixtures~~
~~Oven, gas/electric~~
~~Pressure reducing valve~~
~~Shower~~
~~Sink~~
~~Smoke detector (wired-in) - no fee~~
~~Solar energy equipment - no fee~~
~~Stove, gas/electric~~
~~Sump pump~~
~~Toilet~~
~~Trash compactor~~
~~Water heater, electric/gas/oil~~
~~Water treatment equipment~~

~~Permits are required for the replacement of the fixtures and appliances listed above if the installation requires a change to: 1) duct systems; 2) plumbing supply, drain, waste, or vent piping; 3) electrical circuits; 4) appliance vent systems; or 5) gas piping.~~

~~PERMITS REQUIRED FOR BOTH NEW AND REPLACEMENT INSTALLATIONS~~

~~Centralized air-conditioning systems~~
~~Clothes dryers, gas~~
~~Furnace, gas/oil~~
~~Gas logs~~
~~Gas/oil~~
~~Gas stove/heater~~
~~Oven, gas~~
~~Prefabricated chimney~~
~~Prefabricated fireplace~~
~~Water heater, gas/oil~~
~~Wood stove/heater~~

~~The base fee for a household appliance permit shall be $50.00, which includes the first appliance. Additional appliances may be added on the same permit for $11.75 each.~~

~~(B) *Contractors authorized to take out permits to install or replace appliances:* The following table indicates which contractors shall be authorized to obtain household appliance permits for the installation or replacement of appliances in the program:~~

~~Type of Equipment~~	~~Electrical~~	~~HVAC~~	~~Plumbing~~	~~Gas~~	~~HIC**~~
~~Air cleaner/filter, electrostatic~~	~~X~~	~~X~~			~~X~~
~~Air conditioning (central AC system)~~	~~X~~	~~X~~			
~~Air conditioning condensing unit~~	~~X~~	~~X~~			
~~Bathtub~~			~~X~~		
~~Clothes dryer, gas~~				~~X~~	
~~Dehumidifier~~	~~X~~	~~X~~			~~X~~
~~Dishwasher~~	~~X*~~		~~X~~		~~X~~
~~Disposal~~	~~X*~~		~~X~~		~~X~~
~~Fan, Attic~~	~~X~~	~~X~~			~~X~~
~~Fan, Ceiling~~	~~X~~				~~X~~
~~Fan, Exhaust~~	~~X~~	~~X~~			~~X~~
~~Furnace, electric~~	~~X~~	~~X~~			
~~Furnace, gas~~		~~X~~		~~X~~	
~~Furnace, oil~~		~~X~~		~~X~~	
~~Gas log~~				~~X~~	
~~Heat pump~~	~~X~~	~~X~~		~~X~~	
~~Hose bib, (outside faucet)~~			~~X~~		
~~Humidifier~~	~~X~~	~~X~~	~~X~~		
~~Ice maker~~			~~X~~		~~X~~
~~Laundry tub~~			~~X~~		~~X~~
~~Lighting fixtures~~	~~X~~				
~~Oven, electric~~	~~X~~				~~X~~
~~Oven, gas~~				~~X~~	~~X~~
~~Prefabricated chimney~~		~~X~~		~~X~~	
~~Prefabricated fireplace~~		~~X~~			
~~Pressure reducing valve~~			~~X~~		~~X~~
~~Shower~~			~~X~~		
~~Sink / lavatory~~			~~X~~		
~~Smoke detector (wired-in) - no fee~~	~~X~~				
~~Solar energy equipment - no fee~~	~~X~~	~~X~~	~~X~~		~~X~~
~~Stove, electric~~	~~X~~				~~X~~
~~Stove, gas~~				~~X~~	~~X~~
~~Sump pump~~	~~X*~~		~~X~~	~~X~~	
~~Trash compactor~~	~~X~~				~~X~~
~~Water closet (toilet)~~			~~X~~		~~X~~
~~Water heater, electric~~	~~X*~~	~~X~~	~~X~~		
~~Water heater, gas~~		~~X~~	~~X~~	~~X~~	
~~Water heater, oil~~		~~X~~	~~X*~~	~~X~~	
~~Water treatment equipment~~	~~X*~~		~~X~~		
~~Wood stove/heater~~		~~X~~			~~X~~

~~Other~~	~~***Manual Check By Technician***~~

~~X* Authorized for replacement only~~
~~HIC** State HIC classification (Not allowed by FFXHIC)~~

~~*(8) Amusement Devices*~~*:*

~~The permit fee for each amusement device or carnival ride shall be as follows:~~

~~Kiddie ride, per inspection $ 25.00~~

~~Kiddie ride - An amusement ride designed primarily for use by children up to twelve (12) years of age which requires simple reassembly procedures prior to operation and does not require complex inspections prior to operation. Kiddie rides include, but are not limited to: kiddie cars, mini-bumper cars, airplane swings, river canoes, and small merry-go-rounds.~~

~~Major ride, per inspection $ 35.00~~

~~Major ride - A flat or circular ride not classified as a spectacular ride or a kiddie ride, that may be inspected principally from the ground, i.e., within a height not greater than twenty (20) feet off the ground or loading platform. Major rides include, but are not limited to: "dark rides" (enclosed rides), astroliners, bumper cars, scramblers, spiders and tilt-a-whirls.~~

~~Spectacular ride, per inspection $ 55.00~~

~~Spectacular ride - A high ride, a flat ride, or a circular ride which, because of height, size, length, capacity, or complexity of assembly and operation, requires a greater amount of inspection effort than for kiddie rides and major rides. Spectacular rides include, but are not limited to: ferris wheels, flying bobs, himilayas, sky divers and roller coasters.~~

~~Roller coasters which exceed 30 feet in height $150.00~~

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ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing on Proposed Amendments to the *Code of the County of Fairfax, Virginia* (Code) Regarding Adjustment of the Fees Charged by the Fire Marshal for Plan Review, Permits, and Inspection Services

ISSUE:
Adjustments to the fees charged for plan review, permits and inspection services in order to support the Fire Marshal's efforts to enhance the plans review, permit and inspection services and to achieve a cost recovery threshold of 90-100%.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the public hearing on the proposed amendments as set forth in the staff report dated October 28, 2014.

TIMING:
The Board is requested to take action on October 28, 2014, to provide sufficient time to advertise public hearings on December 2, 2014, at 5 p.m. before the Board of Supervisors, for the proposed amendments to become effective at 12:01 a.m. on December 31, 2014.

BACKGROUND:
The Fire and Rescue Department is proposing to adjust the Fire Marshal fees for plan review, permits, and inspection services. Fire Marshal hourly rate fees were last increased in FY2009 and fees for operational permits were increased in FY2010. At that time, the hourly rate fees were increased by approximately 33% and the fees for most operational permits contained in Chapter 62 were increased by 25%. The fees were adjusted to recover the actual costs of providing services. At that time, the Board directed staff to ensure that the Fire Marshal annually review their fee structure to achieve a cost recovery threshold of 90-100%.

Since that time, the Fire Marshal's staff has continued to review and control its costs. The Fire Marshal's Office (FMO) experienced an increase in the total amount of fees collected for service; however, FY2014 was the first year that the mandated cost recovery threshold was not achieved. The increased costs are primarily due to increases in personnel costs, fringe benefits and increased operating costs.

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The Fire Marshal's office is proposing an increase to the majority of its fees. The proposed fees for reviewing plans, processing permits and performing inspections are based on increases in workload and increased operating costs associated with enforcement of the Fire Prevention Code of the County of Fairfax. The proposed fee increase will ensure that the FMO achieve its cost recovery threshold. The increased fees will also provide for additional staff resources to assist the FMO in improving customer service, ensure that the FMO engineering plans review staff keeps pace with additional workload generated by an increase in LDS engineering staff and enhancements to the Fast Track Program.

Fire Marshal fees contained in Appendix Q of the Code of the County of Fairfax are being presented to the Board for consideration in a separate board item prepared by the Department of Public Works and Environmental Services. The revenue and staffing increase for the Fire Marshal's Office is also included in that item. Staff recommends that timing of the increases in Fire Marshal fees in Appendix Q and Chapter 62 are done concurrently to avoid confusion by industry.

SUMMARY OF AMENDMENTS:
The proposed amendments increase fees charged by the Fire Marshal. The proposed adjustments will assist the Fire Marshal in efforts achieve a cost recovery rate of 90-100% and to provide for additional staff resources. In general, the hourly fees contained in Table 107.2 of the Fire Prevention Code of the County of Fairfax (Chapter 62) concerning plan review, witnessed fire protection systems tests, and certain inspections will be increased from $128 per hour (billed in ¼ hour increments) to $156 per hour, which is a 21.9% increase. Most operational permits contained in Table 107.2 of the Fire Prevention Code of the County of Fairfax (Chapter 62) will increase by 20% with the exception of the following:

- Review of Tier II submissions, per chemical, to a maximum of $200;
- Review of hazardous materials facility emergency response plan, above the threshold planning quantity of extremely hazardous substances;
- Office for Children Home Day Care Fire Inspections; and
- County and State Licensing Fire Inspections.

The existing fees associated with the aforementioned items are sufficient to cover the costs of providing services.

REGULATORY IMPACT:
The proposed fee amendments increase the fees charged by the Fire Marshal for plan review, permits, and inspection services to ensure that the mandated rate of cost recovery is 90-100%. The additional revenue will also allow the Fire Marshal to apply staff resources where necessary to enhance customer service, by improving the timeliness and quality of reviews and inspections. Aside from the aforementioned fees that remain unchanged, the fees will increase by approximately 20% with some variation due to maintaining whole dollar amounts for billing in ¼ hour increments. For a full list of proposed amendments, refer to Attachment I – Amendments to Chapter 62, Section 62-2-8, Table 107.2, Fire Prevention Fees and Detailed Permit Requirements.

FISCAL IMPACT:
If adopted by the Board, it is anticipated that the proposed fee adjustments will generate increased revenue of approximately $286,875 in FY2015. This revenue estimate is based on the FY2014 actual revenue of $2.6 million for services provided under Chapter 62 and assumes that workload remains constant in FY2015. It is anticipated that the proposed fee adjustments will generate increased revenue of approximately $573,749 in FY2016. Any reduction in plan and permit activity may have a negative impact on the projected revenue. Staff in the FMO will work in close coordination with the Department of Management and Budget to monitor these trends. The $286,985 in additional revenue will be reflected in the FY2015 Revised Budget Plan. The $573,749 in additional revenue will be reflected in the County Executive's proposed FY2016 Advertised Budget Plan.

ENCLOSED DOCUMENTS:
Attachment I – Staff Report dated October 28, 2014

STAFF:
David Rohrer, Deputy County Executive for Public Safety
Fire Chief Richard Bowers, Fire and Rescue Department

ATTACHMENT 1

FAIRFAX COUNTY

V I R G I N I A

STAFF REPORT

PROPOSED AMENDMENTS TO THE FIRE PREVENTION CODE OF THE COUNTY OF FAIRFAX (CHAPTER 62)

Fire Marshal Fees

PUBLIC HEARING DATES

Board of Supervisors December 2, 2014

PREPARED BY
FIRE PREVENTION DIVISION
FIRE AND RESCUE DEPARTMENT
703-246-4753

October 28, 2014

NJ

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 Fire Prevention Code of the County of Fairfax amendments increase Fire Marshal fees for plans submissions, inspections and operational permits.

Existing Fire Prevention Code Provisions

The Fire Prevention Division of the County's Fire and Rescue Department reviews various plans, issues operational permits, performs inspections and witnesses periodic testing of existing fire protection systems for compliance with Fire Prevention Code of the County of Fairfax. Under the existing Fire Prevention Code, Fire Marshal fees are assessed for review of various types of plans, issuance of operational permits, and witnessing annual re-testing of existing fire protection systems. The Fire Marshal fees are based on the actual costs of performing each type of service. The Statewide Fire Prevention Code allows jurisdictions to assess fees to defray the costs associated with enforcing the code. The Fire Marshal's Office was directed by the BOS to set fees so that 90-100% of actual costs are recovered.

Background

The current Fire Marshal review, permit and inspection fees, which were last adjusted in FY2009 that set the hourly rate at $128 per hour (billed in ¼ hour increments), per reviewer or inspector. Fees for most operational permits were last reviewed and adjusted in FY2010 and most permit fees were set at $125. The Fire and Rescue Department recently reviewed the current fee structure and cost recovery effort within the Fire Prevention Division. As a result of the review, staff recommends an increase in existing fees to more closely align the fees with the cost of performing mandated services. Staff recommends a fee increase of the hourly rate to $156 per hour (a 21.875% increase), per reviewer or inspector and further recommends a 20% increase in fees for most operational permits. The rationale for the proposed rate increases is due to increased personnel costs, fringe benefits and operational expenses. The increased rates are comparable to those of surrounding jurisdictions and represent a 98% cost recovery rate.

Proposed Amendments

The proposed Fire Prevention Code of the County of Fairfax amendments increase the Fire Marshal review and inspection fee to $156 per hour and increases the cost of most operational permits to $150. The proposed rates represent a 98% cost recovery rate which is within the 90-100% rate set by the Board in FY2009.

Conclusion

Given that the current fees do not generate sufficient revenue to recover 90-100% of the Fire Marshal's costs to process and review plans, perform inspections or re-test existing fire protection systems, staff believes that a fee increase is appropriate.

Additionally, the Fire Marshal hourly fees contained in Appendix Q of the Code of the County of Fairfax are also being recommended for increase and are contained in a separate package. It is critical that the hourly rates charged in Appendix Q and Chapter 62 remain the same to avoid confusion among industry. Therefore, staff recommends adoption of the proposed amendments as advertised with an effective date of 12:01 a.m. on December 31, 2014.

CHAPTER 62

FIRE PROTECTION

Article 1. IN GENERAL

Section 62-2-7. Fairfax County Fire Prevention Code.

The regulations set forth herein shall be known as the Fire Prevention Code of the County of Fairfax, and shall be herein referred to as such or as this Code.

Section 62-2-8. Amendments, additions, deletions to the Virginia Statewide Fire Prevention Code.

The Virginia Statewide Fire Prevention Code is hereby amended and changed pursuant to Section 27-97 of the Code of Virginia in the following respects:

Table 107.2. Amended as follows:

	Code Reference	**Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS**	*Old Flat Fee*	*New Flat Fee*	*Old Hourly Fee*	*New Hourly Fee*
		Section 1 - Detailed Operational Permit Requirements				
1	108.1.1	Aerosol Products, Level 2 or 3: Manufacture, Store, or Handle an Aggregate Quantity in Excess of 500 Pounds Net Weight	~~$125~~	$150		
2	108.1.1	Special Amusement Buildings	~~$125~~	$150		
3	108.1.1	Aviation Facilities (Group H or S Occupancies): Aircraft Servicing or Repair and Aircraft Fuel Servicing Vehicles	~~$125~~	$150		
4	108.1.1	Carnivals, Circuses, Fairs, and Festivals Outdoor Assembly 500 persons or more (except A or E use groups) Outdoor Assembly 1000 persons or more (30 Day Permit)	~~$125~~	$150		
5	108.1.1	Battery Systems: Install Stationary Lead-Acid Battery Systems Having a Liquid Capacity of More Than 50 Gallons	~~$125~~	$150		
6	108.1.1	Cellulose Nitrate (Pyroxylin Plastic): Assembly or Manufacturing of Articles Involving Any Amount	~~$125~~	$150		
7	108.1.1	Cellulose Nitrate (Pyroxylin Plastic): Storage or Handling More Than 25 Pounds	~~$125~~	$150		
8	108.1.1	Cellulose Nitrate Film: Store, Handle, or Use in a Group A Occupancy	~~$125~~	$150		
9	108.1.1	Combustible Dust-Producing Operations	~~$125~~	$150		
10	108.1.1	Combustible Fibers: Storage and Handling of Greater Than 100 Cubic Feet Exception: Agricultural Storage	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
11	108.1.1	Compressed Gas - Corrosive: Storage, Use, or Handling, in Excess of 200 Cubic Feet at Normal Temperature and Pressure Exception: Vehicles Equipped For and Using Compressed Gas as a Fuel for Propelling the Vehicle	~~$125~~	$150		
12	108.1.1	Compressed Gas - Flammable: Storage, Use, or Handling, in Excess of 200 Cubic Feet at Normal Temperature and Pressure including hydrogen gases stored in metal hydrides. Exceptions: 1. Vehicles Equipped For and Using Compressed Gas as a Fuel for Propelling the Vehicle 2. Cryogenic Fluids and Liquefied Petroleum Gases	~~$125~~	$150		
13	108.1.1	Compressed Gas - Toxic or Highly Toxic: Storage, Use, or Handling, Any Amount	~~$125~~	$150		
14	108.1.1	Compressed Gas - Inert or Simple Asphyxiant: Storage, Use, or Handling in Excess of 6000 Cubic Feet at Normal Temperature and Pressure Exception: Vehicles Equipped For and Using Compressed Gas as a Fuel for Propelling the Vehicle	~~$125~~	$150		
15	108.1.1	Compressed Gas - Oxidizing (Including Oxygen): Storage, Use, or Handling, in Excess of 504 Cubic Feet at Normal Temperature and Pressure Exception: Vehicles Equipped For and Using Compressed Gas as a Fuel for Propelling the Vehicle	~~$125~~	$150		
16	108.1.1	Compressed Gas – Pyrophoric: Storage, Use, and Handling of Any Amount	~~$125~~	$150		
17	108.1.1	Cryogenic Fluids - Flammable: Produce, Store, Transport on Site, Use, Handle, or Dispense More Than 1 Gallon Inside a Building or More Than 60 Gallons Outside a Building Exception: Operational Permits are not Required for Vehicles Equipped For and Using Cryogenic Fluids as a Fuel for Propelling the Vehicle or for Refrigerating the Lading	~~$125~~	$150		
18	108.1.1	Cryogenic Fluids - Inert: Produce, Store, Transport on Site, Use, Handle, or Dispense More Than 60 Gallons Inside a Building or More Than 500 Gallons Outside a Building Exception: Operational Permits are not Required for Vehicles Equipped For and Using Cryogenic Fluids as a Fuel for Propelling the Vehicle or for Refrigerating the Lading	~~$125~~	$150		
19	108.1.1	Cryogenic Fluids - Oxidizing (Includes Oxygen): Produce, Store, Transport on Site, Use, Handle, or Dispense More Than 10 Gallons Inside a Building or More Than 50 Gallons Outside a Building Exception: Operational Permits are not Required for Vehicles Equipped For and Using Cryogenic Fluids as a Fuel for Propelling the Vehicle or for Refrigerating the Lading	~~$125~~	$150		
20	108.1.1	Cryogenic Fluids - Physical or Health Hazard Not Otherwise Specified: Produce, Store, Transport on Site, Use, Handle, or Dispense Any Amount Inside a Building or Any Amount Outside a Building Exception: Operational Permits are not Required for Vehicles Equipped For and Using Cryogenic Fluids as a Fuel for Propelling the Vehicle or for Refrigerating the Lading	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
21	108.1.1	Commercial Kitchen Operation Requiring a Type I Hood Exception: Assembly/Educational Occupancies Having a Fire Prevention Code Permit	~~$125~~	$150		
22	108.1.1	Dry Cleaning – Any Type Plant Using Any Class of Solvent or Changing to a More Hazardous Cleaning Solvent Used in Existing Dry Cleaning Equipment	~~$125~~	$150		
23	108.1.1	Explosives: Explosives Use, Each Site or Location (6 Month Permit)	~~$150~~	$180		
24	108.1.1	Explosives: Transportation, Each Vehicle (6 Month Permit)	~~$ 65~~	$78		
25	108.1.1	Explosives: Firm or Company License	~~$125~~	$150		
26	108.1.1	Explosives: Storage and Display of Black Powder or Smokeless Propellant Indoors	~~$125~~	$150		
27	108.1.1	Explosives: Approved Overnight Storage, Any Quantity (6 Month Permit)	~~$500~~	$600		
28	108.1.1	Explosives: Laboratory Use (6 Month Permit)	~~$125~~	$150		
29	108.1.1	Explosives: Temporary Storage, Any Quantity (1 day permit)	~~$500~~	$600		
30	108.1.1	Flammable Liquids – Class I: Store, Handle, or Use in Excess of 5 Gallons in a Building or in Excess of 10 Gallons Outside a Building Exceptions: 1. Storage or Use in the Fuel Tank of a Motor Vehicle, Aircraft, Motorboat, Mobile Power Plant, or Mobile Heating Plant, Unless Such Storage, in the Opinion of the Fire Official, Would Cause an Unsafe Condition 2. Storage or Use of Paints, Oils, Varnishes, or Similar Flammable Mixtures When Such Liquids are Stored for Maintenance, Painting, or Similar Purposes for a Period of Not More Than 30 Days	~~$125~~	$150		
31	108.1.1	Combustible Liquids – Class II or IIIA: Store, Handle, or Use in Excess of 25 Gallons in a Building or in Excess of 60 Gallons Outside a Building Exception: Fuel Oil Used in Connection with Oil-burning Equipment	~~$125~~	$150		
32	108.1.1	Flammable/Combustible Liquid Tank - Underground Storage Only	~~$125~~	$150		
33	108.1.1	Flammable/Combustible Liquid Tank - Underground Storage Utilizing Dispensing Equipment	~~$125~~	$150		
34	108.1.1	Flammable/Combustible Liquid Tank – Above - ground Storage Only	~~$125~~	$150		
35	108.1.1	Flammable/Combustible Liquid Tank – Above - ground Storage Utilizing Dispensing Equipment	~~$125~~	$150		
36	108.1.1	Flammable/Combustible Liquids: Bulk Storage Facility – in Excess of 100,000 Gallons	~~$500~~	$600		
37	108.1.1	Flammable/Combustible Liquid Tank - Installation, Above- or Below-ground Tank (90 Day Permit)	~~$125~~	$150		
38	108.1.1	Flammable/Combustible Liquid Tank - Alter or Relocate an Existing Tank (90 Day Permit)	~~$125~~	$150		
39	108.1.1	Flammable/Combustible Liquid Tank – Place Temporarily Out of Service	~~$125~~	$150		
40	108.1.1	Flammable/Combustible Liquid Tank - Underground Abandonment (90 Day Permit)	~~$125~~	$150		
41	108.1.1	Flammable/Combustible Liquid Tank - Underground Removal (Commercial - 90 Day Permit)	~~$125~~	$150		
42	108.1.1	Flammable/Combustible Liquid Tank - Underground Removal (Residential - 90 Day Permit)	~~$125~~	$150		
43	108.1.1	Flammable/Combustible Liquid Tank – Above -ground Removal (Commercial - 90 Day Permit)	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
44	108.1.1	Flammable/Combustible Liquid Tank - Install Product Lines/Dispensing Equipment (90 Day Permit)	~~$125~~	$150		
~~45~~	108.1.1	Flammable/Combustible Liquids: Manufacture, Process, Blend, or Refine	~~$250~~	$300		
~~46~~	108.1.1	Flammable/Combustible Liquid Tank: Change the Contents Stored to a Greater Hazard	~~$125~~	$150		
47	108.1.1	Floor Finishing or Surfacing Exceeding 350 Square Feet Using Class I or Class II Liquids (30 Day Permit)	~~$ 65~~	$78		
48	108.1.1	Fruit- and Crop-Ripening Facility or Process Using Ethylene Gas	~~$125~~	$150		
49	108.1.1	Fumigation or Thermal Insecticidal Fogging or Maintaining a Room, Vault or Chamber in Which a Toxic or Flammable Fumigant is Used (15 Day Permit)	~~$125~~	$150		
50	108.1.1	Corrosive Liquids: Store, Transport on Site, Dispense, Use, or Handle in Excess of 55 Gallons	~~$125~~	$150		
51	108.1.1	Corrosive Solids: Store, Transport on Site, Dispense, Use, or Handle in Excess of 1000 Pounds	~~$125~~	$150		
52	108.1.1	Flammable Solids: Store, Transport on Site, Dispense, Use, or Handle in Excess of 100 Pounds	~~$125~~	$150		
53	108.1.1	Highly Toxic Liquids: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
54	108.1.1	Highly Toxic Solids: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
55	108.1.1	Oxidizing Liquids, Class 4: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
56	108.1.1	Oxidizing Liquids, Class 3: Store, Transport on Site, Dispense, Use, or Handle in Excess of 1 Gallon	~~$125~~	$150		
57	108.1.1	Oxidizing Liquids, Class 2: Store, Transport on Site, Dispense, Use, or Handle in Excess of 10 Gallons	~~$125~~	$150		
58	108.1.1	Oxidizing Liquids, Class 1: Store, Transport on Site, Dispense, Use, or Handle in Excess of 55 Gallons	~~$125~~	$150		
59	108.1.1	Oxidizing Solids, Class 4: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
60	108.1.1	Oxidizing Solids, Class 3: Store, Transport on Site, Dispense, Use, or Handle in Excess of 10 Pounds	~~$125~~	$150		
61	108.1.1	Oxidizing Solids, Class 2: Store, Transport on Site, Dispense, Use, or Handle in Excess of 100 Pounds	~~$125~~	$150		
62	108.1.1	Oxidizing Solids, Class 1: Store, Transport on Site, Dispense, Use, or Handle in Excess of 500 Pounds	~~$125~~	$150		
63	108.1.1	Organic Peroxides, Liquid, Class I: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
64	108.1.1	Organic Peroxides, Liquid, Class II: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
65	108.1.1	Organic Peroxides, Liquid, Class III: Store, Transport on Site, Dispense, Use, or Handle in Excess of 1 Gallon	~~$125~~	$150		
66	108.1.1	Organic Peroxides, Liquid, Class IV: Store, Transport on Site, Dispense, Use, or Handle in Excess of 2 Gallons	~~$125~~	$150		
67	108.1.1	Organic Peroxides, Solid, Class I: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
68	108.1.1	Organic Peroxides, Solid, Class II: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
69	108.1.1	Organic Peroxides, Solid, Class III: Store, Transport on Site, Dispense, Use, or Handle in Excess of 10 Pounds	~~$125~~	$150		
70	108.1.1	Organic Peroxides, Solid, Class IV: Store, Transport on Site, Dispense, Use, or Handle in Excess of 20 Pounds	~~$125~~	$150		
71	108.1.1	Pyrophoric Material, Liquid: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
72	108.1.1	Pyrophoric Material, Solid: Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
73	108.1.1	Hazardous Production Facilities (HPM): Store, Handle, or Use Hazardous Production Materials	~~$125~~	$150		
74	108.1.1	High Piled Storage: Use a Building or a Portion Thereof as a High-piled Storage Area Exceeding 500 Square Feet.	~~$125~~	$150		
75	108.1.1	Hot Work and Welding: Public Exhibitions and Demonstrations (Each Exhibitor/Demo. - 10 Day Permit)	~~$65~~	$78		
76	108.1.1	Hot Work and Welding: Small Scale Hot Work	~~$125~~	$150		
77	108.1.1	Hot Work and Welding: Fixed-Site Hot Work Equipment (Example: Welding Booth)	~~$125~~	$150		
78	108.1.1	Hot Work and Welding: Cutting or Welding, All Locations	~~$125~~	$150		
79	108.1.1	Hot Work and Welding: Open Flame Device Roofing Operation (Each Site/Location - 90 Day Permit)	~~$125~~	$150		
80	108.1.1	Hot Work and Welding: Torch or Open-Flame Operations other than Roofing (Each Site/Location - 30 Day permit)	~~$65~~	$78		
81	108.1.1	Industrial Ovens	~~$125~~	$150		
82	108.1.1	Lumber Yards and Woodworking Plants: Storage or Processing of Lumber Exceeding 100,000 Board Feet	~~$125~~	$150		
83	108.1.1	Liquid- or Gas-Fueled Vehicles: Display Inside Any Building (Each Event – 6 Month Permit)	~~$125~~	$150		
84	108.1.1	LP-Gas: Storage and/or Use Inside Any Structure Exception One and two-family detached single family dwellings and townhouses	~~$125~~	$150		
85	108.1.1	LP-Gas: Storage and/or Use Outside, Portable Installation, per Event, more than 10 gallons aggregate (30 day permit)	~~$ 65~~	$78		
86	108.1.1	LP-Gas: Permanent Storage and/or Use Outside, per Year, more than 10 gallons aggregate Exception: One and two-family detached single family dwellings and townhouses	~~$125~~	$150		
87	108.1.1	LP-Gas: Dispensing and Cylinder Refill Location	~~$125~~	$150		
88	108.1.1	LP-Gas: Retail Cylinder Exchange Location	~~$125~~	$150		
89	108.1.1	Combustible Storage: Storage Inside Any Building or Upon Any Premises - in Excess of 2500 Cubic Feet	~~$125~~	$150		
90	108.1.1	Open Burning: Bonfire (10 Day Permit)	~~$125~~	$150		
91	108.1.1	Open Burning: Silvicultural / Controlled Burning (90 Day Permit)	~~$125~~	$150		
92	108.1.1	Open Flame and Candles: Public Meetings/Gatherings in A and E Use Groups (Each Event)	~~$ 65~~	$78		
93	108.1.1	Open Flame and Candles: Restaurants and Drinking Establishments, Assembly and Dining Areas	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
94	108.1.1	Organic Coatings: Manufacturing Operation Producing More Than 1 Gallon in One Day	~~$125~~	$150		
95	108.1.1	Place of Assembly/Education - Occupant Load 50 or Greater	~~$125~~	$150		
96	108.1.1	Pyrotechnics and Fireworks: Retail Sales of Permissible Fireworks - Any Amount (45 Day Permit)	~~$600~~	$720		
97	108.1.1	Pyrotechnics and Fireworks: Wholesale of Permissible Fireworks - Any Amount (45 Day Permit)	~~$600~~	$720		
98	108.1.1	Pyrotechnics and Fireworks: Outdoor Fireworks Display (Aerial/Proximate Audience) (One Day Permit)	~~$400~~	$480		
99	108.1.1	Pyrotechnics and Fireworks: Indoor Pyrotechnic Display and Special Effects (One Day Permit)	~~$400~~	$480		
100	108.1.1	Refrigeration Equipment and Systems Having a Refrigerant Circuit Containing More Than 220 Pounds of Group A1 or 30 Pounds of any other Group Refrigerant	~~$125~~	$150		
101	108.1.1	Repair Garages and Service Stations: Automotive Repair Garage Only	~~$125~~	$150		
~~102~~	108.1.1	Repair Garages and Service Stations: Automotive Service Station Only	~~$125~~	$150		
103	108.1.1	Repair Garages and Service Stations: Automotive Repair Garage and Service Station	~~$125~~	$150		
104	108.1.1	Repair Garages and Service Stations: LP-Gas Motor-Vehicle Fuel-Dispensing	~~$125~~	$150		
105	108.1.1	Repair Garages and Service Stations: Compressed Natural Gas Motor-Vehicle Fuel-Dispensing	~~$125~~	$150		
106	108.1.1	Repair Garages and Service Stations: Hydrogen Motor Fuel Dispensing and Generation Station	~~$125~~	$150		
107	108.1.1	Repair Garages and Service Stations: Marine and Watercraft Service Station	~~$125~~	$150		
108	108.1.1	Repair Garages and Service Stations: Unattended Vehicle Service Station	~~$125~~	$150		
109	108.1.1	Rooftop Heliports	~~$125~~	$150		
110	108.1.1	Spraying or Dipping Operations: Flammable/Combustible Liquid Spray Finishing Operation	~~$125~~	$150		
111	108.1.1	Spraying or Dipping Operations: Flammable/Combustible Liquid Dip-Tank Operation	~~$125~~	$150		
112	108.1.1	Spraying or Dipping Operations: Application of Combustible Powders/Spray/Fluidized	~~$125~~	$150		
113	108.1.1	Spraying or Dipping Operations: Dual-Component Coatings With Organic Peroxides	~~$125~~	$150		
114	108.1.1	Swimming Pool Chemical Dispensing Operation	~~$125~~	$150		
115	108.1.1	Temporary Membrane Structures and Tents (6 Month Permit) Exceptions: 1. Tents used Exclusively for Recreational Camping Purposes 2. Tents and Air-supported Structures that Cover an Area of 900 Square Feet or Less, Including all Connecting Areas or Spaces with a Common Means of Egress and with an Occupant Load of less than 50 Persons	~~$125~~	$150		
116	108.1.1	Tire Rebuilding Plants	~~$125~~	$150		
117	108.1.1	Tire Storage: Establish, Conduct, or Maintain Storage of Scrap Tires and Tire Byproducts that Exceeds 2500 Cubic Feet of Total Volume of Scrap Tires and for Indoor Storage of Tires and Tire Byproducts	~~$125~~	$150		
118	108.1.1	Toxic Materials Liquids - Store, Transport on Site, Dispense, Use, or Handle in Excess of 10 Gallons	~~$125~~	$150		

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	Old Flat Fee	New Flat Fee	Old Hourly Fee	New Hourly Fee
119	108.1.1	Toxic Materials Solids - Store, Transport on Site, Dispense, Use, or Handle in Excess of 100 Pounds	~~$125~~	$150		
120	108.1.1	Unstable (Reactive) Materials: Liquids, Class 1 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 10 Gallons	~~$125~~	$150		
121	108.1.1	Unstable (Reactive) Materials: Liquids, Class 2 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 5 Gallons	~~$125~~	$150		
122	108.1.1	Unstable (Reactive) Materials: Liquids, Class 3 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
123	108.1.1	Unstable (Reactive) Materials: Liquids, Class 4 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
124	108.1.1	Unstable (Reactive) Materials: Solids, Class 1 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 100 Pounds	~~$125~~	$150		
125	108.1.1	Unstable (Reactive) Materials: Solids, Class 2 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 50 Pounds	~~$125~~	$150		
126	108.1.1	Unstable (Reactive) Materials: Solids, Class 3 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
127	108.1.1	Unstable (Reactive) Materials: Solids, Class 4 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
128	108.1.1	Water-reactive Materials: Liquids, Class 1 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 55 Gallons	~~$125~~	$150		
129	108.1.1	Water-reactive Materials: Liquids, Class 2 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 5 Gallons	~~$125~~	$150		
130	108.1.1	Water-reactive Materials: Liquids, Class 3 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
131	108.1.1	Water-reactive Materials: Solids, Class 1 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 500 Pounds	~~$125~~	$150		
132	108.1.1	Water-reactive Materials: Solids, Class 2 – Store, Transport on Site, Dispense, Use, or Handle in Excess of 50 Pounds	~~$125~~	$150		
133	108.1.1	Water-reactive Materials: Solids, Class 3 – Store, Transport on Site, Dispense, Use, or Handle Any Amount	~~$125~~	$150		
134	108.1.1	Waste Handling: Wrecking Yard or Junk Yard	~~$125~~	$150		
135	108.1.1	Waste Handling: Waste Material Handling Facility	~~$125~~	$150		
136	108.1.1	Wood Products: Storage of Chips, Hogged Material, Lumber, or Plywood in Excess of 200 Cubic Feet	~~$125~~	$150		
		Section 2 - Plan Review Fees				
137	404.3.1	Fire Safety and Evacuation Plan Review			~~$128~~	$156
138	2301.4	Fire Safety and Evacuation Plan Review: High-Piled Combustible Storage Areas in Excess of 500 Square Feet			~~$128~~	$156
139	2701.5.1	Hazard Communication: Hazardous Material Management Plan Review			~~$128~~	$156
140	2701.6.3	Hazardous Material Facility Closure Plan Review			~~$128~~	$156
141	2701	Tier II submissions, per chemical, to a maximum of $200	$25	$25		
142	2701	Hazardous materials facility emergency response plan, above the threshold planning quantity of extremely hazardous substances	$100	$100		
143	1903.7	Lumber Yard or Woodworking Facility Plans Review			~~$128~~	$156

Code Reference		Table 107.2 FIRE PREVENTION FEES AND DETAILED PERMIT REQUIREMENTS	*Old Flat Fee*	*New Flat Fee*	*Old Hourly Fee*	*New Hourly Fee*
144	403. 2	Public Safety Plan Review, Indoor or Outdoor Assemblages			~~$128~~	$156
145	3801.3	Site and Installation Plan Review: LP-gas Cylinder Exchange Program			~~$128~~	$156
146	408.11.1	Lockdown Plans Review			~~$128~~	$156
		Section 3 - Inspection And Testing Fees				
147	107.12	Office For Children Home Day Care Fire Inspections (Includes 1 Follow-up Inspection)	$25			
148	107.12	County and State Licensing Fire Inspections (Includes 1 Follow-up Inspection)	$25			
149	107.12	Certificate of Occupancy Inspections (Towns of Vienna and Herndon)			~~$128~~	$156
150	109.5	Fire Prevention Permit Inspections, Follow-ups, Performance Testing, and Reinspections			~~$128~~	$156
151	107.12	Technical Inspection (Not Otherwise Specified), (i.e., Pre-Occupancy Punch List - Each Inspector)			~~$128~~	$156
152	901.6.3.1	Testing and Reinspection of Existing Fire Protection Systems (Each Inspector)			~~$128~~	$156
153	907.20.6	Faulty or Nuisance Fire Alarm Inspections, Follow-ups, and Reinspections			~~$128~~	$156

Board Agenda Item REVISED
October 28, 2014

ADMINISTRATIVE – 11

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, in Support of the Purchase of Wheelchair-Lift Equipped Vehicles

ISSUE:
Board of Supervisors authorization is requested for the Department of Neighborhood and Community Services (DNCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOG), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of $275,000, including $55,000 in Local Cash Match. Funding will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. This two-year grant's objective is to enhance transportation options by providing funds for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no new grant positions associated with this award. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:
The County Executive recommends that the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of $275,000, including $55,000 in Local Cash Match will support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. There are no new grant positions associated with the award.

TIMING:
Board action is requested on October 28, 2014. Due to the grant application deadline of October ~~17~~ **24,** 2014, the application was submitted pending Board approval. This

Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:
The County has the opportunity to apply for Section 5310 Enhanced Mobility Program (MAP-21) funds, through the Washington Metropolitan Council of Governments, to purchase five wheelchair lift-equipped vehicles to replace existing high-mileage County vehicles. These vehicles will be used to provide an estimated 346,000 annual rides for senior citizens and individuals with disabilities. Since 1994, the County has purchased 30 replacement vehicles through this grant program.

The current Human Services Transportation authorized bus fleet totals 66 buses. The expected operating life for these vehicles is nine years and 100,000 miles. Factoring in the life cycle and high-mileage into the replacement planning efforts, Human Services Transportation anticipates the need to replace 10 to 12 buses each year. The factors utilized to determine the need to replace buses include age, mileage, and historical maintenance records.

Funding for the replacement of the FASTRAN buses is contained in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. DNCS, through the General Fund, contributes to Fund 60010 on an annual basis to maintain the ability to purchase replacement buses as needed. The Enhanced Mobility Program (MAP-21) grant from the Metropolitan Council of Governments provides DNCS with the opportunity to purchase five buses (of the 10 to 12 needed each year) at a significantly reduced net cost to the County. The award of this grant will allow DNCS's replacement fund to save $220,000. Previous year grant awards have resulted in similar savings to the County and have allowed DNCS to keep its annual contributions to the replacement fund at a manageable level.

In addition to this request, DNCS is simultaneously requesting approval to apply for grant funding under the same Enhanced Mobility of Seniors and Individuals with Disability Program for the establishment of a network of Mobility Managers who will collaborate to improve the mobility and transportation options and services for older adults and individuals with disabilities. MWCOG has requested that localities submit these applications separately. Therefore a separate Board Item has been submitted for that application.

FISCAL IMPACT:
Grant funding in the amount of $275,000, including $55,000 in Local Cash Match is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with

Disabilities Program to support the purchase of five wheelchair lift-equipped vehicles to replace high-mileage vehicles currently owned by the County. The required 20 percent Local Cash Match is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary. This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs; however because this funding opportunity is highly competitive, the Department of Neighborhood and Community Services of has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF POSITIONS:
There are no new grant positions associated with this award.

ENLOSED DOCUMENTS:
Attachment 1: Summary of Grant Application

STAFF:
Patricia D. Harrison, Deputy County Executive
Christopher Leonard, Director, Department of Neighborhood and Community Services
Glenn Padeway, Business Area Manager, Human Services Transportation
Al-Hassan Koroma, Transportation Planner, Human Services Transportation

Attachment 1

Enhanced Mobility of Seniors and Individuals with Disabilities Program
SUMMARY OF GRANT PROPOSAL

Grant Title:	Enhanced Mobility of Seniors and Individuals with Disabilities Program
Funding Agency:	Metropolitan Washington Council of Governments
Applicant:	Fairfax County Department of Neighborhood & Community Services (DNCS)
Purpose of Grant:	This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in the purchase of five new wheelchair equipped buses.
Funding Amount:	Funding in the amount of $275,000, including $55,000 in Local Cash Match which is available in Fund 60010, Department of Vehicle Services, FASTRAN Replacement Reserve. No new County funding will be necessary.
Proposed Use of Funds:	Funding will support the purchase of five wheelchair lift-equipped vehicles needed to replace high-mileage vehicles currently owned by the County.
Target Population:	Seniors and individuals with disabilities.
Performance Measures:	The purchasing of five new buses does not have a set of independent performance measures; however, the utilization of these buses is part of DNCS's Human Services Transportation performance measures.
Grant Period:	Tentatively April 2015, based on Federal Transit Administration approval. The grant period is for two years.

Board Agenda Item REVISED
October 28, 2014

ADMINISTRATIVE – 12

Authorization for the Department of Neighborhood and Community Services to Apply for and Accept Grant Funding from the Metropolitan Washington Council of Governments, Enhanced Mobility of Seniors and Individuals with Disabilities Program, to Support Enhanced Transportation Options

ISSUE:
Board authorization is requested for the Department of Neighborhood and Community Services (DNCS) to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments (MWCOG), Enhanced Mobility of Seniors and Individuals with Disabilities Program in the amount of ~~$337,500~~**$262,500**, including ~~$67,500~~**$52,500** in Local Cash Match. Funding will support ~~a network of~~ mobility ~~managers to implement~~ **management efforts** **and** strategies ~~to~~ **which will** improve the mobility and transportation options and services for older adults and individuals with disabilities. The required 20 percent Local Cash Match will be met through $52,500 from the Federal-State Grant Fund.~~and $15,000 from cash contributions from other partnering jurisdictions in Northern Virginia~~. This funding will support 2/2.0 FTE new grant positions. DNCS anticipates that the award will be issued in April 2015, with one annually appropriated renewal for a total grant period of two years. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:
The County Executive recommends the Board authorize the Department of Neighborhood and Community Services to apply for and accept grant funding, if received, from the Metropolitan Washington Council of Governments. Funding in the amount of ~~$337,500~~**$262,500**, including ~~$67,500~~**$52,500** in Local Cash Match. ~~($52,500 in County Local Cash Match and $15,000 in cash match contributions from partnering jurisdictions)~~will support a network of mobility managers to implement strategies to improve the mobility and transportation options and services for older adults and individuals with disabilities. There are 2/2.0 FTE new grant positions associated with this award.

TIMING:
Board action is requested on October 28, 2014. Due to the grant application deadline of October ~~17~~**24**, 2014, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:
The Metropolitan Washington Council of Governments issued a Request for Applications (RFA) announcing the availability of funds through the U.S. Department of Transportation, Federal Transit Administration, to improve mobility for seniors and individuals with disabilities throughout the region by removing barriers to transportation services and expanding available transportation mobility options. Grant selection criteria strongly encourage jurisdictional, cross agency, and stakeholder coordination. To that end, this is a collaboration between Fairfax County, Arlington County, Loudoun County, and the City of Alexandria to establish an integrated and regional approach in transportation options for seniors and individuals with disabilities. Special emphasis will be placed on individuals with lower incomes who are geographically isolated from within these two population groups. This is also a multi-agency/stakeholder collaboration among the Department of Neighborhood and Community Services, Department of Family Services, Area Agency on Aging, the Fairfax County Commission on Aging, Disability Services Board, Fairfax Area Mobility and Transportation Committee, 50+ Steering Committee, Department of Transportation, Skill Source, and the Northern Virginia Workforce Investment Board.

Accessible and affordable transportation is a critical need for older adults and individuals with disabilities in our region. Transportation promotes independence, and the ability to maintain mobility enables people to age in place in their communities. The transportation challenges facing our region's older adults and individuals with disabilities are significant. In Fairfax alone, the area's population of residents 65 years and older in 2010 was 106,290; by 2020 that figure is estimated to increase to 158,733 (DNCS, Demographic report 2013).

A survey completed in May 2013 by the Fairfax Area Mobility and Transportation Committee, a joint committee of the Fairfax Area Disability Services Board and the Fairfax Area Long Term Care Coordinating Council, found that:

- Twenty-seven percent of the 1,100 respondents were unable to get to a destination in the past month.
- Those with the lowest annual household incomes are most likely not to leave their homes in a typical week.
- A significant number restricts driving to avoid rush hours, inclement weather, and driving after dark.
- Thirty-four percent of older adults and people with disabilities who have difficulty finding transportation are not aware of any fare discount or taxi subsidies.
- Inaccessible bus stops, unsafe pedestrian crossings, and limited service prevent use of public transit.

Funding, if received, will be focusing on mobility management and used to improve service integration and strategic collaboration across transportation systems and services within Fairfax County. Funding will also be used to implement strategies that

remove barriers to transportation, increase access to services, and strengthen the capacity of public and private service providers, non-profits, and other key partners and stakeholders to identify transportation and mobility opportunities and prompt solutions that meet the needs of older adults, individuals with disabilities and people with lower incomes.

As referenced in the 50+ Action Plan, "Mobility management will improve the coordination of human services transportation in Fairfax County, as well as improve access to affordable, accessible, and safe public transportation for all residents."

Also "Mobility management would expand residents' mobility and independence, increasing compliance with the Americans with Disabilities Act, and the Supreme Court's Olmstead decision, which ensures that people with disabilities receive services in the most integrated, community- based setting" (Fairfax County's 50+ Action Plan 2014, Transportation, Proposed Initiative Analysis, Mobility Management Program, page 59).

Funding will support 2/2.0 FTE new grant positions. The two positions will be housed in the Human Services Transportation section of the Department of Neighborhood and Community Services. The proposed positions include:

- A Management Analyst III who will be responsible for the program planning, development and implementation. Additionally, this position will coordinate a regional mobility network and ensure all administrative, fiscal, and program evaluation grant requirements are fulfilled
- A Transportation Planner II who will be responsible for a broad range of capacity-building activities to include working with county agencies, community- based organizations, neighborhood associations and faith-based groups to enhance transportation options in Fairfax County.

The success of this project will be based on three outcome areas: Community Capacity Building, Access to Services, and Service Integration and Coordination.

Community Capacity Building:

- Increased capacity of neighborhood organizations, non-profits, and civic organizations to develop, link, and enhance transportation options for the identified populations.

- Mobility managers, located in the community, will conduct neighborhood- based transportation assessments, increase participation in volunteer driver programs, and train volunteer mobility managers to achieve the outcome of increasing the amount of transportation options for seniors and individuals with disabilities.

Access to Services:

- Improved transportation navigation assistance and access to services for hard-to-reach populations. Improved knowledge and efficiency of community members to become linked to transportation services.

Service Integration and Coordination:

- Increased capacity and sustainable mobility management knowledge among county staff and community-based organizations to improve community access to services and remove barriers to services.

- Increased coordination between Northern Virginia jurisdictions to enhance transportation options and accessibility for seniors and individuals with disabilities.

Sustainability will include:

- Building community capacity and networks across the region to support the identified mobility management grant objectives.

    - This capacity-building work entails developing neighborhood and community organizational structures, approaches, and strategies to meet specific unmet mobility needs.
    - These organizations will continue to work past the grant-funding cycle in a collaborative effort to collectively impact mobility services in the region.

- Examining current transportation policies, practices, and barriers and developing and sharing best practices impacting mobility transportation.

Upon successful completion of the grant objectives, stakeholders will have an increased capacity to assess community transportation needs and work together to meet them. This grant will provide short-term funding to initiate projects and build capacity. Although future additional funding sources maybe explored, the primary focus of this grant model is building community capacity for current/future needs.

In addition to this request, the Department of Neighborhood and Community Services is simultaneously requesting approval to apply for and accept grant funding under the same Enhanced Mobility of Seniors and Individuals with Disability Program for the purchase and replacement of five FASTRAN buses. MWCOG has requested that localities submit these applications separately. Therefore, a separate Board item has been submitted for that grant.

Board Agenda Item REVISED
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FISCAL IMPACT:
Grant funding in the amount of ~~$337,500~~, **$262,500** including ~~$67,500~~ **$52.500** in Local Cash Match is being requested from the MWCOG Enhanced Mobility of Seniors and Individuals with Disabilities Program to support ~~a network of~~ mobility ~~managers to implement~~ **management efforts and** strategies ~~to~~ **which will** improve the mobility and transportation options and services for older adults and individuals with disabilities. The required 20 percent Local Cash Match will be met through $52,500 from the Federal-State Grant Fund. ~~and $15,000 from cash contributions from other partnering jurisdictions in Northern Virginia.~~ This action does not increase the expenditure level of the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards and the Local Cash Match of $52,500 is available from the Local Cash Match Reserve for unanticipated grant awards. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Department of Neighborhood and Community Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:
There are 2/2.0 FTE new grant positions associated with this award. The County is under no obligation to continue funding these positions once grant funding expires.

ENCLOSED DOCUMENTS:
Attachment 1: Summary of Grant Proposal

STAFF:
Patricia D. Harrison, Deputy County Executive
Christopher A. Leonard, Director, DNCS
Nannette M. Bowler, Director, Department of Family Services (DFS)
Sarah Allen, Division Director, DNCS
Glenn Padeway, Manager, Human Services Transportation, DNCS
Evan Braff, Regional Manager, DNCS
Barbara Antley, Division Director, Adult and Aging, DFS
Sharon Lynn, Director, Fairfax Area Agency on Aging, DFS

REVISED
Attachment 1

Enhanced Mobility of Seniors and Individuals with Disabilities Program
SUMMARY OF GRANT PROPOSAL

Grant Title: Enhanced Mobility of Seniors and Individuals with Disabilities Program

Funding Agency: Metropolitan Washington Council of Governments

Applicant: Fairfax County Department of Neighborhood & Community Services (DNCS)

Partners: Fairfax County Department of Family Services, Loudoun County, Arlington County, and the City of Alexandria

Purpose of Grant: This grant opportunity, created under the MAP-21 Federal Surface Transportation Act, offers limited funding to certain qualifying organizations to enhance mobility for seniors and persons with disabilities by providing matching grants for programs to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services. Funding will assist in establishing a network of regional stakeholders and mobility coordinators to improve mobility and transportation options and services for older adults and individuals with disabilities.

Funding Amount: Funding in the amount of ~~$337,500~~ **$262,500**, including ~~$67,500~~ **$52,500** in Local Cash Match. The required 20 percent Local Cash Match will be met through $52,500 from the Federal/State Grant Fund .~~and $15,000from cash contributions from partnering jurisdictions.~~

Proposed Use of Funds: Funding will primarily support 2/2.0 FTE new grant positions, which will function as mobility managers to provide outreach, community education, coordination of services, and establish a network of regional representatives, community stakeholders and mobility coordinators. Funding will also be used for supplies, office equipment, training/meeting expenses, and mileage reimbursement required for program administration.

Target Population: Seniors and individuals with disabilities; a special emphasis will be placed on individuals with lower incomes and those who are geographically isolated.

Performance Measures: The success of this project will be based on three outcome areas: Community Capacity Building, Access to Services and Service Integration and Coordination. Sustainability will also be a focus of this project with an emphasis on continued partnerships and coordination past the grant-funding cycle.

Grant Period: DNCS anticipates that the award will be issued in April 2015, with one annually appropriated renewal for a total grant period of two years.

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 13

Authorization for Various Fairfax County Agencies to Apply for and Accept Funding from the U.S. Department of Housing and Urban Development Through the Continuum of Care Program, and Authorization for Consolidated Plan Certification

ISSUE:
Board authorization is requested for various County agencies to apply for and accept funding, if received, from the U.S. Department of Housing and Urban Development (HUD) through the Continuum of Care Program. Grants funded though the Continuum of Care (CoC) Program are awarded to both County agencies and non-profit organizations. Total grant funding of $7,667,517 will be requested, with an additional $1,694,463 in match to be met through a combination of County Local Cash Match which is available in the Federal-State grant fund, state match, County in-kind resources, private non-profit organizations cash match or in-kind resources for total funding of $9,361,980. The award period for each grant varies and is included in Attachment 1 but all of the renewal applications are for only one year in accordance with HUD guidelines. There is no HUD requirement that the County continue these programs after the grants expire; however, HUD does require that any properties that have previously been purchased through these grants be maintained as affordable housing for homeless persons for 20 years. The table below briefly summarizes the HUD grant funding and associated match:

	HUD	County Local Cash Match	County In-kind Resources	State Match	Non-Profit Match[1]	Total
County Grants	$2,765,213	$440,837	$20,674	$0	$397,329	$3,624,053
Non-profit Organizations	$4,902,304	$0	$0	$419,101	$416,522	$5,737,927
Total	$7,667,517	$440,837	$20,674	$419,101	$813,851	$9,361,980

[1] The non-profit match may be met with either cash match or in-kind resources

If the actual County grant awards received are significantly different from the application amounts, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

HUD regulations require that these projects be certified as consistent with the County's Consolidated Plan, and County policy requires that the Board be informed when such

certifications are sent to HUD. Homeless persons, both families and individuals, are a high priority in the County's Five-Year Consolidated Plan for FY 2011-2015, which was approved by the Board on May 11, 2010, and these applications are consistent with that priority. Upon Board authorization for submission of the applications, the County Executive will sign the certification to be included with the community application, as required by the HUD instructions.

RECOMMENDATION:

The County Executive recommends that the Board approve the following:

- Authorization for the Department of Housing and Community Development (HCD), Fairfax-Falls Church Community Services Board (CSB), and the Department of Family Services (DFS)(on behalf of the Office to Prevent and End Homelessness who administers the grants), to apply for and accept, if received, the grant applications listed below. Total funding of $3,624,053, including $2,765,213 in HUD funding, $440,837 in Local Cash Match, $20,674 in County in-kind resources, and $397,329 of private in-kind match will be requested to support the County grants.

    - HCD, in partnership with Pathway Homes, will apply for and accept funding, if received, for four renewal Shelter Plus Care grants totaling $1,589,314. The required match of $397,329 will be met with in-kind resources provided by Pathway Homes bringing total funding to $1,986,643. No County Local Cash Match is required. Funding will continue to support rental assistance for 100 units of permanent housing for 118 homeless persons.

    - The CSB will apply for and accept funding, if received, for one renewal grant totaling $259,504 which will be matched by $20,674 of County in-kind resources bringing total funding to $280,178. Funding will support a project providing permanent supportive housing to 14 chronically homeless vulnerable individuals, including a 1/1.0 FTE existing grant position in the Federal-State grant fund. The County is under no obligation to continue this position when the grant funding expires.

    - DFS (on behalf of the Office to Prevent and End Homelessness which administers the grants) will apply for and accept funding, if received, for two renewal grants totaling $1,357,232, including $916,395 in HUD funding and $440,837 in Local Cash Match. Funding is for 20 permanent supportive housing units for families with a disabled head of household and 28 transitional housing units assisting families displaced by domestic

violence make rapid transitions from domestic violence shelters to permanent housing.

- Endorse 21 grant applications by Fairfax County non-profit organizations totaling $4,902,304 in HUD funding, with $419,101 in state match and $416,522 in match to be met with non-profit organizations cash or in-kind resources for a total of $5,737,927.

Attachment 1 summarizes both the County and non-profit organizations grant applications and associated funding sources for each project.

TIMING:
Board approval is requested on October 28, 2014, as the HUD application deadline is October 30, 2014.

BACKGROUND:
The Fairfax-Falls Church community has been very successful for more than two decades in leveraging County, private, and state funds to secure HUD Continuum of Care funds. These funds have contributed to the development of a core continuum of services to enable homeless families and individuals to move toward stable housing. Over the past several years, new projects have been awarded that utilize a housing first approach to provide permanent supportive housing for chronically homeless single individuals. The conversion of the RISE grant from transitional to permanent supportive housing has added capacity to serve families with an adult who has a disabling condition with children under 18 living in the household. It should be noted that the housing opportunities provided under the Continuum of Care grant funds play a critical role in achieving the metrics called for in the Fairfax County Housing Blueprint, and meeting the goals of the 10-Year Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community. As reflected in the draft FY 2015 Housing Blueprint, in addition to providing continued housing for existing residents, the proposed Continuum of Care funds will support as many as 39 new households via unit turnover.

On September 16, 2014, HUD published a Notice of Funding Availability (NOFA) in the Federal Register for the 2014 Continuum of Care Program. Approximately $1.83 billion is available through the national competition for Continuum of Care Program funds. The purpose of these funds is to assist homeless persons to move toward self-sufficiency and into permanent housing. Consistent with last year, each Continuum of Care must rank all projects in the order of funding priority, and funding will be awarded in two tiers. Tier 1 is the amount needed to fund all renewal projects minus 2 percent. The remaining projects will fall into Tier 2, which may not be funded. HUD will also apply its own funding priorities within each Tier, but all Tier 1 projects will be funded before any

Tier 2 projects are awarded funding. HUD is also promoting the use of reallocation of funds from existing renewal grants to create new projects. We have one new project as a result of reallocation of funding. This program is in line with HUD's prioritization of permanent housing over transitional housing and for projects that will house the hardest to serve, i.e. chronically homeless individuals with the highest barriers. Christian Relief Services relinquished two grants for reallocation. Organizations and agencies were invited to compete for these funds to provide permanent supportive housing to serve chronically homeless, highly vulnerable individuals or rapid rehousing for families. One applicant submitted a proposal and gave a presentation on the proposed project to the CoC committee of the Governing Board. The CoC Committee endorsed the proposal by Pathway Homes, Inc. which will use the funding to provide permanent supportive housing to12 chronically homeless individuals as part of Eugene's Place.

In addition, our Safe Haven – New Hope Housing's Max's Place - is now considered Permanent Supportive Housing. HUD allowed projects that were incorrectly classified to change component type as part of the 2014 Competition. As the project has long operated as permanent supportive housing it is now included under the correct category.

HUD continues to implement changes mandated by the HEARTH Act. The former Supportive Housing Program and Shelter Plus Care Program are now merged into one CoC Program, consolidating these funding streams and establishing a minimum 25 percent match requirement for all project activities except leasing costs. The match can be provided as cash or in-kind, and is applied as a lump sum to each project's total budget rather than by line item. This may result in changes in the amount of match for each project and the method by which the requirement is met. Attachment 1, the CoC Grant Application Chart, reflects the minimum match requirement for each project under "other match," but the amounts identified may be provided by either cash or through in-kind services or activities that are eligible under the grant guidelines. In many projects, the grantee exceeds the minimum match requirement.

The Governing Board has designated OPEH as the lead agency for the Continuum of Care grant application process. OPEH constructed a monitoring and evaluation committee comprised of representatives of government and non-profit agencies that created a comprehensive monitoring and evaluation tool. Every sponsoring agency completed this tool for the agency and for each project. Both were scored by the OPEH staff. All projects met the minimum requirements to be included in the overall CoC application. The scores were utilized as a component of the project ranking process.

There are 26 Continuum of Care grants that are eligible for renewal in the 2014 application cycle, including all of the projects that were new or renewed and funded

for one year in the 2013 cycle except for the projects which were reallocated and the Planning Project which is not a renewable grant. The reallocations resulted in the inclusion of one new project and a new Bonus PSH project will be included bringing the total grant applications to 28.

Attachment 1 summarizes the grants, with projects that provide permanent supportive housing listed first, followed by transitional housing programs. The sequence in the Chart, however, is not necessarily the order in which the CoC Project Ranking Committee has ranked the projects.

In summary these grants will provide the following, if awarded:

- Funding for two new projects to provide permanent supportive housing for 55 formerly chronically homeless single individuals with mental illness and/or other disabilities.

- One year of continued funding of permanent supportive housing for 300 formerly homeless individuals with disabilities.

- One year of continued funding for 24 units of permanent supportive housing for 25 families with a disabled head of household with minor children.

- One year of continued funding for 70 units of transitional housing serving 70 homeless families.

FISCAL IMPACT:
Grant funding in the amount of $7,667,517 will be requested from HUD through the Continuum of Care Program supporting both County grants and grants for non-profit organizations. The required match of $1,694,463 will be met through a combination of County Local Cash Match, County in-kind resources, state match, private non-profit cash match or in-kind resources for total funding of $9,361,980.

County grant funding totaling $3,624,053, including $2,765,213 in HUD funding, $440,837 in Local Cash Match which is available in the Federal-State grant fund and $418,003 in in-kind resources will be used to support programs in the Department of Housing and Community Development, the Office to Prevent and End Homelessness, and the Fairfax-Falls Church Community Services Board. These actions do not increase the expenditure level in the Federal- State Grant Fund, as funds are held in reserve for these grant awards. These grants do not allow for the recovery of indirect costs.

Grants for non-profit organizations totaling $5,737,927, including $4,902,304 in HUD funding, $419,101 in state funding, and $416,522 in cash match or in-kind resources to be met with private non-profit resources will be used to support 21 projects located throughout the County. The County has no fiscal responsibility in administering these grants; it is the sole responsibility of the non-profit organizations. However, OPEH will have added oversight responsibility under the new CoC program rules.

CREATION OF POSITIONS:
Funding will continue to support 1/1.0 FTE existing grant position in the CSB. The County is under no obligation to continue this position when the grant funding expires.

ENCLOSED DOCUMENTS:
Attachment 1 – Chart of HUD 2014 Continuum of Care Applications
Attachment 2 – Certification of Consistency with the Consolidated Plan

STAFF:
Patricia Harrison, Deputy County Executive
Dean H. Klein, Director, OPEH
Julie Maltzman, CoC Lead Manager, OPEH
Paula C. Sampson, Director, Department of Housing and Community Development
Tisha Deeghan, Director, Fairfax-Falls Church Community Services Board
Nannette M. Bowler, Director, Department of Family Services

HUD 2014 CONTINUUM OF CARE GRANT APPLICATIONS

One Year Grants

Project Description (number is **not** the ranking priority) Match amounts are preliminary estimates. All are 1 year grants	**HUD Amount**	**Local Cash Match***	**State Match***	**Expected Match* (other sources)**	**TOTAL**
1. 1994 Christian Relief Services of Virginia/Pathway Homes/ PRS SHP--*Renewal 07/15-06/16* – Four units of permanent supportive housing for 14 formerly homeless persons with severe mental illness.	$224,311		$58,702		$283,013
2. 1995 Christian Relief Services of Virginia/Pathway Homes/ PRS SHP– *Renewal 02/15-01/16* – Four units of permanent supportive housing for 14 formerly homeless persons with severe mental illness.	$301,247		$77,603		$378,850
3. 1991 Christian Relief Services Charities/Pathway Homes SHP- *Renewal 01/16-12/16* – Seven units of permanent supportive housing for 16 formerly homeless persons with severe mental illness.	$140,352		$111,750		$252,102
4. 1991 Pathway Homes SHP – *Renewal 01/16-12/16* – Four units of permanent supportive housing for 16 formerly homeless persons with severe mental illness.	$163,571		$127,956		$291,527
5. 2007 Pathway Homes SHP – *Renewal 12/15-11/16* – Seven units of permanent supportive housing for seven formerly chronically homeless single individuals with mental illness.	$161,206			$15,535	$176,741
6. 2009 Pathway Homes SHP – *Renewal 11/15-10/16* – Seven units of permanent supportive housing for seven formerly chronically homeless single individuals with severe mental illness.	$160,920			$14,549	$175,469
7. 2011 Pathway Homes SHP – *Renewal 09/15-08/16* – Nine apartments and one group home providing permanent supportive housing for 25 formerly homeless or chronically homeless individuals with severe mental illness.	$330,501			$32,556	$363,057
8. PRS, Inc., PRS Intensive Supportive Housing – *Renewal 09/15-08/16* – Permanent supportive housing with intensive supportive services for six seriously mentally ill formerly homeless individuals with a revolving pattern of homelessness and hospitalization.	$172,356		$43,090		$215,446
9. FACETS TRIUMPH II Permanent Supportive Housing –*Renewal 1/16-12/16* – Twelve rental units providing permanent supportive housing to 18 formerly chronically homeless individuals.	$295,953			$20,936	$316,889
10. FACETS, TRIUMPH Permanent Supportive Housing Program – *Renewal 02/15-01/16* – Nine rental units providing permanent supportive housing to nine formerly chronically homeless individuals.	$160,546			$14,100	$174,646
11. Volunteers of America Chesapeake, Bailey's Supportive Housing Program – *Renewal 10/15-09/16*- Seven units of permanent supportive housing for 14 formerly chronically homeless.	$161,364			$9,492	$170,856
12. New Hope Housing, Gartlan House – *Renewal 01/16-12/16* – Permanent supportive housing for eight formerly chronically homeless men in a group living home.	$125,610			$31,403	$157,013

Project Description (number is **not** the ranking priority) Match amounts are preliminary estimates. All are 1 year grants	**HUD Amount**	**Local Cash Match***	**State Match***	**Expected Match* (other sources)**	**TOTAL**
13. New Hope Housing, Max's Place – *Renewal 08/15-07/16*– Permanent supportive housing for eight formerly chronically homeless men in a group living home.	$225,336			$45,981	$271,317
14. New Hope Housing, Milestones – *Renewal 07/15-06/16* – Four units of permanent supportive housing serving five formerly homeless families with a disabled head of household.	$60,905			$15,266	$76,171
15. New Hope Housing- Just Home Fairfax – *Renewal- 11/15 –10/16* – 3 units of permanent supportive housing serving 6 formerly chronically homeless individuals.	$82,250			$20,563	$102,813
16. DFS with partners - Reaching Independence through Support and Education **(RISE) – *Renewal 08/15 - 07/16* –** 20 leased units providing permanent supportive housing for formerly homeless families with a disabled head of household.	$476,588	$67,000			$543,588
17. DHCD/Pathway Homes Shelter Plus Care #1 - *Renewal 04/15-03/16* - Rental assistance and supportive services for 34 formerly homeless persons with serious mental illness living in 29 units.	$474,913			$118,728	$593,641
18. DHCD/Pathway Homes Shelter Plus Care - #2 – *Renewal 06/15-06/16* – Rental assistance and supportive services for 41 formerly homeless persons with serious mental illness living in 33 units.	$531,355			$132,839	$664,194
19. DHCD/Pathway Homes Shelter Plus Care - #9 – *Renewal 08/15-07/16* – Rental assistance and supportive services for 25 formerly homeless persons with serious mental illness living in 22 units.	$342,074			$85,519	$427,593
20. DHCD/Pathway Homes Shelter Plus Care - #10 – *Renewal 05/15-05/16* – Rental assistance and supportive services for 18 formerly homeless persons with serious mental illness living in 11 units.	$240,972			$60,243	$301,215
21. Fairfax-Falls Church Community Services Board-Welcome Home – *Renewal - 11/15-11/16* – Twelve units of permanent supportive housing for 14 formerly chronically homeless individuals.	$259,504			$20,674	$280,178
22. Pathway Homes Eugene's Place – *New through reallocation – projected - 12/15 – 11/16* – Twelve units of permanent supportive housing for 12 formerly chronically homeless individuals.	$200,647			$7,826	$208,473
23. DFS, with partners, Community Housing Resource Program (CHRP) – *Renewal 11/15-10/16* – 28 units of transitional housing with support services for families who are victims of domestic violence.	$439,807	$373,837			$813,644
24. Shelter House NOVACO Transitional Housing for Victims of Domestic Abuse – *Renewal 01/16-12/16* – Seven units of transitional housing with support services for families who are victims of domestic violence.	$113,615			$28,404	$142,019

Project Description (number is **not** the ranking priority) Match amounts are preliminary estimates. All are 1 year grants	**HUD Amount**	**Local Cash Match***	**State Match***	**Expected Match* (other sources)**	**TOTAL**
25. United Community Ministries – Journeys – *Renewal 06/15 - 05/16 –* Nine leased units of transitional housing with support services for families who are victims of domestic violence.	$140,852			$12,560	$153,412
26. Homestretch, Inc., Success – *Renewal 07/15 – 06/16 -* Six leased units of transitional housing with support services for large families.	$153,602			$12,221	$165,823
27. Kurdish Human Rights Watch, Transitional Housing and Supportive Services for Families – *Renewal 07/15- 06/16--* 20 units of transitional housing with supportive services for homeless families, serving primarily middle eastern immigrants.	$527,160			$29,826	$556,986
28. Pathway Homes, Inc. Permanent Supportive Housing Bonus Project – *New Project -* 38 units of permanent supportive housing for 43 formerly chronically homeless individuals.	$1,000,000			$105,304	$1,105,304
Totals	**$7,667,517**	**$440,837**	**$419,101**	**$834,525**	**$9,361,980**

*- There is a requirement of a minimum 25% match which can come from cash or in-kind resources from public or private sources.

Certification of Consistency with the Consolidated Plan

U.S. Department of Housing and Urban Development

Attachment 2

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan. (Type or clearly print the following information:)

Applicant Name: Fairfax County on behalf of Partner Organizations

Project Name: See Attached List

Location of the Project: Fairfax County, VA (County-wide)

Name of the Federal Program to which the applicant is applying: HUD CoC Program

Name of Certifying Jurisdiction: Fairfax County, Virginia

Certifying Official of the Jurisdiction Name: Edward L. Long Jr.

Title: County Executive

Signature: _____

Date: _____

Attachment to Form HUD-2991
Certification of Consistency with the Consolidated Plan
2014 Fairfax County Continuum of Care (CoC)
Grant Process Applicant and Project Names

FEDERAL PROGRAM: Continuum of Care Program
Applicant and Project Name:

1. Christian Relief Services of Virginia Inc.; 1994 CRS/Pathway Homes/ PRS Supportive Housing Program
2. Christian Relief Services of Virginia Inc.; 1995 CRS/Pathway Homes/ PRS Supportive Housing Program
3. Christian Relief Services Charities, Inc.; 1991 CRS/Pathway Homes Supportive Housing Program
4. Pathway Homes, Inc.; 1991Pathway Homes Supportive Housing Program
5. Pathway Homes, Inc.; 2007 Pathway Homes Supportive Housing Program
6. Pathway Homes, Inc.; 2009 Pathway Homes Supportive Housing Program
7. Pathway Homes, Inc.; 2011Pathway Homes Supportive Housing Program
8. PRS, Inc.; PRS Intensive Supportive Housing
9. FACETS, Inc.; TRIUMPH II Permanent Supportive Housing Program
10. FACETS, Inc.; TRIUMPH Permanent Supportive Housing Program
11. Volunteers of America Chesapeake; VOAC Supportive Housing Program
12. New Hope Housing; Gartlan House
13. New Hope Housing; Max's Place
14. New Hope Housing; Milestones
15. New Hope Housing Inc.; Just Home Fairfax
16. Fairfax County Dept. of Family Services; Reaching Independence through Support and Education (RISE)
17. Fairfax County Dept. of Housing and Community Development; DHCH/Pathway Homes SPC Grant #1
18. Fairfax County Dept. of Housing and Community Development; DHCD/Pathway Homes SPC Grant #2
19. Fairfax County Dept. of Housing and Community Development; DHCD/Pathway Homes SPC Grant #9
20. Fairfax County Dept. of Housing and Community Development; DHCD/Pathway Homes SPC Grant #10
21. Fairfax-Falls Church Community Services Board; Welcome Home
22. Pathway Homes, Inc. Eugene's Place
23. Fairfax County Dept. of Family Services; Community Housing Resource Program (CHRP)
24. Shelter House Inc.; NOVACO Transitional Housing for Victims of Domestic Abuse
25. United Community Ministries Inc.; Journeys Program
26. Homestretch, Inc.; Success
27. Kurdish Human Rights Watch Inc.; Transitional Housing and Supportive Services for Families
28. Pathway Homes, Inc.; Permanent Supportive Housing Bonus Project

Name of Certifying Jurisdiction: Fairfax County, Virginia

Certifying Official Name and Title: Edward L. Long, Jr., County Executive

Signature: _____ **Date:**_____

Board Agenda Item
October 28, 2014

ADMINISTRATIVE - 14

Authorization to Advertise a Public Hearing on a Proposed Ordinance to Approve a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program

ISSUE:
The proposed ordinance will allow the approval of the Regional Joint Action Ordinance for the Northern Virginia Long-Term Care Ombudsman Program between the four participating jurisdictions, specifically, the Counties of Fairfax, Loudoun and Arlington and the City of Alexandria.

RECOMMENDATION:
The County Executive recommends the authorization of the advertisement of the proposed ordinance to approve the Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program as set forth in Attachment, pursuant to Va. Code Ann. 15.2-1300.

TIMING:
Board approval is requested on October 28, 2014 to provide sufficient time to advertise the proposed ordinance to approve a Regional Joint Action Agreement (Attachment 1) for the Northern Virginia Long-Term Care Ombudsman Program on November 18, 2014 at 3:00 p.m.

BACKGROUND:
In September 1984, the Board of Supervisors approved the County's participation in the Northern Virginia Long-Term Care Ombudsman Program. In September 1985, a joint action agreement was signed by the Executives for the Counties of Fairfax, Arlington, Loudoun, and Prince William, as well as the City of Alexandria. Prince William County, although initially part of the joint action agreement, withdrew from the regional program in July 2013.

The Northern Virginia Long-Term Care Ombudsman Program provides long-term care services to residents. Services include the investigation and the resolution of complaints or concerns that relate to the health, safety, welfare, or rights of some of the county's most vulnerable residents; the recruitment, training, and oversight of volunteers that contribute to the well-being of the residents; providing education and

consultation to the public; providing technical assistance to other community and county agencies and to the facilities themselves.

The Northern Virginia Long-Term Care Ombudsman Program originates from the Older Americans Act, a federal provision, which requires every state to have a state long term care ombudsman program and encourages the development of sub-state programs. Virginia's State Long-Term Care Ombudsman designated Fairfax County as the administrative unit to annually receive federal and state funding from the Virginia Division for the Aging for the participating jurisdictions. Each of the participating jurisdictions, the Counties of Fairfax, Arlington, Loudoun and the City of Alexandria will contribute financially for the staff and the ongoing operation of the program.

As the Administrative Unit for the Northern Virginia Long-Term Care Ombudsman Program, Fairfax County provides the day to day administration of the program and its services. A policy board composed of directors of the Area Agencies on Aging of the participating local jurisdictions provides guidance and reports to the participating member jurisdictions on the federally mandated activities and functions of the program. The Director of the Fairfax Area on Aging serves as the Chair of the Policy Board.

In order to maintain a continuation of services for the protection, health, safety and welfare of our elder citizens and to provide services and continued communication to their families, this Regional Joint Action Agreement between the participating jurisdictions should be updated and approved. Additionally, the structure of the Northern Virginia Long-Term Care Ombudsman Program should be codified, including but not limited to the liability and liability insurance for Ombudsman Staff and its volunteers.

FISCAL IMPACT:
The fiscal impact for Fairfax County in the implementation of this agreement for the Program Year 2014 is included herein:

The Northern Virginia Long-Term Care Ombudsman Program's cost is estimated at $600,000 annually and is operated under the Long-Term Care Ombudsman Grant. The participating members of the Joint Action Agreement share in the annual operating expenses, which are proportionally based on the allocation of age 60 years or older populations and the licensed long-term care bed count in each jurisdiction. Fairfax County maintains more than two times as many facilities as the three other participating jurisdictions combined. Fairfax County contributes approximately $335,000 annually, while the participating jurisdictions in combination with state and federal funding make up the remaining balance. Annually, the allocation is reviewed and adjusted accordingly to reflect changes in any of the formula factors.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment 1: Proposed Joint Action Agreement By and Between the Counties of Fairfax, Arlington, Loudoun and the City of Alexandria
Attachment 2: Proposed Ordinance

STAFF:
Nannette M. Bowler, Director, Department of Family Services
Barbara Antley, Division Director, Adult and Aging Services, Department of Family Services
Sharon Lynn, Director, Fairfax Area Agency on Aging, Department of Family Services
Laura Nichols, Director, Northern Virginia Long-Term Care Ombudsman Program
Gail Ledford, Director, Department of Administration for Human Services
Lee Ann Pender, Division Director, Department of Administration for Human Services
Alison Baez, Contract Analyst, Department of Administration for Human Services
Sue Smith, Financial Specialist III, Department of Administration for Human Services
Donna R. Banks, Assistant County Attorney, VI, Office of the Fairfax County Attorney

NORTHERN VIRGINIA LONG-TERM CARE OMBUDSMAN PROGRAM

JOINT ACTION AGREEMENT

This Northern Virginia Long-Term Care Ombudsman Program Joint Action Agreement is entered into pursuant to Va. Code Ann. §15.2-1300 by and among the Counties of Arlington, Fairfax, Loudoun, and the City of Alexandria, herein referred to as the Member Jurisdictions. This Agreement sets forth the services to be delivered, and the roles and responsibilities of the Member Jurisdictions, including the funding to be provided by each Member Jurisdiction for the Northern Virginia Long-Term Care Ombudsman Program (NVLTCOP).

WHEREAS, this Agreement succeeds a previous agreement dated September 6, 1985, among the Member Jurisdictions, that expired on June 30, 1987; and the NVLTCOP has been operating without a written agreement under substantially the same terms and conditions thereafter of the 1985 agreement since the 1987 expiration; and

WHEREAS, the NVLTCOP is funded in part by the Federal Administration for Community Living (ACL) through the Older Americans Act (OAA), Title VII funds, State Ombudsman award, and the Department of Medical Assistance Services (DMAS) Ombudsman funds, all of which flow through and are administered by the Virginia Division for the Aging (VDA) of the Virginia Department for Aging and Rehabilitative Services (DARS); in addition, all of the Member Jurisdictions help fund the NVLTCOP through an annual contribution based on the formula outlined in section 11 of this Agreement; and

WHEREAS, the VDA provides funding and general oversight of the Office of the State Long-Term Care Ombudsman (OSLTCO) that oversees mandated Ombudsman Program functions in Virginia and the NVLTCOP operates as part of a statewide long-term care ombudsman program that is directed by the OSLTCO; and

WHEREAS, the Congress of the United States has passed legislation and the President of the United States has signed into law the Older Americans Act of 1965, as amended, which requires every state to have a state ombudsman program and encourages the development of sub-state programs; and

WHEREAS, the OAA (Title VII, Chapter 2, Section 712, (a) (5) of the OAA allows the State Ombudsman to designate an entity as a sub-state ombudsman entity and may certify an employee to represent the entity in carrying out the duties of the OSLTCO; and

WHEREAS, the State Ombudsman has designated the Fairfax Area Agency on Aging (FAAA) as a sub-state Ombudsman Program, and

WHEREAS, the VDA, through an annual contract (Area Plan) and through a separate remittance for DMAS Ombudsman funds, awards funding to Fairfax County, on behalf of the Member Jurisdictions, for the operation of the NVLTCOP; and

WHEREAS, the Member Jurisdictions will provide advice and guidance to the NVLTCOP regarding the activities of the NVLTCOP; and

WHEREAS, the Member Jurisdictions desire to achieve efficient and coordinated delivery of ombudsman services in a manner that will effectively serve the adult residents of the Member Jurisdictions who live in nursing facilities and assisted living facilities, and, to the extent feasible, recipients of home- and community-based services, in a manner designed to respond to meet local needs and to be accountable to local elected and appointed officials, the VDA; and the OSLTCO; and

WHEREAS, for these and other reasons, it is appropriate that the Member Jurisdictions provide funding to jointly operate, through this multi-jurisdictional Agreement, a regional program known as the NVLTCOP, which carries out the mandated functions of a sub-state ombudsman program under programmatic supervision of the OSLTCO; and

WHEREAS, to this end, the Member Jurisdictions desire to establish a regional long-term care ombudsman program (the NVLTCOP) by means of this Agreement; the NVLTCOP will develop, administer and operate the regional ombudsman program in accordance with the OAA Regulations, the VDA, and the OSLTCO; and

WHEREAS, Va. Code Ann. §15.2-1300 (2008), enables counties and cities to enter into joint action agreements with one another for joint or cooperative exercise of any power, privileges or authority which one is capable of exercising severally;

NOW, THEREFORE, BE IT RESOLVED, the Member Jurisdictions do mutually covenant and agree as follows:

1. Program: The Member Jurisdictions hereby establish the Northern Virginia Long-Term Care Ombudsman Program (NVLTCOP).

2. Geographical Area: The geographical areas to be served under by the NVLTCOP pursuant to this Agreement include the combined geographical area of all Member Jurisdictions and named localities within their boundaries:

   City of Alexandria

Arlington County

Fairfax County (including the Cities of Fairfax and Falls Church)

Loudoun County

By the signatures below of the chief administrative officials, these Member Jurisdictions adopt the aforementioned purposes and accept the terms and conditions of this Agreement.

3. Statutory Authority of the Signatories: Title 15.2, of the Code of Virginia describes establishes the City of Alexandria and the Counties of Arlington, Fairfax, and Loudoun as being units of general local government having general corporate and police powers and with the power to levy taxes and spend funds.

4. Administrative Unit: By mutual agreement of the parties, the County of Fairfax is designated as the administrative unit to receive and administer funds for the NVLTCOP.

5. Powers and Responsibilities of the County of Fairfax: As the Administrative Unit, Fairfax County shall have the authority to contract with city, county, State, Federal and private organizations and agencies for the delivery of services deemed appropriate for the NVLTCOP and to enter into agreements with appropriate city, county, state, federal and private organizations and agencies to adequately carry out the purposes of the NVLTCOP, so long as the terms of such contracts and agreements do not violate the Policies and Procedures of the OSLTCO or the requirements stated in Title VII of the OAA.

   It is agreed that for the day-to-day administration of NVLTCOP activities and operations that the County Executive of the County of Fairfax, shall appoint the FAAA as the program administrator ("Program Administrator").

   NVLTCOP operations and policy decisions will comply with the policies set by and decisions rendered by the OSLTCO.

   Additionally, it is agreed that the County of Fairfax shall provide all procurement and fiscal services related to the NVLTCOP, and personnel services as appropriate.

   Other acts of the Northern Virginia Long-Term Care Ombudsman Administrative Unit will be in response to policies established by the OSLTCO, the Policy Board (as defined herein below) and the VDA.

6. Policy Board: A four (4) member Policy Board shall provide advice and guidance to the NVLTCOP, and shall report to the Member Jurisdictions and their local officials regarding the NVLTCOP's federally mandated functions and activities in compliance with the Policies and Procedures established by the OSLTCO. Because the Policy Board's members will be the persons filling certain Director positions in the Member Jurisdictions (see below), this Agreement does not provide for term limits for Policy Board members.

7. Policy Board Membership: The Policy Board shall be composed of one individual member representing each Member Jurisdiction. This individual shall be the Area Agency on Aging Director of the Member Jurisdiction's Agency on Aging or another person who is designated by the Member Jurisdiction's Area Agency on Aging Director to represent his or her respective Member Jurisdiction in accordance with that Member Jurisdiction's county or city practices and requirements. The chairperson ("Chairperson") of the Policy Board will be the Director of the Fairfax Area Agency on Aging (FAAA). The FAAA's Director will be the County of Fairfax's member on the four-member Policy Board.

8. Policy Board Meetings and Voting: The Policy Board shall schedule semi-annual meetings and may meet at additional times as deemed necessary by the Chairperson in consultation with the other members of the Policy Board.

   The presence and participation of any three of the Policy Board's four members shall constitute a quorum.

   Each Member Jurisdiction shall have one vote on the Policy Board. So long as a quorum is present, the Policy Board may make decisions by a majority of votes cast.

   The NVLTCOP staff shall be responsible for drafting and maintaining the minutes of the Policy Board meetings.

   The staff of the NVLTCOP, being funded in part by the participating Member Jurisdictions, shall provide staff support to the Policy Board meetings.

   The Policy Board may adopt additional rules for its proceedings provided that they are consistent with law and not inconsistent with provisions of this Agreement.

9. Duties and Responsibilities of the FAAA as Program Administrator:

   a. Implement the NVLTCOP in compliance with all applicable laws and regulations, including the regulations of the OAA and the policies and requirements set forth by the OSLTCO and the VDA.

   b. Negotiate Memoranda of Agreements between local, State and Federal agencies where appropriate. Work in coordination with the OSLTCO to continuously monitor, evaluate and take corrective action when necessary in a

manner consistent with Title VII, Chapter 2, Sec. 712 of the OAA and with the OSLTCO's Policies and Procedures set forth by the OSLTCO.

c. Have the authority to supervise NVLTCOP staff and volunteers' activities to ensure consistency with the OSLTCO's Policies and Procedures set forth by the OSLTCO.

d. Assure the FAAA's and the Policy Board's freedom from conflict of interest with regard to long-term care institutions and issues.

e. Obtain approval from the OSLTCO for the credentials of the individuals to be designated the local ombudsmen.

f. Provide personnel support to the NVLTCOP in accordance with the Fairfax County Pay for Performance System rules and procedures.

g. Assist the VDA and the OSLTCO with audits as required and report the results thereof to the Policy Board and others consistent with applicable State and Federal requirements.

h. Ensure that the NVLTCOP provides Policy Board members and OSLTCO with standard program reports and statistics. These reports will indicate program activity specifically within the geographical boundaries of each Member Jurisdiction.

i. Provide volunteer insurance coverage for all volunteers assigned to the NVLTCOP in accordance with the most current coverage at the time of a claim, under Fairfax's County Volunteer Coverage program, regardless of the location at which the volunteer services were provided.

10. <u>Duties and Responsibilities of the NVLTCOP</u>:

a. Receive, investigate, and work to resolve complaints made by or on behalf of residents of nursing facilities, assisted living facilities and other long-term care settings as described in the Policies and Procedures of the OSLTCO.

b. Receive, investigate and work to resolve complaints made by or on behalf of persons aged 60 and older receiving home and community-based long-term care services.

c. Observe the requirements and rights to access assisted living facilities, nursing facilities, continuing care retirement communities, community long-term care facilities, and their medical records as provided for in the Code of Virginia, §2.2-705.

d. Observe the requirements of confidentiality for complainants as provided for in Federal law, including Title VII, Chapter 3 of the OAA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Code of Virginia,

including §2.2-706, and the Virginia Privacy Protection Act. Maintain a secure file for complaints in accordance with Federal law, including the HIPAA, and the Code of Virginia, including the Virginia Privacy Protection Act. Ensure procedures are in place to protect the identity, confidentiality, and privacy of complainants, residents and recipients of services.

e. Report and record complaints and reports in the manner specified by the OSLTCO Policies and Procedures.

f. Hire, train and supervise NVLTCOP staff and volunteers in accordance with Policies and Procedures set forth by the OSLTCO, and Fairfax County.

g. Recruit, screen, train, and directly supervise the NVLTCOP volunteers in accordance with the Policies and Procedures set forth by the OSLTCO and the NVLTCOP.

h. Conduct publicity and outreach efforts concerning the availability of the NVLTCOP to receive and investigate complaints and provide information concerning the long-term care system.

i. Provide information and education regarding long-term care resources and the rights of residents and potential residents of nursing facilities and assisted living facilities.

j. Working in coordination with the OSLTCO, identify, document and make recommendations concerning major issues affecting the well-being of residents of long-term care facilities and monitor the development and implementation of Federal, State and local laws, regulations and policies that relate to long-term care.

k. Consult with community groups, agencies, legal service programs, and individuals in order to assist them in effectively serving long-term care clients.

l. Consult with the OSLTCO for assistance as needed and to forward to the OSLTCO any complaints which cannot, in the Program Administrator's opinion, be resolved by the NVLTCOP sub-state program.

m. Submit to Member Jurisdictions an annual list of long-term care facilities which the NVLTCOP serves or will serve in the planning and service area.

11. Allocation of Funds: Any funds that are appropriated by the Member Jurisdictions for the NVLTCOP shall be expended for the mutual benefit of the long-term care recipients residing in the Member Jurisdictions.

In August or September of each year, NVLTCOP shall provide the Policy Board with an annual summary of the **projected** Member Jurisdictions' appropriations for the next Area Plan fiscal year. The projections are based on the financial information available at that time.

Each Member Jurisdiction's appropriation to NVLTCOP costs will be calculated using the formula below based on each Member Jurisdiction's respective proportion of the population aged 60 and older of the Northern Virginia population, based on the American Community Survey data most recently used by the VDA (50% of the formula), and the number of licensed long-term care beds in that Member Jurisdiction (50% of the formula).

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Member Jurisdiction's Appropriation = [(Total Personnel Cost + Operating Costs) – Total Federal and State Revenue] x Member Jurisdiction's Relative Share of Cost

Term	Definition
Member Jurisdiction Relative Share of Cost =	[% of total licensed long-term care beds (nursing and assisted living) in the jurisdiction + total population in the jurisdiction aged 60 and older as a % of the Northern Virginia population aged 60 and older based on the American Community Survey data most recently used by the VDA] / 2
Total Federal and State Revenue =	Federal Ombudsman award + State Ombudsman award + DMAS funds
Total Personnel Cost =	Proposed salaries including Fairfax County fringe benefit rate (Salaries are estimated at the time of the projected budget letter. Any salary increases are determined by the Fairfax County Board of Supervisors and are not known until the end of the Fairfax County Budget cycle which is typically in April/May of each year.)
Operating Costs =	Non-personnel expenditures related to staff trainings, volunteer trainings, mileage, database, publications, supplies, and other program activities

Any written amendment to this Agreement that is signed by authorized representatives of all of the Member Jurisdictions and that reflects any changes to this funding formula shall be executed prior to any changes to these formulae taking effect.

12. Appropriations by Member Jurisdictions: The Program Administrator shall be responsible for calculating formula allocation costs based upon the NVLTCOP's actual operating budget (determined by the Fairfax County Board of Supervisors) and VDA funding. The Billing Statement is sent to each Member Jurisdiction after VDA provides the FAAA with the Summary of Obligations indicating the funding to be expected from VDA. Each Member Jurisdiction will contribute its share to the program on an annual basis in one lump sum. Notwithstanding any term or condition of this Agreement to the contrary, all funds for payments by any Member Jurisdiction to the NVLTCOP pursuant to this Agreement are subject to the availability of an annual appropriation for this purpose by the governing body of each Member Jurisdiction. In the event of non-appropriation of funds by the governing body of any Member Jurisdiction, the Policy Board will convene to discuss the non-appropriation and will ask the governing bodies of the Member Jurisdictions to address the non-appropriation.
    A financial report of operating expenditures, including aggregate salary information, and other operating expenses, will be provided annually to each Member Jurisdiction through their designated Policy Board Member.

13. Participation in Optional Activities: No program activities will be imposed on any Member Jurisdiction participating in this Agreement should such Member Jurisdiction decide that such program activities would be detrimental to the best interests of that Member Jurisdiction.

14. Authority of the OSLTCO: The Member Jurisdictions acknowledge the authority of the OSLTCO over the NVLTCOP program activities that are mandated by the OAA.

15. Limitations on Obligations to Long-Term Care Recipients: Any obligation, whether expressed or implied in this Agreement to provide services through the NVLTCOP is expressly limited to the extent that such services can be provided by means of and under the terms of the Fairfax VDA Contract and the Policies and Procedures and other guidance of the OSLTCO.

16. Delegated Signatory Authority: To the extent that such documents relate directly to the NVLTCOP, The parties hereto Member Jurisdictions delegate signatory authority to the County Executive, of the County of Fairfax, or his designee, for grant applications to the Governor of Virginia, on agreements with state and local agencies, on agreements with VDA and the OSLTCO, and on sub-grants and subcontracts and related grant agreements within the scope of the approved grants and applicable regulations.

17. Term and Effective Date: This Ordinance Agreement shall be in effect from the date of on which it is last signature signed by an authorized representative of a Member Jurisdiction ("Effective Date") until September 30, 2032, or until the NVLTCOP is terminated by the Member Jurisdictions or by the Commonwealth of Virginia, whichever occurs first. If the Commonwealth of Virginia terminates the NVLTCOP, Fairfax County will notify member jurisdictions six months in advance of the termination. The term "Effective Date" means the date coinciding with the last to occur of each of the following events: (i) passage of an ordinance by each of the Counties of Fairfax, Arlington, Loudoun, and the City of Alexandria as participants in this Agreement; (ii) execution of the Agreement by all members.

18. This agreement shall remain in full force and effective from its Effective Date until September 30, 2032, or until the NVLTCOP is terminated.

19. Termination: This Agreement shall not be terminated by withdrawal of any Member Jurisdiction(s).

    Any Member Jurisdiction, which is party hereto, shall have the right to withdraw from this Agreement and the NVLTCOP by written notice from their respective jurisdiction's executive level authorized official to the other Member Jurisdictions and the FAAA at least 90 days prior to the date on which that Member Jurisdiction's withdrawal will take effect.

    A withdrawing Member Jurisdiction shall have no responsibility under this Agreement for NVLTCOP actions that take place on or after the date that withdrawal will take effect.

20. Effect of Termination: Should a Member Jurisdiction withdraw from this Agreement, that Member Jurisdiction will be deemed to have waived all rights to services provided under the NVLTCOP and to any funding allocated to the NVLTCOP.

21. Disposition of Assets: As Program Administrator, FAAA shall be responsible for procuring and holding, for the duration of this Agreement, any real assets obtained with VDA funds during the course of this Agreement for the duration of this Agreement. Should the NVLTCOP Member Jurisdictions terminate this Agreement or the Member Jurisdictions or the Commonwealth terminate(s) NVLTCOP, its operations and this agreement, any real assets that are held by the Program Administrator for the purposes of this Agreement or NVLTCOP in excess of $10,000 shall be liquidated and the proceeds from such sale will be divided among the then-current Member Jurisdictions in accordance with the proportion of the then-current funding allocation formula, within 180 days of termination.

22. Additional Covenant: This Agreement is in no way to be construed as an indication of a joint effort of the Member Jurisdictions in any manner other than that which is expressly indicated in other sections described above.

Furthermore, the Member Jurisdictions individually covenant and agree that this Agreement shall not be introduced or referred to in any future proceeding, judicial or administrative, concerning a change in the geographical boundaries hereto of the Member Jurisdictions or of Planning District 8.

23. Severance Provision: If any provision of this Agreement is found or determined by a court of competent jurisdiction to be invalid, the remaining provisions still shall remain in full force and effect.

24. Assignment: No Member Jurisdiction may assign, transfer, convey, sublet, or otherwise dispose of any of its rights or duties under this Agreement and the NVLTCOP created by it without the prior written consent of all of the other Member Jurisdictions by and through representatives duly authorized to bind them.

25. Amendments: This Agreement shall not be amended except by written amendment executed by persons duly authorized to bind each Member Jurisdiction.

26. No Waiver: The failure of any Member Jurisdiction to exercise in any respect a right provided for in this Agreement shall not be deemed to waive subsequently the same right or any other right hereunder.

27. No Waiver of Sovereign Immunity: Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement or any action taken by any Member Jurisdiction or the NVLTCOP pursuant to this Agreement shall constitute or be construed as a waiver of either the sovereign or governmental immunity of any Member Jurisdiction. The Member Jurisdictions intend for this provision to be read as broadly as possible.

28. Notices: Unless otherwise provided herein, all notices and other communications required by this Agreement shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

IF TO FAIRFAX COUNTY:

County Executive

12000 Government Center Parkway

Fairfax, VA 22035

IF TO ARLINGTON COUNTY:

County Manager

2100 Clarendon Boulevard, Suite 302

Arlington, Virginia 22201

IF TO THE CITY OF ALEXANDRIA:

City Manager

301 King Street

Alexandria, Virginia 22314

IF TO LOUDOUN COUNTY:

County Administrator

1 Harrison St. SE, Mail Stop #02

Leesburg, VA 20175

IN WITNESS WHEREOF, the undersigned persons duly certify that they are authorized to enter into this Agreement on behalf of their respective Member Jurisdictions and that their respective jurisdictions are legally bound thereby.

City of Alexandria

_____ _____

Rashad M. Young, City Manager Date

Arlington County

_____ _____

Barbara M. Donnellan, County Manager Date

Loudoun County

_____ _____

Tim Hemstreet, County Administrator Date

Fairfax County

_____ _____

Edward L. Long Jr., County Executive Date

ATTACHMENT 2

ADOPTION OF AN ORDINANCE TO

APPROVE A REGIONAL JOINT ACTION AGREEMENT FOR

THE NORTHERN VIRGINIA LONG-TERM CARE OMBUDSMAN PROGRAM

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, Held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, November 18, 2014, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an ordinance regarding the approval of a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program, said ordinance so adopted being in the words following, to-wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA:

1. That pursuant to the authority granted by Va. Code Section 15.2-1300, the Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program by and among the Counties of Fairfax, Loudoun and Arlington, as well as the City of Alexandria, a copy of which is attached hereto and incorporated herein by reference, is hereby approved and the County of Fairfax hereby adopts and enters into the attached agreement.

GIVEN under my hand this 18th day of November, 2014

_____

CATHERINE A. CHIANESE
Clerk to the Board of Supervisors

Board Agenda Item
October 28, 2014

ACTION - 1

Approval of the Issuance of a Solicitation for Police-Directed Towing Services

ISSUE:
Approval by the Board of Supervisors of the issuance of a Request for Proposal to contract for police-directed towing services (law enforcement towing) for Fairfax County.

RECOMMENDATION:
Issuance of a Request for Proposal (RFP) by the County Purchasing Agent in substantially the same form as Attachment II and culminating with the award of contracts for each designated towing zone.

TIMING:
The current contract, awarded in August 2008 as a result of the same process described here, expires on February 28, 2015. Time is of the essence in issuing a solicitation to ensure that the replacement contract is awarded prior to February 28, 2015.

BACKGROUND:
The County Executive has determined that, pursuant to Fairfax County Code §82-5-31(e), a competitive procurement process should be used to obtain wrecker and storage services by geographical district. On June 17, 2014, the Board of Supervisors appointed a Towing Advisory Board for the purpose of providing advice on the terms and conditions of a proposed contract for law enforcement towing. In accordance with Va. Code § 46.2-1217, the Towing Advisory Board, consisting of a member of the local law-enforcement agency, towing and recovery operations, and the general public, reviewed a draft Request for Proposal prepared by County staff. The draft Request for Proposal prepared by County staff utilizes the same evaluation process and geographical zones approved by the Board of Supervisors and used by the County in the prior solicitation issued for the existing contracts for police-directed tows. The Towing Advisory Board met two times on August 13, 2014 and August 27, 2014. Staff commends the Towing Advisory Board for their thorough review of the issues related to the County's law enforcement towing requirements.

The Towing Advisory Board proposed modifications to the draft Request for Proposal and recommends issuance of a solicitation substantially in the form of Attachment II. Staff is in general consensus with the Towing Advisory Board

recommendations and substantially supports the proposed modifications. A summary of the modifications are included as provided in Attachment III.

Staff has attached a Request for Proposal that incorporates all of the Towing Advisory Board recommendations. It is recommended that the Purchasing Agent issue a Request for Proposal in substantially the same form as Attachment II and award contracts for each designated towing zone.

FISCAL IMPACT:
None. Services provided under the contract are paid by the consumer.

ENCLOSED DOCUMENTS:
Attachment I – Towing Advisory Board Membership
Attachment II – RFP recommended by staff and the Towing Advisory Board
Attachment III – Summary of Proposed Modifications to the RFP

STAFF:
Cathy A. Muse, Director, Department of Purchasing and Supply Management
Edwin C. Roessler, Jr., Colonel, Fairfax County Police Department

Attachment I

TOWING ADVISORY BOARD MEMBERSHIP

Citizen Representative

John Theodore Fee

Towing and Recovery Operator Representative

Donnie Ward, Manager, DTR Towing

Local Law Enforcement Representative

Jason Long, 2nd Lieutenant, Fairfax County Police Department

Attachment II

RFP recommended by Staff and the Towing Advisory Board

PRE-PROPOSAL CONFERENCE

RFP

An optional pre-proposal conference will be held at on at the Fairfax County Government Center, 12000 Government Center Parkway, Conference Room X, Fairfax Virginia. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

While attendance at this conference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to attend. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

All questions pertaining to this RFP should be submitted in writing to the Contract Specialist via email at dpsmteam1@fairfaxcounty.gov or lonnette.robinson@fairfaxcounty.gov prior to the pre-proposal conference.

FAIRFAX COUNTY

DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
12000 GOVERNMENT CENTER PARKWAY, SUITE 427
FAIRFAX, VIRGINIA 22035-0013

www.fairfaxcounty.gov/dpsm

V I R G I N I A

TELEPHONE: (703) 324-3201 FAX: (703) 324-3228 TTY: 1-800-828-1140

ISSUE DATE:	**REQUEST FOR PROPOSAL NUMBER:** RFP200000	**TITLE:** Law Enforcement Towing
DEPARTMENT: Fairfax County Police	**DUE DATE/TIME:**	**CONTRACT SPECIALIST:** Lonnette Robinson / 703-324-3281 or lonnette.robinson@fairfaxcounty.gov

Proposals - In accordance with the following and in compliance with all terms and conditions, unless otherwise noted, the undersigned offers and agrees, if the proposal is accepted, to furnish items or services for which prices are quoted, delivered or furnished to designated points within the time specified. It is understood and agreed that with respect to all terms and conditions accepted by Fairfax County the items or services offered and accompanying attachments shall constitute a contract.

Note: Fairfax County does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

NAME AND ADDRESS OF FIRM:

_____

_____

_____

_____

Telephone/Fax No.: _____

E-Mail Address: _____

Federal Employer Identification No or _____

Federal Social Security No.(Sole Proprietor) _____

Prompt Payment Discount: __% for payment within___days/net___ days

State Corporation Commission (SCC) Identification No. _____

By signing this proposal, Offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in the General Conditions and Instructions to Bidders as described in Appendix A.

BUSINESS CLASSIFICATION – Described in Appendix B - CHECK ONE: ☐ LARGE (Y) ☐ SMALL (B)

☐ MINORITY-OWNED SMALL (X) ☐ MINORITY OWNED LARGE (V) ☐ WOMEN-OWNED SMALL (C)

☐ WOMEN OWNED LARGE (A) ☐ NON PROFIT (9)

CHECK ONE: ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ CORPORATION

State in which Incorporated: _____

_____ Vendor Legally Authorized Signature

_____ Date

_____ Print Name and Title

Sealed proposals subject to terms and conditions of this Request for Proposal will be received by the Fairfax County Purchasing Agent at 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013 until the date/time specified above.

AN EQUAL OPPORTUNITY PURCHASING ORGANIZATION

(DPSM32) rev 08/2013

SPECIAL PROVISIONS

1. **SCOPE OF SERVICES:**

1.1. The purpose of this Request for Proposal is to solicit sealed proposals to establish a contract or contracts through competitive negotiation for the provision of Recovery, Removal, Storage and Impoundment of Motor Vehicles as requested by the Fairfax County Police Department, Virginia State Police, or the Virginia Department of Transportation ("police or agency requested tow") or as directed by one of these agencies at the request of the owner or operator of an unattended, abandon, or immobile vehicle ("citizen requested tow") as authorized by Section 46.2-1217 of the *Code of Virginia*.

1.2. To facilitate the recovery, removal, storage and impoundment of privately owned motor vehicles by towing facilities at the request or direction of the Police and to protect the safety and welfare of the motoring public, and residents of Fairfax County, Virginia.

1.3. The removal, storage and disposal, in accordance with law, of inoperative motor vehicles, trailers and semi-trailers from properties located in Fairfax County pursuant to Chapter 110 of the *Fairfax County Code*.

1.4. To assist private citizens in obtaining towing services for privately owned motor vehicles due to disablement as a result of mechanical failure or involvement in a motor vehicle crash.

2. PRE-PROPOSAL CONFERENCE:

2.1. An optional pre-proposal conference will be held on at A.M. in the Fairfax County Government Center, Conference Center Room , 12000 Government Center Parkway, Room , Fairfax, Virginia. To request reasonable ADA accommodations, call the Department of Purchasing and Supply Management ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven working days in advance of the event to make the necessary arrangements.

2.2. The purpose of the pre-proposal conference is to give potential offerors an opportunity to ask questions and to obtain clarification about any aspect of this Request for Proposal. Offerors may submit any questions pertaining to the RFP, in writing, prior to the pre-proposal conference to dpsmteam1@fairfaxcounty.gov or lonnette.robinson@fairfaxcounty.gov.

3. CONTRACT PERIOD AND RENEWAL:

3.1. The initial contract period will begin on the date of award, and shall be in effect for a period of three (3) years.

3.2. This contract may be renewed at the expiration of its term by agreement of both parties. Such renewals shall be for three (3) years, one (1) year at a time, if mutually agreeable to all parties.

3.3. Notice of intent to renew will be given to the Contractor in writing by the County Purchasing Agent, normally sixty (60) days before the expiration date of the current contract. This notice shall not be deemed to commit the County to a contract renewal.

4. PARTIES:

4.1. The Department of Purchasing and Supply Management (DPSM) is the contracting department for the County of Fairfax.

4.2. The Fairfax County Police Department (hereinafter called the "Police") is assigned the function of administering this contract.

4.3. The Contractor(s) is the party awarded a contract for the services identified above pursuant to this Request for Proposal.

5. GEOGRAPHIC RESTRICTIONS:

5.1. In order to ensure responsive service to the citizens of Fairfax County, all offerors submitting proposals for this requirement must have offices and storage facilities located within the boundaries of Fairfax County, VA.

6. PRICES AND PRICE AJUSTMENT:

6.1. The Contractor agrees that contract prices shall remain firm for 365 days. If the price is increased after 365 days, the unit price may be increased only upon approval of a written request to the Purchasing Agent. Upon receipt of the Contractor's request, the County shall make a determination to approve or adjust the requested price increase based upon its investigations and the information provided by the Contractor. Any price adjustment agreed to shall take place only in accordance with the schedule defined above.

6.2. The request for a change in the unit price shall include as a minimum, (1) the cause for the adjustment; (2) proposed effective date; and, (3) the amount of the change requested with documentation to support the requested adjustment (i.e., CPI-U, or other appropriate Bureau of Labor Statistics index).

6.3. The Contractor must notify the County Purchasing Agent in writing within thirty (30) days of the end of each contract year if a price increase is requested. All requests for an adjustment to the service charges must be accompanied by supporting documentation, the requested effective date, and the recommended revised charges. The County Purchasing Agent will, in his sole discretion, determine the acceptability of any requested change in prices. The Purchasing Agent may, at his option, terminate the contract and consider award of the contract to the next highest rated offeror among the offerors pre-qualified for this solicitation, if the requested price increase is deemed unacceptable. Supporting documentation shall include a schedule of costs in sufficient detail to support the price increase requested. The schedule of costs shall state the procedures followed to establish the price increase; identify any costs that were not calculated in accordance with the Contractor's current company policies; and shall confirm that the requested price increase corresponds with the movement of the Bureau of Labor Statistic index cited.

6.4. Decreases to Service Charges shall be made in accordance with Paragraph 43 of the General Conditions and Instructions to Bidders/Offerors.

7. BASIS FOR CONTRACT AWARD:

7.1. PRE-QUALIFICATION PROCESS:

Prospective Contractors shall be pre-qualified and consideration of proposals shall be limited to offerors pre-qualified in accordance with the process established in this Request for Proposal. Each offeror shall submit the information listed below, using the **Pre-Qualification Information Forms (Appendix-B)** attached to this Request for Proposal. Offerors are encouraged to include sufficient detail regarding capabilities and experience to ensure that the Selection Advisory Committee may adequately conduct the pre-qualification and evaluation process. Offerors may provide any additional supplemental material that it deems relevant to pre-qualification and evaluation.

The Pre-Qualification Information Forms (Appendix-B) shall be typed, sealed and submitted in the envelope provided. In addition, each offeror shall submit their prices as outlined in Paragraph 8.1, of the Special Provisions and the Pricing Schedule (Appendix C), in a **separate sealed** envelope. The sealed Pricing Schedule (Appendix-C) will be opened only for those offerors satisfying all prequalification criteria.

SPECIAL PROVISIONS

7.2. PRE-QUALIFICATION CRITERIA:

In order to be considered for contract award, an offeror must meet the following prequalification criteria.

a. The Offeror must have been involved or engaged in towing for no less than two (2) of the last three (3) years in the Commonwealth of Virginia. Offeror must supply evidence of experience such as contract copy, references, or other verifiable records. Use Appendix B.

b. Identify location and lot size of storage facility(s) (for each zone) which meets the requirements identified in paragraph 11, of the Technical Provisions, or provide plan to secure storage facility. Use Appendix B.

c. An equipment list for all tow trucks proposed for use under the contract must accompany the proposal and the Offeror must identify in which zone the equipment will be used. To satisfy the pre-qualification process, the Offeror must own or control a minimum of 75% (for each zone) of the equipment specified in Section 8 and 9, Technical Provisions at the time of proposal submission. Use Appendix B.

d. Offerors shall provide a list of employees to operate the vehicles proposed for use under the contract, including their employment status, level of training, and certifications. To satisfy the pre-qualification process, the Offeror must employ at least 75% (for each zone) of the necessary *certified* personnel at the time of receipt for proposals. (See paragraph 15, Technical Provisions). Use Appendix B.

e. Evidence that offeror has adequate 2-way radio communications system, including equipment list. (FCC license or agreement with system owner if network is shared). (See paragraph 8 of the Technical Provisions). Use Appendix B.

f. Identify DMV user number or proof of service used for past two years. Use Appendix B.

g. Proof of Business, Professional, and Occupational License (BPOL) in effect for previous two years. Provide photocopies of current license. Use Appendix-B.

h. Current property tax receipts for the jurisdiction where the vehicles are principally garaged; copy of state registration, operating authority, and state inspection receipt for each vehicle. Provide photocopies of documents listed. Submit with Appendix-B.

i. Current insurance certificate which verifies that the offeror meets the minimum state requirements. Provide insurance certificate. Submit with Appendix-B

j. Submission of complete financial statements. The offeror shall provide an income statement and balance sheet from the most recent reporting period. Submit with Appendix-B.

FAILURE TO PROVIDE THE INFORMATION LISTED IN SECTION 7.2 ABOVE, IN THE FORMAT IDENTIFIED MAY RESULT IN REJECTION OF THE PROPOSAL. OFFERORS SHALL USE THE FORMS PROVIDED IN APPENDIX-B AND APPENDIX-C.

7.3. PROPOSAL EVALUATION PROCESS:

a. SCORING: Proposals submitted by offerors determined to successfully meet all of the pre-qualification criteria will be evaluated based on the following categories. The offeror with the highest total number of points will be the highest rated offeror. Points shall be allocated as set forth below. Points will be allocated for Category 1, items 1 through 4 using the formula below. The formula will be applied to each line item in Category 1 (1 through 4), and the points will be totaled for each offeror to determine the points awarded for service charges. The offeror(s) proposing the lowest fee for each line item will receive the maximum number of points available for that line item. Any offer for fees which are less than $1.00 will be treated as $1.00 for evaluation purposes. Total points for fees and total points for corporate

experience will be added to determine the highest rated offeror. The Pricing Schedule (Appendix C) will not be opened nor considered until after the highest rated offerors are determined for each zone based on experience, equipment, and other listed criteria.

CATEGORY 1: FEES

1. Towing Fee – Standard (maximum possible 62.5 points)

2. Towing Fee – Crash Related (maximum possible 62.5 points)

3. Storage Fee (maximum possible 62.5 points)

4. Mileage Fee (maximum possible 62.5 points)

Number of Points Awarded Offeror = Lowest Price Offered divided by Price of Offeror multiplied by Maximum Points for Category (62.5 points).

Example: Lowest price offered for standard tow is $10. Price of Offeror is $12. Category points equal 62.5:

10 divided by 12 = .83
.83 multiplied by 62.5 = 51.88
51.88 points will be awarded to the Offeror for the category

Total Points for #1 through #4 = maximum possible 250 points

CATEGORY 2: CORPORATE EXPERIENCE:

Successful Corporate Experience with Police Directed Towing Services, as follows: (**maximum possible 1000 points**)

1. Number of years the offeror has been in operation as a towing Contractor.

2. Number of tows provided annually for a law enforcement agency providing services defined in §46.2-1217, Code of Virginia.

3. Number of years offeror has provided service under a contract or rotation list for police directed towing (Ref. §46.2-1217, Code of Virginia) in the Commonwealth of Virginia. The scope of work for the police directed towing contracts must include recovery and removal of vehicles disabled through crashes which occurred on publicly maintained highways or streets. Only the direct experience of the offeror submitting a proposal may be used to satisfy the requirements for corporate experience.

4. Number of Class B vehicles which your storage facility can hold while maintaining space for ingress and egress, as well as, lanes for movement and public parking within the facility. The storage facility(s) must meet all federal, state, and local laws, regulations and ordinances for the purpose of this calculation. Offeror shall list all lots that may be considered for each zone proposed. The offeror must provide aerial photos of each lot with a two foot or better resolution (available for a fee from the Fairfax County Department of Information Technology, Geographic Information Systems Division http://www.fairfaxcounty.gov/maps/map.htm). A space of 8 feet by 20 feet shall be considered adequate for one Class B vehicle for evaluation purposes.

5. Points will be awarded for each type of equipment that exceeds minimum requirements. Multiple pieces of the same type of equipment will not receive points. Additional equipment exceeding minimum requirements, such as airbag recovery, front end loader, trailer, tractor or dump truck will receive 5 points (for each piece of equipment), see maximum points available in point schedule. Documentation of equipment, specifications and ownership must be submitted with proposal. Award of points for such equipment shall be subject to determination in the sole discretion of the Purchasing

Agent that the proposed equipment constitutes specialty equipment exceeding minimum requirements and subject to inspection at the time other equipment and storage facilities are inspected.

6. Equipment listed by offerors for a zone, may not be listed as equipment for another zone, for purposes of evaluation of proposals. Equipment committed to another jurisdiction's police directed towing contract is ineligible for evaluation purposes and use for performance of this contract. At any time upon request by the Police Department, an offeror must submit evidence of ownership or a commitment to purchase, commercial lease or otherwise acquire the equipment listed in a proposal, by the effective date of the contract. The contractor must maintain exclusive control of the equipment during the period of the contract. No points will be allowed for equipment pledged or offered for use for a contract or rotational agreement with another jurisdiction.

b. A Selection Advisory Committee (SAC) has been established to review and evaluate all proposals submitted in response to this Request for Proposal. The Committee shall conduct a preliminary evaluation of all offerors proposals on the basis of the information provided in Appendix-B of the proposal. Based upon this review and applicable evaluation, the Pricing Schedules (Appendix-C) of the highest rated offeror(s) will then be reviewed and evaluated.

c. Based on the results of the above evaluation, the highest rated offeror(s) may be invited by the County Purchasing Agent to make oral presentations to the Selection Advisory Committee. This committee will then conduct a final evaluation of the proposals. Offerors are advised that the County reserves the right to determine in its sole discretion that the highest rated offeror shall be deemed clearly more highly qualified than the others under consideration based upon the highest total of points awarded in accordance with the results of the above evaluation. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. If a satisfactory contract cannot be negotiated with the highest qualified offeror, negotiations will be formally terminated. Negotiations may then be undertaken with the second rated offeror and so on.

d. Upon completion of any negotiations the highest rated offeror successfully demonstrating the capability to meet the requirements of this contract for the zone(s) bid will be recommended by the Selection Advisory Committee to the Purchasing Agent for contract award.

e. The County Purchasing Agent may arrange for discussions with firms submitting proposals, if required, for the purpose of obtaining additional information or clarification. Offerors are advised that, in the event of receipt of an adequate number of proposals, which in the opinion of the County Purchasing Agent require no clarifications and/or supplementary information, such proposals may be evaluated without further discussion. Consequently, offerors should provide complete, thorough proposals with the offerors must favorable terms. Should proposals require additional clarification and/or supplementary information, offerors should submit such additional material in a timely manner.

f. INSPECTIONS:

1. The offeror receiving the most points (the highest rated offeror) in each zone will be contacted by the Police Department for the purpose of scheduling an inspection of equipment, personnel qualifications, communications system, and storage facilities.

2. The offeror will be given a minimum of 48 hours' notice of the inspection time. Each offeror must present for inspection all equipment listed in their proposal for each zone and all equipment required to meet the contract requirements personnel, communications system, and storage lots (includes the remaining 25% of equipment and personnel not identified during the pre-qualification process). Upon completion of the inspection the offeror will be given a list of any deficiencies found. The offeror will then be given notice (minimum of 48 hours' notice) to remedy the deficiencies found, at which time the Police Department will re-inspect. This will be the only possibility for the offeror to remedy the deficiencies. (See paragraphs 8, 11 and 15, Technical Provisions for equipment/items and inspection areas).

CLASS B (small wrecker) and CLASS A (large wrecker) TOWING ZONES

Table 1

CATEGORY					
General Towing Experience	2-5	6-10	11-20	20+	Total
Points	50	100	150	200	200
Tows per Year (Police)	1-500	501-1500	1501-2500	2501+	
Points	50	100	150	200	200
Years of Police Contracts	1-5	6-10	11-15	16+	
Points	50	100	150	200	200
Storage Capacity (No. of vehicles)	50-100	101-200	201-300	301+	
Points	50	100	150	200	200
Storage Facility in Zone Offered					75
Storage Facility in Adjacent Zone					25

Table 2: Equipment (exceeding required)

Equipment (exceeding required)	4 X 4	Specialty Equipment	Tower Medium Duty (Class B)	Tower Large Duty (Class A)	Rotator	Total
Points	20	20	20	20	20	100

TOTAL POINTS FOR BOTH TABLES 1 AND 2	**1000**

Table 3: Additional Equipment (exceeding required)

Additional Equipment (exceeding required): Such as airbag recovery, front end loader, trailer, tractor or dump truck, etc. (Ref. Paragraph 7.3.a. of Special Provisions, Category 2: Corporate Experience, Page 5, Item 5)	
Points	5 points (for each piece of equipment)

g. **FEE DETERMINATION**: The highest rated offeror in each zone shall be required to submit a complete fee determination prepared in accordance with generally accepted accounting principles, prepared in sufficient detail to support the reasonableness of the prices quoted and the ability of the offeror to perform the contract at the bid prices quoted, within 15 days of request by the Purchasing Agent. The statement shall also state the process used to verify the proposed prices quoted and shall identify any costs, prices that were not calculated in accordance with the offeror's current company policies. The County reserves the right to request supplemental financial information following receipt of the fee determination. In the event the County Purchasing Agent determines that the fee determination does not confirm the reasonableness of the prices quoted or the ability of the offeror to perform the contract at the proposed prices quoted, the proposal shall be rejected and the Purchasing Agent may consider award to the next highest rated offeror. Any proprietary information contained in the financial statement should be identified by the offeror in accordance with paragraph 68 of the General Conditions and Instructions to Bidders.

7.4. CONTRACT AWARD:

a. The contract shall be awarded to only one (1) Contractor per zone. In emergency situations where additional services are required, the Fairfax County Police Department may request such services from a Contractor in an adjacent zone or any other available source.

b. In the event that there is no qualified or responsible offeror for any particular zone, the Fairfax County Purchasing Agent reserves the right to award that zone to an adjacent Contractor or to divide the zone to be shared by more than one Contractor.

c. The Fairfax County Purchasing Agent reserves the right to award additional towing contracts as deemed necessary during the contract period.

8. SUBMISSION OF PROPOSAL:

8.1. Each offeror must use the Prequalification Information Forms (appendix B) and Pricing Schedule (Appendix C and D) to submit their proposal. Five (5) signed copies of the Cover Sheet and five (5) completed copies of Appendix B must be submitted in one package. Five (5) completed copies of Appendix C must be submitted in separate sealed envelope. Submittals must be in paper format only, no electronic media may be provided. By executing the Cover Sheet (DPSM 32), the offeror acknowledges that he/she has read this solicitation, understands it, and agrees to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person. All proposals must be received by the receptionist at the following address:

County of Fairfax
Department of Purchasing Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035

Proposals must be received prior to the date and time specified. All offerors should submit their best and final offer for the procurement of Police Directed Recovery, Removal, Storage and Impoundment of Motor Vehicles on the Pricing Schedule with their initial submittal.

8.2. Each offeror must submit five (5) copies of the **Pre-Qualification Information Forms** (**Appendix B**) identified in paragraph 7.1 and 7.2 Special Provisions.

8.3. Upon completion of the pre-qualification process by the Selection Advisory Committee, all offerors will be notified by mail of the status of their proposal. **The Pricing Schedules (Appendix-C and D)** of all qualified offerors proposals will then be opened and evaluated by the Selection Advisory Committee.

8.4. Offerors operating from more than one location, but operating under the same corporation, shall submit only one proposal, but must list all locations on the pricing schedule.

9. REQUIRED SUBMITTALS AND CHANGES TO REQUEST FOR PROPOSAL

9.1. Each Offeror responding to this Request for Proposal must supply all the documentation required in the RFP. Failure to provide documentation with the Offeror's response to the RFP will result in the disqualification of the Offeror's proposal.

Appendix B
Appendix C
Appendix D
DPSM32 Cover Page

9.2. Offerors are reminded that changes to the Request for Proposal, in the form of addenda, are often issued between the issue date and within three (3) days before the opening / closing of the solicitation. All addenda MUST be signed and submitted to the Department of Purchasing and Supply Management, 12000 Government Center Parkway, Suite 427, Fairfax, VA 22035 before the time and date of the opening / closing of the bid or must accompany the bid. Offerors are encouraged to monitor the web page for the most current addenda at www.fairfaxcounty.gov/dpsm/solic.

9.3. It is the Offeror's responsibility to clearly identify and to describe the services being offered in response to the Request for Proposal. Offerors are cautioned that organization of their response, as well as thoroughness is critical to the County's evaluation process. The RFP forms must be completed legibly and in their entirety; and all required supplemental information must be furnished and presented in an organized, comprehensive and easy to follow manner.

9.4. Unnecessarily elaborate brochures of other presentations beyond that sufficient to present a complete and effective proposal is not desired. Elaborate artwork, expensive paper, bindings, visual and other presentation aids are not required. The County encourages Offerors to use recycled paper, wherever possible.

9.5. By executing the cover sheet (DPSM32), Offeror acknowledges that they have read this Request for Proposal, understand it, and agree to be bound by its terms and conditions. Proposals may be submitted by mail or delivered in person.

10. LATE PROPOSALS:

10.1. **Proposals received in the Office of the County Purchasing Agent after the date and time prescribed shall not be considered for contract award and shall be returned to the offeror. Electronically stamped delivery receipts are available.**

11. PERIOD THAT PROPOSALS REMAIN VALID:

11.1. **Proposals** will remain valid for a period of two-hundred and forty days (240) calendar days after the date specified for receipt of proposals.

12. CONTACT FOR TECHNICAL AND CONTRACTUAL MATTERS:

12.1. The person to contact concerning contractual matters pertaining to this Request for Proposal is:

Lonnette Robinson, CPPB, Contract Specialist Supervisor
Department of Purchasing and Supply Management
12000 Government Center Parkway, #427
Telephone: (703) 324-3281
lonnette.robinson@fairfaxcounty.gov

Any questions pertaining to this Request for Proposal shall be directed in writing to the address shown above, not later than five (5) days prior to the closing of the solicitation.

12.2. Offerors are cautioned not to contact members of the Selection Advisory Committee (SAC). SAC members will not consider information other than the materials provided by the Contract Administrator, e.g., proposals. If a SAC member is approached by anyone outside the SAC who may have a material interest in this procurement, it will be immediately reported to the Contract Administrator.

13. AMERICANS WITH DISABILITIES ACT REQUIREMENTS:

13.1. Fairfax County Government is fully committed to the Americans with Disabilities Act (ADA) which guarantees non-discrimination and equal access for persons with disabilities in employment, public accommodations, transportation, and all County programs, activities and services. Fairfax County government contractors, subcontractors, vendors, and/or suppliers are subject to this ADA policy. All individuals having any County contractual agreement must make the same commitment.

Your acceptance of this contract acknowledges your commitment and compliance with ADA.

Fairfax County is committed to a policy of nondiscrimination in all County programs, services, and activities and will provide reasonable accommodations upon request. Bidders requesting special accommodations should call the Department ADA representative at (703) 324-3201 or TTY 1-800-828-1140. Please allow seven (7) working days in advance of the event to make the necessary arrangements.

14. ORDER OF PRECEDENCE:

14.1. In the event of conflict, the Acceptance Agreement (provided at contract award) and the Special Provisions of this contract shall take precedence over the General Conditions and Instructions to Bidders, (Appendix A).

15. ASSIGNMENT OF CONTRACT:

15.1. Any assignment or transfer of interest in the contract shall be subject to Paragraph 35 of the General conditions and Instructions to Bidders. Fairfax County further reserves the right to terminate the contract upon at least five days written notice, at its option, in the event of assignment or other transfer of interest in the contract or the contractor or in the event of change in ownership of the contractor. Contractor acknowledges that in the event of any assignment or transfer of interest in the contract, contractor shall remain liable for all obligations hereunder.

16. PROJECT AUDITS:

16.1. The Contractor shall maintain books, records and documents of all costs and data in support of the services provided. Fairfax County or its authorized representative shall have the right to audit the books, records and documents of the Contractor under the following conditions:

a. If the contract is terminated for any reason in accordance with the provisions of these contract documents in order to arrive at equitable termination costs;

b. In the event of a disagreement between the Contractor and the County on the amount due the Contractor under the terms of this contract;

c. To check or substantiate any amounts invoiced or paid which are required to reflect the costs of services, or the Contractor's efficiency or effectiveness under this contract; and,

d. If it becomes necessary to determine the County's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor that may result in a charge against the County.

16.2. These provisions for an audit shall give Fairfax County unlimited access during normal working hours to the Contractor's books and records under the conditions stated above.

16.3. Unless otherwise provided by applicable statute, the Contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to Fairfax County for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor but without direct charge to the County, all its books, records documents and other evidence bearing on the costs and expenses of the services relating to the work hereunder.

16.4. Fairfax County's right to audit and the preservation of records shall terminate at the end of three (3) years as stated herein. The Contractor shall include this "Right of Audit and Preservation of Records" clause in all subcontracts issued by it and they shall require same to be inserted by all lower tier subcontractors in their subcontracts, for any portion of the work.

16.5. Should the Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure Fairfax County's rights hereunder, the Contractor shall be liable to Fairfax County for all reasonable costs, expenses and attorney's fees which Fairfax County may have to incur in order to obtain an audit or inspection of or the restoration of records which would have otherwise been available to Fairfax County from said persons under this clause. Such audit may be conducted by Fairfax County or its authorized representative.

17. CHANGES:

17.1. Fairfax County may, at any time, by written order, require changes in the services to be performed by the Contractor. If such changes cause an increase or decrease in the Contractors cost of, or time required for, performance of any services under this contract, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. The County Purchasing Agent must approve all work that is beyond the scope of this Request for Proposal.

17.2. No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Fairfax County Purchasing Agent.

18. NEWS RELEASE BY VENDORS:

18.1. As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation will not be made by a contractor without the prior written approval of the County. All proposed news releases will be routed to the Purchasing Agent for review and approval.

19. INSURANCE REQUIREMENTS:

19.1. The Contractor shall be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith. The Contractor assumes all risk of direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract.

19.2. The Contractor shall, during the continuance of all work under the contract provide the following:

a. Maintain statutory Workers' Compensation and Employer's Liability insurance in limits of not less than $100,000 to protect the Contractor from any liability or damages for any injuries (including death and disability) to any and all of its employees, including any and all liability or damage which may arise by virtue of any statute or law in force within the Commonwealth of Virginia.

b. The Contractor agrees to maintain Commercial General Liability insurance in the amount of $1,000,000 per occurrence/aggregate, to protect the Contractor, its sub-Contractors, and the interest of the County, its officers and employees against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the Contract or in connection with the contracted work. The General Liability insurance shall include the Broad Form Property Damage endorsement, in addition to hazards, where required. Completed operations liability endorsement shall continue in force for three years following completion of the contract.

c. The Contractor agrees to maintain owned, non-owned, and hired Automobile Liability insurance, in the amount of $2,000,000 per occurrence/aggregate, including property damage, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor. In addition, all mobile equipment used by the Contractor in connection with the contracted work, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. The Garage Keeper's Liability coverage shall also be maintained where appropriate.

d. Contractor agrees to maintain Environmental Impairment Liability coverage, including sudden and accidental pollution and in transit coverage in the amount of $1,000,000 per aggregate/occurrence.

e. Contractor agrees to maintain Contractors Liability insurance in the amount of $1,000,000 per occurrence/aggregate to insure against loss due to liability imposed upon an owner/Contractor for acts arising out of the operations of independent Contractors/sub-Contractors or out of an owner's/Contractor's supervisory activity, if applicable.

f. Liability Insurance "Claims Made" basis:

If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same. The Contractor must either:

1. Agree to provide certificates of insurance evidencing the above coverages for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's or sub-Contractor's work under this contract, or

2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

g. Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying Liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

1. The Contractor agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A:VI.

2. European markets including those based in London, and the domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the Contractor's broker can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with A.M. Best's rating of A:VI or better.

h. The Contractor will provide an original, signed Certificate of Insurance and such endorsements as prescribed herein.

i. The Contractor will secure and maintain all insurance certificates of its sub-Contractors which shall be made available to the County on demand.

j. The Contractor will provide on demand certified copies of all insurance coverages related to the Contract within ten business days of demand by the County. These certified copies will be sent to the County from the Contractor's insurance agent or representative.

19.3. No change, cancellation, or non-renewal shall be made in any insurance coverage without a 45 day written notice to the County. The Contractor shall furnish a new certificate prior to any

change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished.

19.4. Compliance by the Contractor and all sub-contractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all sub-contractors of their liabilities provisions of the Contract.

19.5. Precaution shall be exercised at all times for the protection of persons (including employees) and property.

19.6. The Contractor and all sub-contractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.

19.7. The County, its officers and employees shall be named as an "additional insured" in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage "is primary to all other coverage the County may possess."

19.8. If an "ACORD" Insurance Certificate form is used by the Contractor's insurance agent, the words, "endeavor to" and "...but failure to mail such notice shall impose no obligation or liability of any kind upon the company" in the "Cancellation" paragraph of the form shall be deleted.

19.9. Hold Harmless/Indemnification:

a. The Contractor hereby agrees to indemnify and hold harmless Fairfax County, Virginia, its officers, agents and all employees and volunteers, from any and all claims for bodily injury, and personal injury and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorney fees, and the cost of appeals arising out of any claims or suits which result from errors, omissions, or negligent acts of the Contractor, his subcontractors and their agents and employees.

b. If any judgment shall be rendered against the County in any such action, the Contractor shall at his own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

c. The Contractor shall be responsible for the vehicle towed and its contents from the time it is towed until one of the following occurs:

1. The vehicle is delivered to a location specified by the owner or a properly interested person(s).

2. The vehicle is released to and accepted by the owner or a properly interested person(s)

3. The vehicle is otherwise disposed of according to law.

4. The police department authorizes release of the vehicle.

20. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

20.1. Pursuant to *Code of Virginia*, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Any bidder or offeror that fails to provide the required information may not receive an award.

TECHNICAL SPECIFICATIONS

1. DEFINITIONS:

1.1. Administrative Costs is defined as DMV title and lien records fees, postage expenses, salvage or mechanics lien fees, title fees, and public notice expenses required by State law.

1.2. Authorized Personnel of Towing/Recovery Service is defined as an owner or operator or employee, who has been approved by the County, after a background check, to respond to requests for service.

1.3. ~~BTRO~~ DCJS means the ~~Virginia Board of Towing and Recovery Operators~~ Virginia Department of Criminal Justice Services

1.4. Damage Free Design is defined as a wheel-lift, under-lift, or car carrier body styled truck.

1.5. Gross Vehicle Weight means the aggregate weight of a vehicle and the load thereon.

1.6. Gross Vehicle Weight Rating is defined in §46.2-341.4 of the Code of Virginia.

1.7. Lien Holder is defined as a financial organization, lending institution or lien establishment holding a security interest in a vehicle or vehicles subject to the provision of towing services under the terms of this contract.

1.8. Legal Owner is defined as a person who (i) has vested ownership, dominion, or title to the vehicle; (ii) is the authorized agent of the owner as defined in clause (i); (iii) is an employee, agent, or representative of an insurance company representing any party involved in a collision that resulted in a police-requested tow; or (iv) is a person subject to a security interest in another person, is entitled to the use and possession of the vehicle, including a lessee under a lease intended as security, but not including a lessee under a lease not intended as security.

1.9. Police Directed or Police Requested Towing or Police Towing Request includes all requests made by a law-enforcement officer of the county, city, or town or by a State Police Officer within the county, city, or town pursuant to §46.2-1217, Code of Virginia. A Police Requested Tow shall be defined as any call for towing services received by a Contractor through the Department of Public Safety Communications or other Police entity and shall include police and citizen requested tows.

1.10. PD-48 is defined as a form utilized by the Police Department to inventory the contents of a vehicle, issued in accordance with Police Department procedures.

1.11. Proof of Ownership is defined as a title issued by a state, territory or the District of Columbia; a State Department issued registration, bill of sale, or written authorization from a legal owner authorizing a second party to the custody of the vehicle. A vehicle may be released to a person with proof of ownership or authorization of the Police Department.

1.12. Properly Interested Persons is defined as the legal owners and their agents, registered owners, lessees and persons as authorized by a Police Department official. Lien holders can be determined to be properly interested parties, upon issuance of a court order by the Fairfax County Circuit Court or by written authorization and transfer by legal owners, their agents, registered owners, lessees as defined above to the satisfaction of the Police Department or as otherwise authorized by the Police Department.

1.13. Standard Tow is the tow of a vehicle which is disabled, abandoned, or impounded/seized.

1.14. Crash Related Tow is towing and removal of vehicles involved in a crash; and cleaning of the crash scene. (see paragraph 10, Technical Specifications). No additional charges are allowed.

TECHNICAL SPECIFICATIONS

1.15. Mileage Charge is the fee allowed to be charged to move one vehicle one mile. This fee may only be charged for citizen request tows when the vehicle is not going to the Contractor's storage facility and only after the first five miles. No fee shall be assessed for the first five miles.

1.16. Response Time shall begin at the time call is received by the Contractor, from the Department of Public Safety Communications, or from properly authorized Virginia State Police dispatcher or properly authorized VDOT official, and shall end upon arrival at the tow scene.

1.17. Storage Fee is the fee allowed to be charged for the storage and safekeeping of vehicles or trailers. All fees are to be charged on a per unit basis, except large trucks or trailers which may be charged by the length per foot of the vehicle.

1.18. SP-167 Virginia State Police Criminal History Records Request http://www.vsp.state.va.us/forms.htm

~~1.19. Tow Truck Decal, Decal or similar words mean a BTRO issued decal to be affixed to the driver side door of a tow truck owned, leased or operated by a licensed towing and recovery operator.~~

~~1.20.~~1.19. Vehicles

a. Large Tow Truck (Class A): A vehicle designed and built by a commercial manufacturer to tow and recover truck type vehicles weighing 26,001 pounds and above. The tow truck equipped with a heavy duty underlift rated at minimum 20,000 lbs. lifting weight and 80,000 lbs. towing weight by the manufacturer. The towing vehicle must maintain 50% of its front axle weight in a lift capacity. (For example, but not limited to: medium and heavy trucks, tractor trailers, dump trucks and cement trucks).

b. Medium Duty Tow Truck (Class B): A vehicle designed and built by a commercial manufacturer to tow and recover vehicles weighing 26,000 pounds or less. The tow truck equipped with a heavy duty underlift rated at minimum 15,000 lbs. lifting weight and 40,000 lbs. towing weight by the manufacturer. The towing vehicle must maintain 50% of its front axle weight in a lift capacity. (Only considered as small tow truck for purpose of this solicitation, but is awarded points for added capacity).

c. Small Tow Truck (Class B) - A vehicle designed and originally built by a commercial manufacturer to tow and recover vehicles designed to transport seven passengers, or less. (For example, but not limited to: cars, pickups, vans & light trucks and medium trucks weighing 26,000 pounds or less).

d. Car Carrier (Rollback/Flat-bed) - A vehicle designed and originally built by a commercial manufacturer for towing, recovery and hauling purposes where the vehicle rests on a flat platform.

~~1.21.~~1.20. Unclaimed Vehicle - Any vehicle impounded pursuant to a police tow charge and which has not been claimed for more than ten days or for more than ten days beyond the period the vehicle was to remain on the premises pursuant to this contract, after notice by registered or certified mail, return receipt requested, to the owner of record and all persons having security interests of record therein, to reclaim the vehicle within fifteen days of the notice. (Ref. Code of Virginia §46.2-1204).

TECHNICAL SPECIFICATIONS

2. BILLING AND **BILLING DISPUTES:**

2.1 All disputes between vehicle owners and the Contractor regarding fees charged shall be resolved by the Fairfax County Police Department Towing Coordinator.

2.2 Contractors must provide the Fairfax County Police Department Towing Coordinator with monthly statement of the bills that are owed for which the County is responsible for paying.

3. CONTRACT ADMINISTRATION AND PERFORMANCE MONITORING:

3.1 Contract Monitoring: The performance under this contract will be jointly monitored by Fairfax County Police Department (PD) and the Department of Purchasing and Supply Management (DPSM). Records of both a positive and negative nature will be maintained for the duration of the contract period.

3.2 Contract Compliance / Remedies:

1. The Police Department Agent shall be the Chief of Police or his designee (Towing Coordinator). The Department of Purchasing and Supply Management Agent shall be the Purchasing Agent or her designee.

2. The County may utilize the remedies defined below to ensure the delivery of quality services to the citizens and that such service is provided in a fair and impartial manner with a proper appeal procedure to ensure that the rights of all parties are protected.

3. The following types of performance remedies action may be imposed:

   a. Written Reprimand - To be prepared and presented to the Contractor by the Towing Coordinator;

   b. Temporary Suspension – The Purchasing Agent may impose a temporary suspension for a period not to exceed 10 days;

   c. Termination of Contract for Cause - The date of notice of termination will be made at least five (5) days prior to the effective date of such termination.

4. The Purchasing Agent may impose action in the form of a written reprimand in accordance with the following guidelines:

   a. When the Police Department determines that an offense is of such a nature that a record should be placed in a Contract file, a written reprimand will be prepared. The memorandum will contain:

      1. A statement of performance deficiency in sufficient detail

      2. A statement of previous offenses in those cases where the letter is considered a continuation of constructive discipline.

      3. A statement that similar occurrences could result in more severe disciplinary action.

      4. The Contractor shall acknowledge the receipt of the memorandum by signature and date.

      5. The written reprimand, together with the investigation report, shall be forwarded to the County Purchasing Agent and remain a permanent part of the Contractor contract file.

5. Termination: This contract may be terminated by either party with or without cause, at any time prior to its expiration, upon ten (10) days written notice to the other party. General Conditions and Instructions to Offerors, paragraph 32, titled "Termination For Convenience" is hereby deleted.

4. CONTRACTOR CHANGES:

4~~5~~.1 The Contractor shall furnish to the Police all information necessary to keep the contractor records current. Any Contractor which changes Owners, Corporate Officers or Partners or goes out of business during the term of this Contract shall give 30 days' advance written notice of such change to the Purchasing Agent. Upon receipt of the written notice, the County Purchasing Agent will make a determination as to whether or not the contract will be extended to the new owner, corporate officers, or partners. If the Contractor fails to comply with this provision, the contract may be terminated. The County reserves the right to terminate the contract, award to the next low bidder, or another contractor.

5. ~~6.~~ CONTRACTOR CONTACT:

~~6~~5.1 The Contractor shall furnish the Police with only **one** telephone number for 24-hour service. The calls may be forwarded to another number but not to an answering machine or service. The Contractor must give a twenty-four hour notice prior to any changes in telephone numbers.

6. ~~7.~~ REQUEST FOR TOWING SERVICES:

~~7~~6.1 When storage, recovery or towing services are requested, the Police shall contact the Contractor for the designated zone which:

(a) is approved for the location where the towing services are required; and

(b) is capable of providing the appropriate services as required; and

(c) is immediately available.

7. ~~8.~~ EQUIPMENT SPECIFICATIONS AND CONDITION:

~~8~~7.1 The Contractor must have the designated number of trucks for each zone (see para. 8.12) at the time of equipment inspection.

~~8~~7.2 The Contractor shall use only that equipment which has been inspected and approved by the Police. The Police Department shall maintain a list of all approved equipment of the Contractor. Use of equipment from any other towing company, regardless of ownership; or of unapproved equipment shall be cause for performance action. Under emergency conditions or extenuating circumstances, this provision shall not prohibit the use of "Specialty Equipment" where required. The Contractor shall provide whatever equipment is necessary to move the motor vehicle designated by the Police. The use of specialty equipment and the cost is subject to review by the Police Department. The Police may determine applicability of equipment used and prices charged, as necessary. All tow trucks shall have necessary items for removal of debris from roadways, highways or interstates as required by Code of Virginia §18.2-324.

~~8~~7.3 All tow trucks shall display the firm's correct name, address, and telephone number, tow truck decal (when issued) and specific company paint and letter scheme within sixty (60) days of award of this contract. The Contractor shall maintain all equipment in good operating condition. The telephone number must be given to the owner/operator of the vehicle towed, or if that person is not available, then to the law-enforcement personnel directing the vehicle to be towed.

TECHNICAL SPECIFICATIONS

7.4 Industry standards require a swage and thimble to be used when wire rope is terminated with a fixed hook. A clip may only be used for an emergency repair.

~~8~~7.5 The Contractor shall maintain a place of business from where trucks dispatched in response to Police requests for towing services shall be principally garaged.

~~8~~7.6 The Contractor shall indicate the credit cards which will be accepted and any restrictions that may apply (see Pricing Schedule, Appendix C).

~~8~~7.7 All tow trucks and other equipment offered shall be registered in Fairfax County by the Department of Motor Vehicles in accordance with all applicable provisions of the *Code of Virginia* and the *Fairfax County Code*.

~~8~~7.8 All tow trucks shall be equipped with a 2-way radio communications system, capable of transmitting and receiving from the company office to anywhere in the awarded zone. The Contractor must have all F.C.C. permits and licenses where applicable. Two-way communications system means a Very High Frequency (VHF) or Ultra High Frequency (UHF) radio system consisting of a base transmitter/receiver and mobile transmitter/receivers in tow trucks. A Contractor is not prohibited from using a commercial wireless communications provider in addition to the 2-way communications system described herein; however, the Contractor must have in place an operational, redundant, reliable 2-way VHF or UHF radio communications system at the dispatch center and for each approved tow truck.

~~8~~7.10 Emergency Lights: Each towing/recovery vehicle shall have amber revolving or flashing emergency lights mounted on the highest part of the vehicle and visible from all sides and shall be in compliance with *Code of Virginia* §46.2-1025 and other applicable statutes. Additional lighting will be necessary when the towing/recovery vehicle is obscured from view by the towed vehicle and be in compliance with *Code of Virginia* §46.2-1010 and other applicable statutes.

~~8~~7.11 **CLASS B TOWING EQUIPMENT:** Each Contractor shall have the minimum number of Class B tow trucks mandated for the zone awarded and capable of recovery and towing of small vehicles. All equipment used to provide services pursuant to small vehicle towing and recovery shall be classified as Damage Free Design and shall meet certain minimum requirements as listed below:

(1) At no time shall any Class B tow vehicle used under this contract be more than ten years old, as determined from date of first registration. The Contractor must have available documentation to support the age of the body unit. Two of the required trucks must be duel winch and extendable recovery boom/wheel-lift vehicles, two car carrier / rollback vehicles and the remainder a mix of either type.

(2) All Class B trucks must have a gross vehicle weight rating of 11,000 pounds, minimum, except specialized equipment.

(3) All Class B tow trucks will have the following equipment:

~~a) Two snatch blocks, manufacturer stamped 4 ton with 4, 2 inch pulleys, minimum.~~

a) One fire extinguisher (properly rated and serviceable).

b) Broom (serviceable).

c) Shovel (serviceable).

d) Commercial absorbent (minimum 5 gallons) to be used as a quick cover-up for minor fluid spills in crashes.

e) Standard trade tools, i.e., hammers, screwdrivers, wrecking bar, bleach / peroxide and other related tools and five gallon container to contain used absorbent.

~~b) One fire extinguisher (properly rated and serviceable).~~

~~c) Broom (serviceable).~~

~~d) Shovel (serviceable).~~

~~e) Commercial absorbent (minimum 5 gallons) to be used as a quick cover-up for minor fluid spills in crashes.~~

~~f) Standard trade tools, i.e., hammers, screwdrivers, wrecking bar, bleach / peroxide and other related tools and five gallon container to contain used absorbent.~~

(4) All wheel-lift trucks will also be equipped with the following:

a) Two snatch blocks, manufacturer stamped 4 ton with 4, 2 inch pulleys, minimum.

b) Tie-down straps for wheel-lift towing equivalent to those issued as standard equipment by the body manufacturer. Two safety chains for the wheel lift that shall be high test grade (4) 5/16 trade size inches.

c) One recovery chain made of alloy chain grade (8) 5/16 trade size inches.

d) Four-ton boom with two, four-ton winches equipped with 85 feet of 3/8 wire rope each. The Contractor shall have two trucks equipped with a four-ton boom and four ton winches for each zone.

e) Dollies with securing devices.

~~a) Tie-down straps for wheel-lift towing equivalent to those issued as standard equipment by the body manufacturer. Two safety chains for the wheel lift that shall be high test grade (4) 5/16 trade size inches.~~

~~One recovery chain made of alloy chain grade (8) 5/16 trade size inches.~~

~~Four-ton boom with two, four-ton winches equipped with 85 feet of 3/8 wire rope each. The Contractor shall have two trucks equipped with a four-ton boom and four ton winches for each zone.~~

~~Dollies with securing devices.~~

(5) All car-carriers and rollbacks will also be equipped with the following:

a) One snatch block, manufacturer stamped 2 ton with 4, 2 inch pulleys minimum

b) Four safety tie down devices, chain or strap in any combination. Chains shall be high test grade (4) 5/16 trade size inches. Straps shall be 2 inch webbing w/a 8000 lb. per linear inch rating. Chains and straps must be equipped with a transportation cluster. Straps must have a ratchet device.

~~a) Four safety tie down devices, chain or strap in any combination. Chains shall be high test grade (4) 5/16 trade size inches. Straps shall be 2 inch webbing w/a 8000 lb. per linear inch rating. Chains and straps must be~~

~~equipped with a transportation cluster. Straps must have a ratchet device~~

c) Car-carriers with wheel-lifts must be equipped with tie-down straps for the wheel-lift equivalent to those issued as standard equipment by the body manufacturer.

~~a)~~d) Winches shall be rated at 4 ton minimum and equipped with 45 feet of 3/8 wire rope.

~~b) Car-carriers with wheel-lifts must be equipped with tie-down straps for the wheel-lift equivalent to those issued as standard equipment by the body manufacturer.~~

~~c) Winches shall be rated at 4 ton minimum and equipped with 45 feet of 3/8 wire rope.~~

7.12 CLASS B EQUIPMENT REQUIREMENTS:

CLASS B WRECKER REQUIREMENTS	
ZONE	**REQUIRED EQUIPMENT**
Zone #1 (Sully)	Ten (10) tow trucks required.
Zone #2 (Mt. Vernon)	Seven (7) tow trucks required.
Zone #3 (McLean)	Fourteen (14) tow trucks required.
Zone #4 (Mason)	Thirteen (13) tow trucks required.
Zone #5 (Reston)	Ten (10) tow trucks required.
Zone #6 (Franconia)	Ten (10) tow trucks required.
Zone #7 (West Springfield)	Twelve (12) tow trucks required.
Zone #8 (Fair Oaks)	Ten (10) tow trucks required.

TECHNICAL SPECIFICATIONS

8. ~~9.~~ CLASS A TOWING EQUIPMENT:

~~9~~8.1 All equipment used by the Contractor(s) providing services pursuant to heavy duty/large truck towing and recovery work under this contract shall meet certain minimum requirements as listed below:

(1) Have at least two (2) Class A trucks for the initial zone offered and one additional Class A tow truck for each additional zone offered.

(2) Class A tow trucks will have the following equipment:

a) 35 ton hydraulic boom with two 25,000 pound winches equipped with 185 feet of 5/8 inch wire rope each, minimum.

b) One recovery chain made of alloy chain grade (8) 2 trade size inches and 15,000 lbs. or greater Kevlar recovery sling.

c) Hydraulic outriggers or spades.

d) Two snatch blocks with 6 inch pulleys with a manufacturer's rating stamp of 8 tons, minimum, equipped with a locking device.

f) One fire extinguisher (properly rated and serviceable).

g) Broom (serviceable).

h) Shovel (serviceable).

i) Commercial absorbent (minimum 5 gallons) to be used as a quick cover-up for minor fluid spills.

j) Standard trade tools, i.e., hammers, screwdrivers, wrecking bar, bleach / peroxide and other related tools. Container (5 gallon bucket) for debris and used absorbent.

(5) All Contractors must be equipped with an air bag recovery system which meets the following minimum requirements (only one required, regardless of number of zones awarded):

a) Must have at least one air bag recovery system including starter pillows, with motor driven air pump, with a lifting capacity of 100,000 lbs.

b) Two sets of roll-over straps. One set shall be 6" x 26' webbing w/a 8000 lb. per linear inch rating. One set shall be 12" x 26' w/a 8000 lb. per linear inch rating.

9. ~~10.~~ DEBRIS REMOVAL:

~~10~~9.1 Towing operators removing a crash related vehicle from a highway shall remove any glass or debris dropped upon the highway resulting from the crash. In addition, towing operators shall remove all flare wires and attendant debris dropped upon the highway as a result of investigation or rescue work incidental to the crash. The Police Officer on the scene of such a crash site shall determine the extent and quality of debris removal services.

10. ~~11.~~ OFFICES, STORAGE AND STORAGE FACILITIES:

~~11~~10.1 The offices and storage facility(s) used for vehicles towed under this contract must meet the conditions outlined below. The Contractor shall provide, by ownership or leasing, storage facilities sufficient for vehicles towed, which shall:

(a) be located within the County of Fairfax, Virginia, or in a Town or City located within the boundaries of the County of Fairfax Virginia, where the Fairfax County Police Department has been granted jurisdictional powers. Contractors are not required to maintain a storage facility within the particular zone awarded.

(b) comply with all federal, state and local laws;

(c) provide adequate safekeeping of the vehicles and the contents of such vehicles stored on the storage property and may not store any vehicle, regardless of origin, on State or County roads. The lot must be for the exclusive use of the contractor or have an area for the contractor set aside and separated by an 8' fence that prohibits mingling of vehicles towed under separate agreements and is secured so that only the contractor may gain entry to the section;

(d) Operations offices, company records and dispatching must be located on adjacent, or in close proximity (no more than 0.5 miles) to the primary storage facility and must ~~b~~meet all federal, state and local laws, regulations and ordinances. Offices must have parking for customers on the property and spaces that allow customer entry. Facilities having offices and dispatching not located at or immediately adjacent to primary storage lots must maintain an office and 24/7 employee on the primary storage lot which conforms to all federal, state, and local laws, regulations, and ordinances and must display the corporate office location prominently at the front door to the facility;

(e) be approved for the proposed use by the Zoning Administrator of Fairfax County if located in Fairfax County or the Zoning Administrator of that jurisdiction if not located within Fairfax County. Evidence of zoning approval must be included in the proposal.

~~11~~10.2 If the Contractor leases its storage area, it shall submit a copy of the existing contract or letter of intent to lease the storage area with the proposal. An executed lease must be presented at time of inspection. Lease agreements (or letter of intent) submitted in response to the RFP must have a term at least equal to the term of the initial contract period and have renewals at the option of the Contractor which would extend the lease term for a period at least equal to the term of the contract. For purposes of this requirement, the term of contract renewals is not included in the term of the contract until the County gives notice of intent to renew. The County reserves the right to require a copy of the lease agreement prior to award of the contract.

~~11~~10.3 The Contractor or storage facility shall grant the Police access to vehicles towed or stored pursuant to this Contract on demand.

~~11~~10.4 Signs which readily identify the storage facility and which comply with all applicable federal, state and local laws shall be installed and maintained at storage facilities. Signs shall be posted at the Contractor's site, clearly and conspicuously informing the vehicle owners of their option to request that a party other than the original towing Contractor tow the vehicle from the storage facility.

~~11~~10.5 Primary Storage Facility (P.S.F.) All primary storage facilities shall be inspected and approved by the police prior to use. The primary storage facility shall have an office on or immediately adjacent to the facility property and shall have an attendant on duty twenty-four hours daily, seven days per week.

A primary storage facility must be unenclosed and be a minimum of 3/4 acre, paved or graveled lot, fenced for maximum security (minimum of 8' fence unless other code restrictions apply) and shall be lighted during hours of darkness, to afford distinct visibility to all portions of the facility. Ingress and egress to Storage Facility shall be sufficient to ensure that customers may safely arrive and depart from the storage facility without utilizing on-street parking. Customer parking must be designated and be located adjacent to the operations office. The storage facility must be maintained in the condition as when inspected at all times.

Security provisions shall be implemented at the Primary Storage Facility to prevent the loss or theft of personal property or vehicle parts. The Primary Storage Facility shall have a segregated and designated area for the storage of vehicles held for criminal and/or evidentiary examination. A Primary Storage Facility shall be capable of accommodating all vehicles that are appraised in value in excess of $5,000 and all vehicles bearing modified equipment or cargo valued in excess of $1500. A vehicle's value will be determined by the Police Department in accordance with the latest available edition of the National Automotive Dealers Association (NADA) book on retail value. Vehicles shall be parked and separated to preclude the possibility of damage.

10.6 Secondary Storage Facility (S.S.F.) Secondary storage facilities shall be inspected and approved prior to its use. A S.S.F. is a designated location used by a Contractor as a yard or lot for temporary storage. S.S.F.'s must be graveled and fenced (8' minimum) for maximum security and shall be lighted during the hours of darkness, to afford illumination of all stored vehicles. S.S.F.'s shall only be used to store vehicles appraised under $5,000. A vehicle's value will be determined by the Police Department in accordance with the latest available edition of the National Automotive Dealers Association (NADA) book on retail value. A S.S.F. may be used for emergency storage (overflow storage of vehicles valued over $5,000) of vehicles only if an attendant is on duty at the S.S.F. for security purposes, twenty-four hours daily, seven days per week. Vehicles shall be parked and separated to preclude the possibility of damage. Contractor must release a vehicle from a S.S.F. in less than one hour. A secondary storage facility must be maintained in the condition as when inspected at all times.

10.7 Ingress and Egress to Storage Facilities shall be sufficient to ensure that customers may safely arrive and depart from the storage facilities without utilizing on-street parking. Customer parking must be designated and on-site.

11. ~~12.~~ POST-AWARD INSPECTIONS:

~~12~~11.1 The Police shall inspect and shall approve all equipment and storage facilities described in Appendix B which may be utilized by the Contractor during the term of the contract. (see paragraphs 8 and 11, Technical Provisions)

~~12~~11.2 The Contractor shall notify the Purchasing Agent of any additions or changes in equipment or storage facilities made to Appendix B following inspection and approval by the Police. Such notifications shall be made within fifteen (15) days of the subject change. The Contractor shall at all times comply with minimum equipment and storage facility specifications. All such changes are subject to inspection and approval by the County.

~~12~~11.3 The Contractor hereby grants to the Police permission to periodically inspect all equipment and storage facilities listed in Appendix B during the term of the contract, at the convenience of the Police. Should the Police determine any storage facility or equipment to be unacceptable, the Police shall give verbal and written notification to the Contractor of its determination, and said unacceptable equipment or storage facility shall not be used by the Contractor in the performance of the contract until corrected, and, if not reasonably corrected within 10 days, such equipment or storage facility shall be deleted from Appendix B.

~~12.4 The offeror must submit copies of all State Board of Towing and Recovery Operators licenses and endorsements for each year of this contract and all extensions beginning July 1, 2009, and each year thereafter.~~

12. ~~13.~~ RESPONSE CAPABILITY:

~~13~~12.1 The Contractor shall respond to Police Requests for Towing Services every day of the week on a twenty-four (24) hour a day basis as required by the Fairfax County Police Department. Police and contractors shall have the right to stage wreckers for rapid response during rush hour, storms and other times constituting rapid response or unusual need as required. There will be no additional compensation granted to the contractor for the staging of wreckers or equipment.

~~13~~12.2 The Contractor shall respond within thirty (30) minutes to the location named by the Police upon receipt of a call from the Police that identifies the type of vehicle to be towed. If unable to respond immediately, the Contractor shall so inform the Police upon receipt of the call. Additional response time may be allowed for large crashes, or in unusual circumstances as determined by the law-enforcement personnel on the scene (i.e., traffic backup caused by incident). If unable to respond within the above time limits, the towing company shall immediately notify the Department of Public Safety Communications upon receipt of the call or immediately once a determination is made that they cannot respond within the time limit. Frequent violations of this requirement may result in disciplinary action(s) as noted in Technical Provisions, paragraph 3 Contract Administration and Performance Monitoring above.

~~13~~12.3 The Contractor shall only respond to locations in their zone where the Police require towing or recovery services when it is specifically requested to do so by the Police. If the Contractor arrives at a location without having been requested to respond by the Police or the vehicle owner, the Police may direct the Contractor to leave, even if the Contractor would otherwise have been called to the location. In such instances, the Police reserve the right to direct the Contractor to provide services when immediate assistance is necessary to protect persons or property. If the Police request a contract tow truck but a tow truck requested by a private citizen prior to the Police request arrives first, or simultaneously, the contract tower may be directed to leave the scene.

~~13~~12.4 Towing/recovery services shall be prohibited from “chasing” or “running” crashes or breakdowns, without a bona fide request from law enforcement personnel or the owner/operator of the vehicle in question. Nothing in this section shall prevent a contractor from responding in close proximity to an incident where assistance is anticipated. However, the contractor may only dispatch a truck in a contracted zone and shall not approach or enter the scene until directed to do so by the incident commander.

~~13~~12.5 Whenever services are requested by the Fairfax County Police Department, the Police will complete, at the location where services are required "Police Form 48 (PD48) Tow-In Sheet", whenever required by Fairfax County Police Department’s policies and procedures, which shall include the following information:

(a) name of owner, if known;
(b) description of vehicle and visible prior damage;
(c) storage facility address;
(d) inventory of accessible contents of vehicle.

A copy of PD 48 shall be given to the Contractor driver for transmittal to the storage facility, and one copy shall be given to the owner or operator of the towed vehicle.

~~13~~12.6 The Contractor shall respond to Police calls for the removal and storage of inoperative vehicles as defined in Chapter 110 of the *Fairfax County Code*, every day of the week during regular business hours, from 8:00 A.M. to 5:00 P.M., Monday through Friday.

~~13~~12.7 The Contractor shall not be required, under this contract, to tow a vehicle farther than one adjacent jurisdiction outside of the boundaries of Fairfax County. During inclement weather or other emergency periods of high service levels, the contractor may elect to transport the vehicle outside of Fairfax County at a later time. The subsequent tow is a citizens' request tow and will be considered a private contract outside the scope of this contract.

~~13~~12.8 Contractor shall tow wrecked, abandoned or unattended vehicles regardless of vehicle's condition. Contractor shall dispose of unclaimed vehicles in accordance with the law.

13. ~~14.~~ STORAGE OR IMPOUNDMENT OF VEHICLES:

~~14~~13.1 The Contractor shall tow vehicles only to an approved storage site (see Attachment I, paragraph 11, Technical Specifications) without delay or interim parking, unless the owner or operator of the vehicle directs that it be towed to another designated location, and such direction does not conflict with Police Department instructions.

~~14~~13.2 At the request of the Police, the Contractor will tow, store and dispose of abandoned or unattended vehicles, regardless of condition, for whom no owner can be located. This service shall include all administrative costs and no charge shall be made to the Police or the County of Fairfax, Virginia. The County shall reimburse parties entitled to compensation, if the County is reimbursed for these vehicles. Vehicles abandoned on privately owned property are exempt from this provision.

~~14~~13.3 Neither Fairfax County, the lien holder, the registered owner of the vehicle nor a properly interested person shall be liable for any cost in excess of $300.00 incurred for the storage or administrative cost due to an administrative or procedural error caused by the County of Fairfax or its employees.

~~14.4 The Contractor must notify the Police Department of any unclaimed vehicle that has been held for fifteen (15) calendar days or longer which was towed at the direction of the Police Department. The Police will verify that the Police Department Administrative Procedures were followed.~~

~~14~~13.4~~5~~Towing/recovery operators shall take all vehicles to a designated site or storage lot without delay unless otherwise directed by the owner or law enforcement personnel.

~~14~~13.5~~6~~Impoundments of vehicles for thirty (30) day periods pursuant to Virginia State Code 46.2-301.1, shall be billed at the contract rates for towing and storage.

14. ~~15.~~ TOW TRUCK OPERATORS/AUTHORIZED PERSONNEL:

~~15~~14.1 Licensure:

All tow truck operators shall be employees of the Contractor and duly licensed to operate the tow vehicle and its equipment as required by the Code of Virginia and shall have such license in their possession at all times when they are operating any equipment in performance of this Contract.

It is the Contractor's responsibility to ensure that operators meet all requirements.

~~15~~14.2 Certification:

All operators of Class B and Class A tow trucks must have completed and passed a driver certification program which shall be based upon nationally recognized certification standards. ~~and/or as authorized by the State Board of Towing and Recovery operators.~~

~~Without limitation of other national driver certification programs that are deemed to be substantially equivalent by the State Board of Towing and Recovery Operators, passage~~ Passage of Level I, Light Duty Towing and Recovery test administered under the auspices of the Towing and Recovery Association of America, Inc. shall be accepted for Class B towing.

Fairfax County shall have no responsibility for the costs associated with obtaining driver certification.

Offerors utilizing training programs other than those specified herein shall submit the program name and description with its proposal and any other supplemental information requested by the County. ~~and/or the BTRO to determine equivalency. If not approved by the BTRO, acceptability of such program shall be at the discretion of the County Purchasing Agent.~~ Must comply with all DCJS requirements as defined in §46.2-116.

~~15.3 Background Investigation:~~

~~1) The Contractor shall provide DMV driver transcripts to be provided with Appendix B.~~

~~2) The proposed contractor staff shall submit necessary data and fingerprints to obtain a criminal history check through Fairfax County's Secure Test Badging System through the Virginia Crime Information Network. Any criminal history reported will be evaluated by the Towing Coordinator. The criminal history checks must be complete prior to the award date of the contract.~~

15.4 Automatic Disqualifiers: Any owner's ~~or operator's~~ prior conviction, or pending charges that if convicted, would constitute a "Barrier" crime as defined in Virginia State Code § 63.2-1719, (See appendix E) will not be eligible as an approved or authorized owner ~~and/or operator~~ for providing services under the terms of this contract. An owner~~, operator~~ or other personnel providing services under the contract with a conviction or any pending charges which would constitute a "Barrier crime" shall not be eligible to perform services under the contract. The time period elapsed following the conviction shall not be considered as a basis for relief from this provision.

~~15~~14.5 Tow truck operators subject to Federal Motor Carrier Safety Regulations as adopted by the Superintendent of Virginia State Police, shall have in their possession any license, certificate or other documents required.

~~15~~14.6 Towing/recovery operators shall not respond to a call after consuming alcohol, illegal drugs, or prescriptions or medications which would impair the operator's ability to drive or operate equipment.

~~15~~14.7 The Contractor shall provide the Police Department with copies of DMV Records of all persons employed as drivers in the performance of this Contract, or as directed by the Police Towing Coordinator. DMV record checks must be available at the time of equipment inspection by the towing coordinator.

~~15~~14.8 All driver training certificates and driver's DCJS licenses shall be presented to the towing coordinator at the time of equipment inspection.

~~15~~14.9 All Contractor employees responding to calls for service shall wear a shirt, jacket or similar article of clothing which conspicuously identifies the Contractor and the operators name when on the scene of a traffic incident. Contractor employees must also wear a safety vest of the type recommended by the Virginia State Wide Incident Management Committee or as issued by the Virginia State Police to their employees, or a vest approved by OSHA (in good condition) while on the scene of a traffic incident or operating outside of the vehicle on roads owned and maintained by the Commonwealth of Virginia, or of any political subdivision of the State.

~~15~~14.10 No one other than employees of the Contractor may accompany the tow truck driver to the scene of a police request for tow services.

~~15~~14.11 Contractor shall have in place an employee drug testing program for all employees who perform under this contract. This testing program shall be in conjunction with or in addition to the mandatory Department of Transportation CDL drug testing program.

15. ~~16.~~ FEES AND CHARGES TO CUSTOMERS:

~~16~~15.1 The fees charged by the Contractor to customers shall be as set forth on the Pricing Schedule or as negotiated and documented in the contract. All disputes involving charges for services under this contract will be resolved by police following an investigation. The decision of the police department concerning fees charged shall be binding on the Contractor.

~~16~~15.2 The Contractor shall present to the owner or properly interested person of any motor vehicle towed or stored hereunder (hereinafter the "customer") an itemized bill containing the following information:

(1) Vehicle owner's name, address;

(2) Vehicle description including manufacturer, V.I.N., color, model, and license tag information;

(3) Date and time vehicle was towed and location from which the vehicle was towed;

(4) Date, and time the vehicle was released;

(5) Itemization of each and every charge to the customer. Only charges set forth on the pricing schedule or specifically authorized by the Towing Coordinator may be assessed.

~~16~~15.3 In all situations where the Contractor is required to tow any vehicle, at Police direction, to a Police Facility for examination or investigation, no towing fee will be charged until the vehicle is released. However, upon completion of the examination or investigation, the vehicle will be released to the original Contractor. The contractor will charge the vehicle owner the fee for both tows, in accordance to the pricing schedule.

~~16~~15.4 Recovery fees for extensive or unusual operations may be charged at a standard or reasonable rate as stated in this section 16.4. Use of specialty equipment and hourly recovery rates for extensive or unusual operations may be allowed under this contract, as approved by the Police Department. If there is a complaint, the Police Department will have final approval of all charges to determine applicability, necessity and reasonableness of the charges and/or equipment and personnel used. The decision of the Police Department will be final.

~~16~~15.5 Administrative costs in the amount of $~~125~~ 150 may not be charged until the third calendar day if the DMV administrative process is initiated and may be charged to an owner or properly interested party pursuant to the requirements of Virginia State Code §~~43-32~~46.2-1233.1. If the vehicle is not claimed, the Contractor shall dispose of such vehicles in accordance with law. No “gate fees” are allowed for the law enforcement tow.

~~16~~15.6 The Contractor may impose a mileage fee for citizen requested tow charges to locations other than the Contractor storage lot. The Police Department shall have final approval of all charges to determine applicability, necessity and reasonableness of the charges and/or equipment and personnel used. The decision of the Police Department will be final. This fee may be imposed after the first five (5) miles from the scene of initial tow. The start and end mileage must be itemized on the bill.

~~16~~15.7 The County will be responsible for fees and charges for towing or recovery services for seized vehicles only. The vehicle owner is responsible for fees and charges assessed after the vehicle is released.

~~16~~15.8 Contractors must accept credit cards and debit type cards for payment and/or in lieu of debit cards provide a functional ATM machine at every location from which vehicles are released. No additional service may be charged by the tower for the use of the ATM service. In order to satisfy this requirement, the credit cards accepted by the tower must include at least one commonly used nationally recognized credit card. The contractor shall accept personal checks if automated payment methods are inoperable. The contractor shall accept payment by corporate checks for secondary tows. Evidence of satisfactory compliance with these requirements must be provided at time of lot inspection.

15.9 When calculating storage fees, the initial 24 hour period after the vehicle is impounded shall be counted as one day of storage. After this, storage will be calculated by calendar days.

16. ~~17.~~ RELEASE OF VEHICLES AND PERSONAL PROPERTY:

~~17~~16.1 The contractor shall promptly arrange for the release of vehicles towed and/or stored within a reasonable time, not to exceed one (1) hours from the time of call for release of a vehicle on a twenty-four (24) hour basis.

The contractor shall allow the owner of the vehicle or any other towing and recovery business, upon presentation of a written request by the owner of the vehicle, to have access to the vehicle for the purpose of inspecting or towing the vehicle to another location for the purpose of repair, storage, or disposal. For purposes of this Section 1~~4~~7.1, "owner of the vehicle" shall be defined, in accordance with §46.2-1217, Code of Virginia, and means a person who (i) has vested ownership, dominion, or title to the vehicle; (ii) is the authorized agent of the owner as defined in clause (i); (iii) is an employee, agent, or representative of an insurance company representing any party involved in a collision that resulted in the police-requested tow; or (iv) is a person subject to a security interest in another person, is entitled to the use and possession of the vehicle, including a lessee under a lease intended as security, but not including a lessee under a lease not intended as security.

The contractor shall not release any vehicle designated as "vehicle held as evidence pending release by Fairfax County Police Department" or "vehicle held as evidence pending release by court disposition" or "vehicles held as seizures," until authorized by a Police official.

~~17~~16.2 The Contractor shall immediately release personal property contained in towed vehicles to property owners upon request unless otherwise designated by the Police Department in accordance with *Code of Virginia*, §~~43-32~~46.2-133.1, to properly interested persons.

~~17~~16.3 The Contractor shall release stored vehicles, or personal property contained therein, (Reference *Code of Virginia*, §~~43-32~~46.2-1233.1), to parties presenting proof of ownership as defined in paragraph 1.~~5~~ 8 of the Technical ~~Provisions~~Specifications. Lien holders or other financial institutions shall be considered properly interested person(s) in accordance with paragraph 1.~~4~~ 8 and 1.~~8~~ 12 of the Technical ~~Provisions~~Specifications, Definitions.

17. ~~18.~~ CONTRACTOR REPORTS AND RECORDS:

~~18~~17.1 The Contractor shall retain a copy of all itemized bills as required by paragraph 16.2, Technical ~~Provisions~~ Specifications for the term of the contract.

~~18~~17.2 CONTRACTOR RECORDS: The towing/recovery services shall keep records of vehicles which have been towed, stored, disposed of and/or retained pursuant to request of the Police Department for the term of the contract. Such records shall be available for inspection by the Police Department during normal business hours. The records shall include at a minimum:

1) name of the officer authorizing the tow;
2) name of the operator who picks up the vehicle;
3) date and time of the tow;
4) vehicle tag number and state of issue;
5) vehicle identification number;
6) make, model, color and year of vehicle;
7) location from which towed;
8) charges for tow and/or storage;
9) disposition of vehicle and date thereof; and
10) name of person to whom the vehicle was released.
11) location where vehicle was towed, if other than tower's lot.

~~18~~17.3 REPORTS: The contractor shall upon request of the police department or the County Purchasing Agent provide activity reports summarizing all tows occurring in the period requested no later than 15 business days after receiving the request. The report shall include any of the records required in paragraph 19.2 and may also include, but not be limited to the number of tows by category, identifying the fee assessed and any extra charges for such period as requested by the Police Department or the County Purchasing Agent. Reports must be in digital format using commonly accepted software or software compatible with Microsoft Office Pro type products. Such records shall be maintained for the duration of the contract. Such records shall be available for inspection by the Police during normal business hours.

18. ~~19.~~ INOPERATIVE MOTOR VEHICLES:

~~19~~18.1 Vehicles towed at the request and direction of the Police Department by a Contractor under *Fairfax County Code*, Chapter 110, Inoperative Motor Vehicles, shall be disposed of in accordance with the provisions therein. No cost, whatsoever, for towing, storage, or disposal of these vehicles shall be accrued to the County of Fairfax. However, the Contractor may pursue recovery of the cost through appropriate legal proceeding against the responsible party.

19. ~~20.~~ COMPLIANCE WITH LAWS:

~~20~~19.1 The Contractor shall comply with all federal, state and local laws, ordinances, and regulations relating to the performance of the services under the resultant contract. This ~~in~~ includes but is not limited to security all necessary federal, state and local licenses.

20. ~~21.~~ USE OF CONTRACT BY NORTHERN VIRGINIA JURISDICTIONS AND VIRGINIA STATE AGENCIES:

20.1 Reference Paragraph 75, General Conditions and Instructions to Bidders. Extension of Contract: Offerors are advised that the *resultant* contract(s) may be extended, with the authorization of the Offeror, to other public bodies, or public agencies or institutions of the United States to permit their use of the contract at the same prices and/or discounts and terms of the resulting contract. If any other public body decides to use the final contract, the Contractor(s) must deal directly with that public body concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing and payment. The County of Fairfax acts only as the "Contracting Agent" for these public bodies. Failure to extend a contract to any public body will have no effect on consideration of your offer. (See Appendix B for sample listing).

20.2 Offeror(s) Authorization to Extend Contracts: Offerors shall indicate in the appropriate space on the Pricing Schedule (Appendix C) whether they will extend any resultant contract to any or all of the below listed jurisdictions:

Town of Herndon
Town of Vienna
Virginia State Police

TECHNICAL SPECIFICATIONS

Virginia Department of Transportation (VDOT)

TECHNICAL SPECIFICATIONS

20.3 It is the Contractors responsibility to notify the public body(s) of the availability of the contract(s).

20.4 Other public bodies desiring to use this contract will need to make their own legal determinations as to whether the use of this contract is consistent with their laws, regulations, and other policies. Each public body has the option of executing a separate contract with the Contractor(s). Public bodies may add terms and conditions required by statute, ordinances, and regulations, to the extent that they do not conflict with the contracts terms and conditions. If, when preparing such a contract, the general terms and conditions of a public body are unacceptable to the Contractor, the Contractor may withdraw its extension of the award to that public body.

20.5 Fairfax County **shall not** be held liable for any costs or damages incurred by another public body as a result of any award extended to that public body by the Contractor.

COUNTY OF FAIRFAX
COMMONWEALTH OF VIRGINIA

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

I. AUTHORITY -The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONSULTANT SERVICES: Any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

PROFESSIONAL SERVICES: Any type of professional service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution).

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

QUICK QUOTE (QQ): A method of competitive bidding for the purchase or lease of goods, non professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less the $50,000.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

General Conditions and Instructions to Bidders

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

SERVICES: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope or package. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:

   1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or

   2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.

b. If an emergency or unanticipated event or closing interrupts or suspends normal County business operations so that bids cannot be received at the County office designated for receipt of bids by the exact time specified in the solicitation, the due date/time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal County business operations resume.

c. The official time used for receipt of bids/modifications is the Bid Clerk's time and date stamp clock located in the Department of Purchasing and Supply Management. All bidders are responsible for ensuring all bids/modifications are received prior to the scheduled due date/time.

d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.

b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:

   1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

   2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

General Conditions and Instructions to Bidders

c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. ERRORS IN BIDS-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. MAILING OF BIDS – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted in a sealed envelope or package identified with the solicitation number, title, bidder's name and address, and due date/time of opening/closing clearly marked on the outside of such envelope or package.

8. COMPLETENESS-To be responsive, a bid must include all information required by the solicitation.

9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. CONDITIONAL BIDS-Conditional bids are subject to rejection in whole or in part.

11. BIDS FOR ALL OR PART-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. AREA BIDS-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. TIME FOR RECEIVING BID-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. BID OPENING-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: http://www.fairfaxcounty.gov/dpsm/bidtab.htm.Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. OMISSIONS & DISCREPANCIES-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

16. RESPONSE TO SOLICITATIONS-In the event a vendor cannot submit a bid on a solicitation, he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for the work, materials or supplies.

General Conditions and Instructions to Bidders

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

19. PROHIBITION AGAINST UNIFORM PRICING-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
d. The quality of performance of previous contracts or services;
e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
g. The quality, availability and adaptability of the goods or services to the particular use required;
h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
i. The number and scope of the conditions attached to the bid;
j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

General Conditions and Instructions to Bidders

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
b. General Conditions and Instructions to Bidders,
c. Special Provisions and Specifications,
d. Pricing Schedule,
e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.

b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.

b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

General Conditions and Instructions to Bidders

33. TERMINATION OF CONTRACT FOR CAUSE-

a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this contract, in addition to the County's remedies under the contract and all other rights available at law or in equity, the County shall have the right to immediately terminate this contract. Such termination shall be effected by delivering a notice of termination to the Contractor at any time specifying the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such Contractor is an equal opportunity employer.
c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over $10,000 so that the provisions will be binding upon each subcontractor or vendor.
e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

41. SMALL AND MINORITY BUSINESS UTILIZATION

a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent feasible.
B Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
c. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

General Conditions and Instructions to Bidders

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT. Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent.

The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment. No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

General Conditions and Instructions to Bidders

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL

61. GENERAL GUARANTY-Contractor agrees to:

a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

General Conditions and Instructions to Bidders

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, theft, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

66. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a Fairfax County pursuant to the Fairfax County Purchasing Resolution shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. Fairfax County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (Reference Section 4.D., of the Fairfax County Purchasing Resolution)

General Conditions and Instructions to Bidders

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

(a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
(b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

General Conditions and Instructions to Bidders

72. PROTEST OF AWARD OR DECISION TO AWARD-

a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 3, Section 4, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4d of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4d, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

73. CONTRACTUAL DISPUTES-

a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

General Conditions and Instructions to Bidders

77. DRUG FREE WORKPLACE-During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

78. VENUE: This contract and its terms, including, but not limited to, the parties' obligations under it, the performance due from each party under it, and the remedies available to each party for breach of it, shall be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Virginia. Any jurisdiction's choice of law, conflict of laws, rules, or provisions, including those of the Commonwealth of Virginia that would cause the application of any laws other than those of the Commonwealth of Virginia shall not apply. Any and all disputes, claims and causes of action arising out of or in connection with this contract or any performance hereunder, shall be brought in the applicable court of Fairfax County, Virginia, or in the United States District Court, Eastern District of Virginia, Alexandria Division.

79. IMMIGRATION REFORM AND CONTROL ACT: Contractor agrees that it does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

80. CONTRACTOR NOT TO BENEFIT: Contractor agrees that the goods and/or services provided to Fairfax County pursuant to this Agreement are for the benefit of Fairfax County and that Contractor shall not undertake any actions or efforts stemming from or related to this Agreement that shall inure to the detriment of Fairfax County. Any information provided to the Contractor for the performance of this Contract shall not be used for any other purpose without the written consent of the Purchasing Agent.

APPROVED:

/S/ David P. Bobzien
COUNTY ATTORNEY

/S/ Cathy A. Muse
COUNTY PURCHASING AGENT

OFFEROR DATA SHEET

NAME OF OFFEROR:_____

ADDRESS: _____

_____

E-MAIL ADDRESS: _____

Name and e-mail addresses of both service and fiscal representatives (Key Personnel) who would handle this account.

Service Representative: _____
Telephone Number: (___) _____
E-Mail Address: _____

Fiscal Representative: _____
Telephone Number: (___) _____
E-Mail Address: _____

Payment Address, if different from above:

_____

_____

VIRGINIA STATE CORPORATION COMMISSION (SCC) REGISTRATION INFORMATION

The bidder:

□ is a corporation or other business entity with the following SCC identification number: _____ **-OR-**

□ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

□ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**

□ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why whose contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids: □

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE

All firms located or operating in Fairfax County must obtain a Business, Professional and Occupational License (BPOL) as required by Chapter 4, Article 7, of the Code of the County of Fairfax, Virginia. In order for the Department of Tax Administration to determine your BPOL requirement prior to contract award, it is necessary for you to provide the following information:

- If you currently have a Fairfax County business license, please submit a copy with your proposal.
- Do you have an office in: Virginia ☐ Yes ☐ No
  Fairfax County ☐ Yes ☐ No
- Date business began/will begin work in Fairfax County

A detailed description of the business activity that will take place in Fairfax County. If business is located outside of Fairfax County, give the percentage of work actually to be done in the County

_____
_____
_____
_____
_____
_____
_____

_____ Signature

_____ Date

<u>Complete and return this form or a copy of your current Fairfax County Business License with your proposal.</u>

CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

In compliance with contracts and grants agreements applicable under the U.S. Federal Awards Program, the following certification is required by all offerors submitting a proposal in response to this Request for Proposal:

1. The Offeror certifies, to the best of its knowledge and belief, that neither the Offeror nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.

2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).

3. The Offeror shall provide immediate written notice to the Fairfax County Purchasing Agent if, at any time prior to award, the Offeror learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Offeror rendered an erroneous certification, in addition to other remedies available to Fairfax County government, the Fairfax County Purchasing Agent may terminate the contract resulting from this solicitation for default.

Printed Name of Representative: _____

Signature/Date: _____/_____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

BUSINESS CLASSIFICATION

DEFINITIONS

Small Business – means a business, independently owned or operated by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or average annual gross receipts of $10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

Minority-Owned Business - means a business concern that is at least 51% owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

Woman-Owned Business – means a business that is at least 51% owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

YOU MUST CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING THE APPROPRIATE BOXES ON THE COVER SHEET (DPSM32). This designation is required of all business/organizations including publicly traded corporations, non-profits, sheltered work shops, government organizations, partnerships, sole proprietorships, etc.

COUNTY OF FAIRFAX
DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
SMALL AND MINORITY BUSINESS ENTERPRISE PROGRAM
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0013
Fax: 703-324-3228

SUBCONTRACTOR (S) NOTIFICATION FORM

Contract Number/Title: _____

Prime Contractors Name: _____

Prime Contractor's Classification**:** _____

You are required to provide the County with names, addresses, anticipated dollar amount and small/minority classification of each first-tier subcontractor (ref. paragraph **Error! Reference source not found.**, Special Provisions). Please complete this form and return it with your submission.

Please check here if you are not using a subcontractor: _____

SUBCONTRACTOR(S) NAME	STREET ADDRESS	CITY	STATE	ZIP CODE	ANTICIPATED DOLLAR AMOUNT	VENDOR CLASSIFICATION

Complete and return this form with your proposal.

PREQUALIFICATION INFORMATION FORM

A. The Offeror must be currently involved or engaged in towing for not less than two of the last three years in the Commonwealth of Virginia. The Offer must supply evidence of experience such as contract copy, references, or other verifiable records in the indicated space below.

Name of contracting party: _____

Contact name/phone number:_____

Location/zone:_____

Commercial or government (circle one):

Name of contracting party:_____

Contact name/phone number:_____

Location/zone:_____

Commercial or government (circle one):

Name of contracting party: _____

Contact name/phone number:_____

Location/zone:_____

Commercial or government (circle one):

Name of contracting party:_____

Contact name/phone number:_____

Location/zone:_____

Commercial or government (circle one):

Use additional sheets if necessary.

PREQUALIFICATION INFORMATION FORM

B. Identify location and lot size of storage facility (for each zone) which meets the requirements identified in paragraph 11, Technical Provisions, or provide plan to secure storage facility.

PRIMARY STORAGE FACILITY LOT # 1.

COMPANY NAME:_____

LOT ADDRESS:_____

COMPANY CONTACT PERSON:_____

TELEPHONE NUMBER:_____

CAPACITY OF LOT (NUMBER OF CARS):_____

PERCENTAGE AND NUMBER OF CARS OF TOTAL CAPACITY AVAILABLE FOR USE UNDER THIS CONTRACT:

PERCENTAGE OF TOTAL CAPACITY FOR CONTRACT:_____

NUMBER OF CARS:_____

IS LOT/PROPERTY (OWNED/LEASED):_____

PRIMARY STORAGE FACILITY LOT # 2.

COMPANY NAME:_____

LOT ADDRESS:_____

COMPANY CONTACT PERSON:_____

TELEPHONE NUMBER:_____

CAPACITY OF LOT (NUMBER OF CARS):_____

PERCENTAGE AND NUMBER OF CARS OF TOTAL CAPACITY AVAILABLE FOR USE UNDER THIS CONTRACT:

PERCENTAGE OF TOTAL CAPACITY FOR CONTRACT:_____

NUMBER OF CARS:_____

IS LOT/PROPERTY (OWNED/LEASED):_____

PREQUALIFICATION INFORMATION FORM

B. Identify location and lot size of storage facility (for each zone) which meets the requirements identified in paragraph 11, Technical Provisions, or provide plan to secure storage facility.

SECONDARY STORAGE FACILITY LOT # 1.

COMPANY NAME:_____

LOT ADDRESS:_____

COMPANY CONTACT PERSON: _____

TELEPHONE NUMBER:_____

CAPACITY OF LOT (NUMBER OF CARS):_____

PERCENTAGE AND NUMBER OF CARS OF TOTAL CAPACITY AVAILABLE FOR USE UNDER THIS CONTRACT:

PERCENTAGE OF TOTAL CAPACITY FOR CONTRACT:_____

NUMBER OF CARS:_____

IS LOT/PROPERTY (OWNED/LEASED):_____

SECONDARY STORAGE FACILITY LOT # 2.

COMPANY NAME:_____

LOT ADDRESS:_____

COMPANY CONTACT PERSON:_____

TELEPHONE NUMBER:_____

CAPACITY OF LOT (NUMBER OF CARS):_____

PERCENTAGE AND NUMBER OF CARS OF TOTAL CAPACITY AVAILABLE FOR USE UNDER THIS CONTRACT:

PERCENTAGE OF TOTAL CAPACITY FOR CONTRACT:_____

NUMBER OF CARS:_____

IS LOT/PROPERTY (OWNED/LEASED):_____

PREQUALIFICATION INFORMATION FORM

C. Offeror must own or control a minimum of 75% (for each zone) of the equipment specified in paragraphs 8.12 of the Technical Provisions, at the time of proposal submission.

SMALL TOWING ZONE No._____ **

COMPANY NAME:_____

ADDRESS:_____

COMPANY CONTACT PERSON:_____

TELEPHONE NUMBER:_____

IS VEHICLE (OWNED/LEASED):_____

IF LEASED, (OWNER'S NAME AND ADDRESS):_____

_____

OFFEROR MUST PROVIDE THE FOLLOWING DOCUMENTATION:

VEHICLE: YEAR_____ MAKE_____ MODEL_____

VA TAG/YEAR_____ VEHICLE VIN NO_____

VA STATE INSPECTION SERIAL NUMBER_____

FAIRFAX COUNTY TAG SERIAL NUMBER_____

VEHICLE OR COMPANY NO_____

SCC NUMBER_____VCC NUMBER_____

USDOT NUMBER_____

INSURANCE CARRIER (COMPANY NAME)_____

INSURANCE POLICY NUMBER_____

**** The tow trucks listed for this zone may not be listed for any other contract zones**

PREQUALIFICATION INFORMATION FORM

C. The Offeror must own or control a minimum of 75% (for each zone) of the equipment specified in paragraphs 9 of the Technical Provisions at the time of proposal submission.

LARGE TOWING ZONE No._____ **

COMPANY NAME:_____

ADDRESS:_____

COMPANY CONTACT PERSON:_____

TELEPHONE NUMBER:_____

IS VEHICLE (OWNED/LEASED):_____

IF LEASED, (OWNER'S NAME AND ADDRESS):_____

_____

OFFEROR MUST INCLUDE SUPPORTIVE DOCUMENTATION FOR THE FOLLOWING

VEHICLE: YEAR_____ MAKE_____ MODEL_____

VA TAG/YEAR_____ VEHICLE VIN NO_____

VA STATE INSPECTION SERIAL NUMBER_____

FAIRFAX COUNTY TAG SERIAL NUMBER_____

SCC NUMBER_____ -OR- SSRS NUMBER_____

VCC NUMBER_____ VEHICLE OR COMPANY NO_____

USDOT NUMBER_____

VA MOTOR FUEL TAX STICKER NUMBER_____

-OR-

IFTA FUEL TAX NUMBER_____

INSURANCE CARRIER (COMPANY NAME)_____

INSURANCE POLICY NUMBER_____

**** The tow trucks listed for this zone may not be listed for any other contract zones**

PREQUALIFICATION INFORMATION FORM

D. The Offeror must employ at least 75% (for each zone) of the necessary *certified* personnel at the time of receipt for proposals. (See paragraph 15, Technical Provisions) Offerors shall provide a list of employees to operate the vehicles, including their employment status, level of training, and certifications.

NAME	EMPLOYMENT STATUS	TRAINING	CERTIFICATIONS

Use additional forms if necessary.

PREQUALIFICATION INFORMATION FORM

E. Evidence that offeror has adequate communications system, including equipment list. (FCC license or agreement with system owner if network is shared). (See paragraph 8.8, Technical Provisions). Provide system description below, including equipment. Attach photocopy of FCC license, if applicable.

PREQUALIFICATION INFORMATION FORM

F. Identify DMV user number or proof of service used for past two years.

PREQUALIFICATION INFORMATION FORM

Include the following information with this Appendix-B:

1. Current Property Tax Receipts as referenced in paragraph 7.2.h of the Special Provisions.
2. Current Insurance Certificate as referenced in paragraph 7.2.i of the Special Provisions.
3. Complete Financial Statement as referenced in paragraph 7.2.j of the Special Provisions.

PREQUALIFICATION INFORMATION FORM

REFERENCE PARAGRAPH 21 OF THE TECHNICAL SPECIFICATIONS AND PARAGRAPH 75 OF THE GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS. YOU MAY SELECT THOSE PUBLIC BODIES THAT THIS CONTRACT MAY BE EXTENDED, A "BLANK" WILL SIGNIFY A "NO" RESPONSE:

YES	NO	JURISDICTIONS
_____	_____	Virginia State Police
_____	_____	Town of Herndon
_____	_____	Town of Vienna
_____		Virginia Department of Transportation

PRICING SCHEDULE

By submitting this offer the offeror shall guarantee that he or she has not been a party with other offerors to an agreement to offer a fixed or uniform price. Violation of this implied guarantee shall render void the offers of participating offerors. Any disclosure to or acquisition by a competitive offeror, in advance of the opening of the offers, of the terms or conditions of the offer submitted by another competitor shall render the entire proceedings void and shall require re-advertising for offers.

SERVICE CHARGES TO CUSTOMERS
All fees for service shall be as shown on the Pricing Schedule (Ref: Paragraph 7.3 of the Special Provisions). All offerors should submit their best and final offer. No other fees shall be listed on this page. Use as many sheets as necessary where offering multiple zones.

A) CLASS B TOWING ZONES - Offerors shall indicate a check (√) by the zone number(s) for which they can provide service for Items 1 through 4:

NOTE: Zones are numbered to coincide with Police District Station numbering sequence.

Zone 1:____	Zone 2:____	Zone 3:____	Zone 4:____
Zone 5:____	Zone 6:____	Zone 7:_____	Zone 8:_____

UNIT CHARGE PER CLASS B VEHICLE

1. Standard Tow $_____

2. Crash Tow Charge (All hours) $_____

3. Storage Fee for Each Calendar Day $_____

4. Mileage towing fee $_____
(Reference paragraph 7.3 b of the Special Provisions)

List Credit Card(s) accepted

_____

_____

Indicate any restrictions that apply:

_____

_____

NOTE: CONTRACTOR SHALL NOT BE PAID FOR SERVICES RENDERED INCIDENTAL TO THE TOW SUCH AS UNLOCKING DOORS, FREEING TRANSMISSIONS, CLEANING HIGHWAYS, WAITING TIME AND LEAVING ROADWAY.

RESPONSE TIME REQUIRED – 30 minutes Rush Hour
30 minutes Non-Rush Hour

PRICING SCHEDULE

Submitting this offer the offeror shall guarantee that he or she has not been a party with other offerors to an agreement to offer a fixed or uniform price. Violation of this implied guarantee shall render void the offers of participating offerors. Any disclosure to or acquisition by a competitive offeror, in advance of the opening of the offer, of the terms or conditions of the offer submitted by another competitor shall render the entire proceedings void and shall require re-advertising for offers.

SERVICE CHARGES TO CUSTOMERS
All fees for service shall be as shown on the Pricing Schedule (Ref: Paragraph 7.3 of the Special Provisions). All offerors should submit their best and final offer. No other fees shall be listed on this page. Use as many sheets as necessary where offering multiple zones.

B. CLASS A LARGE TOWING ZONES - Offerors shall indicate a check (√) by the zone number(s) for which they can provide service for Items 1 through 5:

NOTE: Zones are numbered to coincide with Police District Station numbering sequence.

Zone 1:____	Zone 2:____	Zone 3:____	Zone 4:____
Zone 5:____	Zone 6:____	Zone 7:____	Zone 8:_____

UNIT CHARGE PER CLASS A VEHICLE

1. Standard Tow Charge) $_____

2. Crash Tow Charge (All hours) $_____

3. Storage Fee for Each Calendar Day
at a rate of (per day per foot): $_____

4. Mileage towing fee $_____
(Reference paragraph 7.3 b of the Special Provisions)

List Credit Card(s) accepted:

_____

_____

Indicate any restrictions that apply:

_____

_____

NOTE: CONTRACTOR SHALL NOT BE PAID FOR SERVICES RENDERED INCIDENTAL TO THE TOW SUCH AS UNLOCKING DOORS, FREEING TRANSMISSIONS, CLEANING HIGHWAYS, WAITING TIME AND LEAVING ROADWAY.

RESPONSE TIME REQUIRED – 30 minutes Rush Hour
30 minutes Non-Rush Hour

PRICING SCHEDULE

Complete for both Class B and Class A towing contracts.

C.**The following information must be provided for each contract you have had for police directed towing services.**

Jurisdiction:_____

Tows per year:_____

Contract term:_____

Contact Name:_____

Contact Telephone:_____

A copy of your current or past contract must be provided with the offer. In the case of a rotational agreement, a letter from the police agency attesting to your satisfactory performance shall be provided.

In the event a contract is executed with your firm as a result of this Request for Proposal, indicate the person(s) and telephone number we may contact for prompt contract administration:

1. Small Zone:_____
(Name) (Telephone)

2. Large Zone:_____
(Name) (Telephone)

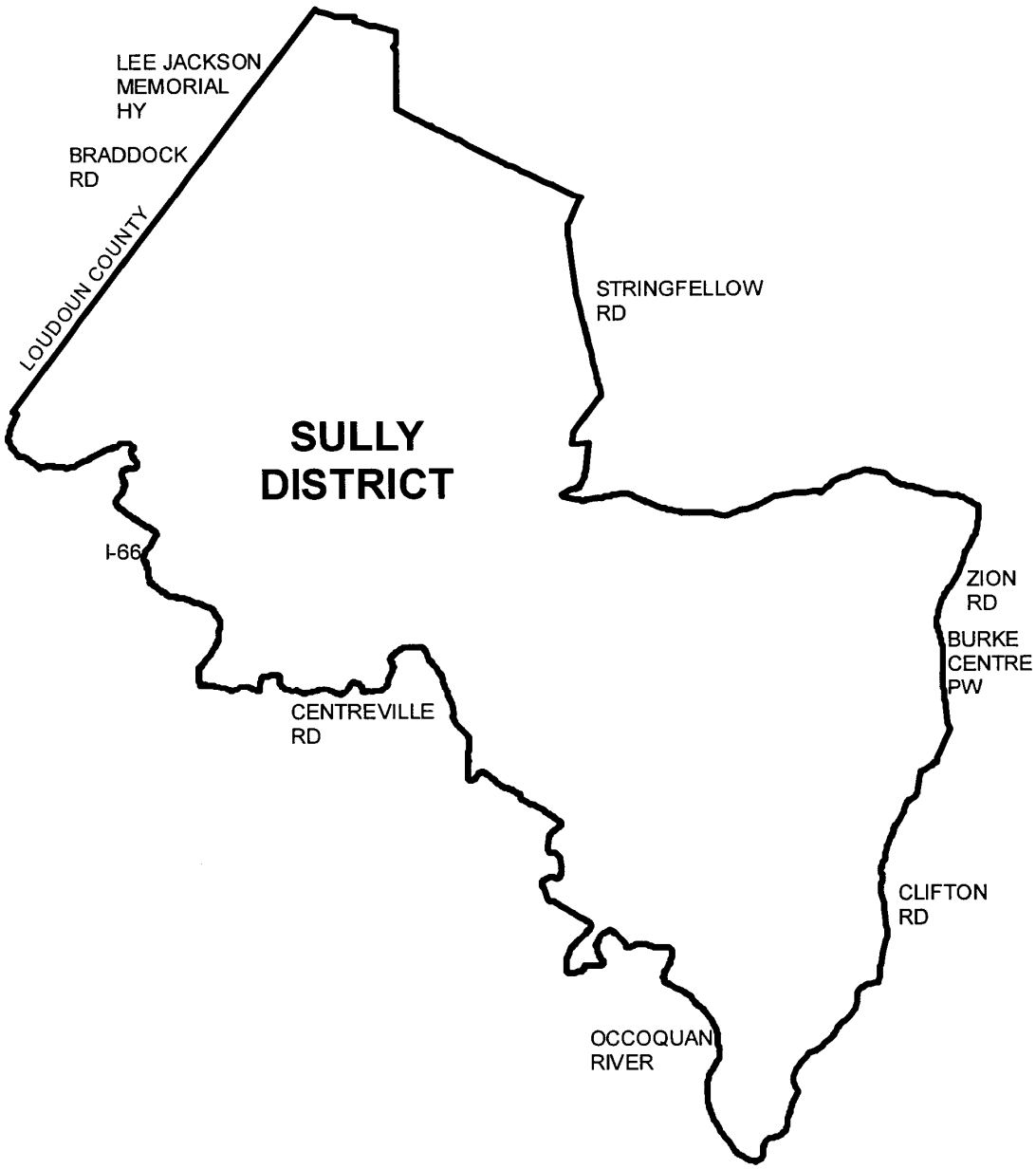
PRICING SCHEDULE

TOWING ZONES (CLASS B and CLASS A)

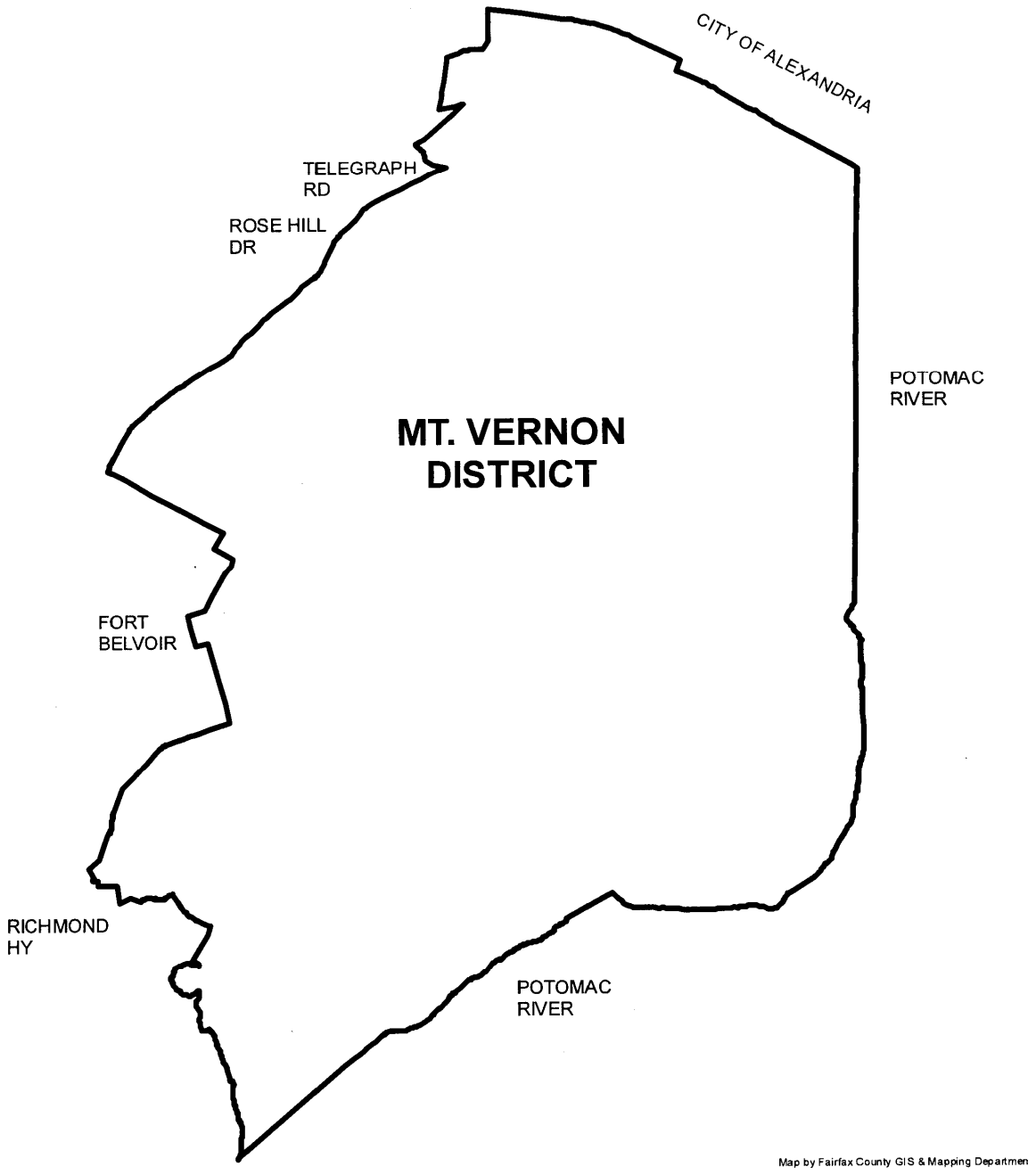
The towing zones are numbered 1 through 8 to coincide with Police District Station numbering sequence.

Large maps detailing towing zones by subcensus tracts are available at the County Publications Office located in the Fairfax County Government Center. The maps are titled "SubCensus Tracts with District Boundaries" or may be viewed in the Towing Coordinators office or Police District Stations.

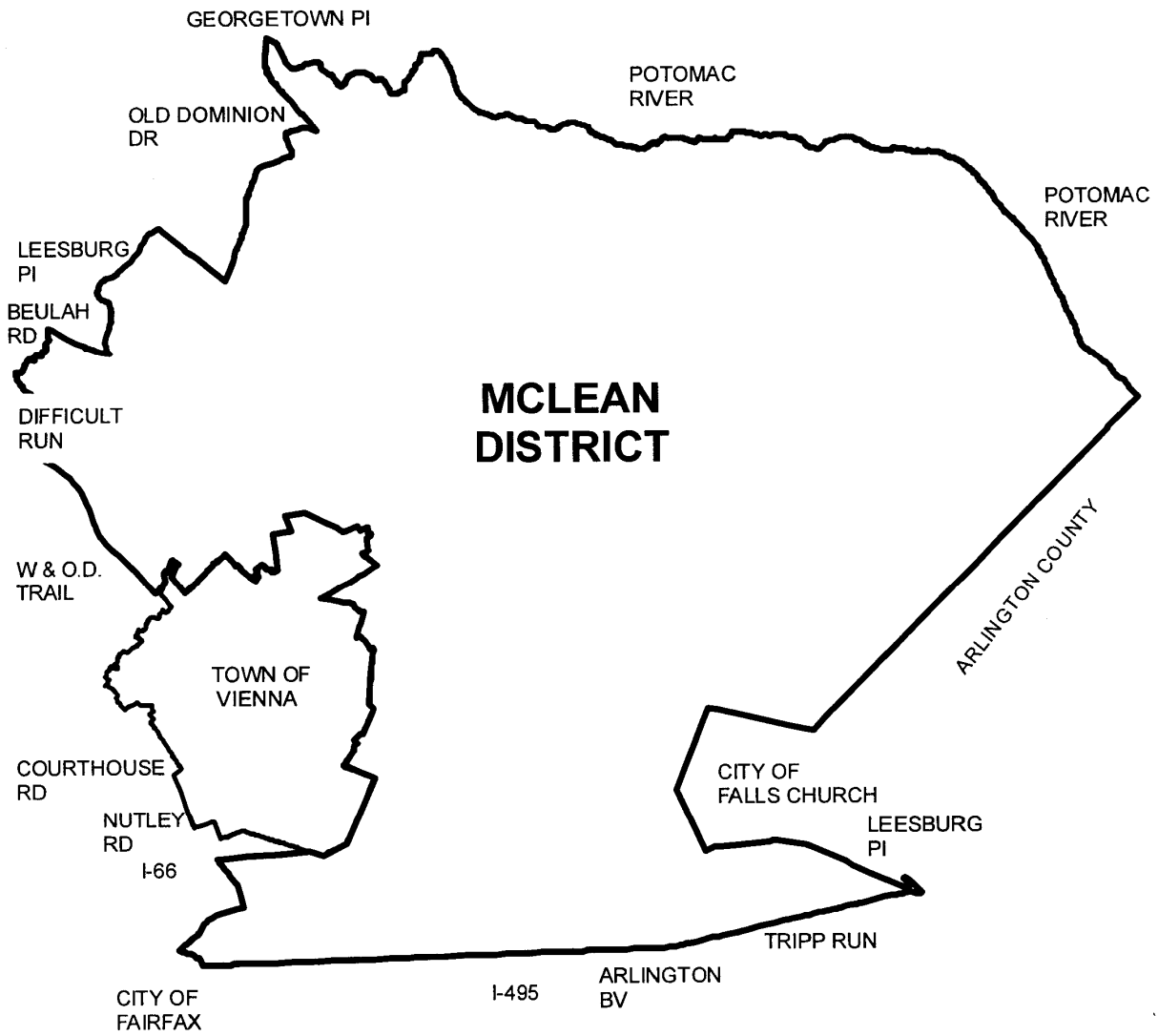
WRECKER ZONE #1



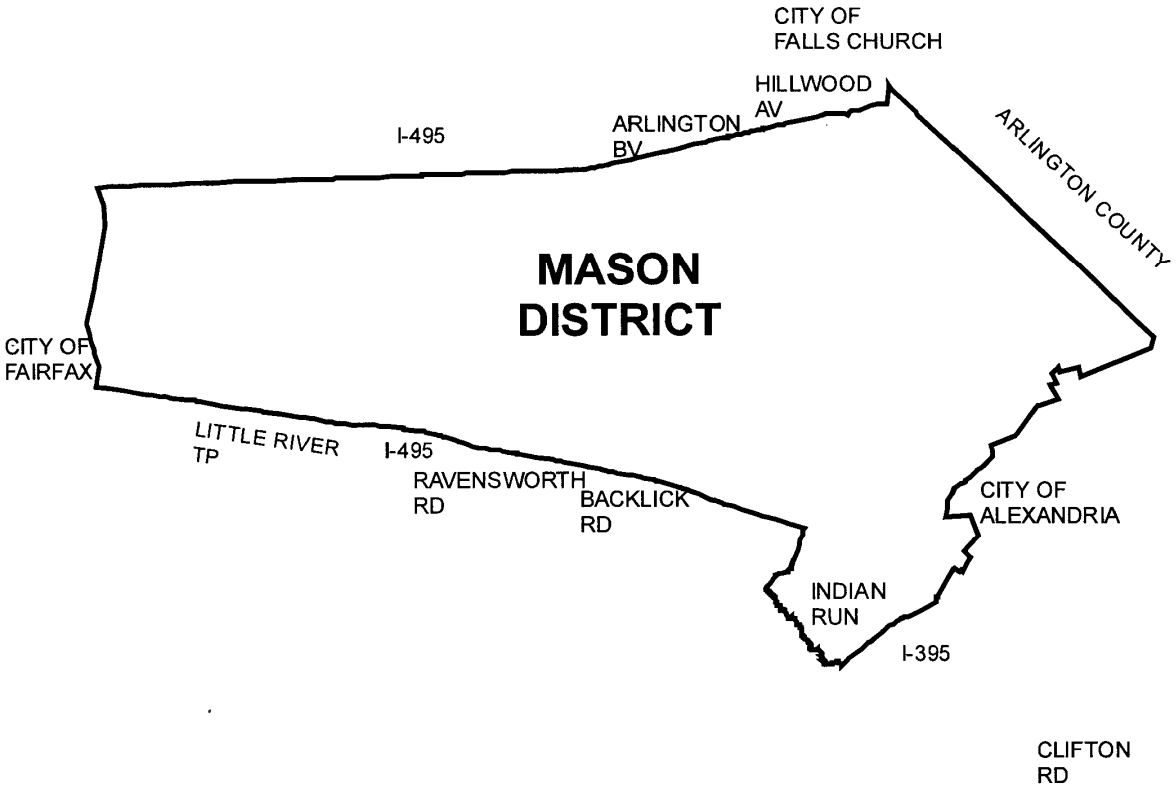
WRECKER ZONE #2



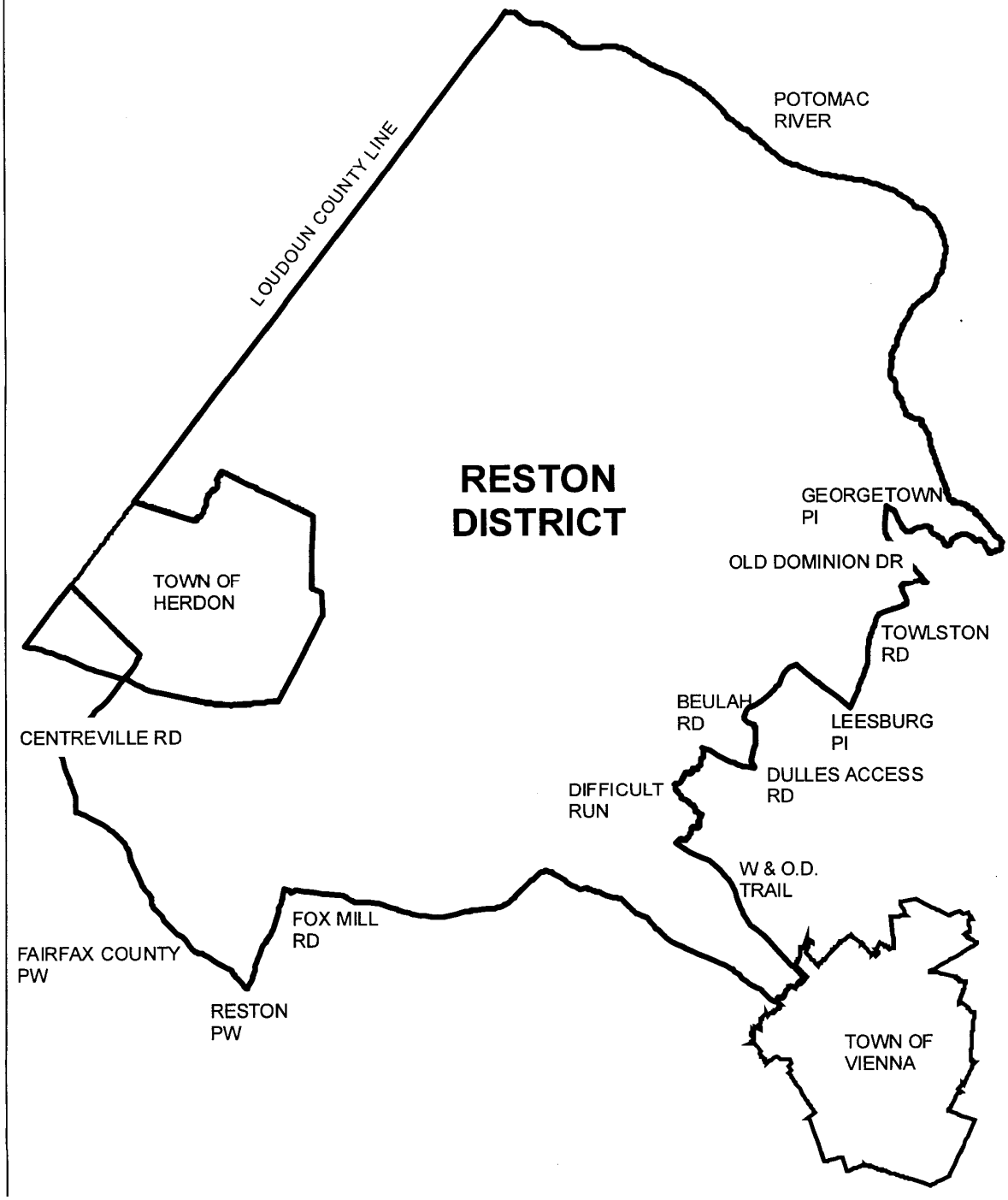
WRECKER ZONE #3



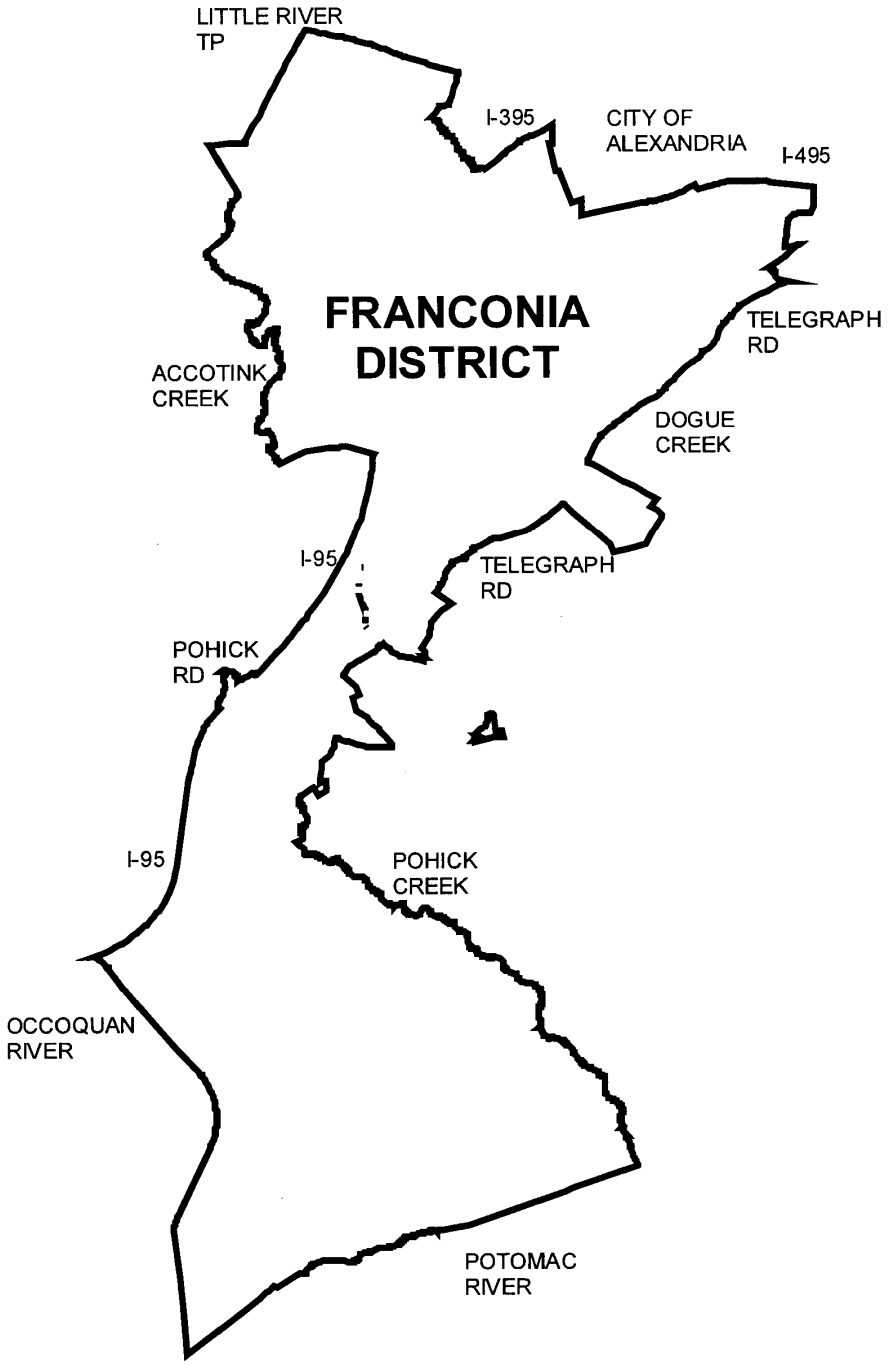
WRECKER ZONE #4



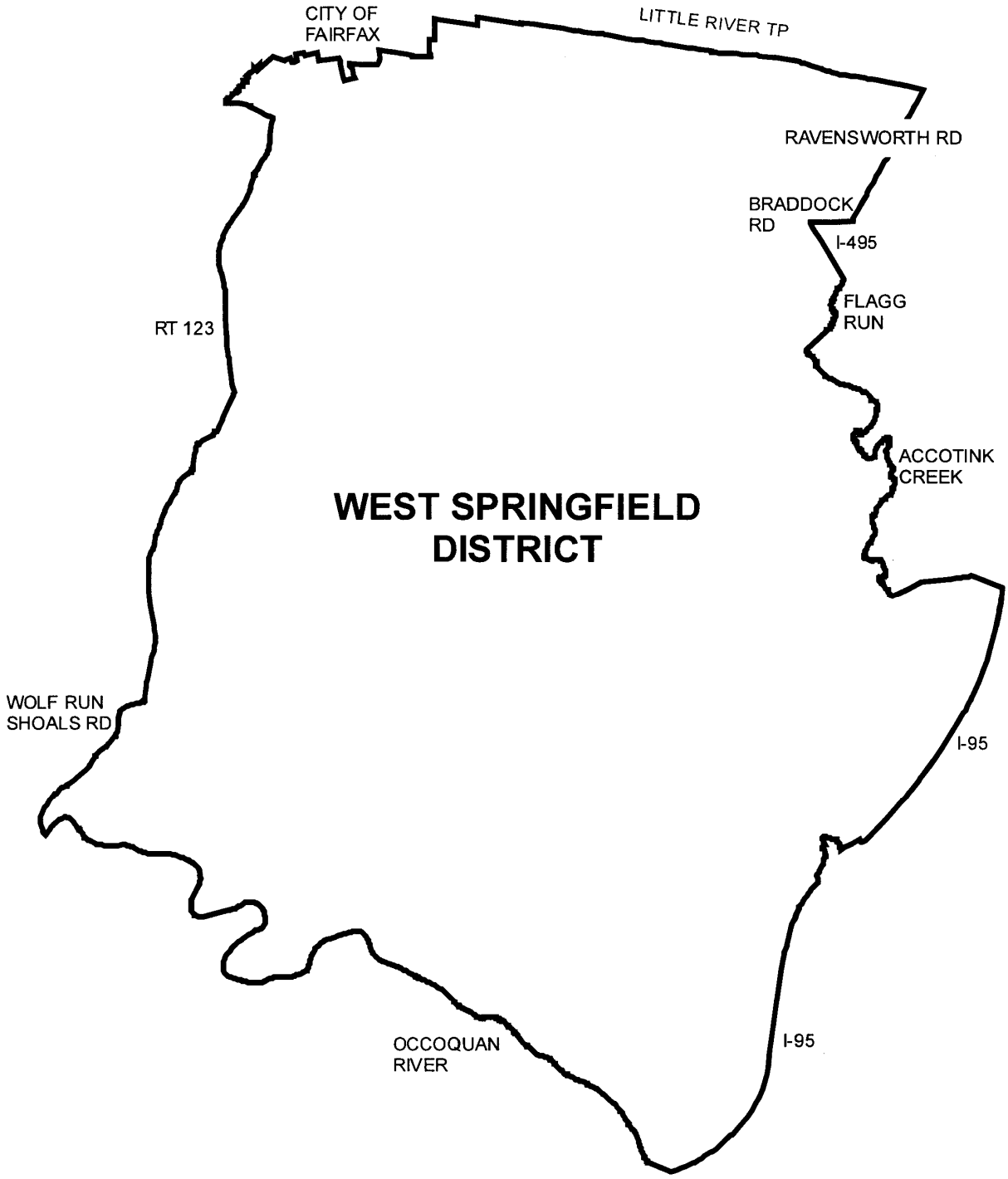
WRECKER ZONE #5



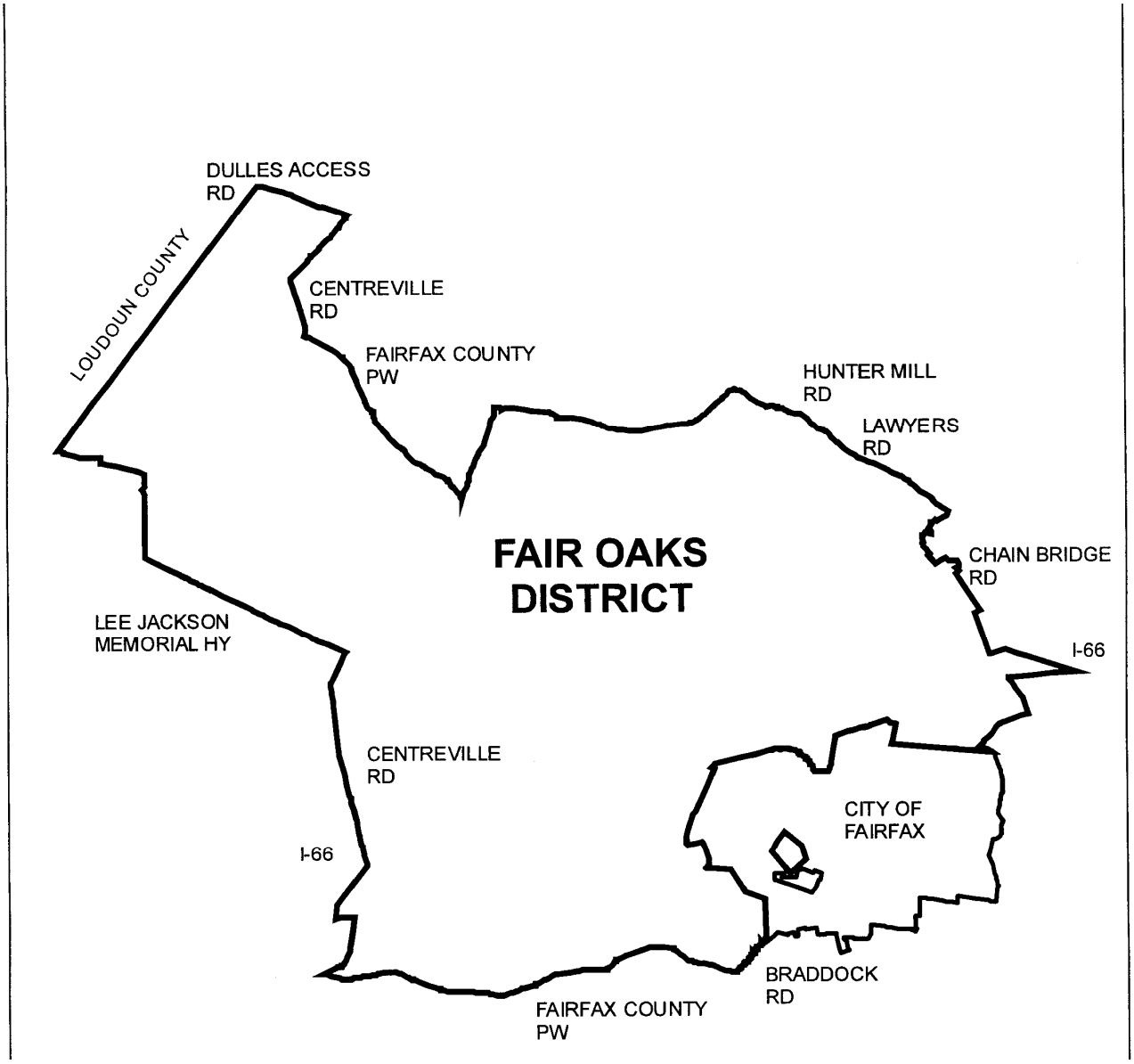
WRECKER ZONE #6



WRECKER ZONE # 7



WRECKER ZONE #8



APPENDIX E

"Barrier Crime" AS DEFINED IN § 63.2-1719

Barrier crime" means a conviction of murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily wounding as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, "barrier crime" shall also include convictions of burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 and any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an equivalent offense in another state.

"Offense" means a barrier crime and, in the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, (i) a conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction and (ii) a founded complaint of child abuse or neglect within or outside the Commonwealth. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

Attachment III

Summary of Proposed Modifications to the RFP

The following modifications were made to the draft RFP (attached) as a result of the recommendations of the Towing Advisory Board, or as a result of changes in the *Code of Virginia* as noted.

TECHNICAL SPECIFICATIONS

1. The Virginia Board of Towing and Recovery Operations (BTRO) was eliminated. Licensing and regulation of law enforcement directed towing in the Commonwealth is now vested in the Department of Criminal Justice Services. All references to BRTO have been deleted and/or replaced with DCJS.

- Page 13, paragraph 1.3
- Page 14, **deleted** paragraph 1.19
- Page 23, **deleted** paragraph 11.4
- Page 24, paragraph 14.2
- Page 25, paragraph 14.8

2. All references to the *Code of Virginia* were reviewed and citations were updated to the current *Code* sections.

- Page 26, paragraph 15.5, **changed** the Administrative costs from "$125" to "$150" and **changed** the Virginia State Code from "§43.32" to "§46.2-1233.1".
- Page 27, paragraph 16.2, **changed** the *Code of Virginia* from "§43.32" to "§46.2-1233.1".
- Page 27, paragraph 16.3, **changed** the *Code of Virginia* from "§43.32" to "§46.2-1233.1".

3. Paragraph and section titles and provision content were modified to provide clarity to potential offerors.

- Page 14, paragraph 2, was retitled to BILLING AND BILLING DISPUTES" and **added** paragraph 2.2.
- All references to "Technical Provisions" were deleted and replaced with "Technical Specifications" to correctly correspond with the section title.

4. Equipment specifications were modified to reflect current equipment requirements for towing services.

- Page 17, paragraph 7.11 (3), **deleted** specifications a – e and **replaced** with updated equipment, a – e.
- Page 18, paragraph 7.11 (4), **deleted** specifications a – e and **replaced** with updated specifications, a – e.

Summary of Proposed Modifications to the RFP

- On page 18 & 19, paragraph 7.11 (5), **deleted** specifications a – c and **replaced** with updated specifications, a – d.

5. Procedures, notifications and documentation requirements were reviewed and updated based on current practices and *Code* requirements.

- Page 24, **deleted** paragraph 13.4, eliminating the requirement for the contractor to notify the police of vehicles unclaimed after 15 days.
- Page 25, **deleted** paragraph 14.3, eliminating the requirement for the County to perform criminal background checks as this is now conducted by DCJS.
- Page 27, **added** paragraph 15.9, clarifying the period for which storage fees can begin to be charged.

6. Page 28, paragraph 20.2, **added** “Virginia Department of Transportation (VDOT)” which was added to the current contract via amendment and requested to be included as a using agency in the re-solicitation.

Board Agenda Item
October 28, 2014

ACTION – 2

Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated

ISSUE:
Board approval of the transfer of the State Litter Prevention and Recycling Grant Funding to Clean Fairfax Council, Incorporated. The total grant amount for Fairfax County in FY2015 is $128,034.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the transfer of $128,034 to Clean Fairfax Council, Incorporated.

TIMING:
Approval of the transfer is requested to allow Clean Fairfax Council, Incorporated to utilize the grant funding.

BACKGROUND:
Annually, Fairfax County applies for a State grant from the Virginia Department of Environmental Quality from the Litter Prevention and Recycling Fund Program. A grant was awarded from this fund to the County in September 2014 in the amount of $128,034. Funds were received in the Solid Waste Program's budget, specifically Fund 400-C40140, Collection and Recycling.

For the Board's information, last year's grant amount was $128,207. The grant varies from year to year, as it is based upon State fees collected from the sale of certain items. It is distributed to localities based on a formula that uses population and road miles as its basis. The litter fund grant to Fairfax County includes $1,059 that is directed to the Town of Clifton. This amount is directed to the Town by Clean Fairfax Council.

Clean Fairfax Council, Incorporated will need to comply with the provisions of the grant, including reporting back to the County pursuant to State requirements and the Memorandum of Understanding between the County and Clean Fairfax Council, Incorporated.

FISCAL IMPACT:
None. The grant is from the State.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment 1: Litter and Recycling Fund grant application

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

ATTACHMENT 1

November 2013

Virginia Department of Environmental Quality

FY 2015 APPLICATION AND CONTRACT FOR A VIRGINIA LITTER PREVENTION AND RECYCLING GRANT

Grant Period: July 1, 2014 through June 30, 2015 **Deadline for application: June 30, 2014**

Applicant Status: Are you applying as a single locality? □ Yes or ☑ No (If yes, fill in ONLY your local government name on the line for The Primary Agency)

- OR -

Are you applying as a co-op? ☑ Yes or □ No (If yes, fill in your agency as the primary agency and the localities that you are representing in addition to your own on the "Localities of" line)

The Primary Agency Clean Fairfax Council and Fairfax County DPWES

The Localities of Fairfax County and Town of Clifton

The Agency is applying for FY 2015 grant funding and agrees to use these grant funds to perform the litter prevention and recycling activities listed below: (Note: for an agency to qualify, a minimum of two items must be selected.)

Yes	No		Yes	No	
☑	___	Planning & Organization	☑	___	Adopt-A Programs (if more than one, please list)
☑	___	Recycling			
☑	___	Youth Education			
☑	___	Cleanups	☑	___	Other activities (List) MS4 Task Force
___	☑	Law Enforcement			SpringFest Fairfax
☑	___	Public Communication			Composting, Mesh Bag Pilot Programs

I certify that the above information is correct and agree to the terms and conditions contained herein and in the Guidelines (DEQ-LPR-2) for this grant program. For Co-op applications, I certify that a written agreement between the Coordinating Agency and each participating locality is on file.

Name of Organization: Fairfax County and Clean Fairfax County, Inc.

Name of Authorized Official: Edward L. Long Jr. (Please print) Edward.Long@fairfaxcounty.gov **Email Address for Grant Notifications**

Secondary email address, if needed, for grant notifications: jen@cleanfairfax.org

Circle correct title: (County Administrator, City Manager, Town Manager or Coordinating Agency's Executive Director)

(County Executive) Acting

Signature: [illegible] Date MAY 23 2014

Address: 12000 Government Center Pkwy, #552 FIN# 54-0787833

Fairfax, VA 22032 FIPS#

Phone:

As long grant funds are committed by June 30, they can be reported as committed funds (outstanding invoices) on your accounting report as having been spent. Unspent funds will be deducted from the locality's FY 2014 – 2015 grant.

Do you expect to have any unspent grant money remaining?_____Yes ☑ No

INFORMATION BELOW IS FOR DEPARTMENT OF ENVIRONMENTAL QUALITY USE ONLY

Signature of DEQ Official:_____Date: _____

DEQ USE ONLY

TRANS	AGENCY	FUND FUND DET	FFY	PROGRAM PROG SUB ELE	OBJECT	AMOUNT	COST CODE
325	440	0925	2015	515 09 00	1451		501

INVOICE NUMBER	PROJECT CODE 90024	DESCRIPTION
GRANTS		LITTER PREVENTION AND RECYCLING

Mail to: Steve Coe, DEQ, Litter and Recycling Grant, P.O. Box 1105, Richmond, VA 23218

Board Agenda Item
October 28, 2014

ACTION - 3

Approval of an Amendment to the Parking Surcharge Agreement Between the Washington Metropolitan Area Transit Authority (WMATA) and Fairfax County

ISSUE:
Board approval of the Second Amended and Restated Surcharge Implementation Agreement between WMATA and the County, so the County can utilize all fee revenues from County owned Metrorail parking facilities and all surcharge revenues from WMATA owned parking facilities, for operating, maintenance, and debt service expenses for additional Metrorail parking facilities in Fairfax County.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the Second Amended and Restated Surcharge Implementation Agreement with WMATA (Attachment I), in substantial form, and authorize the County Executive or his designee to execute this Agreement on behalf of Fairfax County.

TIMING:
Board action is requested on October 28, 2014, so the financing plan for the Herndon and Innovation Station parking facilities can be finalized.

BACKGROUND:
In November 2011, the Board of Supervisors agreed to the Memorandum of Agreement (MOA) to participate in Phase 2 of the Silver Line and to use its “best efforts” to seek funding for the parking garages at Herndon and Innovation Center from sources outside of the shared funding formula agreed to by the funding partners. In that MOA, WMATA agreed in principle to changes in the 1999 Surcharge Agreement that would enable the County to use surcharge revenues to finance those parking facilities. Since then, County staff has been working with the staff at WMATA to provide the County direct access to parking surcharge revenue funds generated from County parking garages currently in the WMATA system. In addition, the Department of Public Works and Environmental Services (DPWES) has initiated preliminary design work at both garages. At the June 10, 2014, Board Transportation Committee meeting, County staff provided an update on staff coordination with WMATA to amend surcharge documents, and an overview of the plan of finance to construct the parking garages. Until the opening of the Silver Line, WMATA owned or leased all of the Metrorail parking garages

in Fairfax County. The parking facility at the Wiehle-Reston East Metrorail Station is owned by Fairfax County, and the future parking facilities at the Herndon and Innovation Metrorail Stations will also be owned by Fairfax County. By retaining ownership of the new parking facilities, the County will be able to better oversee future joint development on the sites.

The current surcharge agreement provides a mechanism to collect a base fee and a surcharge fee at the five WMATA owned/leased parking facilities in Fairfax County and two additional stations (East Falls Church in Arlington County, and Van Dorn in the City of Alexandria). The surcharge fee has been used to pay the debt service on revenue bonds sold by the Fairfax County Economic Development Authority (EDA) to finance the construction of Metrorail parking facilities in the County. The base parking fee is utilized by WMATA to operate and maintain the parking facilities. Since the County will own the new parking facilities in the County, the current surcharge agreement needs to be amended, so the entire fee at the new facilities will be retained by the County, and the surcharge from the WMATA owned facilities can be utilized by the County for the design, construction, and finance of County owned facilities to serve Metrorail. WMATA and Fairfax County staff have worked together to create the attached "Second Amended and Restated Surcharge Implementation Agreement". The major changes that this Board of Supervisors action will make to the current surcharge agreement are summarized below:

- The current parking surcharge balance held at WMATA of approximately $21 million as of June 2014 will be transferred to the County (minus approximately $2 million for a 12 month reserve for the current Vienna II garage debt service). The County currently plans to use this one time balance transfer of approximately $19 million to reduce the amount of debt required to finance the Herndon and Innovation Station parking facilities which currently have a Total Project Estimate of $58,700,000 and $57,000,000, respectively.
- All ongoing surcharge revenues collected at Metro owned parking facilities in Fairfax County, plus the East Falls Church and Van Dorn parking facilities, will be transferred to the County, and used to pay debt service, operating, and maintenance costs for facilities serving Metrorail.
- All parking fees collected at Metrorail parking facilities owned by Fairfax County will be retained by the County, and used to pay debt service, operating, and maintenance expenses for parking facilities serving Metrorail. The Agreement has been extended, so that it will continue until all the costs incurred for the Fairfax County-owned parking spaces have been recovered.
- The County and WMATA agree that the surcharge revenues shall be used for the planning, development, financing (including, but not limited to, the payment of debt service), construction, operation, maintenance, insurance, improvement

and expansion of Fairfax County's Metrorail parking facilities and WMATA-controlled parking facilities.

- WMATA acknowledges that the County will set the fees for the County-owned spaces and that the fees will not be subject to WMATA's approval. On July 1, 2014, the Board established the parking fees for the Wiehle-Reston East Metrorail garage which match the fees being charges by WMATA at its facilities in Fairfax County.
- WMATA also acknowledges that none of the fees set for County-owned Metrorail parking spaces is a surcharge, and that the County may use those fees for the same purposes allowed for the surcharge funds, except that the County may also use the fees for other parking facilities in the County that provide remote parking spaces for Metrorail patrons.

Currently, the only outstanding surcharge agreement related debt is that associated with the Vienna II Parking Garage through 2020. Absent the amendments that are currently being recommended, the surcharge fee would otherwise be eliminated after the debt service on Vienna II has been defeased. Maintaining County access to this revenue surcharge stream is an essential component for the parking revenue bond financing of the Herndon and Innovation Center Station Parking Garages as part of the County's "best efforts" to fund the parking garages per the 2011 MOA.

WMATA's Finance and Administration Committee is scheduled to consider the proposed surcharge agreement at its meeting on October 9, 2014. The WMATA Board is expected to consider the proposed surcharge agreement on October 23, 2014. This proposed surcharge agreement is a critical element of the plan of finance staff has developed for the parking facilities at the Herndon Station and the Innovation Center Station. Staff has separately prepared an Administrative Item for the Board's consideration at this October 28, 2014, Board meeting, asking the Board to authorize a public hearing on the proposed plan of finance on November 18, 2014.

FISCAL IMPACT:
This action item will provide for a one-time transfer of the current balance in the surcharge account, as well as create an ongoing revenue stream to the County from surcharge and parking fees. These revenues will be deposited into a new Parking Revenue Fund that will be created to manage these surcharge and parking fees, and the expenses associated with the County owned Metrorail parking facilities. It is estimated that the total revenue deposited annually into this new Parking Revenue Fund will be approximately $10 million, and all of this revenue will be dedicated to offset the operations, maintenance, and finance costs that are related to the County owned parking facilities. The one time transfer of approximately $19 million (as of June 2014) from the parking surcharge account balance at WMATA to the County is currently

planned to be used to reduce the amount of debt issued to construct the Herndon and Innovation Metrorail Stations parking facilities. This is a similar financing structure that was used to construct previous parking garages that included Huntington, Vienna I, and Vienna II.

ENCLOSED DOCUMENTS:
Attachment I: Second Amended and Restated Surcharge Implementation Agreement.

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Erin C. Ward, Senior Assistant County Attorney
Patricia McCay, Assistant County Attorney
Joe LaHait, Debt Coordinator, Department of Management and Budget
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT

Attachment I

SECOND AMENDED AND RESTATED
SURCHARGE IMPLEMENTATION AGREEMENT

This **SECOND AMENDED AND RESTATED SURCHARGE IMPLEMENTATION AGREEMENT** ("**Agreement**") dated and effective as of _____ _, 201_ ("**Effective Date**"), between the **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY** ("**WMATA**") and the **COUNTY OF FAIRFAX**, **Virginia** (the "**County**" or "**Fairfax**"), supersedes and replaces the Amended and Restated Surcharge Implementation Agreement, dated June 11, 1999 (the "**1999 Surcharge Agreement**") between WMATA and the County.

WITNESSETH:

WHEREAS, beginning in 1988, the WMATA Board of Directors (the "**WMATA Board**") adopted resolutions to permit a revised parking fee program in any jurisdiction to generate additional funds by an increase in parking fees associated with Metrorail-related parking expansion projects which are approved by the WMATA Board; and

WHEREAS, WMATA and the County first entered into a Surcharge Implementation Agreement dated May 19, 1989 (the "**1989 Surcharge Agreement**"), under which the parties agreed to the establishment, collection and payout of parking surcharges on parking spaces that WMATA owns, operates, manages or otherwise controls at Metrorail Stations within Fairfax County and at the Van Dorn and East Falls Church Metrorail Stations (collectively, "**WMATA Controlled Parking Spaces**") and established the Fairfax County Surcharge Reserve Account (the "**Surcharge Reserve Account**"); and

WHEREAS, the creation and application of the Surcharge Reserve Account was initially subject to WMATA's Transit Bond Resolution, adopted August 3, 1972 (the "**1972 Transit**

Bond Resolution"), which was satisfied and discharged in connection with the adoption on November 18, 1993 by the WMATA Board of the Gross Revenue Transit Bond Resolution (the "**1993 Gross Revenue Bond Resolution**") which provided for the refinancing of a portion of the bonds issued under the 1972 Transit Bond Resolution; and

WHEREAS, WMATA and the County entered into the 1999 Surcharge Agreement to facilitate the implementation of plans for additional parking structures; and

WHEREAS, WMATA and the County in cooperation with the Fairfax County Economic Development Authority ("**EDA**") have developed parking structures at the Vienna and Huntington Metrorail Stations (the "**Vienna and Huntington Metrorail Parking Structures**"), supported by the Surcharge Reserve Account and pursuant to agreements that were subject to the constraints of first the 1972 Transit Bond Resolution and then the 1993 Gross Revenue Bond Resolution; and

WHEREAS, WMATA's 1993 Gross Revenue Bond Resolution was satisfied and discharged in connection with the adoption on September 25, 2003 by the WMATA Board of the Gross Revenue Bond Resolution (the "**2003 Gross Revenue Bond Resolution**"), which provided for the refinancing of a portion of the bonds issued under the 1993 Gross Revenue Bond Resolution and the issuance of new bonds; and

WHEREAS, the 2003 Gross Revenue Bond Resolution excludes from the definition of "Transit System" (the gross revenues of which are pledged to bonds issued under the 2003 Gross Revenue Bond Resolution) (i) the Vienna and Huntington Metrorail Parking Structures and (ii) "Parking Facilities" (as therein defined) that WMATA has notified the trustee (the "**WMATA Trustee**") under such resolution in writing shall not be part of the Transit System; and

WHEREAS, WMATA has given or will give written notice to the WMATA Trustee that all WMATA Controlled Parking Spaces are "Parking Facilities" within the meaning of the 2003 Gross Revenue Bond Resolution; and

WHEREAS, Fairfax has planned, developed, financed with the assistance of EDA, constructed and owns a parking structure at the Wiehle-Reston East Metrorail Station, and the County and WMATA in cooperation with EDA wish to plan, develop, finance, construct and operate additional parking structures and surface lots, including those at the planned Herndon and Innovation Center Metrorail Stations, and related facilities and improvements such as pedestrian bridges that provide access for WMATA patrons/customers to and from the entrance plazas, bus drop off areas, park and ride areas, and connecting sidewalks related to the associated additional parking structures (all such parking facilities called collectively "**Fairfax County Controlled Parking Projects**") using the revenues thereof and funds in and revenues accruing to the Surcharge Reserve Account; and

WHEREAS, construction of Fairfax County Controlled Parking Projects may be financed through the issuance of bonds by the County or EDA; and

WHEREAS, development and implementation by the County of the plan of finance for the Fairfax County Controlled Parking Projects at the planned Herndon and Innovation Center Metrorail Stations require replacing the 1999 Surcharge Agreement with this Agreement; and

WHEREAS, all obligations for financing the Huntington Metrorail Station parking structure and the first Vienna Metrorail Station parking structure have been paid, and the only obligations contemplated by the 1999 Surcharge Agreement that remain outstanding on the Effective Date are bonds issued by EDA relating to the second parking structure at the Vienna Metrorail Station (the "**Vienna II Project**"); and

WHEREAS, the agreements relating to the financing, construction, operation and maintenance of the Vienna II Project do not prohibit or restrict WMATA and the County from entering into this Agreement superseding and replacing the 1999 Surcharge Agreement; and

WHEREAS, the Fairfax Board of Supervisors of Fairfax County (the "Fairfax Board") has created or will create a system of parking facilities, including (A) those owned and financed by Fairfax or EDA at the Wiehle-Reston East, Herndon and the Innovation Center Metrorail Stations, (B) those existing parking spaces controlled by Fairfax and serving or intended to serve Metrorail patrons and designated to be part of such parking system, and (C) all other new additional parking spaces developed by or on behalf of Fairfax intended to provide parking spaces for Metrorail patrons and designated to be part of such parking system (the parking spaces described in clause (A) and those referred in the clauses (B) and (C) and designated to be part of such parking system, collectively, the "**Fairfax County Metrorail Parking Spaces**"),

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the 1999 Surcharge Agreement is superseded and replaced in full as of the Effective Date to read as follows:

1. **Operation and maintenance of parking facilities**.

(a) WMATA shall operate and maintain all WMATA Controlled Parking Spaces on WMATA property in Fairfax County and at the East Falls Church and Van Dorn Metrorail Stations, including any additional parking facilities constructed thereon hereunder. For purposes of this Agreement, "facilities" shall include parking structures and surface lots. WMATA shall be responsible for the operating, maintenance and insurance costs of all such facilities on WMATA property in Fairfax County and at the East Falls Church and Van Dorn Metrorail Stations.

(b) Fairfax has planned, developed, financed with EDA and owns the Fairfax County Controlled Parking Project at the Wiehle-Reston East Metrorail Station and intends to plan, develop, finance and own the Fairfax County Controlled Parking Projects at the Herndon and the Innovation Center Metrorail Stations. WMATA and Fairfax may provide in agreements between them, or including EDA, for the operation and maintenance thereof and for the planning, development, financing, construction and ownership of other Fairfax County Controlled Parking Projects.

2. **Parking fees**.

(a) The fees for all WMATA Controlled Parking Spaces (including temporary parking facilities in use for Metrorail patrons/customers pending construction, improvement, maintenance and repairs of spaces at the Metrorail Stations) will consist of a base amount (the "**base fee**") set by or pursuant to a resolution adopted by the WMATA Board and a surcharge amount (the "**surcharge**") set by or pursuant to a resolution adopted by the WMATA Board. All such parking fees, *i.e.*, the base fee and the surcharge, shall be collected by or on behalf of WMATA as part of its operation of the WMATA Controlled Parking Spaces. For purposes of this Agreement, "all spaces" or where applicable "each space" relating to WMATA Controlled Parking Spaces shall refer to all existing and future WMATA Controlled Parking Spaces in Fairfax County, at the East Falls Church Metrorail Station and, as applicable, at the Van Dorn Metrorail Station.

(b) The base fee is intended, and shall be fixed by the WMATA Board, to provide WMATA with funds to defray the costs of operation, maintenance and insurance of the WMATA Controlled Parking Spaces. WMATA shall own and retain control of all such parking revenues derived from such base fee.

(c) Beginning in 1988, the WMATA Board established a surcharge on all WMATA Controlled Parking Spaces in the County, the level of which was based upon consideration of a recommendation provided by the County. From and after the Effective Date of this Agreement, the surcharge then currently in effect shall remain in effect at the WMATA Controlled Parking Spaces, and the WMATA Board shall continue to impose, fix and collect a surcharge on the WMATA Controlled Parking Spaces (which surcharge amount may, but need not be, uniform for all such parking spaces), the level of which is to be based upon consideration of a recommendation provided by the County.

(d) The County shall set the amount of the fees for the Fairfax County Metrorail Parking Spaces, which parking fees may, but need not be, uniform for all such parking spaces. The parking fees set by the County for the Fairfax County Metrorail Parking Spaces shall not be subject to the approval of the WMATA Board.

(e) WMATA acknowledges that none of the fees set for Fairfax County Metrorail Parking Spaces is a surcharge within the meaning of this Agreement and that such fees may be used, at Fairfax's option, for one or more of the planning, development, financing (including, but not limited to, the payment of debt service), construction, operation, maintenance, insurance, improvement and expansion of Fairfax County Controlled Parking Projects and other parking facilities in the County that provide remote parking spaces for Metrorail patrons. WMATA and the County further acknowledge that such fees may be used, at Fairfax's option, for one or more of the planning, development, financing (including but not limited to, the payment of debt service), construction, operation, maintenance, insurance, improvement and expansion of the WMATA Controlled Parking Spaces upon written agreement by WMATA and Fairfax as to the scope of the project to be undertaken on WMATA property.

(f) From and after the Effective Date, WMATA shall collect all surcharge revenues collected for the use of the WMATA Controlled Parking Spaces, and WMATA shall accrue them daily to the Surcharge Reserve Account. The Surcharge Reserve Account shall be maintained separate and apart from all other accounts of WMATA, and the parking fees derived from the surcharge in the Surcharge Reserve Account shall never be commingled with the parking revenues derived from the base fee or other revenues of WMATA. WMATA shall apply amounts in the Surcharge Reserve Account in accordance with the provisions of Section 3(a).

(g) The surcharge revenues collected from WMATA patrons/customers at WMATA Controlled Parking Spaces, whether collected by WMATA or an agent, shall not be "Revenues" as defined by the 2003 Gross Revenue Bond Resolution.

(h) Fairfax and WMATA may agree that WMATA shall operate, manage, provide fare collection systems for or maintain all or certain of the Fairfax County Controlled Parking Projects, but any such agreements will be separate and apart from this Agreement.

3. **Application of Amounts in the Surcharge Reserve Account and the New Surcharge Reserve Account.**

(a) Surcharge Reserve Account.

(i) On the Effective Date or within one business day thereafter, but subject to the reservation of $_____[1], the entire balance of the Surcharge Reserve Account, whether in the

[1] Interest on the Vienna II bonds is payable semi-annually on each March 1 and September 1. Principal is payable on each September 1. The transfer by WMATA of Surcharge Revenues to the Trustee is due 3 business days before each interest and principal payment date. The amount retained will be equal to the sum of (A)(i) 12 months interest if the transfer is to be made after September 1 of one year and before March 1 of the following calendar year or (ii) 6 months interest if the transfer is to be made after March 1 and before September 1 in the same calendar year and (ii) and in either case ((A)(i) or (ii)) the next principal payment due on September 1. An amount sufficient to pay the Trustee's expenses will also be retained. This footnote will be removed when the Effective Date is set and the amount of the retention is determined applying the principles in this footnote.

form of cash or investments, shall be transferred by WMATA to the County for credit to the "**New Surcharge Account**" described in Section 4(b).

(ii) Beginning with the first day of each 12-month period commencing September 1, 201_[2] and thereafter, WMATA shall retain in the Surcharge Reserve Account, prior to making the transfers to Fairfax provided for in clause (iii) below, an amount of Surcharge Revenues and investment income thereon sufficient to pay the "**Basic Rent**" and "**Additional Rent**" due in such 12-month period (the "**Annual Reservation Amount**") under the facility lease agreement related to the Vienna II Project (the "**Vienna II Project Facility Lease Agreement**").

(iii) All Surcharge Revenues collected by WMATA

(1) after the Effective Date and prior to the next September 1, and

(2) thereafter, in each 12-month period after the collection and retention in the Surcharge Reserve Account of the Annual Reservation Amount,

shall be transferred monthly to the New Surcharge Account.

(iv) At such time as all Basic Rent and Additional Rent payable under the Vienna II Project Facility Lease Agreement shall have been paid and such lease agreement terminated, all amounts thereafter collected by WMATA at WMATA Controlled Parking Spaces that are allocable to the surcharge and accrued daily by WMATA to the Surcharge Reserve Account pursuant to Section 2(f) shall be transferred to the County monthly for credit to the New Surcharge Account as provided in Section 4(a)(i) and (b)(i).

[2] The first full 12-month period following the Effective Date.

(b) New Surcharge Account.

(i) Fairfax represents and warrants that the surcharge and any other amounts in the New Surcharge Account shall be used solely for one or more, at Fairfax's option, of the planning, development, financing (including, but not limited to, the payment of debt service), construction, operation, maintenance, insurance, improvement and expansion of the WMATA Controlled Parking Spaces and Fairfax County Controlled Parking Projects. Fairfax may pledge (or otherwise grant a security interest in) the surcharge and amounts in the New Surcharge Account to or for the benefit of lenders, credit enhancers, derivatives counterparties and bondholders and their respective representatives.

(ii) Fairfax may, from time to time, advance general fund or other money to or for the credit of the New Surcharge Account and shall be entitled to reimbursement, without interest, from the New Surcharge Account. Fairfax may subordinate its right to reimbursement to pledges or other commitments it makes of funds credited to the New Surcharge Account. Any general fund or other money that Fairfax may pay pursuant to agreements relating to the Vienna II Project or similar agreements to replenish debt service reserves shall be eligible for such reimbursement.

(iii) The application of amounts in the New Surcharge Account to any purpose not described in this Section 3 requires the further written assent of both parties.

4. **Accounting**.

(a) Surcharge Reserve Account.

(i) From and after the Effective Date, the Surcharge Reserve Account will continue to be a reserve for Fairfax County established and held by WMATA in trust for the

purposes herein provided, which reserve represents the accumulated balance of the amounts equivalent to surcharge revenues described herein plus all earned interest, the amount of which reserve is subject to application and transfer as provided herein. WMATA shall credit to the Surcharge Reserve Account that portion of the daily parking revenues at all WMATA Controlled Parking Spaces that is determined to be allocable to the surcharge. The parties shall mutually agree to the mechanism by which total surcharge revenues collected at the WMATA Controlled Parking Spaces will be calculated. The daily parking surcharge revenues or the equivalent thereof shall be recorded in the Surcharge Reserve Account, and, in accordance with but subject to the provisions of Section 3(a), shall be transferred to the County for credit to the New Surcharge Account. Interest earnings on the balance to the credit of the Surcharge Reserve Account will be treated as surcharge receipts of the Surcharge Reserve Account when realized or received.

(ii) The accumulated balance in the Surcharge Reserve Account shall bear interest as described herein pursuant to the WMATA Interest Policy in effect from time to time. Such interest shall be recorded and applied to the accumulated balance monthly on a day convenient to WMATA, but in no case more than 35 days since the previous recordation of interest.

(iii) WMATA shall report to the County, not later than 30 days after the end of each calendar quarter, in a format agreeable to both parties, the monthly activity in the Surcharge Reserve Account during such quarter. WMATA shall furnish to the County as part of its report all information necessary to verify the accuracy of the surcharge determination, including, but not limited to, calculation of the daily surcharge, records of receipts, expenditures and balances, records of the interest earnings and other pertinent records.

(b) New Surcharge Account.

(i) The New Surcharge Account is a special account for Fairfax established by Fairfax and held by a qualified financial institution designated by Fairfax for application to the purposes herein provided. As provided in and subject to the provisions of Section 3(a), the New Surcharge Account is to receive transfers from the Surcharge Reserve Account.

(ii) Fairfax shall record and account for all such transfers.

(iii) The County shall report to WMATA, on request, not later than 60 days after the receipt of such request, in a format agreeable to both parties, the monthly activity in the New Surcharge Account during such prior period or periods as WMATA may designate. The County shall furnish to WMATA as part of its report all information reasonably necessary to verify the accuracy of the records of receipts, expenditures and balances, records of the interest earnings and other pertinent records.

(c) Record Retention. WMATA and the County each shall retain records pertaining to each project undertaken pursuant to the 1999 Surcharge Agreement and this Agreement for at least seven years after the retirement of any tax-exempt debt issued to finance or refinance such project. Each party to this Agreement shall permit the other party to conduct an independent audit of the records, receipts and documents relating to the performance of the 1999 Surcharge Agreement and this Agreement on an annual basis at the auditing party's expense.

6. **Survival of this Agreement**. This Agreement shall survive any termination of the agreements between the parties related to the Vienna II Project or to any Fairfax County Controlled Parking Projects that are dealt with by amendment to this Agreement until the costs

incurred by the County to fund the WMATA approved Metrorail-related parking projects, including amounts paid as advances in accordance with Section 3(b)(ii), are paid.

7. **Governing Law**. The laws of the Commonwealth of Virginia shall govern the validity, interpretation, construction, and performance of this Agreement. The parties acknowledge that WMATA is bound by the WMATA Compact.

8. **Compliance with all Laws, Rules and Regulations**. Each of the parties hereto represents that it will comply with all applicable binding laws, rules and regulations, whether Federal, Commonwealth of Virginia or County, relating to this Agreement.

9. **Amendments**. This Agreement shall not be amended, changed or modified except by a written instrument duly executed by the parties hereto.

10. **Severability**. In the event that any provision of this Agreement shall, for any reason be, determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the remaining provisions shall remain in full force and effect. In addition, the parties agree in that event to negotiate in good faith such amendments, modification or supplements as are necessary to give effect to the intention of the parties as reflected in this Agreement.

11. **No set off; recoupment**. The obligation of WMATA to remit the surcharge revenues and the interest thereon in and accruing to the Surcharge Reserve Account in accordance with this Agreement shall be absolute and unconditional, and WMATA will remit such amounts without abatement, diminution or deduction all such amounts regardless of any cause or circumstance whatsoever, including, without limitation, any defense, set-off, recoupment or counterclaim that WMATA may have against the County relating to the County's payment to WMATA of its jurisdictional contribution.

12. **Further Assurances**. WMATA and the County covenant to cooperate with one another in all reasonable respects necessary to consummate the transactions contemplated by this Agreement and each will take all reasonable actions within its authority to secure cooperation of its officials, agents and other third parties.

13. **Assignment**. This Agreement may not be assigned by either party without the prior written consent of the other party.

14. **Obligation of Fairfax County**. This Agreement shall not constitute a pledge of the full faith and credit of Fairfax County or a bond or debt of Fairfax County, in violation of Section 10 of Article VII of the Constitution of the Commonwealth of Virginia

15. **Termination**. This Agreement may be terminated (i) with the mutual consent of both parties, or (ii) by either party upon 30 days' notice to the other party when all the costs incurred for the Fairfax County Metrorail Parking Spaces, including repayment to the County for advances to the New Surcharge Account, have been fully recovered.

16. **Notices**. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing and shall be deemed to have been duly given or made when delivered by hand (or when refused delivery), three (3) days after being deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by certified mail, return receipt requested postage prepaid, or one (1) Business Day after being deposited with a nationally recognized overnight courier, addressed at their addresses set forth below or to such other address as may be hereafter notified by the respective parties hereto:

(i) If to WMATA, to:

Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W.
Washington DC , 20001
Attention: General Manager

With a copy thereof sent to:

Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W.
Washington DC , 20001
Attention: General Counsel

With copies to the County at the two addresses set forth below:

(ii) If to the County, to:

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,
Attention: County Executive
With a copy thereof sent to:

Office of the County Attorney
12000 Government Center Parkway
Suite 549
Fairfax, Virginia 22035
Attention: County Attorney

[Signature page(s) to follow]

IN WITNESS WHEREOF, WMATA and the County have executed and sealed this Agreement as of the Effective Date.

[SEAL]

WASHINGTON METROPOLITAN TRANSIT AUTHORITY

ATTEST:

_____

By: _____

Approved as to form and legal sufficiency

_____
Office of General Counsel

[SEAL]

COUNTY OF FAIRFAX, Virginia

ATTEST:

_____

By: _____

Board Agenda Item
October 28, 2014

ACTION - 4

Endorsement of Applications for the FY 2016 Virginia Department of Transportation's Transportation Alternatives Grant Program

ISSUE:
Board of Supervisors approval of three resolutions endorsing projects for submission to the Virginia Department of Transportation (VDOT) for consideration under the Transportation Alternatives Program (TAP). Each application requires a separate resolution of support from the local governing body.

RECOMMENDATION:
The County Executive recommends the Board of Supervisors endorse the proposed list of applications (Attachment 1) and their respective resolutions (Attachment 2) for the FY 2016 Transportation Alternatives Program.

TIMING:
Board endorsement is requested on October 28, 2014, to meet the November 1, 2014, application deadlines.

BACKGROUND:
The Transportation Alternatives Program (TAP), included in the Federal Surface Transportation Act, Moving Ahead for Progress in the 21st Century (MAP-21), replaced Transportation Enhancements Program (TEP), Recreational Trails, Safe Routes to School, and several other discretionary programs, wrapping them into a single funding source in FY 2014.

The TAP program is similar in nature to the old TEP. Applicants will be required to make the same 20 percent match, with grant awards covering the 80 percent remaining. Some of the major differences are outlined as follows:

- TEP included 12 categories of projects that were eligible. TAP now includes nine. No County projects were affected by this change. The project types removed include beautification, operation of historic transportation facilities, and scenic or historic highway programs.

- Since the Safe Routes to School and Recreational Trails Programs merged with the enhancement program in the TAP, Safe Routes to School applicants will now need to provide the 20 percent local match.

The Board should be aware that any approved funds will be distributed through the jurisdiction endorsing the project, and that the jurisdiction endorsing the TAP project will be responsible for any cost overruns. Although the Project Endorsement Resolution indicates Fairfax County agrees to pay 20 percent of the total cost of a project, staff has advised each applicant that they alone will be completely responsible for the 20 percent match and any cost overruns. Proposed applications to be completed by County staff have the source of the local match identified in the project listing.

The Board should also be aware that VDOT's TAP regulations require the sponsoring jurisdiction to accept responsibility for future maintenance and operating costs of any projects that are funded.

On September 15, 2014, county staff conducted a public meeting in response to VDOT modified guidelines that allow for other means of public participation other than public hearings for TAP. The meeting minutes and presentation are shown in Attachment 3.

Applications are due to VDOT on November 1, 2014. The applications submitted to VDOT will be reviewed by both VDOT staff with recommendations forwarded to the Commonwealth Transportation Board and the Transportation Planning Board (TPB). Both the CTB and TPB will make announcements on funding decisions in Summer 2015.

County staff recommends forwarding three applications to VDOT and TPB for FY2016:

Cross County Trail in Lorton	$258,015
Cinderbed Bikeway	$400,000
Westbriar Elementary School Access Improvements	$280,000

Details of each project are shown in Attachment 1.

Although the federal funding for the FY 2016 has not yet been approved by Congress, VDOT will continue the application process in anticipation of future approval of the funds.

FISCAL IMPACT:
If any of the projects are awarded grant allocations, FCDOT staff will return to the Board to appropriate the funding. TAP projects require a minimum 20 percent local match. Any project endorsed by the Board must have an identified source of funding for the 20

percent match. VDOT has implemented new requirements for jurisdictional sponsors (like Fairfax County) to provide technical guidance and oversight throughout project development. Additionally, the sponsor must ensure that the budget accurately reflects project cost and accept responsibility for future maintenance and operating cost of the completed project.

For the FY 2016 applications, the County is both the Applicant and the Endorser of each project; therefore, the County is required to provide the local cash match. The identified local cash match for each project is in Fund 40000 (Commercial and Industrial Tax). Staff will also pursue future funding opportunities, such as future TAP grants or other resources, to reduce the total commitment from the County.

CREATION OF POSITIONS:
No positions will be created through this action.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed FY 2016 Transportation Alternative Projects
Attachment 2 – Project Endorsement Resolutions
Attachment 3 – Public Meeting Minutes and Presentation (9/15/2014)

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Ken Kanownik, Transportation Planner, Coordination and Funding Division, FCDOT

Attachment 1

Proposed Transportation Alternatives Projects, FY2016
(Descriptions Based on Information Provided by Applicant)

1. Cross-County Trail (CCT) in Lorton

Fairfax County is proposing the design and construction of a new multi-use trail to provide non-motorized access between the Occoquan Regional Park and the Laurel Hill Greenway, both of which are portions of the CCT. The trail connects users with the historic Workhouse Arts Center, a program of the Lorton Arts Foundation, which is listed on the National Register of Historic Places, and enhances an already significant historic destination.

The CCT will connect with the regional network of existing and planned trails, including: High Point Trail, the existing sections of the Fairfax CCT, the Laurel Hill Greenway, and the Potomac Heritage National Scenic Trail.

The improvements to this section of trail will provide residents of higher density neighborhoods and the newer developments that surround the Workhouse Arts Center buildings with safe multi-use trail access to many recreational facilities and places of historic interest in the area including: Occoquan Regional Park, the Town of Occoquan, and to the other sections of the Cross County Trail. Residents and visitors will have a safe pedestrian and bicycle route to businesses, bus stops, and other commuter transportation facilities in Lorton.

The CCT will also provide rest areas for trail users to include bike racks, water fountains, a concession stand, picnic area, and interpretive and directional signs. Trail users will have easy access to the Workhouse Arts Center buildings and facilities, which include visual and performing arts venues, restaurants, restrooms and other recreational offerings, all ADA accessible. The Workhouse will provide safe, secure parking.

Project Estimate:		$2,328,841
TEP/TAP Awards to Date: Through FY 2015:	$1,605,057	
Local Match Pledged Through FY 2015:	$ 401,265	
FY 2015 Funding Total:		$2,006,322
FY 2015 Balance:		$ 322,519
FY 2016 TAP Request:		$ 258,015
FY 2016 Local Match:		$ 64,504
Remaining Funding Required:		$ 0

2. Cinderbed Bikeway

As part of the County's bicycle master planning efforts, staff identified an opportunity to improve non-motorized access to the Franconia-Springfield Metrorail Station from the south, including Fort Belvoir. This project will provide approximately three miles of bikeway, the majority being shared use path extending from the Fairfax County Parkway near Telegraph Road north to the south side of the Metrorail station. The southern segment could utilize portions of an abandoned railroad spur previously serving Fort Belvoir, then transition to an on-road facility on Cinderbed Road to the roadway end, and then travel on a pathway ending at the Metrorail station. The grant will provide funding for preparing preliminary engineering (30%) plans.

Project Estimate:		$4,000,000
TEP/TAP Awards to Date: Through FY 2015:	$ 400,000	
Local Match Pledged Through FY 2015:	$ 100,000	
FY 2015 Funding Total:		$ 500,000
FY 2015 Balance:		$3,500,000
FY 2016 TAP Request:		$ 400,000
FY 2016 Local Match:		$ 100,000
Remaining Funding Required:		$3,000,000

3. Westbriar Elementary School Access Improvements

The Westbriar Elementary School PTA and Fairfax County Public Schools have identified a list of improvements that encompasses an improvement plan for connectivity to Westbriar Elementary. This application will be for connectivity improvements along Old Courthouse Road. The project encompasses filling in three gaps of sidewalk along the south side of Old Courthouse Road between Creek Crossing Road and Country Club Drive. Approximately 1,000 feet of new sidewalk in will be required for this project. By constructing this sidewalk there will be complete connectivity to Westbriar Elementary School for a distance greater than one mile. In addition to the benefits to the school, the Fairfax Connector has a new bus route that will traverse Old Courthouse Road (Route 432). This project will provide the connectivity for residents along Old Courthouse Road and the adjacent side streets to walk from their home to the bust stops on an accessible route.

Project Estimate:		$850,000
TEP/TAP Awards to Date: Through FY 2015:	$400,000	
Local Match Pledged Through FY 2015:	$100,000	
FY 2015 Funding Total:		$500,000
FY 2015 Balance:		$350,000
FY 2016 TAP Request:		$280,000
FY 2016 Local Match:		$ 70,000
Remaining Funding Required:		$ 0

Attachment 2

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 28, 2014, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program a Transportation Alternatives project in the County of Fairfax.

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide additional funding for the Cross County Trail in Lorton; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 28th day of October, 2014, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 28, 2014, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program a Transportation Alternatives project in the County of Fairfax.

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide additional funding for the Cinderbed Bikeway; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 28th day of October, 2014, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 28, 2014, at which meeting a quorum was present and voting, the following resolution was adopted.

PROJECT ENDORSEMENT RESOLUTION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program a Transportation Alternatives project in the County of Fairfax.

NOW, THEREFORE, BE IT RESOLVED that the County of Fairfax requests the Commonwealth Transportation Board to provide additional funding for Westbriar Elementary School Access Improvements; and

BE IT FURTHER RESOLVED, that the County of Fairfax hereby agrees to pay a minimum 20 percent of the total cost for planning and design, right-of-way, and construction of this project, and that, if the County of Fairfax subsequently elects to cancel this project, the County of Fairfax hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 28th day of October, 2014, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Fairfax County – Transportation Alternatives Program Public Meeting
September 15, 2014
6:00 PM
Fairfax County Department of Transportation
4050 Legato Road, Suite 400, Fairfax, VA 22033

Minutes

I. Introductions and Summary of Meeting

Staff Introductions Made: Ken Kanownik, Coordination and Funding; Janet Nguyen, Coordination and Funding; Chris Wells Pedestrian Program Manager

Attendees: Donna Smith, Joan Burkgreen, Julie Ben-Achour, Ann Sharp, Jennifer Joy Madden, Ann Sharp, Richard Chew, Mike Collins

II*. Introduction to Transportation Alternatives Program (TAP)

Eligibility and Guidelines –

III*. Virginia Department of Transportation (VDOT) and TAP

VDOT – Procedures
Selection Process

IV*. FY2016 TAP Application – Brief Walk Through

V*. Status of Previous Grant Awards (TAP only)

Mason Neck Trail
Cross County Trail (Lorton)
Cinderbed Bikeway
Reston Bike Share
Westbriar Elementary School – Safe Routes to School (Old Courthouse Road)

VII. TAP Question and Answer Session

*Included in presentation

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot

- 12 Questions Asked, topics included: status on other projects, improvements to existing facilities, vegetation control, funding, eligible projects, facility type and design standards, and right of way.
- Staff walked through the application in further detail on information requested from citizens.

VIII. Public Input on Project Selection

- County staff presented the three projects solicited for FY2016 applications
- Several attendees spoke in support of the selected projects.
- There was no dissent for any of the projects.

Transportation Alternatives Program Workshop and Public Comment

Fairfax County
Department of Transportation

September 15, 2014
6:00 PM

TAP Overview

Created in MAP-21 Transportation Bill passed July 2012. The new program includes:

- Most of the eligible activities from the Transportation Enhancement (TE) Program
- Safe Routes to School Program (SRTS) activities
- Recreational Trails Program activities
- Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways (New in MAP-21)

Eligible Projects

1. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists , and other non-motorized forms of transportation.
2. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers to access daily needs.
3. Conversion and use of abandoned railroad corridors for trails
4. Construction of turn-outs, overlooks, and viewing areas to promote the scenic and historic character of local roads.
5. Inventory, control, or removal of outdoor advertising.
6. Historic preservation and rehabilitation of historic transportation facilities.
7. Vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control
8. Archaeological activities relating to impacts from implementation of a transportation project eligible under this title.
9. Environmental mitigation activity, including prevention and abatement activities to address storm water mgmt., control, and water pollution related to highway runoff.
10. Wildlife mortality mitigation to reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.
11. Safe Routes to Schools Projects

Safe Routes To Schools

Eligible Activities

- Sidewalk improvements
- Traffic calming and speed reduction improvements
- Pedestrian and bicycle crossing improvements
- On-street bicycle facilities
- Off-street bicycle and pedestrian facilities
- Shared-use paths/trails
- Secure bicycle parking facilities
- Traffic Diversion improvements
- Other projects that improve ped/bike safety and access

Ineligible Activities

- Bus stop improvements
- Improvements to traffic flow/kiss and ride for motorized vehicles
- Others not related to walking or biking

SRTS Additional Requirements

- Principal letter of support
- Title-I status
- Travel modes
- Travel distance
- Parent survey
- Barriers to walking
- Efforts to promote walking/biking to school

State Allocation Formula – FY 15 Example

- FY 15 Total Funding - ~$20.3 million
- Recreational Trails receives $1.5 million
- $18.8 million Balance is split 50/50
- $9.4 million is allocated based on population with $5.7 million to Transportation Management Associations (TMA) and $3.7 million to other areas based on population
- The other $9.4 million is allocated anywhere in the state, Commonwealth Transportation Board(CTB) Policy governs distribution

VDOT FY16 Schedule

- **July / August 2014 -** Applicant Workshops
- **November 1, 2014 -** Application Deadline
- **February 2015 –** Applications and scores presented to the TMAs and CTB
- **April 2015 –** Tentative Selections
- **April / May 2015 –** Department Six Year Improvement Plan (SYIP) Public Hearings
- **June 2015 –** Final CTB approval

MAP-21 legislation will need re-authorization in order to move forward with funding FY16 selections

Selection Process

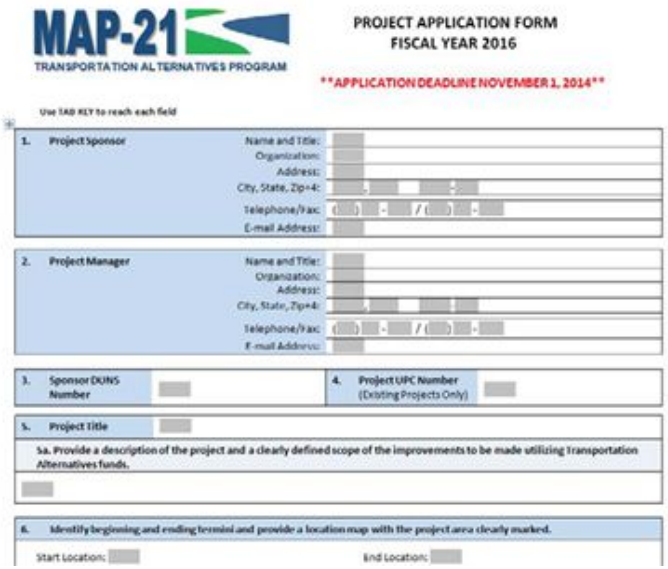
Statewide Funds (50%)

- Will be divided amongst District CTB members for project selections – maximum $1M per member
- The Secretary of Transportation and the CTB At-Large members will select projects with any remaining statewide funds (any funds over $9M)

Population Based Funds (50%)

- Metropolitan Planning Organizations (MPO) will make selections in the 4 TMAs
- CTB At-Large members will select projects based on other population areas funding

FY 2016 Application Walk Through



MAP-21
TRANSPORTATION ALTERNATIVES PROGRAM

PROJECT APPLICATION FORM
FISCAL YEAR 2016

APPLICATION DEADLINE NOVEMBER 1, 2014

Use TAB KEY to reach each field

1. Project Sponsor
Name and Title:
Organization:
Address:
City, State, Zip+4:
Telephone/Fax: ( ) - / ( ) -
E-mail Address:

2. Project Manager
Name and Title:
Organization:
Address:
City, State, Zip+4:
Telephone/Fax: ( ) - / ( ) -
E-mail Address:

3. Sponsor DUNS Number

4. Project UPC Number (Existing Projects Only)

5. Project Title

5a. Provide a description of the project and a clearly defined scope of the improvements to be made utilizing Transportation Alternatives funds.

6. Identify beginning and ending termini and provide a location map with the project area clearly marked.
Start Location:
End Location:

Applications are available at:
http://www.virginiadot.org/business/prenhancegrants.asp

Status of Current TAP Projects

- Mason Neck Trail
- Cross County Trail Lorton (FY 2016 Applicant)
- Cinderbed Bikeway (FY 2016 Applicant)
- Reston Bike Share
- Westbriar Elementary School SRTS (FY 2016 Applicant)

TAP Q&A Session

Public Input

- Recommendations for Projects
- Support or Dissent on Projects
- Other Comments on TAP Program

Board Agenda Item
October 28, 2014

ACTION - 5

Authorization to Execute an Agreement with the Tysons Partnership to Provide Funding to and Operation Standards for the Tysons Transportation Management Association

ISSUE:
On July 1, 2014, the Board of Supervisors authorized the creation of a Tysons Transportation Management Association (TMA) to be operated by the Tysons Partnership. The Department of Transportation (FCDOT) has worked with the Tysons Partnership to develop a funding and operations agreement (Attachment 1) for the TMA. DOT staff is seeking authorization to execute the agreement (Attachment 2) and begin the funding of the Tysons TMA.

RECOMMENDATION:
The County Executive recommends the Board of Supervisors approve the resolution granting the Director of the Department of Transportation authorization to execute the agreement, in substantial form, between the County and the Tysons Partnership for the Tysons TMA.

TIMING:
Board approval is requested on October 28, 2014, to allow DOT to execute the agreement and transfer funding to the Tysons TMA.

BACKGROUND:
On July 1, 2014, the TMA was established by the Board of Supervisors. The TMA's strategic plan calls for distribution of information via website, mailings, events and meetings to achieve single occupancy vehicle (SOV) trip reductions. Outreach to employers and employees to encourage the use of commuting alternatives such as ride-sharing, rail, bus, flex-time, and remote workplaces, among other Transportation Demand Management (TDM) strategies. Additionally, the TMA will facilitate the implementation of the proffered Planned Tysons Corner (PTC) rezoning TDM programs in coordination with the development community. Funds collected from proffered TDM contributions will pay for TMA staff, website maintenance, and production and distribution of marketing materials. The Tysons Partnership's role in collaborating with the County, developers, employees, land owners and residents of Tysons, makes them the logical choice for administering this TMA. A forum will be established for progress review, discussion of transportation issues, and advocacy of those issues.

Board Agenda Item
October 28, 2014

FISCAL IMPACT:
There is no direct fiscal impact to Fairfax County with this agreement. The County is collecting proffered funds from developers and transferring the funds to the Tysons Partnership for TMA activities. County staff estimates that approximately $100,000 in proffered funds will be transferred to the TMA from the Tysons Fund Area (Fund 300-C30040) over the several years. Administrative adjustments to the Tysons Fund Area budget will be made as necessary in the future.

ENCLOSED DOCUMENTS:
Attachment 1: Tysons TMA Funding and Operations Agreement
Attachment 2: Resolution to Execute Agreement

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Acting Chief, Coordination and Funding Division (CFD), FCDOT
Ken Kanownik, Transportation Planner, CFD, FCDOT
Michael Davis, Acting Section Chief, Site Analysis Section (SAS), FCDOT
Jeff Hermann, Senior Transportation Planner, SAS, FCDOT
Maheen Aziz, Transportation Planner II, SAS, FCDOT

THIS AGREEMENT, made and executed in triplicate on this the ____ day of _____, 2014, between the Board of Supervisors of Fairfax County, Virginia, hereinafter referred to as the COUNTY and the Tysons Partnership, operator and administer of the Tysons Transportation Management Association, hereinafter referred to as the TYSONS PARTNERSHIP.

WITNESSETH

WHEREAS, on July 1, 2014 the COUNTY approved a new Tysons Transportation Management Association (TMA) and appointed the TYSONS PARTNERSHIP the operator and administer of the TMA; and

WHEREAS, on July 1, 2014 the COUNTY determined the TYSONS PARTNERSHIP provided the most practical way to use funds proffered by developers for activities of the TMA; and

WHEREAS, the TYSONS PARTNERSHIP roles in collaborating with the County, developers, land owners and residents of Tysons on a myriad of topics, including transportation, makes them the logical choice to operate and administer the TMA; and`

WHEREAS, the funds being administered by the TYSONS PARTNERSHIP under this agreement include proffers accepted and collected by the COUNTY, and the TMA and TYSONS PARTNERSHIP, by accepting these proffers, will be subject to all laws and regulations applicable to proffers in Virginia; and

WHEREAS, the COUNTY's governing body has, by resolution, which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, the Fairfax County Department of Transportation (FCDOT) will serve as the representing agency for the COUNTY; and

WHEREAS, the TYSONS PARTNERSHIP has agreed to serve as the Tysons-wide Transportation Management Association;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

I. Background:

A. On July 1, 2014, the County, appointed the Tysons Partnership to serve as the Tysons-wide Transportation Management Association (TMA) with a mission to reduce trips by commuters and residents in Tysons.

B. The Tysons Partnership will carry out this mission by implementing networking, information sharing, advocacy, commuter outreach, and behavior modification programs toward the goal of achieving the Tysons-wide TDM Vehicle Trip Reduction Goals established in the Comprehensive Plan.

C. FCDOT, through its participation on the TMA Advisory Council will provide oversight of the TMA, collect and distribute proffered funds and work with the TMA to provide TDM activity support.

II. Interested Parties

A. Tysons Partnership: Tysons Partnership is a 501(c)(4) organization, pursuant to the United States Internal Revenue Service code, that provides a forum within which landowners, developers, business owners, employees, residents and county government can work together to implement the values and goals defined in the Comprehensive Plan for the redevelopment of Tysons. The Partnership is governed by a Board of Directors.

1. Tysons Partnership TMA: The Tysons Partnership TMA, doing business as TyTran, is a division of the Tysons Partnership that provides transportation services throughout Tysons.
2. TyTran: The Tysons Transportation Management Association (TMA) will do business in the name "TyTran" and report to the Tysons

Partnership Board of Directors.TMA Administrator: The senior staff person hired by the Partnership to administer all aspects of TyTran operations.

3. TMA Advisory Council: Consists of Partnership members and representatives of FCDOT, the members of TyTran meet at least 6 times per year to discuss transportation issues and provide guidance to The Tysons Partnership on advocacy or action steps in regards to transportation.
4. Tysons Partnership Board of Directors: The decision making body for the Tysons Partnership, providing strategic, financial, and advocacy oversight for matters related to the members and Tysons community.

B. FCDOT is a department and agency of the County, whose role with the Tysons TMA, is to ensure Tysons TMA activities remain in compliance with the proffers approved by the County for TMA activities and are administered in accordance with all applicable laws.

III. Purpose, Goals & Duties:

A. The TMA was created to help employers, employees and residents in Tysons to implement and utilize multi-modal commuting strategies and to help achieve the Tysons-wide TDM Vehicle Trip Reduction Goals. The TMA fulfills its mission through five key functions, but is not limited exclusively to these functions. The five key functions are:

i. Communications and Marketing: The TMA will disseminate transportation information to all parties involved with the TMA, increase awareness of transportation services in and around Tysons, enhance the image of Tysons from a transportation perspective and market their services to TDM end users.

ii. Advocacy and Partnerships: The TMA will create a forum for discussion of transportation issues in and around Tysons. The TMA will also develop and advocate a transportation platform.

iii. TDM Implementation: The TMA will implement TDM services for members of the TMA. The TDM services will be coordinated across the TMA members.

iv. Membership and Administration: The TMA will keep records and status of memberships. The TMA will work to grow the membership base across Tysons. The TMA will administer the services with quality customer service.

v. Proffer Compliance: The TMA will assist in ensuring proffer compliance by providing annual reviews and quarterly reports to the County. The TMA will assist in the implementation of Planned Tysons Corner (PTC) rezoning TDM proffers with coordinated traffic counts and surveys with landowners, developers, and the County.

IV. Operations:

A. General Operations:

Oversight of TMA budget and operations will be provided by Tysons Partnership Board of Directors and staff. TMA operations will be carried-out by a TMA Administrator, and additional staff as necessary. The TMA Advisory Council will provide additional oversight and advice. The TMA Advisory Council will include representatives of FCDOT.

B. Fees and Proffers Received:

The newly created TMA's goals, purposes, and start-up operations will be funded with fees received by the PARTNERSHIP for TDM services provided to its members and by developer proffered TDM

contributions in accordance with Va. Code Section 15.2-2303 for PTC re-zonings that occur after June 2010. Funds from proffers and fees will be used by the TMA to pay for the following:

i. the acquisition of tangible and intangible personal property, understanding that the TMA currently has no existing facilities or equipment;
ii. TyTran staff salaries and operating costs for this newly created organization; and
iii. Website maintenance, production and distribution of marketing materials, and similar expenses to support the implementation of TDM strategies throughout Tysons.

C. Accounting:

TyTran will provide the Board of Directors and TMA Advisory Council quarterly reports of revenue, disbursements, and program outcome metrics.

D. TyTran will provide an annual report to the COUNTY each year that documents the use of funds, revenue collected, and the annual results based on FCDOT approved metrics (to be developed at a later date). The TMA annual report will coincide with the annual review of the Tysons-Wide and Tysons Grid of Streets Road Funds. The annual report will include the budget for the following (fiscal) year. All paid staff positions in addition the TMA administrator will be approved by the Tysons Partnership Board of Directors and will be submitted as part of the budget in the annual report.

E. The Tysons Partnership will immediately notify the County if the 501(c)4 tax status changes for any reason.

V. **Fiscal Protocols**:

A. Developer proffered TMA contributions for PTC re-zonings that occur after June 2010 will be dedicated to the County for use in accordance with the proffered conditions and all applicable laws.

B. These contributions will be paid in the same manner as all cash proffers, deposited into the County's Developer Contribution Fund, recorded in county records as paid, and transferred in accordance with the agreement and the method according to fiscal policies of the COUNTY, to the TYSONS PARTNERSHIP, within 60 days in which proffer payments are received by the COUNTY. The TYSONS PARTNERSHIP shall use such monies only in accordance with the terms of this Agreement and the proffers.

C. The TMA will comply with Virginia State Code 15.2-2303 and all other applicable laws regarding the expenditure and accounting of all proffered funds transferred from Fairfax County to the Tysons TMA.

D. TMA shall endeavor to use its best efforts to generate additional and more sustainable revenue through the sale of TDM service packages to developers and employers in Tysons and as other opportunities arise.

E. Proffer funding and funding from other revenue sources will be held in separate bank accounts to ensure accurate accounting of proffered funds.

F. Interest earned on Proffered Funds must be treated as proffered funds.

G. The Tysons Partnership Board shall oversee all TMA receipts and disbursements.

H. The PARTNERSHIP shall not use proffered funding for the use as a local match requirement for any grant program that could potentially compete with a grant application from the COUNTY without approval from the COUNTY.

I. All funding by the COUNTY other than proffered funds, as previously described in this agreement, are subject to annual appropriations by the Fairfax County Board of Supervisors.

VI. Liability and Immunity

A. Nothing in this agreement shall be deemed a waiver of the COUNTY's Sovereign Immunity.

VII. Indemnity

A. TMA shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injury, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of granting of a contract or which may otherwise result there from, if it shall be determined that the act was caused through negligence or error, or omission of the TMA or its employees, and the TMA shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising there from or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the TMA shall, at its own expense, satisfy and discharge the same. TMA expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the TMA, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

B. The TMA will be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection therewith whether owned by the TMA or by the County. The TMA assumes all risks of direct and indirect damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the contract, or in connection in any way whatsoever with the contracted work.

The TMA shall, during the continuance of all work under the contract maintain/provide the following:

1. Statutory Workers' Compensation and Employer's Liability insurance in limits of not less than $100,000 to protect the TMA from any liability or damages for any injuries (including death and disability) to any and all of its employees, or volunteers, including any and all liability or damage which may arise by virtue of any statue or law in force within the Commonwealth of Virginia, or which may be hereinafter enacted.

2. Commercial General Liability insurance in the amount of $1,000,000 per occurrence/aggregate, to protect the TMA and the interest of the County, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with the contracted work.

3. Fidelity Bond or Commercial Crime policy in the amount of $1,000,000 per occurrence, to protect the financial interests of the TMA and the County.

4. Fiduciary policy in the amount of $1,000,000 to cover the financial decisions of the TMA. In addtion, the TMA will maintain Directors and Officers insurance in the amount of $1,000,000 to protect the officers of the TMA. The TMA may combine these two coverages into a single policy if appropriate.

5. Liability Insurance "Claims Made" basis:

   If the liability insurance purchased by the TMA has been issued on a "claims made" basis, the TMA must comply with the following additional conditions. The limit of liability and the extensions to be included as described previously in these provisions, remain the same. The TMA must either:

   a. Agree to provide certificates of insurance evidencing the above coverage for a period of two years after final payment for the contract. This certificate shall evidence a "retroactive date" no later than the beginning of the TMA's or sub-TMA's work under this contract, or

   b. Purchase the extended reporting period endorsement for the

policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

6. The TMA agrees to provide insurance issued by companies admitted within the Commonwealth of Virginia, with the Best's Key Rating of at least A: VI.

7. European markets, including those based in London, and the domestic surplus lines markets that operated on a non-admitted basis are exempt from this requirement provided that the TMA's broker can provide financial data to establish that a market is equal to exceeds the financial strengths associated with the A.M. Best's rating of A: VI or better.

8. The County of Fairfax, its employees and officers shall be named as an additional insured in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the County may possess.

VIII. Disputes

A. In the event of a dispute arising between the parties hereunder, the parties shall attempt in good faith to resolve any dispute within ten (10) days of the receipt by one party of written notice from the other party that a dispute exists, which notice shall be delivered in accordance with Section XII.A. below ("Notices"). If the parties are unable to resolve the dispute within ten (10) days of the date of the Dispute Notice, the following terms and conditions shall apply:

1. Either party may terminate this Agreement, in which event neither party shall have any further obligations hereunder, except as set forth in Section IX.A; and

2. Either party may initiate litigation in the Circuit Court for Fairfax County, Virginia, which, the parties agree shall have exclusive venue over litigation arising under this Agreement; provided however, litigation to resolve a dispute arising under this Agreement may not be initiated unless a good faith effort to resolve the dispute has been made

and has not achieved a resolution of the dispute within the time limits set forth therein;

IX. Assignments

A. THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns, and

B. THIS AGREEMENT, may be modified in writing upon mutual agreement of both parties, and

X. Modifications and Amendments

A. THIS AGREEMENT, may be modified in writing upon mutual agreement of both parties, and

XI. Termination

A. THIS AGREEMENT ,may be terminated by either party upon 60 days advance written notice or immediately by an act of the Fairfax County Board of Supervisors with or without cause. Upon termination for any reason, or termination of the TMA, all unspent proffer funds and interest are to be returned to the COUNTY, within five (5) days, upon notice of termination or notice of dissolution, which will be processed according to each individual proffer.

XII. Notices

A. All notices shall be given to the parties as follows:

1. The County, Director of Transportation, via electronic mail, confirmed by USPS
2. The Partnership, Executive Director, via electronic mail, confirmed by USPS

XIII. Governing Law

A. This agreement is governed by all respects by the laws of 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.

COUNTY OF FAIRFAX, VIRGINIA:

_____

Tom Biesiadny, Director of Transportation Date

_____

Typed or Printed Name of Signatory Date

_____

Signature of Witness Date

TYSONS PARTNERSHIP:

_____

Michael Caplin, Executive Director Date

_____

Signature of Witness Date

Attachment 2

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, October 28, 2014, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes County staff to execute on behalf of the County of Fairfax a Funding Agreement with the Tysons Partnership for Tysons Transportation Management Association

Adopted this 28th day of October 2014, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
October 28, 2014

ACTION - 6

Approval of a New Pay Structure for General County Employees

ISSUE:
Board approval of a new pay structure for General County employees.

RECOMMENDATION:
The County Executive recommends Board of Supervisors' approval of the new pay structure for General County employees. The Board Personnel and Reorganization Committee directed staff at the October 14, 2014 meeting to bring the new pay structure forward to the full Board for consideration.

TIMING:
Action is requested today to provide sufficient lead time for a July 2015 implementation.

BACKGROUND:
Included in the FY 2014 Budget Guidance was direction to staff to "work with employee groups to develop and refine an overall pay structure that provides compensation adjustments based on inflation and other economic factors; awards employees for satisfactory job performance; addresses longevity factors for long-tenured employees and develops a cohesive plan for conducting market studies and ensuring that county job classes maintain equity and competiveness within the Region."

Action taken included the following:

- Chairman Bulova Board Matter introducing Workforce Dialogue process in summer, 2013
- Nine information sessions held in September 2013
- Six focus groups conducted in October/November 2013
- Countywide Employee Survey – November/December 2013
- Work Group 1 (Supervisors Gross and Cook, Randy Creller, Paula Woodrum, Sue Woodruff and Ed Long) – reported out at January 21, 2014 Personnel and Reorganization Committee meeting
- Work Group 2 (Supervisors Gross, Cook, Foust and Frey, Randy Creller, Major Clemens, Joe Wilhelm, Lisa McCorkle, Joe Mondoro, Christina Jackson, Cathy Spage, and Susan Holsneck) – reported out at the October 14, 2014 Personnel and Reorganization Committee

- FY 2015 Budget Guidance directing that Work Group 2 recommendations be returned to the Board for consideration as part of the FY 2016 budget review process
- Discussions at seven Personnel and Reorganization Committee meetings to date (February 2013-October 2014)

After significant Board discussion, employee input, work group dialogue, and staff review over the past 18 months, the following general themes have remained generally consistent with respect to employee compensation.

An employee compensation system should:

- Be fair and equitable (among employee groups and as it relates to pay compression with new hires)
- Reflect the market and keep up with inflation
- Provide for employee movement through the pay range over course of career
- Provide predictability as to what employees can expect over course of career
- Recognize both performance and longevity
- Be sustainable and affordable

Work Group Summary and Recommendations:
Employee Compensation Work Group 2 met six times over the course of the past six months. As a result of those discussions, work group members gained a greater understanding of the issues, concerns, and constraints faced by the employee groups, Board members, and County staff. Building on that understanding, a number of pay system proposals were developed with lively discussion about the pros, cons, and costs. It was ultimately recognized that there was no “one right answer” to the compensation structure question and that compromise was needed to move the project forward. The Work Group has been successful in reaching consensus on a compromise compensation structure that meets the objectives of the Group.

At the October 14, 2014 Personnel and Reorganization Committee meeting, the Work Group recommended a General County Employee Pay Structure that:

- Retains the current open range pay structure.
- Includes annual funding of the Market Rate Adjustment (MRA).

- Provides annual performance increases based on an employee's position on the pay plan:

Position on Pay Plan		Performance Increase Eligible
Greater than or Equal to	Less Than	
0%	15%	3.00%
15%	30%	2.50%
30%	45%	2.00%
45%	60%	1.75%
60%	75%	1.50%
75%	100%	1.25% (or until hit maximum)

- Includes a 4 percent longevity for employees with 20 or 25 years of service as of July 1 (regardless of position on pay range, but employees cannot exceed maximum of pay range) instead of the performance increase otherwise eligible.
- Allows an employee hired at the minimum of the pay scale to reach the midpoint after 12 years and the maximum after 25 years (assuming full funding of performance increases each year).

Priority for Funding Decisions
The plan was developed with the assumption of full funding consistent with the guidelines of affordability and sustainability. The Work Group recommended that the performance increases be fully funded each year, and any flexibility needed by the Board of Supervisors in balancing the budget be drawn from the Market Rate Adjustment.

If budgetary restrictions do not allow for the full funding of employee compensation, including calculated Market Rate Adjustment for all employee groups, performance increases and longevities for General County employees, and merits and longevities for Uniformed Public Safety employees, the priority for funding decisions would be as follows:

- Adjustments should first be made to the Market Rate Adjustment, as appropriate, for all employees. These adjustments should be made gradually from full to partial to no Market Rate Adjustment, depending on affordability. The Work Group used an assumed Market Rate Adjustment of 1.5 percent, which is below historical averages, with the assumption that flexibility with the Market Rate Adjustment will need to be utilized by the Board of Supervisors given projected budget restrictions.
- Partial funding of performance increases/longevities and merits/longevities should be avoided. If these employee pay components cannot be funded in full,

but some funding is available for pay increases, this funding should be used for an across-the-board adjustment to both salaries and scales for all employee groups.

- Additionally, as the Market Rate Adjustment is applicable to all employees, the County will continue to look at specific job classes with regard to their market comparators to determine if further adjustments are required.

FISCAL IMPACT:
In FY 2016, the estimated General Fund impact of implementing the recommended pay structure is $15.26 million. The average General County employee increase in FY 2016 (excluding the MRA) would be 2.50 percent. Costs for implementation are higher in the first year, as all employees with at least 20 years of service as of July 1, 2015 would receive a 4 percent longevity increase. In subsequent years, only those employees reaching the 20 or 25-year benchmarks in that year would receive the increase.

It should be noted that the actual cost will be dependent on the actual employee population at the time of implementation and the funded MRA, as the MRA is applied first to employees' salaries.

Total projected employee pay costs for FY 2016, including an assumed 1.5 percent MRA, the pay structure for General County employees as described above, merit and longevity increases for uniformed public safety employees, and the estimated impact of market studies is $44.0 million. This is an increase of $10.7 million above the funding included in the FY 2016 multi-year budget.

ENCLOSED DOCUMENTS:
None.

STAFF:
Susan Datta, Chief Financial Officer
Susan Woodruff, Director, Department of Human Resources

Board Agenda Item
October 28, 2014

INFORMATION - 1

Fairfax-Falls Church Community Services Board Fee Schedule

Since its establishment in 1969, the Fairfax-Falls Church Community Services Board (CSB) has complied with Section 37.2-504 (A) (7) of the Code of Virginia, which states the CSB shall prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the CSB Board and establish procedures for the collection of the same.

The CSB ensures compliance with the Code of Virginia in four ways: (1) conducts a review of fee related materials by a Committee comprised of CSB Board members; (2) posts a Notice of Public Comment and accepts written comments regarding Proposed Fees; (3) widely publicizes the changes (e.g., on http://www.fairfaxcounty.gov/csb/ webpage with English and Spanish translated documents; in CSB News; disseminates materials to the CSB's advisory council for peer services and their mailing list; and (4) accepts comments during a CSB Board meeting during the agenda item matters of the public.

In accordance with the CSB's Memorandum of Agreement with the Board of Supervisors, and State regulations, on September 24, 2014, the CSB Board approved a Fee Schedule with updates to its service charges.

The services on the Fee Schedule include outpatient, residential, and ancillary services. Fees for outpatient services are traditionally cost-based and recorded in increments that are consistent with Current Procedural Terminology (CPT) maintained by the American Medical Association to uniformly describe medical (including psychiatric), surgical, and diagnostic services. Fees for residential services are mostly income-based due to the extended length of stay for residential treatment, or the permanency of a community living setting for individuals with an intellectual disability and when required grounded in federal regulations. Ancillary charges are usual and customary fees for copying of records, or fees for bad checks set by Fairfax County Code and/or the Code of Virginia.

Fees for most Virginia Medicaid State Plan Option services have been set at the Medicaid reimbursement rate. These services have not typically been covered by commercial insurance plans. However, there have been a few examples of successful single case agreements negotiated with in-network and out-of-network companies for some reimbursement. There may be opportunities for new reimbursement from Medicaid Managed Care Organizations through the three-year Commonwealth Coordinated Care demonstration project for full Medicare-Medicaid covered individuals.

Changes made to the CSB Fee Schedule were primarily in updates to fees for residential treatment programs and in the addition of a Medicaid covered Substance Abuse Case Management service. Otherwise, the 2015 Fee Schedule does not vary significantly from that in effect for 2014. Updates to the Ability to Pay Scale were based on the existing federal poverty guidelines. As a result, the proposed changes are not expected to materially impact the fee revenue estimate.

At its September meeting, the CSB Board also adopted revisions to its Reimbursement for Services Policy 2120 to incorporate their April 2014 *Guidelines for Assigning Priority Access to CSB Services*.

Unless otherwise directed by the Board of Supervisors, the County Executive will direct staff to proceed with the implementation of the new Fee Schedule. Sufficient advance notice of fee changes must be given to consumers.

FISCAL IMPACT:
The *FY 2015 Revised Budget Plan* for the CSB includes $19.4 million in estimated fee revenues. No significant change to the estimate is expected solely as a result of the proposed changes to the Fee Schedule and Ability to Pay Scale. It should be noted, however, that other factors such as demand for fee eligible services, changing demographics, including client income, as well as changes to Medicaid eligibility requirements and third party payer limitations may have greater impact to fee collections in the future. The CSB will continue to closely monitor these changes and recommend adjustments as necessary.

ENCLOSED DOCUMENTS:
Attachment 1 - CSB Fee Schedule
Attachment 2 – Summary of CSB Fee Related Changes

STAFF:
Patricia Harrison, Deputy County Executive
Tisha Deeghan, Executive Director, CSB
James P. Stratoudakis, Ph.D., Director Corporate Compliance and Risk Management, CSB

Attachment 1

CSB FEE SCHEDULE			
MH (Mental Health) ID (Intellectual Disability) SUD (Substance Use Disorder) SA (Primary Substance Abuse)			
Service	**Subject to Ability to Pay Scale**	**Current Schedule**	**Schedule Effective Dec 1, 2014**
Addiction Medicine Physician Assessment	Yes	$161 per event	$161 per event
Addiction Medicine Physician-Monitoring (follow up)	Yes	$54 per event	$54 per event
Adolescent Day Treatment- MH	Yes	$50 per unit	$50 per unit
Adolescent Day Treatment - SUD	Yes	$4.80 per 15 minutes	$4.80 per 15 minutes
Adult Day Treatment - MH	Yes	$40 per unit	$40 per unit
Adult Day Treatment- SUD	Yes	$4.80 per 15 minutes	$4.80 per 15 minutes
A New Beginning Residential Treatment	Yes	$238.30 per day	$238.30 per day
Case Management - ID	Yes	$326.50 per month	$326.50 per month
Case Management - MH	Yes	$326.50 per month	$326.50 per month
Case Management - SA	Yes	N/A	$16.50 per 15 minutes
Congregate Residential ID Waiver Services	No	$17.36 per hour	$17.36 per hour
Contracted Residential Treatment - Intermediate Rehabilitation/Reentry Services	Yes	Applied per day fee of A New Beginning	$159.38 per day
Crisis Intervention	Yes	$60 per 15 minutes	$60 per 15 minutes
Crisis Stabilization - Adult Residential	Yes	$89 per hour	$89 per hour
Crossroads Adult Residential Treatment	Yes	$186.52 per day	$186.52 per day
Crossroads Youth Residential Treatment	Yes	$331.62 per day	$393.86 per day
Detoxification, Medical, Residential-setting	Yes	$275 per day	$750 per day
Detoxification, Social, Residential-setting	Yes	$275 per day	$371 per day
Drop-In Support Services, ID	No	< or =10% of gross income	< or =10% of gross income
Family Therapy	Yes	$80.00 per hour	$80.00 per hour
Group Therapy/Counseling	Yes	$25 per event	$25 per event
Head Start - Services to	No	$25 per 15 minutes	$25 per 15 minutes
Independent Evaluations	No	$75 each	$75 each
Individual Therapy/Counseling	Yes	$80.00 per hour	$80.00 per hour
Initial Evaluation/Assessment	Yes	$150 per event	$150 per event
Injection Procedure	Yes	$20.00	$20.00
Intensive Community Treatment	Yes	$153 per hour	$153 per hour
Intensive Outpatient - SUD, Individual or Group	Yes	$4.80 per 15 minutes	$4.80 per 15 minutes
Lab Tests	No	Actual Cost	Actual Cost
Late Cancellation or No Show	Yes	$25.00	$25.00
Legal Testimony	Yes	$25 per 15 minutes	$25 per 15 minutes
Mental Health Support Service	Yes	$91 per unit	$91 per unit
Multi-Family Group Therapy	Yes	$80 per hour	$25 per event
Neurological Testing	Yes	$1168 per event	$1168 per event
New Generations Residential Treatment	Yes	$120 per day	$120 per day
Nursing Assessment	Yes	$58 per event	$58 per event
Nursing Subsequent Care	Yes	$29 per event	$29 per event
Physical Exam (Physician)	Yes	$95 per event	$95 per event
Psychiatric Evaluation	Yes	$107 per event	$107 per event
Psychiatric Evaluation & Management High Complexity	Yes	$144 per event	$144 per event
Psychiatric Evaluation & Management Low Complexity	Yes	$54 per event	$54 per event
Psychiatric Evaluation & Management Moderate Complexity	Yes	$90 per event	$90 per event
Psychological Testing	No	$150 per event	$150 per event
Psychological Testing Battery	Yes	$851 per event	$851 per event
Psychosocial Rehabilitation	Yes	$24.38 per unit	$24.38 per unit
Release of Information: Individual	~~Yes~~ No	50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs	50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs
Release of Information: Research	No	$10.00	$10.00
Release of Information: Third Party	No	$10 admin fee 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs	$10 admin fee 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs
Release of Information: Worker's Compensation	No	$15.00	$15.00
Residential Fee ID Community Living Services	No	75% of gross income	75% of gross income
Residential Fee MH/SUD Community Living Services	No	30% of gross income	30% of gross income
Returned Check (due to insuffient funds or closed account)	No	$50.00	$50.00
Skilled Nursing Waiver LPN Services	No	$27.03 per hour	$27.03 per hour
Skilled Nursing Waiver RN Services	No	$31.19 per hour	$31.19 per hour
Sojourn House Residential Treatment	Yes	Residential=$240 Comb. Resid Svcs = $192 Total Per Day- $432	Residential=$246.22 Comb. Resid Svcs = $196.81 Total Per Day- $443.03
Telehealth Facility Fee	No	$20.00	$20.00
Transportation	No	$100 per month	$100 per month
Urine Collection & Drug Screening- Retests Only	Yes	$25.00	$25.00
Wraparound Fairfax	No	$1160 per month	$1187 per month

Summary of Fee Related Changes

Proposed Changes to CSB Fee Related Documents were posted for public review and comment on August 8, 2014. Written comments on the Proposed Changes to CSB Fee Related Documents were accepted until 5 p.m., September 23, 2014 to: Ad Hoc Fee Policy Committee, Fairfax-Falls Church Community Services Board, 12011 Government Center Parkway, Suite 836, Fairfax, VA 22035-1105 or via email to wwwcsb@fairfaxcounty.gov. Printed materials were available for review at the same address and at all CSB centers. Pending CSB Board review and approval on September 24, 2014, the changes will not become effective before December 1, 2014.

Reimbursement for Services Policy 2120

- ***Replaced 1st Item in Purpose with***: To ensure eligible persons served will be based on the Board's *Guidelines for Assigning Priority Access to CSB Services*. Added the Guidelines as Appendix A.

Ability to Pay Scale

- ***Updated*** to the Ability to Pay Scale using the Federal Poverty Levels with those issued by the federal government in 2014.

CSB Fee Schedule

- ***Separated*** per diem fee for medical detoxification service from social detoxification fee. Link the contracted rate for medical detoxification service as the directly operated fee.
- ***Updated*** all CSA service fees based on executed contracts.
- ***Added*** Substance Abuse Case Management fee to replicate access to case management service for individuals with primary substance abuse issues. Separately reflects each case management service and fee.
- ***Reestablished*** per diem fee subject to the Ability to Pay Scale and based on an averaged contract rate (what the CSB pays to the vendor) for several contracted Residential Treatment programs
- ***Linked*** the Multi-Family Group Counseling service fee with the regular Group Therapy/Counseling fee.
- ***Changed*** the Release of Information copying charges for individuals to not be automatically subject to the Ability to Pay Scale. Apply a discount only if the client requests a waiver or pro-rate of the fee.

CSB Fee Regulation – Fee and Subsidy Related Procedures 2120.1

Section IV Eligibility

- ***Added*** the Board's *Guidelines for Assigning Priority Access to CSB Services* as Appendix A.

Section VII Implementation Procedures, D. Health Insurance Usage

- ***Added*** the following four points to clarify the CSB insurance practice as it relates to the priority population, in-network and out-of-network statuses, and closed networks.

  - For individuals who meet the CSB Priority Population definition in the *Guidelines for Assigning Priority Access to CSB Services*, and have insurance with behavioral health coverage, but the insurance company has a closed network, unless seen for emergency services, the staff will refer the individual back to their closed network insurance company for behavioral health services.

  - For individuals who meet the CSB Priority Population and have insurance with behavioral health coverage, but their insurance company does not provide behavioral health benefits/services recommended by the CSB, the CSB can serve the individual, and set their fee using the Ability to Pay Scale.

  - For individuals who meet the CSB Priority Population definition, have insurance with behavioral health care coverage, and the CSB is an in-network (participating provider), the CSB can serve the individual and accept payment from the insurance company

  - For individuals who meet the CSB Priority Population definition, have insurance with behavioral health coverage, and the CSB is an out-of-network provider, the CSB can serve the individual and accept payment as an out of network provider. However, if the individual does not want to use their out of network benefits at the CSB, the CSB will refer the individual back to their insurance company.

Section X Medicaid Services

- ***Added*** the client's right to choose to receive services from any Medicaid enrolled provider of services.

Section XII Services Provided at No Cost to the Individual

- ***Removed*** reference to (D) Youth Substance Abuse Consultation, Screening, Drug Testing and Evaluation Services with the Fairfax County Juvenile Court Services.

Board Agenda Item
October 28, 2014

11:20 a.m.

Matters Presented by Board Members

Board Agenda Item
October 28, 2014

12:10 p.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. Erroneous Real Estate Tax Assessment Appeals filed by Wilkes Artis, Chartered, Against Board of Supervisors of Fairfax County, Virginia (Fx. Co. Cir. Ct.) (All Districts)

2. *Sheila E. Frace, Trustee v. John F. Ribble, III*, Case No. CL-2013-0017108); *Leslie B. Johnson v. Sheila E. Frace, Trustee*, Case No. CL-2014-0000128 (Fx. Co. Cir. Ct.) (Dranesville District)

3. *Council of Co-Owners of the Skyline Plaza Condominium Project, Inc. v. Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia* (Fx. Co. Bd. of Bldg. Code App.) (Mason District)

4. *James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services v. Edward Caine and Susan Power*, Case No. CL-2013-0008131 (Fx. Co. Cir. Ct.) (Dranesville District)

5. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Clyde E. Nishimura*, Case No. CL-2012-0005565 (Fx. Co. Cir. Ct.) (Lee District)

6. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Helen M. Parker-Smith*, Case No. CL-2014-0001775 (Fx. Co. Cir. Ct.) (Providence District)

7. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Edward E. Ankers, Jr.*, Case No. CL-2006-0010511 (Fx. Co. Cir. Ct.) (Hunter Mill District)

8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. John Hicks, Betty Pearson-Pavone, Dallas Hicks, Harold E. Pearson, Alice Hicks, and Edward Hicks*, Case No. CL-2012-0013536 (Fx. Co. Cir. Ct.) (Providence District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. George Daamash*, Case No. CL-2011-0000818 (Fx. Co. Cir. Ct.) (Mount Vernon District)

10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Harry Martin*, Case No. CL-2008-0008078 (Fx. Co. Cir. Ct.) (Sully District)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Joanne Kreiser*, Case No. CL-2012-0008224 (Fx. Co. Cir. Ct.) (Mount Vernon District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jaime R. Rueda*, Case No. CL-2009-0008709 (Fx. Co. Cir. Ct.) (Mason District)

13. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Ronnie L. Chase, N. Bruce Chase, Norman C. Chase, Alvin M. Chase, Carl A. Chase, Gladys B. Ferguson, Deloris R. Chase, and Josephine C. Evans*, Case No. CL-2014-0009499 (Fx. Co. Cir. Ct.) (Mount Vernon District)

14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lucia O. Palacio***,** Case No. CL-2014-0001444 (Fx. Co. Cir. Ct.) (Providence District)

15. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Joyce P. Borden*, Case No. CL-2014-0008508 (Fx. Co. Cir. Ct.) (Mount Vernon District)

16. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Janak R. Sachdev and Neelam Sachdev*, Case No. CL-2014-0010732 (Fx. Co. Cir. Ct.) (Mount Vernon District)

17. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. William Bryant Gallagher, Jr.*, Case No. CL-2014-0004199 (Fx. Co. Cir. Ct.) (Dranesville District)

18. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Donald P. Fanelli*, Case No. CL-2014-0010616 (Fx. Co. Cir. Ct.) (Dranesville District)

19. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Young Bong Cho and Young Soo Cho*, Case No. CL-2014-0012410 (Fx. Co. Cir. Ct.) (Springfield District)

20. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Fez Bistro, LLC, Next Merrifalls Plaza LLC, Reese Merrifalls, LLC, Reese Merrifalls Two, LLC, and Janice Yun*, Case No. CL-2014-0012602 (Fx. Co. Cir. Ct.) (Providence District)

21. *Melissa Rioja v. Fairfax County Park Authority and Abasto Howard*, Case No. GV14-014434 (Fx. Co. Gen. Dist. Ct.)

22. *Oscar Benitez v. Fairfax County Risk Management and Herbert Michael Napper*, Case No. GV14-008942 (Fx. Co. Gen. Dist. Ct.)

23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Michael L. Lewis and Sonja B. Lewis*, Case No. GV14-014522 (Fx. Co. Gen. Dist. Ct.) (Lee District)

24. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Yurie C. Chigna*, Case No. GV14-007900 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

25. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Charles R. Gentry*, Case No. GV14-013553 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

26. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Brian A. Robertson*, Case Nos. GV14-011446 and GV14-011447 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

27. *Leslie B. Johnson, Fairfax County Zoning Administrator v. JPMorgan Chase Bank, N.A.*, Case No. GV14-0021529 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

28. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. JPMorgan Chase Bank, N.A.*, Case No. GV14-021528 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Won Pae Kim and Chung Sook Kim*, Case No. GV14-021707 (Fx. Co. Gen. Dist. Ct.) (Lee District)

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Board Agenda Item
October 28, 2014

3:30 p.m.

Public Hearing on SE 2014-MA-012 (AAA Mid-Atlantic, Inc.) to Permit a Vehicle Light Service Establishment and Modifications in a CRD, Located on Approximately 1.06 Acres of Land Zoned C-7, CRD, HC and SC (Mason District)

This property is located on the North side of Arlington Boulevard, East of its intersection with Wilson Boulevard. Tax Map 51-3 ((1)) 35 A pt. and 35 B pt.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, October 23, 2014, the Planning Commission voted unanimously to recommend the following actions to the Board of Supervisors:

- Approval of SE 2014-MA-012, subject to the Development Conditions dated October 23, 2014;
- Modification of the off-street parking requirements of the CRD, to permit the elimination of two parking spaces for the purpose of creating a seating area;
- Waiver of the interior parking lot landscaping requirements of the CRD, in lieu of the alternatives as shown on the proposed plat and as conditioned;
- Modification of the peripheral parking lot landscaping requirements of the CRD, in favor of the alternatives as shown on the proposed plat and as conditioned; and
- Deviation to the tree preservation target, in favor of the alternatives as shown on the proposed plat and as conditioned.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4466957.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Joe Gorney, Planner, DPZ

SE 2014-MA-012 – AAA MID-ATLANTIC, INC.

After Close of the Public Hearing

Chairman Murphy: Without objection, the public hearing is closed. Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. This is – this particular application is in an existing shopping center. This particular pad site has been a restaurant for many, many years and now it will be an automobile facility. It does enjoy the support of Mason District Land Use and I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2014-MA-012, SUBJECT TO DEVELOPMENT CONDITIONS DATED OCTOBER 23RD, 2014.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-MA-012, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall: Following, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE FOLLOWING:

- MODIFICATION OF THE OFF-STREET PARKING REQUIREMENTS OF THE CRD, TO PERMIT THE ELIMINATION OF TWO PARKING SPACES FOR THE PURPOSE OF CREATING A SEATING AREA;

- WAIVER OF THE INTERIOR PARKING LOT LANDSCAPING REQUIREMENTS OF THE CRD, IN LIEU OF THE ALTERNATIVES AS SHOWN ON THE PROPOSED PLAT AND AS CONDITIONED;

- MODIFICATION OF THE PERIPHERAL PARKING LOT LANDSCAPING REQUIREMENTS OF THE CRD, IN FAVOR OF THE ALTERNATIVES AS SHOWN ON THE PROPOSED PLAT AND AS CONDITIONED; AND FINALLY

- DEVIATION TO THE TREE PRESERVATION TARGET, IN FAVOR OF THE ALTERNATIVES AS SHOWN ON THE PROPOSED PLAT AND AS CONDITIONED.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? Ms. Mariska, would you come forward please. You have to ask if she agrees with the conditions.
Commissioner Hall: Well of course she agrees.

Chairman Murphy: Well I know, but you got to ask her.

Commissioner Hall: Well we'll do it again. Ms. Mariska, do you agree with the proposed development conditions contained in the staff report dated October 23rd, 2014?

Sara Mariska, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: Yes, we do.

Chairman Murphy: Thank you very much is there further-

Commissioner Hart: It's not in the staff report.

Commissioner Hall: Well it's in the staff report now.

Commissioner Hart: Second.

Commissioner Hall: It's an attachment.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion, as stated by Ms. Hall, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

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(Each motion carried by a vote of 12-0.)

JLC

Board Agenda Item
October 28, 2014

3:30 p.m.

Public Hearing on SEA 84-D-004-3 (Sunoco, Inc. (R&M)) to Amend SE 84-D-004 Previously Approved for a Service Station and Mini Mart to Replace with a Service Station and Quick Service Food Store and to Permit Associated Modifications to Site Design and Development Conditions, and a Waiver of the Minimum Lot Size and Lot Width Requirements, Located on Approximately 33,220 Square Feet of Land Zoned C-6 (Dranesville District)

This property is located at 2150 Centreville Rd., Herndon, 20170.
Tax Map 16-1 ((1)) 7A.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, October 2, 2014, the Planning Commission voted of 8-0 (Commissioner Hart recused himself from the vote and Commissioners Flanagan, Lawrence, and Litzenberger were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approve SEA 84-D-004-03, subject to Development Conditions consistent with those dated September 25, 2014;

- Approve a waiver of the requirement that surface parking spaces be at least 10 feet away from the street right-of-way along Parcher Avenue; and

- Approve a modification of the requirement that surface parking spaces be at least 10 feet away from the street right-of-way along Centreville Road to that showing on the SEA Plat.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4464476.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Suzanne Lin, Planner, DPZ

SEA 84-D-004-03 – SUNOCO, INC. (R&M)

After Close of the Public Hearing

Chairman Murphy: Without objection, the public hearing is closed – recognize Mr. Ulfelder, please

Commissioner Ulfelder: I would like to ask the representative of the applicant to come forward, please. Ms. Mariska, does the – would you, on behalf of the applicant, confirm that they agree to the conditions consistent with those dated September 25th, 2014, as provided to the Planning Commission electronically and in hard copy?

Sara Mariska, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: Yes, we do agree to those conditions.

Commissioner Ulfelder: Thank you. Okay?

Chairman Murphy: Okay.

Commissioner Ulfelder: I move, Mr. Chairman – I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 84-D-004-03, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED SEPTEMBER 25TH, 2014.

Commissioners Hedetniemi and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motions to recommend to the Board of Supervisors that it approve SEA 84-D-004-03, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: I ALSO MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE REQUIREMENT THAT SURFACE PARKING SPACES BE AT LEAST 10 FEET AWAY FROM THE STREET RIGHT-OF-WAY ALONG PARCHER AVENUE.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion – that motion? All those in favor, say aye.
Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE REQUIREMENT THAT SURFACE PARKING SPACES BE AT LEAST 10 FEET AWAY FROM THE STREET RIGHT-OF-WAY ALONG CENTREVILLE ROAD TO THAT SHOWN ON THE SEA PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: Thank you.

Chairman Murphy: Thank you.

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(The motions carried by a vote of 8-0. Commissioner Hart recused himself from the vote. Commissioners Flanagan, Lawrence, and Litzenberger were absent from the meeting.)

JLC

Board Agenda Item
October 28, 2014

3:30 p.m.

Public Hearing on RZ 2013-PR-009 (Tysons Westpark, L.C.) to Rezone from C-7, HC and SC to PTC, HC and SC to Permit Mixed Use Development with an Overall Floor Area Ratio up to 6.37 to Approve the Conceptual Plans, and to Approve Waiver # 826-WPFM-002-1 to Permit the Location of Underground Storm Water Management Facilities in a Residential Development, Located on Approximately 5.37 Acres of Land (Providence District)

This property is located in the S.E. quadrant of the intersection of Leesburg Pike and Westpark Drive. Tax Map 29-3 ((15)) 8.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, October 23, 2014, the Planning Commission voted11-0-1 (Commissioner de la Fe abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2013-PR-009, subject to the proffers dated October 23, 2014;
- Waiver of Section 2-505 of the Zoning Ordinance to permit structures and vegetation on a corner lot as shown on the CDP/FDP;
- Waiver of Paragraph 7 of Section 6-505 of the Zoning Ordinance requiring the designation of specific outdoor dining areas on the CDP to that as contained in the proffers;
- Waiver of Paragraph 1 of Section 6-506 to allow a district size of less than 10 acres for an application;
- Modification of Paragraph 3E of Section 10-104 to permit a maximum fence height of eight feet around outdoor recreational courts/fields shown on an FDP;
- Modification of Section 11-201 and 11-203 of the Zoning Ordinance to permit a reduction in the required number of loading spaces to that shown on the CDP/FDP;
- Modification of Paragraph 12 of Section 11-102 and Paragraph 1 of Section 6-509 of the Zoning Ordinance to allow for tandem spaces and valet spaces controlled by building management to count towards required parking specified in

the Zoning Ordinance;

- Modification of Paragraph 4 of Section 11-202 of the Zoning Ordinance requiring a minimum distance of 40 feet of a loading space in proximity to drive aisles, to that shown on the CDP/FDP;

- Waiver of Section 11-302 of the Zoning Ordinance to allow a private street to exceed 600 feet in length as shown on the CDP;

- Waiver of the service drive requirement along Leesburg Pike;

- Modification of Section 17-201 of the Zoning Ordinance to permit the streetscape and on-road bike lane system shown on the CDP/FDP in place of any trails and bike trails shown for the subject property on the Comprehensive Plan;

- Waiver of Paragraph 3 of Section 17-201 of the Zoning Ordinance to provide any additional interparcel connections to adjacent parcels beyond that shown on the CDP/FDP and as proffered;

- Waiver of Paragraph 4 of Section 17-201 of the Zoning Ordinance requiring any further dedication, construction, or widening of existing roads beyond that which is indicated on the CDP/FDP and proffers;

- Waiver of Paragraph 7 of Section 17-201 of the Zoning Ordinance to permit the applicant to establish parking control signs and parking meters along private streets within and adjacent to the development;

- Modification of Section 12-0508 of the PFM to allow for tree preservation target deviations as justified by PFM 12-0508.3A(1) and 3A(3);

- Modification of Section 12-0510 of the PFM to permit trees located in rights-of-way and easements to count toward the 10-year tree canopy requirement subject to the proffered replacement provisions; and

- Waiver to allow the use of underground stormwater management and best management practices in a residential development (826-WPFM-002-1) subject to the Conditions dated August 26, 2014, contained in Attachment A of Appendix 11 of the staff report.

In a related action, the Planning Commission voted voted11-0-1 (Commissioner de la Fe abstained from the vote) to approve FDP 2013-PR-009, subject to the Development Conditions dated October 8, 2014 and subject to the Board of Supervisors' approval of RZ 2013-PR-009.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4466543.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Bob Katai, Planner, DPZ

RZ/FDP 2013-PR-009 – TYSONS WESTPARK, LC

Decision Only During Commission Matters
(Public Hearing held on October 22, 2014)

Commissioner Lawrence: And lastly tonight, we had a case that we had a public hearing on last night. And because we got the staff report late, I deferred the decision until tonight to give everybody a chance to have a look. And the applicant is present. Are there any further – oh, we did get a revised version of Proffer 15A today by email, which addresses the question about the inclusion of vaults. And we also got a list of waivers and modifications, which I am going to move on block. Does anyone have any further questions of the applicant?

Chairman Murphy: Apparently not.

Commissioner Lawrence: Seeing and hearing none. Mr. Chairman, before we go on verbatim, I would like to make a very brief comment. This case shows a number of things. One, this is a very small site in comparison to the size of sites we are looking for in Tysons for the PTC. However, the applicants in this case and those adjacent have done very closely-coordinated planning to the point where I think we can say it amounted to concurrent planning for it. And that allowed us to develop a coherent urban environment to cover that much land at least. I think that was very important. Secondly, this case illustrates the flexibility that we have in the plan. Specifically, some adjustment was made to the height limitations on some of the buildings that the applicant proposes. No one should think that that flexibility extends across Tysons. That is peculiar to this site and the balance that was reached for staff approval and my concurrence on this site. Thirdly, we have flexibility of proffers. The applicant has done their best to look into the future and future-proof what we're going to have to have in the way of proffers. We know for sure that we don't know what's going to take place, but we are confident that it's going to be a long time to go through the redevelopment of Tysons. I think this case illustrates that very nicely. Finally, it was due to the cooperation of the applicant and the work with staff that we ended with a very nice piece of work. Thank you, Mr. Chairman. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2013-PR-009, SUBJECT TO THE PROFFERS DATED OCTOBER 23RD, 2014.

Commissioners Hart and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Hart and Ms. Hedetniemi. 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 2013-PR-009, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?
Commissioner de la Fe: Abstain.

Chairman Murphy: Motion carries. Mr. de la Fe abstains.

Commissioner de la Fe: Not present.

Chairman Murphy: Not present for the public hearing.

Commissioner Lawrence: Next, Mr. Chairman, I need the applicant. Ms. Baker, would you please come down? Ms. Baker, will you confirm for the record that the applicant agrees to the proposed development conditions now dated October 8th, 2014?

Elizabeth Baker, Agents Applicant, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: I do confirm it.

Commissioner Lawrence: Thank you very much.

Chairman Murphy: Would you just identify yourself for the record, please?

Ms. Baker: Elizabeth Baker, Walsh Colucci.

Chairman Murphy: Thank you. Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2013-PR-009, SUBJECT TO DEVELOPMENT CONDITIONS DATED OCTOBER 8, 2014 AND SUBJECT TO THE BOARD'S APPROVAL OF RZ 2013-PR-009.

Commissioners Hart and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion of the motion? All those in favor of the motion to approve FDP 2013-PR-009, subject to the approval by the Board of Supervisors of the Rezoning and the Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Lawrence: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS, AS LISTED IN THE HANDOUT DATED OCTOBER 23RD, 2013, that was provided today –

Commissioner Hart: Second.

Commissioner Lawrence: -and which shall be made a part of the record of this case.

Commissioners Hart and Hedetniemi: Second.
Chairman Murphy: Same seconds. We just saved an hour and a half, by the way. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Lawrence: Mr. Chairman, thank you very much indeed. Thank you, Bobby. Thank you, Elizabeth and the applicant's team.

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(Each motion carried by a vote of 11-0-1. Commissioner de la Fe abstained.)

JLC

Board Agenda Item
October 28, 2014

3:30 p.m.

Public Hearing on AR 97-D-002-02 (Charles E. Jenkins, TR.) to Permit Renewal of a Previously Approved Agricultural and Forestal District, Located on Approximately 21.24 Acres of Land Zoned R E (Dranesville District)

This property is located at 10509 Beach Mill Road, Great Falls, 22066. Tax Map 3-4 ((1)) 44Z, 45Z, and 46Z.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 22, 2014, the Planning Commission voted 11-0 (Commissioner de la Fe was absent from the meeting) to recommend that the Board of Supervisors approve the request to amend Appendix F of the Fairfax County Code to renew the Jenkins Local Agricultural and Forestal District subject to the Ordinance Provisions dated October 15, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Transcript Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4467035.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

AR 97-D-002-02 – CHARLES JENKINS

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; right.

Commissioner Ulfelder: Thank you, Mr. Chairman. This is right next to one we recently recommended approval, and it was approved by the Board, up in northern Great Falls. The – so, I'm going to MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT AR 97-D-002-02 BE APPROVED AND APPENDIX F OF THE FAIRFAX COUNTY CODE BE AMENDED TO RENEW THE JENKINS LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO ORDINANCE PROVISIONS DATED OCTOBER 15TH, 2014.

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 to approve AR 97-D-002-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried by a vote of 11-0. Commissioner de la Fe was absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

3:30 p.m.

Public Hearing on SE 2014-SU-023 (Meenakshi Verma Stringfellow Home Child Care) to Permit a Home Child Care Facility, Located on Approximately 1,120.00 Square Feet of Land Zoned PDH-8 and WS (Sully District)

This property is located at 5031 Cool Fountain Ln., Centreville, 20120. Tax Map 55-1 ((26)) 115.

This public hearing was deferred by the Board of Supervisors on October 7, 2014 until October 28, 2014, at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, September 17, 2014, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to recommend that the Board of Supervisors approve SE 2014-SU-023, subject to the Development Conditions consistent with those dated September 3, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4461770.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Michael Lynskey, Planner, DPZ

Attachment 1

Planning Commission Meeting
September 17, 2014
Verbatim Excerpt

SE 2014-SU-023 – MEENAKSHI VERMA SPRINGFELLOW HOME CHILD DAY CARE

After Close of the Public Hearing

Chairman Murphy: Without objection – public hearing is closed. Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Ms. Verma, could you please come up to the podium one more time please? The staff asked me – I have a request here. I – I request that the applicant confirm for the record agreement to the proposed development conditions dated September 3rd, 2014.

Meenakshi Verma, Applicant: Yes.

Commissioner Litzenberger: Okay, thank you. You may sit down.

Ms. Verma: Thank you.

Commissioner Litzenberger: Okay, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2014-SU-023, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED SEPTEMBER 3RD, 2014.

Commissioners Flanagan and Hall: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hall. 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 2014-SU-023, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you, ma'am. Good luck to you.

//

(The motion carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.)

JLC

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on SEA 90-S-021 (Milestone Tower LP, III D/B/A Milestone Communications and Cellco Partnership D/B/A Verizon Wireless) to Amend SE 90-S-021 Previously Approved for Electric Substation to Permit a Telecommunication Facility and Associated Modifications to Site Design and Development Condition, Located on Approximately 2.76 Acres of Land Zoned R-C and WS (Sully District)

This property is located at 15001 Lee Highway, Centreville, 20121. Tax Map 64-2 ((3)) 26A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 22, 2014, the Planning Commission voted 10-0 (Commissioner Sargeant recused himself from the public hearing and Commissioner de la Fe was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 90-S-021, subject to development conditions consistent with those dated October 15, 2014;

- Approval of a modification of transitional screening requirements per Section 13-305, Paragraph 3, to consider existing vegetation and proposed vegetation, as depicted on the SEA plat and as conditioned, as satisfying requirements;

- Approval of a modification of the barrier requirements to consider the existing 11-foot chain-link fence with slats and the proposed 8-foot chain-link fence with slats, as depicted on the SEA plat, as satisfying requirements;

- Continuation of a waiver of the service drive requirement along lee highway; and

- Direct the Director of the Department of Public Works and Environmental Services to continue a waiver of the dustless surface requirement of the PFM, to allow the gravel driveway and parking areas shown on the SEA plat.

In related actions, the Commission voted 10-0 (Commissioner Sargeant recused himself from the public hearing and Commissioner de la Fe was absent from the meeting) to approve 2232-Y13-10. The Commission noted that the applications, met the criteria of character, location and extent, and was in conformance with Section 15.2-2232 of the *Code of Virginia,* as amended.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4467036.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

SEA 90-S-021/2232-Y13-10 – MILESTONE TOWER LP, III d/b/a MILESTONE COMMUNICATIONS AND CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman, if you'd kind of bear with me here. I originally had one motion and now, I'm up to seven.

Commissioner Lawrence: Keep working.

Commissioner Litzenberger: Mr. Stearns, will you please confirm for the record the agreements of the proposed development conditions dated October 15th, 2014?

Frank Stearns, Esquire, Applicant's Agent, Donohue & Stearns, PLC: I do.

Commissioner Litzenberger: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 90-S-021, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED OCTOBER 15TH, 2014.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 90-S-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF TRANSITIONAL SCREENING REQUIREMENTS PER SECTION 13-305, PARAGRAPH 3, TO CONSIDER EXISTING VEGETATION AND PROPOSED VEGETATION, AS DEPICTED ON THE SEA PLAT AND AS CONDITIONED, AS SATISFYING REQUIREMENTS.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi and Mr. Flanagan. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE BARRIER REQUIREMENTS TO CONSIDER THE EXISTING 11-FOOT CHAIN-LINK FENCE WITH SLATS AND THE PROPOSED 8-FOOT CHAIN-LINK FENCE WITH SLATS, AS DEPICTED ON THE SEA PLAT, AS SATISFYING REQUIREMENTS.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Excuse me. I MOVE THAT THE PLANNING COMMISSION RECOMMEND A CONTINUATION OF A WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG LEE HIGHWAY.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Our enthusiasm is waning. I'm not quite sure, but okay.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND DIRECTION TO THE DIRECTOR OF DPWES TO CONTINUE A WAIVER OF THE DUSTLESS SURFACE REQUIREMENT OF THE PFM, TO ALLOW THE GRAVEL DRIVEWAY AND PARKING AREAS SHOWN ON THE SEA PLAT.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Motion carries.

Commissioner Litzenberger: Okay, Mr. Chairman. Moving onto the 2232.

Chairman Murphy: I can hardly wait.

Commissioner Litzenberger: Okay. I CONCUR WITH STAFF'S CONCLUSION THAT THE PROPOSED MILESTONE COMMUNICATIONS, INC., AND VERIZON WIRELESS TO CONSTRUCT A 30-foot tall [*sic*] – 130-FOOT TALL LATTICE TOWER, LOCATED AT 1501 LEE HIGHWAY [*sic*] , CENTREVILLE, VIRGINIA, SATISFIES THE CRITERIA OF LOCATION, CHARACTER AND EXTENT, AS SPECIFIED IN *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED. THEREFORE, MR. CHAIRMAN, I MOVE THAT THE PLANNING COMMISSION FIND SUBJECT APPLICATION 2232-Y-10 [*sic*] SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion to approve 2232-

Michael Lynskey, Zoning Evaluation Division, Department of Planning and Zoning: Excuse me.

Commissioner Hall: Wait, Mr. Chairman. Wait, Mr. Chairman.

Mr. Lynskey: The number of the 2232 – it's 2232-Y13-10.

Commissioner Litzenberger: What did I say?

Mr. Lynskey: "Y".

Commissioner Hall: Just, you transposed the two.

Commissioner Litzenberger: Okay, my dyslexia came to the surface.

Chairman Murphy: So noted. All those in favor of the motion to approve 2232-Y13-10, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried by a vote of 10-0. Commissioner Sargeant recused himself from the public hearing. Commissioner de la Fe was absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on SE 2014-SU-021 (Gay Ann Schulte D/B/A Ms. Gay's Day Care) to Permit a Home Child Care Facility, Located on Approximately 8,174 Square Feet. of Land Zoned PDH-4 and WS (Sully District)

This property is located at 5874 Linden Creek Ct., Centreville, 20120. Tax Map 53-2 ((7)) 23.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 8, 2014, the Planning Commission voted 10-0 (Commissioners Litzenberger and Ulfelder were absent from the meeting) to recommend that the Board of Supervisors approve SE 2014-SU-021, subject to the Development Conditions dated September 23, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4465214.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Planning Commission Attachment 1
Verbatim Excerpt
October 8, 2014

SE 2014-SU-021 – GAY ANN SCHULTE d/b/a MS. GAY'S DAY CARE

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. Hart.

Commissioner Hart: This is a very straightforward case and it has staff's favorable recommendation, and it also has the support of the West Fairfax County Citizens Association. And for the reasons in the staff report, I WOULD MOVE THAT WE RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS OF SE 2014-SU-021, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 23, 2014.

Commissioners Sargeant and Hall: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Ms. Hall. 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 2014-SU-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Litzenberger and Ulfelder were absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on SE 2014-MV-014 (Fozia Hussain/Kids Club Infant Day Care) to Permit a Home Child Care Facility, Located on Approximately 9,023 Square Feet of Land Zoned PDH-4 (Mount Vernon District)

This property is located at 8156 American Holly Road, Lorton, 22079. Tax Map 107-1 ((5)) (C) 11.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October15, 2014 the Planning Commission voted 9-0 (Commissioner Ulfelder abstained from the vote and Commissioners Litzenberger and Murphy were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2014-MV-014, subject to the Development Conditions dated October 15, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4465151.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nick Rogers, Planner, DPZ

Planning Commission Attachment 1
Verbatim Excerpt
October 15, 2014

SE 2014-MV-014 – FOZIA HUSSAIN/KIDS CLUB INFANT DAY CARE, LLC

Decision Only during Commission Matters
(Public Hearing held on 10/8/14)

Commissioner Flanagan: The next decision only that is on the agenda is for the childcare application SE 2014-MV-014, Fozia Hussain for the Kids Club Infant Day Care Center. The public hearing was on the 10th - October the 8th, rather - and at that meeting, there was quite a lively debate amongst the commissioners with the applicant about concerns over safety issues primarily, and each of those - - There were many good suggestions from the commissioners and I noted all of them down very carefully and so did the staff. And Nick Rogers, in particular, has done just a wonderful job, I think, of fashioning changes to the conditions that resolve, I think, all of the concerns that were brought up by the commissioners. You received a red-line copy of that earlier and tonight you have before you the – the memo from Nick for – for one – for the application SE 2014-MV-014. So based upon that, I'm going to move and ask your support for the application, which would be to - - let's see. I want to make sure I've got the right date down here – that I move that the planning - - well, that I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2014-MV-014, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED OCTOBER 15TH, 2014.

Commissioner Sargeant: Second.

Vice Chairman de la Fe: Seconded by Commissioner Sargeant. Is there any discussion? I have – I would request on behalf of the Commission, if the applicant is here, to please step forward and identify yourself.

Fozia Hussain, Owner, Kids Club Infant Day Care Center: Good evening. My name is Fozia Hussain.

Vice Chairman de la Fe: Thank you very much. You are the applicant of the subject application which has been proposed for recommendation of approval, with - subject to new development conditions dated October 15th. Do you agree with those –

Ms. Hussain: Yes.

Vice Chairman de la Fe: – development conditions?

Ms. Hussain: Yes.

Vice Chairman de la Fe: You do? Thank you very much.

Ms. Hussain: Thank you.

Vice Chairman de la Fe: So it's been moved and seconded and, is there any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Ulfelder: I abstain. I was not present for the hearing.

Vice Chairman de la Fe: It's been – recommended approval with Commissioner Ulfelder abstaining; not present for the public hearing.

//

(The motion carried by a vote of 9-0. Commissioner Ulfelder abstained from the vote. Commissioners Litzenberger and Murphy were absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on the Proposed Comprehensive Plan Amendment 2013-CW-T2, Including Adoption of the Fairfax County Bicycle Master Plan and Related Modifications to the Transportation Policy Plan and 2002 Countywide Trails Plan Map

ISSUE:
Plan Amendment 2013-CW-T2 proposes to incorporate the recommendations of the Bicycle Master Plan into the Comprehensive Plan. The Bicycle Master Plan articulates the vision, goals, and objectives for bicycling in Fairfax County. The plan identifies facility design improvements to the County's transportation network, as well as policy and program recommendations. As a blueprint for building a connected network of bicycle facilities for all users, the Bicycle Master Plan seeks to make bicycling safe and comfortable and create a viable mode of transportation.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 15, 2014, the Planning Commission voted 10-0 (Commissioners Litzenberger and Murphy were absent from the meeting) to recommend to the Board of Supervisors approval of Plan Amendment 2013-CW-T2, as modified by the memo dated October 15, 2014. This recommendation proposes to:

- Incorporate the Bicycle Master Plan into the Transportation section of the Policy Plan as a new Appendix 5. Chapters 1 – 4 are recommended to be incorporated as part of the Comprehensive Plan, with Chapters 5 and 6 endorsed in concept. These two chapters are oriented to policy and programmatic approaches, which while outside the purview of the Comprehensive Plan, will be useful in implementing the plan;
- Adopt modifications to the Introduction and Countywide Goals and Objectives and Policies and appendices of the transportation section of the Policy Plan to reflect updated terminology, definitions, and best practices as referenced in the Bicycle Master Plan;
- Amend the Countywide Trails Plan Map by removing the "On Road Bicycle Route" classification and associated text;
- Adopt, as part of the Bicycle Master Plan; the Recommended Bikeway Network Map. Similar to the Countywide Trails Plan Map and Transportation Plan Map, this map graphically delineates specific facility design recommendations; and
- Adopt the modifications to the figures and accompanying text in each Area Plan volume to be consistent with the adopted Fairfax County Recommended Bicycle Network Map and Countywide Trails Plan Map.

Board Agenda Item
October 28, 2014

RECOMMENDATION:
The County Executive recommends that the Board adopt the Planning Commission's recommendation for Comprehensive Plan Amendment 2013-CW-T2.

TIMING:
Planning Commission Public Hearing – October 1, 2014
Planning Commission Decision Only – October 15, 2014
Board of Supervisors Public Hearing - October 28, 2014

BACKGROUND:
In 2009, the Board of Supervisors directed staff of the Department of Transportation to move forward with preparing a bicycle master plan for the County. Work commenced on the plan in late 2010. Due to the rapid pace of planning actions in the Tysons area, the project was broken into two phases: Phase I encompassed a three mile radius around Tysons and included portions of Vienna, McLean and Falls Church. Phase II included the rest of the County and was initiated in 2012. Both phases have been merged into one document.

The Bicycle Master Plan represents a four-year work effort by the Fairfax County Department of Transportation, the Department of Planning and Zoning, and the commitment of the 26 members of the Bicycle Advisory Committee; a committee formed of staff from various county agencies and committees, the Virginia Department of Transportation, the Towns of Herndon and Vienna, bicycle shop owners, and local bicycle advocates. The plan also reflects the culmination of comments and suggestions as a result of an extensive public outreach effort; over 30 public information meetings were conducted as part of this project (including three meetings held this fall) as well as an on-line survey.

The master plan articulates the vision, goals, and objectives for bicycling in Fairfax County. The plan identifies facility design improvements to the County's transportation network, as well as policy and program recommendations. It sets a course for the change that needs to happen to make Fairfax County a bicycle friendly community.

The plan provides a blueprint for building a connected network of bicycle facilities for all users, making bicycling safe and comfortable and a viable mode of transportation. It also addresses broad policies and programmatic recommendations, including education, enforcement, encouragement, maintenance, funding, and performance measures.

While some of the plan recommendations can be accomplished quickly and cost effectively through programs such as VDOT's repaving program, others will span a 10-

30 year time frame and be completed as part of the County's redevelopment efforts or be implemented in conjunction with the construction of transportation network improvements as defined on the County's Transportation Plan Map.

The plan is robust. While the 2002 Countywide Trails Plan Map identified a single category of "on-road bike routes", the 2014 Recommended Bikeway Network Map(s) identifies a detailed network of bicycle facilities that includes both on and off road facilities. This detailed network outlines facility design recommendations including: bike shoulders, bike lanes, buffered bike lanes, climbing lanes, separated bike lanes (cycle tracks), shared lanes, shared lanes with safety improvements, transportation trails, and policy roads (arterial roadways requiring further study). It also addresses missing connections and barriers; defines best practices to improve interchanges and intersections for biking and walking; and addresses the need for improved/enhanced bicycle parking.

While the plan identifies over 1,000 miles of specific bicycle facility recommendations, it is important to note that a large percentage of these on-road facilities can be achieved by simply reconfiguring existing pavement markings through; road diets such as Soapstone Drive and Lawyers Road, lane diets similar to Courthouse Road and Sully Park Drive, on-street parking restrictions, or shoulder improvements. Almost all of the County's existing on-road bike lanes have been installed at little or no cost as part of the VDOT's annual repaving program.

Program recommendations and implementation guidelines are quantified in Chapters 5 and 6 respectively. Bicycle program recommendations include:

- Encouragement
- Safety education
- Improving bicycle access to schools
- Law enforcement
- Maintenance

Chapter addresses implementation strategies and covers topics including:

- Strengthening the bike program
- Implementation Policies
- Funding
- Interagency and Interjurisdictional Coordination
- Performance Measures

FISCAL IMPACT:
No new funding is being requested as part of this amendment. Funding for bicycle projects is included as part of the FCDOT's Six–Year Transportation Program as approved by the Board.

Board Agenda Item
October 28, 2014

ENCLOSED DOCUMENTS:
Attachment I: Staff Report for Plan Amendment 2013-CW-T2
Attachment II: PC Verbatim, Excerpt
Attachment III: Memo dated October 15, 2014 from Charlie Strunk to the Fairfax County Planning Commission
Attachment IV: Fairfax County Bicycle Master Plan (hard copy provided to Board members); also available online at: www.fairfaxcounty.gov/fcdot/bike/bike_master_plan

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division CPOD, FCDOT
Charlie Strunk, Bicycle Program Coordinator, CPOD, FCDOT
Daniel B. Rathbone, Chief, Transportation Planning Division TPD, FCDOT
Leonard Wolfenstein, Chief, Transportation Planning Section, TPS, FCDOT
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Planning Division, DPZ

PROPOSED COMPREHENSIVE PLAN AMENDMENT

ITEM: 2013-CW-T2
September 17, 2014

GENERAL LOCATION: Countywide

SUPERVISOR DISTRICT: All

PLANNING AREA: All

PLANNING DISTRICT: All

SUB-DISTRICT DESIGNATION: All

PARCEL LOCATION: All

Bicycle Master Plan Amendment
For additional information about this amendment call (703) 324-1100.

PLANNING COMMISSION PUBLIC HEARING:
Wednesday, October 1, 2014 @ 8:15 P.M.

BOARD OF SUPERVISORS PUBLIC HEARING:
Tuesday, October 28, 2014 @ 4:00 P.M.

PLANNING STAFF DOES RECOMMEND THIS ITEM FOR PLAN AMENDMENT

Reasonable accommodation is available upon 7 days advance notice. For additional information about accommodation call (703) 324-1100.

MAP NOT APPLICABLE

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STAFF REPORT FOR COUNTYWIDE PLAN AMENDMENT
BICYCLE MASTER PLAN
2013-CW-T2

I. BACKGROUND

The Fairfax County Comprehensive Plan consists of the Policy Plan, Area Plans, the Comprehensive Land Use Plan Map, the Transportation Plan Map, and the Countywide Trails Plan Map. The purpose of the Policy Plan is to provide a concise statement of objectives, policies, and guidelines for implementing the County's goals as they related to the future development pattern of the built and natural environment in Fairfax County. The Policy Plan covers eleven functional elements, one of which is Transportation.

The 2013 edition of the Fairfax County Comprehensive Plan includes a Transportation element that identifies 13 objectives and supporting policies that provide the framework for the continued development of the County's transportation system in the face of continued population and employment growth as well as changing characteristics of the population. The Transportation element presents a Board of Supervisors' goal which states in part:

> *"A keystone policy for future planning and facilities includes achievement of a multi-modal transportation system to reduce excessive reliance upon the automobile. Regional and local efforts will focus on planning and developing a variety of transportation options. Sidewalks, trails and on-road bicycle routes should be developed as alternate transportation facilities leading to mass transit, high density areas, public facilities and employment areas."*

This Comprehensive Plan amendment consists of recommended Policy and Area Plan revisions and a new Bicycle Network map. The amendment will serve as a guide for the Board of Supervisors, the Planning Commission, the Board of Zoning Appeals, County staff, developers and the citizens of Fairfax County with respect to the planning and design of on and off-road bikeways in the County. Additional guidance related to bicycle facility design, maintenance, implementation and outreach provided in chapters 4, 5, and 6 of the Bicycle Master Plan document. These chapters are separate from the plan amendment and are included for reference only. It is proposed that these three chapters will be endorsed in concept by the board.

Specific guidance on how this Comprehensive Plan amendment is proposed to be interpreted and used by Fairfax County on an ongoing basis follows:

- The Virginia Department of Transportation (VDOT), Fairfax County Department of Transportation (FCDOT), the Department of Public Works and Environmental Services (DPW&ES), developers and others undertaking actions that have an impact upon, present an opportunity for, or have potential nexus with the facilities, policies,

and programs referenced in this Plan should accommodate the recommendations of this Plan in their own planning, maintenance, and capital improvement projects.

- It is expected that private developers, VDOT, and Fairfax County will construct or fund construction of various physical improvements and programmatic elements of this Plan.

- This Plan does not apply to roadways in jurisdictions near or within Fairfax County, such as the Cities of Fairfax and Falls Church, and the Towns of Clifton, Herndon, and Vienna. Facility recommendations appearing within these jurisdictions should be considered advisory. Recommendations for these jurisdictions are provided to facilitate coordination in the planning of a network of bikeways that function seamlessly across jurisdictional boundaries.

Bicycling conditions in Fairfax County today vary greatly depending on location. Bicyclists have access to excellent regional trail networks including the Washington & Old Dominion Trail, a 45-mile multi-use rail-trail that is owned and operated by the Northern Virginia Regional Park Authority (NVRPA). There is an extensive network of shared use paths throughout portions of the county including the Cross County Trail (CCT). As part of the county's bicycle program initiative, on-road bike lanes, wide curb lanes, and new pavement markings and signage are being installed countywide. Many existing neighborhood streets are relatively bicycle-friendly; however, in most neighborhoods, connectivity from these streets to nearby destinations is inadequate, limiting their ability to serve as an alternative to busy arterials. Areas of the county such as Tysons, Transit Station Areas, Suburban Centers and various Community Business Centers are slated to become more urban through zoning changes consonant with the Comprehensive Plan guidance and the introduction of high frequency bus and rail transit. If planned and designed well, the new mixed-use communities that emerge will be walkable, transit-oriented and bicycle-friendly hubs that will stimulate and facilitate increases in bicycling for transportation.

Nevertheless, there are serious and significant constraints to bicycling in Fairfax County today. Unfortunately, many of the existing shared use paths are in poor condition or lack connectivity. Many stream valley park trails have limited use for transportation due to the prevalence of fair-weather stream crossings, lack of access points, lack of wayfinding signs, limited width and/or lack of all-weather surfaces. Linear barriers such as I-495, I-66, the Dulles Toll Road and their large interchanges divide neighborhoods from each other and make it very difficult to travel by bike. Many commercial employment and retail centers lack adequate bike parking and are accessible only by roads that experience large volumes of traffic and high speeds. These characteristics, combined with large intersections and aggressive driver behavior, limit bicycling as a transportation choice for many short trips. Many of the county's rural areas can also be difficult to traverse on a bicycle. Many of these more rural roads were constructed prior to the 1930's and consist of narrow lanes with little or no shoulders and geometric conditions (e.g. sharp horizontal and vertical curvature, limited sight distances) that do not meet today's standards. These physical

limitations are further exacerbated by motorists not accustomed to sharing the road. Efforts by local residents to preserve the character of these roadways have resulted in several being listed on the National Trust for Historic Places or designated as historic by-ways. These designations, in some instances, place limitations on certain roadway improvements hindering efforts to improve both the walking and biking environment.

The Fairfax County Bicycle Master Plan builds on the Fairfax County Bicycle Route Map, released on May 16, 2008, and the Tysons Corner Bicycle Master Plan, segments of which were adopted as part of the Tysons Comprehensive Plan in 2010. The Fairfax County Bicycle Route Map was a top priority of the Board of Supervisors, and shows a network of existing preferred and less preferred bicycle routes connecting all of Fairfax County. The Tysons Corner Bicycle Master Plan was developed as the first phase of the Countywide Bicycle Master Plan enabling coordination with the introduction of Metro's Silver Line and the land use changes ongoing and anticipated in Tysons. The new countywide plan builds on the recommended network, policies and programs identified in the Tysons Corner Bicycle Master Plan, while more broadly addressing bicycle access throughout Fairfax County. Policy and program recommendations in the Tysons Corner Bicycle Master Plan specific to Tysons are incorporated within the Fairfax County Bicycle Master Plan. The recently adopted Innovation Center South and the Reston Transit Station Areas Comprehensive Plans are examples of how those goals of the Fairfax County Bicycle Master Plan have been incorporated to increase bicycle access in transit oriented areas.

Extensive public outreach was conducted as part of this plan development including:

- A Bicycle Advisory Committee (BAC) was specifically formed for this project and met throughout the duration of the process.
- Eight sub-area public meetings were held from Fall 2011 through Spring 2012.
- Four Countywide public meetings were held, two in Spring 2012 and two in Spring 2014.
- A series of focus group meetings were conducted covering the following topics: Economic Impacts, Biking and Health, Bike Safety Education, Schools, Transportation, and Law Enforcement Issues.
- Technical outreach meetings were held to engage stakeholders such as VDOT and the Fairfax County Park Authority.
- Extensive field inventories were conducted and existing plans and studies were reviewed and incorporated.

The bicycle facility and policy recommendations included in this Comprehensive Plan amendment represent a shift in how bicycle planning and design will be approached in Fairfax County. Moving forward, it is assumed and expected that bicycles will be treated as valid users of the roadway and accommodated as a necessary element of all roadway improvement projects. Private and public development along roads included within the Countywide Bicycle Network will be expected to contribute to the vision of a place that meets the needs of bicyclists today while encouraging more people to ride in the future.

This expectation is fully consistent with direction established in the county's adopted Transportation element of the Policy Plan, VDOT's Statewide Bicycle Policy Plan, and other local, regional, state, and national documents. The information in the Fairfax County Bicycle Master Plan provides direction and guidance on how to implement policies already established and adopted at the highest levels of Fairfax County and VDOT.

II. Summary of Changes

The following is a summary of the proposed amendments to Volumes I-IV of the Area Plans of the Fairfax County Comprehensive Plan, 2013 Edition and the Transportation element of the Policy Plan.

Comprehensive Plan, 2013 Edition, Volumes I-IV

Terminology and plan discrepancies have been resolved and/or clarified. All figures titled, "Planned Trail System" have been deleted. Bicycle maps for Baileys, Franconia-Springfield, Reston, and Dulles Suburban Center have been updated.

Policy Plan

The **INTRODUCTION** will be expanded to include the history of the Fairfax County bicycle program and expand on the need to improve infrastructure and connectivity and to encourage bicycling as a safe and realistic mode of transportation.

The **COUNTYWIDE OBJECTIVES AND POLICIES** will be updated and clarified with references to the Bicycle Master Plan. Only those Objectives that require modifications or deletions have been included in this staff report.

FIGURE 2, THE COUNTYWIDE TRAILS MAP, ADOPTED JUNE 17, 2002 (Attached) will have a notation added instructing users to refer to the 2014 Recommended Bicycle Network Map (Attached) for all bicycle elements. All on-road bike routes as shown will be removed from the Countywide Trails Plan Map including the map key referencing "On Road Bike Route." The 2002 Countywide Trails Plan Map will continue to be used for trails used primarily for recreational purposes including stream valley trails, park trails, and equestrian trails. Some recreational trails with transportation benefit are additionally included in the 2014 Recommended Bicycle Network Map. FIGURE 3, 2014 Recommended Bicycle Network Map will be added to the Transportation element of the Policy Plan

A new **Appendix 5, Fairfax County Bicycle Master Plan (Attached)** will be introduced. Chapters 1, 2, 3 and 4 of the Bicycle Master Plan will be incorporated into the Policy Plan. Chapters 5, and 6, are oriented to technical and programmatic approaches that, while outside the purview of the Comprehensive Plan, will be useful in implementing bikeway network recommendations. Chapters 5 and 6 will not be incorporated into the Policy Plan but are included in this package for information.

III. Recommended Modifications to the Fairfax County Comprehensive Plan, 2013 edition, Area Plans I, II, III, and IV

Staff recommends the following modification/deletions to the Area Plans. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strikethrough.~~

Many of the Planning Sectors include a figure titled, "Planned Trail System." In most cases, this figure is blank and states, "Trails Plan Map for this Sector Under Construction". Staff determined that these figures are no longer necessary and can be deleted. In addition to deleting these figures, accompanying trails recommendations referring to these figures will be modified. Staff recommends that the narrative be modified by deleting the reference to the figure and, instead, referencing both the Countywide Trails Plan Map and Bicycle Network Maps. The following modified narrative is applicable to all Planning Sectors;

Trails and Bicycle Facilities

Trails planned for this sector are delineated ~~on Figure 35 and~~ on the 1":4,000' Countywide Trails Plan Map which is referenced as Figure 2 in the Transportation element of the Policy Plan and is available from the Department of Transportation. Trails in this sector are an integral part of the overall county system. While some of the segments have already been constructed, the Countywide Trails Plan Map portrays the ultimate system for the sector and the county at large. In addition, the map specifies a classification for each segment, which represents the desired ultimate function and surface type of the trail. Specific construction requirements are detailed in the Public Facilities Manual.

Bicycle Facilities for this sector are delineated on the 1":4000' Countywide Bicycle Network Map which is referenced as Figure 3 in the Transportation element of the policy Plan and is available from the Department of Transportation.

The following matrix identifies the figures to be deleted, the page where they are located, and the page number where the accompanying recommendation can be found.

Area	Planning District	Page #	Figure #	Trails Recommd. Page #
I	Annandale	98	35	97
	(as amended through 4-29-2014)	105	39	102
		113	43	111
		121	48	120
		128	52	126
		135	56	133
		143	60	141
		149	64	146

Area	Planning District	Page #	Figure #	Trails Recommd. Page #

		155	68	151
		163	72	162
I	Baileys	133	32	129
	(as amended through 4-29-2014)	140	36	139
		147	41	143
		157	47	152
		168	53	167
I	Jefferson	23	12	22
	(as amended through 4-29-2014)	30	16	27
		37	20	36
		44	24	43
		57	31	56
		64	35	62
		72	39	71
		82	44	80
I	Lincolnia	22	12	21
	(as amended through 4-29-2014)	31	16	30
		40	21	38
II	Fairfax	34	14	33
	(as amended through 4-29-2014)	42	18	40
		52	24	51
		63	29	61
		78	37	74
II	Vienna	54	20	53
	(as amended through 4-29-2014)	65	25	64
		77	31	75
		84	35	82
		91	39	90
II	McLean	99	21	97
	(as amended through 4-29-2014)	109	26	107
		116	30	114
		123	34	121
		130	38	128
		138	43	137
III	Bull Run	48	16	47
	(as amended through 4-29-2014)	55	20	53
		64	26	62
		72	31	70
		82	36	81
		92	42	90
		100	46	98

Area	Planning District	Page #	Figure #	Trails Recommd. Page #
III	Pohick	29	13	28
	(as amended through 6-3-2014)	45	21	42
		52	25	50
		70	33	69
		81	39	80
		89	43	88
III	Upper Potomac	144	50	142
	(as amended through 4-29-2014)	154	55	153
		164	60	162
		199	69	197
		237	84	235
		250	88	248
		264	94	259
III	Fairfax Center	43	13	41
	(as amended through 4-29-2014)			
IV	Lower Potomac	107	36	106
	(as amended through 6-3-2014)	118	41	116
		133	48	131
IV	Mount Vernon	132	35	130
	(as amended through 4-29-2014)	142	41	140
		152	48	150
		159	52	158
		167	56	166
		176	60	174
		184	64	182
		192	68	190
IV	Rose Hill	38	16	37
	(as amended through 4-29-2014)	57	27	55
		78	33	77
		86	37	84
		94	41	92
		103	45	101
IV	Springfield	37	14	36
	(as amended through 4-29-2014)	44	18	42
		51	22	47
		61	27	59
		68	31	67
		81	37	79
		88	41	86
		95	45	92
		109	50	108

Throughout the Area Plans, there are numerous references to bicycle facilities. Recent plan amendments have been coordinated with the bicycle master plan recommendations; however, some planning district narratives contain information and/or terminology that

are in conflict with the bicycle master plan. Staff recommends that these sections of the Area Plan be amended as shown below. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strikethrough~~.

MODIFY: Fairfax County Comprehensive Plan, Area I, Baileys Planning District, as amended through 4-29-2014; Baileys Crossroads Community Business Center, page 37:

"1. *Principal Arterials (Boulevards)* - Leesburg Pike and Columbia Pike are principal arterials in the CBC primarily carrying the longer-distance through traffic from adjacent areas such as Arlington County to the east and Seven Corners to the west.
Curb to Curb Area:
- Median width of 14 to 22 feet (may be wider for areas with frequent pedestrian crossings).
- 3 travel lanes per direction:
- 2 travel lanes per direction (11 feet for each lane).
- 1 extra wide travel lane per direction, adjacent to the curb, to accommodate bikes (15 feet minimum, 16 feet desirable). These two roadways are classified on the bicycle master plan as Policy Roads and will require further study in order to determine what type facility best addresses bicycle travel."

MODIFY: Fairfax County Comprehensive Plan, Area I, Baileys Planning District, as amended through 4-29-2014; Baileys Crossroads Community Business Center, page 38:

"5. *Local Streets (Local)* - Local streets in this area include the internal circulation roads and the new planned streets which connect the land uses to collector roads and allow internal circulation.
Curb to Curb Area:
- Medians should only be required when they are part of the urban design concept and the landscape or open space plan.
- 1 travel lane per direction (11 feet for each lane; however, 10 feet travel lane widths may be considered for residential streets.)
- 8 feet for on-street parking per direction
- Local streets are low speed facilities that may not require marked bike lanes but can be defined using bicycle signage and shared lane markings."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, page 31:

" 2. The block bounded by Chain Bridge Road, Ingleside, Buena Vista and Meadowbrook Avenues, (Subarea 4) should remain in private recreation uses. If redevelopment occurs, infill of low intensity commercial or medium intensity mixed-use to include office and residential with no retail would be appropriate, provided building heights do not exceed

three stories; all offices access to Ingleside Avenue; and extensive landscaped buffering to residential uses is provided; an on-street ~~bikeway~~ bicycle facility is provided along Ingleside Avenue; and a primary pedestrian connection to West McLean is enhanced along Meadowbrook Avenue. If developed with office uses, an urban park should be provided."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, Subarea Guidelines, Subarea #2, page 39:

"**Special Considerations**

Provide landscaped buffer when adjoining single-family housing. ~~Bikeway~~ Bicycle facility on ~~eastern side along~~ Tennyson Drive. Add landscaping and street trees along Chain Bridge Road and Tennyson Drive."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, Subarea Guidelines, Subarea #4, page 41:

"**Special Considerations**

Provide landscaped buffer where adjoining recreation facility or redevelopment. ~~Bikeway~~ Bicycle facilities on ~~eastern side, along~~ Ingleside Avenue. Enhance primary pedestrian connection to West McLean along Meadowbrook Avenue. Provide neighborhood park if developed with office uses."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, Subarea Guidelines, Subarea #7, page 47:

"**Special Considerations**

All surface parking to be landscaped and sustain trees. Realign Laughlin Avenue with new street north of Chain Bridge Road. Consider parking lot for transit facility at Tennyson Drive and Chain Bridge Road. On-street ~~bikeway~~ bicycle facility along Tennyson Drive and Whittier Avenue. Provide bus shelter at existing bus stop on Chain Bridge Road. Pedestrian connection through block to line up with Lowell Avenue and proposed Civic Place in Subarea 11. Pedestrian plaza either at northeast corner or along Chain Bridge Road."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, Subarea Guidelines, Subarea #8, page 48:

"**Special Considerations** Provide landscaped buffer where adjoining single-family housing. On-street ~~bikeway~~ bicycle facility along Whittier Avenue and Tennyson Drive."

MODIFY: Fairfax County Comprehensive Plan, Area II, McLean Planning District, as amended through 4-29-2014; McLean Community Business Center, Subarea Guidelines, Subarea #9, page 49:

"**Special Considerations** Provide landscaped buffer where adjoining single-family housing. On-street ~~bikeway~~ bicycle facilities along Whittier Avenue."

MODIFY: Fairfax County Comprehensive Plan, Area IV, Franconia-Springfield Area and Fort Belvoir North Area, as amended through 4-29-2014; Area-Wide Recommendations, Transportation, Streets and Circulation Improvements, page 24:

" • *Create a system of bicycle lanes and facilities* – In conjunction with the "complete streets" guidance, an integrated system of bicycle lanes should be provided on the minor arterial streets of the Franconia-Springfield Area, allowing the major destinations in the area to be accessed and interconnected with the county and regional bikeway system, as shown in Figure 4. Minor arterial roadways serving the area such as Commerce Street, Loisdale Road, Backlick Road, Amherst Avenue, and Frontier Drive should be retrofitted to provide on-road bike lanes as these road sections are rebuilt. These bicycle facilities would interconnect with facilities planned or already operating outside the activity center. Supporting features such as storage lockers, racks, and bicycle sharing facilities should be provided at key destinations in the area such as the Joe Alexander Transportation Center and Springfield commuter parking facility and multi-modal center at Old Keene Mill Road. The Bicycle Master Plan identifies both Backlick Road and Amherst Avenue as policy roads requiring further study. Because of the existing width of the one-way segments of both Backlick Road and Amherst Avenue, a cycletrack option should be evaluated on either one or both roadways."

MODIFY: Fairfax County Comprehensive Plan, Area IV, Franconia-Springfield Area and Fort Belvoir North Area, as amended through 4-29-2014; Fort Belvoir North Area, Trails, page 94:

"TRAILS

Trails planned for the Fort Belvoir North Area are delineated ~~on Figure 30 in the Belvoir Community Planning Sector (S5) Figure as part of the Countywide Trails Plan~~ on the 1":4,000' Countywide Trails Plan Map which is referenced as Figure 2 in the Transportation element of the Policy Plan, and is available from the Department of Transportation. It is anticipated that pedestrian and bicycle travel will be important modes of transportation at the FBNA. A comprehensive network of trails and sidewalks is essential to providing access to employment at FBNA. An extensive network of trails and pathways for non-motorized transportation should be developed to connect all public features. The network should also connect to adjacent parkland at the FBNA perimeter including such as the Accotink Stream Valley and Hooes Road parks. The trail system should also provide connections to planned or existing trails serving area neighborhoods, the Joseph Alexander Transportation Center, the Springfield Community Business Center on Backlick Road and the Springfield Mall (future town center). These connections will be extension provide connections to existing and planned regional trails such as the Franconia- Springfield Parkway trail, the Fairfax County Parkway trail, the Cross County Trail via the Accotink Stream Valley, the Lorton/Laurel Hill trails, the Potomac Heritage National Scenic Trail and the Route #1 National Bicycle Trail."

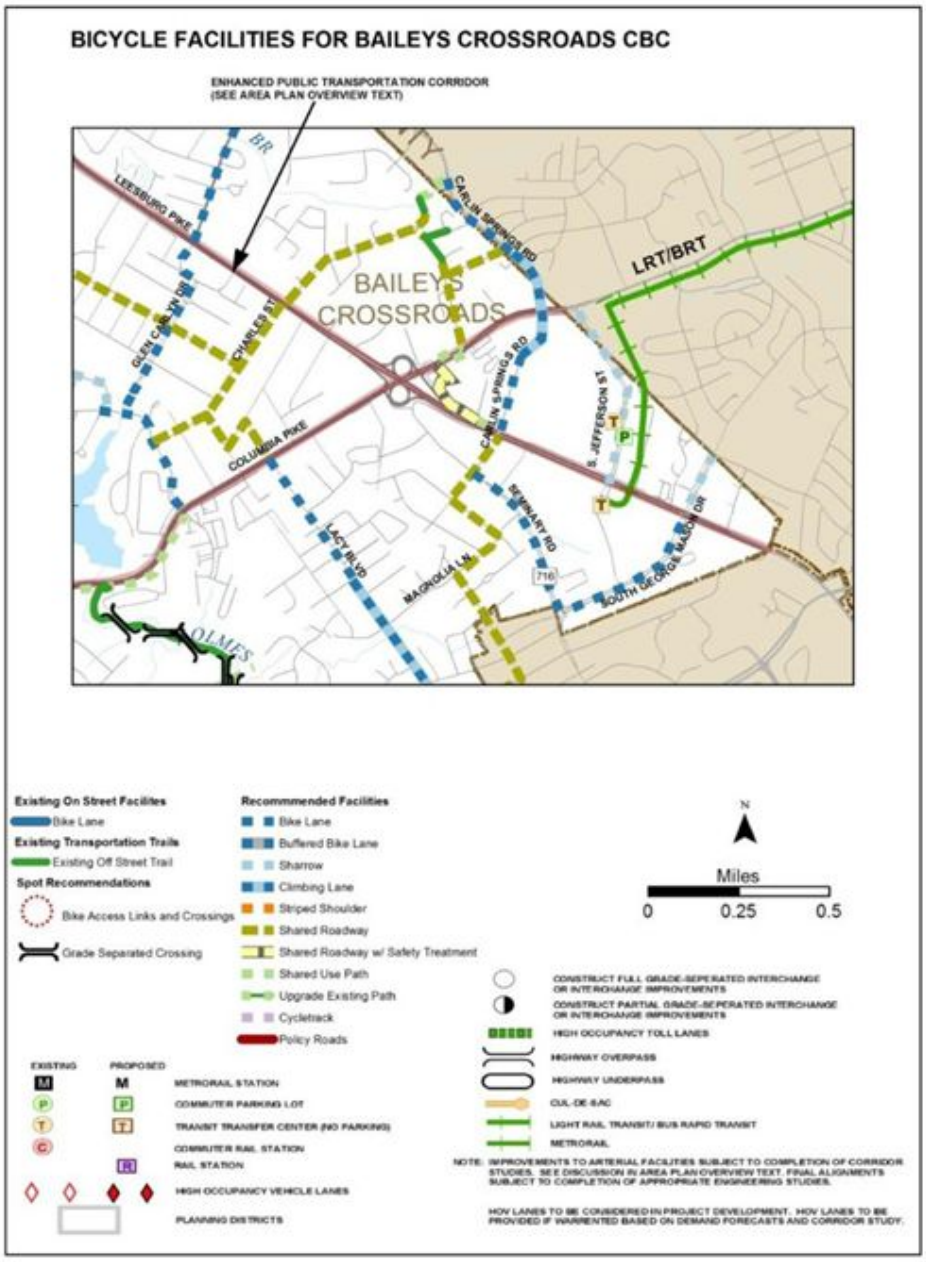
UPDATED COMPREHENSIVE PLAN MAPS

The following maps will be modified to reflect bicycle network recommendations from the Bicycle Master Plan.

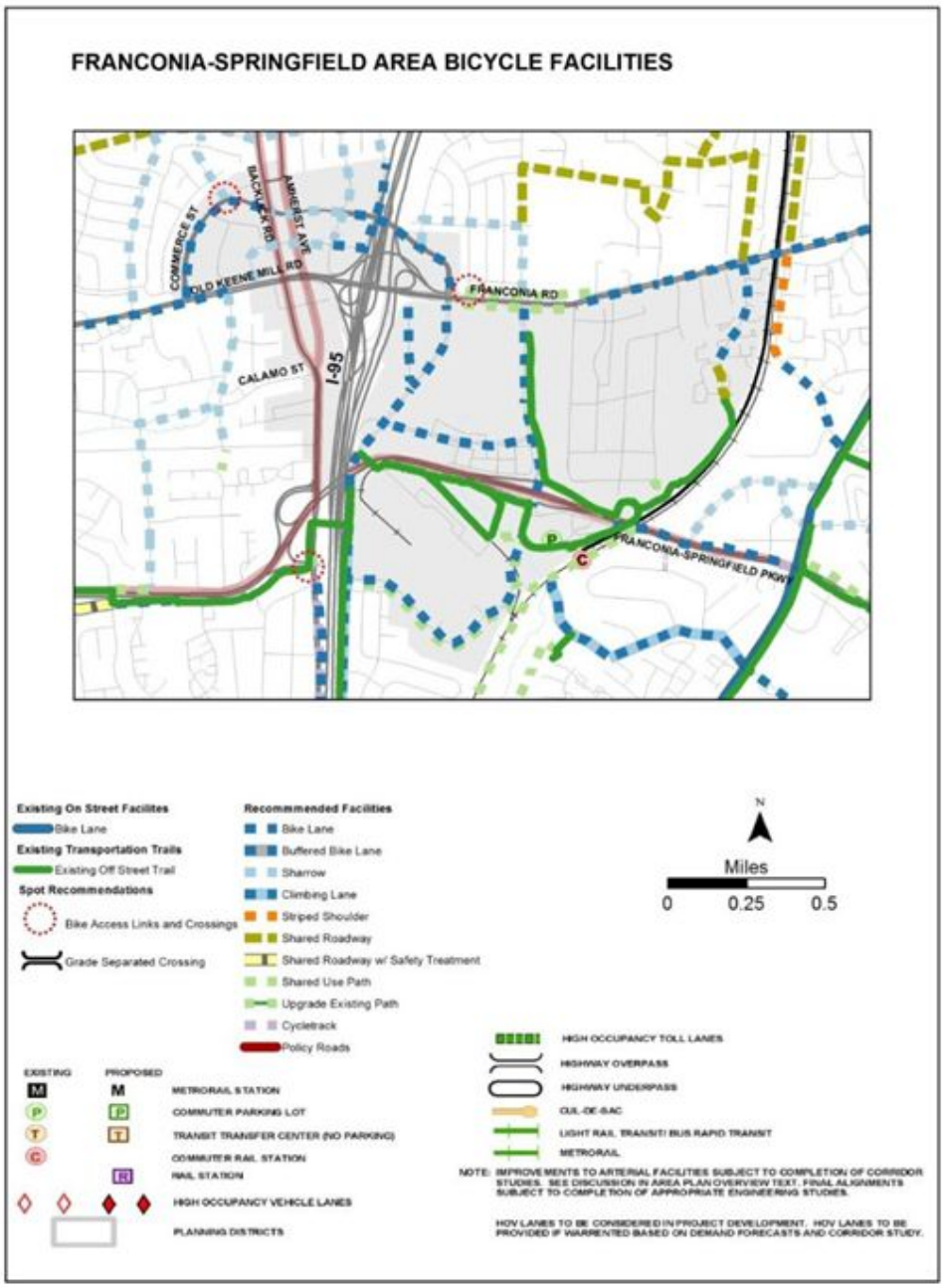
Updated Comprehensive Plan Figures

MODIFY FIGURE: Fairfax County Comprehensive Plan, Area I, Baileys Planning District as amended through 4-29-2014; Baileys Crossroads Community Business

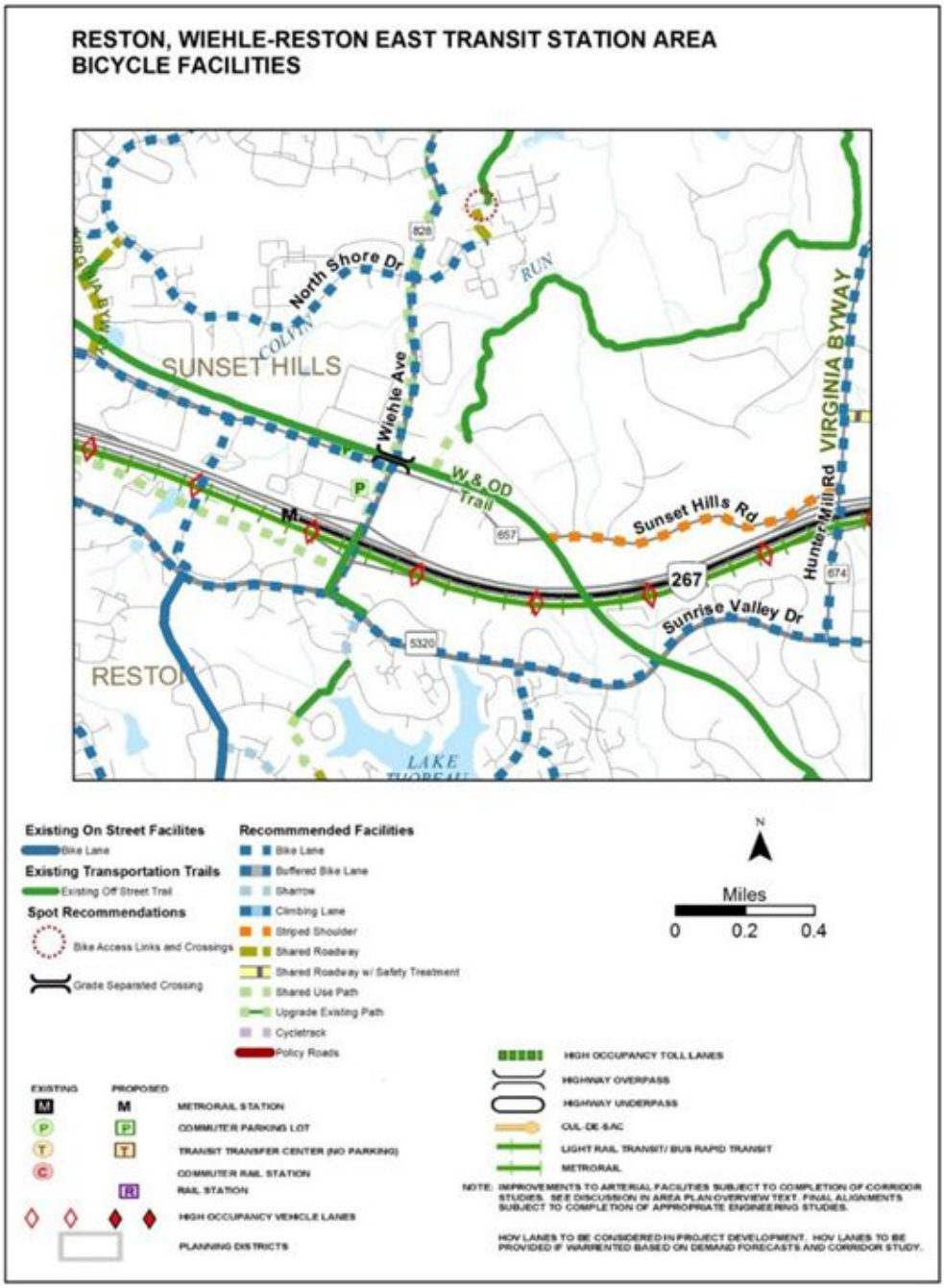
Center, Map 4, "Transportation Recommendations-Bicycle Network," page 39:



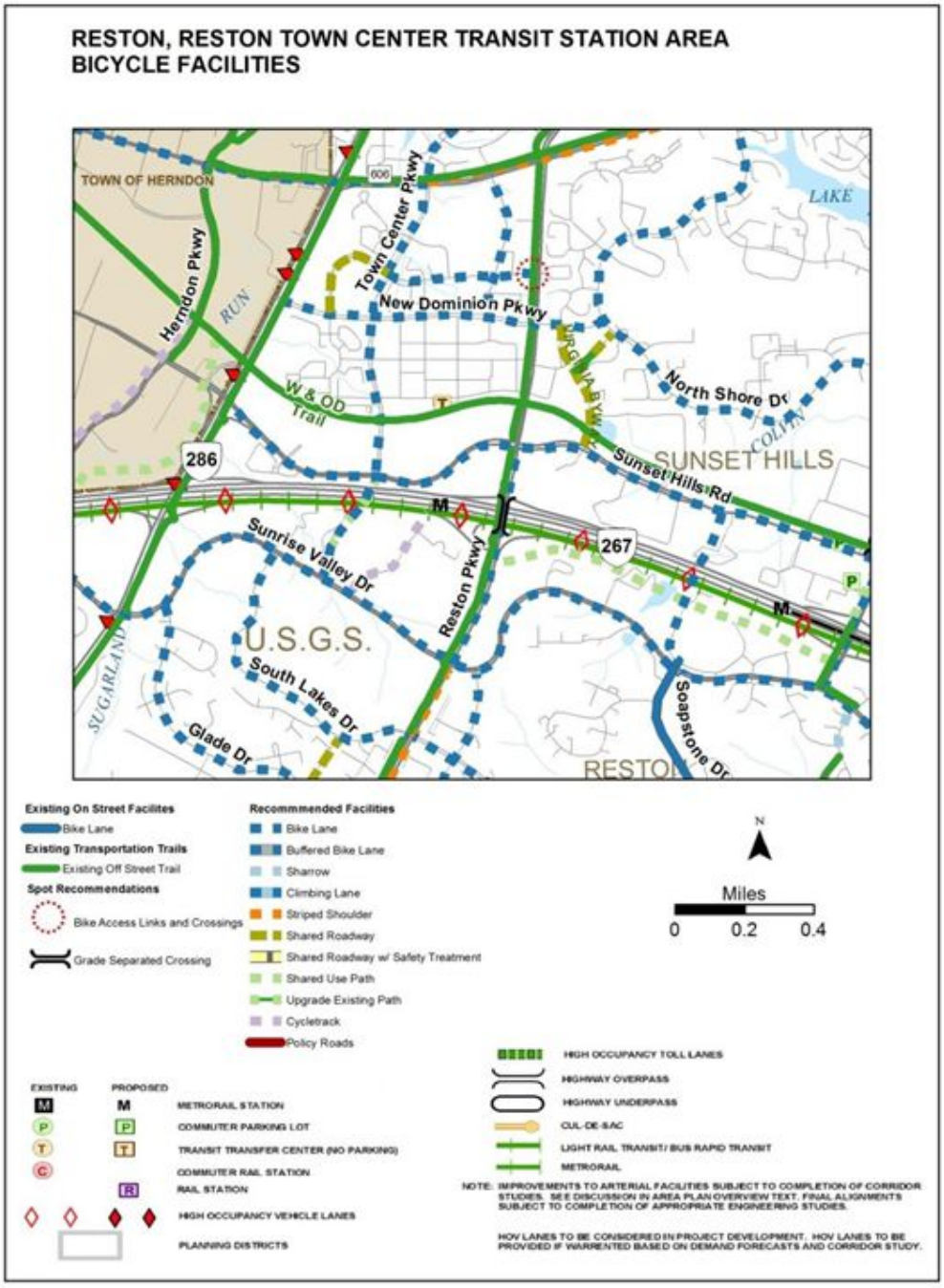
MODIFY FIGURE: Fairfax County Comprehensive Plan, Area IV, Franconia-Springfield Area and Fort Belvoir North Area, as amended through 4-29-2014; Figure 4, "Recommended Bicycle Network," page 25:



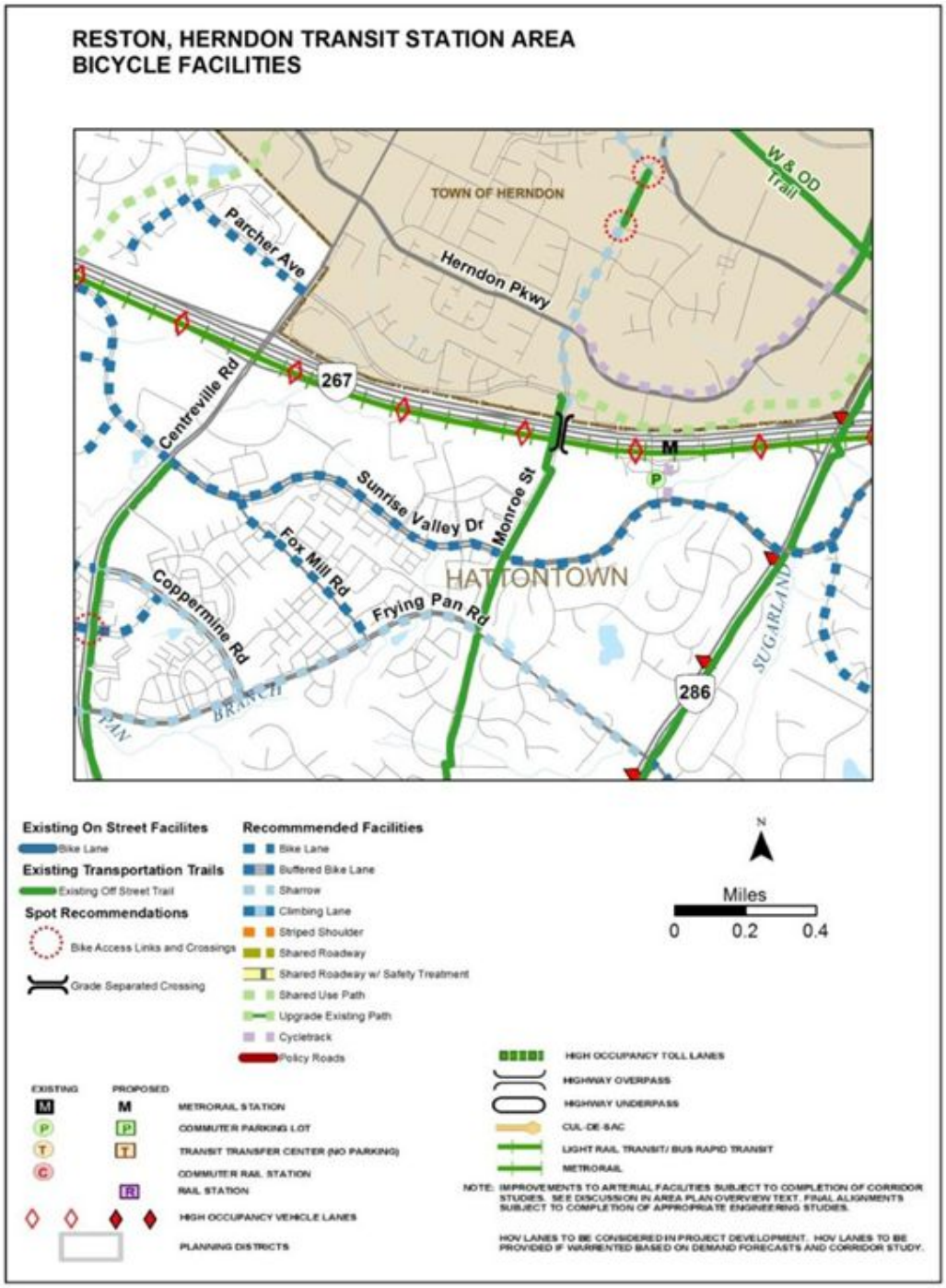
MODIFY FIGURE: Fairfax County Comprehensive Plan, Area III, Upper Potomac Planning District, as amended through 4-29-2014; Reston Transit Station Areas, Figure 23, "Recommended Bicycle Network," page 78:



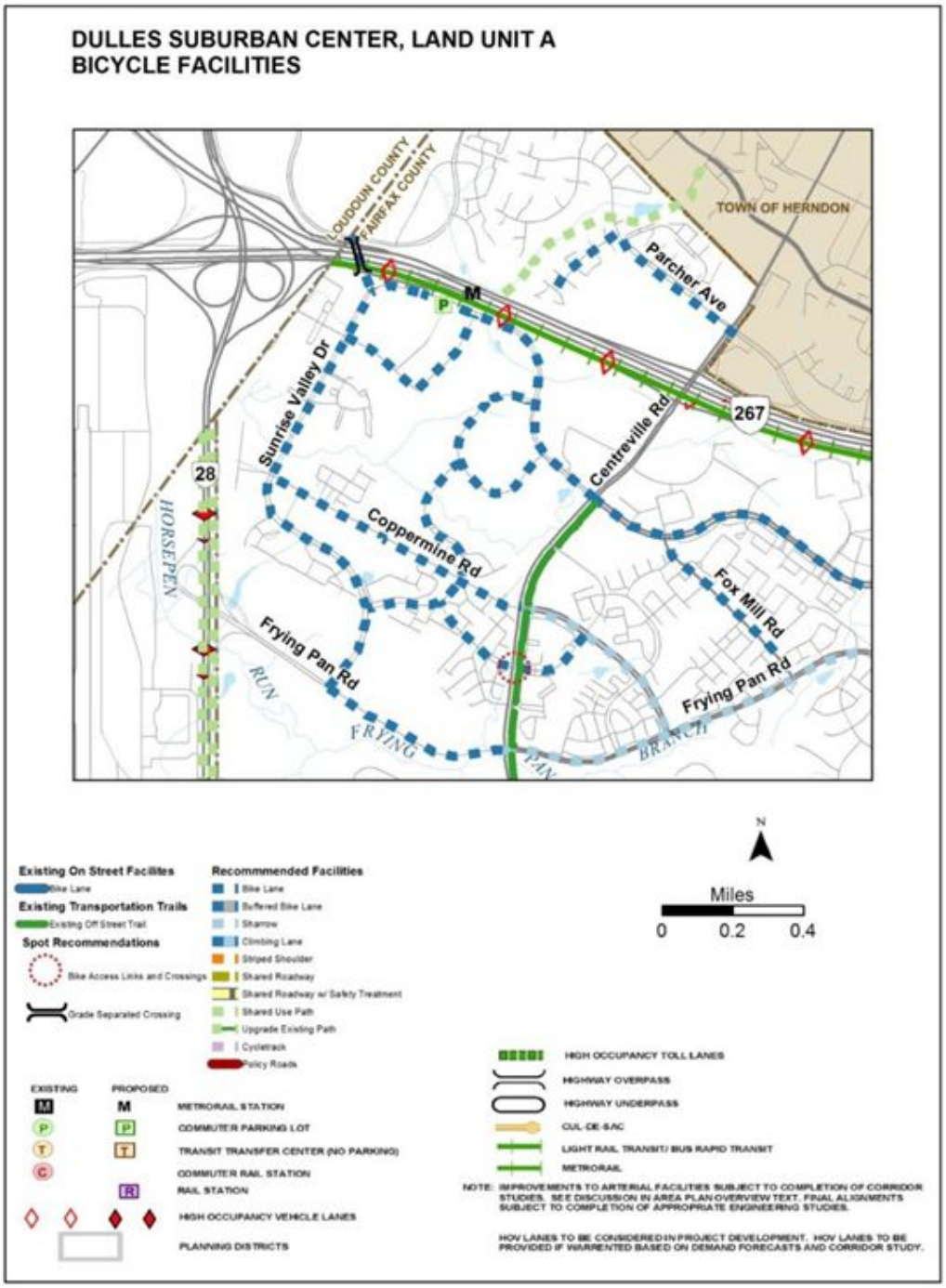
MODIFY FIGURE: Fairfax County Comprehensive Plan, Area III, Upper Potomac Planning District, as amended through 4-29-2014; Reston Transit Station Areas, Figure 24, "Reston Town Center, Transit Station Area" page 79:



MODIFY FIGURE: Fairfax County Comprehensive Plan, Area III, Upper Potomac Planning District, as amended through 4-29-2014; Reston Transit Station Areas, Figure 25, "Bicycle Plan: Herndon Transit Station Area," page 80:



MODIFY FIGURE: Fairfax County Comprehensive Plan, Area III, Dulles Suburban Center, as amended through 4-29-2014; Figure 18, "Dulles Suburban Center, Land Unit A, Bicycle Facilities," page 69:



IV. Recommended Policy Plan Amendments

Staff recommends that the Transportation section of the Policy Plan be revised as shown below. Text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strikethrough.~~

"INTRODUCTION

Fairfax County is served by an extensive transportation system comprised of roadways, bus and rail rapid transit, paratransit services and an international airport. In addition, an extensive sidewalk and trail system serves pedestrian and bicycle travel. The roadway and public transit system accommodates hundreds of thousands of trips every day. However, the provision of transportation facilities and services has not kept pace with the increasing travel demand in the County. This increased travel demand is fueled both by the growth within Fairfax County and by the growth in surrounding jurisdictions.

Over the past three decades, Fairfax County has been one of the most rapidly growing jurisdictions in the United States in terms of population growth – more than doubling the size of its population since 1970. Aided by the strong regional economy, growth in Fairfax County is projected to be significant in the future as well. While the rate of population growth is expected to decrease, overall population will continue to grow, with a 28% increase projected from 2005 to 2030. The number of households in Fairfax County is projected to grow from 378,000 in 2005 to 482,000 in 2030, an increase of 104,000 or 28%. Even more dramatic is the projected increase in jobs in Fairfax County from 600,500 in 2005 to 845,000 in 2030, an increase of 244,500 or 41%. That will make Fairfax County the second largest employment center in the Washington, DC metropolitan area, only slightly behind the District of Columbia.

In addition to experiencing growth, the demographic and socioeconomic characteristics of the population in Fairfax County have changed significantly and will continue to change in the future. Two examples are the cultural and ethnic diversification and the aging of the population. These demographic changes contain challenges for the provision of transportation facilities and services. For example, as the County's population ages, it becomes more important to provide transportation options and services geared to their needs.

One of the primary implications of the trends and forecasts for Fairfax County is that traffic conditions are likely to deteriorate further, even with extraordinary expenditures to improve the transportation infrastructure (including both roadways and transit). In addition, many forces outside the county, which generate increasing levels of traffic demand, are out of the county's direct control. Thus, it becomes imperative to explore possible options for reducing current and future demands on the transportation system.

The objectives and policies presented in this Transportation section of the Comprehensive Plan provide the framework for the continued development of the county's

transportation system, in the face of the continued growth in population and employment as well as the changing characteristics of the population. One of the options for bringing about long-term improvements to the transportation system is to exercise its ability to influence the pattern of land use in the county; specifically, to establish more efficient land use patterns with respect to transportation. Since it is apparent that roadway improvements cannot be relied upon to provide unlimited transportation capacity for the future, measures to bring about less demand for roadway capacity should be a focus of the county's Comprehensive Plan. It will be impossible to meet travel demand solely by roadways. The objectives and policies presented in this section thus emphasize the need to maximize the efficient use of the existing and future Fairfax County transportation system by reducing reliance on automobile travel, increasing transit and improving walking and bicycling, and by coordinating land use decisions and transportation planning within Fairfax County and the region as a whole.

Fairfax County's bicycle program was approved unanimously by the Board of Supervisors and launched in September 2006. The program's primary goal is to make bicycling a viable transportation mode and to make Fairfax County bicycle friendly and safe. Program management and implementation was assigned to the Fairfax County Department of Transportation. The Board established four program priorities: establish a staff position with substantial responsibilities devoted to bicycle facility planning, implementation, and coordination; create a county bicycle route map; examine roadways that may accommodate on-road bike lanes without substantial reconstruction; and create a pilot program in a specific area of the county for the establishment of an interconnected bike route. It was soon determined that a comprehensive bicycle master plan was needed to address bicycling as a transportation mode and to outline a long range plan defining both infrastructure improvements as well as policy objectives specific to bicycling.

COUNTYWIDE OBJECTIVES AND POLICIES

(**Note that only those Objectives and Policies that require policy modifications and or deletions have been included in this staff report.)**

Objective 1: Provide for both through and local movement of people and goods via a multi-modal transportation system that provides transportation choices reduces single-occupancy-vehicle (SOV) use and improves air quality.

Policy a. Integrate motorized and non-motorized transportation facilities and services in accordance with transportation elements in ~~both~~ the Transportation Plan Map (Figure 1), the Countywide Trails Plan Map (Figure 2), Bicycle Network Map (Figure 3) and the Bicycle Master Plan, chapters 1-4 (Appendix 5),

. . .

Policy e. Design and construct trails, sidewalks, overpasses, bike facilities ~~lanes~~, transit amenities, and other non-motorized facilities leading to and accessing public transportation facilities and commuter collection points.

Objective 2: Increase use of public transportation and non-motorized transportation.

Policies on Facilities

. . .

Policy e. Incorporate adequate, safe, and secure bicycle parking at all public buildings, park and ride lots, transit facilities, libraries, and schools. Adopt bicycle parking guidelines and policy defining the number of required bicycle parking spaces, approved equipment, and the proper placement/installation of the equipment.

Policy ~~e~~ f. Establish a network of multi-modal centers as necessary to facilitate both inter-county and intra-county travel.

Policy ~~f~~ g. Provide supporting facilities for the transit system, and provide resources to maintain County-owned equipment and facilities effectively.

Policy ~~g~~ h. Provide safe and convenient non-motorized access (e.g., sidewalks, pedestrian crosswalk signals and markings, trails, on-road bicycle routes and secure bicycle parking) and user amenities (e.g. paved waiting areas, bus shelters and route/schedule information) for transit services and facilities.

Policies on Services

Policy ~~h~~ i. Improve the speed, quality, reliability, convenience and productivity of transit service.

Policy ~~i~~ j. Provide mass transit service in major commuter corridors, including those designated as Enhanced Public Transportation Corridors on the Transportation Plan Map. These services, including intra-county express bus service, should connect designated public transit transfer points and park-and-ride lots to mixed-use centers, the Metrorail system, and the metropolitan core.

Policy ~~j~~ k. Provide feeder and local bus service to connect to mass transit facilities, mixed-use centers, educational facilities and employment centers.

Policy ~~k~~ l. Provide local circulation service within mixed-use centers and employment centers.

Policy ~~l~~ m. Make appropriate use of advanced transit technologies to provide service information and improve system operations. Evaluate and implement innovative services and methods to increase transit ridership.

Policy ~~m~~ n. Facilitate transfer between modes at transit centers through coordination of services, schedules, fares, communication systems and information.

Policy ~~n~~ o. Coordinate with neighboring jurisdictions to promote public transportation usage, bicycle route connectivity, and reduce SOV travel.

Policy ~~o~~ p. Coordinate the planning and provision of public, human service agency, and non-profit transportation services targeted to the senior population, people with disabilities and low-income residents.

Policy ~~p~~ q. Work with Fairfax County Public Schools and human service agencies to travel train the senior population and people with disabilities in the use of public transportation.

. . .

Objective 4: Provide a comprehensive network of sidewalks, trails and on/off-road bicycle routes as an integral element of the overall transportation network.

Policy a. Plan for pedestrian, bicycle, and trail system components in conjunction with the Bicycle Master Plan, the Countywide Trails Plan (Figure 2) and Countywide Bicycle Network Map (Figure 3)

Policy b. Incorporate pedestrian, bicycle, and other non-motorized components and supporting facilities that meet VDOT, American Association of State Highway and Transportation Officials (AASHTO), the Manual of Uniform Traffic Control Devices (MUTCD), the National Association of City Transportation Officials (NACTO) Guidelines, and/or County Standards.

Policy c. Provide for clearly-marked bicycle and pedestrian features, such as sidewalks, on-road bicycle routes, trails, crosswalks, curb cuts, refuge areas and pedestrian/bicycle signals, in the construction and reconstruction of roads and bridges. Evaluate road dieting and/or lane dieting concepts where roadway volume to capacity ratios allow in order to establish on-road bike lanes

. . .

Objective 10: Maximize the operational efficiency of transportation facilities for all modes.

. . .

Objective 13: Review and update the Fairfax County Transportation Plan and Bicycle Master Plan once every five years."

"APPENDIX 3

BICYCLE AND TRAIL CLASSIFICATION AND DEFINITIONS

COUNTYWIDE TRAILS PLAN MAP

Major Regional Trail: Includes the Interstate Route One Bikeway, Cross County Trail, and trails along I-495, I-66, Dulles Airport Access Road, Fairfax County Parkway, Franconia-Springfield Parkway, Norfolk Southern Railway, George Washington Memorial Parkway, Washington and Old Dominion Regional Park, Bull Run, Occoquan River and Potomac River. Most of the trails designated in this category are paved trails, 8 feet or more in width. However, surface materials vary from paved, natural surfaces and stonedust for the Interstate Route One Bikeway, South County East-West trail, Cross County Trail and those trails along the Bull Run, Occoquan River, and Potomac River.

~~**On-road Bike Routes:** Designated bike lanes or signed routes to accommodate bicycle users. Design features are determined on a case by case basis.~~

Major Paved Trail: Concrete or asphalt trail, 8 feet or more in width.

Minor Paved Trail: Concrete or asphalt trail, 4 feet to 7 feet 11 inches in width.

Minor Paved Trail with Parallel Natural Surface or Stone Dust Trail: Concrete or asphalt trail, 4 feet to 7 feet 11 inches in width adjacent to, and in the same easement with a stone dust or natural surface trail typically 6-8 feet in width.

Natural Surface or Stone Dust Trail: Stone Dust or natural surface trail typically 6-8 feet in width.

Stream Valley Trail: Trails along stream ways as determined by Fairfax County Park Authority Staff.

Trails in Other Jurisdiction: Trails to be reviewed by and located in the Towns of Herndon, Vienna and Clifton and the Cities of Fairfax and Falls Church.

COUNTYWIDE BICYCLE NETWORK MAP(S)

The Bicycle Master Plan recommends a network of various types of on and off-road bikeways. As noted, bikeway design may include pavement markings, signage, signals, improved surfaces, and geometric features. The recommendations reflect the desire to provide a high level of bicyclist comfort and mobility, while also balancing each travel mode's need for a share of the public right-of-way. The recommendations are intended to be cost-effective, and on-street recommendations generally involve retrofitting the existing roadway using pavement markings, signs and modest amounts of additional pavement. The following define the types of facilities incorporated in the Plan:

- **Shared Roadway:** consists of a low volume, low speed street that is compatible with bicycling without any striping, marking or geometric change to the roadway. Bike route signs may or may not be needed depending on the street's role in the larger Bikeway Network.

- **Shared Roadways with Safety Treatment:** is a recommendation for generally narrow, hilly, and winding two-lane roads. Improvements can include: signs such as "BIKES MAY USE FULL LANE" additional shoulder pavement, and/or pavement markings.

- **Shared Lane Markings:** (sharrows) are used on roadways where bicyclists and motor vehicles must share the same travel lane. The shared lane marking helps position bicyclists in the most appropriate location to ride, while also providing a visual cue to motorists that bicyclists have a right to use the street. Refer to the the Virginia Department of Transportation (VDOT) policy for guidance on the proper use of Shared Lane Markings .

- **Striped Shoulder:** provides space for bicycle travel to the right of the travel lanes. Paved shoulders serve a variety of transportation purposes in addition to providing a benefit for cyclists, including serving as a breakdown lane, contributing to overall pavement integrity, and providing a place for pedestrian travel where there are no sidewalks. A shoulder designated for bicycles should be no less than four feet in width.

- **Bike Lane:** is an area of roadway pavement designated for the preferential or exclusive use by bicycles. The lane is normally 4 – 6 feet in width and marked with a longitudinal white line and bicycle symbols Refer to the VDOT Bicycle Design Standards for guidance on bike lanes and bicycle pavement markings.

- **Climbing Lane:** when insufficient width exists to accommodate bike lanes in both directions and the roadway features a vertical grade, a climbing lane is considered. A bike lane (climbing lane) is provided in the uphill direction to accommodate slow moving bicyclists and a shared lane marking is provided in the downhill direction, where bicyclists can typically travel at speeds closer to motor vehicle speeds.

- **Buffered Bike Lanes:** created by striping a buffer zone (three feet in width or greater) between a bike lane and the adjacent travel lane.

- **Cycletrack:** is a bicycle facility for cyclists only that is physically separated from both the roadway and the sidewalk. A cycletrack may be constructed at the roadway level using roadway space, or at the sidewalk level using space adjacent to the road. Cycletracks can be provided in either one way or two way configurations.

- **Shared-Use Path (trail):** is an off-street multi-use facility that is physically separated from motor vehicle traffic. Trails are often located in independent right-

of-way (e.g. a park, stream valley greenway, a utility corridor, or an abandoned railroad corridor) or located adjacent to the roadway within roadway rights of way. It is intended for use by bicyclists and pedestrians and normally is designed to accommodate two-way traffic

- **Policy Roads:** are multi-lane highways (functionally classified as principal arterials) that carry large volumes of traffic and/or have relatively high posted speeds (40mph or greater). These roads traverse a wide variety of land uses. Specific bicycle facility recommendations must be made in conjunction with other transportation and land use planning efforts.

The bicycle network maps also define recommended spot improvements:

- **Bicycle Access Links and Crossings** indicate locations where there are opportunities to improve neighborhood connectivity, for example by connecting cul de sacs, enhancing mid-block and trail/shared-use path crossings and by improving access to existing trails.

- **Interchange Improvements** represent locations where free flowing entrance and exit ramps create difficult conditions for bicyclists traveling along the road.

- **Transit Station Improvements** signify locations where existing and planned transit stations (Metro and VRE) create especially high demand for bicycle travel and need for bicycle accommodations. Appropriate accommodations may include bicycle racks, covered bicycle parking, high security parking, facilities on station access roads, curb ramps, crossing improvements or paths that provide safe and convenient station access.

- **Stream Crossings** are recommended in locations where linear barriers to bicycle travel exist at the crossings of streams. These bridge crossings will be designed for bicycle and pedestrian transportation.

- **Road Crossings** are recommended in locations where linear barriers to bicycle travel exist at the crossings of major highways. These crossings can be standalone bicycle and pedestrian bridges or bike lanes and shared use paths as part of a bridge that also serves motor vehicles."

"APPENDIX 5

FAIRFAX COUNTY BICYCLE MASTER PLAN"

The Bicycle Master Plan is an inclusive stand-alone document. Chapters 1, 2, 3, and 4 are proposed to be incorporated into the Transportation element of the Policy Plan. Chapters 5 and 6 are oriented to technical and programmatic approaches that, while outside the purview of the Comprehensive Plan, will be useful in implementing bikeway network recommendations. While chapters 5 and 6 are not included in this plan amendment, they are included in the bicycle master plan document for continuity. The complete plan can also be accessed at: **www.fairfaxcounty.gov/fcdot/bike/bike_master_plan**

PA 2013-CW-T2 – COMPREHENSIVE PLAN AMENDMENT (FAIRFAX COUNTY BICYCLE MASTER PLAN)

Decision Only during Commission Matters
(Public Hearing held on 10/1/14)

Commissioner Hedetniemi: Mr. Chairman, two weeks ago, we heard the presentation on the Bicycle Master Plan for Fairfax County and we deferred decision on that until tonight, and so I'd like to ask staff to make a presentation on what we have done in the interim period of time to address some of the issues that were raised at the public hearing and at the Commission.

Vice Chairman de la Fe: If we can do it quickly, because we are on verbatim.

Charlie Strunk, Bicycle Program Coordinator, Fairfax County Department of Transportation: Thank you, Commissioner Hedetniemi. My name is Charlie Strunk. I'm with the Fairfax County Department of Transportation. So, two weeks ago we did produce - present the Bicycle Master Plan and the accompanying Bicycle Network Maps. And there were several necessary modifications that were a result of terminology changes, some changes from VDOT on recent directives, and so on and so forth, so, I'll fly through these. You do have a memo that was passed out. It's dated tonight, October the 15th and it goes into these changes. They are relatively minor. I'll quickly go through them. Very quickly:

- We had a change on page 4, the fourth bullet. This request was – was requested by VDOT (Virginia Department of Transportation) and it just – it just clarifies the position on – on shared lane markings, when to use them, and things like that.

- Page 5, the first bullet: This was a request by several supervisors and, let's see. Let me get my notes here. There was a specific reference in there about strengthening the – the number of employees working on bicycle planning in the Department of Transportation, so we – we revised that section and basically softened it up.

- Page 6, the third bullet: This was, again, a clarification required by VDOT.

- Page 32 and 60: This was a terminology clear-up. This was involving cycle tracks and there was a lot of confusing regarding cycle tracks and we went with the Federal Highway Administration and the Association of Pedestrian and Bicycle Professionals' latest version, which is separated bike lanes, and we have added that for clarification purposes in the definition.

- There was the same thing on Page 37, regarding Policy Roads, and we went back and we just beefed up the definition of Policy Roads.

- Page 80, the first bullet: It's basically the same as page 5, first bullet.

- Page 80, third bullet: There was some discussion as to forming a bicycle advisory committee and we went back and we - - it's still in there, but we – we changed the narrative around to give more flexibility and to include the Trails and Sidewalks Committee.

- Page 80, the fifth bullet: Staff questioned the reference to the county passing legislation to allow cost sharing. We didn't think that that was the right wording, so that is still in there but we took out the references to passing legislation.

And then on the map there are several minor modifications and - - I got it.

- Hunter Mill Road: We were requested by – by Supervisor Smyth to reconsider Hunter Mill Road. This was currently – this was currently shown as bike lanes and this was actually carried over from the 2002 Countywide Trails Plan. So with her cooperation, we reclassified this as striped shoulders for the northern piece and then bike lanes on the southern piece – short piece – and the limits are in the memo.

- Merilee Drive: We did have a cycle track on there. She specifically asked that we remove that. We are now looking at bike lanes. Actually, it's a combination of bike lanes and a climbing lane. We went out and field-checked this and we feel confident that we can do this section and that this section would – would in fact work with the ultimate Merilee section when it's redeveloped.

- Prosperity Avenue: We do have a climbing lane. There was some question as to if there was in fact a vertical grade. And we went out and, as a biker, there is a vertical grade.

- State Road 123: We inadvertently showed the trail, an existing trail running into the Town of Occoquan. We – we removed that.

- And Richmond Highway: We re-classified the classification. We did have cycle tracks and bike lanes and we've amended that to show bike lanes; however, when we hit a CBC – and there's six of them – we change that back to Policy Road for further study.

- And Chain Bridge Road: There was a map – there was a map error where we showed climbing lanes on the piece of Chain Bridge Road from Georgetown – George Washington Memorial Parkway down to the Arlington County line and we have removed that. We removed that because Arlington County removed their piece. There's right-of-way issues and there's a ton of geometric issues which we figure would never be – we would never be able to deal with.

- And then the last one is Old Dominion Drive: The section from Towlston to Georgetown Pike was inadvertently dropped off. We have put that back on as a striped shoulder for bikes.

So that's a very, very fast, short summary.

Vice Chairman de la Fe: Thank you very much. Commissioner?
Commissioner Hurley: Mr. Chairman? I have a question.

Vice Chairman de la Fe: Excuse me, there – okay, yes.

Commissioner Hurley: I have one specific question. On page 37, Section 3.3, Policy Roads, the bottom of the staff recommendation, where it says roads have relatively high speeds greater than

40 miles an hour. Do you mean they have high speed limits of greater than 45 miles [*sic*] or traffic is actually going more than - - do you mean that traffic is going at speeds greater than 40 miles an hour? Or do you mean that speed limits are greater than 40 miles an hour?

Mr. Strunk: This would be a posted speed.

Commissioner Hurley: All right. It might make it more clear if you say that the road has a posted speed limit greater than 40.

Mr. Strunk: Okay, yes, we can clarify that.

Vice Chairman de la Fe: Okay, any – Commissioner Flanagan.

Commissioner Flanagan: Yes, I also have a question. I noted in your report now that you mention Richmond Highway, Route 1, and are designating it as either a bike or a – a bike lane or a cycle track. And the question that I brought up at the public hearing, which I would like to have to have some clarification on is, at the present time the Comprehensive Plan calls for two – for a ten-foot-wide bicycle/pedestrian path on each side of Richmond Highway and then we have these bicycle lanes in the roadway as well. We have them planned in the roadway as well, and my comment at the public hearing was that this sort of looks like overkill to the community. And if we're going to be spending precious transportation monies on something, there may be some other rather higher priority than overdoing, you know, the amount of bicycle paths we have on Richmond Highway. And so I would – I want to be sure that the plan doesn't preclude us, you know, having just – what the – what the - - The community met on this after the public hearing and so, consequently, one of their recommendations was that the – the paths on both sides of the highway be just pedestrian. They don't like the idea of pedestrians and bicycles on the same path, particularly up and down Richmond Highway, where we're trying to encourage, you know, pedestrian access to the commercial – the business districts. And, you know, bicycles coming along there, you know, at a rapid speed or going to, you know, be a - - they see as a – bad planning, so is there anything in the plan now that would preclude that change from occurring in the future?

Mr. Strunk: The easy answer is no. No, we met – we met with our transportation planning folks this week and we discussed the Route 1 multimodal study. So there is flexibility built – built both into that study and the Bicycle Master Plan. So yes, I – I agree with you; we do not want bikes mixing – mixing with the pedestrians.

Commissioner Flanagan: Okay, but in the meantime that is going to be dangling over the community and not knowing whether the worst… They'd like to start planning for the use of that money elsewhere, you know, as soon as possible.

Mr. Strunk: Right. One of the changes that we made was we know that we have on-road bike lanes on that southern section of Route 1 that's – that's going to construction; however, as you enter the CBCs, we've re-designated the map as a Policy Road which, because we want to – we want to get into the weeds and study this with the multimodal study and to see what – what is the best alternative, so we do have the flexibility there.

Commissioner Flanagan: Well, I wanted that clarified tonight and I think you've done it nicely. Thank you.

Vice Chairman de la Fe: Commissioner Ulfelder.

Commissioner Ulfelder – Thank you, Mr. Chairman. I had a question about your Old Dominion Drive designation. I understand the reason for and agree with the idea for putting back the missing piece but, if I recall, when I looked at the map, there is no designation for Old Dominion Drive down to the entrance of Great Falls Park where the actual booth is at the end. That is a public road to within about 100 yards of the guard station there and I – I think it should be – also have a designation for – have similar treatment, a striped shoulder. There's some difficulties in there because of some curves that you can't around, so - - but I would like you all to take a look at that and see if that section of Old Dominion – it's about a mile long – should be also designated on the map.

Mr. Strunk: Okay, we will do that.

Vice Chairman de la Fe: And that can be done before the Board of Supervisors? Okay, thank you. Anyone else? Commissioner Hedetniemi.

Commissioner Hedetniemi: Thank you, Mr. Chairman. Mr. Chairman, Plan Amendment 2013-CW-T2 proposes to update the Comprehensive Plan to reflect the recommendations of the Fairfax County Bicycle Master Plan, add a new Bicycle Network Map, and update the Countywide Trails Plan Map. Revisions to both the Area Plans and Transportation section of the Policy Plan are also recommended to be consistent with the new guidance. Other components of the Amendment include:

- Revising Appendix 3 of the Transportation section of the Policy Plan to add definitions of bicycle facilities found on the Bicycle Network Map;

- Incorporating Chapters 1 through 4 of the Bicycle Master Plan, dated May 2014, into the Transportation section of the Policy Plan, to be designated as Appendix 5; and endorsing, in concept, Chapters 5 and 6 of the Bicycle Master Plan. These chapters, 5 and 6, are oriented to policy and programmatic approaches which, while outside the purview of the Comprehensive Plan, will be useful in implementing bikeway network recommendations; and finally,

- Modifying the Bicycle Master Plan document and Bicycle Network Map, as referenced in the memo to the Planning Commission, dated October 15, 2014.

Mr. Chairman, I MOVE THAT PLANNING COMMISSION, IN SUPPORT OF FAIRFAX COUNTY'S FIRST BICYCLE MASTER PLAN, RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS OF PLAN AMENDMENT 2013-CW-T2, AS MODIFIED BY THE MEMO DATED OCTOBER 15, 2014. Thank you, Mr. Chairman.

Commissioners Flanagan and Sargeant: Second.

Vice Chairman de la Fe: It's been moved and seconded by Commissioners Flanagan and Sargeant. Any discussion?

Commissioner Lawrence: Mr. Chairman?

Vice Chairman de la Fe: Yes, Commissioner Lawrence.

Commissioner Lawrence: Point of clarification: the Planning Commission's Tysons Committee is now reviewing the Tysons Comprehensive Plan for possible amendment. A bicycle plan is included in that Tysons Plan. If the committee has any recommendations for changes to that portion of the Bicycle Plan, they will be rolled out as part of the committee's recommendation when the plan amendment itself is rolled out, in due course. Thank you.

Vice Chairman de la Fe: Okay. Thank you for the clarification. Yes, Commissioner Ulfelder.

Commissioner Ulfelder: I'm supporting this strongly and will vote for it, but I do have some concerns. I think that endorsing Chapters 5 and 6 in concept – I can understand why we're doing that; they're not part of the Plan, but to me they are more than useful, they are key to implementing this plan. And I was a little sorry to see the change in the language on page 5 concerning the – and later on – concerning the staffing issue. Right now, as I understand it, we have two staff, compared to, say, Arlington, which probably has one fourth of the – or one fifth of the population of Fairfax County, and has up to five two six full-time people working on various aspects of their bicycle program. And I think for this to succeed in the long run, it's going to be important early on to – to be doing the proper staffing, to be taking care of maintenance issues – that's what I call a flat-tire issue. If you don't maintain bike lanes, people end up with flat tires because a lot of debris gets over there and then they stop use the bike lane and they get out in the traffic; so that's key to me as well. So, I – I'm really hopeful that the county will be able to find the resources and make the effort to really push for bicycles. I – I learned from Mr. Biesiadny last night that within two weeks of the Silver Line opening, the McLean Station bike facilities were full and people are stacking bikes against each other, WMATA is scurrying around trying to find ways to provide additional bike parking, and that's not an easy station to get to. There are still a lot of difficulties. Under this plan, there will be a lot of improvements in the access for bicyclists to that station, but right now there's some not very safe and some difficult ways to have to get there, yet people are flooding to get – to get there by bicycle as an alternative to driving or – and to pick up the Metro from – after they've ridden there on a bike. So, I – I see this growth coming and, particularly with the continued urbanization, particularly Tysons development, and I – it's just really important to me to see those issues that are discussed in Chapters 5 and 6 adequately addressed by the Board of Supervisors and by the county. Thank you.

Vice Chairman de la Fe: Thank you. Commissioner Hedetniemi. And I remind everybody that we are on verbatim and we are going to make this short.

Commissioner Hedetniemi: I would like everybody in the audience who will be pitching in to help the staff of Fairfax County implement this bike – bicycle plan – raise your hands please. Yes.

Vice Chairman de la Fe: Thank you. Commissioner Flanagan.

Commissioner Flanagan: Yes, I will be short. I was glad that we're on verbatim and I want to be sure that the verbatim, when it goes forward, reflects the fact that I had brought this up at the public hearing and I endorse Commissioner Ulfelder's comments completely.

Vice Chairman de la Fe: Thank you. Any further comments? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries unanimously.

//

(The motion carried by a vote of 10-0. Commissioners Litzenberger and Murphy were absent from the meeting.)

JN

ATTACHMENT 3

County of Fairfax, Virginia

MEMORANDUM

DATE: October 15, 2014

TO: Fairfax County Planning Commission

FROM: Charlie Strunk
Bicycle Program Coordinator
Fairfax County Department of Transportation

SUBJECT: Bicycle Master Plan
Modifications/Clarifications

After the Bicycle Master Plan was printed and distributed as part of the Comprehensive Plan Amendment package, several modifications/corrections to the document titled, "Fairfax County Bicycle Master Plan and accompanying Bicycle Network Map are required. These include: clarification in terminology, corrections or clarification requested by a Board member or Planning Commissioner, updated language based on revised VDOT directives, and minor typographical errors. The modifications/corrections are as follows:

For consistency, text proposed to be added is shown as underlined and text proposed to be deleted is shown with a ~~strikethrough.~~

Fairfax County Bicycle Master Plan, May 2014

Page 4, Fourth bullet:

- "In general, bicycle accommodations with some type of striping or markings (i.e. bike lanes, striped/paved shoulders, or shared lane markings in wide outside lanes) are often preferred over unmarked wide outside lanes. Exceptions include roadways without pavement markings or low volume/low speed residential streets."

Page 5, Implementation, First bullet*: (This narrative also occurs on page 80, Section 6.1)*

- "Explore ways to strengthen ~~Continue to expand the number of full-time employees staffing~~ the Bicycle Program."

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot

Page 6, Third bullet: *(This narrative also occurs on page 82, Section 6.2)*

- ~~"At select locations identified in the plan, to enable use of the Shared Lane Marking, VDOT will conduct studies necessary to consider speed reductions to 30 or 35 mph.~~ Request VDOT to consider speed limit reductions where roadway and traffic conditions warrant. Where speed limits are reduced to 35 mph or below on bicycle network routes, shared lane markings may be feasible."

Pages 32 and 60, Cycletracks:

There has been a considerable amount of confusion regarding the term "Cycletrack" Per recent efforts by the Federal Highway Administration (FHWA) and the Association of Pedestrian and Bicycle Professionals (APBP) to clarify this, staff is recommending that the term "Cycletracks " be supplemented with the term "Separated Bike Lanes". Staff concluded that the definition to be included in the transportation section of the Policy Plan is accurate.

Therefore, staff recommends supplementing the headings (Pages 32 and 60) as follows: "Cycletracks, (Separated Bike Lanes)"

Page 37, Section 3.3 Policy Roads:

Staff and some members of the Bicycle Advisory Committee have expressed concern regarding the category "Policy Roads". These roads are primarily the arterial roadways that have been identified as a part of the bikeway network. These roadways are characterized by multiple lanes, higher traffic volumes, significant numbers of access points and changing land uses. Staff has significantly reduced the number of Policy Roads shown on the Recommended Bikeway Network Map but, to date has not been able to eliminate all of these designations.

Therefore, staff recommends supplementing the heading and narrative as follows:

"Policy Roads (Roads Requiring Further Study)
This plan identifies a set of primary arterial roadways that are considered part of the Fairfax County Bicycle Network as "Policy Roads." On the Fairfax County Bicycle Network Map, these roads may not have specific bicycle facility recommendations because the determination of the facilities selected for these roads must be made in conjunction with other roadway planning and land development factors (e.g. Area Plan updates and amendments, Transportation Corridor/Multi-Modal Studies).

In general, these roads are multilane highways and/or have relatively high speeds (greater than 40 ~~to 55~~ miles per hour). Other than the limited-access highways in the County, they carry the largest volumes of daily traffic, including buses and trucks. They also have a wide range of characteristics that other roads in the county usually

do not have, such as large interchanges, service roads, ~~guardrails,~~ lengthy merge lanes, large numbers of commercial entrances, and/or intersections with multiple right and/or left turn lanes. These roads traverse a wide variety of land use contexts. In most cases, these roads provide the most direct connection to and between major destinations in the County. Future upgrades to these roads will be driven primarily by traffic management needs and opportunities and needs created by major development or redevelopment in the corridor.

Page 80, Section 6.1 Strengthen the FCDOT Bicycle Program, Recommendations, First bullet: *(This narrative also appears on Page 5, First bullet)*

- "Explore ways to strengthen ~~Continue to expand the number of full-time employees staffing~~ the Bicycle Program in order to accomplish the goals and objectives outlined in the Plan."

Page 80, Section 6.1 Strengthen the FCDOT Bicycle Program Recommendations, Third bullet

- ~~Establish a permanent Countywide BAC that reports to the Board of Supervisors through the Transportation Advisory Commission (TAC). Reform the Trails and Sidewalks Committee as a Pedestrian Advisory Committee under the TAC. If needed, create a recreational Trails Committee under the Fairfax County park Authority to address issues and needs related to equestrian trails, mountain biking, hiking, and other issues pertaining to recreational trails.~~ Investigate creating a countywide advisory committee that will focus on bicycle needs and issues. This committee would be appointed by and report to the Board of Supervisors. Re-examine the responsibilities of the existing Trails and Sidewalks Committee (T. & S. C.) and determine how best to address issues and needs related to pedestrians, equestrian trails, stream valley trails and other recreational trail uses.

Page 80, 81, Section 6.1, Strengthen the FCDOT Bike Program Recommendations, Fifth bullet

- "Establish a bike parking installation program. Bike Parking Guidelines recently developed by the Fairfax County Bike Program should be adopted as the standard by which to determine and evaluate the quantity and quality of bike parking to be provided. It should be noted that existing zoning regulations will ensure that future developments will provide bike parking; however, there is and will remain a need to retrofit existing buildings to provide outdoor publicly accessible bike parking. The County should investigate opportunities or incentives for ~~pass legislation to allow for cost sharing with (or property tax credit for)~~ private property owners to encourage the provision of more outdoor, publicly accessible bike parking at existing commercial, retail, office, and multifamily residential buildings, especially given the unambiguous public need for and benefit from bike parking at these types of locations."

Page 82, Section 6.2, Bicycle Facility Implementation Policy, No. 5 *(This narrative also occurs on page 6,Third bullet)*

~~"At select locations identified in the plan, to enable use of the Shared Lane Marking, VDOT will conduct studies necessary to consider speed reductions to 30 or 35 mph.~~ Request VDOT to consider speed limit reductions where roadway and traffic conditions warrant. Where speed limits are reduced to 35 mph or below on bicycle network routes, shared lane markings may be feasible."

Fairfax County Bicycle Network Map

Several questions and/or concerns were raised (by Board Supervisors and Planning Commissioners) regarding specific links on the Recommended Bikeway Network Map

Staff recommends the following modifications:

Hunter Mill Road: The map designation currently shows "Bike Lanes, which are on-road facilities, a designation carried forward from the 2002 Countywide Trails Plan Map. Staff was requested to change this classification to either a Policy Road or "Striped Shoulder." Staff recommends: "Bike Lane" from Chain Bridge Road (Route 123) to Lewis Knolls Drive and "Striped Shoulders" from Lewis Knolls Drive to Baron Cameron Avenue.

Merrilee Drive: Staff was requested to change the current map designation (Cycletrack). Staff recommends "Bike Lanes/Climbing Lanes" from Lee Highway (US Route 29) to Halstead Square Road and "Sharrows (Shared Lane Markings)" from Halstead Square Road to Prosperity Avenue. Field measurements verify that this designation can be accommodated with the future redevelopment and accompanying typical road section planned for Merrilee Drive.

Prosperity Avenue: Staff was asked to verify the vertical alignment of Prosperity Avenue and the need for a "Climbing Lane." Field measurements were taken confirming a slight up-hill grade. Staff recommends keeping this designation.

An existing trail (Potomac Heritage National Scenic Trail) parallel to State Route 123 (Ox Road) inadvertently extends outside Fairfax County into the Town of Occoquan. Staff will remove the trail designation at the County Line (north shore of Occoquan River).

Richmond Highway, US Route 1: The current designation for this route consists of either "Bike Lane" or "Cycletrack." Staff recommends continuing to show "Bike Lanes" but show "Policy Roads" for each of the six CBCs.

Chain Bridge Road: The map designation currently shows "Climbing Lane" on Chain Bridge Road from Kirby Road, near the George Washington Memorial Parkway to the Arlington County Line. Because of existing geometric conditions, right-of-way constraints, and the absence of a connecting route in the adjacent jurisdiction, staff is

recommending that this designation be removed from the recommended Bicycle Network Map.

Old Dominion Drive: The map designation for Old Dominion Drive from Towlston Road to Georgetown Pike was inadvertently removed from the Bicycle Network Map. Staff recommends correcting this omission by adding the designation, “Striped Shoulder” on this segment. This completes a critical connection to Great Falls Park and western destinations.

Staff recommends that these modifications be incorporated into the final Bicycle Master Plan document and Bicycle Network Map(s).

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Planned Development District Recreational Fees

ISSUE:
The proposed Zoning Ordinance amendment increases the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts from $1700 to $1800.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission held a public hearing on September 11, 2014. The Commission voted 10-0 (Commissioners Flanagan and Murphy were absent from the meeting) recommending that the Board of Supervisors adopt the proposed Planned Development District Recreational Facilities Zoning Ordinance Amendment as advertised with an effective date of 12:01 a.m. on the day following adoption with the following grandfathering provisions:

- Rezoning applications to the PDH, PDC, PRM, or PTC Zoning Districts containing dwelling units, including proffered condition amendments which propose to add dwelling units, that are accepted prior to the effective date of the amendment and approved by March 1, 2015 shall be grandfathered and not be subject to this amendment;

- Proffered condition amendments which propose to add dwelling units and are accepted on or after the effective date of the amendment shall be subject to the requirements of this amendment for the additional density.

RECOMMENDATION:
The County Executive concurs with the Planning Commission's recommendation.

TIMING:
Board authorization to advertise – July 29, 2014
Planning Commission public hearing - September 11, 2014 at 8:15
Board of Supervisors public hearing - October 28, 2014 at 4:00 p.m.

Board Agenda Item
October 28, 2014

BACKGROUND:
The proposed amendment revises the recreational facility provisions in the PDH, PDC, PRM, and PTC Districts, is on the 2014 Priority 1 Zoning Ordinance Amendment Work Program (ZOAWP), and is in response to a 2007 request by the Board of Supervisors (Board) to reconsider the per unit recreational expenditure every two years. Given that it has been two years since the Board previously considered adjustments to the P district recreational fee, this amendment is now being brought forward for the Board's consideration.

The current Zoning Ordinance provisions require developed recreational facilities as part of the open space requirement to be provided in all PDH, PDC, PRM, and PTC Districts which contain a residential component. The developed recreational facility component is currently based on a minimum expenditure of $1700 per dwelling unit. The recreational facilities must either be provided on-site by the developer, and/or the Board may approve the provision of the facilities on land which is not part of the subject P district application. It should be noted that in affordable dwelling unit developments, the per dwelling unit expenditure does not apply to the affordable dwelling units.

The $1700 expenditure has been in effect since January 2012 and was last adjusted based on the Construction Cost Index (CCI) increase between 2009 and 2012. According to Architects Contractors Engineers Guide to Construction Costs, 2014 Edition, Volume XLV, the CCI has increased by 5% since the beginning of 2012. Given the increase in construction costs since 2012, it may be appropriate to adjust the current $1700 fee accordingly. As such, the proposed amendment increases the per dwelling unit recreational facilities expenditure from $1700 to $1800 in the PDH, PDC, PRM, and PTC Districts. In order to provide flexibility, the Board could consider any fee between the existing fee of $1700 and up to $1800 and still be within the scope of advertising.

It is highly likely that construction costs will continue to rise and it is recommended that the per unit recreational expenditure continue to be reviewed every two years. If an increase is warranted based on the CCI, staff would recommend that the Board consider amending the Zoning Ordinance accordingly.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:
The proposed amendment increases the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM, and PTC District from $1700 to $1800.

Board Agenda Item
October 28, 2014

FISCAL IMPACT:
The minimum expenditure for recreational facilities per dwelling unit in a Planned Development District will total $1,800, which is an increase of $100 per dwelling unit. This cost is paid by the developer. There is no additional cost to the County.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim Excerpt from September 11, 2014 Planning Commission meeting
Attachment 2 – Staff Report

STAFF:
Kirk W. Kincannon, Director, Fairfax County Park Authority (FCPA)
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Michelle O'Hare, Deputy Zoning Administrator for Ordinance Administration Branch, DPZ
Gayle Hooper, Landscape Architect, Park Planning Branch, FCPA
Heath Eddy, Senior Assistant to the Zoning Administrator, Ordinance Administration Branch, DPZ

Planning Commission
Verbatim Excerpt
September 11, 2014

ATTACHMENT 1

ZONING ORDINANCE AMENDMENT (PLANNED DEVELOPMENT DISTRICT RECREATIONAL FEE)

After Close of the Public Hearing

Vice Chairman de la Fe: I will close the public hearing. Commissioner Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. First, let me begin by thanking Gayle Hooper and Heath Eddy for their magnificent work in this case. This is a straightforward amendment, as requested by the Board of Supervisors on a biennial basis to increase the minimum recreational expenditure requirement for new residential planned development district developments from $1,700 to $1,800 per dwelling unit. The amendment has staff's favorable recommendation with which I concur; therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT FOR THE PLANNED DEVELOPMENT DISTRICT RECREATIONAL FEE, AS SET FORTH IN THE STAFF REPORT DATED JULY 29TH, 2014.

Commissioners Hall and Migliaccio: Second.

Vice Chairman de la Fe: Seconded by Mrs. Hall and Mr. Hart [*sic*].

Commissioner Hart: No, Migliaccio.

Vice Chairman de la Fe: Oh, Migliaccio, I'm sorry.

Commissioner Migliaccio: Take your pick.

Vice Chairman de la Fe: Okay, Mrs. Hall and Mr. Migliaccio. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Flanagan and Murphy were absent from the meeting.)

JN

FAIRFAX COUNTY

V I R G I N I A

ATTACHMENT 2

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Planned Development District Recreational Fee

PUBLIC HEARING DATES

Planning Commission September 11, 2014 at 8:15 p.m.

Board of Supervisors October 28, 2014 at 4:00 p.m.

PREPARED BY
FAIRFAX COUNTY PARK AUTHORITY
703-324-8692

July 29, 2014

GH/HE

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 revises the recreational facility provisions in the PDH, PDC, PRM, and PTC Districts, is included on the 2014 Priority 1 Zoning Ordinance Amendment Work Program, and is in response to a 2007 request by the Board of Supervisors (Board) to reconsider the per unit recreational expenditure every two years. Given that it has been two years since the Board previously considered adjustments to the P district recreational fee, this amendment is now being brought forward for the Board's consideration.

The current Zoning Ordinance provisions require that developed recreational facilities be provided as part of the open space requirement to be provided in all PDH, PDC, PRM, and PTC Districts which contain a residential component. The developed recreational facility component is currently based on a minimum expenditure of $1700 per dwelling unit. The recreational facilities must either be provided on-site by the developer, and/or the Board may approve the provision of the facilities on land which is not part of the subject P district. It should be noted that in affordable dwelling unit developments, the per dwelling unit expenditure does not apply to the affordable dwelling units.

A per unit recreational fee expenditure was added to the Zoning Ordinance in 1975. The original $500 expenditure per dwelling unit remained in effect until April 7, 1997 when a Zoning Ordinance amendment was adopted that increased the expenditure from $500 to $955. The fee per dwelling unit was increased from $955 to $1,500 in 2007 and was adjusted based on the Construction Cost Index (CCI) increase between 1997 and 2007. The fee was again adjusted from $1,500 to $1,600 in 2010 based on the CCI increase between 2007 and 2009. The most recent adjustment from $1600 to $1700 was approved in January 2012 based on the 5% CCI increase between 2009 and 2012. According to Architects Contractors Engineers Guide to Construction Costs, 2014 Edition, Volume XLV, the CCI has increased by 5% since 2012. Given the 5% increase in construction cost since the last adjustment was made, it may be appropriate to adjust the current $1,700 fee accordingly. The last time the amount was updated, the calculated value was rounded down from $1,766 to $1,700, so when applying the 5% increase to $1,766, the result is $1,855. Again rounding down to an even number, the proposed amendment increases the per dwelling unit recreational facilities expenditure from $1,700 to $1,800 in the PDH, PDC, PRM, and PTC Districts. In order to provide flexibility, the Board could consider any fee between the existing fee of $1,700 and up to $1,800 and still be within the scope of advertising.

It is highly likely that construction costs will continue to rise and it is recommended that the per unit recreational expenditure continue to be reviewed every two years. If an increase is warranted based on the CCI, staff would recommend that the Board consider amending the Zoning Ordinance accordingly.

In conclusion, it is staff's belief that the proposed increase in the per unit recreation expenditure is warranted based on the CCI increase since the last time this issue was reviewed in 2012. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

Because this amendment may impact certain applications and/or prior approvals, staff recommends the following:

- Rezoning applications to the PDH, PDC, PRM or PTC Districts containing dwelling units, including proffered condition amendments which propose to add dwelling units, that are accepted prior to the effective date of the amendment and approved by March 1, 2015 shall be grandfathered from this amendment.

- Proffered condition amendments which propose to add dwelling units and are accepted on or after the effective date of the amendment shall be subject to the requirements of this amendment for the additional density.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of June 26, 2014 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 6, Planned Development District Regulations as follows:

- **Amend Part 1, PDH Planned Development Housing District, Sect. 6-110, Open Space, by revising Par. 2 to read as follows:**

  2. As part of the open space to be provided in accordance with the provisions of Par. 1 above, there shall be a requirement to provide recreational facilities in all PDH Districts. The provision of such facilities shall be subject to the provisions of Sect. 16-404, and such requirements shall be based on a minimum expenditure of $~~1700~~ 1800 ***[Advertised range is $1700 to $1800]*** per dwelling unit for such facilities and either:

     A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan, and/or

     B. The Board may approve the provision of the facilities on land which is not part of the subject PDH District.

     Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- **Amend Part 2, PDC Planned Development Commercial District, Sect. 6-209, Open Space, by revising Par. 2 to read as follows:**

  2. In a PDC development where dwelling units are proposed as a secondary use, as part of the open space to be provided in accordance with the provisions of Par. 1 above, there shall be a requirement to provide recreational facilities for the enjoyment of the residents of the dwelling units. The provision of such facilities shall be subject to the provisions of Sect. 16-404 and such requirement shall be based on a minimum expenditure of $~~1700~~ 1800 ***[Advertised range is $1700 to $1800]*** per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan. In the administration of this provision, credit shall be considered where there is a plan to provide common recreational facilities for the residents of the dwelling units and the occupants of the principal uses, and/or

B. The Board may approve the provision of the facilities located on property which is not part of the subject PDC District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- **Amend Part 4, PRM Planned Residential Mixed Use District, Sect. 6-409, Open Space, by revising Par. 2 to read as follows:**

2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities. The provision of such facilities shall be subject to the provisions of Sect. 16-404, however, recreational facilities, such as swimming pools, exercise rooms, or health clubs, which are located on rooftops, deck areas and/or areas within a building, may be used to fulfill this requirement. The requirement for providing recreational facilities shall be based on a minimum expenditure of $~~1700~~ 1800 ***[Advertised range is $1700 to $1800]*** per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan, and/or

B. The Board may approve the provision of the facilities on land which is not part of the subject PRM District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- **Amend Part 5, PTC Planned Tysons Corner Urban District, Sect. 6-508, Open Space, by revising Par. 2 to read as follows:**

2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities. The provision of such facilities shall be subject to the provisions of Sect. 16-404, however, recreational facilities, such as swimming pools, exercise rooms, or health clubs, which are located on rooftops, deck areas and/or areas within a building, may be used to fulfill this requirement. The requirement for providing recreational facilities shall be based on a minimum expenditure of $~~1700~~ 1800 ***[Advertised range is $1700 to $1800]*** per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan; and/or

B. The Board may approve the provision of the facilities on land that is not part of the subject PTC District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

Board Agenda Item
October 28, 2014

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Telecommunication Facilities - Modifications to Permit Antennas & Related Equipment on Existing or Replacement Utility Poles or Light/Camera Standards

ISSUE:
The proposed amendment seeks to increase the maximum allowed volume and height of an unmanned equipment cabinet that is permitted to be located by-right on an existing or replacement utility distribution and transmission pole or light/camera standard in any street right-of-way or utility easement, in support of a telecommunication facility. In addition, the amendment also clarifies the limitation placed on the number of permitted antennas for such facilities by eliminating the maximum allotment when the proposed antennas are entirely enclosed within a stealth extension of the existing or replacement pole or standard.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 1, 2014, the Planning Commission voted 10-0-1 (Commissioner Sargeant abstained. Commissioner Lawrence was absent from the meeting) to recommend to the Board of Supervisors approval of the proposed Zoning Ordinance amendment for telecommunication facilities, as set forth in the staff report dated July 29, 2014 with an effective date of 12:01 a.m. on the day following adoption.

RECOMMENDATION:
The County Executive concurs with the Planning Commission recommendation.

TIMING:
Board of Supervisors' authorization to advertise – July 29, 2014; Planning Commission public hearing – October 1, 2014, at 8:15 p.m.; Board of Supervisors (Board) public hearing – October 28, 2014 at 4:30 p.m.

BACKGROUND:
The proposed amendment is on the 2014 Priority 1 Zoning Ordinance Amendment Work Program. The purpose of this amendment is to make those minor modifications to Par. 2, Section 2-514 of the Zoning Ordinance, which facilitate the location of multiple telecommunication carriers, or allow a single carrier to operate within multiple frequency bands, on an existing or replacement utility pole or light/camera standard in any street right-of-way or utility easement. The primary application of the specific technology

associated with this amendment is for wireless Distributed Antennas Systems (DAS) and other small-cell facilities.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

REGULATORY IMPACT:
The proposed amendment would facilitate the installation of DAS and other small-cell facilities on existing or replacement utility poles or light/camera standards in any street right-of-way or utility easement. No additional reviews or staff time are required by this amendment.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report
Attachment 2 – Planning Commission Verbatim

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Andrew B. Hushour, Deputy Zoning Administrator, DPZ

FAIRFAX COUNTY
V I R G I N I A

ATTACHMENT 1

STAFF REPORT

PROPOSED ZONING ORDINANCE AMENDMENT

Telecommunication Facilities: Modifications to Permit Antennas & Related Equipment on Existing or Replacement Utility Poles or Light/Camera Standards

PUBLIC HEARING DATES

Planning Commission October 1, 2014 at 8:15 p.m.

Board of Supervisors October 28, 2014 at 4:30 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

July 29, 2014

ABH

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 2014 Priority 1 Zoning Ordinance Amendment Work Program. The purpose of this amendment is to make those minor modifications to Par. 2A of Section 2-514 of the Zoning Ordinance, which facilitate the location of multiple telecommunication carriers, or allow a single carrier to operate within multiple frequency bands, on an existing or replacement utility pole or light/camera standards located in any street right-of-way or utility easement. The primary application of the specific technology that has generated and is associated with this amendment is for small cell, wireless Distributed Antennas Systems (DAS).

Background

On October 23, 2013, the Department of Planning & Zoning received 2232 Review Application #2232-H13-16, NewPath Networks, LLC/Crown Castle, seeking a determination for the location of a wireless Distributed Antenna System (DAS) on several replacement utility poles owned by Virginia Dominion Power, and located within Virginia Department of Transportation (VDOT) right-of-way in the Hunter Mill and Providence magisterial districts. In total, three different nodes are proposed, on three replacement poles located along Vale Road, west of its intersection with Lakevale Drive; Carey Lane, at its intersection with Vale Road; and Fair Oaks Road, at its intersection with Oak Valley Drive. The system would provide needed coverage on Hunter Mill and Lawyers Road and those surrounding residential communities, and will accommodate service by four major carriers. Each node consists of 6 panel antennas approximately 22 inches in height and 1 foot in width, which are concealed in a cylindrical sheath attached to the top of the replacement poles and painted to match. In addition, a pole mounted equipment cabinet is proposed for each node, which is approximately 7.5 feet in height, 3 feet in width and 2 feet in depth, for a total of approximately 45 cubic feet in volume. The larger size of the equipment cabinet is necessary given the number of carriers and types of service that will be located on each node; a more in depth explanation of this issue is found below as part of the discussion on the proposed amendment.

Based on the proposed colocation on utility poles, the application is subject to those existing provisions found in Par. 2A of Section 2-514 of the Fairfax County Zoning Ordinance, which regulates antennas located on existing or replacement utility and transmission poles and light/camera standards in any street right-of-way or utility easement. Specifically, Par. 2A limits panel antennas to just 4 in number, with a maximum height of 5 feet and a width of 1 foot. The smaller size and limitations on the number of antennas should be noted, since this particular Ordinance section allows their location on poles and standards by-right in any right-of-way or utility easement, resulting in the potentially broad application of such facilities throughout the County. Subsequent sections of the Section 2-514 allow much larger antennas and, as such, they are further limited in areas in which they can be located, depending largely on road classifications and proximity to residentially zoned areas. In addition to the limitation on number and antenna size, the requirements in Par. 2A also limit the size of the associated equipment cabinets to a maximum height of 5 feet and no more than 20 cubic feet in volume. (For reference, a cabinet that is 20 cubic feet in volume could come in a variety of sizes. However, if one assumes the maximum height of 5 feet, this could result in a cabinet that could be 2 feet in width and 2 feet in depth.) Given each of these limitations, the existing provisions in Par. 2A make it difficult to accommodate, as a by-right use, a telecommunication

facility that seeks to locate multiple carriers on a single pole or standard.

To address these issues, it was determined that an amendment to the existing provisions would be the only manner to allow a system such as that proposed by Crown Castle to establish its facilities by-right. In addition, this specific applicant is also anticipating future 2232 applications that would exceed the current Zoning Ordinance requirements. As a first step to a potential amendment, staff reviewed the existing Ordinance provisions to determine the purpose of these limitations. The provisions found in Par. 2A of Section 2-514 were adopted as part of Zoning Ordinance Text Amendment ZO-03-359, as approved by the Fairfax County Board of Supervisors on September 29, 2003, with an effective date of September 30, 2003. Prior to adoption of the text amendment, panel antennas were not permitted on utility poles or light/camera standards, and equipment cabinets allowed in support of a permitted facility could not exceed 2 cubic feet, with no limitation on overall dimensions. However, based on demand and new wireless antenna design occurring in the late 1990's and early 2000's, it was believed at that time that small panel antennas would have minimal visual impact and would be appropriate to allow by-right in residential areas, particularly if such were flush mounted to and blended well visually with the pole or standard. For this reason, it was justified to allow facilities that proposed small antennas throughout the County, so the provisions in Par. 2A were so worded to include location on any pole or standard within any right-of-way or utility easement. In addition, staff at that time justified the increase in cabinet size from 2 to 20 cubic feet on the basis that many of the telephone, cable, electric and traffic light equipment cabinets commonly found within VDOT right-of-way greatly exceed the size limitations placed on telecommunication cabinets.

Next, staff looked at a number of current, proposed facilities that are seeking to locate small antennas on utility pole or light/camera standards, in an attempt to better understand the particulars of the issues that are now being raised, and to see if there is some way that these proposals could in fact be modified to meet the current requirements. As was occurring in those years leading up to the 2003 amendment, there has been a similar increase in demand for more coverage in recent times, and there have also been numerous innovations to antenna and equipment design. However, different than 2003 has been the opening up of additional frequency bands by the Federal Communications Commission (FCC), combined with the growing number of *spectrum uses* such as voice and data. As such, there is a new-old push within the telecommunications industry to acquire greater spectrum in order to meet consumer demand. Furthermore, there also appears to be a current trend towards lower power, small-cell, i.e. micro, systems that would include DAS, which provide necessary service to specific, targeted areas as opposed to a larger structure, such as a monopole, that could provide coverage to a much larger geographic area. What is being proposed by the Crown Castle application is unique, in that it is a DAS that can accommodate four major carriers, which are operating in various frequency bands. The increased cabinet size is driven by the different frequency bands of the users, in that each frequency requires its own ancillary equipment such as a radio and battery power. The same scenario would also apply to a single carrier that is operating within multiple frequency bands - each unique frequency band requires its own dedicated equipment. If one were to break up the proposed system, and each carrier located on 3 separate nodes, it would result in a smaller number of antennas on each node and an equipment cabinet that could meet the current height and size requirements. However, such a system would require colocation of antennas and associated equipment on 12 different poles, as opposed to the 3 poles proposed as part of the current 2232 application. While it would meet the letter of the Zoning Ordinance, this result may be perceived to

be at odds with the spirit of some of the policies of the Comprehensive Plan, which seek to promote collocation on existing utility structures and mitigate visual impact.

Proposed Amendment

The proposed Zoning Ordinance amendment seeks to increase the maximum allowed volume and height of an unmanned equipment cabinet that is permitted to be located by-right on an existing or replacement utility distribution and transmission pole or light/camera standard in any street right-of-way or utility easement, in support of a telecommunication facility. In addition, the amendment also clarifies the limitation placed on the number of permitted antennas for such facilities by eliminating the maximum allotment when the proposed antennas are entirely enclosed within a stealth extension of the existing or replacement pole or standard. It is noted that while these facilities are proposed to be allowed by-right under the Zoning Ordinance, a determination that these facilities conform to the location, character and extent of the Comprehensive Plan would still be required under Sect. 15.2-2232 of the *Code of Virginia* (2232 Review)..

As proposed, there are two separate changes to Par. 2A of Section 2-514, which deals exclusively with those smaller antennas that are permitted on poles or standards in any street right-of-way or utility easement. First, staff is proposing to allow an increase in the number of antennas allowed on an existing or replacement utility pole or light/camera standard. The current provision allows up to 3 omnidirectional/whip antennas, with a maximum size of 8 ½ feet in height or 3 inches in diameter, and up to 4 panel antennas panel not exceeding 5 feet in height or one 1 foot in width. Staff is not recommending any change in the overall antenna size but has drafted language that would remove the limit on the number of permitted antennas, but *only* in those instances when the panel antennas are completely enclosed within a stealth sheath or cap located on the top of the pole or standard. This proposed language is the same concept that is used in other parts of Section 2-514, where limitations are not placed on antennas and/or associated equipment when located inside of another structure, or are similarly concealed in a manner to greatly reduce visibility. In addition, it is in keeping with the original intent of the 2003 amendment, which justified small panel antennas throughout those right-of-ways and utility easements in predominantly residential areas, particularly if such blended well visually with the pole or standard.

Second, staff is also recommending an increase to the permitted equipment cabinet size that is specified in Par. 2A(3), which are currently limited to no more than 5 feet in height, with a maximum volume of 20 cubic feet. As proposed, staff is recommending an increase to 8 feet in height, with a maximum volume of 50 cubic feet. This will easily accommodate a scenario in which multiple carriers or a single carrier operating in multiple frequency bands could locate on a single node, and provide the necessary volume of cabinet space to accommodate multiple sets of equipment. While it is acknowledged that 50 cubic feet of volume is more than double the current size, the additional height results in only a half foot increase to the width and depth, assuming that a cabinet maximizes the full 8 foot height. When mounted on a pole, the increase in height from 5 to 8 feet may or may not be easily discernible, depending on the actual mounting height.

It is noted that the proposed changes are limited to only those antennas allowed by-right pursuant to Par. 2A of Section 2-514. Furthermore, based on feedback provided by the Board at the time of authorization, staff has also added language to Par. 2A(3) to clarify that the placement of any

equipment cabinet will be required to meet all applicable site distance and visibility requirements specified by Fairfax County and/or VDOT. The applicant has expressed a desire to allow, by-right, the larger cabinet sizes for those antennas allowed pursuant to Par. 2B, with further limitations found in Par. 2C. However, staff does not support this approach as these antennas are larger and there is no limitation on overall number. Furthermore, these provisions allow a much taller replacement pole or standard, ranging from 80 to 125 feet, to include the antennas, whereas the maximum height of the replacement pole or standard for those applications allowed pursuant to Par. 2A is only 64 feet, including the antennas. The standard utility pole in the United States is approximately 40 feet in length, with about 5 feet buried in the ground, leaving an effective height of 35 feet. According to the applicant, when the poles are replaced, they are increased in height anywhere from 5 to 15 feet in order to accommodate the additional load that will be carried when a facility is installed. In addition, the cylindrical sheath containing the antennas is approximately 6 feet in height. Assuming that the full 15 feet of additional height is needed for the replacement pole, the overall height of the pole with the sheath would be 56 feet, which is well under the 64 foot threshold prescribed in Par. 2A. A review of the Crown Castle application supports this analysis, as it shows that the proposed nodes are located on replacement poles that will be well under the 64 foot limit. For these reasons, staff does not believe it is necessary at this time to extend the proposed changes to additional provisions found in Section 2-514. Should it be determined at a later date that such changes are needed, they can be properly reviewed as a separate amendment with the benefit of having real life examples of larger cabinets that could be reviewed for impacts if this amendment is ultimately adopted.

Conclusion

Staff believes that is appropriate to make the proposed amendments to Par.2A of Section 2-514 of the Zoning Ordinance, since these changes would facilitate the location of small-cell telecommunication facilities on existing utility infrastructure, in support of the policies set forth in the Comprehensive Plan. Therefore, 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 July 29, 2014 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, Part 5, Qualifying Use, Structure Regulations, Sect. 2-514 Limitations on Mobile and Land Based Telecommunication Facilities, by revising Par. 2A to read as follows:

2. Antennas mounted on existing or replacement utility distribution and transmission poles (poles) and light/camera standards (standards), with related unmanned equipment cabinets and/or structures, shall be permitted in accordance with the following and may exceed the maximum building height limitations, subject to the following paragraphs:

   A. Omnidirectional/whip antennas not exceeding eight and one-half (8 ½) feet in height or three (3) inches in diameter and panel antennas not exceeding five (5) feet in height or one (1) foot in width shall be permitted on a pole or standard located in any street right-of-way or any utility easement subject to the following and Paragraphs 2D through 2I below:

      (1) ~~There~~ Except for antennas totally enclosed within an extension of a new or replacement pole or standard, there shall be a maximum of three (3) omnidirectional /whip antennas or four (4) panel antennas. Such extension shall be of a material or color which closely matches and blends with the pole or standard.

      (2) Antennas shall be flush mounted so that the antenna with supporting mount does not extend more than eight and one-half (8 ½) feet above the pole or standard or one (1) foot from the pole or standard.

      (3) An equipment cabinet or structure not exceeding ~~twenty (20)~~ fifty (50) cubic feet in volume or ~~five (5)~~ eight (8) feet in height shall be located on or adjacent to the same pole or standard. Such cabinet shall be located so as not to obstruct any applicable sight distance and/or visibility standards required by Fairfax County or the Virginia Department of Transportation.

[The advertised range is up to sixty (60) cubic feet]

(4) The height of a replacement pole or standard, including antennas, shall not exceed sixty-four (64) feet in height. The diameter of a replacement pole or standard shall not exceed eighteen (18) inches.

ATTACHMENT 2

Planning Commission
Verbatim Excerpt
October 1, 2014

ZONING ORDINANCE AMENDMENT (TELECOMMUNICATION FACILITIES: MODIFICATIONS TO PERMIT ANTENNAS & RELATED EQUIPMENT ON EXISTING OR REPLACEMENT UTILITY POLES OR LIGHT/CAMERA STANDARDS)

After Close of the Public Hearing

Vice Chairman de la Fe: I will close the public hearing; the Chairman of our Telecommunications Committee, Mr. Murphy.

Commissioner Murphy: Thank you, Mr. Chairman. First, I want to thank Drew Hushour from our staff for the great job he did on this amendment. This was presented to the Planning Commission's Telecommunications Committee without any objections. The proposed Zoning Ordinance Amendment seeks to increase the maximum allowed volume and height of an unmanned equipment cabinet that is permitted to be located by right on an existing or replacement utility distribution and transmission pole or light/camera standard in any straight right-of-way or utility easement in support of a telecommunications facility. It is important to note that while these facilities are proposed to be allowed by right, under the Zoning Ordinance, a determination of these facilities in conformance of the location, character, and extent of the Comprehensive Plan would still be required under Section 15.2-232 [*sic*] of the *Code of Virginia*. So therefore, I concur with the staff recommendation and I would MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT ADOPT TELECOMMUNICATION FACILITIES: MODIFICATIONS TO PERMIT ANTENNAS AND RELATED EQUIPMENT ON EXISTING OR REPLACEMENT UTILITY POLES OR LIGHT/CAMERA STANDARDS, AS PROPOSED BY THE STAFF IN THE STAFF REPORT TONIGHT, WITH ONE AMENDMENT, AND THAT WOULD BE IN SECTION 2, paragraph 3 - - 2A, PARAGRAPH (3): THERE IS A MISSPELLED WORD. It's talking about site distance and IT'S SPELLED S-I-T-E AND, OF COURSE, the kids would know IT'S S-I-G-H-T, right? So, I'D LIKE TO MAKE THAT AMENDMENT, AND THAT'S MY MOTION.

Commissioner Litzenberger: Second.

Vice Chairman de la Fe: Seconded by Commissioner Litzenberger. Is there any discussion? Hearing and seeing none, all those in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

//

(The motion carried by a vote of 10-0-1. Commissioner Sargeant abstained from the vote. Commissioner Lawrence was absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

4:30 p.m.

Public Hearing on SEA 2011-MV-002 (Uzma Tanveer Butt/Sunny Day Care One LLC) to Amend SE 2011-MV-002 Previously Approved for a Home Child Care Facility to Permit an Increase in Children and Associated Modifications to the Development Conditions, Located on Approximately 4,150 Square Feet of Land Zoned PDH-5, CRD, and HC (Mount Vernon District)

This property is located at 8740 Talbott Farm Drive, Alexandria, 22309. Tax Map 110-1 ((27)) 11A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 15, 2014, the Planning Commission voted 10-0 (Commissioners Litzenberger and Murphy were absent from the meeting) to recommend to the Board of Supervisors approval of SEA 2011-MV-002 subject to the Development Conditions dated October 15, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4465057.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nick Rogers, Planner, DPZ

Planning Commission Attachment 1
Verbatim Excerpt
October 15, 2014

SEA 2011-MV-002 – UZMA TANVEER BUTT/SUNNY DAY CARE ONE, LLC

After Close of the Public Hearing

Commissioner Flanagan: The second childcare application we have this evening is – was held on the 8th of October and I think the – many of the same concerns of the Commission applied to that particular application as well. In fact, I'm glad to hear the comments from Barbara Berlin on the impact that this is going to have on continued activities of the staff. I think we have sort of invented a new boilerplate, you know, for the childcare and I – I presume that there are many childcare facilities that have been operating, you know, with the same conditions. So, I don't think this is an – these two applications are unusual. I think we're going to probably, you know, see those characteristics, you know, again in other applications that come before us. So I do hope that we have, you know, some approach of that sort in the staff's – the process and in these applications in the future.

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning: Yes, Chairman, and I'll keep it moving. In the course of working through all the Special Permits, and now we're moving into the Special Exceptions, it's been a moving target but we are trying to iron out the development conditions to arrive at something as close to a template as possible. Thank you.

Commissioner Flanagan: Well, I'm glad that Mount Vernon was able to serve as a guinea pig in this process.

Vice Chairman de la Fe: And I'm glad that Ms. Berlin used the term "template" rather than "boilerplate" because we might need a permit for that.

Commissioner Flanagan: Right. I – I would LIKE TO MOVE THE APPROVAL OF SEA 2011-MV-002, UZMA TANVEER BUTT/SUNNY DAY CARE, AS YOU have now – SEE IT CONSTITUTED IN THE HANDOUT THAT YOU RECEIVED FROM NICK ROGERS THIS EVENING.

Commissioners Sargeant: Second.

Commissioner Lawrence: Was that a motion?

Commissioner Flanagan: Yes, that's a motion.

Commissioner Lawrence: Second.

Vice Chairman de la Fe: Seconded by Commissioner Lawrence and Commissioner Sargeant. Is there any discussion? And again I would –

Commissioner Hart: Mr. Chairman?

Vice Chairman de la Fe: Yes? Mr. Hart.

Commissioner Hart: Two things. I think we should INCORPORATE THE DEVELOPMENT CONDITIONS NOW DATED OCTOBER 15, 2014, IN THE MOTION.

Vice Chairman de la Fe: yes, agreed. That's a FRIENDLY AMENDMENT.

Commissioner Hart: And if I recall, we have to ask the applicant –

Vice Chairman de la Fe: I was going to do that, as I did before.

Commissioner Hart: Okay.

Vice Chairman de la Fe: If the applicant could, come forward. If you could, identify yourself for the record.

Uzma Tanveer Butt, Owner, Sunny Day Care One: My name is Uzma Tanveer.

Vice Chairman de la Fe: And you are the applicant under –

Ms. Butt: – Sunny Day Care.

Vice Chairman de la Fe: SEA 2011-MV-002 and we have a new set of development conditions dated October 15th. Do you accept those conditions?

Ms. Butt: Yes, sir.

Vice Chairman de la Fe: Thank you very much. Okay. Any further discussion? Yes? Okay, hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

//

(The motion carried by a vote of 10-0. Commissioners Litzenberger and Murphy were absent from the meeting.)

JN

Board Agenda Item
October 28, 2014

4:30 p.m.

Public Hearing on a Proposal to Prohibit Through Truck Traffic on Spring Valley Drive, Mitchell Street, Clinton Road and Canard Street (Mason District)

ISSUE:
Public hearing for the purpose of endorsing the following roads to be included in the Residential Traffic Administration Program (RTAP) for through truck traffic restrictions:

- Spring Valley Drive between Braddock Road and Mitchell Street.
- Mitchell Street between Spring Valley Drive and Edsall Road.
- Clinton Road between Spring Valley Drive and Mitchell Street.
- Canard Street between Mitchell Street and Edsall Road.

RECOMMENDATION:
The County Executive recommends that the Board approve the attached resolution endorsing these roads to be included in the RTAP for through truck traffic restrictions.

TIMING:
On October 7, 2014, the Board authorized advertisement of a public hearing scheduled for October 28, 2014, 4:30 p.m.

BACKGROUND:
In a memorandum dated July 10, 2014, Supervisor Gross requested staff to work with the Virginia Department of Transportation (VDOT) to implement through truck traffic restrictions on Spring Valley Drive, Mitchell Street, Clinton Road and Canard Street, due to continuing safety concerns of residents regarding through trucks utilizing these four roads as a shortcut between Braddock Road and Edsall Road. The increased truck traffic has exacerbated safety concerns for the neighborhood. A possible alternate route is via Braddock Road to Backlick Road to Edsall Road (Attachment III).

Section 46.2-809, of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on these roads (Attachment I) has been prepared for adoption and transmittal to VDOT which will conduct the formal engineering study of the through truck restriction request.

Board Agenda Item
October 28, 2014

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Spring Valley Drive, Mitchell Street, Clinton Road and Canard Street
Attachment II: Area Map of Proposed Through Truck Traffic Restriction

STAFF:
Robert A. Stalzer, Deputy County Executive
Thomas P. Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Neil Freschman, Chief, Traffic Operations Section, FCDOT
Steven K. Knudsen, Transportation Planner, FCDOT

ATTACHMENT I

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
THROUGH TRUCK TRAFFIC RESTRICTION
SPRING VALLEY DRIVE, MITCHELL STREET, CLINTON ROAD
AND CANARD STREET
MASON DISTRICT

WHEREAS, the residents who live along Spring Valley Drive, Mitchell Street, Clinton Road and Canard Street have expressed concerns regarding the negative impacts associated with through truck traffic on this road; and

WHEREAS, a reasonable alternate route has been identified for Spring Valley Drive, Clinton Road, Mitchell Street and Canard Street starting at Spring Valley Drive and Braddock Road to the intersection of Braddock Road and Backlick Road, and from the intersection of Braddock Road and Backlick Road to the intersection of Backlick Road and Edsall Road and then on to the intersection of Edsall Road and Mitchell Street; and

WHEREAS, it is the intent of the Fairfax County Board of Supervisors to ensure that the proposed through truck restriction be enforced by the Fairfax County Police Department; and

WHEREAS, a public hearing was held pursuant to Section 46.2-809 of the *Code of Virginia*;

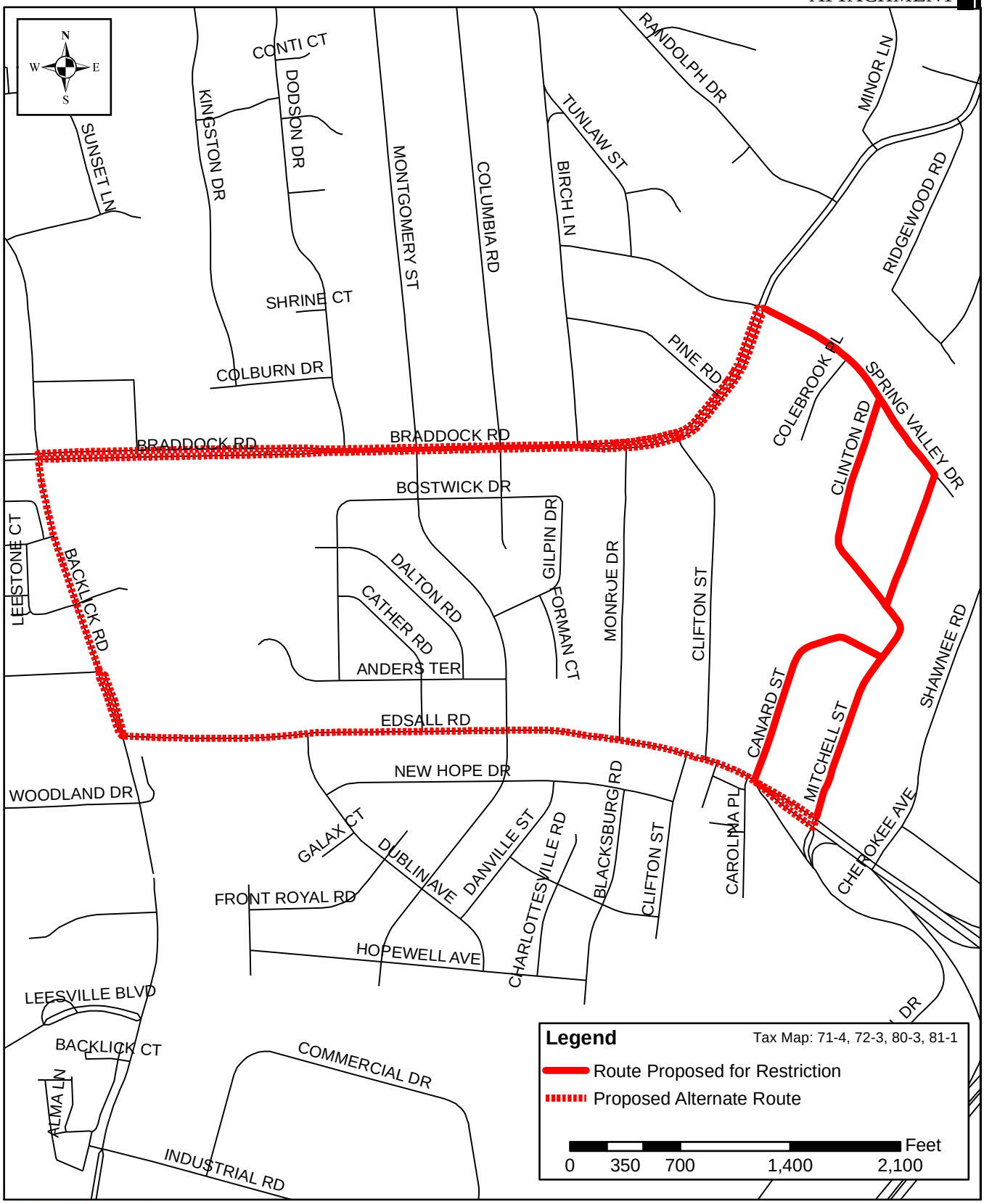
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, has determined that in order to promote the health, safety, and general welfare of the citizens of Fairfax County, it is beneficial to prohibit through truck traffic on Spring Valley Drive, between Braddock Road and Mitchell Street; on Clinton Road, between Spring Valley Drive and Mitchell Street; on Mitchell Street, between Spring Valley Drive and Edsall Road; and on Canard Street, between Mitchell Street and Edsall Road as part of the County's Residential Traffic Administration Program (RTAP).

FURTHER BE IT RESOLVED, that the Commonwealth Transportation Board is hereby formally requested to take necessary steps to enact this prohibition.

ADOPTED this 28th day of October, 2014.

A Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors



Fairfax County Department of Transportation
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
PROPOSED THROUGH TRUCK RESTRICTION
SPRING VALLEY DRIVE, CLINTON ROAD,
MITCHELL STREET & CANARD STREET

A Fairfax County, Va., publication **Mason District** August, 2014

Board Agenda Item
October 28, 2014

5:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern