**FAIRFAX COUNTY**
**BOARD OF SUPERVISORS**
**June 21, 2016**

## AGENDA

| | |
|---|---|
| 9:00 | Reception for the A. Heath Onthank Awardees, Reception Area of the J. Lambert Conference Center |
| 9:30 | Presentations |
| 10:00 | Presentation of the A. Heath Onthank Award |
| 10:10 | Presentation of the History Commission Annual Report |
| 10:20 | Board Appointments |
| 10:30 | Items Presented by the County Executive |

## ADMINISTRATIVE ITEMS

| | |
|---|---|
| 1 | Extension of Review Period for 2232 Application (Mason District) |
| 2 | Authorization to Advertise a Proposed Amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of the Code of the County of Fairfax, Virginia to Clarify that the County Does Not Enforce Private Restrictions During the Land Development Process |
| 3 | Streets into the Secondary System (Providence District) |
| 4 | Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-5, 7-2-10, and 7-2-13 Relating to Election Precincts and Polling Places |
| 5 | Authorization to Advertise a Public Hearing to Expand the Little Rocky Run Community Parking District (Sully District) |
| 6 | Approval of Traffic Calming Measures and a "Watch for Children" Sign as Part of the Residential Traffic Administration Program (Mason, Providence and Mount Vernon Districts) |

**FAIRFAX COUNTY**
**BOARD OF SUPERVISORS**
**June 21, 2016**

## ACTION ITEMS

| | |
|---|---|
| 1 | Approval of the Fall 2016 Bond Referenda for Transportation, Parks and Park Facilities, and Human Services and Community Development |
| 2 | Board Approval of a Resolution to Authorize the Sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Route 28 Transportation Improvement District Series 2007 and 2008 |
| 3 | Approval of Memorandum of Understanding Between the Board of Supervisors and Clean Fairfax Council, Incorporated |
| 4 | Approval of Agreement Between the Virginia Department of Transportation ("VDOT") and Fairfax County for the Utilization of Congestion Mitigation and Air Quality (CMAQ) Funds for the Fiscal Year 2017 Transportation Demand Management (TDM) Program |
| 5 | Approval of Additional Funding for the Tysons-Wide Roadway Improvement Project, Jones Branch Connector (Providence District) |
| 6 | Endorsement of Design Plans for Bridge Replacement at Walker Road over Piney Run (Dranesville District) |
| 7 | Approval of Changes to the Fairfax County Purchasing Resolution |
| 8 | Approval of an Implementation Plan for Recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission |
| 9 | Approval of an Implementation Plan for Recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission |
| 10:40 | Matters Presented by Board Members |
| 11:30 | Closed Session |

**FAIRFAX COUNTY**
**BOARD OF SUPERVISORS**
**June 21, 2016**

**PUBLIC HEARINGS**

| | |
|---|---|
| 3:30 | Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic |
| 3:30 | Public Hearing on a Proposed Zoning Ordinance Amendment Re: Approval Process for Monopoles and Towers |
| 3:30 | Public Hearing on PCA 84-L-020-25/ CDPA 84-L-020-06 (Kingstown M&N LP and Kingstowne Towne Center LP) (Lee District) |
| 4:00 | Public Hearing on Proposed Amendments to The Code of the County of Fairfax, Virginia - Chapter 30 (Minimum Private School and Child Care Facility Standards), Article 3 (Home Child Care Facilities) |
| 4:00 | Public Hearing on Proposed Plan Amendment 2016-I-A1, Located West of Heritage Drive Between Commons Drive and Rectory Lane (Braddock District) |
| 4:00 | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Jones Branch Connector - Final Design (Providence District) |
| 4:00 | Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 2, 6, 9, 11, 13, 16 and Appendix 7 – Modifications to the Planned Development Commercial (PDC) District, Planned Residential Mixed Use (PRM) District and Other Associated Provisions |
| 4:30 | Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2017 through 2022 and FY 2017 Budget |
| 5:00 | Public Comment |

# *Fairfax County, Virginia*

# *BOARD OF SUPERVISORS AGENDA*

**Tuesday**
**June 21, 2016**

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9:30 a.m.

**PRESENTATIONS**

- CERTIFICATE – To recognize Langley High School senior Andrew Shapiro for breaking three Guinness World Records and raising funds for the American Cancer Society. Requested by Supervisor Foust.

- RESOLUTION – To recognize Margery Sher, executive director of the Medical Care for Children Partnership Foundation for receiving the Jorge Arnoldson Memorial Award for her years of service. Requested by Chairman Bulova.

- CERTIFICATE – To recognize the Northern Virginia Ahmadiyya Muslim Community for its dedication to peace, unity and equality. Requested by Chairman Bulova.

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

Board Agenda Item
June 21, 2016

10:00 a.m.

Presentation of the A. Heath Onthank Awards

ENCLOSED DOCUMENTS:
None

PRESENTED BY:
Honorable Rosemarie Annunziata, Civil Service Commission
Christopher Moeller, Onthank Award Committee Chairman
Sharon Bulova, Chairman, Board of Supervisors
Edward L. Long Jr, County Executive
Cathy Spage, Director, Human Resources

Board Agenda Item
June 21, 2016

10:10 a.m.

Presentation of the History Commission Annual Report

ENCLOSED DOCUMENTS:
Attachment 1: History Commission's 2015 Annual Report

PRESENTED BY:
Carole Herrick, Chairman of the Fairfax County History Commission

# Fairfax County History Commission

# Annual Report

# 2015

**Fairfax County History Commission**

Mailing Address:

Fairfax County History Commission
10360 North Street
Fairfax, Virginia  22030

Telephone: (703) 293-6383

**www.fairfaxcounty.gov/histcomm**

May 25, 2016

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## CHAIRMAN'S REPORT

It is with great pleasure that the Fairfax County History Commission submits its annual report for the year 2015. As you will see from the committee reports, the Commission had another outstanding year in preserving and promoting the county's past. Several commissioners gave lectures or presentations before various groups, many of which focused on newer residents within the county, seniors, and school age children. This is possibly the most productive manner in which to make citizens aware, appreciate, and learn about the history of the county in which they live.

Under the guidance of chair Jack Hiller, the Fairfax County Historical Marker program dedicated two new markers. They are Chesterbrook and Reverend William Watters, both in the Dranesville District. Since this program began in 1998, forty-seven markers have been installed and dedicated throughout the county. The History Conference Committee, headed by Lynne Garvey-Hodge, delivered another outstanding event. This was the eleventh year for the conference and it appropriately featured George Washington. At the conference author Gregory P. Wilson received the Ross Netherton Award for his book *Jonathan Roberts: The Civil War's Quaker Scout and Sheriff*. Discussions continued throughout the year regarding the county establishing a Resident Curator Program. Robert Beach and Elise Murray were appointed to represent the Commission on the Community Technical Advisory Committee (CTAC) that will plan its operations. Working with co-chair Patrick Lennon of Visit Fairfax and Dr. Elizabeth Crowell head of Cultural Resources Management, Gretchen Bulova concluded the county's four year Civil War Sesquicentennial commemoration by hosting a wrap-up evening at the Bull Run Winery.

Four nominations were approved for listing in the Fairfax County Inventory of Historic Sites: the Mackall/Hall house on Turkey Run Road (Dranesville District), Tinner Hill District (Providence District), Fairview Farm (Lee District), and Northern Virginia Regional Park Authority Headquarters (Springfield District). As usual, the Commission listened to presentations by several individuals/organizations seeking advice, financial assistance, or just giving the commissioners information. This year such presentations included the Suffragist Memorial Association; the Maryland Resident Curator Program; Friends of the Historic Fairfax Courthouse; and the children of Henry Mackall (now deceased) seeking suggestions to save the 1730 log cabin, a part of their father's house.

Perhaps the most significant happening for the Commission regarded its financial operations since money spent is public funds. Several board members met with county staff to discuss how the County would administer a new financial policy. The meetings resulted that all funds of the Fairfax County History Commission will be maintained through Fairfax County's financial system, FOCUS, and administered by staff of the Department of Planning and Zoning or Fairfax County Park Authority starting January 1, 2016.

The history commissioners appreciate Fairfax County's Board of Supervisors continued efforts in supporting the History Commission's mission. Thank you.

Respectively submitted, Carole Herrick, Chair

## FAIRFAX COUNTY HISTORY COMMISSION MEMBERS

Carole L. Herrick, Chair
Anne Stuntz, Vice-chair
Steve Sherman, Secretary
Debbie Robison, Treasurer
Carrie Ann Alford
Anne Barnes
Robert E. Beach
Gretchen Bulova
Jack Hiller
Lynne Garvey-Hodge
Michael R. Irwin
Mary Lipsey
Sallie Lyons
Esther W. McCullough
Elise Ruff Murray
Barbara Naef
Page S. Shelp
Phyllis Walker Ford
Naomi Zeavin

## OVERVIEW

The Fairfax County Board of Supervisors officially created the Commission in 1969. It grew out of the Landmarks Preservation Committee established in 1965. There are 20 members. The Commission meets on the first Wednesday of each month. All meetings are open to the public. An independent contractor prepares minutes. In addition to the regular meetings, members put in many volunteer hours each month on the Commission's committees.

The Commission carries out the Board of Supervisors' mandate in various ways:

- The Commission maintains the Fairfax County Inventory of Historic Sites, which included 366 sites at the end of 2015.
- The Commission advises the Board of Supervisors and appropriate agencies on matters involving the history of the County in the following ways:
  - Works closely with the Department of Planning and Zoning; the Architectural Review Board; the Park Authority, especially the Cultural Resource Management and Protection programs; and the Public Library especially the Virginia Room.
  - Proposes and monitors Historic Overlay Districts. A member of the Commission, Elise Ruff Murray, serves in an ex officio capacity on the Architectural Review Board.
  - The Commission is consulted on development or demolition of old or historic structures, whether on the Fairfax County Inventory of Historic Sites or not.
  - Advises the State Review Board and Historic Resources Board about historic and cultural sites recommended for inclusion on the National Register.
  - Participates in matters under Section 106 of the National Historic Preservation Act, which requires federal agencies to take into account the effects of their undertakings on historic properties, particularly with regard to Fort Belvoir and cell phone tower applications. Sallie Lyons is representing the Commission at reviews for the Route One improvements at Fort Belvoir.

- In order to generally promote the public interest in all matters bearing on the history of Fairfax County, the Commission:
  - Cooperates with the Fairfax County Public Schools, Northern Virginia Community College and George Mason University in local history activities.
  - Provides advice and assistance to local historical societies, churches and citizens' groups on matters of historic preservation.
  - Assists in negotiations for preservation easements.
  - Pays special attention to the possibilities for tax incentives for preserving historic properties.
  - Promotes the establishment of volunteer citizen special interest groups.
  - Attends meetings, conferences and seminars for continuing education.
  - Participates with other state, national and local organizations in joint programs. Carole Herrick represents Fairfax County on the War of 1812 Bicentennial Commemoration Planning Committee for the region—Maryland, D.C. and Northern Virginia. See also the Civil War Sesquicentennial section of this report.
  - Acts as a liaison with public and private historical agencies in the County and on the state and national levels.
  - Supports and encourages activities at all educational levels that will stimulate interest in the archeological and historical background of Fairfax County.
  - Supports oral history programs in Fairfax County.
  - Supports the collections of the Virginia Room of the City of Fairfax Regional Library and the preservation of materials held therein. The Commission makes an annual grant to the Virginia Room for preservation and research materials.
  - Supports the Park Authority Cultural Resources Management and Protection programs (CRMP) that include the county archaeology program. The Commission makes grants to Cultural Resource Management Section for interns and consultants to perform archeological and architectural surveys as needed.
- Specific programs to promote the public interest in all matters bearing on history in Fairfax County include:
  - Fairfax County's Historical Marker Program that marks appropriate historical sites throughout the County.
  - Awards programs to honor achievements in Fairfax County history and historic preservation.
  - Annual History Conference to educate County citizens about Fairfax County history.
  - Compiles and makes available to the public a list of local historians willing to speak on a variety of topics related to the history of Fairfax County.
  - Assists in reprinting County history publications.
  - Provides a juror for the annual Fairfax County Exceptional Design Award.
- Since 1969 the Commission has contributed the following to the County:
  - Completed a program to index, abstract and microfiche early Circuit Court Records.
  - Prompted the creation of the Fairfax County Records Management Program.
  - Initiated the establishment of the County Archaeology program.
  - Published three books on Fairfax County history.
  - Prepared property identification maps and a census of Fairfax County in 1860.

## CIVIL WAR SESQUICENTENNIAL

In 2011, Fairfax County joined forces with other localities across the Commonwealth to form a local Sesquicentennial Committee in order to commemorate the 150th anniversary of the Civil War in Virginia. Members of the Commission collaborated with Visit Fairfax, the Park Authority, the City of Fairfax, and representatives from local groups and societies to work with the State Sesquicentennial Commission, plan events and activities that highlight the County's role in the Civil War, and to promote Fairfax County's rich Civil War history. Gretchen Bulova is the Commission's representative to the Fairfax County Sesquicentennial Steering Committee and serves as Chair of the History Commission's Sesquicentennial committee. Members of this committee include Carole Herrick, Mary Lipsey and Naomi Zeavin.

Throughout the five year commemoration, the Sesquicentennial Committee planned a wide variety of activities and educational resources to support the County Sesquicentennial initiatives. Some of these activities included collaboration with the City of Fairfax to commemorate the Skirmish of Fairfax Courthouse (June 1, 2011); suggested reading lists for both children and adults (2011); the coordination of a series of 18 Civil War Trail markers throughout the County (2012, 2013, 2014); the creation of a driving tour of Fairfax County Civil War sites "Footsteps to Fairfax Trail" (2012); and the research, development and marketing of nine "Civil War in Fairfax County" educational outreach kits for school teachers, groups and community organizations (2014). Information and links to these initiatives and historical resources can be found on the Commission's website (http://www.fairfaxcounty.gov/histcomm/civil-war.htm).

The State Sesquicentennial Commission presented the Fairfax County Sesquicentennial Committee with an outstanding achievement award in May 2015 that recognized the activities and achievements of Fairfax County's historical organizations.

The Sesquicentennial Committee held a concluding event in November 2015 to thank the numerous event sponsors and volunteers for their work in creating a successful commemoration.

## FAIRFAX COUNTY RESIDENT CURATOR PROGRAM

Robert Beach (Chair), Gretchen Bulova, Michael Irwin and Barbara Naef have served on the Commission's Resident Curator Program Committee since 2011.

As reported in previous History Commission Annual Reports, the History Commission has continued to partner with the Department of Planning and Zoning and the Park Authority to explore the implementation of a Resident Curator Program. The County contracted with John Milner Associates to prepare a report that reviewed how states and localities with established resident curator programs operated and make recommendations for the establishment of a resident curator program in Fairfax County.

The Final Resident Curator Program Study report was delivered to the Board of Supervisors September 30, 2014. The Board of Supervisors adopted a new chapter, Chapter 125, Resident Curator Program Ordinance, to the Code of the County of Fairfax, Virginia, establishing Resident Curator Program, on November 18, 2014. The ordinance requires that in order to be eligible for the program, properties must be publicly owned and must be eligible for or listed in the Fairfax County Inventory of Historic Sites.

The Park Authority hired a limited term project manager and assigned staff to the Resident Curator project work team. Other Fairfax County agencies have assigned staff as project work team members. The Site Summaries compiled for each potential property are being updated to ADA acceptable format for the web page in preparation for the Request for Information. The project manager developed drafts of Deliverables based on the Charter for committee review and adoption.

In June of 2015 Robert Beach and Elise Ruff Murray representing the History Commission joined the Residence Curator Community Technical Advisory Committee to work with two members of the

Architectural Review Board, one member of the Park Authority Board, and the County Staff Work Team consisting of the Resident Curator Project Manager with representatives from Facilities Management, Risk Management, the Department of Finance, the Department of Planning and Zoning, and the Park Authority to outline the purpose and scope of the team, the deliverables for the RC program development and implementation, and an approximate timeline for implementation of a resident curator program in Fairfax County.

The RC Project Team created the criteria for evaluating the order of how properties would be selected to be advertised for curatorship. Each property was scored on a five-point scale for each of the following criteria: historic significance, listing status, Historic Structures Report with treatment plan, park master planning status, compatible use, public interest, building condition, utility availability, and current use.

Using the total scores for each property based on these criteria, the Project Team created a ranked comparison of the properties. The individual rankings were then tabulated to select the first two candidate properties to move forward for advertisement for curatorship in 2016. The two properties recommended for application submittals are: Ellmore Farm, Frying Pan Park, Hunter Mill District and Stempson House, Laurel Hill Park, Mount Vernon District. (Two properties per year was recommended by other established curator programs). Four other properties that were also ranked high were: Turner Farmhouse (Dranesville District), Lahey Lost Valley (Hunter Mill), Hannah P. Clark House (Mount Vernon District), and Ash Grove (Hunter Mill District). The four properties are recommended to be offered to the public to submit expressions of interest so that they are ready for the application process should the first two properties not receive applications.

One benefit of the Resident Curator Program is the ability to offset the extensive renovation expenditures via a fair market rental obligation through substantial structural improvements provided by a curator. Several of the properties on the overall county list are identified as "move-in ready," and are not in need of substantial renovation; therefore, they do not face the immediate dangers of long-term neglect of the structures. In order to address the maintenance of these properties, a caretaker program is being considered as part of the resident curator program to manage these historic resources through fair market leases and more moderate improvements including the need for ongoing care and upkeep of the structure.

County Staff have conducted site visits to the identified properties in order to assess their current condition. The Project Team has identified and reviewed the County and Curator responsibilities in the curatorship process for the selected properties. They have also developed the criteria that will be used to evaluate curator applications, which will be based on criteria such as: the scope and nature of the proposed public benefit, the proposed rehabilitation plan's sensitivity to the historic nature of the property, and the financial capacity of the applicant to successfully complete the project and maintain the property. County Staff also drafted a template for the leasing of Park Authority-owned properties. Creating this draft lease template will help facilitate the leasing process once a curator has been selected for a particular property. A procedural manual for the Resident Curator Program is being drafted as processes and procedures are reviewed and agreed upon. The manual will help guide the process as additional properties are moved into and through the program.

The Committee completed their work on April 25, 2016 and the program is ready to move into the implementation phase with the recommended properties for application and expression of interest moving forward to advertisement to the public and implementation of the pilot program which is underway.

## ELEVENTH ANNUAL HISTORY CONFERENCE

### "Fairfax County's Founding Fathers – Part I"

The 11th Annual Fairfax County History Conference was held Saturday, November 7, 2015 at the Stacy C. Sherwood Community Center in the City of Fairfax. With "Fairfax County's Founding Fathers - Part I" as the theme, Board of Supervisors Chairman Sharon Bulova kicked off the conference - attended by over 100 guests. For the first time, the conference was filmed by local Cable Channel 16.

Guests included authors and exhibitors: The Burke Historical Society, the Bull Run Civil War Round Table, the Fairfax County Cemetery Preservation Association, Chuck Mauro, Chuck Mills, Carole Herrick and many others. Chairman Bulova presented Greg P. Wilson with the Ross Netherton Award for his fine research on *Jonathan Roberts - The Civil War's Quaker Scout and Sheriff*.

The conference featured the following presentations.

- Who Was the Fairfax Family?
  Jenée Lindner, local historian
- Working the Land – George Washington, His Farms, Gristmill & Distillery
  Steven T. Bashore, Director, Historic Trades, George Washington's Mount Vernon
- The Wills of George & Martha Washington
  Katrina Krempasky, Fairfax Circuit Court Historic Records

Living history performances Included:

- Lucy Lee, 19th Century Free African American Woman
  Marion Dobbins, Historical Re-enactor
- George Washington
  Dean Malissa, Nationally Acclaimed Historical Re-enactor

Steve Bashore, who had to leave promptly to return to Mount Vernon in order to oversee this season's preparation of rye whiskey, presented detailed information on Mount Vernon's farm and distillery. Katrina Krempasky provided an excellent overview of the what/where/how journey of the George and Martha Washington Wills before their careful return to Fairfax County. General George Washington, re-enacted by Dean Malissa, was able to join us. Guest historian Helen Anderson shared a minuet with the General. General Washington reminded us of *E Pluribus Unum* - a sentiment truly much noteworthy in this day and time. Marion Dobbins' re-enacted the story of her great, great grandmother, freed 19th century African American woman, Lucy Lee, providing insight into the cold, lonesome world of a former slave and her own 7th generation Fairfax County heritage.

A Trivia Quiz throughout the day kept everyone on their toes and a special five year return from veteran historian Nadine Mironchuk from Chelsea, Massachusetts was honored. All attendees received a copy of the book *In the Path of History* by Ross and Nan Netherton and Ruth Rose. A new addition was the "Drop & Swap" book table that had at its height 30 books and was down to three by the conference end. It was all enthusiastically received.

Conference Committee members, Barbara Naef, Sallie Lyons, Phyllis Walker Ford, Esther McCullough, Mary Lipsey, Naomi Zeavin, Mike Irwin, Anne Barnes, Liz Crowell, Fairfax County Park Authority, Susan Gray, City of Fairfax, Jenée Lindner, local historian and Lynne Garvey-Hodge, Chair, all worked diligently for a year prior to prepare for this event. We enjoyed catered food from Jason's Deli, with remaining food taken to one of the county's homeless shelters.

The twelfth annual conference for 2016 is tentatively set for November 12, 2016 at the Stacy C. Sherwood Community Center in Fairfax, VA, "Fairfax County's Founding Fathers - Part II" – with a focus on George Mason.

## AWARDS PROGRAMS

The Fairfax County History Commission maintains awards programs to honor research and achievements in Fairfax County history and historic preservation:

- Heritage Awareness Awards: Established in 1995, this program is designed to stimulate and reward original research in Fairfax County history using standard social, political and economic sources in written narrative form, a nomination to the National Register of Historic Places or a video documentary.
- Recognition Awards: To recognize contributions of individuals and groups to the preservation of history in Fairfax County.

These programs are open to the public. A full description of the programs, along with rules and requirements can be found on the Commission's website.
(www.fairfaxcounty.gov/histcomm/awardsprogram.htm)

The following award was presented at the November 12, 2015 Fairfax County History Conference:

Fairfax Heritage Award: The Ross Netherton Prize

> Greg P. Wilson for his thoroughly researched and footnoted 691 page book with over 1,300 footnotes, *Jonathan Roberts, Civil War Quaker Scout & Sheriff*, documenting the events that occurred during the Civil War in Fairfax County. This book is outstanding in its revelation of so many local personalities and lives during the mid-19th Century - a time of great hardship, economic difficulty and amidst a war-torn land and its people. A time of horrific stress within Fairfax County is hereby revealed. The reader sees firsthand how the local citizenry responded to the often unspeakable horrors within a county and a nation torn by the extreme of Civil War stress.

The Awards Committee included Lynne Garvey-Hodge (Chair), Naomi Zeavin, Jack L. Hiller and Elise Ruff Murray.

## PUBLICATIONS

The Publications Committee currently has three projects: reprinting *Beginning at a White Oak*; an update and reprint of *Mount Air*; and publishing *Fairfax County in 1860: A Collective Biography*.

Members of the Publications Committee were Carrie Ann Alford, Anne Barnes, Carole Herrick, Elise Ruff Murray and Anne Stuntz. At present there is no chairman.

## CULTURAL RESOURCE MANAGEMENT AND PROTECTION SECTION GRANTS

The Commission provides grants to the Park Authority Cultural Resource Management and Protection Section (CRMP). Over the years, the grants have funded a variety of things including data entry, archival supplies and interns. The most recent grant funded an intern who spent his time converting old catalog codes into a new integrated system. He was able to convert approximately 80% of the old catalogs into the new catalog using an automated computer script. In addition, he assisted with integrated pest management, housekeeping and creation of accreditation files.

## BUDGET

**Fairfax County History Commission**
**Income and Expenses**
**FY 2015, Estimated FY 2016 and Actual First Half FY 2016**

| | FY 2015 | Estimated FY 2016 | First Half FY 2016 |
|---|---|---|---|
| Beginning Balance July 1 | $25,806 | $32,170 | $32,170 |
| Revenues: | | | |
| Fairfax County | $21,013 | $21,013 | $21,013 |
| Interest Earned | 4 | — | — |
| Total, Revenues | $21,017 | $21,013 | $21,013 |
| Total Available | $46,823 | $53,183 | $53,183 |
| Operating Expenses | $14,653 | $25,000 | $20,558 |
| Accruals for the preservation and publications programs | — | $28,183 | — |
| Ending Balance June 30 | $32,170 | | |

Major expenditures in FY 2015 included a grant to the Park Authority Cultural Resource Management and Protection Section, historical markers and their maintenance, and the history conference.

All unspent funds from previous years have been committed to publications projects such as “Fairfax County in 1860,” Civil War Sesquicentennial projects, and to preservation and oral history programs.

## WEBSITE

In addition to providing History Commission members’ contact information, the History Commission's web page describes the various programs the Commission offers to promote interest in local history extending from pre-history to the recent past. The History Commission’s Publication Grant encourages the sharing of local history research. The Awards Programs recognize individuals and groups for their efforts in researching or promoting history. Procedures and application forms for the Publication Grant and the Awards Programs are available online. Promotional information on the annual Fairfax County History Conference is placed on the website as it becomes available each year.

In addition, a historical resources page provides information on property owners in 1860, lists of Board of Supervisors members, and links to the Fairfax County Inventory of Historic Sites and an external database of Fairfax County historical markers. The Sesquicentennial page provides information on the Civil War in Fairfax County, including suggested reading lists and a Fairfax County Civil War driving tour. The website serves as an easy, up to date and readily available tool for anyone interested in our County's history. Debbie Robison manages the website. The webmaster is Greg Chase with the Department of Planning and Zoning. (www.fairfaxcounty.gov/histcomm/)

## HISTORICAL MARKERS

Fairfax County's Historical Marker Program began in January 1998 when the History Commission approved a design and agreed to fund a distinctive historical roadside marker for Fairfax County. While this marker is generally modeled after Virginia's roadside markers, by state code it must have a distinctive appearance. With colors derived from George Washington's Fairfax Militia uniform, these buff and blue roadside markers emblazoned with the Fairfax County seal, stand ten feet from ground level.

In the sixteen years the program has existed 55 historical roadside markers (including six state markers) have been approved for installation by the History Commission. Many requests for historical markers are initiated by the public, which provides for approximately one half of the funding. Some markers, including those requested by developers, are funded entirely by the requesting party. All requests are reviewed by a committee for historical accuracy and editorial continuity before being submitted to the entire Commission for approval.

During the 2012 calendar year, the Commission agreed to limit the funding of historical markers to the equivalent cost of two markers due to budget restraints. The current cost of fabricating a marker is $2040.

Three markers were approved in 2015: Chesterbrook, the Copperthite Racetrack, and The Pines. The Chesterbrook marker, installed in the McLean area, was partially funded by Celebrate Great Falls and McLean. The marker conveys the history of a farming community that developed along Kirby Road after the Civil War. The Copperthite Racetrack, installed in Burke, was fully funded by a Copperthite family member. The marker highlights events at the racetrack enjoyed by thousands of visitors to Burke. The Pines marker, approved but not yet installed, will be located near Merrifield. The marker, partially funded by Supervisor Gross's office, remembers the African American families who built a close-knit community here at the turn of the 20th century but were displaced during a period of school desegregation.

Serving on the Marker Committee in 2015: Jack Hiller (Chair), Anne Barnes, Michael Irwin, Mary Lipsey, Esther McCullough, Debbie Robison, Page Shelp and Carrie Ann Alford. Sadly Jack Hiller died in February 2016. Debbie Robison is now chair of the committee.

## ETHNIC/ORAL HISTORY

The Ethnic Committee was formed in the fall of 1997 in response to the increasing demographic diversity of Fairfax County's population. The one hundred languages spoken within schools show the diversity of the population. It has been estimated that in less than fifty years the County's white population will drop below 50 percent. The committee set as a goal to explore the ways in which more ethnic segments might be encouraged to record their experiences and community history since their arrival in Northern Virginia.

In 2004, at the suggestion of then-Chairman Connolly, the Commission formed a subcommittee of the Ethnic Committee to create a program for recording and presenting oral history in Fairfax County. The Oral History subcommittee offers support to groups in Fairfax County seeking to record and collect oral histories.

The members of this committee are Esther McCullough (Chair), Naomi Zeavin, Anne Barnes, Sallie Lyons, Lynne Garvey Hodge, Anne Stuntz and Phyllis Walker Ford..

## INVENTORY OF HISTORIC SITES

The Fairfax County Inventory of Historic Sites is one of the History Commission's longest standing responsibilities. It serves as both an honorific and a planning tool. The Comprehensive Plan includes the Inventory sites in the Heritage Resources section of each Planning District.

The Comprehensive Plan Amendment for 2015 to update the Inventory tables, references to Inventory sites in the text and other technical correction will come before the Board of Supervisors on September 20, 2016.

As of December 2015, the Inventory stood at 366 listings, including the four additions below:

**Additions to the Inventory of Historic Sites**

**2015**

| Site Name | Location/Vicinity | District | Date Added |
|---|---|---|---|
| Fairview Farm | Alexandria | Lee | 1/7/2015 |
| Northern Virginia Regional Park Authority Headquarters | Fairfax Station | Springfield | 7/1/2015 |
| Tinner Hill District | Falls Church | Providence | 12/2/2015 |
| Mackall Hall | McLean | Dranesville | 12/2/2015 |

The current Inventory list along with its background, nomination forms and research guidelines are accessible to staff and the general public on the County website. An Inventory nomination form, instruction guide and example are also available. (www.fairfaxcounty.gov/dpz/historic/ihs/) Laurie Turkawski, Heritage Resource Specialist, worked with the Tinner Hill community in Falls Church to prepare an example of a district nomination.

In August, the Commission's DPZ staff liaison, Laurie Turkawski who worked closely with the Inventory Committee departed to work in the Delaware State Historic Preservation Office. In April 2016, Stephanie Goodrich joined the DPZ staff as a Heritage Resources Planner and serves as the Commission's new liaison.

Sallie Lyons, Elise Ruff Murray, Barbara Naef, Debbie Robison and Anne Stuntz serve on the Inventory Committee, in cooperation with Laurie Turkawski and Linda Cornish Blank of DPZ.

## SPEAKERS BUREAU

At the Board of Supervisors request, the Commission compiled a list of people willing to speak on topics related to Fairfax County history. The resulting Speakers Bureau List includes a variety of countywide history topics with related speakers and contact information, including name, email address and phone number.

Members of the Fairfax County History Commission continue to be active in speaking before various civic, community and historic groups.

**Anne Barnes** presents talks on historical Fairfax County's Shiloh Baptist Church to diverse audiences.

**Gretchen Bulova** lectured to a variety of a community organizations and DAR chapters in 2015. Lectures included hands on demonstrations, information, and practical tips on preserving family photographs, digital images, family textiles, and documents.

**Carol Herrick** Besides authoring several books, Carole researches history and writes articles about historical sites and events for *Viva Tysons* magazine and other publications. She gives lectures on Northern Virginia, particularly the McLean area, and for many years has been part of the "Lifetime Learning Program" sponsored by the McLean Community Center.

**Jack Hiller** continued to have a busy speaking schedule in 2015, which included presentations before the Osher Lifelong Learning Institute at George Mason University. Typically, he is asked to speak in public schools, to civic associations, historical groups, senior citizens or private groups. Many of Hiller's lectures include slides and focus on Springfield. Titles of his lectures include: *"Murder at the Mill: Historian as Detective," "Henry Daingerfield and Origins of Springfield," "The Hidden History of Hidden Pond Park,"* and *"An Introduction to Fairfax Archaeology*." Sadly Jack passed away in February 2016.

**Lynne Garvey-Hodge** re-enacts Progressive Era Suffragist Mrs. Robert Walker for numerous community events, educational groups, Cox Cable Channel 10 and women's associations, traveling throughout Virginia to do so. Ms. Garvey-Hodge also performs two additional characters: Angelina Grimké an early 19th century, abolitionist and Quaker women's rights activist from South Carolina; and from the Gilded Age and early days of America's railroad industry, Mrs. John Henry Devereux, wife of railroad magnate and Civil War Railroad General, John Henry Devereux. Lynne also speaks on the history and background of the historic Town of Clifton, has researched, and authored a book, published by Arcadia Publishers in their Images of America Series, *Clifton*. Further, she speaks to local educational forums and civic organizations on "Women of the Progressive Era in Fairfax County," "The Lorton Reformatory and Progressive Era in Fairfax County," "Victorian Mourning Customs" and "Stories in Stone – Understanding Cemetery Iconography".

**Mary Lipsey** continues to provide presentations on a variety of topics related to the "Braddock's True Gold" project, local history, women's history and firsts in American history.

**Sallie Lyons** promotes preservation and archeological and historical research in the old town of Colchester, Old Colchester Park and Preserve and Mason Neck, speaking frequently to groups and at the History Conference.

**Debbie Robison** makes presentations on discovering mills in Fairfax County.

**Anne Stuntz** speaks on the history of Vienna and its environs.

**Phyllis Walker Ford** speaks on the history of Franconia and Laurel Grove School.

**Naomi Zeavin** speaks and shows history videos at the Rotary, schools, senior groups and Fairfax Museum on Historic Mason District.

## OUTREACH ACTIVITIES

Fairfax County History Commission members continue to be active in a variety of ways in the community. The following summary, though not a comprehensive list, highlights the wide variety of outreach activities performed by Commission members.

**Carrie Ann Alford,** who left the Commission at the end of 2015, was on the Old Mount Vernon High School Reuse Task Force as the History Commission representative.

**Anne Barnes** is a member of the Board of Directors of the Laurel Grove School Association.

**Anne Barnes** and **Sallie Lyons** are members of the Seeds of Independence Committee of Gunston Hall, tracing African American History on Mason Neck.

Architect member, **Robert E. Beach**, AIA, LEED, AP, BD+C designed the Turning Point Suffragist Memorial, which will be located in Occoquan Regional Park in Lorton and will pay tribute to the women who endured harsh imprisonment to secure voting rights for women and is continuing his activities in the development of the memorial plans. **Lynne Garvey-Hodge** serves on the committee for the project.

**Gretchen Bulova** serves as the Vice President (Planning and Resources) on the Virginia Association of Museum's (VAM) Board, and helped to plan the 2015 VAM Conference in Richmond for more than 400 museum professionals.

**Carole Herrick** served as chair of "An Afternoon with the Madisons," a War of 1812 bicentennial event held at the McLean Community Center exactly 200 years to the day after the British invaded and burned the City of Washington. She portrayed Dolley Madison, Montpelier's John Douglas Hall represented James Madison, and Roger Mudd stepped in as the honorary chair. She was chair of "McLean Remembers the Civil War," an all-day event commemorating 150 years of the beginning of the Civil War, held at the McLean Community Center on October 22, 2011. She is a past president of the McLean Historical Society and currently serves as vice-president.

**Lynne Garvey-Hodge** serves on the Town of Clifton Historic Preservation Committee, which she initiated; serves as chair of the Clifton Betterment Association's Clifton Oral History Project; and chaired the Clifton Community Woman's Club Spring Homes Tour in 2011 and her historic 1890s home on Blue Dan Lane was on the 2012 tour.

**Lynne Garvey-Hodge** and **Mary Lipsey** co-founded the non-profit Fairfax County Cemetery Preservation Association, Inc. in 2008, whose goal is to preserve and protect family cemeteries in Fairfax County. Both continue as directors and active members.

**Sallie Lyons** formed and incorporated the Friends of Fairfax County Archaeology and Cultural Resources, FOFA, supporting the Cultural Resource Management and Protection Branch of the Park Authority. **Barbara Naef** was among the charter members.

**Sallie Lyons** continues to promote preservation and archaeology in Colchester and provide *pro bono* graphic design through Lyonshare Studios for CRMP historical interpretive trailside displays. She is an active member of the Lorton Heritage Society, Preservation Virginia and the Northern Virginia Chapter of the Archaeological Society of Virginia.

**Elise Ruff Murray** serves as vice president of the Friends of the Virginia Room and as treasurer of the Historical Society of Fairfax County. A member of the Celebrate Fairfax Leadership Team, she coordinates the Fairfax History exhibit and prepares the History Commission and local history display.

**Barbara Naef** continues to participate in the Park Authority American Alliance of Museums (AAM) reaccreditation project, working as a volunteer consultant with staff of the Resource Management Division charged with this multi-year effort.

**Debbie Robison** continues to research local history and write articles about historical sites and events in Fairfax County. In addition, she regularly assists the public by answering research questions. She is a member of the Historic Centreville Society Board. In 2015 she made presentations to three historical societies on discovering mills in Fairfax County.

**Anne Stuntz** serves as the president of Historic Vienna, Inc. She serves on the Sully Foundation, Historical Society of Fairfax County, Flint Hill Cemetery Association and Friends of the Virginia Room boards, and is secretary of the Fitzhugh Families in Virginia.

**Phyllis Walker Ford** serves as President of the board of directors for Laurel Grove School Association, the governing body of Laurel Grove School Museum. She also serves as Vice President-Education on the board of directors of Franconia Museum.

**Naomi Zeavin** serves on the board of directors of the Capitol Hill Civil War Roundtable..

## BIOGRAPHICAL SKETCHES

A brief examination of the background of the Fairfax County History Commission reveals a wide and diverse variety of backgrounds that members bring to their work.

**Carrie Ann Alford—**is a native of Chicago, IL, who lived in the Alexandria area from 1996-2002 and returned in 2010 for graduate school at George Washington University where she earned a MPS in Legislative Affairs. She simultaneously completed an online program, the Certificate in Advanced International Affairs with an emphasis in National Security Policy from the Bush School of Government at Texas A&M University. She also holds dual BA degrees in Journalism and Old Testament Literature and Jewish Studies from the Moody Bible Institute in Chicago. Since 2013, Ms. Alford has worked as Legislative Assistant to Senator Toddy Puller, where among other responsibilities, she works closely with Mount Vernon and Gunston Hall on historical issues in the General Assembly, and with Fort Belvoir and Marine Corps Base Quantico on military issues. She is a member of the John Alexander Chapter, National Society Daughters of the American Revolution (NSDAR), in Alexandria, VA, where she is Chaplain, immediate past Project Patriot Chair and Page at the Virginia State Conference and Continental Congress. She is also a Prospective Member, Virginia Society, National Society of the Colonial Dames of America (NSCDA). Carrie Ann moved to Richmond Virginia in January 2016 for her new job as Director of Policy and Planning for the Virginia Department of Veterans Services.

**Anne M. Barnes**—originally from Georgia, is a longtime Fairfax County resident who lives on Mason Neck. She received a BS in Criminal Law from Savannah State College and a MA in Government from Johns Hopkins University. She worked on an archeological project in South Carolina in the mid-1980s. She is a former Marine Corps Officer, U.S. Congressional staffer, American History teacher and is currently the Resource Director for a federal and strategic training center. She served as Vice Chairman of the History Commission in 2006-2008 and as Treasurer in 2010-2012.

**Robert E. Beach—**after receiving his Bachelor of Architecture from Pratt Institute in New York in 1982, he practiced architecture in several notable New York City and Washington area architecture firms prior to starting his own practice in Falls Church in 1989, which provides design services for historic architectural restorations at the local, state and national levels. Mr. Beach has served as the Architect member of the Commission since 2000, as Vice Chairman in 2004–2005, and as Chairman in 2006–2008, as Committee Chairman of the Fairfax County Resident Curator Program and multiple times on behalf of the Commission as a juror for the Fairfax County Exceptional Design Awards. Professionally, Mr. Beach is a member of the American Institute of Architects (AIA), has served as a local Chapter Board member and represented the AIA Northern Virginia Chapter Board as a Virginia Society AIA Director. He is also a Leadership in Energy and Environmental Design Accredited Professional (LEED, AP, BD+C) specializing in building design and construction and is a member of the United States Green Building Council (USGBC). Mr. Beach is a Georgetown University Architectural Thesis Advisor in the Real Estate and Urban Design Studies Graduate Program. In addition, he is a Boy Scouts of America Architecture and Aviation Merit Badge Counselor and is a licensed instrument rated private pilot who volunteers flight time for Angel Flights several times a year. On November 7th, 2014 Mr. Beach was presented with the Distinguished Achievement Award from the Virginia Society of the American Institute of Architects (AIA Virginia). In March, Mr. Beach was presented with the 2015 Pratt Institute Alumni Achievement Award. These two awards also recognized Mr. Beach for his design of the Turning Point Suffragist Memorial, which will honor the lives of the suffragists who worked for the passage of the 19th Amendment giving women the right to vote. Mr. Beach also served as a board advisor to the Science Museum of Virginia from the spring of 2011 until December 2015 for restoration of the National Register Listed Historic mid-century modern Rice House designed by Richard Neutra in Richmond, Virginia. Bob lives in Fairfax, Virginia.

**Gretchen M. Bulova**—from the Braddock District, brings a wealth of museum experience to the Commission. She holds a BA in Anthropology and a BA in Classical Studies from the College of William and Mary and an MA in Museum Studies from The George Washington University. Ms. Bulova is the Deputy Director for the Office of Historic Alexandria, Virginia and the Director of the Stabler-Leadbeater Apothecary Museum in Alexandria, Virginia. She specializes in the interpretation of late 18th-century material culture and lectures widely on a variety of topics related to Alexandria and Gadsby's Tavern and is active in the local museum community. Ms. Bulova is Vice-President for Planning and Resources for the Virginia Association of Museums Board, and is President of the Historic House Museums Consortium of Washington, DC. Ms. Bulova is committed to the preservation of local history and inspiring the next generation to love museums and our nation's rich heritage. Elected the Commission's Chairman in 2012, she served through 2014.

**Phyllis Walker Ford—**appointed in February 2009, earned a BA in Business Administration from Bluefield State College, Bluefield, West Virginia and a MBA from Trinity University, Washington, D.C., leading to sixteen years in the telecommunications industry. She served as the commission's Secretary in 2010. Phyllis, a direct descendent of the family who donated land in 1881 for the Laurel Grove Colored School, a school to serve the African American children in the Franconia area, was instrumental in restoring the school, establishing a museum and searching out its history. She is President of the Laurel Grove School Association, the governing body of Laurel Grove School Museum. She serves as Vice President on the Franconia Museum Board of Directors. She is researching the history of African American families who were enslaved on properties in the Franconia Area and owned land in 1860. She is participating in "Cast the Net," a $150,000 grant project award from the Institute of Museum and Library Services. The multi-state museum project benefits African American Museums and cultural organizations in Florida, Georgia, North Carolina and Virginia and aids in the development of sustainable statewide networks. Throughout the year, Phyllis presents talks on Historic Laurel Grove Colored School and Franconia Local History to Scouting groups, Civic Associations, Chamber of Commerce members and other Community Groups or Museums. In December of 2015, Hanna Freece, Curator at Mount Vernon notified Ms. Ford that she has ancestors who were enslaved on Dogue Run Farm. She has worked with Mount Vernon researchers to learn about Dick and Charity Jasper whose marriage at Dogue Run Farm was recognized by George Washington. The family remained on Dogue until freed by Mrs. Washington in 1801, 2 years after her husband's death. It is documented that Dick and his son Morris returned to Mount Vernon in 1835 to work on Washington's Tomb. Her research is continuing and connecting to others who were part of the enslaved community at Mount Vernon.

**Carole Herrick—**Carole Herrick lives with her husband, Philip, in McLean, Virginia. As a nationally ranked tennis player, she attended Los Angeles State College, where she received her BA in history. In 2012, she was inducted into the National Women's Collegiate Tennis Hall of Fame. Herrick served three terms on the Governing Board of the McLean Community Center, followed by four years as Chair of Friends of the McLean Community Center, of which she continues as a board member. She is a past president of the McLean Historical Society and currently serves as its vice-president. Herrick chairs the Fairfax County History Commission, which helps to identify, document, record and preserve the county's historic past. Herrick is a Dolley Madison re-enactor and has written numerous articles for publication about McLean and the Northern Virginia area, along with authoring eight books. She served as the Commission's Secretary from 2012-2014 and currently serves as the Commission's Chairman.

**Lynne Garvey-Hodge**—has been a resident of Fairfax County for 30 years and has been a resident of Clifton, Virginia for 16 years, where she is active in preserving the historicity of Clifton. She has a BFA from the University of Colorado, majoring in art history, an MPA (Masters in Public Administration) with a major in Human Resources also from the University of Colorado and a MTS (Masters in Theological Studies) from Wesley Theological Seminary (where she completed her thesis on "Corporate Ethics"). She re-enacts Progressive Era Suffragist Mrs. Robert Walker, Angelina Grimké an early 19th century, abolitionist and Quaker women's rights activist from South Carolina; and from the Gilded Age and early days of America's railroad industry, Mrs. John Henry Devereux (wife of railroad magnate and Civil War Railroad General John Henry Devereux). Ms. Garvey-Hodge has published a book for Arcadia Publishers' Images of America Series, *Clifton* in 2009. She is in her sixth consecutive term on the Commission. She served as Chair in 2004 and 2005 and represented the Commission on the Exceptional Design Awards jury in 2005, 2006 and 2008. She spearheaded efforts to launch the First Annual Fairfax County History Conference in 2005 and has chaired the History Conference Committee since 2006. She currently is the chair of the Awards Committee and also sits on the Ethnic/Oral History, Advocacy and Bylaws Committees. She is the co-founder and an officer of the Fairfax County Cemetery Preservation Association, Inc. and sits on the Board of VolunteerFairfax, a non-profit organization. Lynne is a member of the Bull Run Civil War Round Table, Historic Centreville Society, Clifton Community Woman's Club, the Falls Church Victorian Society, the Burke Historical Society and the Fairfax Station Railroad Museum.

**Michael R. Irwin**—has been a resident of Fairfax County for over 20 years. Born in Pennsylvania, he grew up with a deep interest in American History. In high school he was a volunteer with the Pennsylvania State Museum and Historical Commission working in the registrar's office at the William Penn Memorial Museum in Harrisburg and in college served an internship in the same office. He graduated from Dickinson College in Carlisle, Pa., with a BA in History (concentration in American History), a minor in Fine Arts History. Since moving to Virginia, he can often be found at the Smithsonian Institution or one of the other historic venues in the greater Washington area. His main interests are the World War II period, especially the war's impact on social structures on the home front and early American industrial history.

**Mary Lipsey**—was born in Atlanta and raised in Fairfax County. She received a BA in History and Sociology from Mary Washington College (1972) and a Masters in Middle School Education from Virginia Tech (1989). In June 2003, she retired after 30 years of teaching seventh grade American History in the Fairfax County Public Schools. She has been a volunteer docent for the American History Museum of the Smithsonian since 1980 and for the National Archives since 2004. Her interest in local history has found outlets through co-authoring *Braddock's True Gold*, writing articles on local history and women's history and speaking to senior citizens groups. She has been a member of A Look Back at Braddock project that promotes historical events for the residents in Braddock District. As a member of the Commission, she serves on the Markers and History Conference Committees. She is the co-founder and former president of the non-profit Fairfax County Cemetery Preservation Association, Inc., whose goal is to preserve and protect family cemeteries in Fairfax County. Mary is also an active volunteer with her community and a local park. She has recently published *A Christmas Flight: Aviation Pioneer Dr. Christmas*.

**Sallie Lyons**— a native North Carolinian, she grew up in University Park, Maryland. She received an AB in Art History from Duke University, worked at the Library of Congress and held a teaching assistantship in anthropology as a graduate student at the University of Maryland. She did urban archaeological excavation in Winchester, the capital of Saxon England. She moved to Mount Vernon District in 1970, living on Brick Yard Point in Wellington Villa until moving to the old town of Colchester on Mason Neck in 1984. Living on two potential archeological sites made her keenly aware of history and preservation in the Mount Vernon area. She has spent over 25 years supporting preservation and research in Colchester, Mason Neck and Lorton. Partnered with her late husband, Gerald Lyons, she founded Lyonshare Studios, LLC, a technical computer graphics company that provides illustrative and word support for planning, preservation, publication and other technical fields. She was founder and president through 2015 of FOFA, the Friends of Fairfax County Archaeology and Cultural Resources, supporting the Cultural Resource Management and Protection Branch of the Fairfax County Park Authority. She is an active member of the Seeds of Independence Committee of Gunston Hall, the Northern Virginia Chapter of the Archaeological Society of Virginia, the Lorton Heritage Society, and several other local and state archaeology and history organizations.

**Esther W. McCullough**—grew up in Longview, Texas and received her Bachelor of Science in Clothing and Textiles from North Texas State University (now The University of North Texas). After moving to Fairfax County in 1996, she could not find information on the history of African-Americans in the area, so she created a brochure, "African-American Sites in Fairfax County before 1900." She is the Chair of the Ethnic and Oral History Committee and sits on the Marker Committee and the History Conference Committee. She served as the Secretary of the Commission from 2004–2007. She has led sessions on oral history at more than one History Conference. Scrapbooking memories and preserving history are two things that she treasures. She has led workshops for senior citizens in nursing homes using scrapbooking techniques. Esther volunteers throughout Fairfax County.

**Elise Ruff Murray**—grew up in Vienna, Virginia and now resides in Reston. She earned a BA in History from the University of Virginia and is interested in archaeology, history and preservation. Her interests have led her to serve as the Commission's liaison with the Architectural Review Board since 1992. A member of the Commission since 1983, she served as Chairman in 1988–1989, worked on the Commission's finances and budget submissions since 1986, served as Treasurer from 1990–2005 and as Vice Chairman from 2009-2011. After working for a year and a half on an archaeology project in Northeastern Mississippi, she worked as an economic consultant advising on anti-trust and commercial litigation matters for over 20 years.

**Barbara M. Naef**—has been a resident of Reston since 1968. She earned a BA in History from Duke University and a MA in American History from the University of Delaware. She retired in 2002 after 23 years working to preserve and interpret our county history at the Fairfax County Park Authority. She continues to work as a volunteer for the Park Authority and for other historical organizations. The Archaeologist Representative on the Commission, she serves on the Inventory of Historic Sites Committee, Budget Committee, the annual History Conference Planning and Implementation Committee and the Resident Curator Program Committee.

**Debbie Robison**—lives in Centreville and is a long-time resident of Fairfax County. She manages the historic preservation/restoration program for a local architectural and engineering firm. Ms. Robison holds a Bachelor of Science degree from VA Tech and a Historic Preservation Certificate from NOVA. She is active in Centreville historical matters. Her interest in researching local history has resulted in her authoring numerous articles about general aspects of northern Virginia's past and the history of specific sites. To promote preservation and facilitate local history education, Ms. Robison hosts a website, www.novahistory.org. She served as the Commission's Chairman 2009-2011 and currently serves as Treasurer.

**Page S. Shelp**—while originally from California, has lived in Fairfax County for most of her adult life, moving west from Falls Church and McLean to Great Falls. She received her Bachelor's degree in History and in Art History from Colorado Woman's College, her Secondary School Education Teaching credentials in history and in English at Mills College and her Master's degree from Georgetown University. She has taught history, but spent the greater part of her career (25 years) as the executive director of the McLean Community Center where she became especially interested in and involved with local history and the preservation of community institutions.

**Steven Sherman**—was born in Washington, D.C. and raised in Arlington, Virginia. He has lived in Northern Virginia for over 60 years, graduated from Wakefield High School in 1964 and attended Morris Harvey College in Charleston, West Virginia and Northern Virginia Community College in Annandale, Virginia, where he majored in Accounting and History. He is President/Broker of Sherman Properties, Inc., located in Franconia and has been in the real estate business for the past 40 years. Since 1984, he has owned the historic "Five Oaks Estates" manor house built in 1910 located off Blake Lane in Fairfax County. He is the former secretary of the Board of Directors of Celebrate Fairfax, served on the Board of Directors of the Franconia Museum for the past seven years and is a past president. Mr. Sherman served as the Commission's secretary in 2011, served as Vice Chairman from 2012 through 2014, and is again the Commission's Secretary.

**Anne Stuntz**—grew up in Vienna, Virginia and comes from a family of historians and genealogists. She has a degree in art history from Princeton University and an MBA from Columbia University. After a career in finance on Wall Street and in the City of London, Anne returned to her historic family home in Vienna with her husband and three sons, and is devoted to preserving the history of the area. She is president of Historic Vienna Inc. She is active with the Historical Society of Fairfax County, the Sully Foundation, Flint Hill Cemetery Association, Friends of the Virginia Room and the Fitzhugh Families of Virginia. She serves as the Vice Chairman.

**Naomi Zeavin**—is a resident of Falls Church. She was born in New Britain, Connecticut and majored in Speech and Drama at Emerson College in Boston, Massachusetts. She conducts research and makes videos on local history, especially Mason District, African-Americans and the Civil War. A presidential advisor on the arts during the administration of President Ronald Reagan, she has been appointed to and served on numerous advisory boards, commissions and committees on the both the national and local level. She is president of U-R-Unique, a company of video productions. Ms. Zeavin restored a Jewish cemetery in her father's birthplace in Poland. On the commission, she served as Secretary from 2007 through 2009. Ms. Zeavin is listed in the Who's Who of American Politics. Ms. Zeavin is currently working with a movie scriptwriter for her published book *Carmen's Secret Diary: Aboard the USS Hornet (CV-12) in 1944*.

# IN MEMORIAM

## Jack Lewis Hiller

Jack L. Hiller passed away in February 2016. Mr. Hiller held a bachelor's degree in history from the College of William and Mary ('53), a master's degree in education from the University of Virginia ('66) and a master's degree in history from Carnegie-Mellon University ('69). He taught history for 30 years at Groveton High School and West Potomac High School before retiring in 1988. During the late 1950s and early 1960s, while teaching, Jack also freelanced as a photographer for regional newspapers and compiled an impressive portfolio of historical figures, including Harry S. Truman, John F. Kennedy, Jr., and Martin Luther King, Jr. His portrait of King is now part of the permanent collection of the Smithsonian's National Portrait Gallery. His photos of Jim Henson, creator of The Muppets, are part of museum collections in New York and Atlanta.

One of Jack's points of pride was that, during this same period of his life, he was part of a successful movement to integrate the Fairfax Education Association, which had excluded African-American teachers from membership.

After participating in a field school in archaeology at Colonial Williamsburg, Jack co-founded and was a principal instructor for the Fairfax County Public School's Summer Seminar in Archaeology between 1973 and 1988. Students in this program helped to investigate over fifteen archaeological sites within Fairfax County. In 1980, he received a medal and monetary award from the United States Capital Historical Society for his work in teaching archaeology to high school students.

He wrote extensively and lectured on the history of the Springfield area, and volunteered for the cultural resources division of the Fairfax County Park Authority, including serving as principal investigator for archaeological investigations at the Hidden Pond Nature Center. He served as a volunteer docent for ten years at Gunston Hall.

Jack was appointed to the Fairfax County History Commission in 1981 and served as chair in 1994-1995. While serving as the chairman of the Commission, in order to stimulate and reward original research in Fairfax County history, Jack created the Fairfax Heritage Awards Program. He served as the first chair of the Awards Committee, while he later stepped down as chair; he served on the committee until his death. In January 1998, Jack became the first chair of the Commission’s Marker Committee and established a process for erecting roadside markers. When the Virginia Department of Historic Resources rejected a state marker for Keene’s Mill because it lacked significance to the Commonwealth, he created the Fairfax County Historical Marker Program with buff and blue, colors derived from George Washington’s Fairfax Militia uniform, roadside markers emblazoned with the Fairfax County seal. He chaired the Historical Marker Committee until his death.

The Commission will miss Jack’s energy, questioning mind, depth of knowledge in both history and archaeology along with his high scholarly standards, as well as, photographing marker dedications and history conferences.

Board Agenda Item
June 21, 2016

10:20 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard June 21, 2016
(An updated list will be distributed at the Board meeting.)

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

**June 21, 2016**

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

# APPOINTMENTS TO BE HEARD JUNE 21, 2016

**(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 2, 2016)**

(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<br>(Formerly held by Margaret Osborne; appointed 12/14 by McKay)<br>Term exp. 9/16<br>*Resigned* | Lee District Representative | | McKay | Lee |
| VACANT<br>(Formerly held by Edward Ehlers; appointed 3/15 by Herrity)<br>Term exp. 9/16<br>*Resigned* | Springfield District Representative | | Herrity | Springfield |

## AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT<br>(Formerly held by Arthur R. Genuario; appointed 4/96-5/12 by Hyland)<br>Term exp. 9/13<br>*Resigned* | Builder (Single Family) Representative | | By Any Supervisor | At-Large |
| Mark Drake<br>(Appointed2/09-5/12 by McKay)<br>Term exp. 5/16 | Engineer/Architect/ Planner #2 Representative | | By Any Supervisor | At-Large |
| VACANT<br>(Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly)<br>Term exp. 5/10<br>*Resigned* | Lending Institution Representative | | By Any Supervisor | At-Large |

## AIRPORTS ADVISORY COMMITTEE (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Francine De. Ferreire Kemp (Appointed 1/13 by Foust) Term exp. 1/16 | Dranesville District Representative | | Foust | Dranesville |
| VACANT (Formerly held by Brian Elson; appointed 7/13-1/15 by Hyland) Term exp. 1/18 *Resigned* | Mount Vernon District Business Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Robert A. Peter; appointed 2/09-1/13 by Smyth) Term exp. 1/16 *Resigned* | Providence District Representative | | L. Smyth | Providence |

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Grant Nelson (Appointed 10/95-5/01 by Hanley; 6/04-9/07 by Connolly; 6/10-7/13 by Bulova) Term exp. 6/16 | At-Large #2 Representative | | By Any Supervisor | At-Large |
| Darren Dickens (Appointed 11/96-5/01 by Hanley; 6/04-10/07 by Connolly; 6/10-7/13 by Bulova) Term exp. 6/16 | At-Large #3 Representative | | By Any Supervisor | At-Large |

**ANIMAL SERVICES ADVISORY COMMISSION (2 years)**
[Note: In addition to attendance at Commission meetings, members shall volunteer at least 24 hours per year in some capacity for the Animal Services Division.]

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Barbara Hyde; appointed 9/13-9/14 by Gross) Term exp. 2/16 *Resigned* | Mason District Representative | | Gross | Mason |
| Gina Marie Lynch (Appointed 11/97-3/14 by Hyland) Term exp. 2/16 | Mount Vernon District Representative | | Storck | Mount Vernon |

**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 |
|---|---|---|---|---|
| Susan W. Notkins (Appointed 11/96-9/03 by Hanley; 9/06 by Connolly; 10/09-10/12 by Bulova) Term exp. 9/15 *Architect* | Related Professional Group #3 Representative | | By Any Supervisor | At-Large |

## ATHLETIC COUNCIL (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Terry Adams (Appointed 11/11-7/13 by Gross) Term exp. 6/15 | Mason District Alternate Representative | | Gross | Mason |
| Elmer Arias (Appointed 4/10-5/14 by Bulova) Term exp. 3/16 | Member-At-Large Principal Representative | | Bulova | At-Large Chairman |
| Michael Thompson (Appointed 1/09-5/14 by Herrity) Term exp. 6/16 | Springfield District Representative | **Michael Thompson** | Herrity | Springfield |
| Jenni Cantwell (Appointed 9/10-5/14 by Herrity) Term exp. 6/16 | Women's Sports Principal Representative | **Jenni Cantwell** (Herrity) | By Any Supervisor | At-Large |
| Jane Dawber (Appointed 3/13-7/14 by Hudgins) Term exp. 6/16 | Women's Sports Alternate Representative | | By Any Supervisor | At-Large |

## AUDIT COMMITTEE (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Christopher Wade (Appointed 1/12-1/14 by Bulova) Term exp. 1/16 | At-Large #1 Representative | | By Any Supervisor | At-Large |

## BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
**(1 year)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Ken Balbuena (Appointed 9/11-6/15 by Bulova) Term exp. 6/16 | At-Large Chairman's Representative | | Bulova | At-Large Chairman |
| Andrew Miller (Appointed 1/15-6/15 by Cook) Term exp. 6/16 | Braddock District Representative | | Cook | Braddock |
| Barbara Glakas (Appointed 1/12-6/15 by Foust) Term exp. 6/16 | Dranesville District Representative | | Foust | Dranesville |
| Therese Martin (Appointed 2/16-6/15 by Hudgins) Term exp. 6/16 | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| Glenda DeVinney (Appointed 5/12-4/15 by McKay) Term exp. 6/16 | Lee District Representative | | McKay | Lee |
| Judith Fogel (Appointed 6/12-5/15 by Gross) Term exp. 6/16 | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Brett Kenney; appointed 10/13-9/15 by Hyland) Term exp. 6/16 *Resigned* | Mount Vernon District Representative | | Storck | Mount Vernon |
| Emilie Miller (Appointed 7/5-6/15 by L. Smyth) Term exp. 6/16 | Providence District Representative | | L. Smyth | Providence |

**Continued on next page**

**BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)**
continued

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Joshua Foley (Appointed 9/13-6/15 by Herrity) Term exp. 6/16 | Springfield District Representative | **Joshua Foley** | Herrity | Springfield |
| Olga Hernandez (Appointed 9/04-6/15 by Frey) Term exp. 6/16 | Sully District Representative | | K. Smith | Sully |

**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 |
|---|---|---|---|---|
| John B. Scott (Appointed 2/08-2/11 by Frey) Term exp. 2/15 | Alternate #3 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Susan Kim Harris; appointed 5/09-2/11 by Hudgins) Term exp. 2/15 *Resigned* | Alternate #4 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 |
|---|---|---|---|---|
| Jill Patrick (Appointed 9/09-9/14 by Gross) Term exp. 9/15 ***Not eligible for reappointment*** | At-Large #3 Representative | | By Any Supervisor | At-Large |

## CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE (4 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Stephen Kirby; appointed 12/03-1/08 by Kauffman; 9/11 by McKay) Term exp. 9/15 *Resigned* | Lee District Representative | | McKay | Lee |
| VACANT (Formerly held by Brian Loo; appointed 7/12 by Smyth) Term exp. 9/15 *Resigned* | Providence District Representative | | L. Smyth | Providence |

## CHILD CARE ADVISORY COUNCIL (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| 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 | | Storck | Mount Vernon |

## CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Andrew Levy; appointed 10/09-5/14 by Bulova) Term exp. 5/16 *Resigned* | At-Large Chairman's Representative | | Bulova | At-Large Chairman's |
| Wes Callender (Appointed 7/12-6/14 by Foust) Term exp. 5/16 | Dranesville District Representative | | Foust | Dranesville |
| Lance Lorenz (Appointed 3/15 by Hudgins) Term exp. 5/16 | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| Jonathan Kiell (Appointed 4/15 by Hyland) Term exp. 5/16 | Mount Vernon District Representative | | Storck | Mount Vernon |
| Alan Potter (Appointed 3/14 by Smyth) Term exp. 5/16 | Providence District Representative | | L. Smyth | Providence |
| James R. Kirkpatrick (Appointed 9/08-5/14 by Herrity) Term exp. 5/16 | Springfield District Representative | **James R. Kirkpatrick** | Herrity | Springfield |
| Karrie K. Delaney (Appointed 10/10-5/14 by Frey) Term exp. 5/16 | Sully District Representative | | K. Smith | Sully |

## COMMISSION FOR WOMEN (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Julia Boone; appointed 2/13 by Hudgins) Term exp. 10/15 *Resigned* | Hunter Mill District Representative | | Hudgins | Hunter Mill |

## COMMISSION ON AGING (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Eleanor Fusaro; appointed 1/14-5/14 by Hudgins) Term exp. 5/16 *Resigned* | Hunter Mill District Representative | | Hudgins | Hunter |
| VACANT (Formerly held by Denton Urban Kent; Appointed 9/14 by Gross) Term exp. 5/16 *Resigned* | Mason District Representative | | Gross | Mason |
| Robert Kuhns (Appointed 2/15 by Hyland) Term exp. 5/16 | Mount Vernon District Representative | | Storck | Mount Vernon |

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Charles Dane; appointed 7/02-1/06 by Bulova; 1/10-1/14 by Cook) Term exp. 1/18 *Deceased* | Braddock District Representative | | Cook | Braddock |
| 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 William Stephens; appointed 9/02-1/03 by McConnell; 1/07-1/11 by Herrity) Term exp. 1/15 *Resigned* | Springfield District Representative | | Herrity | Springfield |

## COMMUNITY ACTION ADVISORY BOARD (CAAB)
**(3 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Gregory W. Packer (Appointed 9/10-2/13 by Hyland) Term exp. 2/16 | Mount Vernon District Representative | | Storck | Mount Vernon |

**CONFIRMATION NEEDED:**

- Mr. Michael Mahrer as the Literacy Council of Northern Virginia Representative

## CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Justin Fairfax; appointed 1/13-2/15 by Gross) Term exp. 2/18 *Resigned* | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Joseph A. Jay, appointed 11/06 by McConnell; 9/09-9/12 by Herrity) Term exp. 8/15 *Resigned* | Springfield District Representative | | Herrity | Springfield |

## ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Sudhakar V. Shenoy (Appointed 4/02 by Hanley; 6/04-6/08 by Connolly; 6/12 by Bulova) Term exp. 7/1/16 | At-Large #1 Citizen Representative | | By Any Supervisor | At-Large |

## ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Richard Weisman (Appointed 3/08-7/13 by Frey) Term exp. 6/16 | Sully District Representative | | K. Smith | Sully |

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Petra Osborne; appointed 5/12 by Bulova) Term exp. 11/15 *Resigned* | At-Large Fairfax County Representative | | By Any Supervisor | At-Large |
| Jacqueline Browne (Appointed 9/08-12/11 by Gross) Term exp. 11/14 | Mason District Representative | | Gross | Mason |

**FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL**
**(2 years)**

**CONFIRMATION NEEDED:**

- Mr. Ron Wiersma as a Community Leader Representative
- Mr. John Cutler as a Community Leader Representative

**FAIRFAX COUNTY CONVENTION AND VISITORS CORPORATION**
**BOARD OF DIRECTORS (3 years)**
[Note: Established by Board on 6/21/04 for the general administration and proper operation of the Fairfax County Convention and Visitors Corporation.]

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Curtis G. Viebranz (Appointed 1/13-7/13 by Hyland) Term exp. 6/16 | Mount Vernon District Representative | | Storck | Mount Vernon |

**FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD**
**(3 years – limited to 3 full terms)**
[NOTE: In accordance with *Virginia Code* Section 37.2-501, "prior to making appointments, the governing body shall disclose the names of those persons being considered for appointment." Members can be reappointed after 1 year break from initial 3 full terms, VA Code 37.2-502.

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Pamela Barrett (Appointed 9/09-6/12 by Bulova) Term exp. 6/15 | At-Large #1 Chairman's Representative | | Bulova | At-Large Chairman's |
| Paul Luisada (Appointed 4/13-9/13 by Hyland) Term exp. 6/16 | Mount Vernon District Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Jeffrey M. Wisoff; appointed 6/13-6/14 by Smyth) Term exp. 6/17 *Resigned* | Providence District Representative | | L. Smyth | Providence |
| VACANT (Formerly held by Dallas Sweezy; appointed 5/13 by Frey) Term exp. 6/16 *Resigned* | Sully District Representative | **Sarah Meiburg** *(To be confirmed on June 21, 2016)* | K. Smith | Sully |

## HEALTH CARE ADVISORY BOARD
**(4 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| David A. West (Appointed 11/76-6/92 by Alexander; 6/96-9/04; 6/08-6/12 by McKay) Term exp. 6/16 | Lee District Representative | | McKay | Lee |
| William Finerfrock (Appointed 9/92-6/04 by McConnell; 6/08-7/12 by Herrity) Term exp. 6/16 | Springfield District Representative | **William Finerfrock** | Herrity | Springfield |

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Sally Patterson (Appointed 7/12 by Bulova) Term exp. 6/15 ***Not eligible for reappointment*** (need 1 year lapse) | Consumer #3 Representative | | By Any Supervisor | At-Large |
| Sally S. Horwartt (Appointed 1/14 by Hudgins) Term exp. 6/16 | Provider #4 Representative | | By Any Supervisor | At-Large |

**HISTORY COMMISSION (3 years)**

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

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Carrie Ann Alford; appointed 1/15 by Hyland) Term exp. 12/16 *Resigned* *Mt. Vernon District* | At-Large #2 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Rachel Rifkind; appointed 12/13 by Gross) Term exp. 9/16 *Resigned* *Mason District* | Citizen #7 Representative | | By Any Supervisor | At-Large |

**HUMAN SERVICES COUNCIL (4 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Mark K. Deal; appointed 11/11-7/13 by Gross) Term exp. 7/17 *Resigned* | Mason District #2 Representative | | Gross | Mason |
| VACANT (Formerly held by Henry Wulf; appointed 4/98 by Connolly; 7/02-7/14 by L. Smyth) Term exp. 7/18 *Resigned* | Providence District Representative | **Thomas G. Goodwin** | L. Smyth | Providence |

**Continued on next page**

**HUMAN SERVICES COUNCIL (4 years)**
continued

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Robert Gaudian; appointed 6/04-11/04 by McConnell; 11/08-11/12 by Herrity) Term exp. 11/16 *Resigned* | Springfield District #2 Representative | | Herrity | Springfield |

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

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Debra Kathman; appointed 3/15 by Cook) Term exp. 1/16 *Resigned* | Braddock District Representative | | Cook | Braddock |
| Robert J. Marro (Appointed 4/08-1/14 by Foust) Term exp. 1/16 | Dranesville District Representative | | Foust | Dranesville |
| VACANT (Formerly held by Brian Murray; appointed 3/08-1/14 by McKay) Term exp. 1/16 *Resigned* | Lee District Representative | | McKay | Lee |
| Michael J. Beattie (Appointed 7/11-1/14 by Smyth) Term exp. 1/16 | Providence District Representative | | L. Smyth | Providence |

## OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 *Resigned* | Braddock District Representative | | Cook | Braddock |
| VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 *Resigned* | Dranesville District Representative | | Foust | Dranesville |
| 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 |
| Nabil Barbari (Appointed 1/07-7/13 by Gross) Term exp. 6/16 | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Jeffrey Levy; Appointed 7/02-6/13 by Hyland) Term exp. 6/16 *Resigned* | Mount Vernon District Representative | | Storck | Mount Vernon |

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**OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)**
continued

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by Smyth) Term exp. 6/14 *Resigned* | Providence District Representative | | L. Smyth | Providence |
| Leslie A. Dey (Appointed 3/14 by Herrity) Term exp. 6/16 | Springfield District Representative | | Herrity | Springfield |

**PARK AUTHORITY (4 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Grace Han Wolf; appointed 12/14 by Foust) Term exp. 12/16 *Resigned* | Dranesville District Representative | | Foust | Dranesville |

**POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Craig Dyson; appointed 1/06-11/13 by Hyland) Term exp. 12/17 *Resigned* | Citizen At-Large Representative | | By Any Supervisor | At-Large |

## REDEVELOPMENT AND HOUSING AUTHORITY
**(4 years)**

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Willard O. Jasper (Appointed 6/97-3/00 by Hanley; 4/04-4/08 by Connolly; 5/12 by Bulova) Term exp. 4/16 | At-Large #1 Representative | | Bulova | At-Large |
| Robert Carlson (Appointed 4/08-7/12 by Frey) Term exp. 7/16 | Sully District Representative | | K. Smith | Sully |

## ROAD VIEWERS BOARD (1 year)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08-11/13 by Herrity) Term exp. 12/14 *Resigned* | At-Large #1 Representative | | By Any Supervisor | At-Large |
| 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 Robert Dim; appointed 3/05-3/12 by Hudgins) Term exp. 3/14 *Resigned* | Fairfax County #5 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Cleveland Williams; appointed 12/11-3/13 by Hudgins) Term exp. 3/15 *Resigned* | Fairfax County #7 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Linda Diamond; appointed 3/07-4/13 by Hudgins) Term exp. 3/15 *Resigned* | Fairfax County #8 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Morsel Osman; (Appointed 1/15 by Hudgins) Term exp. 3/16 *Resigned* | Fairfax County #9 (Youth) 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 |

## TRANSPORTATION ADVISORY COMMISSION (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Alan G. Young (Appointed 9/14 by Bulova) Term exp. 6/16 | At-Large Representative | | By Any Supervisor | At-Large |
| Kevin Morse (Appointed 6/10-5/14 by Cook) Term exp. 6/16 | Braddock District Representative | | Cook | Braddock |
| Michael Champness (Appointed 9/13-6/14 by Foust) Term exp. 6/16 | Dranesville District Representative | | Foust | Dranesville |
| Jennifer Joy Madden (Appointed 9/06-5/14 by Hudgins) Term exp. 6/16 | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| Harry Zimmerman (Appointed 6/04-6/06 by Kauffman; 6/08-5/14 by McKay) Term exp. 6/16 | Lee District Representative | | McKay | Lee |
| Roger Hoskin (Appointed 5/96-5/14 by Gross) Term exp. 6/16 | Mason District Representative | | Gross | Mason |
| Micah Himmel (Appointed 6/13-1/15 by L. Smyth) Term exp. 6/16 | Providence District Representative | | L. Smyth | Providence |
| Eric Thiel (Appointed 3/04-6/06 by McConnell; 6/08-5/15 by Herrity) Term exp. 6/16 | Springfield District Representative | | Herrity | Springfield |
| Jeff Parnes (Appointed 9/03-5/14 by Frey) Term exp. 6/16 | Sully District Representative | | K. Smith | Sully |

## TRAILS AND SIDEWALKS COMMITTEE (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|

**CONFIRMATION NEEDED:**

- Mr. Chester Freedenthal as the Disability Services Board Representative

## TREE COMMISSION (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Scott J. Pearson; appointed 3/11-10/13 by Gross) Term exp. 10/16 *Resigned* | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Dean Dastvar; appointed 11/13 by Herrity) Term exp. 10/16 *Resigned* | Springfield District Representative | | Herrity | Springfield |

## TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD (2 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT (Formerly held by Michael Bogasky; appointed 2/13 by Smyth) Term exp. 2/15 *Resigned* | Residential Owners and HOA/Civic Association Representative #1 | | L. Smyth | Providence |

## UNIFORMED RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| VACANT<br>(Formerly held by Daniel Duncan; appointed 10/13 by Bulova)<br>Term exp. 10/17<br>*Resigned* | Citizen appointed by BOS #4 Representative | | By Any Supervisor | At-Large |

## VOLUNTEER FIRE COMMISSION (2 years)

**CONFIRMATIONS NEEDED**:

- Chief Thomas K. Warnock as the Volunteer Fire and Rescue Association Representative
- Mr. Gerald B. Strider as the Zone I Representative
- Mr. Timothy G. Fleming as the Zone II Representative

## WATER AUTHORITY (3 years)

| Incumbent History | Requirement | Nominee | Supervisor | District |
|---|---|---|---|---|
| Armand B. Weiss (Appointed 6/10-6/13 by Foust) Term exp. 6/16 | Dranesville District Representative | | Foust | Dranesville |
| Linda Singer (Appointed 7/04-6/13 by Hudgins) Term exp. 6/16 | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| Richard Dotson (Appointed 9/09-6/13 by L. Smyth) Term exp. 6/16 | Providence District Representative | | L. Smyth | Providence |
| Phillip Allin (Appointed 4/92-7/13 by Frey) Term exp. 6/16 | Sully District Representative | | K. Smith | Sully |

## 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 | | By Any Supervisor | At-Large |

Board Agenda Item
June 21, 2016

10:30 a.m.

Items Presented by the County Executive

Board Agenda Item
June 21, 2016

ADMINISTRATIVE – 1

Extension of Review Period for 2232 Application (Mason District)

ISSUE:
Extension of review period for 2232 application to ensure compliance with review requirements of *Section* 15.2-2232 of the *Code of Virginia.*

RECOMMENDATION:
The County Executive recommends that the Board extend the review period for the following application: 2232-M16-22

TIMING:
Board action is required June 21, 2016, to extend the review period of the application noted above before its expiration date.

BACKGROUND:
Subsection B of *Section* 15.2-2232 of the *Code of Virginia* states: "Failure of the commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval." The need for the full time of an extension may not be necessary, and is not intended to set a date for final action.

The review period for the following application should be extended:

| | |
|---|---|
| 2232-M16-22 | Department of Public Works and Environmental Services<br>Temporary Baileys Crossroads Community Shelter<br>4710 North Chambliss Street<br>Alexandria, VA<br>Mason District<br>Accepted April 27, 2016<br>Extend to December 26, 2016 |

FISCAL IMPACT:
None

Board Agenda Item
June 21, 2016

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
June 21, 2016

ADMINISTRATIVE - 2

Authorization to Advertise a Proposed Amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of *the Code of the County of Fairfax, Virginia* to Clarify that the County Does Not Enforce Private Restrictions During the Land Development Process

ISSUE:
Board of Supervisor's authorization to advertise a proposed amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of *the Code of the County of Fairfax, Virginia* (County Code). Specifically, the proposed amendment deletes existing text to clarify that the County will not enforce private easements, covenants, agreements, or any other legally enforceable private restriction (Restrictions) during the land development process.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors (Board) authorize the advertisement of the proposed amendment as set forth in the Staff Report dated June 21, 2016.

The proposed amendment to the County Code has been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Office of the County Attorney.

TIMING:
Board action is requested on June 21, 2016, to provide sufficient time to advertise public hearings on July 27, 2016, before the Planning Commission and on September 20, 2016 at 4:00 pm before the Board.

BACKGROUND:
Sections 101-1-7(b)(2) of the Subdivision Ordinance and 104-1-9(b)(2) of the Erosion and Sediment Control Ordinance sets forth how conflicts between each Ordinance and other regulations or private requirements are resolved. In critical part, both Ordinances expressly provide that:

> Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent

> with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplemental to this Ordinance and determinations made thereunder.

This language essentially incorporates private Restrictions into both sections of the County Code, and potentially requires the County to administer and enforce such private Restrictions. The proposed amendment is necessary to delete the referenced text and remove any implication that the County is responsible for the identification or enforcement of any such private Restriction.

Proposed Amendment:
The proposed amendment to subparagraph (b)(2) of Sections 101-1-7 (Subdivision Ordinance) and 104-1-9 (Erosion and Sediment Control Ordinance) deletes this text. Removing the referenced text is necessary to clarify that any such Restrictions are not part of the County Code and that the County will not enforce them. Incorporating such Restrictions into the County Code via ordinance creates an obligation on the County not only to enforce such restrictions, but arguably to determine whether they exist before the County approves a development application. This result can unnecessarily impede and add costs to the development process—a consequence at odds with the County's efforts to streamline the land development process. When private parties have essentially ignored such Restrictions, regulations that would require the County to recognize them are not necessary. It should be noted that the proposed amendment in no way abrogates or otherwise alters existing property rights. It merely makes clear that the County has no obligation to identify or enforce them as part of the land development process. A copy of the proposed amendment is included as Attachment A.

FISCAL IMPACT:
NONE.

ATTACHMENT:
Attachment 1 – Staff Report Dated June 21, 2016

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson. P.E., Director, Department of Public Works and Environmental Services (DPWES)
William D. Hicks, P.E., Director, Land Development Services, DPWES

Attachment 1

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

# STAFF REPORT

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

Proposed Amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of the Code of the County of Fairfax, Virginia (County Code) Clarifying that the County Does Not Enforce Private Restrictions During the Land Development Process

| | |
|---|---|
| Authorization to Advertise | June 21, 2016 |
| Planning Commission Hearing | July 27, 2016 |
| Board of Supervisors Hearing | September 20, 2016 |
| Prepared by: | Jeff Vish, P.E.<br>SCRD, LDS, DPWES<br>(703) 324-8452<br>June 21, 2016 |

Attachment 1

STAFF REPORT

A. Issues:

Proposed amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of *the Code of the County of Fairfax, Virginia (County Code)*. Specifically, the proposed amendment deletes existing text to clarify that the County will not enforce private easements, covenants, agreements, or any other legally enforceable private restriction (Restrictions) during the land development process.

B. Recommended Action:

Staff recommends that the Board of Supervisors (the Board) adopt the proposed amendment.

C. Timing:

Board of Supervisors authorization to advertise – June 21, 2016

Planning Commission Public Hearing – July 27, 2016

Board of Supervisors Public Hearing – September 20, 2016

Effective Date –at 12:01 a.m. September 21, 2016

D. Source:

Department of Public Works and Environmental Services (DPWES)

E. Coordination:

The proposed amendment has been prepared by the Department of Public Works and Environmental Services and coordinated with the Office of the County Attorney.

F. BACKGROUND:

Sections 101-1-7(b)(2) of the Subdivision Ordinance and 104-1-9(b)(2) of the Erosion and Sediment Control Ordinance set forth how conflicts between each Ordinance and other regulations or private requirements are resolved. In critical part, both Ordinances expressly provide that:

> Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this

> Ordinance, and such private provisions are not inconsistent with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplemental to this Ordinance and determinations made thereunder.

This language essentially incorporates private Restrictions into both sections of the County Code, and potentially requires the County to administer and enforce such private Restrictions. The proposed amendment is necessary to delete the referenced text and remove any implication that the County is responsible for the identification or enforcement of any such private Restriction.

G. Proposed Amendment:

The proposed amendment to subparagraph (b)(2) of Sections 101-1-7 (Subdivision Ordinance) and 104-1-9 (Erosion and Sediment Control Ordinance) deletes this text. Removing the referenced text is necessary to clarify that any such Restrictions are not part of the County Code and that the County will not enforce them. Incorporating such Restrictions into the County Code via ordinance creates an obligation on the County not only to enforce such restrictions, but arguably to determine whether they exist before the County approves a development application. This result can unnecessarily impede and add costs to the development process—a consequence at odds with the County's efforts to streamline the land development process. When private parties have essentially ignored such Restrictions, regulations that would require the County to recognize them are not necessary. It should be noted that the proposed amendment in no way abrogates or otherwise alters existing property rights. It merely makes clear that the County has no obligation to identify or enforce them as part of the land development process. A copy of the proposed amendment is included as Attachment A.

H. Regulatory Impact:

No new regulatory requirements are proposed. The proposed amendment revises the Ordinances to be consistent with current practices with respect to how private Restrictions are handled during the land development process. County review staff will continue to advise applicants of conflicts with private provisions when they are made aware of them during the land development process; however, such Restrictions are not part of the Ordinance, and County staff will not enforce them unless the County is a party to such private provision.

I. Fiscal Impact:

None.

J. Attachment:

Attachment 1

Attachment A – Proposed Amendment to Chapters 101 (Subdivision Ordinance) and 104 (Erosion and Sediment Control) of the County Code

**PROPOSED AMENDMENT TO**

**CHAPTER 101 (Subdivision Provisions)**

**Amend Article 1 (In General); Section 101-1-7 (Interpretation and conflict), Paragraph (b) (Conflict with public and private provisions), subparagraph (2), to read as follows:**

**Section 101-1-7.- Interpretation and conflict.**

(a) In their interpretation and application, the requirements of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.[5]

(b) Conflict with public and private provisions.

(1) *Public provisions.* This Ordinance is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, statute, regulation, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of County ordinances or regulations or other provisions of law, whichever provisions are more restrictive or impose higher standards shall control, unless the intent is clearly otherwise.

(2) *Private provisions.* This Ordinance is not intended to abrogate any legally enforceable easement, covenant or any other private agreement, or restriction; provided, that where the provisions of this Ordinance are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement, or restriction, the requirements of this Ordinance shall govern. ~~Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplemental to this Ordinance and determinations made thereunder.~~

**PROPOSED AMENDMENT TO**

**CHAPTER 104 (Erosion and Sediment Control)**

**Amend Article 1 (Purpose and Administration); Section 104-1-9 (Interpretation and conflict), Paragraph (b) (Conflict with Public and Private Provisions), Subparagraph (2), to read as follows:**

**Section 104-1-9.- Interpretation and conflict.**

(a) In their interpretation and application, the requirements of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

*(b) Conflict With Public and Private Provisions:*

(1) *Public provisions:* This Ordinance is not intended to interfere with, abrogate or annul any order of a court of competent jurisdiction, statute, regulation, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of County ordinances or regulations or other provisions of law, whichever provisions are more restrictive or impose higher standards shall control unless the intent is clearly otherwise.

(2) *Private provisions:* This Ordinance is not intended to abrogate any legally enforceable easement, covenant or any other private agreement, or restriction; provided, that where the provisions of this Ordinance are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this Ordinance shall govern. ~~Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with this Ordinance or determinations thereunder, then such private provisions shall be operative and supplemental to this Ordinance and determinations made thereunder.~~

Board Agenda Item
June 21, 2016

ADMINISTRATIVE – 3

Streets into the Secondary System (Providence District)

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

RECOMMENDATION:
The County Executive recommends that the streets listed below be added to the State Secondary System.

| **Subdivision** | **District** | **Street** |
|---|---|---|
| Gray Street Subdivision | Providence | Leakane Court |
| | | Gray Street (Route 674)<br>(Supplemental Right-of-Way Only) |

TIMING:
Routine.

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

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Street Acceptance Form

STAFF:
Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Deputy Director, Department of Public Works and Environmental Services, Land Development Services

Print Form

# Street Acceptance Form For Board Of Supervisors Resolution - June 2005

**FAIRFAX COUNTY BOARD OF SUPERVISORS**
**FAIRFAX, VA**

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

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

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

**PLAN NUMBER:** 9869-SD-01

**SUBDIVISION PLAT NAME:** Gray Street Subdivision

**COUNTY MAGISTERIAL DISTRICT:** Providence

**ENGINEERING MANAGER:** Imad A. Salous, P.E.

**BY:** Nadia Alphonse

**FOR OFFICIAL USE ONLY**

**DATE OF VDOT INSPECTION APPROVAL:** 04/20/2016

| STREET NAME | LOCATION | | LENGTH MILE |
|---|---|---|---|
| | FROM | TO | |
| Leakane Court | CL Gray Street (Route 674) - 300' NW CL Blake Lane (Route 655) | 227' NE to End of Cul-de-Sac | 0.04 |
| Gray Street (Route 674) (Supplemental Right-of-Way Only) | 153' NW CL Blake Lane (Route 655) | 294' NW to End of Dedication | 0.0 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | TOTALS: | 0.04 |

**NOTES:**

Leakane Court: 4' Concrete Sidewalk on Both Sides to be maintained by Fairfax County.

Gray Street: 5' Concrete Sidewalk on East Side to be maintained by VDOT.

Board Agenda Item
June 21, 2016

ADMINISTRATIVE – 4

Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 7-2-5, 7-2-10, and 7-2-13 Relating to Election Precincts and Polling Places

ISSUE:
Authorization to advertise a public hearing to consider an ordinance that proposes to amend and readopt sections of Chapter 7 of the Fairfax County Code to (1) rename Terraset precinct, (2) relocate the polling place for Chesterbrook precinct, (3) relocate the polling place for Huntley precinct, (4) divide Tysons precinct to add a new precinct and establish its polling place, and (5) change the name of the polling place for Fair Oaks precinct.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing on Tuesday, July 12, 2016, at 4:00 p.m. to consider this ordinance.

TIMING:
Board action is requested on June 21, 2016, to provide sufficient time to advertise the proposed public hearing for adoption of this ordinance on July 12, 2016, at 4:00 p.m., and to provide sufficient time to notify voters of the changes in advance of the November 8, 2016, General and Special Elections.

BACKGROUND:
Virginia Code permits the governing body of each county and city to establish by ordinance as many precincts as it deems necessary with one polling place for each precinct. The Board of Supervisors is authorized to change precinct boundaries and polling place locations subject to the requirements of Virginia Code Sections 24.2-305, 24.2-307, 24.2-310 and 24.2-310.1. All registered voters who are affected by a change in their precinct or polling place will be mailed a notice in advance of the November 8, 2016, General and Special Elections.

(1) In Hunter Mill District, staff recommends changing the name of Terraset precinct to “Hughes” to match the name of the polling location at Hughes Middle School. Since the Hughes Middle School provides a larger parking lot with better voter accessibility, there is currently no benefit to returning the polling place to Terraset Elementary School.

(2) In Dranesville District, staff recommends moving the polling place for Chesterbrook precinct from Arleigh Burke Pavilion, located at 1739 Kirby Road, McLean to Vinson Hall, located at 6251 Old Dominion Drive, McLean. Vinson Hall is an adjacent but co-joined building with the Arleigh Burke Pavilion. This move will provide a larger polling place room for the Chesterbrook voters.

(3) In Lee District, staff recommends moving the polling place for Huntley precinct which is currently co-located with Groveton precinct. The proposal will move Huntley from Groveton Elementary School located at 6900 Harrison Lane, Alexandria, to nearby St. Mark's Episcopal Church located at 6744 South Kings Highway, Alexandria. The polling place for Groveton precinct will remain at Groveton Elementary.

(4) In Providence District, staff recommends dividing the Tysons precinct which currently has nearly 4,000 registered voters. This proposal will create a new precinct to be named "Rotonda" and its polling place will be established at the Rotonda Condominiums Community Center, 8352 Greensboro Drive, McLean. The new precinct will reduce the size of Tysons precinct by about 1,300 voters. The polling place for Tysons voters will remain at the Providence Committee Meeting Room.

(5) In Springfield District, staff recommends changing the name of the polling place for Fair Oaks precinct from Fair Oaks Church Rec Center to Expectation Church Rec Center. The church reorganized and changed its name in late 2015. Its street address, 4531 West Ox Road, Fairfax, is unchanged.

FISCAL IMPACT:
Insignificant. Funding for precinct and polling place change notifications is provided in the agency's FY 2017 Adopted Budget.

ENCLOSED DOCUMENTS:
Attachment 1 – Virginia Code Pertaining to Election Precincts and Polling Places
Attachment 2 – Summary of Proposed Changes
Attachment 3 – Descriptions and Maps of Proposed Changes
Attachment 4 – Proposed Ordinance

STAFF:
Cameron Glenn Sasnett, Director of Elections
Susan E. Cooke, Assistant County Attorney

**§ 24.2-305. Composition of election districts and precincts.**

A. Each election district and precinct shall be composed of compact and contiguous territory and shall have clearly defined and clearly observable boundaries.

B. A "clearly observable boundary" shall include (i) any named road or street, (ii) any road or highway which is a part of the federal, state primary, or state secondary road system, (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census, or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census. No property line or subdivision boundary shall be deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census.

(1986, c. 593, § 24.1-40.7; 1990, c. 500; 1992, c. 425; 1993, c. 641; 2001, c. 614.)

**§ 24.2-307. Requirements for county and city precincts.**

The governing body of each county and city shall establish by ordinance as many precincts as it deems necessary. Each governing body is authorized to increase or decrease the number of precincts and alter precinct boundaries subject to the requirements of this chapter.

At the time any precinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

At the time any precinct is established, each precinct in a county shall have no fewer than 100 registered voters and each precinct in a city shall have no fewer than 500 registered voters.

Each precinct shall be wholly contained within any election district used for the election of one or more members of the governing body or school board for the county or city.

The governing body shall establish by ordinance one polling place for each precinct.

(Code 1950, §§ 24-45, 24-46; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1992, c. 445; 1993, c. 641; 1999, c. 515.)

**§ 24.2-310. Requirements for polling places.**

A. The polling place for each precinct shall be located within the county or city and either within the precinct or within one mile of the precinct boundary. The polling place for a county precinct may be located within a city (i) if the city is wholly contained within the county election district served by the precinct or (ii) if the city is wholly contained within the county and the polling place is located on property owned by the county. The polling place for a town precinct may be located within one mile of the precinct and town boundary. For town elections held in November, the town shall use the polling places established by the county for its elections.

B. The governing body of each county, city, and town shall provide funds to enable the electoral board to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board. The electoral board shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

E. It shall be permissible to distribute campaign materials on the election day on the property on which a polling place is located and outside of the building containing the room where the election is conducted except as specifically prohibited by law including, without limitation, the prohibitions of § 24.2-604 and the establishment of the "Prohibited Area" within 40 feet of any entrance to the polling place. However, and notwithstanding the provisions of clause (i) of subsection A of § 24.2-604, and upon the approval of the local electoral board, campaign materials may be distributed outside the polling place and inside the structure where the election is conducted, provided that the "Prohibited Area" (i) includes the area within the structure that is beyond 40 feet of any entrance to the polling place and the area within the structure that is within 40 feet of any entrance to the room where the election is conducted and (ii) is maintained and enforced as provided in § 24.2-604. The local electoral board may approve campaigning activities inside the building where the election is conducted when an entrance to the building is from an adjoining building, or if establishing the 40-foot prohibited area outside the polling place would hinder or delay a qualified voter from entering or leaving the building.

F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of § 24.2-307 or 24.2-308 for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board, or the State Board to appropriate funds to any non-governmental entity.

(Code 1950, §§ 24-45, 24-46, 24-171, 24-179 through 24-181; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37, 24.1-92, 24.1-97; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1984, c. 217; 1985, c. 197; 1986, c. 558; 1992, c. 445; 1993, cc. 546, 641; 1994, c. 307; 2003, c. 1015; 2004, c. 25; 2005, c. 340; 2008, cc. 113, 394; 2010, cc. 639, 707; 2012, cc. 488, 759.)

**§ 24.2-310.1. Polling places; additional requirement.**

The requirement stated in this section shall be in addition to requirements stated in §§ 24.2-307, 24.2-308, and 24.2-310, including the requirement that polling places be located in public buildings whenever practical. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building because no other building meeting the accessibility requirements of this title is available.

(1993, c. 904, § 24.1-37.1; 1993, c. 641.)

Attachment 2: Summary of Proposed Changes

## *2016 PROPOSED PRECINCT BOUNDARY and POLLING PLACE CHANGES*

| SUPERVISOR DISTRICT | EXISTING PRECINCT | REGISTERED VOTERS* | EXISTING POLLING PLACE(S) | PROPOSED PRECINCT(S) | PROJECTED REGISTERED VOTERS | PROPOSED POLLING PLACE(S) | NOTES ON CHANGES |
|---|---|---|---|---|---|---|---|
| HUNTER MILL | TERRASET | 4,263 | Hughes Middle School | HUGHES | 4,263 | Hughes Middle School | Change name of precinct to match name of school. |
| DRANESVILLE | CHESTERBROOK | 2,725 | Arleigh Burke Pavilion | CHESTERBROOK | 2,602 | Vinson Hall | Moves polling place to a more suitable location in the same complex. |
| LEE | HUNTLEY | 2,835 | Groveton Elementary School | HUNTLEY | 2,497 | St. Mark's Episcopal Church | Move polling place to eliminate crowding due to co-located polling places at Groveton Elementary. |
| PROVIDENCE | TYSONS | 3,989 | Providence Committee Meeting Room | TYSONS<br>ROTONDA | 2,685<br>1,304 | Providence Committee Meeting Room<br>Rotonda Condominiums Community Center | Divide precinct to reduce crowding at Providence Committee Meeting Room. |
| SPRINGFIELD | FAIR OAKS | 3,629 | Fair Oaks Church Rec Center | FAIR OAKS | 3,629 | Expectation Church Rec Center | Change name of polling place building to reflect new ownership. |

***** Registered voters as of May 3, 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX

## Hunter Mill District

## PRECINCT 225: ~~TERRASET~~ HUGHES

**CONGRESSIONAL DISTRICT:** **ELEVENTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-SECOND**
**HOUSE OF DELEGATES DISTRICT:** **THIRTY-SIXTH**

**DESCRIPTION:**
Beginning at the intersection of Reston Parkway and Sunrise Valley Drive, thence with Sunrise Valley Drive in a generally easterly direction to its intersection with Soapstone Drive, thence with Soapstone Drive in a southerly direction to its intersection with Snakeden Branch (stream), thence with the meanders of Snakeden Branch in a northwesterly direction to its intersection with Reston Parkway, thence with Reston Parkway in a northeasterly direction to its intersection with Sunrise Valley Drive, point of beginning.

**POLLING PLACE:** Hughes Middle School
11401 Ridge Heights Road, Reston

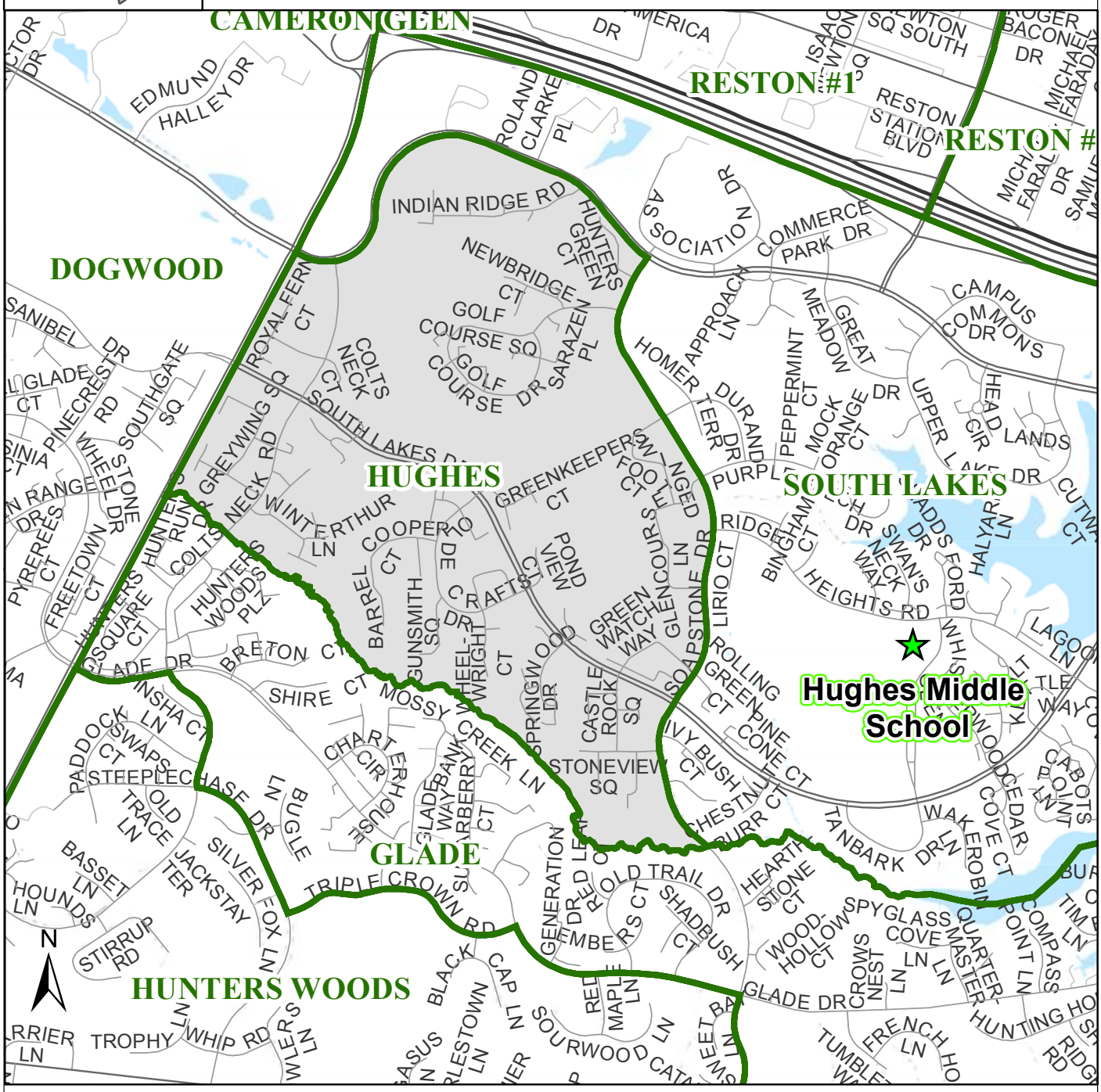
**MAP GRIDS:** 17-3, 17-4, 26-1, 26-2, 26-4

**NOTES:** Established December 1976
Precinct description revised and readopted – March 2003
Congressional District changed from 8th to 11th – January 2012
Polling Place moved – November 2014
Precinct renamed – July 2016

Commonwealth of Virginia

# County of Fairfax

## Hunter Mill District




**Proposed Precinct Change for 225 Terraset Precinct**

0 0.15 0.3
Miles

**Current name:** *Terraset*

**Proposed name:** *Hughes*

★ **Polling Place:** *Hughes Middle School*

May 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX

## Dranesville District

## PRECINCT 302: CHESTERBROOK

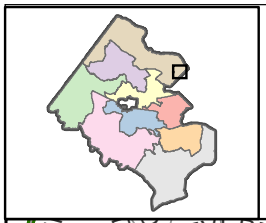
**CONGRESSIONAL DISTRICT:** **EIGHTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-FIRST**
**HOUSE OF DELEGATES DISTRICT:** **FORTY-EIGHTH**

**DESCRIPTION:**
Beginning at the intersection of Kirby Road and Pimmit Run (stream), thence with the meanders of Pimmit Run in a southeasterly direction to its intersection with the Arlington County/Fairfax County Line, thence with the Arlington County/Fairfax County Line in a southwesterly direction to its intersection with Old Dominion Drive, thence with Old Dominion Drive in a northwesterly direction to its intersection with Park Road, thence with Park Road in a westerly, then northwesterly direction to its intersection with Kirby Road, thence with Kirby Road in a generally northeasterly direction to its intersection with Pimmit Run, point of beginning.

**POLLING PLACE:** ~~Arleigh Burke Pavilion~~ Vinson Hall
~~1739 Kirby Road~~, 6251 Old Dominion Drive, McLean

**MAP GRIDS:** 31-2, 31-3, 31-4, 41-1, 41-2

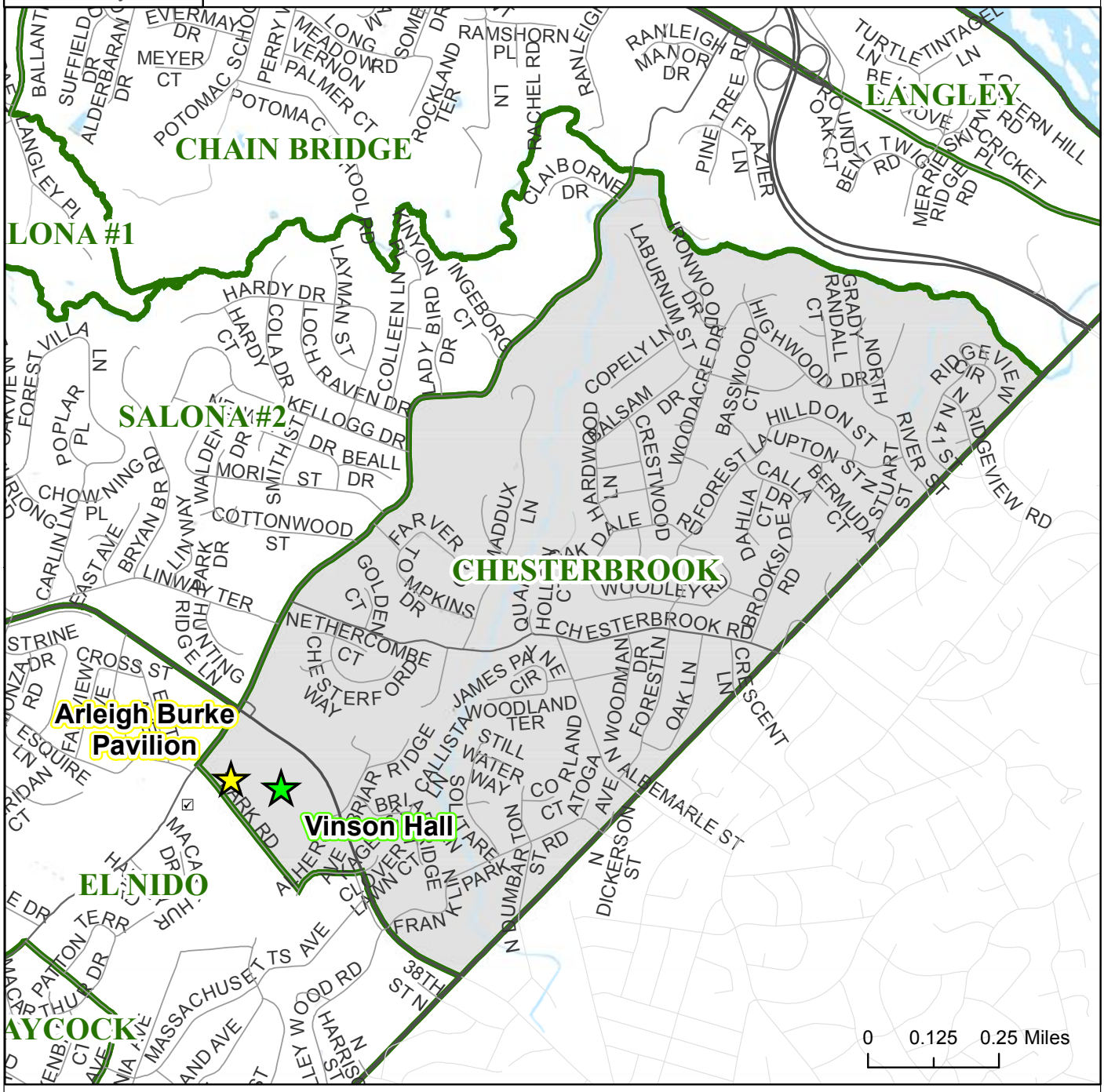
**NOTES:** Established December 1976
Precinct description revised and readopted – March 2003
Senate District changed from 32nd to 31st – July 2011
Delegate District changed from 34th to 48th – July 2011
Polling place temporarily moved – January 2012
Congressional District changed from 10th to 8th – January 2012
Polling place returned to original location – June 2015
Polling place moved – July 2016



Commonwealth of Virginia

# County of Fairfax

**Dranesville District**




**Proposed Polling Place Change for 302 Chesterbrook Precinct**

N

★ **Current name and address:** *Arleigh Burke Pavilion, 1739 Kirby Rd.*

★ **Proposed name and address:** *Vinson Hall, 6251 Old Dominion Dr.*

May 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX

## Lee District

## PRECINCT 424: HUNTLEY

**CONGRESSIONAL DISTRICT:** **EIGHTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-SIXTH**
**HOUSE OF DELEGATES DISTRICT:** **FORTY-THIRD**

**DESCRIPTION:**
Beginning at the intersection of Dogue Creek and South Kings Highway, thence with South Kings Highway in a northeasterly direction to its intersection with Harrison Lane, thence with Harrison Lane in a southerly direction to its intersection with Lockheed Boulevard, thence with Lockheed Boulevard in an easterly direction to its intersection with the east boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southerly, then westerly direction to its intersection with the Virginia Power Easement, thence with the Virginia Power Easement in a southwesterly direction to its intersection with the south boundary of Huntley Meadows Park, thence with the boundary of Huntley Meadows Park in a southwesterly, then northwesterly direction to its intersection with Dogue Creek, thence with the meanders of Dogue Creek in a generally northeasterly direction to its intersection with South Kings Highway, point of beginning.

**POLLING PLACE:** ~~Groveton Elementary School~~ St Mark's Episcopal Church
~~6900 Harrison Lane~~, 6744 South Kings Highway, Alexandria

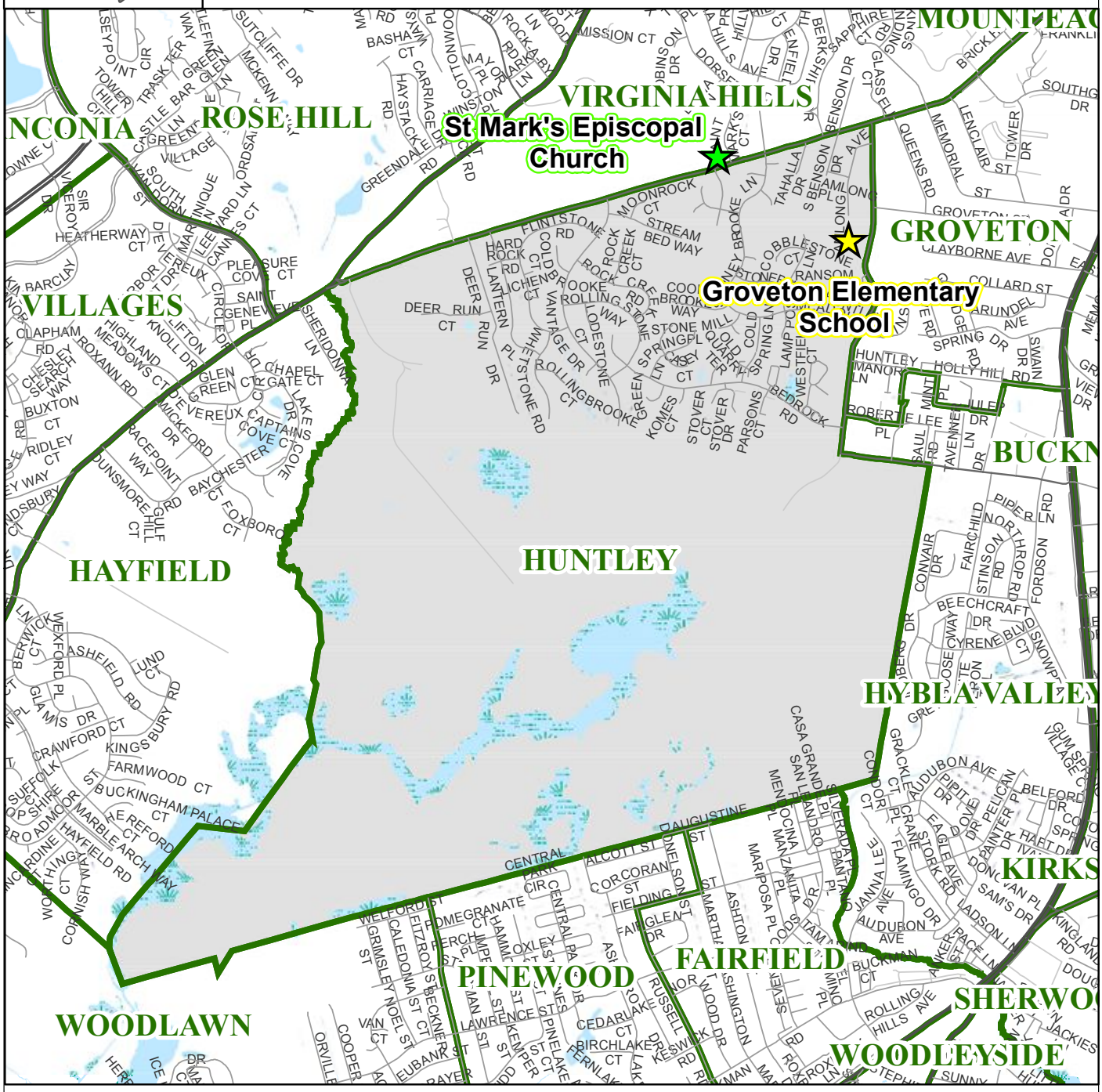
**MAP GRIDS:** 92-1, 92-2, 92-3, 92-4, 100-2, 101-1, -101-2

**NOTES:** Established August 2001
Precinct description revised and readopted – March 2003
Polling place moved – July 2016

Commonwealth of Virginia

# County of Fairfax

## Lee District




**Proposed Polling Place Change for 424 Huntley Precinct**

N

★ **Current Polling Place**

★ **Proposed New Polling Place**

0 0.25 0.5 Miles

May 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX

## Providence District

## PRECINCT 731: TYSONS

**CONGRESSIONAL DISTRICT:** **ELEVENTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-SECOND**
**HOUSE OF DELEGATES DISTRICT:** **THIRTY-FIFTH**

**DESCRIPTION:**
Beginning at the intersection of ~~Leesburg Pike (Route 7)~~ International Drive and the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in an easterly direction to its intersection with the Capital Beltway (I-495), thence with the Capital Beltway in a southwesterly direction to its intersection with Leesburg Pike, thence with Leesburg Pike in a northwesterly direction to its intersection with Spring Hill Road, thence with Spring Hill Road in an easterly direction to its intersection with Greensboro Drive, thence with Greensboro Drive in a southeasterly direction to its intersection with Westpark Drive, thence with Westpark Drive in a northeasterly direction to its intersection with International Drive, thence with the International Drive in a northwesterly direction to its intersection with the Washington Dulles Access and Toll Road, point of beginning.

**POLLING PLACE:** Providence Committee Meeting Room
7921 Jones Branch Drive, McLean

**MAP GRIDS:** 29-1, 29-2, 29-3, 29-4, 39-2

**NOTES:** Established June 1991
Precinct description revised and readopted – March 2003
Polling place moved – July 2011
Boundary adjusted to conform to Congressional District line – July 2012
Delegate District changed from 34th to 35th - July 2011
Congressional District changed from 8th to 11th – July 2012
Precinct divided – July 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX

## Providence District

## PRECINCT 735: ROTONDA

**CONGRESSIONAL DISTRICT:** **ELEVENTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-SECOND**
**HOUSE OF DELEGATES DISTRICT:** **THIRTY-FIFTH**

**DESCRIPTION:**

Beginning at the intersection of Leesburg Pike (Route 7) and the Washington Dulles Access and Toll Road, thence with the Washington Dulles Access and Toll Road in an easterly direction to its intersection with International Drive, thence with International Drive in a southeasterly direction to its intersection with Westpark Drive, thence with Westpark Drive in a southwesterly direction to its intersection with Greensboro Drive, thence with Greensboro Drive in a northwesterly direction to its intersection with Spring Hill Road, thence with Spring Hill Road in a westerly direction to its intersection with Leesburg Pike, thence with Leesburg Pike in a northwesterly direction to its intersection with the Washington Dulles Access and Toll Road, point of beginning.

**POLLING PLACE:** Rotonda Condominiums Community Center
8352 Greensboro Drive, McLean

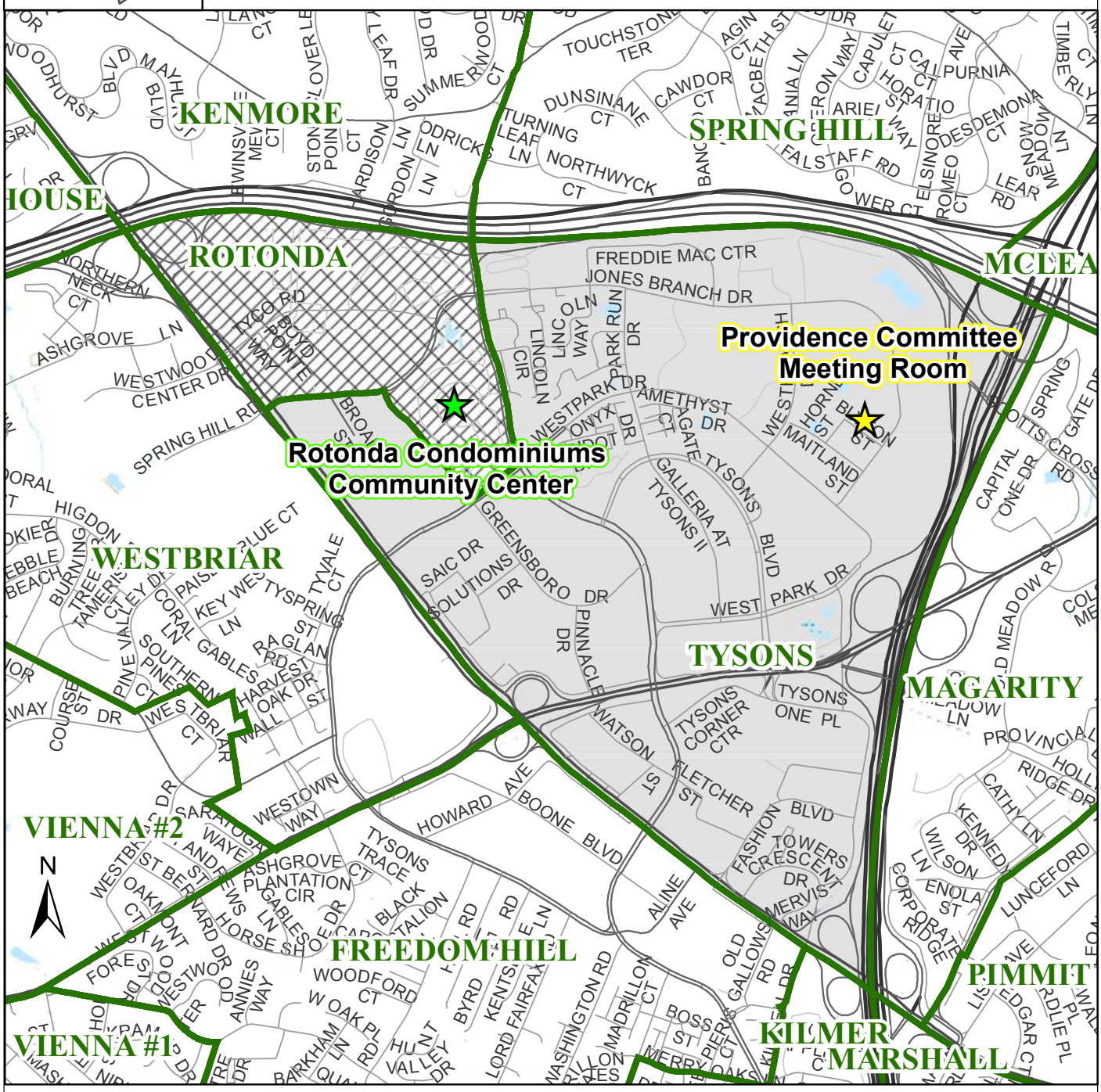
**MAP GRIDS:** 29-1, 29-3

**NOTES:** Established July 2016

Commonwealth of Virginia

# County of Fairfax

## Providence District




**Proposed Division of 731 Tysons Precinct**

0 0.125 0.25 Miles

Proposed 735 Rotonda Precinct

Updated 731 Tysons Precinct

Proposed New Polling Place

Current Polling Place

May 2016

**Commonwealth of Virginia**

# COUNTY OF FAIRFAX
## Springfield District

## PRECINCT 848: FAIR OAKS

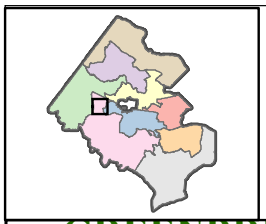
**CONGRESSIONAL DISTRICT:** **ELEVENTH**
**VIRGINIA SENATORIAL DISTRICT:** **THIRTY-SEVENTH**
**HOUSE OF DELEGATES DISTRICT:** **THIRTY-SEVENTH**

**DESCRIPTION:**
Beginning at the intersection of Stringfellow Road and Interstate 66, thence with Interstate 66 in a northeasterly direction to its intersection with Monument Drive, thence with Monument Drive in a southeasterly direction to its intersection with Random Hills Road, thence with Random Hills Road in a southwesterly direction to its intersection with Legato Road at Post Forest Drive, thence with Legato Road in a southwesterly direction to its intersection with Lee Highway (Route 29), thence with Lee Highway in a southwesterly direction to its intersection with Stringfellow Road, thence with Stringfellow Road in a northerly direction to its intersection with Interstate 66, point of beginning.

**POLLING PLACE:** ~~Fair Oaks Church Rec Center~~ Expectation Church Rec Center
4531 West Ox Road, Fairfax

**MAP GRIDS:** 55-1, 55-2, 55-3, 55-4, 56-1, 56-3

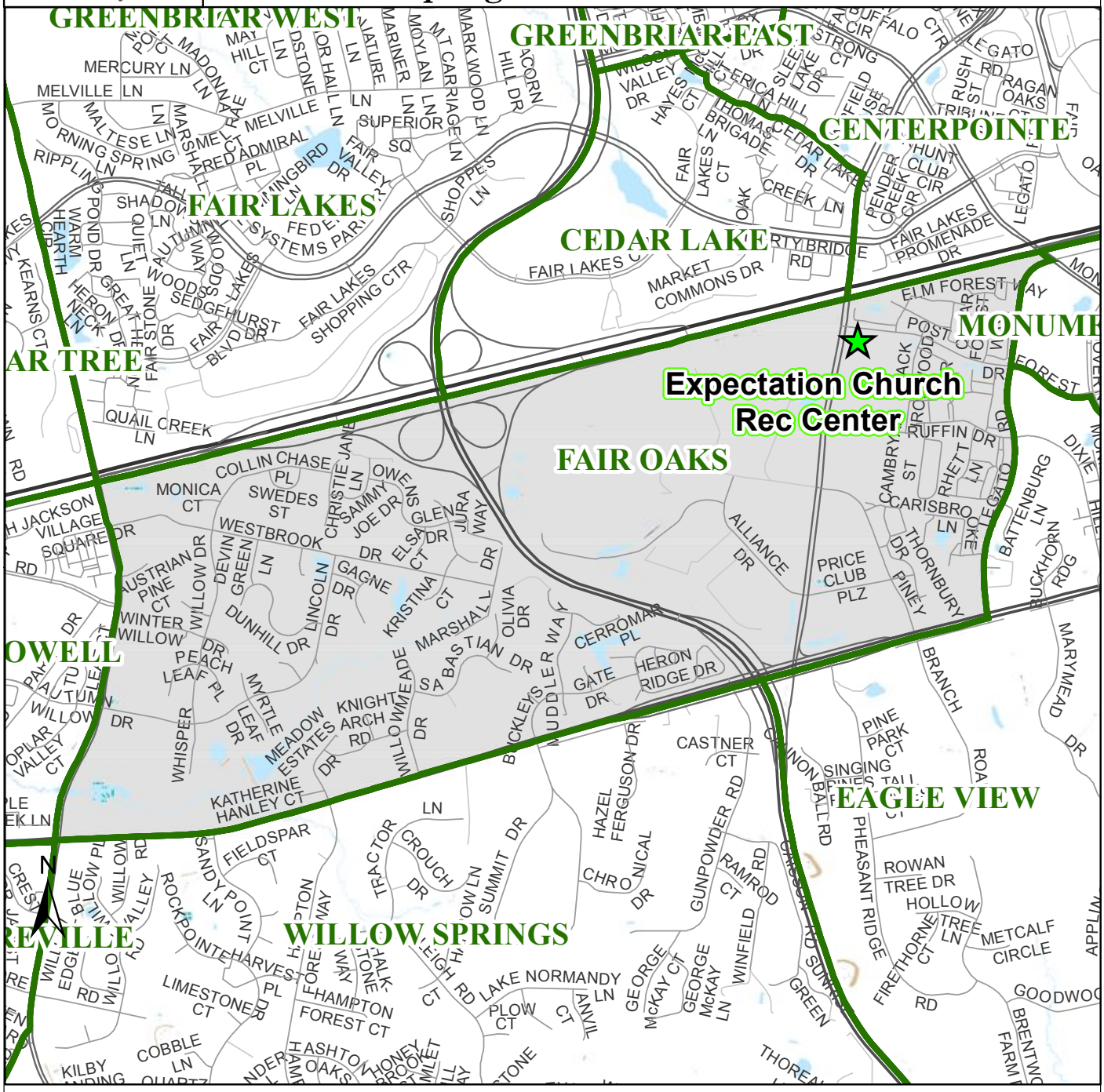
**NOTES:** Established July 1981
Moved from Sully District to Springfield District – 2001 Redistricting
Precinct divided to form Monument precinct – March 2003
Polling place (facility) renamed – May 2003
Polling place address updated – January 2008
Precinct divided and renamed – January 2008
Precinct boundary adjusted – July 2011
Delegate District changed from 35th to 37th – July 2011
Polling place (facility) renamed – July 2016



Commonwealth of Virginia

# County of Fairfax

## Springfield District




**Proposed Polling Place Change for 848 Fair Oaks Precinct**

**Current name:** *Fair Oaks Church Rec Center*

**Proposed name:** *Expectation Church Rec Center*

0 0.125 0.25 Miles

May 2016

# PROPOSED ORDINANCE TO AMEND AND READOPT SECTIONS OF CHAPTER 7 OF THE FAIRFAX COUNTY CODE TO RENAME TERRASET PRECINCT, RELOCATE THE POLLING PLACES FOR CHESTERBROOK AND HUNTLEY PRECINCTS, DIVIDE TYSONS PRECINCT TO ADD A NEW PRECINCT AND ESTABLISH ITS POLLING PLACE, AND CHANGE THE NAME OF THE POLLING PLACE FOR FAIR OAKS PRECINCT

**Draft of May 25, 2016**

AN ORDINANCE to amend and readopt Sections 7-2-5, 7-2-10, and 7-2-13 of the Fairfax County Code to rename Terraset precinct, relocate the polling places for Chesterbrook and Huntley precincts, divide Tysons precinct to add a new precinct and establish its polling place, and change the name of the polling place for Fair Oaks precinct.

Be it ordained that the Board of Supervisors of Fairfax County:

**1. That Sections 7-2-5, 7-2-10 and 7-2-13 of the Fairfax County Code are amended and readopted:**

**Section 7-2-5. Hunter Mill District.**

The Hunter Mill District shall consist of these election precincts: Aldrin, Armstrong, Cameron Glen, Colvin, Dogwood, Flint Hill, Floris, Fox Mill, Frying Pan, Glade, Hughes, Hunters Woods, Madison, McNair, North Point, Reston No. 1, Reston No. 2, Reston No. 3, South Lakes, Stuart, Sunrise Valley, ~~Terraset~~, Vienna No. 1, Vienna No. 2, Vienna No. 4, Vienna No. 6, Westbriar, and Wolftrap.

**Section 7-2-10. Providence District.**

The Providence District shall consist of these election precincts: Blake, Fairfax Court (that part of Fairfax County containing the governmental complex which is surrounded by Fairfax City), Fort Buffalo, Freedom Hill, Graham-Greenway, Hunters Branch, Kilmer, Magarity, Mantua, Marshall, Merrifield, Mosby, Nottoway, Oak Marr, Oakton, Penderbrook, Pine Ridge, Pine Spring, Price, Rotonda, Shreve, Thoreau, Timber Lane, Tysons, Walker, and Woodburn.

**Section 7-2-13. General Provisions.**

All references to election precincts shall refer to those precincts, together with the descriptions and maps of the boundaries and polling places for each of those precincts, which were adopted by the Board of Supervisors on March 24, 2003, as amended on March 8, 2004, March 21, 2005, March 27, 2006, March 26, 2007, September 10, 2007,

March 10, 2008, January 12, 2009, March 9, 2010, July 27, 2010, April 26, 2011, July 26, 2011, January 10, 2012, July 10, 2012, March 19, 2013, ~~and~~ July 9, 2013, November 18, 2014, June 23, 2015, ~~and~~ December 8, 2015, and July 12, 2016, and kept on file with the clerk to the Board of Supervisors. Whenever a road, a stream, or other physical feature describes the boundary of a precinct, the center of such road, stream, or physical feature shall be the dividing line between that precinct and any adjoining precinct.

**2. The polling place location for the newly-created precinct identified in the first clause of this ordinance is established at:**

| Supervisor District | Precinct | Polling Place |
|---|---|---|
| Providence | Rotonda (new precinct) | Rotonda Condominiums Community Center<br>8352 Greensboro Drive<br>McLean, Virginia 22102 |

**3. The polling place locations for the following existing precincts are established at:**

| Supervisor District | Precinct | Polling Place |
|---|---|---|
| Dranesville | Chesterbrook (polling place relocated) | From:<br>Arleigh Burke Pavilion<br>1739 Kirby Road<br>McLean, Virginia 22101<br><br>To:<br>Vinson Hall<br>6251 Old Dominion Drive<br>McLean, Virginia 22101 |
| Lee | Huntley (polling place relocated) | From:<br>Groveton Elementary School<br>6900 Harrison Lane<br>Alexandria, Virginia 22306 |

| | | |
|---|---|---|
| | | To:<br>St. Mark's Episcopal Church<br>6744 South Kings Highway<br>Alexandria, Virginia 22310 |

**4. The following precinct is renamed:**

| Supervisor District | Precinct | Polling Place |
|---|---|---|
| Hunter Mill | Hughes<br>(formerly Terraset) | Hughes Middle School<br>11401 Ridge Heights Road<br>Reston, Virginia 20191<br>(no change in location) |

**5. The following polling place is renamed:**

| Supervisor District | Precinct | Polling Place |
|---|---|---|
| Springfield | Fair Oaks<br>(polling place renamed) | From:<br>Fair Oaks Church Rec Center<br>4531 West Ox Road<br>Fairfax, Virginia 22030<br><br>To:<br>Expectation Church Rec Center<br>4531 West Ox Road<br>Fairfax, Virginia 22030<br>(no change in location) |

**6. This ordinance shall become effective upon adoption.**

GIVEN under my hand this ____ day of July, 2016.

_____
Catherine A. Chianese
Clerk to the Board of Directors

Board Agenda Item
June 21, 2016

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing to Expand the Little Rocky Run Community Parking District (Sully 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 expand the Little Rocky Run Community Parking District (CPD).

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for July 26, 2016, at 4:00 p.m. to consider adoption of a Fairfax County Code amendment to expand the Little Rocky Run CPD.

TIMING:
The Board of Supervisors should take action on June 21, 2016, to provide sufficient time for advertisement of the public hearing on July 26, 2016, at 4:00 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, (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power, (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, (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 an expansion of 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 $800 to be paid from 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 Little Rocky Run CPD

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT
Charisse Padilla, Transportation Planner, FCDOT

Attachment I

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

M-36 Little Rocky Run Community Parking District

(a) *District Designation*.

(1) The restricted parking area is designated as the Little Rocky Run Community Parking District.

(2) Blocks included in the Little Rocky Run Community Parking District expansion are described below:

*Braddock Road (Route 7759)*

From Old Centreville Road to the eastern property boundary of parcel 54-4((01))(00)83B, south side only.

*Old Centreville Road (Route 858)*

From the northern property boundary of parcel 65-2(04)B to the southern property boundary of parcel 65-2(04)A, east 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 Little Rocky Run 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

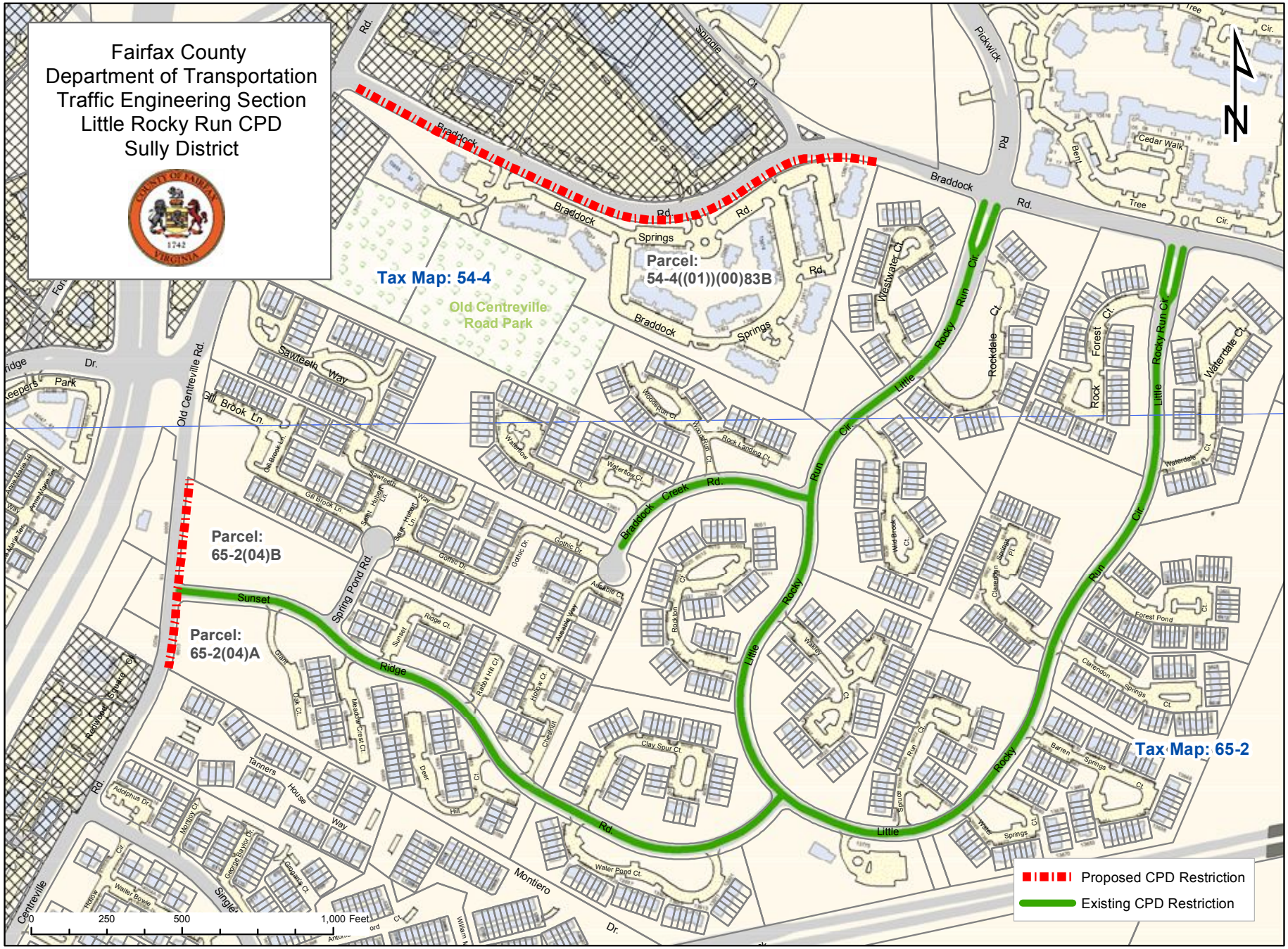
public street within any such District for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip or (iv) restricted vehicles that are temporarily parked on a public street within any such District for use by federal, state, or local public agencies to provide services.

(c) *Signs*. Signs delineating the Little Rocky Run 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
June 21, 2016

ADMINISTRATIVE - 6

Approval of Traffic Calming Measures and a "Watch for Children" Sign as Part of the Residential Traffic Administration Program (Mason, Providence and Mount Vernon Districts)

ISSUE:
Board endorsement of Traffic Calming measures and a “Watch for Children” sign, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends that the Board endorse the traffic calming plan for Patrick Henry Drive and Marshall Street consisting of the following:

- Three Speed Tables on Patrick Henry Drive (Mason District)
- Three Speed Humps on Marshall Street (Providence District)
- Removal of one Speed Hump on Marshall Street (Providence District)

The County Executive further recommends that the Board endorse the installation of a “Watch for Children” sign on the following road:

- Dutchman Drive (Mount Vernon District)

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

TIMING:
Board action is requested on June 21, 2016.

BACKGROUND:
As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners’ or civic association. Traffic calming employs the use of physical devices such as multi-way stop signs (MWS), speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. Staff performed engineering studies

documenting the attainment of qualifying criteria. Staff worked with the local Supervisors' office and community to determine the viability of the requested traffic calming measures to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff that plan is then submitted for approval to residents of the ballot area in the adjacent community. On April 27, 2016 (Patrick Henry Drive) and on May 2, 2016 (Marshall Street), FCDOT received verification from the local Supervisor's offices confirming community support for the above referenced traffic calming plan.

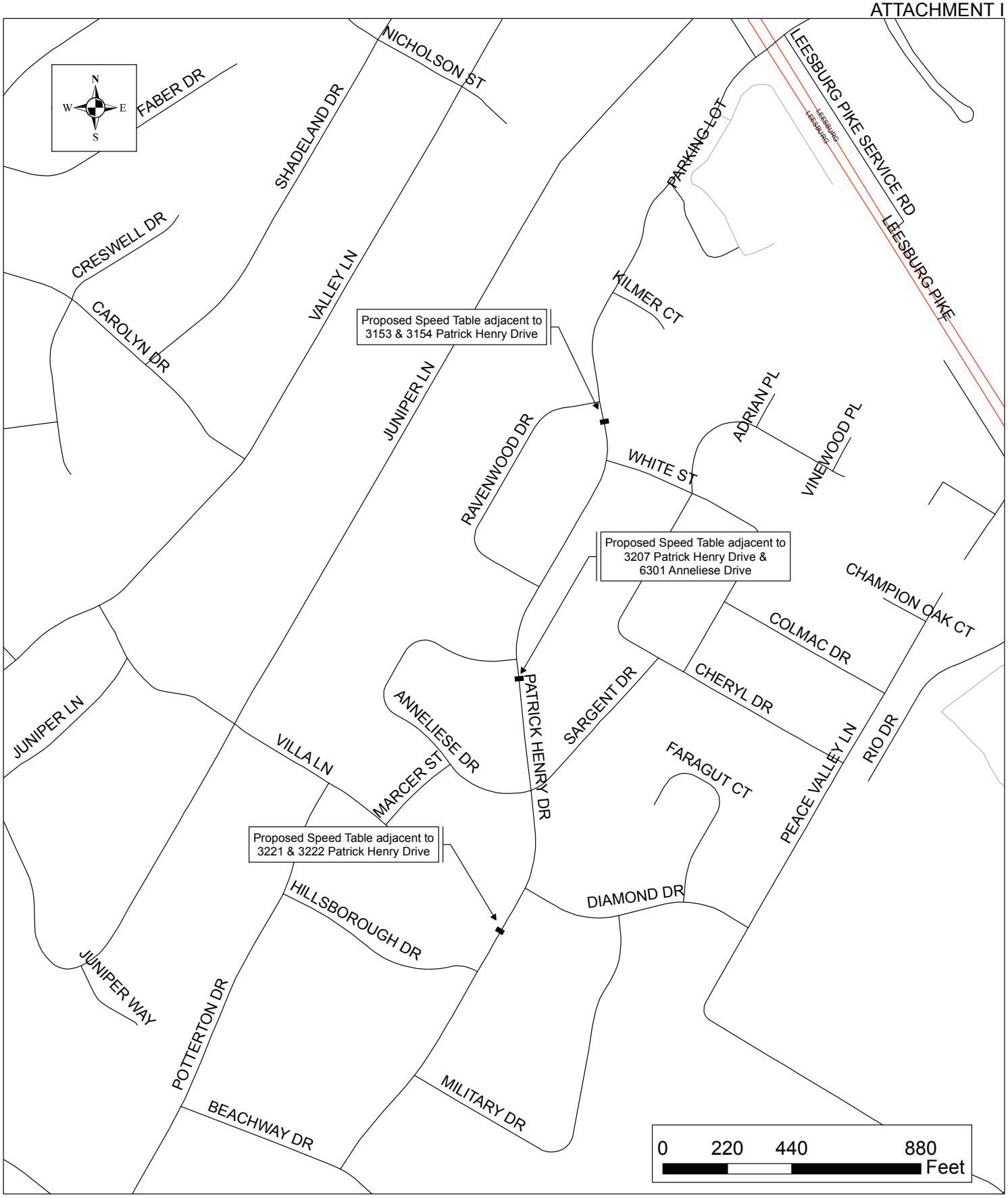
The RTAP allows for installation of "Watch for Children" signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On April 19, 2016; FCDOT received written verification from the appropriate local supervisor confirming community support for the referenced "Watch for Children" sign.

FISCAL IMPACT:
Funding in the amount of $48,000 for the traffic calming measure associated with the Patrick Henry Drive and Marshall Street projects is available in Fund 300-C30050, General Fund, under Job Number 2G25-076-000.

Funding in the amount of $200 for the "Watch for Children" sign associated with the Dutchman Drive project is available in Fund100-C10001, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Patrick Henry Drive
Attachment II: Traffic Calming Plan for Marshall Street

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Neil Freschman, Chief, Traffic Engineering Section, FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT
Paolo Belita, Transportation Planner, Traffic Engineering Section, FCDOT

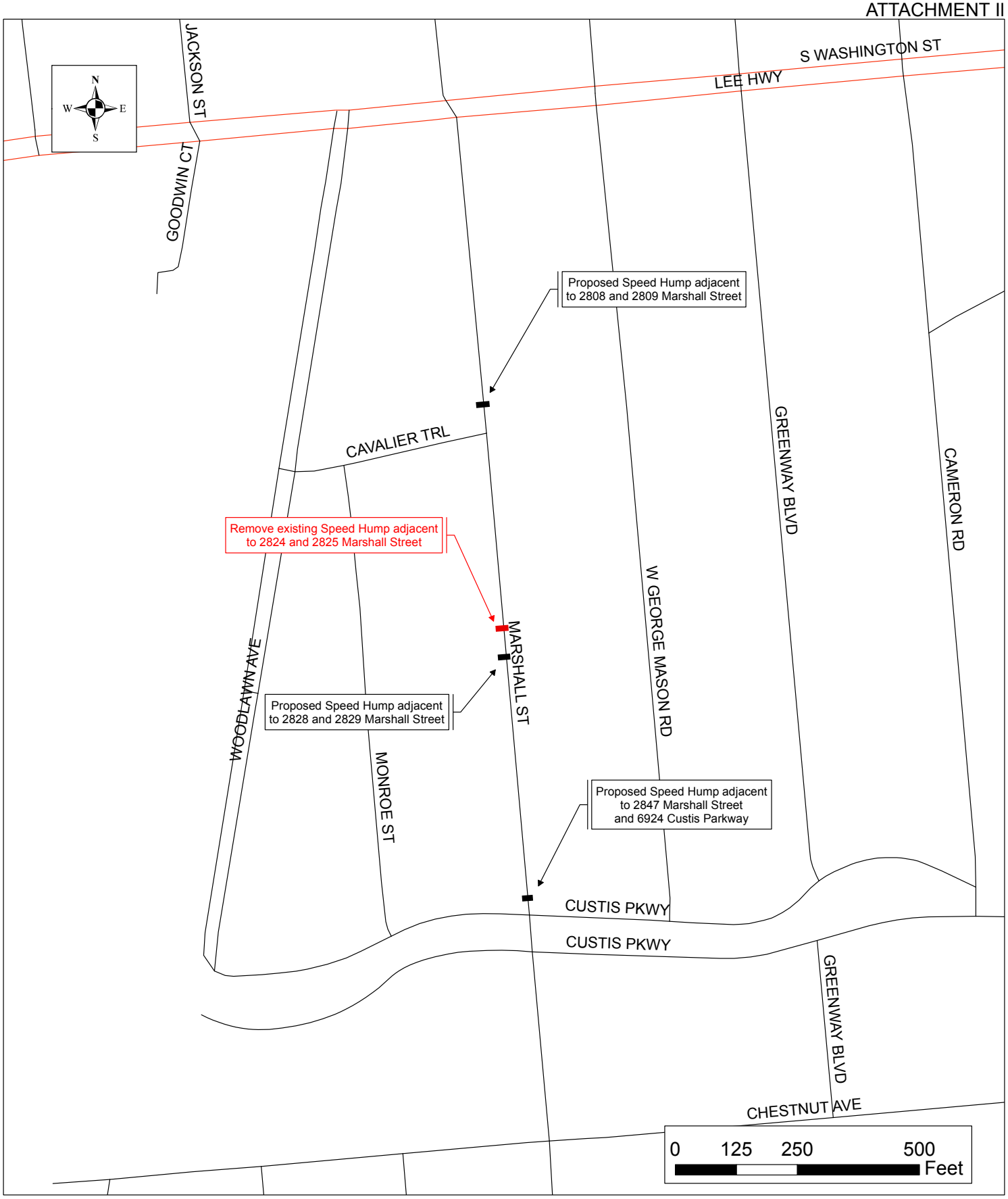



April, 2016

# Fairfax County Department of Transportation
# Residential Traffic Administration Program (RTAP)
# TRAFFIC CALMING PLAN
# PATRICK HENRY DRIVE
# Mason District

A Fairfax Co. Va., publication

Tax Map: 51-3, 61-1




May, 2016

# Fairfax County Department of Transportation
# Residential Traffic Administration Program (RTAP)
# TRAFFIC CALMING PLAN
# MARSHALL STREET
# Providence District

A Fairfax Co. Va., publication

Tax Map: 50-2, 50-4

Board Agenda Item
June 21, 2016

ACTION - 1

Approval of the Fall 2016 Bond Referenda for Transportation, Parks and Park Facilities, and Human Services and Community Development

ISSUE:
Board approval for three bond referenda on November 8, 2016, totaling $312 million, and adoption of the enclosed resolutions requesting the Circuit Court to order the referenda authorizing the issuance of such bonds. These bond funds, if approved, would be used to pay for the County's share of the Washington Metropolitan Area Transit Authority (WMATA) Capital Improvement Program and capital improvements and replacement of existing County facilities associated with Parks and Park Facilities and Human Services and Community Development. The bond referenda schedule of events is included as Attachment 1.

RECOMMENDATION:
The County Executive recommends that the Board:

1. Adopt the proposed resolution (Attachment 2), directing the County Attorney to petition the Circuit Court to order a Transportation bond referendum on November 8, 2016; and
2. Adopt the proposed resolution (Attachment 3), directing the County Attorney to petition the Circuit Court to order a Parks and Park Facilities bond referendum on November 8, 2016; and
3. Adopt the proposed resolution (Attachment 4), directing the County Attorney to petition the Circuit Court to order a Human Services and Community Development bond referendum on November 8, 2016; and
4. Authorize the preparation and distribution of an informational pamphlet about the bonds that is mailed to all County households.

TIMING:
Board action is requested on June 21, 2016, in order to obtain court orders for each referendum to provide sufficient time for staff to prepare for the referenda and provide information to the public. Staff will return to the Board with an Administrative Item on September 20, 2016, for authorization to print and distribute an explanatory County bond referendum statement (known as the "Plain English Statement").

BACKGROUND:
Board approval is sought to put three bond referenda totaling $312 million on the ballot on November 8, 2016. This referenda plan was presented to the Board as part of the

April 1, 2016 Budget Committee meeting. The Board subsequently approved this plan during the Board's budget mark-up and approval of the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to 2026) on April 19, 2016.

In Virginia, a referendum can be put on the ballot for consideration by the voters only if the referendum is ordered by the court. Each of the three attached Resolutions directs the County Attorney to provide a certified copy of the adopted Resolution to the Circuit Court and to petition it to order the referendum on the question as stated in Section 1 of each Resolution. Fairfax County's bond referendum questions are always worded exactly as stated in the Board's Resolution. This year, staff has formatted the Resolutions to make it easier to identify the language that will appear on the ballot and staff has separately set out the ballot questions in Attachment 6. The law requires the Court to enter the orders if the requests are found to be "in proper order." Upon entry of the orders, the Clerk of Court is required to send copies to the State Board of Elections. The Fairfax County Electoral Board and General Registrar will then prepare the ballots in time to make them available to voters beginning with absentee voting on September 23, 2016.

**Transportation - $120 million**
If approved by voters in November, Fairfax County will use the bond funds, as well as state funds, to pay for its share of WMATA's Capital Improvement Program (CIP). The WMATA CIP includes safety and system maintenance projects needed to reach a state of good repair, new rail cars and power upgrades for running eight car trains, additional buses for operating Priority Corridor Networks, and rail station improvements to increase the capacity of the Metrorail system infrastructure. In anticipation of an increase in jurisdictional contributions to help fund the capital plan, $120 million is included in the in fall 2016 bond referendum to support a $30 million annual capital contribution for the next 4 years.

**Parks and Park Facilities - $107 million**
*County Park Authority $94.7 million + Northern Virginia Regional Park Authority (NVRPA) $12.3 million*

Shifting and expanding leisure interests increases the demand for parks and park facilities, and the County Park Authority recently completed a needs assessment to develop the next 5-10 year park capital plan. An amount of $94.7 million is proposed to address priority needs identified in the needs assessment, previously identified funding needs, and the growing need to maintain the Park Authority's aging infrastructure. Project funding will include the following areas: Land Acquisition and Open Space Preservation to ensure adequate parkland for future generations; New Park Development; Park Renovation and Upgrades for aging facilities; and Natural and Cultural Resource Stewardship.

The fall 2016 park bond referendum also includes $12.3 million to sustain the County's capital contribution to the NVRPA for an additional four years, beginning in FY 2017. FY

2016 represented the last year of a four-year bond program to support the County's contribution to the NVRPA capital budget for FY 2013 through FY 2016. The NVRPA owns over 8,500 acres in Fairfax County, most of which protects environmentally sensitive watersheds along the Potomac, Bull Run and Occoquan Rivers. NVRPA's capital improvement and land acquisition costs are shared by its six member jurisdictions: the counties of Fairfax, Loudoun and Arlington, and the cities of Fairfax, Alexandria and Falls Church. The primary focus of NVRPA's capital program is to continue the restoration, renovation and modernization of existing park facilities, many of which were developed or constructed more than 20 years ago. Fairfax County has previously approved $12 million every four years to sustain an annual $3 million County capital contribution to NVRPA. The 2016 Bond continues this effort of $12 million and includes an additional one-time amount of $300,000 to support the planned Packard Occoquan Center, a multi-purpose center named for Jean Packard in honor of her outstanding contributions to the community.

**Human Services and Community Development - $85 million**
An amount of $48 million is proposed to renovate, expand or replace four of the County's Shelters. The Patrick Henry, Embry Rucker, Eleanor Kennedy, and Bailey's Shelters are all aging facilities with building subsystems well beyond their intended life-cycle. The facilities were all built or last renovated approximately 30 years ago. All of these facilities are highly utilized and experience 24/7 wear and tear. In addition, these shelters can no longer meet "crisis/emergency" needs of homeless individuals and families in the community. The bond funds could enable the County to improve the service delivery model by providing both emergency housing services and permanent housing solutions in one location. The County shelters are full to capacity every night of the week throughout the year.

An amount of $37 million is proposed for the replacement of the Sully Senior Center and a new Lorton Community Center. The existing Sully Senior Center, which provides social, recreational, and health/wellness activities and programs for older adults, is located in the VDOT right-of-way that is currently being designed for a new interchange. The bond funds would allow for the Sully Community Center to have additional senior adult programming space, along with youth and adult services which are critically needed in the community. The Lorton Senior Center is currently housed in leased space that is scheduled to expire in 2018. A feasibility study was completed and recommends the co-location of services including community-focused services and the Lorton Senior Center. Targeted youth programming is in great demand in the Lorton area and the presence of a community center would help meet that need. Both the Sully and Lorton facilities align with the strategic efforts to develop and promote multi-service sites.

It is important to note that while the projects cited for the County's share of WMATA's CIP, Parks and Park Facilities, and Human Services and Community Development, represent the current proposals regarding what projects to fund, the ballot questions are phrased more generally, to allow the Board flexibility as to precisely which projects to fund with the bond proceeds. Therefore, should circumstances change the scope of or

the need for any of the listed projects, the Board may use the bond proceeds for similar projects, so long as the projects are within the uses described in the ballot question.

Public Information Materials

To help inform the public about the referenda, the Office of Public Affairs traditionally prepares and distributes an informational pamphlet that is mailed to all County households. The Board is asked to authorize this pamphlet's development and distribution.

The pamphlet will describe the intended use for the bond funds, as well as offer information on bond financing, the cost of borrowing, the effect of borrowing on the tax rate, and other financial information. A draft of the 2016 bond pamphlet will be distributed to the Board for review this summer, and then mailed out to County households in early October. A copy of the pamphlet used in 2012 is attached for reference (See Attachment 5).

Virginia law does not permit local governments to use the list of registered voters to provide information to voters on referendums, although it does permit parties and candidates to use the list. Therefore, the County will use a commercial mailing firm to deliver the pamphlet to all County households in October.

As in past years, the pamphlet will be translated into some of the most widely spoken non-English languages in the County, including Korean, Spanish, and Vietnamese. As required by Section 203 of the Voting Rights Act of 1965, as amended, and the 2011 designation of the Director of the Bureau of the Census, the County will provide all election information in Spanish as well as in English.

Both the English and non-English language versions of the pamphlet will be posted on the County's Web site and distributed at County facilities. However, only the English language version of the pamphlet will be mailed to County households. The information in this bond pamphlet will be exclusively related to the projects associated with the three bond referenda questions. All explanatory information related to the proposed Meals Tax will be distributed to the Board and County households separately.

To inform the public, the Office of Public Affairs also will work with the County agencies involved in the referenda. This includes providing information to the media, publishing information in print and electronic newsletters, outreach to residents, posting information online and using social media sites.

Additionally, state law requires localities to prepare a plain English statement of bond referendum questions. Unlike the other informational materials described above, the plain English statement may be distributed in the polling places. The statement must include the ballot question and a neutral explanation of not more than 500 words prepared by the locality's attorney. Staff will prepare a plain English statement for the Board's consideration and approval after the Court has ordered the referenda.

FISCAL IMPACT:
The County bonds are expected to be sold according to actual cash requirements over the next several years. Annual debt service payments associated with the 2016 Bond Referenda have been incorporated into the County's long term debt ratio projections, and are referenced in the FY 2017 - FY 2021 Adopted Capital Improvement Program (With Future Years to FY 2026). Expenses associated with the printing, translating and mailing the bond information pamphlet will be paid out of existing appropriations in Fund 20000, Consolidated County and Schools Debt Service Fund.

ENCLOSED DOCUMENTS:
Attachment 1: Bond Referenda Schedule of Events
Attachment 2: Board of Supervisors Resolution Requesting an Order for Election on the Issuance of Bonds in the Amount of $120,000,000 for Transportation
Attachment 3: Board of Supervisors Resolution Requesting an Order for Election on the Issuance of Bonds in the Amount of $107,000,000 for Parks and Park Facilities
Attachment 4: Board of Supervisors Resolution Requesting an Order for Election on the Issuance of Bonds in the Amount of $85,000,000 for Human Services and Community Development
Attachment 5: 2012 Bond Information Pamphlet
Attachment 6: Bond referenda questions
Attachment 7: Virginia Code §§ 24.2-684 (how referendum elections are called and held, and the results ascertained and certified)

STAFF:
Edward L. Long, Jr., County Executive
Joseph Mondoro, Chief Financial Officer
Patricia Harrison, Deputy County Executive
Robert Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation
Kirk Kincannon, Director, Fairfax County Park Authority
Christopher Leonard, Director, Neighborhood and Community Services
Dean Klein, Director, Office to Prevent and End Homelessness
Erin C. Ward, Senior Assistant County Attorney, Office of the County Attorney
Martha Reed, Capital Projects Coordinator, Department of Management and Budget
Joseph LaHait, Debt Coordinator, Department of Management and Budget

Attachment 1

**Proposed Schedule of Events**
**Fall 2016 Bond Referenda –**
**Transportation, Parks and Park Facilities, and Human Services/Community Development**

| **Date** | **Item** |
|---|---|
| April 1, 2016 | Budget Committee review of FY 2017-FY 2021 Capital Improvement Program. |
| April 19, 2016 | FY 2017 Budget Markup & Approval of the FY 2017-2021 Capital Improvement Program. |
| April 26, 2016 | Budget Adoption. |
| June 21, 2016 | Board of Supervisors Adopts Resolutions for Transportation, Parks and Park Facilities, and Human Services/Community Development bond referenda. |
| NLT July 1, 2016 | County Attorney files Petitions and Resolutions with the Circuit Court. |
| July 2016 | Circuit Court enters orders that the referenda be held on November 8, 2016. |
| September 20, 2016 | Board approval of “plain English” statements that include the ballot questions and neutral explanations of not more than 500 words for each referendum. |
| September 23, 2016 | Absentee voting begins. |
| October 7, 2016 | Publication of notice of election. |
| October 2016 | Mailing of bond pamphlets to all County households. |
| November 8, 2016 | Election Day. |
| Mid-November 2016 | Electoral Board certifies election results to the State Board of Elections, the Clerk of the Board of Supervisors, and the Clerk of the Circuit Court. |
| November / December 2016 | County Attorney moves for entry of a final order; Circuit Court enters final order. |

**Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money and Issue Bonds in the Maximum Aggregate Principal Amount of $120,000,000 to Finance the Cost of Transportation Improvements and Facilities**

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 June __, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the Board of Supervisors of Fairfax County, Virginia (the "Board of Supervisors"), has determined that funds should be provided to finance the cost of providing transportation improvements and facilities and has determined that bonds in the maximum aggregate principal amount of $120,000,000 should be issued to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock and equipment in the Washington metropolitan area, and to finance improvements to primary and secondary State highways and ancillary related improvements and facilities (collectively "Transportation Improvements and Facilities"); and

**WHEREAS,** the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement for temporary financing for, the cost of Transportation Improvements and Facilities, Fairfax County should contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for

transportation improvements and facilities, in the maximum aggregate principal amount of $120,000,000; and

**WHEREAS**, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore, be it

**RESOLVED** by the Board of Supervisors of Fairfax County, Virginia:

**Section 1.** That the Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 8, 2016, on the following question;

> Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of $120,000,000 to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock and equipment in the Washington metropolitan area, and to finance improvements to primary and secondary State highways and ancillary related improvements and facilities?

**Section 2.** That the County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit

Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 8, 2016.

**Section 3.** That the members, officers, legal counsel, agents, and employees of the Board and the County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 8, 2016.

Given under my hand on this _____ day of June 2016.

_____
Catherine A. Chianese
Clerk, Board of Supervisors

**Resolution To Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money and Issue Bonds, In Addition To The Parks and Park Facilities Bonds Previously Authorized, in the Maximum Aggregate Principal Amount of $107,000,000 to Finance the Cost of Parks and Park Facilities**

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 June __, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the Board of Supervisors of Fairfax County, Virginia (the "Board of Supervisors"), has determined that funds should be provided to finance the cost of providing parks and park facilities and has determined that bonds in the maximum aggregate principal amount of $107,000,000 should be issued (i) $94,700,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, develop and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) $12,300,000 principal amount for Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, develop and equip parks and park facilities (collectively "Parks and Park Facilities"); and

**WHEREAS,** the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement to the County for temporary financing for, the cost of Parks and Park Facilities, Fairfax County should contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of $107,000,000; and

**WHEREAS**, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore, be it

**RESOLVED** by the Board of Supervisors of Fairfax County, Virginia:

**Section 1.** That the Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 8, 2016, on the following question;

> Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of $107,000,000: (i) $94,700,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, develop and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) $12,300,000 principal amount for Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, develop and equip parks and park facilities?

**Section 2.** That the County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 8, 2016.

**Section 3.** That the members, officers, legal counsel, agents, and employees of the Board and the County are hereby authorized and directed to do all acts and things required of them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 8, 2016.

Given under my hand on this _____ day of June 2016.

_____
Catherine A. Chianese
Clerk, Board of Supervisors

**Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money and Issue Bonds in the Maximum Aggregate Principal Amount of $85,000,000 to Finance the Cost of Human Services Facilities and Community Development Facilities**

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 June __, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, the Board of Supervisors of Fairfax County, Virginia (the "Board of Supervisors"), has determined that funds should be provided to finance the cost of providing human services facilities and community development facilities and has determined that bonds in the maximum aggregate principal amount of $85,000,000 should be issued to provide funds to finance the cost of human services facilities and community development facilities, including the construction and reconstruction of community centers and shelters and the acquisition of land and equipment or interests therein (collectively "Human Services Facilities and Community Development Facilities"); and

**WHEREAS,** the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance, including reimbursement for temporary financing for, the cost of Human Services Facilities and Community Development Facilities, Fairfax County should contract a debt, borrow money and issue bonds in the maximum aggregate principal amount of $85,000,000; and

**WHEREAS**, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore, be it

**RESOLVED** by the Board of Supervisors of Fairfax County, Virginia:

**Section 1.** That the Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 8, 2016, on the following question;

> Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds in the maximum aggregate principal amount of $85,000,000 to provide funds to finance the cost of human services facilities and community development facilities, including the construction and reconstruction of community centers and shelters and the acquisition of land and equipment or interests therein?

**Section 2.** That the County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this Resolution and to petition the Fairfax County Circuit Court for an order to conduct such a referendum as a special election in conjunction with the general election on November 8, 2016.

**Section 3.** That the members, officers, legal counsel, agents, and employees of the Board and the County are hereby authorized and directed to do all acts and things required of

them under Virginia law to ensure that the referendum will be held as a special election in conjunction with the general election on November 8, 2016.

Given under my hand on this _____ day of June 2016.

_____
Catherine A. Chianese
Clerk, Board of Supervisors

FAIRFAX COUNTY BOARD OF SUPERVISORS

# 2012 Bond Referenda Information for Residents

## Four Bond Issues on the Ballot

*In the Nov. 6 general election, Fairfax County voters will be asked to vote YES or NO on four individual bond questions. More specifically, the ballot will include questions on whether the county should be authorized to issue bonds for library, public safety, parks, and stormwater improvements. If the majority of voters approve these questions, the county would be allowed to issue bonds to construct or undertake improvements to the type of public facilities identified in each question.*

*Bonds allow the county to borrow money to pay for public facilities and infrastructure. The bond program is not designed to contribute to an increase in your tax rate, and the county can borrow money at a very low cost due to its triple-A credit ratings.*

## Public Libraries — $25 Million

This question seeks voter authorization for the county to issue $25 million of bonds for public library facilities. If approved, the county currently plans to use this bond money to renovate three libraries and renovate or build a fourth library.

### John Marshall Library — $5 Million

This approximately 16,500-square-foot library opened in 1974, and customers borrow nearly 19,000 items per month. The building will be renovated to prolong its life, and the library may be expanded slightly to meet the changing needs of the community. Renovations will include adding a quiet and group study area, as well as a conference space. The number of public computers will be increased and wireless access will be enhanced. Upgrades will be made to the building systems for operations and energy efficiency. The library is located in the Lee District, which is expected to have a 17 percent growth in population by 2030.

### Pohick Regional Library — $5 Million

Opened in 1986, this library loans out nearly 58,000 items per month, and the approximately 25,000-square-foot building will be renovated. The renovations will provide a more efficient use of the available space, meet customers' technological demands and better serve students and young children. The quiet study areas and group study rooms will be improved, the number of public computers will be increased, and wireless access will be enhanced. Upgrades will be made to the building systems for operations and energy efficiency. The library is located in the Springfield District, which is expected to have a 5.6 percent growth in population by 2030.

### Reston Regional Library — $10 Million

Built in 1985, this approximately 30,000-square-foot library is located north of the Reston Town Center, and it circulates nearly 73,000 items per month. Because this area will be near the new Metro station in Reston, it may be redeveloped into a more urban, mixed-use center with government facilities. As part of the redevelopment, the library may be relocated within this area north of the town center. Bond funds will be used for the site studies, design and construction once the library location is confirmed. The library is located in the Hunter Mill District, which is expected to have a 19.6 percent growth in population by 2030.

### Tysons-Pimmit Regional Library — $5 Million

Customers borrow nearly 43,000 items per month from this library, which opened in 1986. The approximately 25,000-square-foot interior will be renovated to provide more public space, and building systems will be upgraded to improve operations and energy efficiency. The number of public computers will be increased, and quiet and group study areas will be added. Wireless access will be enhanced. The library is located in the Dranesville District, which is expected to have a 12.9 percent growth in population by 2030.

*For more information, contact the Fairfax County Public Library Public Information Office at 703-324-8319, TTY 711, or visit www.fairfaxcounty.gov/bond.*

## Public Safety — $55 Million

This question seeks voter authorization for the county to issue $55 million of bonds for public safety facilities. If approved, the county currently plans to use this bond money to renovate three fire stations and 22 courtrooms.

### Fire Stations — $35 Million

#### Baileys Crossroads Fire Station — $9 Million

Built in 1974, the existing 11,000-square-foot station experienced a roof collapse over the apparatus bays during the blizzard in February 2010. Due to its age, inadequate size and outdated building systems, this station needs to be replaced with a new larger station to meet the current space and operational requirements. Through an agreement with the Baileys Crossroads Volunteer Fire Department, this station became county owned in fall 2010. Combining the current site of the Baileys fire station with adjacent county-owned land will provide for an approximate 16,900-square-foot, four-bay (two drive-through bays) fire station. Continuous fire and rescue service will be provided to the community during construction of the new station.

#### Herndon Fire Station — $12 Million

The existing 8,162-square-foot station, built in the 1950s, is one of the oldest in the county, and it does not have an apparatus bay that is large enough for future needs. Staffing is also limited due to the current size of the station. A new station will be constructed at the existing site to maintain the same response time and maintain service as now provided for downtown Herndon. The approximately 14,500-square-foot station will include three bays (with one bay sized to park vehicles in front of each other), as well as offer 20 underground parking spaces. It will accommodate shifts of 14. Continuous fire and rescue service will be provided to the community during construction.

#### Jefferson Fire Station — $14 Million

Now 48-years-old, the existing 14,670-square-foot fire station has far exceeded its useful life and needs to be replaced to meet current operational requirements. A 2005 study rated this station as in poor condition overall. The current station lacks sufficient space for apparatus and equipment for the Technical Rescue Operations Team, as well as adequate accommodations for female personnel. Continuous fire and rescue service will be provided to the community during construction.

*For more information, contact Fairfax County Fire & Rescue Department Public Affairs at 703-246-3801, TTY 711, or visit www.fairfaxcounty.gov/bond.*

### Courthouse Renovations — $20 Million

Built in the early 1980s, the courtrooms in the original Jennings Judicial Center — now known as the Fairfax County Courthouse — have been in constant use by the public. Bond funds are currently planned to be used to renovate 22 courtrooms, nine for the General District Court and 13 for the Circuit Court.

The renovations will make all courtrooms safe, comfortable and compliant with the federal Americans with Disabilities Act (ADA). Renovations include security upgrades, wall and ceiling replacement, improved lighting, ductwork realignment, carpet replacement and ADA upgrades for juror deliberation rooms and restrooms. Modern technology also is needed to support increased public and judiciary demands, as well as offer cost savings. These technologies include digital evidence presentation capabilities and video conferencing to allow for video arraignments and testimony from remote witnesses.

*For more information, contact the Fairfax County Office of Public Affairs at 703-324-7329, TTY 711, or 703fairfax@fairfaxcounty.gov, or visit www.fairfaxcounty.gov/bond.*

## Parks and Park Facilities — $75 Million

This question seeks voter authorization for the county to issue $75 million of bonds for parks and park facilities. If approved, the county currently plans to use this bond money to buy land, renovate and expand existing facilities, improve community parks and fund the county's contribution to the Northern Virginia Regional Park Authority's capital improvement plan.

### Fairfax County Park Authority — $63 Million

The Fairfax County Park Authority administers 23,194 acres of parkland and 420 individual parks. These include parks that provide countywide services including golf; camping; ice skating; skate parks; boating; stream valley corridors; trails; equestrian facilities; natural resource areas and open space; historic and cultural resource treasures; archaeological sites; and lakefront parks. The Park Authority also offers district parks that provide diversified and specialized areawide services such as ball field complexes, RECenters, sport courts, off-leash dog exercise areas and neighborhood facilities such as playgrounds, multiuse courts and picnic areas.

To support park operating costs, the Park Authority charges user fees for the use of certain facilities such as RECenters and golf courses, as well as other facilities not funded by general taxes. Park fees cover approximately 60 percent of all park operating costs. The remaining operating funds are appropriated by the Fairfax County Board of Supervisors from the county's general fund derived from local tax revenues.

However, fees do not cover the cost for developing new facilities or major renovations at existing facilities. These improvements are funded primarily by general obligation bonds. The Park Authority, like other public agencies, faces

**Some pro and con arguments about financing capital projects through bond funding:**

**PRO**

Some people think that bond financing is a vital part of the county's comprehensive approach to the challenge of funding needed infrastructure and capital facilities. Here are some of the arguments used by proponents of bond funding:

- Bonding spreads the cost of major projects of general benefit to county residents over future years and ensures that both current and future residents and users share in the payment.
- Spreading the cost of major projects permits the county to accomplish more projects sooner than would pay-as-you-go using only current tax revenues.
- Constructing the proposed county facility improvement projects from current general tax dollars cannot be accomplished without substantial cuts to current programs or increased revenues from taxes and fees.
- Prudent use of long-term debt can be accomplished without having any adverse impact on the county's bond ratings or the tax rate.

**CON**

Some people think that the issuing of general obligation bonds is neither justified nor a viable solution to the county's capital infrastructure and facility needs. Here are some of the arguments used by opponents of bond funding:

- Issuing general obligation bonds results in a long-term future obligation for the county that may create an unmanageable burden on future taxpayers. Pay-as-you-go financing would not create long-term debt.
- Costs for infrastructure and facilities should be borne by those directly using or benefiting from them, not by all taxpayers.
- These facilities could be fully or partially paid for out of the current revenues by cutting or eliminating other programs.
- The funds otherwise spent on debt service could support a substantial pay-as-you-go program of capital construction adequate to meet the county's needs.

the challenge of updating aging facilities while providing new facilities to meet the park and recreation demands of residents. To accomplish this, a schedule of capital project needs is maintained and general obligation bonds are used for funding. Bonds ensure that current users are not burdened with the full cost of improvements. Projects are completed more quickly and the bonds spread the costs over an extended period of time.

The completion of a needs assessment in 2004, which identified resident demand, leisure trends and population growth, resulted in the development of a 10-year Park Capital Improvement Plan. That assessment initially identified $376 million in capital needs including land acquisition, new facilities and renovations. Since that initial assessment, more than $155 million of this need has been funded through general obligation bonds. Unfunded capital needs as of 2012 are estimated at $280 million when adjusted for inflation. A new needs assessment is currently underway and will help guide the Park Authority over the next decade.

Using the needs assessment 10-Year Capital Plan, facility condition assessments, park master plans and stakeholder input as tools for project selection, the allocation of the proposed park bond would fall into several categories: stewardship and land acquisition; existing facility renovations; community parks/new facilities and facility expansion. The project list balances priority needs, reinvestment in aging facilities, investments in land, natural and cultural resource protection, advancement of phased projects and improving the park experience.

### Land Acquisition and Stewardship — $12.91 Million

The land acquisition program targets sites that meet established criteria adopted by the Park Authority Board and address areas of high deficiency, adjacency to existing parkland in order to expand recreational opportunities, as well as land that protects significant natural and cultural resources. This bond would provide countywide funding for the purchase of parkland as approved by the Park Authority Board.

Stewardship includes capital projects that promote the protection, enhancement, interpretation and education of natural and cultural park resources. At Colvin Run Mill, restoration of the miller's house to its period of significance is planned. Funding is also provided to renovate the tenant house at Historic Huntley, to provide wayfinding signage at Historic Centreville and Sully Woodlands and to build a shelter at Hidden Pond Nature Center. An environmental education center also is planned in Sully Woodlands.

Other stewardship initiatives include restoration measures for forested areas, meadow management, invasive plant control and boundary-marking activities in support of other capital projects.

### Community Parks/New Facilities — $7.28 Million

A wide array of park and recreational facilities is included in this category such as the first phase of improvements at Monticello Park, Hartland Road Park and White Gardens and continued phased development at Laurel Hill Park and Patriot Park. Countywide improvements in park signage and funding of the popular Mastenbrook matching grant program are also included.

### Facility Expansion — $19.49 Million

An expansion to Spring Hill RECenter features new fitness space, renovations to the locker rooms, the addition of multipurpose activity rooms and a new gym area. Twin Lakes Golf Course would expand its Oak Room facility to increase capacity for tournaments and an events pavilion would be built at Greendale Golf Course. Oak Marr RECenter would be expanded featuring new fitness spaces and improved facility flow. Additional features at the Water Mine at Lake Fairfax would be added to enhance the visitor experience and increase capacity.

### Existing Facility Renovation — $23.30 Million

Renovations of existing facilities include paving of a portion of the Cross County Trail in Wakefield Park. An outlay of $2.2 million would fund trail upgrades and connections to the park

trail network. Lake Accotink Park would receive infrastructure improvements worth more than $1 million. Another $1 million would fund the replacement of playground equipment at parks. A fully accessible carousel would be added to enhance the visitor experience to Chessie's Big Backyard Family Recreation Area at Lee District Park. Energy saving improvements will continue to be implemented throughout the park system increasing efficiency.

Various existing athletic field improvements such as converting to synthetic turf, field upgrades and lighting improvements would be funded for existing athletic fields at Rolling Valley West, Arrowhead, Ellanor C. Lawrence, Langley Fork, Pine Ridge, McNaughton and Grist Mill parks to add capacity and playability for a growing number of sport teams. Athletic field capacity will be expanded by taking advantage of partnerships with the community to develop synthetic turf fields in the South Lakes area of Reston.

Irrigation, cart path and drainage improvements at Pinecrest, Greendale and Jefferson Golf courses would be funded as well as improvements to the driving ranges at Oak Marr and Burke Lake golf courses.

*For more information, contact the Fairfax County Park Authority Public Information Office at 703-324-8622, TTY 711, or parkmail@fairfaxcounty.gov, or visit www.fairfaxcounty.gov/parks/2012bond.htm*

## Northern Virginia Regional Park Authority — $12 Million

The Northern Virginia Regional Park Authority (NVRPA) is a unique park agency. Founded in 1959 with a focus on land conservation, NVRPA is supported by Fairfax, Arlington and Loudoun counties, and the cities of Alexandria, Fairfax and Falls Church. These six jurisdictions have worked cooperatively to develop a regional park system encompassing 25 parks and more than 11,000 acres of land. In Fairfax County, NVRPA protects more than 8,000 acres – most of which protect environmentally sensitive watersheds along Bull Run and the Potomac and Occoquan rivers.

NVRPA manages more than 100 miles of trails, three golf courses, five marinas, youth and family camping areas, five historic parks, riverfront cottages, public meeting and reception facilities, nature centers and five outdoor pools/waterparks. Regional parks in Fairfax County include Bull Run, Hemlock Overlook, Pohick Bay, Meadowlark Botanical Gardens, Occoquan, Fountainhead, Sandy Run and the W&OD Trail.

NVRPA generates more than 83 percent of its operating budget through user fees and grants. The majority of NVRPA's capital improvement and land acquisition costs are shared by its six member jurisdictions. The parks bond question asks the voters whether to authorize Fairfax County to borrow money to fund its share of the costs of parks and park facilities to be acquired, constructed, developed and equipped by NVRPA.

The bond funds will be used in accordance with NVRPA's Strategic Plan and Capital Improvement Program and will include: expanding public open space and trails; protecting natural, cultural and historic resources; improving existing facilities; and providing additional recreational opportunities. Some specific projects planned include waterfront enhancements at Occoquan; W&OD Trail renovations and safety improvements; campground improvements at Bull Run and Pohick Bay; and renovations at Meadowlark Botanical Gardens.

*For more information, contact the Northern Virginia Regional Park Authority at 703-352-5900, TTY 711, or feedback@nvrpa.org, or visit www.nvrpa.org.*

## Stormwater — $30 Million

This question seeks voter authorization for the county to issue $30 million of bonds for storm drainage improvements to prevent flooding and soil erosion, including acquiring any necessary land. If approved, the county currently plans to primarily use this bond money to prevent flooding in the Huntington community.

During the past 10 years, three floods have damaged homes, vehicles and other property in the Huntington neighborhood. In June 2006, 160 homes were flooded, and 161 homes were damaged in 2011 during Tropical Storm Lee. Today, there are 180 homes in the FEMA-designated floodplain that are at risk.

Homes in the area were built in the 1940s and 50s before regulations were enacted that prevented homes from being sited in floodplains.

At Fairfax County's request, the U.S. Army Corps of Engineers studied the best ways to protect Huntington from future floods. The study examined a number of options, including dredging Cameron Run, buying the flood-prone properties and flood proofing individual homes.

The study found that building a levee and a pumping station is the most cost-effective way to reduce flooding in the neighborhood. Bond funds are planned to pay to complete the design and build a 2,865-foot-long levee and pumping station, along with buying any land needed for this purpose.

While the levee can prevent flooding of houses from the types of storms that have happened in the past, it is not designed to offer protection from flooding that is caused by storms that are greater than a 100-year event (a storm that is statistically likely to occur once every 100 years). During major storms, street flooding may continue to occur in the Huntington area after the levee is built.

It is expected to take three to four years to complete the design of the levee and obtain the required permits. Construction may take another two to three years.

*For more information, contact Fairfax County Stormwater Management Public Information Office, at 703-324-5821, TTY 711, or visit www.fairfaxcounty.gov/bond.*

# What Are Bonds?

Bonds are a form of long-term borrowing used by most local governments to finance public facilities and infrastructure. Bond financing makes it possible to build facilities and infrastructure with capacities based on future population estimates and to spread the cost equitably over the useful life of the facilities. This kind of financing allows the cost of a facility to be spread over a number of years so that each generation of taxpayers contributes a proportionate share for the use of these long-term investments.

**Q Why referenda?**

**A** Virginia law requires that voters in Fairfax County approve general obligation bonds through a referendum. You have the opportunity to vote either YES or NO on each of the four questions. If the majority votes YES on a question, then the Fairfax County Board of Supervisors will be authorized to sell bonds for the purpose described in the ballot question. If the majority votes NO on a question, the county cannot issue general obligation bonds to finance the purpose described in the question.

**Q What is the cost of borrowing?**

**A** Borrowing always entails interest costs. Since the interest earned by holders of municipal bonds is usually exempt from federal taxes, interest rates for these bonds generally are lower than the rate charged for private loans. Because of our county's reputation for sound financial management, Fairfax County has the highest credit rating possible for any government: triple-A from Moody's Investors Service Inc.; from Standard & Poor's Corp.; and from Fitch Ratings. As of May 2012, Fairfax County is one of only eight states, 39 counties, and 34 cities to hold a triple-A rating from all three rating agencies. For this reason, Fairfax County's bonds sell at relatively low interest rates compared to other tax-free bonds.

**Q What are the benefits of Fairfax County's triple-A ratings?**

**A** The county's triple-A ratings also lower the county's borrowing costs. The county's policy of rapid debt retirement and strong debt management guidelines serve to keep debt per capita and net debt as a percentage of estimated market value of taxable property at low levels. Since 1978, the county has saved over $543.28 million on bond and refunding sales as a result of the AAA ratings.

**Q Will these bonds cause a tax rate increase?**

**A** The bond program is not designed to contribute to an increase in your tax rate. Fairfax County has adopted a prudent financial management policy designed to protect its triple-A ratings. Under the program, the county's net long-term debt is not to exceed 3 percent of the total market value of taxable real and personal property in the county. It also provides that annual debt service (the cost of principal and interest payments) be kept below 10 percent of annual combined general fund spending, and that bond sales shall not exceed an average of $275 million per year or $1.375 billion over 5 years.

For Fiscal Year (FY) 2012, the county's actual net long-term debt is 1.26 percent of the market value of all taxable real and personal property. Debt service costs in FY 2012 are 8.52 percent of the combined general fund disbursements. The FY 2013-2017 Capital Improvement Program adopted by the Fairfax County Board of Supervisors on April 24, 2012, anticipates issuance of an average of $244 million of general obligation bonds per year. This policy is expected to keep debt service at lower than 9.0 percent of general fund disbursements, which will maintain a balance between operating expenses and long-term capital needs.

**Q Why not pay for capital improvements on a pay-as-you-go basis?**

**A** If capital construction were financed on a pay-as-you-go basis out of current tax revenues, expenditures would be paid for in a much shorter timeframe which could necessitate tax rate increases or a significant reduction in other county services. Bonding spreads the cost of major projects of general benefit to county residents over future years and ensures that both current and future residents and users share in the payment. Without bond funding, capital improvement budgeting also is less predictable.

**Q What percentage of my taxes goes toward paying for the bonds?**

**A** Over the past 20 years, the share of taxes used to pay debt service has fluctuated from 7.5 percent to a high of 9.3 percent. Currently, the rate is about 8.5 percent and is projected to remain under 9.0 percent based on current market and revenue forecasts even assuming passage of all four bond referenda.

**Q What is the county's total bonded indebtedness?**

**A** As of July 2012, the total of general obligation bond and other tax-supported debt from FY 2012 through FY 2042, or for the next 30 years, is $2.63 billion in principal and total interest payments on the outstanding debt is $0.98 billion. Over the next five years, $1.4 billion or approximately 39 percent of the total debt is scheduled to be paid off.

**Q Can the proceeds of the bonds on the Nov. 6 ballot be used for other purposes?**

**A** Proceeds of the sale of bonds authorized for a specific purpose may not, by law, be used for any purpose other than the purpose specified in the referendum question. In other words, the proceeds of the sale of library bonds may not be used to finance other projects, such as transportation or storm drainage projects.

Although this pamphlet describes the county's current plans for the use of the proceeds of bonds that may be authorized by the referenda, the county may in the future alter its plans and in such a case would be permitted to issue bonds for any purpose described in the related ballot question.

**Q Why put forth additional referenda if there are still unsold bonds?**

**A** Fairfax County bond packages are planned to fund specific projects. This means that all previous bond authorizations were planned for or are obligated to specific projects. These projects often take a number of years to complete. Bonds are sold only as the money is needed, resulting in substantial amounts of authorized but unissued bonds. Prudent financial management dictates bonds should not be sold until the actual cash is required.


**FAIRFAX COUNTY BOARD OF SUPERVISORS**

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FAIRFAX COUNTY BOARD OF SUPERVISORS

# 2012 Bond Referenda Information for Residents

Fall 2012

## TRANSPORTATION BONDS

Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of $120,000,000 to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock and equipment in the Washington metropolitan area, and to finance improvements to primary and secondary State highways and ancillary related improvements and facilities?

## PARKS AND PARK FACILITIES BONDS

Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds, in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of $107,000,000: (i) $94,700,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, develop and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) $12,300,000 principal amount for Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, develop and equip parks and park facilities?

## HUMAN SERVICES/COMMUNITY DEVELOPMENT BONDS

Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money and issue bonds in the maximum aggregate principal amount of $85,000,000 to provide funds to finance the cost of human services facilities and community development facilities, including the construction and reconstruction of community centers and shelters and the acquisition of land and equipment or interests therein?

Code of Virginia
Title 24.2. Elections
Chapter 6. The Election

# § 24.2-684. How referendum elections called and held, and the results ascertained and certified

Notwithstanding any other provision of any law or charter to the contrary, the provisions of this section shall govern all referenda.

No referendum shall be placed on the ballot unless specifically authorized by statute or by charter.

Whenever any question is to be submitted to the voters of any county, city, town, or other local subdivision, the referendum shall in every case be held pursuant to a court order as provided in this section. The court order calling a referendum shall state the question to appear on the ballot in plain English as that term is defined in § 24.2-687. The order shall be entered and the election held within a reasonable period of time subsequent to the receipt of the request for the referendum if the request is found to be in proper order. The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682.

A copy of the court order calling a referendum shall be sent immediately to the State Board by the clerk of the court in which the order was issued.

The ballot shall be prepared by the appropriate electoral board and distributed to the appropriate precincts. On the day fixed for the referendum, the regular election officers shall open the polls and take the sense of the qualified voters of the county, city, town, or other local subdivision, as the case may be, on the question so submitted. The ballots for use at any such election shall be printed to state the question as follows:

"(Here state briefly the question submitted)

[ ] Yes

[ ] No"

The ballots shall be printed, marked, and counted and returns made and canvassed as in other elections. The results shall be certified by the secretary of the appropriate electoral board to the State Board, to the court ordering the election, and to such other authority as may be proper to accomplish the purpose of the election.

Code 1950, § 24-141; 1966, c. 115; 1970, c. 462, § 24.1-165; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, cc. 258, 304; 1979, c. 37; 1980, c. 639; 1981, c. 367; 1982, cc. 498, 650; 1983, c. 461; 1991, c. 592; 1993, c. 641; 1994, c. 142;1996, c. 297.

Board Agenda Item
June 21, 2016

ACTION – 2

Board Approval of a Resolution to Authorize the Sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Route 28 Transportation Improvement District Series 2007 and 2008

ISSUE:
Board approval of a resolution to authorize and request the sale of Fairfax County Economic Development Authority Revenue Refunding Bonds for the Route 28 Transportation Improvement District Series 2007 and 2008 on or about July 18, 2016.

RECOMMENDATION:
The County Executive recommends that the Board:

1. Approve the proposed resolution that requests the Fairfax County Economic Development Authority (EDA) to issue revenue refunding bonds for previously approved Projects; and
2. Approve the form of the Preliminary Official Statement, Notice of Sale, Bond Purchase Agreement, Continuing Disclosure Agreement, Sixth Supplemental Trust Agreement; and
3. Authorizes the execution and delivery of the documents and authorizes the Chairman, Vice Chairman, the County Executive or the Chief Financial Officer to determine and approve certain details of the transaction.

TIMING:
Board action is requested on June 21, 2016.

BACKGROUND:
The Route 28 District (the "District") is a special tax district formed in partnership with Loudoun County to provide improvements to State Route 28 on December 21, 1987. Under the terms of the agreement with the State, the District will fund 75 percent of defined Phase I and Phase II improvements and the State will fund 25 percent from funds received through the State Primary Road Fund allocation formula. Improvements completed for Phase I included widening the existing road from two to six lanes and upgrading three major intersections. Phase II improvements included ten grade separated interchanges and widening the existing road from six lanes to eight.

The EDA Series 2003 and Series 2004 revenue bonds were issued in October 2003 and August 2004, respectively. Bond proceeds provided for the construction of six of the interchange projects as part of Phase II improvements. These bonds were later

refunded as part of the EDA Series 2012 revenue refunding bonds. The EDA issued the Series 2007 and Series 2008 revenue bonds in February 2007 and July 2008 to finance the final four interchange projects. This bond sale will refund the Series 2007 and Series 2008 revenue bonds.

The Route 28 Highway Transportation Improvement District Commission approved a resolution to proceed with refunding the Series 2007 and Series 2008 revenue bonds at their March 18, 2016 annual meeting. The Commission also recommended maintaining the district tax rate at 18 cents per $100 of assessed value for FY 2017. Loudoun County and the EDA need to approve the resolution to proceed with this bond sale. The Loudoun County Board of Supervisors meets on June 23, 2016 and the EDA meets on June 21, 2016. The current bond sale schedule of events anticipates a sale on or about July 18, 2016.

FISCAL IMPACT:
Based on market conditions as of May 24, 2016, a refunding of $85 million of existing EDA debt is estimated to generate net present value savings of $7.2 million or 8.5% of the refunded bonds. If interest rates rise 25 basis points (0.25 percent), the net present value savings would be approximately $5.1 million or 6.0% (the refunding candidates will remain the same). If interest rates rise 50 basis points (0.50 percent), the net present value savings would be approximately $2.3 million or 4.8% (the refunding candidates will fall to $47.6 million).

ENCLOSED DOCUMENT:
Attachment 1: Resolution of Approval
Attachment 2: Bond Sale Schedule of Events
Attachment 3: Commission Resolution (Approved March 18, 2016)
Attachment 4: Preliminary Official Statement
Attachment 5: Continuing Disclosure Agreement
Attachment 6: Sixth Supplemental Trust Agreement
Attachment 7: Notice of Sale
Attachment 8: Bond Purchase Agreement

STAFF:
Joseph Mondoro, Chief Financial Officer
Joseph LaHait, Debt Coordinator, Department of Management and Budget
Patricia Moody McCay, Assistant County Attorney, Office of the County Attorney

**RESOLUTION APPROVING THE ISSUANCE OF FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS (ROUTE 28 PROJECT) SERIES 2016A AND SERIES 2016B; REQUESTING THAT THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY ISSUE ITS TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS (ROUTE 28 PROJECT) SERIES 2016A AND SERIES 2016B; APPROVING THE FORM OF A SUPPLEMENTAL TRUST AGREEMENT BETWEEN THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY AND A TRUSTEE, A PRELIMINARY OFFICIAL STATEMENT AND A FINAL OFFICIAL STATEMENT RELATING TO SUCH BONDS; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT PROVIDING FOR THE SALE OF SUCH BONDS AND IN THE ALTERNATIVE APPROVING A FORM OF A NOTICE CALLING FOR BIDS TO PURCHASE SUCH BONDS; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT; CONFERRING AUTHORITY TO EXECUTE AND DELIVER SUCH DOCUMENTS AND AGREEMENTS RELATING TO SUCH TRANSACTIONS AS MAY BE NECESSARY OR REQUIRED; AND DELEGATING TO ANY OF THE CHAIRMAN, VICE CHAIRMAN, COUNTY EXECUTIVE AND THE CHIEF FINANCIAL OFFICER AUTHORITY TO DETERMINE AND APPROVE CERTAIN DETAILS OF SUCH TRANSACTIONS.**

**WHEREAS,** the Board of Supervisors (the "Board") of Fairfax County (the "County"), the Board of Supervisors (the "Loudoun Board") of Loudoun County ("Loudoun County" and together with the County, the "Counties") and the State Route 28 Highway Transportation Improvement District Commission (the "Commission") are parties to an Amended and Restated Local Contract dated as of November 1, 2006 (the "Local Contract"), which provides, among other things, the duty of the Commission to make requests to the Board and the Loudoun Board for the levy of a special improvements tax and the collection of special tax revenues in the State Route 28 Highway Transportation Improvement District (the "District"); and

**WHEREAS,** the Commonwealth Transportation Board (the "CTB"), the Commission and Fairfax County Economic Development Authority (the "Authority") are parties to an Amended and Restated District Contract, dated May 1, 2012 (the "District Contract") which provides among other things, an agreement for the CTB to undertake certain modifications to State Route 28, including the construction of ten (10) interchanges and two (2) additional lanes for State Route 28 between its intersection with Route 50 in the County and its intersection with Sterling Boulevard in Loudoun County (the "District Project"), an agreement among the parties regarding the financing of the District Project and the application of the special tax revenues resulting from the levy in the District; and

**WHEREAS**, the Board, the Loudoun Board and U.S. Bank National Association, as Fiscal Agent (the "Fiscal Agent"), are parties to an Amended and Restated Fiscal Agent Agreement, dated May 1, 2012 (the "Fiscal Agent Agreement"), by the terms of which the

County and Loudoun County agreed to pay the special tax revenues collected in the District to the Fiscal Agent which allocates and distributes the revenues pursuant to the provisions of the Fiscal Agent Agreement and in accordance with the District Contract; and

**WHEREAS**, the Authority has financed construction costs of the District Project by issuing bonds (the "New Money Authority Bonds") designated "Fairfax County Economic Development Authority Transportation Contract Revenue Bonds (Route 28 Project)" under an Amended and Restated Trust Agreement, dated as of November 1, 2006, as supplemented (the "Trust Agreement"); and

**WHEREAS,** as part of the New Money Authority Bonds, the Authority on March 14, 2007, issued $41,505,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2007A (the "2007 Bonds") and on July 23, 2008, issued $51,505,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2008 (the "2008 Bonds") to provide financing for the District Project; and

**WHEREAS,** the County has determined to request the Authority consider authorizing the refinancing of certain outstanding maturities of the 2007 Bonds (the "2007 Refunded Bonds") by issuing "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project), Series 2016A" (the "2016A Bonds"), pursuant to the Trust Agreement and the necessary documents to effect such refinancing and related transactions; and

**WHEREAS,** the County has determined to request the Authority consider authorizing the refinancing of certain outstanding maturities of the 2008 Bonds (the "2008 Refunded Bonds") by issuing "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project), Series 2016B" (the "2016B Bonds" and together with the 2016A Bonds, the "2016 Bonds"), pursuant to the Trust Agreement and the necessary documents to effect such refinancing and related transactions; and

**WHEREAS**, there has been presented to the Board a proposed form of a sixth supplemental trust agreement of the Authority (the "Supplemental Agreement"), supplementing the Trust Agreement, which sixth supplemental trust agreement will set forth the details of the 2016 Bonds, as contemplated by the Trust Agreement; and

**WHEREAS**, there has been presented to the Board a proposed Preliminary Official Statement describing the 2016 Bonds, the Authority, the County, Loudoun County, the District and the District Project (the "Preliminary Official Statement"); and

**WHEREAS,** in the event of a negotiated sale for the 2016 Bonds, there has been presented to the Board a proposed form of a bond purchase agreement (including letters of representations of the Counties), between the Authority and the underwriters for, the 2016 Bonds and approved by the Counties to be chosen pursuant to the Counties' guidelines and regulations, which provides for the sale of the 2016 Bonds to the underwriters (the "Bond Purchase Agreement"); and

**WHEREAS**, in the event of a competitive sale for the 2016 Bonds, there has been presented to the Board a proposed form of the notice calling for bids by underwriters for the purchase of the 2016 Bonds (the "Notice of Sale"); and

**WHEREAS**, the County and Loudoun County will undertake responsibility for any annual and other reports, notices or disclosures that may be required under Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time, and make continuing disclosure undertakings in the form of the Continuing Disclosure Agreement (the "Continuing Disclosure Agreement," and collectively with the Supplemental Agreement, the Preliminary Official Statement, the Bond Purchase Agreement and the Notice of Sale, the "2016 Documents"); and

**WHEREAS**, the Board has duly reviewed and considered the forms of each of the 2016 Documents and has determined that each is in acceptable form; and

**WHEREAS**, the Board has determined that it is necessary to delegate to each of the Chairman and Vice Chairman of the Board and the County Executive and the Chief Financial Officer of the County (each, a "County Delegate") the power to approve the issuance by the Authority of the 2016 Bonds, the sale by the Authority of the 2016 Bonds and the details of these transactions, but subject to the guidelines and standards established hereby and subject to the approval of appropriate Loudoun County and Authority officials, and to make appropriate certifications and agreements in connection with these transactions; now, therefore,

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

**SECTION 1.** The Authority is hereby requested to authorize and issue the 2016 Bonds in an aggregate principal amount not to exceed $91,040,000 for the purpose of refunding certain outstanding maturities of Fairfax County Economic Development Authority Transportation Contract Revenue Bonds (Route 28 Project) Series 2007A and Fairfax County Economic Development Authority Transportation Contract Revenue Bonds (Route 28 Project) Series 2008. Such 2016 Bonds may be sold on any date up to May 31, 2017.

The 2016A Bonds shall be issued for purposes of refunding the 2007 Refunded Bonds and the 2016B Bonds shall be issued for purposes of refunding the 2008 Refunded Bonds. In the alternative, one series of bonds may be issued by the Authority for refunding both the 2007 Refunded Bonds and the 2008 Refunded Bonds.

The 2016 Bonds may upon the approval of the Authority Chairman, Vice Chairman or other authorized officer and with the consent of a County Delegate and a Loudoun County official approved by the Loudoun Board be sold in a negotiated sale to one or more underwriters, subject to the following conditions: (i) the Financial Advisor to the County shall have recommended that due to financial market conditions such a negotiated sale best serves the interest of the Authority and the County and (ii) the underwriter(s) of the bonds shall have been chosen pursuant to County and Loudoun County guidelines and regulations. In the event of a negotiated sale, a County Delegate, or such other officer or officers of the County as may be designated by any one of them, is hereby authorized and directed to execute or approve a bond purchase agreement, by and among the underwriters, the Authority and approved by the County

and Loudoun County, setting forth the terms of the sale of the 2016 Bonds. Such bond purchase agreement shall only be executed (i) if such agreement does not contain any terms contradictory to the terms of this Resolution or the resolution to be approved by the Authority Board of Commissioners resolution relating to the 2016 Bonds and (ii) the Financial Advisor to the County shall recommend to the County the execution of such agreement.

Such 2016 Bonds may be sold in a competitive sale pursuant to bids received electronically via the PARITY Competitive Bidding System or similar electronic based competitive bidding system. If such 2016 Bonds shall be sold in a competitive sale such 2016 Bonds are requested to be awarded to the bidder submitting the best bid (determined in accordance with the requirements of the Notice of Sale and the terms set forth in an Authority Board of Commissioners resolution) and a County Delegate is hereby authorized to request the Authority to award the Bonds to such best bidder.

**SECTION 2.** The Board hereby approves the issuance by the Authority of the 2016 Bonds, and any County Delegate is hereby authorized to approve, if necessary, details concerning the structure, sizing, pricing and issuance of such 2016 Bonds.

**SECTION 3.** The form of the Supplemental Agreement, presented to this meeting, providing the details, and for the custody, investment and disbursement of the proceeds, of the 2016 Bonds is hereby approved.

**SECTION 4.** The form of the Preliminary Official Statement, presented at this meeting, relating to the 2016 Bonds is hereby approved, and any County Delegate is hereby authorized to deem "final" for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, those portions of the Preliminary Official Statement relating to the 2016 Bonds and the security therefor, the District and the County. The distribution and use by the underwriters in making a public offering of the 2016 Bonds of a final Official Statement (the "Official Statement"), in substantially the form of the Preliminary Official Statement but completed with pricing and other details of the 2016 Bonds, are hereby approved. The Official Statement shall be in the form of the Preliminary Official Statement with such completions and changes as may be approved by a County Delegate.

**SECTION 5.** In the event that the 2016 Bonds are sold in a negotiated sale, the form of the Bond Purchase Agreement, presented to this meeting, is hereby approved, and any County Delegate is hereby authorized, directed and empowered to execute and deliver an approval to such Bond Purchase Agreement and the related letter of representation with such additions and modifications as shall be approved by a County Delegate, such execution thereof being conclusive evidence of such approval.

**SECTION 6.** In the event that the 2016 Bonds are sold in a competitive sale, the form of the Notice of Sale presented to this meeting is hereby approved, and the distribution, publication and use of the Notice of Sale for purposes of the sale of the 2016 Bonds is hereby approved. Bids shall be received electronically via the PARITY Competitive Bidding System.

**SECTION 7.** The form of the Continuing Disclosure Agreement, presented at this meeting, is hereby approved, and any County Delegate is hereby authorized, directed and

empowered to execute and deliver, in the name and on behalf of the County, the Continuing Disclosure Agreement with such additions and modifications as shall be approved by a County Delegate, such execution thereof being conclusive evidence of such approval.

**SECTION 8.** The authority granted to each of the County Delegates with respect to the instruments approved hereby shall extend to instruments substantially in the forms presented and containing substantially the terms and provisions contained in such forms, with such minor additions, deletions and modifications as shall be approved by the County Delegate executing or approving the Supplemental Agreement, the Bond Purchase Agreement, the Notice of Sale, the Preliminary Official Statement, the final Official Statement and the Continuing Disclosure Agreement and the execution and delivery or approval of these instruments by any of them shall be conclusive evidence of approval of the changes, if any, in the forms thereof.

**SECTION 9.** The members, officers and employees of the Board and the County and the officers and agents of the Authority and the Trustee are hereby authorized and directed to do all acts and things required of them by the provisions of the 2016 Bonds, the Trust Agreement, the 2016 Documents and the Official Statement for the full, punctual and complete performance of all the terms, covenants, provisions and agreements of the 2016 Bonds, the Trust Agreement, the 2016 Documents and the Official Statement and also to do all acts and things required of them by the provisions of this Resolution.

**SECTION 10.** The County Delegates are authorized to execute one or more certificates evidencing the determinations made or other actions carried out pursuant to the authority granted in this Resolution, and any such certificate shall be conclusive evidence of the actions or determinations as stated therein.

**SECTION 11.** Any and all actions heretofore taken by the County Delegates and other County officials in connection with the transactions authorized and approved hereby are hereby ratified and confirmed.

**SECTION 12.** Any and all resolutions of the Board or portions thereof in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict.

**SECTION 13.** This resolution shall take effect immediately upon its adoption.

Given under my hand on this _____ day of June 2016.

_____
Catherine A. Chianese
Clerk, Board of Supervisors

# DRAFT Critical Path Schedule
## Fairfax County Economic Development Authority, VA
## Route 28 Revenue and Refunding Bonds, Series 2016

**Attachment 2**

| April 2016 | | | | | | |
|---|---|---|---|---|---|---|
| S | M | T | W | T | F | S |
| | | | | | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

| May 2016 | | | | | | |
|---|---|---|---|---|---|---|
| S | M | T | W | T | F | S |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

| June 2016 | | | | | | |
|---|---|---|---|---|---|---|
| S | M | T | W | T | F | S |
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | | |

| July 2016 | | | | | | |
|---|---|---|---|---|---|---|
| S | M | T | W | T | F | S |
| | | | | | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | | | | | | |

| Week Of | Activity & Event | Responsible Party |
|---|---|---|
| **April 4th** | | |
| Tues, April 5th | LDN County Adopts FY 2017 Budget | LDN |
| **April 18th** | | |
| Tues, April 19th | Conference Call with FFX and LDN on Sale Schedule (3:00PM) | FFX, LDN, PFM, DAV |
| | Review and Comment on Underwriter Selection Letters | FFX, LDN |
| **April 25th** | | |
| Tues, April 26th | FFX County Adopts FY 2017 Budget | FFX |
| | First Draft of the County Resolution(s), EDA Resolution, POS, NOS, Supplemental Trust Agreement, and Bond Purchase Agreement (BPA) collectively "Bond Documents" distributed. | SID, NIX |
| | First Draft of POS Appendix A distributed | FFX, LDN |
| **May 2nd** | | |
| | First Draft of Rating Agency Materials distributed | DAV |
| Mon, May 2nd | Comments due on All draft Bond Documents (NLT Mon 5/2) | ALL |
| | Second Draft of POS Appendix A distributed | FFX, LDN |
| | Comments due on Rating Agency Materials | ALL |
| **May 9th** | | |
| Mon, May 9th | Second Draft of Bond Documents distributed (NLT Mon 5/9) | SID, NIX |
| **May 16th** | | |
| Mon, May 16th | Comments due on All draft Bond Documents (NLT Mon 5/16) | ALL |
| | Second Draft of Rating Agency Materials distributed | DAV |
| | Loudoun County in the market for GO and Lease Revenue Bond Sales | LDN |
| **May 23rd** | | |
| | Bond Documents Finalized | ALL |
| Mon, May 23rd | Titles of items to be considered by Fairfax Board on June 21st due to Board | FFX |
| Wed, May 25th | Items to be considered by Fairfax Board on June 21st due to Board | FFX |
| | Comments due on Rating Agency Materials | ALL |
| **May 30th** | | |
| *Mon, May 30th* | *Memorial Day Holiday (Markets Closed)* | |
| | Third Draft Rating Agency Materials distributed | DAV |
| **June 6th** | | |
| Wed, June 8th | Items to be considered by Loudoun Board on June 23rd due to Board | LDN |
| | Comments due on Rating Agency Materials | ALL |
| | Finalize Rating Agency Materials and Presentation | FFX, LDN, PFM, DAV |
| **June 13th** | | |
| | Send Bond Documents to Rating Agencies | DAV |
| **June 20th** | | |
| | Rating Agency Presentation distributed | DAV |
| | Moody's Ratings Call | FFX, LDN, PFM, DAV |
| | S&P Ratings Call | FFX, LDN, PFM, DAV |
| Tues, June 21st | Fairfax County BOS Board meeting to consider bond documents | FFX |
| Tues, June 21st | Fairfax EDA Board meeting to consider bond documents | FFX EDA |
| Thur, June 23rd | Loudoun County BOS Board meeting to consider bond documents | LDN |
| **June 27th** | | |
| | Final Draft of POS and NOS distibuted | SID, DAV |
| **July 4th** | | |
| *July 4th* | *Independence Day Holiday (Markets Closed)* | |
| | Receive bond ratings (NLT Friday 7/1) | - |
| | Finalize POS | NIX |
| **July 11th** | | |
| | POS posted | SID |
| | Draft of Closing Documents Distributed | SID,NIX, UWC |
| **July 18th** | | |
| | **Competitive Bond Sale** | **ALL** |
| **July 25th** | | |
| | Finalize Closing Documents | SID, NIX |
| | Post Final OS | SID, NIX |
| **Aug 1st** | | |
| | Closing | ALL |

Key:
FFX = Fairfax County
LDN = Loudoun County
FFX EDA = Fairfax County Economic Development Authority
PFM = Public Financial Management, Fairfax County's Financial Advisor
DAV = Davenport, Loudoun County's Financial Advisor
SID = Sidley Austin, Bond Counsel
NIX = Nixon, Disclosure Counsel
UW = (TBD) Underwriter
UWC = (TBD) Underwriter's Counsel

**RESOLUTION APPROVING THE ISSUANCE OF FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS (ROUTE 28 PROJECT) SERIES 2016, CONFERRING AUTHORITY TO EXECUTE AND DELIVER SUCH DOCUMENTS AND AGREEMENTS RELATING TO SUCH BONDS AS MAY BE NECESSARY OR REQUIRED; AND DELEGATING TO ANY OF THE CHAIRMAN, THE VICE CHAIRMAN, THE TREASURER AND THE SECRETARY TO DETERMINE AND APPROVE CERTAIN DETAILS OF SUCH BONDS AND RELATED DOCUMENTS AND AGREEMENTS.**

**WHEREAS,** the Board of Supervisors (the "Fairfax Board") of Fairfax County ("Fairfax County"), the Board of Supervisors (the "Loudoun Board") of Loudoun County ("Loudoun County") and the State Route 28 Highway Transportation Improvement District Commission (the "Commission") are parties to an Amended and Restated Local Contract dated as of November 1, 2006 (the "Local Contract"), which provides, among other things, the duty of the Commission to make requests to the Board of Supervisors for the levy of a special improvements tax and the collection of special tax revenues in the State Route 28 Highway Transportation Improvement District (the "District"); and

**WHEREAS,** the Commonwealth Transportation Board (the "CTB"), the Commission and Fairfax County Economic Development Authority (the "Authority") are parties to an Amended and Restated District Contract, dated May 1, 2012 (the "District Contract"), which provides, among other things, an agreement for the CTB to undertake certain modifications to State Route 28, including the construction of ten (10) interchanges and two (2) additional lanes for State Route 28 between its intersection with Route 50 in Fairfax County and its intersection with Sterling Boulevard in Loudoun County (the "District Project"), an agreement among the parties regarding the financing of the District Project and the levy of a special improvements tax in the District and the collection of special tax revenues from the levy in the District; and

**WHEREAS**, the Fairfax Board, the Loudoun Board and U.S. Bank National Association, as Fiscal Agent (the "Fiscal Agent"), are parties to an Amended and Restated Fiscal Agent Agreement, dated May 1, 2012 (the "Fiscal Agent Agreement"), by the terms of which Fairfax County and Loudoun County agreed to pay the special tax revenues collected in the District to the Fiscal Agent which allocates and distributes the revenues pursuant to the provisions of the Fiscal Agent Agreement and in accordance with the District Contract; and

**WHEREAS**, the Authority has financed approximately $176 million of the construction costs of the District Project by issuing four series of Bonds (the "Authority New Money Bonds"), designated "Fairfax County Economic Development Authority Transportation Contract Revenue Bonds (Route 28 Project)", under an Amended and Restated Trust Agreement, dated as of November 1, 2006 (the "Trust Agreement"); and

**WHEREAS,** on May 23, 2012 the Authority refunded certain Authority New Money Bonds by issuing $86,275,000 "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2012 under the Trust Agreement (the "Authority Refunding Bonds" and together with the Authority New Money Bonds, the "Authority Bonds"); and

**WHEREAS,** Fairfax County and Loudoun County have determined to request the Authority to consider a resolution authorizing the refinancing of certain of the outstanding Authority Bonds by issuing "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project), Series 2016" (as such caption may be modified to reflect the issue date of such bonds) (the "Series 2016 Bonds"), pursuant to the Trust Agreement and the necessary documents to effect such financing and related transactions, and the Commission has determined to approve the issuance of the Series 2016 Bonds; and

**WHEREAS**, the Commission has determined that it is necessary and appropriate to delegate to each of the Chairman, the Vice Chairman, the Treasurer or the Secretary of the Commission (each a "Delegate") the power to take any and all actions required of the Commission in connection with the authorization, offering, sale and delivery of the Series 2016 Bonds; now, therefore,

**BE IT RESOLVED** by the State Route 28 Highway Transportation Improvement District Commission as follows:

**SECTION 1.** The Commission hereby approves the issuance of the Series 2016 Bonds.

**SECTION 2.** The officers and officials of the Commission are hereby authorized and directed to execute and deliver such consents, certifications, attestations and other instruments as shall be necessary or convenient to facilitate the issuance of the Series 2016 Bonds, including but not limited to, approving statements relating to the District and Commission contained in any offering documents relating to the Series 2016 Bonds, and as are not inconsistent with the terms and tenor of this resolution.

**SECTION 3.** Any and all actions heretofore taken by the any of the Delegates or other Commission officers, officials, agents or employees in connection with the transactions authorized and approved hereby are hereby ratified and confirmed.

**SECTION 4.** Any and all resolutions of the Commission or portions thereof in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

**SECTION 5.** This resolution shall take effect immediately upon its adoption.

This is a Preliminary Official Statement subject to completion and amendment or supplement and is not yet fully adopted. Under no circumstances will this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy the Series 2016 Bonds, nor will there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

**PRELIMINARY OFFICIAL STATEMENT DATED JULY __, 2016**

**NEW ISSUE -- BOOK-ENTRY-ONLY**

**Ratings: Moody's: ___**
**S&P: ___**
**(See "RATINGS" herein)**

*In the opinion of Bond Counsel, assuming continuing compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), as described herein, and subject to conditions described in "TAX MATTERS" herein, interest on the Series 2016 Bonds will not be included in the gross income of the owners thereof for federal income tax purposes. Under the Enabling Act (as defined herein), the income, including any profit made on the sale thereof, from the Series 2016 Bonds shall at all times be exempt from all taxation by the Commonwealth of Virginia or any political subdivision thereof. See "TAX MATTERS" herein for certain provisions regarding the Code that may affect the tax treatment of interest on the Series 2016 Bonds for certain bondholders.*

# FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

**$_____*** 
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016A**

**$_____***
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016B**

**Dated: Date of Delivery** **Due: April 1, as shown on the inside cover**

The Fairfax County Economic Development Authority (the "Authority") will issue its Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A (the "Series 2016A Bonds") for the purpose of (a) financing the advance refunding of the Authority's $41,505,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2007A (the "Series 2007A Bonds") and (b) paying costs associated with the issuance of the Series 2016A Bonds. The Authority will also issue its Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B (the "Series 2016B Bonds" and collectively with the Series 2016A Bonds, the "Series 2016 Bonds") for the purpose of: (a) financing the advance refunding of the Authority's $45,315,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2008 maturing April 1, 2018-2037, inclusive (the "Refunded Series 2008 Bonds") and (b) paying costs associated with the issuance of the Series 2016A Bonds. The Authority's $1,935,000 Transportation Contract Revenue Bond (Route 28 Project) Series 2008 maturing April 1, 2017 (the "Unrefunded Series 2008 Bond" and collectively with the Refunded Series 2008 Bonds, the "Series 2008 Bonds") will remain outstanding following the issuance of the Series 2016B Bonds. The Series 2007A Bonds and Series 2008 Bonds were previously issued to finance a portion of the costs of the construction of certain improvements (the "District Project") to State Route 28 in Fairfax County, Virginia and Loudoun County, Virginia (the "Counties").

The Series 2016 Bonds will be limited obligations of the Authority, payable primarily from proceeds (the "Special Tax Revenues") of a limited ad valorem real property tax (the "Special Improvements Tax") levied by each County in the State Route 28 Highway Transportation Improvement District at the request of each governing body (the "Commission"). The Series 2016 Bonds will also be secured by a Reserve Subfund. Each County has agreed to cure one-half of any deficiencies in the Reserve Subfund.

**THE COUNTIES ARE NOT LEGALLY OBLIGATED TO LEVY THE SPECIAL IMPROVEMENTS TAX, AND THEIR SEVERAL OBLIGATIONS TO PAY THE SPECIAL TAX REVENUES THEY COLLECT TO OR FOR THE ACCOUNT OF THE COMMISSION IN ANY FISCAL YEAR AND TO MAKE UP ANY DEFICIENCY IN THE RESERVE SUBFUND ARE CONTINGENT UPON APPROPRIATIONS FOR SUCH FISCAL YEAR BY THE COUNTIES FOR SUCH PURPOSE. THE SERIES 2016 BONDS DO NOT CONSTITUTE A DEBT OF THE COUNTIES OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE COUNTIES. THE SERIES 2016 BONDS AND THE PREMIUM, IF ANY, AND THE INTEREST ON THEM SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE AUTHORITY AND THE COUNTIES. NEITHER THE COMMONWEALTH OF VIRGINIA NOR ANY OF ITS POLITICAL SUBDIVISIONS, INCLUDING THE AUTHORITY AND THE COUNTIES, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF AND PREMIUM, IF ANY, AND INTEREST ON THE SERIES 2016 BONDS OR OTHER COSTS INCIDENT TO THEM EXCEPT FROM THE REVENUES AND RECEIPTS PLEDGED FOR SUCH PURPOSE. THE AUTHORITY HAS NO TAXING POWER.**

Interest on the Series 2016 Bonds will accrue from the date of delivery, and will be payable on [October 1, 2016] and semiannually thereafter on April 1 and October 1 of each year to and including their respective dates of maturity or redemption. The Series 2016 Bonds will be issued in book-entry form registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). Individual purchases will be made in book-entry form, in the denominations of $5,000 and integral multiples thereof. Payments of principal and interest on, and the redemption price of, the Series 2016 Bonds will be made when due to DTC in accordance with an Amended and Restated Trust Agreement, dated as of November 1, 2006 (the "Amended and Restated Trust Agreement"), as previously supplemented, and as supplemented by a Sixth Supplemental Trust Agreement, dated as of August 1, 2016 (the "Supplemental Trust Agreement", and collectively with the Amended and Restated Trust Agreement, the "Trust Agreement"), each between the Authority and U.S. Bank National Association, Richmond, Virginia, as successor trustee (the "Trustee"). The Trustee will have no obligation to make any payments to any beneficial owner of any Series 2016 Bonds. See "THE SERIES 2016 BONDS—Book-Entry Only System" herein.

The Series 2016 Bonds are subject to optional redemption prior to maturity as described herein under "THE SERIES 2016 BONDS."

*The Series 2016 Bonds are offered when, as and if executed and delivered and received by the Purchaser, subject to the approval of legality by Sidley Austin LLP, Washington, D.C., Bond Counsel. Certain legal matters will be passed upon for Fairfax County and the Commission by David P. Bobzien, Esquire, Fairfax County Attorney; for Loudoun County and the Commission by John R. Roberts, Esquire, Loudoun County Attorney; for the Authority by Thomas O. Lawson, Esquire, P.L.C., Fairfax, Virginia. Nixon Peabody LLP, Washington, D.C., is serving as Disclosure Counsel. It is expected that the Series 2016 Bonds will be available for delivery through the DTC book-entry system on or about August __, 2016.*

July __, 2016

* Preliminary, subject to change.

**$_____***

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016A**

**MATURITY SCHEDULE**

**Base CUSIP** Number [30383A]**

| Maturity Date (April 1) | Principal Amount | Interest Rate | Yield or Price | CUSIP Suffix |
|---|---|---|---|---|

**$_____***

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016 B**

**MATURITY SCHEDULE**

**Base CUSIP** Number [30383A]**

| Maturity Date (April 1) | Principal Amount | Interest Rate | Yield or Price | CUSIP Suffix |
|---|---|---|---|---|

* Preliminary, subject to change.

** CUSIP® is a registered trademark of the American Bankers Association. The CUSIP numbers listed above are being provided solely for the convenience of bondholders only, and the Authority does not make any representation with respect to such numbers or undertake any responsibility for their accuracy. The CUSIP numbers are subject to being changed after the issuance of the Series 2016 Bonds.

Attachment 4

## FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

**COMMISSIONERS**
Steven L. Davis, *Chairman*
Michael Lewis, *Vice Chairman*
Ronald C. Johnson, *Secretary*
Catherine Lange, *Assistant Secretary*
Mark Lowham
Arthur E. (Bud) Morrissette IV
Sudhakar Shenoy

**COUNSEL FOR AUTHORITY**
Thomas O. Lawson, Esq., P.L.C.

---

## FAIRFAX COUNTY, VIRGINIA

**BOARD OF SUPERVISORS**
Sharon Bulova, *Chairman*
Penelope A. Gross, *Vice Chairman*
John C. Cook
John W. Foust
Kathy L. Smith
Patrick S. Herrity
Catherine M. Hudgins
Daniel G. Storck
Jeff C. McKay
Linda Q. Smyth

**COUNTY OFFICIALS**
Edward L. Long, Jr., *County Executive*
Patricia Harrison, *Deputy County Executive*
Robert A. Stalzer, *Deputy County Executive*
David M. Rohrer, *Deputy County Executive*
David J. Molchany, *Deputy County Executive*
Christopher Pietsch, *Director, Department of Finance*
Joseph Mondoro, *Chief Financial Officer*

**COUNTY ATTORNEY**
David P. Bobzien, Esquire, *County Attorney*

---

## LOUDOUN COUNTY, VIRGINIA

**BOARD OF SUPERVISORS**
Phyllis J. Randall, *Chairman*
Ralph M. Buona, *Vice Chairman*
Suzanne M. Volpe
Tony R. Buffington, Jr.
Ron A. Meyer Jr.
Geary M. Higgins
Matthew F. Letourneau
Kristen C. Umstattd
Koran T. Saines

**COUNTY OFFICIALS**
Tim Hemstreet, *County Administrator*
John Sandy, *Assistant County Administrator*
Penny Newquist, *Deputy Chief Financial Officer*
Janet Romanchyk, *Controller*
Nicole Bradley, *Debt Manager*
H. Roger Zurn, Jr., *Treasurer*

**COUNTY ATTORNEY**
Leo P. Rogers, Esquire, *County Attorney*

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## SPECIAL SERVICES

**TRUSTEE**
U.S. Bank National Association
Richmond, Virginia

**BOND COUNSEL**
Sidley Austin LLP
Washington, D.C.

**DISCLOSURE COUNSEL**
Nixon Peabody LLP
Washington, D.C.

**FINANCIAL ADVISOR TO FAIRFAX COUNTY**
Public Financial Management, Inc.
Arlington, Virginia

**FINANCIAL ADVISOR TO LOUDOUN COUNTY**
Davenport & Company LLC
Richmond, Virginia

No dealer, salesman or other person has been authorized to give any information or to make any representations, other than the information contained in this Official Statement, in connection with the offering of the Series 2016 Bonds, and, if given or made, such information or representations must not be relied upon as having been authorized by the Authority, the Counties, the District, or the Underwriter. The information in this Official Statement is subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder will, under any circumstances, create any implication that there has been no change in the affairs of the Authority, the Counties, or the District since the date hereof. This Official Statement does not constitute an offer or solicitation in any jurisdiction in which such offer or solicitation is not authorized, or in which any person making such offer or solicitation is not qualified to do so, or to any person to whom it is unlawful to make such offer or solicitation. The information set forth herein has been obtained from the Authority, the Counties, or the District and other sources which are believed to be reliable.

*Forward looking statements.* Certain statements contained in this Official Statement that are not historical facts are forward looking statements, which are based on the Authority's or the Counties' beliefs, as well as assumptions made by, and information currently available to, them. Because the statements are based on expectations about future events and economic performance and are not statements of fact, actual results may differ materially from those projected. The words "anticipate", "assume", "estimate", "expect", "objective", "projection", "forecast", "goal", "budget" or similar words are intended to identify forward looking statements. The words "now", "to date", "currently" and the like are intended to mean as of the date of this Official Statement.

*The Authority has provided the following sentence for inclusion in this Official Statement.* The Authority does not assume any responsibility as to the accuracy or completeness of the information contained in this Official Statement, other than that contained under the caption "**THE AUTHORITY**" and the first paragraph under "**LITIGATION**".

The registration or qualification of the offer and sale of the Series 2016 Bonds (as distinguished from registration of the ownership of the Series 2016 Bonds) is not required under the Securities Act of 1933, as amended, or the Virginia Uniform Securities Act, as amended. THE AUTHORITY ASSUMES NO RESPONSIBILITY FOR QUALIFICATION OR REGISTRATION OF THE SERIES 2016 BONDS FOR SALE UNDER THE SECURITIES LAWS OF ANY JURISDICTION IN WHICH THE SERIES 2016 BONDS MAY BE SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED.

The cover and inside cover pages hereof, this page and the appendices attached hereto are integral parts of this Official Statement.

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**OFFICIAL STATEMENT**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

| | |
|---|---|
| **$_____*** | **$_____*** |
| **Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A** | **Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016 B** |

## INTRODUCTION

This Official Statement, which includes the cover and inside cover pages and all the appendices attached hereto, is furnished in connection with the issuance by the Fairfax County Economic Development Authority (the "Authority") of its $_____* Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A (the "Series 2016A Bonds") and $_____* Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016 B (the "Series 2016B Bonds" and collectively with the Series 2016A Bonds, the "Series 2016 Bonds"). The Series 2016 Bonds are being issued pursuant to the Constitution and laws of the Commonwealth of Virginia, including Chapter 643 of the 1964 Acts of the General Assembly of Virginia, as amended, and other applicable law (the "Enabling Act"), and the provisions of an Amended and Restated Trust Agreement, dated as of November 1, 2006 (the "Amended and Restated Trust Agreement"), as previously supplemented, and as supplemented by a Sixth Supplemental Trust Agreement, dated as of August 1, 2016 (the "Supplemental Trust Agreement", and collectively with the Amended and Restated Trust Agreement, the "Trust Agreement"), each between the Authority and U.S. Bank National Association, as successor trustee (in such capacity, the "Trustee" or "Authority Trustee").

The Series 2016A Bonds are being issued for the purpose of (a) financing the advance refunding of the Authority's $41,505,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2007A, as more particularly described under the heading "CURRENT PLAN OF REFUNDING" herein (the "Series 2007A Bonds") and (b) paying costs associated with the issuance of the Series 2016A Bonds. The Series 2016B Bonds are being issued for the purpose of (a) financing the advance refunding of the Authority's $45,315,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2008 maturing April 1, 2018-2037, inclusive, as more particularly described under the heading "CURRENT PLAN OF REFUNDING" herein (the "Refunded Series 2008 Bonds" and collectively with the Series 2007 A Bonds, the "Refunded Bonds") and (b) paying costs associated with the issuance of the Series 2016B Bonds. The Authority's $1,935,000 Transportation Contract Revenue Bond (Route 28 Project) Series 2008 maturing April 1, 2017 (the "Unrefunded Series 2008 Bond" and collectively with the Refunded Series 2008 Bonds, the "Series 2008 Bonds") will remain outstanding following the issuance of the Series 2016B Bonds. The Series 2007A Bonds and the Series 2008 Bonds were previously issued to finance a portion of the costs of the construction of certain improvements (the "District Project") to State Route 28 in Fairfax County, Virginia and Loudoun County, Virginia (the "Counties").

*Capitalized terms and phrases that are used herein but not defined in the body of this Official Statement have the meanings set forth in Appendix D.*

Brief descriptions of the Route 28 Transportation Improvements, including the District Project, the Authority, the District, the District Contract, the Local Contract, the Fiscal Agent Agreement and the Trust Agreement, the estimated sources and uses of Series 2016 Bond proceeds, the security for the Series 2016 Bonds and the terms and provisions of the Series 2016 Bonds are provided below. Such descriptions do not purport to be comprehensive or definitive.

The District Act (as defined below) confers power upon the Counties to levy annually a limited ad valorem tax on taxable real estate zoned for commercial and industrial use and located in the District (the "Special Improvements Tax"). Under an Amended and Restated Local Contract, dated as of August 30, 2002, as amended and restated by an Amended and Restated Local Contract, dated as of November 1, 2006 (the "Local Contract"), by

* Preliminary, subject to change.

and among the State Route 28 Highway Transportation Improvement District Commission (the "Commission") and the Counties, the Commission agrees to request that each County's Board of Supervisors levy the Special Improvements Tax and collect the proceeds of such tax (the "Special Tax Revenues") and the Boards of Supervisors of each County (each a "Board of Supervisors") agrees to pay to the Fiscal Agent the Special Tax Revenues promptly upon collection. The Counties are not legally obligated to impose the annual Special Improvements Tax in any Fiscal Year, and their respective obligations to collect and pay to the Fiscal Agent the Special Tax Revenues are contingent upon the levy of the Special Improvements Tax and appropriation of the Special Tax Revenues for any such Fiscal Year by the Boards of Supervisors.

An Amended and Restated District Contract, as amended and restated as of August 30, 2002, as further amended as of November 1, 2006, April 1, 2010 and May 1, 2012 (the "District Contract"), by and among the Commission, the Authority and the Commonwealth Transportation Board (the "Transportation Board"), sets forth the commitments of the Transportation Board and the Authority to issue their bonds, payable primarily from pro rata shares of the Special Tax Revenues, to finance a portion of the cost of certain grade-separated interchanges on Route 28 included in the District Project.

**In the event that the amount on deposit in the Reserve Subfund established under the Trust Agreement to secure the Unrefunded Series 2008 Bond, the Series 2012 Bonds, the Series 2016 Bonds and any Additional Bonds (as hereinafter defined) is less than the Reserve Subfund Requirement, each of the Counties covenants in the Local Contract and the Fiscal Agent Agreement (hereinafter defined) to budget, appropriate and pay from its general fund, upon written notice from the Trustee of such deficiency, 50% of the amount required to restore the Reserve Subfund to the Reserve Subfund Requirement. The respective obligations of the Boards of Supervisors of the Counties to make such payments in any Fiscal Year are contingent upon their appropriation for such Fiscal Year of funds from which such payments can be made. See "SECURITY FOR THE SERIES 2016 BONDS – Reserve Subfund" herein.**

The Counties shall not be liable in any Fiscal Year for any payment of Special Tax Revenues or any payment to restore a deficiency in the Reserve Subfund (collectively, the "Subject to Appropriation Payments") unless and until such funds have been appropriated for payment for such purposes and then only to the extent thereof. The Boards of Supervisors have no legal obligation to make any Subject to Appropriation Payments. The obligations of the Counties to make Subject to Appropriation Payments shall not constitute a pledge of the full faith and credit of the Counties or bonds or debts of the Counties.

## THE DISTRICT PROJECT

### History and Background of the Route 28 Corridor Transportation Improvements

State Route 28 is a north-south State Highway which passes through both Fairfax County and Loudoun County and connects State Route 7 in the north with the Dulles Greenway, State Route 50 and Interstate 66 in the south, passing through the Washington Dulles International Airport.

On October 17, 1987, a group of owners of land along State Route 28 in Fairfax County and Loudoun County filed with the Boards of Supervisors of the Counties a joint petition (the "Petition") for the creation of the State Route 28 Highway Transportation Improvement District (the "District") pursuant to the Multicounty Transportation Improvement Districts Act (Virginia Code Section 15.2-4600 et seq.) (the "District Act"). In the Petition, the petitioning landowners proposed (a) that certain transportation improvements be constructed within the District, (b) that the District should enter into a contract with the Virginia Department of Transportation ("VDOT") pursuant to which VDOT would provide the design, planning and construction and any other undertaking deemed necessary for the construction and annual provision of such transportation improvements in the District, and (c) that the Boards of Supervisors of the Counties should impose a special improvements tax within the District on commercial and industrial property and collect the revenues therefrom, which the District would use solely for the District's portion of the annual payments required under the contract with VDOT and related costs as authorized under the District Act for services performed in connection with the implementation of such transportation improvements. After public hearings, the Boards of Supervisors adopted resolutions establishing the District and also adopted concurrent resolutions (the "Concurrent Resolutions") setting forth the material understandings of the

Counties and the petitioning landowners with respect to the District, including a 75/25 ratio of the costs to be shared by the District and VDOT with respect to the transportation improvements.

The first phase of the transportation improvements included in the District Project ("Phase I") consisted of widening the existing road from two to six lanes and upgrading three major intersections of State Route 28. Phase I was completed in 1991. The second phase of transportation improvements ("Phase II") began in 2002 and resulted in the construction of six grade-separated interchanges. Phase II construction was essentially completed in 2007. The third phase ("Phase III") of the District Project resulted in the construction of four additional interchanges. Phase III construction was essentially completed in 2010. The District and VDOT contemplate a final phase of the District Project, which is expected to include widening State Route 28 from six to eight lanes between State Route 50 and Sterling Boulevard pursuant to the District's contract with VDOT. In March, 2011 the District approved the use of funds for final design plans for four sections of Route 28 widening.

**Prior Financings**

In 2002, the Transportation Board, the Authority and the Commission amended the original 1988 District Contract and adopted a plan (the "Plan") of financing and refinancing the District Project, and a schedule of financings by the Transportation Board and the Authority for Phase II's six grade-separated interchanges for State Route 28. The Plan called for funding these interchanges through the issuance of bonds by the Authority in an amount sufficient to provide funding for approximately $90 million of the Costs of the District Project, and the issuance of bonds by the Transportation Board to produce an additional $36 million of the Costs of the District Project, with debt service on all bonds to be payable from the Special Improvements Tax levied in the District.

As a part of the Plan, in October 2002, the Transportation Board issued its $120,643,667.45 Transportation Contract Revenue and Revenue Refunding Bonds (Route 28 Project), Series 2002, consisting of $83,820,000 Current Interest Refunding Bonds, Series 2002, none of which are currently outstanding, and $36,823,667.45 Capital Appreciation New Money Bonds, Series 2002, [$43,501,493 accreted value of which remains outstanding] (the "2002 State Bonds") to provide approximately $36 million for the Costs of the District Project and to refund all of the outstanding Commonwealth of Virginia Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 1992 (the "1992 State Bonds") in order to permit the pledge of the Special Improvements Tax to then apply solely to the 2002 State Bonds. The proceeds of the 1992 State Bonds refunded all of the outstanding Commonwealth of Virginia Transportation Contract Revenue Bonds (Route 28 Project) Series 1988 (the "1988 State Bonds"), which 1988 State Bonds were issued primarily to finance the Phase I widening of Route 28 from two to six lanes in the District. In May of 2012, the Transportation Board issued $50,620,000 Commonwealth of Virginia Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2012, $28,130,000 of which are currently outstanding (the "2012 State Bonds"), for purpose of refunding certain maturities of the 2002 State Bonds.

In 2006, the District Contract was further amended to provide a plan to finance the construction costs of Phase III's four interchanges, to be funded in part through the issuance of additional Authority Bonds. At the request of the Transportation Board, in March of 2007 the Authority issued the Series 2007A Bonds as additional Authority Bonds under the District Contract and the Local Contract and "Additional Bonds" under the Trust Agreement to provide $40 million for Costs associated with Phase III of the District Project, which consists primarily of the construction of the final four interchanges on State Route 28. In July of 2008 the Authority issued the Series 2008 Bonds as additional Authority Bonds under the District Contract and the Local Contract and "Additional Bonds" under the Trust Agreement to provide an additional approximately $46 million for Costs associated with Phase III. After completion of Phase III, only the widening of a portion of State Route 28 from six to eight lanes will remain to be completed under the scope of the District Project.

In May of 2012, the Authority issued its $86,275,000 Transportation Contract Revenue Refunding Bonds (Route 28 Project), Series 2012, $80,785,000 of which are currently outstanding (the "Series 2012 Bonds") as additional Authority Bonds under the District Contract and the Local Contract and "Additional Bonds" under the Trust Agreement. The Series 2012 Bonds were issued for the purpose of refunding certain maturities of the Authority's $33,375,000 Transportation Contract Revenue Bonds (Route 28 Project) Series 2003 (the "Series 2003 Bonds") and certain maturities of the Authority's $57,410,000 Transportation Contract Revenue Bonds (Route 28 Project) Series 2004 (the "Series 2004 Bonds"). The remaining maturities of the 2003 Bonds and the Series 2004 Bonds that were not refunded with the proceeds of the Series 2012 Bonds have since matured and are no longer

outstanding. The Authority issued the Series 2003 Bonds to provide $30 million for Costs of the District Project and the Series 2004 Bonds to finance an additional $60 million of Costs of the District Project. The proceeds of the Series 2003 Bonds and the Series 2004 Bonds and the investment income thereon were sufficient to fund the construction costs of Phase II's six interchanges on State Route 28, and such interchanges were completed in 2007.

**Current Plan of Refunding***

The Series 2016A Bonds are authorized to be issued to provide funds to finance the advance refunding and redemption prior to maturity of the Series 2007 A Bonds, as more particularly described in the table below.

**Series 2007A Bonds**

| Maturity | Principal Amount | Redemption Date | Redemption Price | CUSIP Nos. 30383A‡ |
|---|---|---|---|---|
| 2033 | $ 2,040,000 | April 1, 2017 | 100% | BN0 |
| 2034 | 9,255,000 | April 1, 2017 | 100 | BP5 |
| 2025 | 9,645,000 | April 1, 2017 | 100 | BR1 |
| 2037 | 20,565,000 | April 1, 2017 | 100 | BS9 |

The Series 2016B Bonds are authorized to be issued to provide funds to finance the advance refunding and redemption prior to maturity of the Refunded Series 2008 Bonds, as more particularly described in the table below. The Unrefunded Series 2008 Bond will remain outstanding following the issuance of the Series 2016B Bonds.

**Refunded Series 2008 Bonds**

| Maturity | Principal Amount | Redemption Date | Redemption Price | CUSIP Nos. 30383A‡ |
|---|---|---|---|---|
| 2018 | $1,655,000 | April 1, 2018 | 100% | BX8 |
| 2019 | 1,030,000 | April 1, 2018 | 100 | BY6 |
| 2020 | 355,000 | April 1, 2018 | 100 | BZ3 |
| 2021 | 370,000 | April 1, 2018 | 100 | CA7 |
| 2022 | 385,000 | April 1, 2018 | 100 | CB5 |
| 2023 | 400,000 | April 1, 2018 | 100 | CC3 |
| 2024 | 415,000 | April 1, 2018 | 100 | CD1 |
| 2025 | 440,000 | April 1, 2018 | 100 | CE9 |
| 2026 | 450,000 | April 1, 2018 | 100 | CF6 |
| 2027 | 475,000 | April 1, 2018 | 100 | CG4 |
| 2028 | 495,000 | April 1, 2018 | 100 | CH2 |
| 2029 | 520,000 | April 1, 2018 | 100 | CJ8 |
| 2030 | 540,000 | April 1, 2018 | 100 | CK5 |
| 2031 | 570,000 | April 1, 2018 | 100 | CL3 |
| 2032 | 590,000 | April 1, 2018 | 100 | CM1 |
| 2033 | 6,685,000 | April 1, 2018 | 100 | CN9 |
| 2034 | 6,980,000 | April 1, 2018 | 100 | CP4 |
| 2035 | 7,315,000 | April 1, 2018 | 100 | CQ2 |
| 2036 | 7,650,000 | April 1, 2018 | 100 | CR0 |

* Preliminary, subject to change.

† CUSIP® is a registered trademark of the American Bankers Association. The CUSIP numbers listed above are being provided solely for the convenience of bondholders only, and the Authority does not make any representation with respect to such numbers or undertake any responsibility for their accuracy. The CUSIP numbers are subject to being changed after the issuance of the Series 2016 Bonds.

| | | | | |
|---|---|---|---|---|
| 2037 | 7,995,000 | April 1, 2018 | 100 | CS8 |

Upon delivery and issuance of the Series 2016 Bonds by the Authority, proceeds thereof will be used to provide for the payment and redemption of the Refunded Bonds by depositing with U.S. Bank National Association pursuant to an escrow deposit agreement (the "Escrow Agreement"), cash and non-callable, direct obligations of the United States of America the maturing principal of and interest on which, together with such cash, will be sufficient to pay all principal, applicable redemption premiums, and interest on the Refunded Bonds to their respective redemption dates. The arithmetical computations of the sufficiency of the cash and securities deposited with U.S. Bank National Association to pay the principal of and interest on the Refunded Bonds will be verified by Robert Thomas CPA, LLC.

## THE DISTRICT

**[TO BE UPDATED]**

The District was created by resolutions of the Boards of Supervisors pursuant to the District Act. The District boundaries encompass approximately 14,800 acres of land, approximately 14 miles in length, located generally along State Route 28 in the Counties. The District is governed by a commission of nine members composed of four of the elected members of the Board of Supervisors of Fairfax County, four of the elected members of the Board of Supervisors of Loudoun County, and the Chairman of the Transportation Board or his or her designee. The Chairman of the District is elected by and from among its members.

The District is empowered, among other things, to undertake the improvement of any primary highway located within the District and to enter into contracts with the Authority to carry out such activity. Upon the request of the Commission, the Boards of Supervisors of the Counties have the power to levy the Special Improvements Tax and to collect the Special Tax Revenues. The District itself has no taxing power.

In furtherance of the purposes of the District Act, the District entered into the District Contract and the Local Contract. See "SPECIAL IMPROVEMENT TAXES" herein.

### District Tax Base Data

The "Special Improvements Tax" is a surcharge allowed under the District Act to be up to $0.20/$100 on the assessed fair market value on the general real estate property tax levied on commercial and industrial properties within the District's boundaries, and, in the Local Contract, the Counties agree that the billing, collection, penalties and tax-sales procedures with respect to the Special Improvements Tax will be the same as those with respect to the general real estate property tax. From Fiscal Years [2002 – 2009] the Counties levied the Special Improvements Tax at a rate of $0.20/$100. Beginning with Fiscal Year [2010], the Special Improvements Tax was set at a rate of $0.18/$100. The following data have been provided by the Counties.

*[Remainder of page intentionally left blank]*

**Assessed Value of Taxable Commercial/Industrial Property in the District (billions)**

| Calendar Year | Fairfax | Loudoun | Total |
|---|---|---|---|

**Historical Special Tax Revenues of the District (millions)**

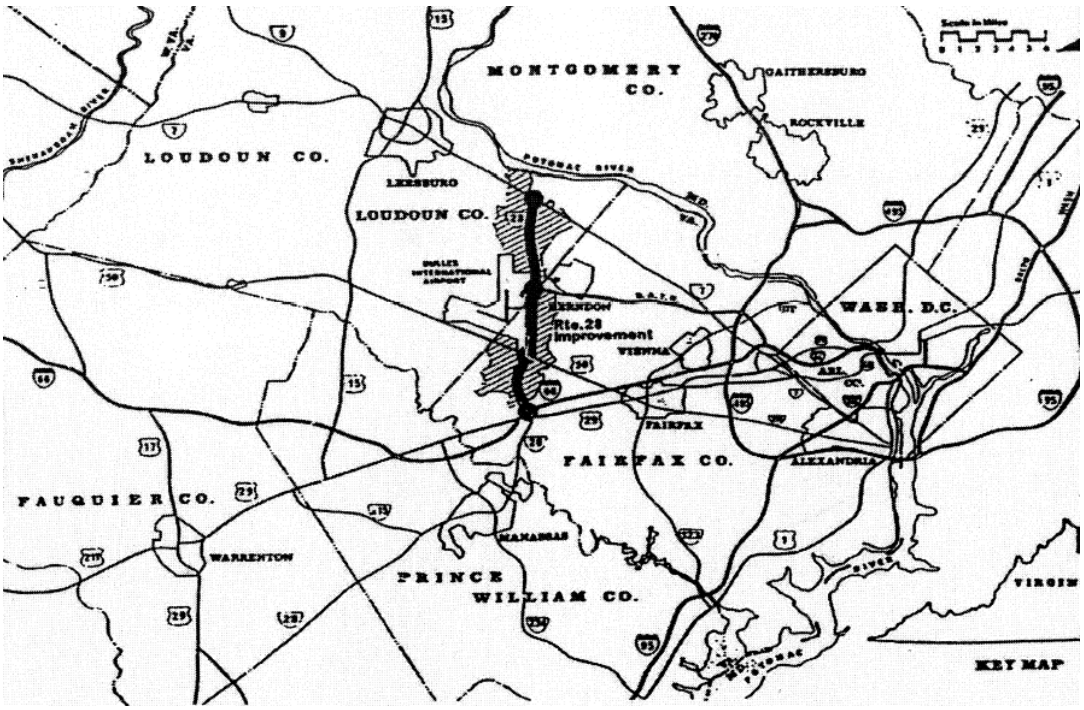
| Fiscal Year | Fairfax | Loudoun | Total |
|---|---|---|---|

**Twenty Largest Owners of Real Property in the District**
**(as of January 1, 2016)**

| Property Owner | Assessed Value |
|---|---|
| Virginia Electric & Power Company | $ |
| Dulles Town Center Mall LLC | |
| VISA USA Inc | |
| AOL Inc | |
| R T Pacific Blvd LLC | |
| Copt Chantilly LLC | |
| DD North 2 LC | |
| Qwest Communications Corp of VA | |
| Sully North Investments LLC | |
| P L Dulles LLC | |
| SP Herndon Development LP | |
| Brandywine Acquisition Partners LP | |
| Fox Properties LLC | |
| Brandywine Operating Partnership LP | |
| Republic Park LLC | |
| MB Herndon LLC | |
| Equinix R P II LLC | |
| EDS Information Services LLC | |
| T M W Weltfonds Loudoun LP | |
| Sully LP | |

**Route 28 Highway Transportation Improvement District Location**

District -- ////////////////




The District has prepared financial statements and has obtained an independent auditor's report for the Fiscal Year ended June 30, 2015, which are on file with the District.

**The Counties**

The District is located both in Fairfax County and Loudoun County with approximately 8.0 miles of State Route 28 passing through Fairfax County and approximately 6.2 miles of State Route 28 passing through Loudoun County. Each County is a distinct political entity providing services for the population within its respective jurisdiction, including public education, public safety, human services, public health, development, planning and public works, public utilities and general government and administration. Both counties are located in the northeastern corner of Virginia and are part of the Washington, D.C. metropolitan area, which includes jurisdictions in Maryland, the District of Columbia, and Northern Virginia. For additional information on the Counties, see Appendices A and B.

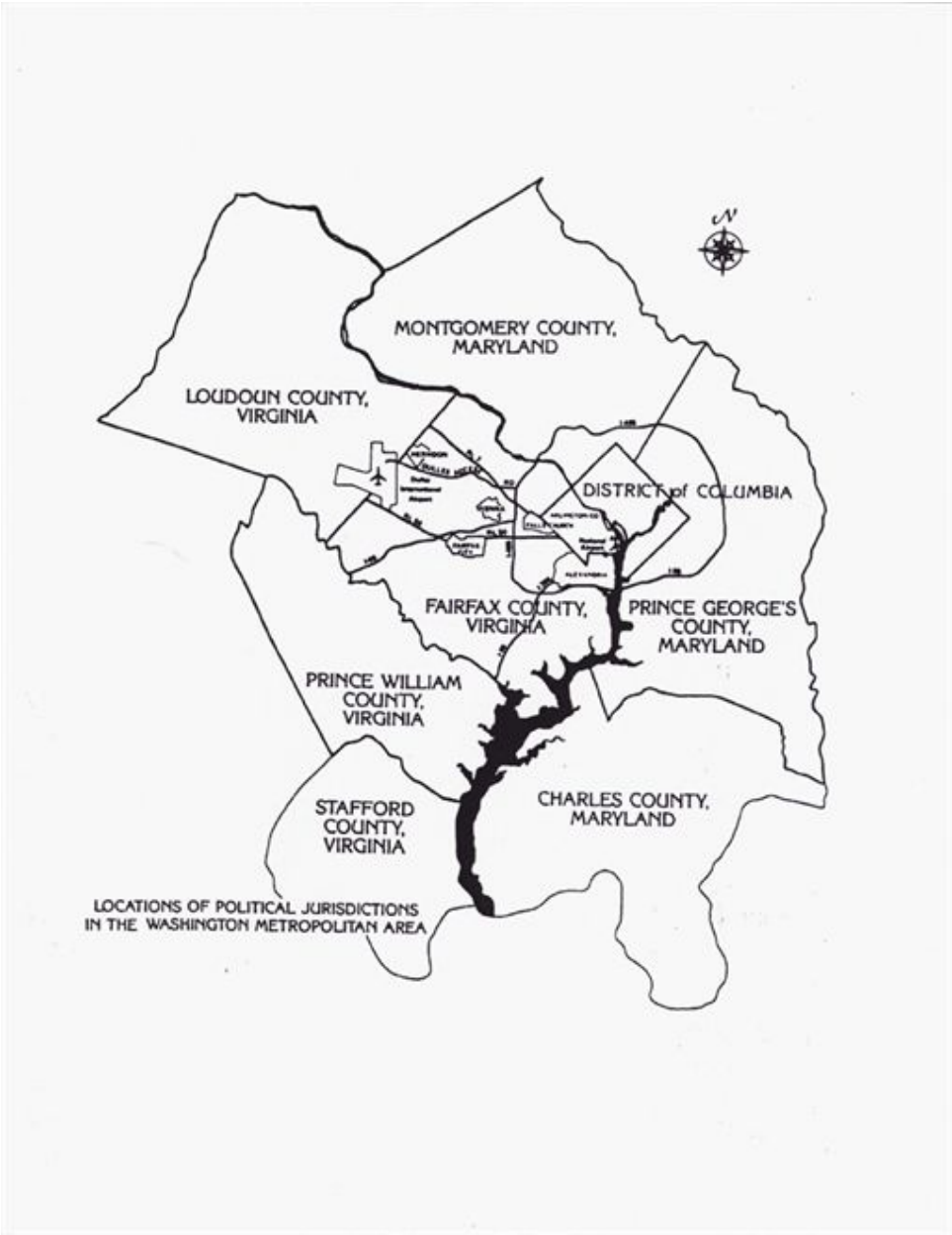
*Fairfax County* encompasses a net land area of 407 square miles. Fairfax County's population in 2010 was approximately 1,081,726. In 1980, Fairfax County was the third most populous jurisdiction in the Washington, D.C. primary metropolitan statistical area, as defined by the U. S. Bureau of the Census. By 1990, Fairfax County, with 818,584 residents, had become the most populous jurisdiction in the Washington, D.C. area, adding an average of 22,000 persons per year in the 1980s. Population growth during the 1990s and to date has slowed in Fairfax County; on average, about 15,000 persons per year were added to the population during this period.

In 2010, the Bureau of the Census estimated median household income in Fairfax County at $105,416. As of 2010, 31.7 percent of County households had annual family incomes of $150,000 or more. Fairfax County has become a job magnet since 1990 as outsourced federal government work fuels the growth of private-sector

companies, especially those that do work for the departments of Defense, Homeland Security and the intelligence community.

*Loudoun County* is located in the northeastern corner of Virginia and encompasses a net land area of 520 square miles. Loudoun County's population in 2010 was approximately 312,311. This represents an increase of 84.1% since the 2000 census. As to the period between 2000 and 2010, the U.S. Bureau of the Census currently recognizes Loudoun County as the fifth fastest growing county in the United States. In 2010, the median household income in Loudoun County was $119,540.

**Location of Fairfax and Loudoun Counties**



## SPECIAL IMPROVEMENT TAXES

The levy, collection, appropriation, payment and application of the Special Improvement Taxes are addressed in the District Contract, the Local Contract and the Fiscal Agent Agreement. The following summarizes certain provisions of these documents. These summaries do not purport to be comprehensive or definitive and are qualified by reference to the District Contract, the Local Contract and the Fiscal Agent Agreement in their entireties, copies of which may be obtained from the Trustee.

### The District Contract

In order to pay debt service on the Unrefunded Series 2008 Bond, the Series 2012 Bonds, the Series 2016 Bonds, the 2002 State Bonds and the 2012 State Bonds (collectively referred to as "Combined Debt Service"), in each Fiscal Year the District shall pay to the Fiscal Agent from Special Tax Revenues it has received from the Counties, the Annual Authority Share and the Annual Board Share. The calculation of the Annual Authority Share and the Annual Board Share is based on the ratio of the amount of debt service coming due in the Fiscal Year on the Unrefunded Series 2008 Bond, the Series 2012 Bonds, the Series 2016 Bonds, the 2002 State Bonds and the 2012 State Bonds, respectively, to the amount of Combined Debt Service due in that Fiscal Year. The Commission, on behalf of the District, shall make payments as described below through the Boards of Supervisors. Within 30 days of the closing of the Series 2016 Bonds and any Additional Bonds, the Authority shall provide to the Commission a schedule of payments necessary to pay the scheduled debt service on such bonds in a timely manner.

**Tax Rate**. [Pursuant to the District Contract, on March 23, 2012, the Commission requested that the Counties set the Special Improvements Tax rate at the rate of $0.18/$100 of assessed value rate.] **[UPDATE]** In 2009 the Counties upon the request of the Commission lowered the Special Improvements Tax rate from $0.20/$100 assessed value, the maximum rate permissible under the District Act, to $0.18/$100, the current Special Improvements Tax rate. A further reduction in the Special Improvements Tax rate shall not occur unless (a) available Special Tax Revenues in each of the two Fiscal Years immediately preceding the Fiscal Year in which the tax rate reduction is proposed have been greater than the product of 1.1 and the Combined Debt Service in each of those Fiscal Years and (b) it is reasonably anticipated by the Commission that available Special Tax Revenues in each subsequent Fiscal Year will be greater than the product of 1.1 and the Combined Debt Service in each such Fiscal Year, at which time the rate may be reduced to a level sufficient, in the judgment of the Commission, to pay the product of 1.1 and the Combined Debt Service due in any subsequent Fiscal Year. Any such Special Improvements Tax rate reduction may be reversed to the extent necessary to meet the requirements of the District Contract.

**Application of Special Tax Revenues**. Pursuant to the requirements of the District Contract, the parties thereto appointed the Trustee to serve as fiscal agent (in such capacity, the "Fiscal Agent") to which the Transportation Board, the Commission, and the Authority assign and transfer, subject to appropriation, all of the Special Tax Revenues first, to pay proportionately the Combined Debt Service; second, to fund the Revenue Stabilization Subfund, other than on account of a withdrawal therefrom, until the amount deposited thereto shall equal the maximum annual debt service on all Authority Bonds issued in accordance with provisions of the District Contract, as explained below; third, to reimburse the Counties to the extent that any debt service on any Authority Bonds or obligations with respect to the Reserve Subfund has been paid from funds other than Special Tax Revenues appropriated by the Counties; fourth, to the Revenue Stabilization Subfund to the extent of any deficiency in the amount required therein on account of a withdrawal therefrom; fifth, to reimburse the Transportation Board to the extent that any debt service on the 2002 State Bonds and 2012 State Bonds has been paid from a source other than Special Tax Revenues, such reimbursement to be credited to the source from which the funds were drawn; and sixth, to the District Project Completion Fund established with the Fiscal Agent.

**Special Tax Revenues**. Any available Excess Revenues on hand immediately after the final debt service payment in any Fiscal Year shall be allocated first to the funding of the Revenue Stabilization Subfund until it contains the maximum annual debt service on the Authority Bonds and then to the District Project Completion Fund.

**Revenue Stabilization Subfund**. The Revenue Stabilization Subfund, together with actual interest earnings thereon (subject to any limitations imposed by the Internal Revenue Code), is held by the Trustee and is to

be applied to pay debt service on any outstanding Authority Bonds in any Fiscal Year in the event that the Annual Authority Share for the Fiscal Year is insufficient to pay such debt service in that Fiscal Year.

**District Project Completion Fund**. Excess Revenues not needed for the Revenue Stabilization Subfund will be deposited in the District Project Completion Fund. The Fiscal Agent acts as the fiduciary agent of the Commission with respect to the District Project Completion Fund and maintains the moneys credited to the District Project Completion Fund in a separate account. Any funds in the District Project Completion Fund will be used first, to make up any deficiency in the amount of Special Tax Revenues available to pay the Combined Debt Service in any Fiscal Year; thereafter, for the purposes and in the same order of priority as the third, fourth and fifth purposes for transfers of Special Tax Revenues by the Fiscal Agent, as described in "**Application of Special Tax Revenues**" above.

Any funds in the District Project Completion Fund not needed for the foregoing purposes may be used by the Commission in its discretion to pay for any Phase I Transportation Improvements, Phase II Transportation Improvements and Phase III Transportation Improvements described in the Petition, or to purchase, redeem or defease any bonds previously issued to pay for such improvements, or may be released to the Boards of Supervisors for disbursement under applicable law. When all Authority Bonds have been fully defeased, any amount remaining in the Revenue Stabilization Subfund will be transferred to the District Project Completion Fund. At such time as all Phase I Transportation Improvements, Phase II Transportation Improvements or Phase III Transportation Improvements described in the Petition have been constructed and paid for, and all 2002 State Bonds, 2012 State Bonds and Authority Bonds are fully defeased, the Commission shall release any remaining amount of the District Project Completion Fund to the Boards of Supervisors for disbursement under applicable law.

**Special Provisions**. Notwithstanding anything in the District Contract to the contrary:

(a) Special Tax Revenues shall be used to provide no more than 75% of the final aggregate Costs of all of the Phase I Transportation Improvements, Phase II Transportation Improvements and Phase III Transportation Improvements of the District Project, calculated as set forth in the District Contract;

(b) the maximum limit on the Special Improvements Tax during the term of the District Contract is fixed at $0.20 per $100 of assessed fair market value of any real estate, including the assessable value of taxable leasehold interests, of all real property within the District which is zoned for commercial or industrial use or used for such purpose, which is subject to the Special Improvements Tax;

(c) any financial obligation of the Counties to any entity arising under or related to the District Contract, other than with respect to any credit enhancements the Counties determine to provide for Authority Bonds, is limited to the monthly payment to the Fiscal Agent for the account of the Commission of all assessed Special Tax Revenues actually collected by the Counties after reasonable efforts consistent with those undertaken by the Counties to assess, levy and collect real estate tax levies generally; and

(d) the portion of the cost of the Transportation Improvements included in the District Project that has been or is to be paid other than with Special Tax Revenues in accordance with the District Contract or sales tax funds is subject to annual appropriations made by the General Assembly of Virginia and allocations by the Transportation Board.

**District Obligation**. In order to pay the portion of the Cost of Transportation Improvements included in the District Project that has been or is to be paid with Special Tax Revenues in accordance with the District Contract (the "District Obligation"), the Commission shall request the Boards of Supervisors by April 1 of each year to levy the Special Improvements Tax and collect Special Tax Revenues for the next Fiscal Year at a rate sufficient to generate Special Tax Revenues to meet the requirements of the District Contract. The Commission shall request the Counties to pay over to the Fiscal Agent all collected Special Tax Revenues by the first day of each month. The Fiscal Agent shall deposit or cause to be deposited in a special account or accounts all Special Tax Revenues received, and any interest earnings thereon shall be credited towards the payment of the District Obligation.

**The Local Contract**

The Commission and the Boards of Supervisors of the Counties have entered into the Local Contract in order to complete payment for the Phase I Transportation Improvements, Phase II Transportation Improvements and Phase III Transportation Improvements, including the District Project, and to comply with the provisions of the Concurrent Resolutions and the District Contract.

**Counties to Levy and Remit Taxes**. Under the Local Contract, the Commission will request the Boards of Supervisors to levy the Special Improvements Tax and collect the Special Tax Revenues each Fiscal Year in the amount computed in accordance with the requirements of the District Contract. The Boards of Supervisors agree to notify the Commission by March 15 of each year of each County's estimate of the assessed fair market value of taxable real estate zoned for commercial or industrial use or used for such purposes and taxable leasehold interest zoned for commercial or industrial use or used for such purposes located in the County and within the District. By April 1 of each Fiscal Year, the Commission will notify the Counties of the amount of the District Obligation under the District Contract and the rate of the Special Improvements Tax the District desires to be levied during the following Fiscal Year by each County pursuant to the District Contract. Each County's chief executive officer will include in its annual budget submission for consideration by the respective Board of Supervisors for the applicable Fiscal Year all amounts to be paid by such County under the District Contract for such Fiscal Year.

The Boards of Supervisors will pay all Special Tax Revenues to the Fiscal Agent for the account of the Commission promptly upon collection, but in no event later than 45 days after receipt. Under the Local Contract, each Board of Supervisors recognizes that the District Project is important to the growth and development of its County and that the levy of the Special Improvements Tax and the payment of Special Tax Revenues to or at the direction of the Commission is in furtherance of the District Project.

**In the Local Contract, each Board of Supervisors, while recognizing it is not empowered to make any binding commitment to levy the Special Improvements Tax and to collect and pay over Special Tax Revenues in future Fiscal Years, (a) states its current intent to make such levy and collect such Special Tax Revenues in future Fiscal Years at the same time, and in the same manner and with equal priority as County real estate taxes are levied and collected and (b) recommends that future Boards of Supervisors assess and levy the requested Special Improvements Tax and collect and disburse all Special Tax Revenues to the Fiscal Agent for the term of the Local Contract.**

**Counties to Make Up Deficiencies in Reserve Subfund**. In the Local Contract, each County covenants, upon receipt of written notice from the Trustee that the amount on deposit in funds and accounts which serve as a debt service reserve for Authority Bonds is less than the maximum annual debt service on Authority Bonds, to budget and appropriate from its general fund an amount equal to one-half the maximum principal and interest payable in such Fiscal Year on all Authority Bonds then outstanding. Within the Fiscal Agent Agreement the Counties further covenant that pursuant to their commitments in the Local Contract described above that if the amount on deposit in the Reserve Subfund is less than the Reserve Subfund Requirement each County will budget and appropriate an amount equal to one-half the deficiency in the Reserve Subfund (the "Reserve Subfund Subject to Appropriation Payments"). See also "SPECIAL IMPROVEMENT TAXES – Fiscal Agent Agreement" and "SECURITY FOR THE SERIES 2016 BONDS". However, the County's obligations to pay the Reserve Subfund Subject to Appropriation Payments is subject to and dependent upon appropriations being made from time to time by the Boards of Supervisors for such purpose.

**The obligations of the Counties under the Fiscal Agent Agreement to make Reserve Subfund Subject to Appropriation Payments do not constitute debts of the Counties within the meaning of any constitutional or statutory limitation nor liabilities of or liens or charges upon funds or property of the Counties beyond any Fiscal Year for which the Counties have appropriated moneys to make such payments.**

**Zoning Changes**. If Fairfax County or Loudoun County changes the zoning classification for any property within the District from commercial or industrial use to residential use upon the written request or approval of the owner of such property, then, if and to the full extent permitted by applicable law, the County making the zoning change shall require the payment to the County by the property owner of a lump sum payment which is a sum representing the present value of the future Special Improvements Taxes to be lost as a result of such zoning change

estimated in accordance with the formula set forth in the District Contract. The change in zoning classification shall not become effective until the payment has been made. Special Improvements Taxes for the then current year previously paid with respect to the property for which such a change in zoning classification is being made may be credited toward the amount of the payment on a prorated basis. Any amount so paid to Fairfax County or Loudoun County is Special Tax Revenue and shall be paid by the County receiving the payment directly to the Fiscal Agent by the first day of each month, but in no event later than 45 days after receipt, and will be credited by the Transportation Board toward the District Obligation. At the time of each such payment, the County making the payment will identify the amount being paid pursuant to this requirement.

**Expiration**. The Local Contract shall expire upon payment in full of the District Obligation.

**Fiscal Agent Agreement**

The Counties and the Trustee, as Fiscal Agent, have entered into an Amended and Restated Fiscal Agent Agreement dated as of August 1, 2016 (the "**Fiscal Agent Agreement**"). The Fiscal Agent Agreement sets forth the procedures pursuant to which the Counties deposit the Special Tax Revenues with the Fiscal Agent and the Fiscal Agent transfers such Special Tax Revenues.

**Special Tax Revenues**. Pursuant to the Fiscal Agent Agreement, the Counties agree to pay over all Special Tax Revenues by the first day of each month. The Fiscal Agent shall deposit all Special Tax Revenues in the Revenue Fund established by the Fiscal Agent Agreement (the "**Revenue Fund**"). Based on the debt service schedule, the Fiscal Agent will calculate the Annual Authority Share, the Authority Proportion, the Annual Board Share, the Board Proportion and the Combined Debt Service on each March 15.

The Fiscal Agent will transfer from the Revenue Fund to the Trustee for the 2002 State Bonds and the 2012 State Bonds (the "Board Trustee") and the Authority Trustee on the second Business Day prior to the next April 1 and October 1 an amount equal to the principal and interest or interest scheduled to become due on the 2002 State Bonds, the 2012 State Bonds, the Unrefunded Series 2008 Bond, the Series 2012 Bonds and the Series 2016 Bonds, respectively, on such April 1 or October 1, as the case may be; provided, however, that if the amount in the Revenue Fund is less than the total amount of the principal and interest or interest coming due on such April 1 or October 1, then the Fiscal Agent will pay to the Board Trustee an amount equal to the Board Proportion of the amount in the Revenue Fund and to the Authority Trustee an amount equal to the Authority Proportion of the amount on deposit in the Revenue Fund.

Under the indenture for the 2002 State Bonds and the 2012 State Bonds, the Board Trustee is required to provide notice to the Fiscal Agent on any January 20 or July 20 if the Board Trustee holds moneys that are available to pay principal and interest on the 2002 State Bonds and the 2012 State Bonds on the next April 1 or interest on the 2002 State Bonds and 2012 State Bonds on the next October 1. The Fiscal Agent is to take into account such amounts when determining the amount of moneys required, to be transferred to the Board Trustee to meet the debt service on the 2002 State Bonds and the 2012 State Bonds and the Fiscal Agent may deduct such amounts from any potential shortfall amount or actual shortfall amount.

**Insufficient Special Tax Revenues**. If there has been a shortfall in the amounts paid as the Annual Authority Share and the Annual Board Share from the Combined Debt Service, the Fiscal Agent will transfer from the District Project Completion Fund on the second Business Day preceding each April 1 (a) to the Authority Trustee for deposit in the Authority Debt Service Subfund an amount equal to the shortfall in the Annual Authority Share from the debt service on the Authority Bonds and (b) to the Board Trustee for deposit in the appropriate debt service fund an amount equal to the shortfall in the Annual Board Share from the scheduled debt service on the 2002 State Bonds and 2012 State Bonds. If the moneys to be so transferred from the District Project Completion Fund are less than the total aggregate shortfall, the Authority Proportion and the Board Proportion shall be used to calculate the amounts of the moneys to be transferred to the Authority Trustee or to the Board Trustee.

**Excess Special Tax Revenues**. In accordance with the District Contract and the Trust Agreement, on or after April 2 of each year, after the last of the payments of the Annual Authority Share and the Annual Board Share for the Fiscal Year have been made, any moneys remaining in the Revenue Fund shall be transferred by the Fiscal Agent to the Trustee for deposit into the Revenue Stabilization Subfund until the balance in the Revenue

Stabilization Subfund equals the Revenue Stabilization Subfund Requirement and any Excess Revenues in the Revenue Fund remaining after the required transfers described above are to be set aside with the Fiscal Agent and credited to the District Project Completion Fund.

**Counties to Identify Deficiencies**. Each Board of Supervisors has agreed that it will cause the County's chief executive officer, in preparing the County's annual operating budget for each Fiscal Year that any Authority Bonds remain outstanding, to identify or estimate and include as separate line items therein one-half of the amount of (a) any existing deficiency in the amount to the credit of the Reserve Subfund and (b) any other deficiency in the amount to the credit of the Reserve Subfund that such officer estimates will likely occur during the period beginning on or about April 1 of the current Fiscal Year and ending on the last day of the Fiscal Year for which the budget is proposed.

Each Board of Supervisors covenants to cause its chief executive officer, having made the estimates and prepared the proposed operating budget as described above, (a) to notify the Fiscal Agent and the Trustee on or before June 1 of the current Fiscal Year if such officer shall have estimated any deficiency described above, (b) in such case, to furnish to the Fiscal Agent and the Trustee a copy of the relevant section of the proposed budget containing the proposed appropriations, and (c) in such case, to confirm to the Fiscal Agent and to the Trustee on or before the last day of the current Fiscal Year the adoption by the Board of Supervisors of an operating budget for the County that includes the appropriations contained in the chief executive's proposed budget.

Each Board of Supervisors further covenants, after a review of the Special Tax Revenues last collected, to cause its chief executive officer to identify or make estimates of any deficiency described above and if any such deficiency is expected to occur, after taking into account the amounts in the adopted operating budget (the "**Incremental Deficiency**"), to notify the Fiscal Agent and the Trustee on or about August 15 or January 20 (i) that an estimated Incremental Deficiency exists, (ii) that the chief executive officer has proposed a budget amendment to the extent of the Incremental Deficiency, and (iii) of any action taken by the Board of Supervisors with respect to the proposed budget amendment.

**ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of Series 2016A Bond proceeds are as follows:

**SOURCES**

Principal of Series 2016A Bonds.....$_____
Premium on the Series 2016A Bonds .....
Total .....$

**USES**

Deposit to Escrow for Series 2007A Bonds.....$
Costs of Issuance* .....
Total .....$

The estimated sources and uses of Series 2016B Bond proceeds are as follows:

**SOURCES**

Principal of Series 2016B Bonds .....$_____
Premium on the Series 2016B Bonds.....
Total .....$

**USES**

Deposit to Escrow for Refunded Series 2008 Bonds.....$
Costs of Issuance* .....
Total .....$

_____

*Includes legal fees, underwriter's discount and other costs of issuance.

## THE AUTHORITY

The Authority was created in 1964 pursuant to the Enabling Act to foster and stimulate the development of industry within Fairfax County and is a political subdivision of the Commonwealth. It is governed by seven commissioners appointed by the Board of Supervisors of Fairfax County. The Authority is empowered by the Enabling Act to, among other things, acquire, construct, own, lease and dispose of various types of facilities, including facilities for use by a county, a municipality, the Commonwealth and its agencies, or other governmental organization, and to finance the same by the issuance of its revenue bonds for such purposes. The Authority has no taxing power. The power of the Authority to issue its revenue bonds for the purposes set forth in the Enabling Act was upheld by the Supreme Court of Virginia in *Fairfax County Industrial Development Authority v. Coyner*, 207 Va. 351, 120 S.E. 2d 817 (1966).

The Commissioners of the Authority and the expiration dates of their respective terms in office are set forth below: **[UPDATE]**

| **Commissioner** | **Term Expires** |
|---|---|
| Steven L. Davis, Chairman | June 30, 20__ |
| Michael Lewis, Vice Chairman | June 30, 20__ |
| Ronald C. Johnson, Secretary | June 30, 20__ |
| Catherine Lange, Assistant Secretary | June 30, 20__ |
| Mark Lowham | June 30, 20__ |
| Arthur E. (Bud) Morrissette IV | June 30, 20__ |
| Sudhakar Shenoy | June 30, 20__ |

Gerald L. Gordon serves as President of the Authority.

The Authority acts as a conduit issuer of bonds. No such bonds, other than the Unrefunded Series 2008 Bond and the Series 2012 Bonds, are secured by the Special Tax Revenues or other assets pledged to secure the Series 2016 Bonds under the Trust Agreement, nor are the Series 2016 Bonds secured by any assets pledged to the payment of such other bonds.

## SECURITY FOR THE SERIES 2016 BONDS

### General

The Series 2016 Bonds, the premium, if any, and the interest thereon are limited obligations of the Authority payable solely from the revenues and receipts received by the Authority from the Counties under the District Contract and the Local Contract, on a parity with the Authority Bonds (also referred to herein as the "Bonds"). The Series 2016 Bonds, the premium, if any, and the interest thereon shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth or any political subdivision thereof, including the Authority and the Counties. Neither the Commonwealth nor any political subdivision thereof, including the Authority and the Counties, shall be obligated to pay the principal of or premium, if any, or interest on the Series 2016 Bonds or other costs incident thereto except from the revenues and receipts pledged and assigned therefor, and neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof, including the Authority and the Counties, is pledged to the payment of the principal of or premium, if any, or interest on the Series 2016 Bonds or other costs incident thereto. The Authority has no taxing power.

See "**SPECIAL IMPROVEMENT TAXES**" herein for a description of the levy, collection, appropriation, payment and application of the Special Improvement Taxes as addressed in the District Contract, the Local Contract and the Fiscal Agent Agreement.

**Reserve Subfund**

**Reserve Subfund Requirement**. The Amended and Restated Trust Agreement establishes with the Trustee the Reserve Subfund and requires that upon the issuance of the Series 2016 Bonds, the amount to the credit thereof equal the Reserve Subfund Requirement for all Bonds outstanding. The Amended and Restated Trust Agreement permits the establishment of a separate account within the Reserve Subfund solely for the benefit and security of a particular series of Bonds.

The Amended and Restated Trust Agreement provides that in lieu of the required deposits or transfers to the Reserve Subfund, 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 Surety Bond 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 Surety Bond, or (2) any amount up to the Reserve Subfund Requirement, to be released at the direction of the Authority Representative.

In connection with the issuance of the Series 2007A Bonds, the Authority delivered to the Trustee a Debt Service Reserve Fund Surety Bond (the "Reserve Subfund Surety Bond") issued by MBIA Insurance Corporation in satisfaction of the Reserve Subfund Requirement of maximum annual debt service ("MADS") on the Series 2003 Bonds and the Series 2004 Bonds (which are no longer outstanding) and the Series 2007A Bonds (collectively, the "Surety Covered Bonds") and any bonds that refund the Surety Covered Bonds, including the Series 2012 Bonds (which refunded certain maturities of the Series 2003 Bonds and the Series 2004 Bonds) and the Series 2016A Bonds, so long as the debt service in each Bond Year on the Surety Covered Bonds and the bonds that refunded such bonds does not increase and the bonds that refund the Surety Covered Bonds shall not have a final maturity date later than the final maturity of the Surety Covered Bonds being refunded. The Reserve Subfund Surety Bond has a maximum amount of $10,944,318.76. It is anticipated that upon the issuance of the Series 2016A Bonds, the debt service payable for each Bond Year on the Series 2016A Bonds will be less than the debt service payable in each Bond Year on the Series 2007A Bonds prior to the refunding. In addition, it is anticipated that the Series 2016A Bonds will have a final maturity date that is not later than the final maturity date of the Series 2007A Bonds being refunded. As a result, the Reserve Subfund Surety Bond will secure the Series 2016A Bonds.

The Reserve Subfund Surety Bond will be payable (upon the giving of notice as required thereunder) on any due date on which money will 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 the Series 2012 Bonds and the Series 2016A Bonds. If a disbursement is made pursuant to the Reserve Subfund Surety Bond provided pursuant to the Amended and Restated Trust Agreement, the Authority is obligated under the Amended and Restated Trust Agreement either (i) to reinstate the maximum limits of such Reserve Subfund Surety Bond or (ii) to deposit into the Reserve Subfund funds in the amount of the disbursement made under such Reserve Subfund Surety Bond, or a combination of such alternatives, as will provide that the amount in the Reserve Subfund equals the Reserve Subfund Requirement, all as provided in the Amended and Restated Trust Agreement.

The Unrefunded Series 2008 Bond is, and the Series 2016B Bonds will be, secured by separate accounts within the Reserve Subfund.

For additional information concerning the Reserve Subfund, see Appendix E hereto.

**The Reserve Subfund Surety Bond [TO BE UPDATED BY NPFG]**

*The following information has been furnished by National Public Finance Guarantee Corporation ("National") for use in this Official Statement.*

*National does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the Reserve Subfund Surety Bond and National set forth below. Additionally, National makes no representation regarding the Series 2016A Bonds or the advisability of investing in the Series 2016A Bonds.*

On March 14, 2007, MBIA Insurance Corp. ("MBIA Corp") issued its Reserve Subfund Surety Bond numbered 492350 in connection with the Series 2003 Bonds, the Series 2004 Bonds, the Series 2007A Bonds and any bonds ("refunding bonds") that refund the aforementioned bonds ("refunded bonds"), provided, however, that (i) the debt service in each Bond Year (as such term is defined in the Trust Agreement) on the obligations secured by the Reserve Subfund Surety Bond immediately following the issuance of such refunding bonds and (ii) such refunding bonds shall have a final maturity date that is not later than the final maturity of the refunded bonds (the "Obligations"), which Reserve Subfund Surety Bond remains in full force and effect. A copy of the Reserve Fund Surety Bond is available from the Trustee upon request.

The Reserve Subfund Surety Bond provides that upon notice from the Trustee to MBIA Corp. to the effect that insufficient amounts are on deposit in the Debt Service Subfund to pay the principal of (at maturity or pursuant to mandatory redemption requirements) and interest on the Series 2016A Bonds, MBIA Corp. will promptly deposit with the Trustee an amount sufficient to pay the principal of and interest on the Series 2016A Bonds or the available amount of the Reserve Subfund Surety Bond, whichever is less. Upon the later of: (i) three (3) days after receipt by MBIA Corp. of a Demand for Payment in the form attached to the Reserve Subfund Surety Bond, duly executed by the Trustee; or (ii) the payment date of the Series 2016A Bonds as specified in the Demand for Payment presented by the Trustee to MBIA Corp., MBIA Corp. will make a deposit of funds in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment to the Trustee , of amounts which are then due to the Trustee (as specified in the Demand for Payment) subject to the Surety Bond Coverage.

The available amount of the Reserve Subfund Surety Bond is the initial face amount of the Reserve Subfund Surety Bond less the amount of any previous deposits by MBIA Corp. with the Trustee which have not been reimbursed by the Authority. The Authority and MBIA Corp. have entered into a Financial Guaranty Agreement dated March 14, 2007 (the "Agreement"). Pursuant to the Agreement, the Authority is required to reimburse MBIA Corp., within one year of any deposit, the amount of such deposit made by MBIA Corp. with the Trustee under the Reserve Subfund Surety Bond.

No optional redemption of the Series 2016A Bonds may be made until the Reserve Subfund Surety Bond is reinstated. The Reserve Subfund Surety Bond is held by the Trustee in the Reserve Subfund and is provided as an alternative to the Authority depositing funds equal to the Reserve Subfund Requirement for the Surety Covered Bonds.

On February 18, 2009, MBIA Inc., the parent holding company of MBIA Corp., announced that it had established a new U.S. public finance financial guarantee insurance company within the MBIA Inc. group by restructuring MBIA Corp. and its subsidiaries through a series of transactions (the "Transactions"). As part of the Transactions, (i) the stock of MBIA Insurance Corp. of Illinois (which, effective March 19, 2009 was renamed National Public Finance Guarantee Corporation), an existing public finance financial guarantee insurance subsidiary of MBIA Corp., was transferred to a newly established intermediate holding company, National Public Finance Guarantee Holdings, Inc. ("National Holdings"), also a subsidiary of MBIA Inc.; and (ii) effective January 1, 2009, MBIA Corp. ceded to National all of MBIA Corp.'s U.S. public finance business, including the MBIA Insurance Policy, pursuant to that certain Amended and Restated Quota Share Reinsurance Agreement between MBIA Corp. and National (the "Reinsurance Agreement"). Pursuant to the Reinsurance Agreement, MBIA Corp. paid to National approximately $2.89 billion (which equals the net unearned premium, loss and loss adjustment expense reserves, net of the 22 percent ceding commission that MBIA Corp. received) as a premium to reinsure the policies covered under the Reinsurance Agreement (each a "Covered Policy"). The MBIA Insurance Policy is a Covered Policy. National was further capitalized with $2.09 billion from funds distributed by MBIA Corp. to MBIA Inc. as a dividend and return of capital, which was ultimately contributed to National through National Holdings. The Reinsurance Agreement provides a cut-through provision enabling the holder of a Covered Policy to make a claim for payment directly against National. In addition, National has also issued second-to-pay policies for the benefit of the holder of a Covered Policy, granting such policyholder the right to make a claim directly against National if MBIA Corp. did not honor such claim.

*National Public Finance Guarantee Corporation ("National")*

National is an operating subsidiary of MBIA Inc., a New York Stock Exchange listed company. MBIA Inc. is not obligated to pay the debts of or claims against National. National is domiciled in the State of New York and is licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia and the Commonwealth of Puerto Rico.

The principal executive offices of National are located at 113 King Street, Armonk, New York 10504 and the main telephone number at that address is (914) 765-3333.

*Regulation*

As a financial guaranty insurance company licensed to do business in the State of New York, National is also subject to the New York Insurance Law which, among other things, prescribes minimum capital requirements and contingency reserves against liabilities for National, limits the classes and concentrations of investments that are made by National and requires the approval of policy rates and forms that are employed by National. State law also regulates the amount of both the aggregate and individual risks that may be insured by National, the payment of dividends by National, changes in control with respect to National and transactions among National and its affiliates.

The Policy is not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

*Financial Strength Ratings of National*

National's current financial strength ratings from the major rating agencies are summarized below:

| **Agency** | **Ratings** | **Outlook** |
|---|---|---|
| S&P | BBB | Developing |
| Moody's | Baa2 | Negative |

Each rating of National should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of National and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the Series 2016A Bonds, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the Series 2016A Bonds. National does not guaranty the market price of the Series 2016A Bonds nor does it guaranty that the ratings on the Series 2016A Bonds will not be revised or withdrawn.

*Recent Litigation*

In the normal course of operating its business, National may be involved in various legal proceedings. Additionally, MBIA Inc. may be involved in various legal proceedings that directly or indirectly impact National. For information concerning material litigation involving National and MBIA Inc., including but not limited to certain actions relating to the Transactions entitled Aurelius Capital Master, Ltd. et al. v. MBIA Inc. et al., ABN AMRO Bank N.V. et al. v. MBIA Inc. et al., ABN AMRO Bank N.V. et al. v. Eric Dinallo, in his capacity as Superintendent of the New York State Insurance Department, the New York State Insurance Department, MBIA Inc. et al., and Barclays Bank PLC., et al. v. James Wrynn , in his capacity as Superintendent of the New York State Insurance Department, the New York State Insurance Department, MBIA Inc. et al., see MBIA Inc.'s Annual Report on Form 10-K for the year ended December 31, 20[11], which is hereby incorporated by reference into this appendix and shall be deemed to be a part hereof, as well as the information posted on MBIA Inc.'s web site at http://www.mbia.com.

MBIA Inc. and National are defending against the aforementioned actions and expect ultimately to prevail on the merits. There is no assurance, however, that they will prevail in these actions. Adverse rulings in these actions could have a material adverse effect on National's ability to implement its strategy and on its business, results of operations and financial condition.

Other than as described above and referenced herein, there are no other material lawsuits pending or, to the knowledge of National, threatened, to which National is a party.

*National Financial Information*

Based upon statutory financials, as of December 31, 20[11], National had cash and admitted assets of $7.3 billion (unaudited), total liabilities of $6.4 billion (unaudited), and total surplus of $.9 billion (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

For further information concerning National, see the financial statements of MBIA Inc. and its subsidiaries as of December 31, 2011, prepared in accordance with generally accepted accounting principles, included in the Annual Report on Form 10-K of MBIA Inc. for the year ended December 31, 20[11], which are hereby incorporated by reference into this Official Statement and shall be deemed to be a part hereof.

*Incorporation of Certain Documents by Reference*

The following documents filed by MBIA Inc. with the Securities and Exchange Commission (the "SEC") are incorporated by reference into this Official Statement:

MBIA Inc.'s Annual Report on Form 10-K for the year ended December 31, 20[11];

Any documents, including any financial statements of National that are included therein or attached as exhibits thereto, or any Form 8-K, filed by MBIA Inc. pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of MBIA Inc.'s most recent Quarterly Report on Form 10-Q or Annual Report on Form 10-K, and prior to the termination of the offering of the Series 2016A Bonds offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof from the respective dates of filing such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this appendix, shall be deemed to be modified or superseded for purposes of this appendix to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this appendix.

MBIA Inc, files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of MBIA Inc.'s SEC filings (including MBIA Inc.'s Annual Report on Form 10-K for the year ended December 31, 20[11]) are available (i) over the Internet at the SEC's web site at http://www.sec.gov; (ii) at the SEC's public reference room in Washington D.C.; (iii) over the Internet at MBIA Inc.'s web site at http://www.mbia.com; and (iv) at no cost, upon request to National at its principal executive offices.

**Counties to Make Up Deficiencies**. In the Local Contract, each County covenants, upon receipt of written notice from the Trustee that the amount on deposit in the funds and accounts which serve as a debt service reserve for Authority Bonds is less than maximum annual debt service on Authority Bonds, to budget and appropriate from its general fund a Reserve Subject to Appropriation Payment in an amount equal to one-half the deficiency in such funds and accounts (the "Reserve Subject to Appropriation Payment"). However, each County's obligation to make Reserve Subject to Appropriation Payments is subject to and dependent upon appropriations being made from time to time by its Board of Supervisors for such purpose.

**The obligations of the Counties to make Reserve Subject to Appropriation Payments under the Local Contract do not constitute a debt of the Counties within the meaning of any constitutional or statutory limitation nor liability of or a lien or charge upon funds or property of the Counties beyond any Fiscal Year for which the Counties have appropriated moneys to make such payments. Neither the Trustee nor the Authority shall have any obligation or liability to the Owners with respect to the Counties' obligations to**

**make Reserve Subject to Appropriation Payments under the Local Contract or with respect to the performance by the Counties of any other covenant contained therein.**

**Revenue Stabilization Subfund**

As contemplated in the Fiscal Agent Agreement and in the District Contract, on or after April 2 of each year (after provision for the principal and interest payment due on the Bonds on April 1 and the makeup of any deficiency in the Reserve Subfund), the Trust Agreement provides that the Trustee will transfer to the Revenue Stabilization Subfund any remaining Special Tax Revenues transferred to the Trustee by the Fiscal Agent from the Revenue Fund under the Fiscal Agent Agreement until the balance in the Revenue Stabilization Subfund equals the Revenue Stabilization Subfund Requirement.

In the event that on the last Business Day of any March or September (a "Deposit Day") after the Trustee has deposited to the credit of the Debt Service Subfund the amounts transferred by the Fiscal Agent to the Trustee from the Revenue Subfund and, if necessary, the District Project Completion Fund, there remains a deficiency in the amount credited to the Debt Service Subfund and available to pay debt service due on the outstanding Bonds on the next April 1 or October 1, prior to making any withdrawal from the Reserve Subfund, the Trustee shall withdraw from the Revenue Stabilization Subfund the amount required, and if insufficient for the purpose the entire balance of the Revenue Stabilization Subfund, and transfer the amount so withdrawn to the Debt Service Subfund.

Except as provided in a Supplemental Trust Agreement and consistent with the provisions with respect to Excess Earnings in the Trust Agreement, if the amount of moneys held for the credit of the Revenue Stabilization Subfund shall exceed the Revenue Stabilization Subfund Requirement as then calculated, the Trustee shall transfer from the Revenue Stabilization Subfund the amount of such excess that does not consist of Excess Earnings to the Debt Service Subfund.

Upon issuance of the Series 2004 Bonds, the Revenue Stabilization Subfund Requirement converted from $8.5 million to MADS on all outstanding Bonds. Following the issuance of the Series 2016A Bonds, the Revenue Stabilization Subfund Requirement will be approximately [$19.3] million. The Counties currently estimate that on October 2, 2016, following payment of principal and interest, the Trustee will have approximately [$8.4] million in Special Tax Revenues available for deposit to the Revenue Stabilization Subfund, bringing the total on deposit in the Revenue Stabilization Subfund to [$19.3] million, with excess funds being transferred to the Project Completion Fund. Under the Trust Agreement, the Trustee will continue to deposit on April 2 of each year any Special Tax Revenues remaining after the provision for debt service on the outstanding Bonds due on April 1 of such year and the makeup of any deficiency in the Reserve Subfund to the credit of the Revenue Stabilization Fund until the amount to the credit thereof equals the Revenue Stabilization Fund Requirement.

**Future Financings**

**Additional Bonds.** Pursuant to the terms of the Amended and Restated Trust Agreement, following the issuance of the Series 2008 Bonds, the Authority may not issue any Additional Bonds to finance costs of the District Project. Upon an amendment to the Amended and Restated Trust Agreement to allow for the issuance of further Additional Bonds, the issue of such Additional Bonds would be contingent upon (1) a certificate stating that there will be no Event of Default upon the issuance of the Additional Bonds and that all approvals and conditions precedent to such issuance have been obtained or met, (2) written confirmation from each Rating Agency that rated the outstanding Bonds that the issuance of such Additional Bonds will not cause its rating on any Bonds outstanding to be lowered or withdrawn and (3) an amendment to the Local Contract and the District Contract, if necessary, that shall make the several obligations of the Counties to make up deficiencies in the Reserve Subfund applicable to such Additional Bonds. Any such Additional Bonds will be issued pursuant to supplemental agreements to the Trust Agreement and will be equally and ratably secured with the Bonds outstanding. In addition, the terms of the Local Contract and District Contract do not contemplate the issuance of any Additional Bonds.

**Refunding Bonds.** The Authority may, upon the request of the Counties, issue one or more series of refunding bonds, including the Series 2016 Bonds (the "Refunding Bonds"), under the Trust Agreement to refund Authority Bonds and Parity Indebtedness contingent upon satisfaction of the conditions, among others, described in clauses (1), (2) and (3) of the preceding paragraph. See "Future Financings - Additional Bonds". Such Refunding

Bonds will be issued pursuant to supplemental agreements to the Trust Agreement and will be equally and ratably secured with the Bonds outstanding.

**Parity Indebtedness.** The Authority may, upon the request of the Counties, incur one or more series of Parity Indebtedness under the Trust Agreement, in addition to Bonds, to pay all or any part of the remaining cost of the District Project not funded by Bonds or to refund Bonds or Parity Indebtedness. The incurrence of any such Parity Indebtedness is contingent only upon written confirmation from each Rating Agency that rated the outstanding Bonds that the incurrence of such Parity Indebtedness will not cause its rating on any Bonds and Parity Indebtedness outstanding to be lowered or withdrawn. Such Parity Indebtedness will be incurred pursuant to supplemental agreements to the Trust Agreement and will be equally and ratably secured with the Bonds outstanding as to their lien on the Debt Service Subfund and the Revenue Stabilization Subfund but will have no lien on the Reserve Subfund. If the Local Contract and the Fiscal Agent Agreement are appropriately amended and a separate debt service reserve is established for its benefit, Parity Indebtedness may have the benefit of the provisions of the Local Contract and the Fiscal Agent Agreement respecting the Counties' obligations to restore deficiencies in debt service reserves such as the Reserve Subfund.

## THE SERIES 2016 BONDS

### Description of Series 2016 Bonds

The Series 2016 Bonds will be issued as fully registered bonds in book-entry form, dated their date of delivery and will be issued in denominations of $5,000 and integral multiples thereof. The Series 2016 Bonds will bear interest from their date of delivery payable on each April 1 and October 1, beginning [October 1, 2016], at the rates and will mature on the dates set forth on the inside cover of this Official Statement. If any payment of the principal of or interest on, or redemption price of, the Series 2016 Bonds is due on a date that is not a Business Day, such payment will be made on the next succeeding Business Day, and no interest will accrue on the amount of such payment during the intervening period.

The Series 2016 Bonds are being issued pursuant to a resolution adopted by the Authority on June 21, 2016 and pursuant to the Trust Agreement. The Trustee is also the paying agent for the Series 2016 Bonds.

### Redemption of Series 2016 Bonds

*Optional Redemption.*

The Series 2016A Bonds maturing on or before April 1, 20__, are not subject to redemption prior to their stated date of maturity. The Series 2016A Bonds maturing on or after April 1, 20__ are subject to redemption at the option of the Authority, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 20__ at a Redemption Price equal to 100% of the principal amount of the Series 2016A Bonds to be redeemed plus interest accrued thereon to the Redemption Date.

The Series 2016B Bonds maturing on or before April 1, 20__, are not subject to redemption prior to their stated date of maturity. The Series 2016B Bonds maturing on or after April 1, 20__ are subject to redemption at the option of the Authority, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 20__ at a Redemption Price equal to 100% of the principal amount of the Series 2016B Bonds to be redeemed plus interest accrued thereon to the Redemption Date.

### Selection of Series 2016 Bonds for Redemption

The Series 2016 Bonds shall be redeemed only in the minimum denomination authorized by the Trust Agreement or in whole multiples of such minimum denomination. In selecting Series 2016 Bonds for redemption, the Trustee shall treat each Series 2016 Bond as representing the number of Series 2016 Bonds that is obtained by dividing the principal amount of such Series 2016 Bond by the minimum denomination authorized by the Trust Agreement. If less than all of the Series 2016 Bonds of a particular maturity of a Series shall be called for

redemption, the particular Series 2016 Bonds or portions of Series 2016 Bonds to be redeemed shall be selected by the Trustee by such method as the Trustee in its sole discretion shall determine.

**Notice of Redemption**

At least 30 but not more than 60 days before the redemption date of any Series 2016 Bonds, whether such redemption be in whole or in part, the Trustee shall cause a notice of any such redemption to be mailed, certified mail, return-receipt requested to all Owners owning Series 2016 Bonds to be redeemed in whole or in part, any defect in such notice or the failure to mail any such notice shall not affect the validity of the proceedings for the redemption of any other Series 2016 Bonds. Each such notice shall set forth the Series 2016 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 Series 2016 Bonds shall be called for redemption, the maturities of the Series 2016 Bonds to be redeemed and, if less than all of the Series 2016 Bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Series 2016 Bonds to be redeemed and, in the case of Series 2016 Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Series 2016 Bond is to be redeemed in part only, the notice of redemption shall also state that on or after the redemption date, upon surrender of such Series 2016 Bond, a new Series 2016 Bond in principal amount equal to the unredeemed portion of such Series 2016 Bond and of the same maturity will be issued.

Any notice of optional redemption of the Series 2016 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 if 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.

Such redemption notices shall also be filed with the Municipal Securities Rulemaking Board (the "MSRB") as the sole nationally recognized municipal securities repository through the MSRB's Electronic Municipal Market Access ("EMMA") system.

**Book-Entry Only System**

*The description which follows of the procedures and record keeping with respect to beneficial ownership interests in the Series 2016 Bonds, payments of principal, premium, if any, and interest on the Series 2016 Bonds to DTC, its nominee, Indirect or Direct Participants or Beneficial Owners (as defined herein), confirmation and transfer of beneficial ownership interest in the Series 2016 Bonds and other bond-related transactions by and between DTC, Indirect or Direct Participants and Beneficial Owners is based solely on information furnished by DTC and is not, and should not be construed as a representation by the Authority, the Trustee or Bond Counsel as to its accuracy, completeness or otherwise.*

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Series 2016 Bonds. The Series 2016 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2016 Bond certificate will be issued for each maturity of the Series 2016 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks,

trust companies, clearing corporations and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Series 2016 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2016 Bonds on DTC's records. The ownership interest of each actual purchaser of the Series 2016 Bonds ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2016 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive bond certificates representing their ownership interests in the Series 2016 Bonds, except in the event that use of the book-entry system for the Series 2016 Bonds is discontinued.

To facilitate subsequent transfers, the Series 2016 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2016 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2016 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2016 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2016 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2016 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2016 Bonds documents. For example, Beneficial Owners of Series 2016 Bonds may wish to ascertain that the nominee holding the Series 2016 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a single maturity of are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, redemption premium, if any, and interest payments on the Series 2016 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Bond Registrar on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Bond Registrar, or the Authority,

subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and interest on the Series 2016 Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC), is the responsibility of the Authority, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.

Neither the Authority nor the Trustee has any responsibility or obligation to the Direct or Indirect Participants or the Beneficial Owners with respect to (A) the accuracy of any records maintained by DTC or any Direct or Indirect Participant; (B) the payment by any Direct or Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of and premium, if any, and interest on the Series 2016 Bonds; (C) the delivery or timeliness of delivery by any Direct or Indirect Participant to any Beneficial Owner of any notice to be given to Series 2016 Bondholders; or (D) any other action taken by DTC, or its nominee, Cede & Co., as registered owner, including the effectiveness of any action taken pursuant to an Omnibus Proxy.

So long as Cede & Co. is the registered owner of the Series 2016 Bonds, as nominee of DTC, references in this Official Statement to the owners of the Series 2016 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners, and Cede & Co. will be treated as the only owner of Series 2016 Bonds for all purposes.

**Discontinuance of the Book-Entry Only System**

DTC may discontinue providing its services as securities depository with respect to the Series 2016 Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, definitive Series 2016 Bonds will be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Series 2016 Bond certificates will be printed and delivered to DTC.

**Summary of Trust Agreement**

For a more complete summary of the provisions of the Trust Agreement, including the funds and accounts established thereby, the investment of such funds, covenants and representations of the Authority, the priority of payments into and from such funds, events of defaults and remedies, the duties of the Trustee, amendments to the Trust Agreement and related agreements, and the satisfaction and discharge of the Trust Agreement, see **Appendix E** - "**SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT**."

*[Remainder of page intentionally left blank]*

## ANNUAL DEBT SERVICE PAYABLE FROM SPECIAL TAX REVENUES

The following tables show, for each Fiscal Year (ending June 30), the principal and interest on the Authority's Series 2016 Bonds and the debt service requirements for the 2002 State Bonds, the 2012 State Bonds, the Unrefunded Series 2008 Bond, the Series 2012 Bonds and the Series 2016 Bonds, respectively. On all such bonds, interest only is payable on October 1 of the calendar year preceding the Fiscal Year shown and principal and interest are payable on April 1 of the same calendar year as the indicated Fiscal Year.

**Annual Debt Service on the Series 2016 Bonds**

| Fiscal Year | Principal | Interest | Debt Service |
|---|---|---|---|
| 2017 | $ | $ | $ |
| 2018 | | | |
| 2019 | | | |
| 2020 | | | |
| 2021 | | | |
| 2022 | | | |
| 2023 | | | |
| 2024 | | | |
| 2025 | | | |
| 2026 | | | |
| 2027 | | | |
| 2028 | | | |
| 2029 | | | |
| 2030 | | | |
| 2031 | | | |
| 2032 | | | |
| 2033 | | | |
| 2034 | | | |
| 2035 | | | |
| 2036 | | | |
| 2037 | | | |
| Total: | $ | $ | $ |

**Total Annual Debt Service Payable from Special Tax Revenues***

**Authority Bonds**

| Fiscal Year | Debt Service on the 2002 State Bonds and the 2012 State Bonds | Debt Service on the Unrefunded Series 2008 Bond and the Series 2012 Bonds | Debt Service on the Series 2016 Bonds | Total Combined Debt Service on Authority Bonds | Total Debt Service |
|---|---|---|---|---|---|
| Total*: | | | | | |

* Totals may not add due to rounding.

## LITIGATION

There is no litigation of any nature against the Authority now pending or, to the knowledge of the Authority, threatened against the Authority which would (a) restrain or enjoin the issuance, sale, execution or delivery of the Series 2016 Bonds, or the application of proceeds of the Series 2016 Bonds as provided in the Trust Agreement or the collection of revenues pledged under the Trust Agreement, (b) in any way contest or affect the validity of the Series 2016 Bonds or the validity of the Trust Agreement, the Fiscal Agent Agreement, the Local Contract or the District Contract, or (c) in any way contest the creation, existence, powers or authority of the Authority.

There is no litigation pending against the Counties or, to the best of the knowledge of the Counties, threatened against the Counties which would (a) materially adversely affect the Counties' financial positions, (b) restrain or enjoin the issuance, sale or delivery of the Series 2016 Bonds, or the application of proceeds of the Series 2016 Bonds as provided in the Trust Agreement or the collection of revenues pledged under the Trust Agreement, (c) in any way contest or affect any authority for the issuance or validity of the Series 2016 Bonds or the validity of the Trust Agreement, the Fiscal Agent Agreement, the Local Contract or the District Contract, or (d) in any way contest the creation, existence, powers or authority of the Counties.

## CERTAIN LEGAL MATTERS

All legal matters incident to the authorization, issuance, sale and delivery of the Series 2016 Bonds are subject to the approval of Sidley Austin LLP, Washington, D.C., Bond Counsel, whose approving opinion in substantially the form attached hereto as Appendix F will be delivered with such Series 2016 Bonds. Certain legal matters will be passed upon for the Authority by its counsel, Thomas O. Lawson, Esq., P.L.C., Fairfax, Virginia; for Fairfax County, Virginia by its County Attorney and for Loudoun County, Virginia by its County Attorney. Certain legal matters will be passed upon for the Commission by its counsel, the County Attorneys for Fairfax County and Loudoun County. Nixon Peabody LLP, Washington, D.C., Disclosure Counsel, will pass on certain matters with respect to this Official Statement.

## TAX MATTERS

**[TO BE UPDATED BY SA]**

### Opinion of Bond Counsel

In the opinion of Sidley Austin LLP, Bond Counsel assuming compliance by the Authority, the Transportation Board, VDOT and the Counties, with their respective covenants to comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code") and subject to the provisions of this section, interest on the Series 2016 Bonds is not includable in gross income of the owners of the Series 2016 Bonds for federal income tax purposes under current law. Interest on the Series 2016 Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Series 2016 Bonds in the event of a failure by the Authority, the Transportation Board, VDOT, or the Counties to comply with applicable requirements of the Code and their respective covenants regarding use, expenditure, and investment of the proceeds of the Series 2016 Bonds and timely payment of certain investment earnings to the United States Treasury; and no opinion is rendered by Bond Counsel as to the effect on the exclusion from gross income of the interest on the Series 2016 Bonds for federal income tax purposes of any action taken or not taken without the approval of Bond Counsel or upon the advice or approval of counsel other than Bond Counsel. **If interest paid on the Series 2016 Bonds is from a source other than the Special Tax Revenues or appropriations from the Counties' general funds, such interest may not be excludable from gross income for Federal income tax purposes.**

Interest on the Series 2016 Bonds will not be an item of tax preference for purposes of the federal individual or corporate alternative minimum tax under the Code but will be included in the computation of the alternative minimum tax on corporations imposed by the Code. The Code contains other provisions (some of which are noted below) that could result in tax consequences, as to which no opinion will be rendered by Bond Counsel, as

a result of ownership of the Series 2016 Bonds or the inclusion in certain computations (including without limitation those related to the corporate alternative minimum tax) of interest that is excluded from gross income.

**Original Issue Discount**

The excess, if any, of the amount payable at maturity of any maturity of the Series 2016 Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of any maturity of the Series 2016 Bonds with original issue discount (a "Discount Bond") will be excluded from gross income for federal income tax purposes to the same extent as interest on the Series 2016 Bonds. In general, the issue price of a maturity of the Series 2016 Bonds is the first price at which a substantial amount of Series 2016 Bonds of that maturity was sold (excluding sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers) and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser's adjusted basis in a Discount Bond is to be increased by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bonds for federal income tax purposes.

A portion of the original issue discount that accrues in each year to an owner of a Discount Bond which is a corporation will be included in the calculation of the corporation's federal alternative minimum tax liability. In addition, original issue discount that accrues in each year to an owner of a Discount Bond is included in the calculation of the distribution requirements of certain regulated investment companies and may result in some of the collateral federal income tax consequences discussed herein. Consequently, an owner of a Discount Bond should be aware that the accrual of original issue discount in each year may result in an alternative minimum tax liability, additional distribution requirements or other collateral federal income tax consequences although the owner of such Discount Bond has not received cash attributable to such original issue discount in such year.

The accrual of original issue discount and its effect on the redemption, sale, or other disposition of a Discount Bond that is not purchased in the initial offering at the first price at which a substantial amount of such Series 2016 Bonds is sold to the public may be determined according to rules that differ from those described above. An owner of a Discount Bond should consult his tax advisors with respect to the determination for federal income tax purposes of the amount of original issue discount with respect to such Discount Bond and with respect to state and local tax consequences of owning and disposing of such Discount Bond.

**Bond Premium**

The excess, if any, of the tax basis of Series 2016 Bonds purchased as part of the initial public offering to a purchaser (other than a purchaser who holds such Bonds as inventory, stock in trade, or for sale to customers in the ordinary course of business) over the amount payable at maturity is "Bond Premium." Bond Premium is amortized over the term of such Series 2016 Bonds for federal income tax purposes (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). No deduction is allowed for such amortization of Bond Premium; however, Bond Premium is treated as an offset to qualified stated interest received on the Series 2016 Bonds. An owner of such Series 2016 Bonds is required to decrease his adjusted basis in such Series 2016 Bonds by the amount of amortizable Bond Premium attributable to each taxable year such Bonds are held. An owner of such Series 2016 Bonds should consult his tax advisors with respect to the precise determination for federal income tax purposes of the treatment of Bond Premium upon sale, redemption or other disposition of such Series 2016 Bonds and with respect to Commonwealth of Virginia and local income tax consequences of owning and disposing of such Series 2016 Bonds.

**Backup Withholding**

Interest paid on the Series 2016 Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. While this reporting requirement does not, in and of itself, affect the excludability of interest on the Series 2016 Bonds from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Series 2016 Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (a) are not "exempt recipients," and (b) either fail to provide certain identifying

information (such as the beneficial owner's taxpayer identification number) in the required manner or have been identified by the Internal Revenue Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients, whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner's federal income tax liability provided the required information is furnished to the Internal Revenue Service.

**Other Tax Consequences**

Under the Enabling Act, the income, including any profit made on the sale thereof, from the Series 2016 Bonds shall be exempt from all taxation by the Commonwealth or any political subdivision thereof.

The Code contains other provisions (some of which are noted below) that could result in tax consequences, upon which Bond Counsel expresses no opinion, as a result of ownership of the Series 2016 Bonds or the inclusion in certain computations of interest on the Series 2016 Bonds that it excluded from gross income for purposes of federal income taxation.

PROSPECTIVE PURCHASERS OF THE BONDS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE APPLICABILITY AND IMPACT OF ANY SUCH COLLATERAL TAX CONSEQUENCES.

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S Corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit.

**Future Tax Developments**

Future or pending legislative proposals, if enacted, regulations, rulings or court decisions may cause interest on the Series 2016 Bonds to be subject, directly or indirectly, to federal income taxation or to State or local income taxation, or may otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. Legislation or regulatory actions and future or pending proposals may also affect the economic value of the federal or state tax exemption or the market value of the Series 2016 Bonds. Prospective purchasers of the Series 2016 Bonds should consult their tax advisors regarding any future, pending or proposed federal or State tax legislation, regulations, rulings or litigation as to which Bond Counsel expresses no opinion.

## SALE AT COMPETITIVE BIDDING

The Series 2016 Bonds will be offered for sale at competitive bidding on a date determined pursuant to the provisions of a Notice of Sale. See Appendix G hereto. After the Series 2016 Bonds have been awarded, the Authority will issue an Official Statement in final form to be dated the date of the award. The Authority will deem the Official Statement in final form as of its date, and the Official Statement in final form will be a "Final Official Statement" within the meaning of Rule 15c2-12 of the Securities and Exchange Commission. The Official Statement in final form will include, among other matters, the identity of the winning bidder (the "Underwriter"), the expected selling compensation to the Underwriter and other information on the interest rates and offering prices or yields of the Series 2016 Bonds, all as supplied by the Underwriter.

## CONTINUING DISCLOSURE

The Authority has determined that no financial or operating data concerning the Authority is material to any decision to purchase, hold or sell the Series 2016 Bonds, and the Authority will not provide any such information. The Counties have undertaken all responsibilities for continuing disclosure for the benefit of the Owners, and the Authority shall have no liability to the Owners or any other person with respect to such disclosures.

The Counties will enter into a Continuing Disclosure Agreement, dated as of August 1, 2016 (the "Continuing Disclosure Agreement") for the Owners, to provide or cause to be provided, in accordance with the requirements of Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"), (a) on an annual basis, certain financial and operating information and (b) timely notice of the occurrence of certain material events with respect to the Series 2016 Bonds.

Fairfax County has complied with its previous undertakings with regard to the amended Rule 15c2-12 within the last five years. **[CONFIRM]**

With respect to Loudoun County, there have been instances in the previous five years in which the filings were not made within the required time period. Specifically, the annual report for the Fiscal Year ended June 30, 2009 was filed on February 4, 2010, the annual report for the Fiscal Year ended June 30, 2010 was filed on January 5, 2011 and the annual report for the Fiscal Year ended June 30, 2014 was filed on January 8, 2015. Under the terms of its continuing disclosure agreements for its general obligation bonds, Loudoun County's annual report is required to be filed within 180 days following the end of the fiscal year, December 27th. For Loudoun County's annual report for Fiscal Year ended June 30, 2013, the report was not linked to the CUSIP numbers for Loudoun County's General Obligation Public Improvement Bonds, Series 2013C (the "2013C Bonds") on EMMA. Loudoun County has since amended that filing by associating the appropriate CUSIP numbers for the 2013C Bonds.

Loudoun County inadvertently filed its 2009 and 2010 information with the previously designated depositories and not through the MSRB's EMMA system. Additionally, while Loudoun County prepared information required by its continuing disclosure agreements related to its other bond issues, such filings did not indicate that they were related to the annual filings required under its other continuing disclosure agreements. Loudoun County has undertaken to supplement its prior filings on EMMA, where necessary, and to post on EMMA a notice summarizing the instances of noncompliance described above.

Loudoun County has been deemed an "obligated person" (as defined by the Rule) with respect to certain series of Lease Revenue Bonds issued by the Authority (the "IDA Bonds") and certain series of Transportation Contract Revenue Bonds (Route 28 Project) issued by the Authority (the "Fairfax EDA Bonds"). With respect to its continuing disclosure agreements for such bonds, there have been instances during the previous five years in which Loudoun County's annual report was either not made by Loudoun County within the required time period, was inadvertently filed with the previously designated repositories or was not properly filed under the IDA Bonds or the Fairfax EDA Bonds at the time Loudoun County filed its annual report for its general obligation bonds. The delays in filing range from several months to several years. In addition, Loudoun County failed to file a material event notice of a ratings downgrade on certain IDA Bonds occasioned by a downgrade of the bond insurer and failed in certain years to include a particular table of operating data in its annual report for the Fairfax EDA Bonds.

Loudoun County is now current on all of its filings and has instituted procedures to ensure the timely and complete filing of such information in the future.

Any failure by the Counties to perform their respective obligations under the Continuing Disclosure Agreement shall not constitute an Event of Default under the Trust Agreement or the Series 2016 Bonds; rather, the right to enforce the provisions of the Continuing Disclosure Agreement is limited to the right to compel performance. The obligation of the Underwriter to purchase the Series 2016 Bonds shall be conditioned upon receipt, at or prior to the delivery of the Series 2016 Bonds, of executed copies of the Continuing Disclosure Agreement. For the form of the Continuing Disclosure Agreement, see Appendix C.

## RATINGS

Moody's Investors Service, Inc. ("Moody's"), and Standard & Poor's Rating Services, a division of McGraw-Hill Company Inc. ("S&P"), have assigned to the Series 2016 Bonds ratings of "___" and "___", respectively, to the Series 2016 Bonds. An explanation of the significance of each rating may be obtained from the appropriate rating agency.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The Counties have furnished information to the Rating Agencies, including information not contained in this Official Statement. There is no assurance that a rating on the Series 2016 Bonds will continue for any given period of time or that such rating will not be revised downward or withdrawn entirely by the rating agency if in its judgment circumstances so warrant. Any downward revision or withdrawal of any such rating could have an adverse effect on the market price of the Series 2016 Bonds. Such ratings should not be taken as a recommendation to buy or hold the Series 2016 Bonds.

## VERIFICATION OF MATHEMATICAL COMPUTATIONS

[Robert Thomas CPA, LLC], a firm of independent certified public accountants, will deliver to the Authority on or before the settlement date of the Series 2016 Bonds, its report indicating that it has examined, in accordance with standards established by the American Institute of Certified Public Accountants, the information provided by the Authority and its representatives. Included in the scope of its examination will be a verification of the mathematical accuracy of (i) the mathematical computations of the adequacy of the cash and the maturing principal of and interest on, the investment securities deposited pursuant to the Escrow Agreement to pay, when due, the maturing principal of, interest on and related call premium requirements of the Refunded Bonds; and (ii) the mathematical computations supporting the conclusion of Bond Counsel that the interest on the Series 2016 Bonds is excluded from gross income under the Code.

## MISCELLANEOUS

### Financial Advisors

Public Financial Management, Inc., Arlington, Virginia, and Davenport & Company LLC, Richmond, Virginia (collectively, the "Financial Advisors"), are serving as financial advisors to Fairfax County and Loudoun County, respectively. The Financial Advisors have assisted in the preparation of this Official Statement and in matters relating to the planning, structuring and issuance of the Series 2016 Bonds and have provided other advice to their clients.

The Commission or the Counties may engage the Financial Advisors to perform other services, including without limitation, providing certain investment services with regard to the investment of Series 2016 Bond proceeds.

### Related Parties

Sidley Austin LLP, Washington, D.C., is acting as Bond Counsel to the Authority and regularly serves as bond counsel to Fairfax County. Nixon Peabody LLP, Washington, D.C., is acting as Disclosure Counsel and regularly serves as bond counsel to Loudoun County. The Authority, the Commission, the Counties and the Trustee have consented to Sidley Austin LLP and Nixon Peabody LLP acting in such capacities.

### Official Statement Certification

This Official Statement includes brief summaries of certain provisions of the Trust Agreement, the District Contract, the Local Contract, the Fiscal Agent Agreement, the Series 2016 Bonds and other materials. Such summaries do not purport to be complete and for full and complete statements of such provisions, reference is made to such instruments, documents and other materials, copies of which may be obtained from the Trustee.

Any statements made in this Official Statement involving matters of opinion, whether or not expressly so stated, are set forth as such and not as representation of fact.

The preparation of this Official Statement and its distribution have been authorized by the Authority. This Official Statement is not to be construed as an agreement or contract between the Authority and any purchaser or owner of any Series 2016 Bond.

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

_____

Title: Chairman

# APPENDIX A-1

## DEMOGRAPHIC AND OTHER ECONOMIC INFORMATION FOR FAIRFAX COUNTY, VIRGINIA

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Attachment 4

**APPENDIX A-2**

**FAIRFAX COUNTY, VIRGINIA**

**FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2015**

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# APPENDIX B-1

## DEMOGRAPHIC AND OTHER ECONOMIC INFORMATION FOR LOUDOUN COUNTY, VIRGINIA

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Attachment 4

**APPENDIX B-2**

**LOUDOUN COUNTY, VIRGINIA**

**FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2015**

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# APPENDIX C

## FORM OF CONTINUING DISCLOSURE AGREEMENT

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**FORM OF CONTINUING DISCLOSURE AGREEMENT**

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by Fairfax County, Virginia ("Fairfax County") and Loudoun County, Virginia ("Loudoun County;" Fairfax County and Loudoun County each a "County" and together the "Counties") in connection with the issuance by the Fairfax Economic Development Authority (the "Authority") of its $_____ Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A and $_____ Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B (collectively, the "Series 2016 Bonds") pursuant to the provisions of a resolution (the "Authorizing Resolution") adopted by the Authority on June 21, 2016 and under an Amended and Restated Trust Agreement, dated as of November 1, 2006, as previously supplemented, and as supplemented by a Sixth Supplemental Trust Agreement dated as of August 1, 2016 (the "Trust Agreement"), between the Authority and U.S. Bank, National Association, as trustee (the "Trustee").

The Counties hereby covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Counties for the benefit of the holders of the Series 2016 Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). The Counties acknowledge that they are undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement as set forth in this Disclosure Agreement.

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

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

"Dissemination Agent" shall mean the Counties, or either of them, acting as Dissemination Agent under this Disclosure Agreement or any successor Dissemination Agent designated in writing by the Counties and which has filed with the Authority and both Counties a written acceptance of such designation.

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

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

"Holder" or "holder" shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of a Series 2016 Bond.

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

- principal and interest payment delinquencies
- non-payment related defaults; if material
- unscheduled draws on debt service reserves reflecting financial difficulties
- unscheduled draws on credit enhancements reflecting financial difficulties

- substitution of credit or liquidity providers, or their failure to perform
- adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2016 Bonds, or other material events affecting the tax-exempt status of the Series 2016 Bonds
- modifications to rights of holders (including Beneficial Owners), if material
- bond calls, if material, and tender offers
- defeasances
- release, substitution, or sale of property securing repayment of the Series 2016 Bonds, if material
- rating changes
- bankruptcy, insolvency, receivership or similar events
- the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions other than pursuant to its terms, if material
- appointment of a successor or additional trustee or the change of name of a trustee, if material

"Official Statement" shall mean the Official Statement of the Authority with respect to the Series 2016 Bonds.

"Participating Underwriter" shall mean any of the original underwriters of the Series 2016 Bonds required to comply with the Rule in connection with the offering of such Series 2016 Bonds.

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

"State" shall mean the Commonwealth of Virginia.

"State Repository" shall mean any public or private depository or entity designated by the State as a state depository for the purpose of the Rule. As of the date of this Agreement, there is no State Repository.

SECTION 3. Provision of Annual Reports.

(a) The Counties shall, or shall cause the Dissemination Agent to, provide the Municipal Securities Rulemaking Board ("MSRB") via the Electronic Municipal Market Access system for municipal securities disclosure or any other single dissemination agent or conduit required, designated or permitted by the SEC ("EMMA"), an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date or dates (the "Filing Date") that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year ended June 30, 2016). Not later than ten (10) days prior to the Filing Date, the Counties shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement and (iii) shall include the Counties' audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the Counties must be submitted, if and when available, together with or separately from the Annual Report.

(b) The annual financial statements of the Counties shall be prepared on the basis of generally accepted accounting principles and will be audited. Each County assumes the responsibility to file copies of its audited annual financial statements, which may be filed separately from the Annual Report, with the Repositories when such statements become publicly available.

(c) If the Counties fail to provide an Annual Report to the MSRB through EMMA by the date required in subsection (a) hereto, Fairfax County shall, or if either County fails to file its audited annual financial statements with the MSRB through EMMA when they become publicly available, the County failing to file timely its audited financial statements shall, send a notice to the MSRB and any State Repository in substantially the form attached hereto as Exhibit A.

SECTION 4. Content of Annual Reports. (a) With respect to Fairfax County, Fairfax County will include in each Annual Report required to be filed hereunder or incorporate by reference, at a minimum, the following: (i) audited financial statements of Fairfax County; (ii) operating data updating information in Exhibit A-1 to the Official Statement for the Series 2016 Bonds as described in Schedule 1 hereto, and (iii) updates of the information that relates to Fairfax County under the heading "THE DISTRICT—District Tax Base Data," all with a view toward assisting Participating Underwriters in complying with the Rule.

(b) With respect to Loudoun County, each Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, the following: (i) audited financial statements of Loudoun County; (ii) updates of the information in Exhibit B-1 to the Official Statement for the Series 2016 Bonds as described in Schedule 1 hereto, and (iii) updates of the information that relates to Loudoun County under the heading "THE DISTRICT—District Tax Base Data", all with a view toward assisting Participating Underwriters in complying with the Rule.

(c) As between the two Counties, Fairfax County accepts responsibility for filing that portion of the Annual Report described in clauses (a)(iii) and (b)(iii) of this section and for preparation of the appropriate tables to update the information that relates to Loudoun County under the heading "THE DISTRICT—District Tax Base Data," and to that end, Loudoun County agrees to furnish to Fairfax County no later than February 15 of each year the relevant information concerning Loudoun County necessary for Fairfax to update such tables.

(d) Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which a County is an "obligated person" (within the meaning of the Rule), which have been filed with the MSRB or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Counties shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Listed Events. Fairfax County will provide in a timely manner to the MSRB through EMMA and to each State Repository, if any, notice of any of the Listed Events. Loudoun County will assist Fairfax County in this regard by notifying Fairfax County of any such event of which Loudoun County has notice.

SECTION 6. Termination of Reporting Obligation. The Counties' obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of all the Series 2016 Bonds.

SECTION 7. Amendment. Notwithstanding any other provision of this Disclosure Agreement, this Disclosure Agreement may be amended, or any provision hereof may be waived, by written agreement of the parties, if such amendment is supported by an opinion of independent counsel with expertise in federal securities laws to the effect that such amendment is permitted or required by the Rule.

SECTION 8. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Counties from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement.

If the Counties choose to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the Counties shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 9. Default. Any person referred to in Section 10 (other than the Counties) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Counties to file their Annual Reports or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Series 2016 Bonds outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the Counties hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Authorizing Resolution, the Trust Agreement or the Series 2016 Bonds of the Authority, and the sole remedy under this Disclosure Agreement in the event of any failure of the Counties to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 10. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Counties, the Participating Underwriters, and holders from time to time of the Series 2016 Bonds, and shall create no rights in any other person or entity.

Date: _____, 2016

FAIRFAX COUNTY, VIRGINIA

By: _____
Authorized Representative

LOUDOUN COUNTY, VIRGINIA

By: _____
Authorized Representative

**SCHEDULE 1**

**CONTENT OF ANNUAL REPORT**

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

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

(c) **Demographic Information**. Updated demographic information respecting the County such as its population.

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

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

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

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

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT), SERIES 2016A**

**and**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT), SERIES 2016B**

**CUSIP NOS.**

Dated: _____ __, ____

NOTICE IS HEREBY GIVEN that _____ County, Virginia has not provided an Annual Report as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds, the proceeds of which were used to refinance bonds that were issued to fund a portion of the costs of construction of certain improvements to State Route 28 in Fairfax County, Virginia and Loudoun County, Virginia. The Counties anticipate that the Annual Report will be filed by _____.

_____ COUNTY, VIRGINIA

By: _____

# APPENDIX D

## DEFINITIONS OF CERTAIN TERMS

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## DEFINITIONS OF CERTAIN TERMS

The following are definitions of certain terms used in the Trust Agreement and not otherwise defined in this Official Statement:

**"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.

**"Additional Bonds"** means Transportation Contract Revenue Bonds authorized pursuant to the provisions described in Appendix E "Summary of Certain Provisions of the Trust Agreement".

**"Annual Authority Share"** means the Authority Proportion multiplied by the total amount of Special Tax Revenues available in a particular Fiscal Year to pay the Combined Debt Service for that Fiscal Year, but not more than the total annual debt service scheduled to become due in that Fiscal Year on all outstanding Authority Bonds.

**"Annual Board Share"** means the Board Proportion multiplied by the amount of Special Tax Revenues available in a particular Fiscal Year to pay the Combined Debt Service for that Fiscal Year, but not more than the total annual debt service scheduled to become due in that Fiscal Year on all outstanding State Bonds of 2002.

**"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.

**"Authority Bonds"** or **"Bonds"** means (i) the initial bonds in the approximate aggregate amount of $90,000,000 that may be issued by the Authority in accordance with the District Contract in connection with the financing of the Phase II Project Improvements, (ii) Additional Bonds in an aggregate amount estimated to provide proceeds for the District Project of $86.1 million and (iii) Refunding Bonds.

**"Authority Liabilities"** means all expenses and obligations of the Authority under the 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 Proportion"** means the aggregate annual debt service obligation on all outstanding Authority Bonds scheduled to become due and payable in a particular Fiscal Year divided by the Combined Debt Service for that Fiscal Year.

**"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"** or **"Transportation Board"** means the Commonwealth Transportation Board, and its successors and assigns.

**"Board Proportion"** means the aggregate annual debt service obligation scheduled to become due and payable on all outstanding State Bonds of 2002 in a particular Fiscal Year divided by the Combined Debt Service for that Fiscal Year.

**"Board Representative"** means the Chairman, the Vice-Chairman or the Secretary of the Board or any other person as may be designated to act on behalf of the Board by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Board by its Chairman or Vice-Chairman.

**"Bond Counsel"** means any attorney or firm of attorneys, selected by the Authority or the Board, 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 the 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 April of any calendar year ending on the last day of March of the following calendar year or such other annual period commencing and ending on the dates specified in a Supplemental Trust Agreement.

"**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.

**"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.

**"Combined Debt Service"** means the aggregate annual debt service obligation on all outstanding Authority Bonds and the outstanding State Bonds of 2002 scheduled to become due and payable in any particular Fiscal Year.

**"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, Fiscal 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 the District Project"** means the following (provided, however, that if such costs are to be paid out of the proceeds of Tax-Exempt Bonds, "Costs of the District Project" shall include only those costs permitted by the Code and which are in compliance with the Trust Agreement) related to the District Project:

(a) all amounts payable under the Design-Build Contract (as defined in the Board's master indenture) and all other contractors' fees and charges, the cost of labor, services, materials and supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) 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, 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, the amount of any incidental or consequent damages and the amount of any legal costs associated with such acquisition;

(c) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), traffic revenue studies, fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(d) the Virginia Department of Transportation's costs of services described in Section 4.5.1 of the Comprehensive Agreement (as defined in the Board's master indenture);

(e) premiums of all insurance and payment, performance and other bonds required to be obtained and maintained under the Design-Build Contract or pursuant to laws, ordinances and regulations, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims; and

(f) all federal, state and local taxes and payments in lieu of taxes legally required.

Notwithstanding the foregoing, Costs of the District Project shall not include any interest on debt or repayment of principal in respect of debt, returns on or of capital. Costs of the District Project shall be reduced by an amount equal to the sum of (i) the aggregate amount of grants of cash and (ii) the costs of goods and/or services in kind provided to the developer and used by the developer to pay Costs of the District Project and which the developer has no legal obligation to repay. Costs of the District Project also shall be reduced by the amount of any insurance proceeds, judgments and awards, including but not limited to condemnation awards, the developer receives on account of or in connection with previously incurred Costs of the District Project.

**"Counties"** means, collectively, the Counties of Fairfax and Loudoun, Virginia.

**"County Executive"** means either the County Executive of Fairfax County, Virginia or the County Administrator of Loudoun County, Virginia, or any person succeeding to the principal functions thereof.

**"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.

**"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 and the Revenue Stabilization 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.

**"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 March and September (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.

**"District"** means the State Route 28 Highway Transportation Improvement District created by Fairfax and Loudoun Counties pursuant to the District Act.

**"District Act"** means the Primary Highway Transportation Improvement in Multi-County Areas Act, being Virginia Code § 15.1-1372 et seq., as restated and amended as Virginia Code § 15.2-4600 et seq., as amended, pursuant to which Fairfax and Loudoun Counties established the District.

**"District Project"** means the Phase I Transportation Improvements and those certain Phase II Transportation Improvements that are more particularly described in the District Contract and all other work product which may be provided by the contractor in connection therewith.

**"District Project Completion Fund"** means the Fund of that name created in accordance with the District Contract and held by the Fiscal Agent.

**"Event of Default"** means with respect to the Trust Agreement any of those events set forth in Appendix E "Summary of Certain Provisions of the Trust Agreement" in the first paragraph under the heading "Defaults and Remedies."

**"Excess Earnings"** means the amount, if any, of net investment income to the credit of any Subfund but only to the extent, except in the case of the Revenue Stabilization Subfund, that such amount is in excess of the amount required at the time to be to the credit of each Subfund.

**"Excess Revenues"** means the amount, if any, of Special Tax Revenues available in any Fiscal Year in excess of the sum of the Combined Debt Service.

**"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 Commission, the Counties, the Board 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 Authority in its stead.

**"Fund"** means the Route 28 Project Fund established by the Trust Agreement.

**"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 the District Project and payable from the Trust Estate.

**"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.

**"Insurer Default"** means, with respect to a Series of Bonds for which a financial guaranty or similar insurance policy is issued, any of the following: (a) there shall occur a default by the Insurer in the payment of principal of or any interest on any Bond of such Series when required to be made by its financial guaranty or similar insurance policy, (b) such policy shall have been declared null and void or unenforceable in a final determination by a court of law of competent jurisdiction or (c) the Insurer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law or shall consent to the appointment of or taking possession by a receiver,

liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of such Insurer or for any substantial part of its property, or shall make a general assignment for the benefit of its creditors.

**"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 the 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 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 and the Revenue Stabilization 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, and (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.

**"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 Commission, the Counties or either of them, or the Trustee.

**"Parity Indebtedness"** means any Indebtedness incurred in accordance with the provisions of the Trust Agreement and payable on a parity with the Principal and Interest Requirements of Bonds issued under the provisions of the Trust Agreement. Parity Indebtedness does not include Bonds.

**"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.

**"Phase I Transportation Improvements"** means initial modifications to State Route 28, including six (6) lanes with a twenty-six foot median from Interstate 66 in Fairfax County to Route 7 in Loudoun County and three (3) grade-separated interchanges at Route 50, Dulles Airport Access Toll Road and Route 7.

**"Phase II Transportation Improvements"** means additional modifications to State Route 28, including the construction of ten (10) interchanges and two (2) additional lanes for Route 28 between its intersection with Route 50 in Fairfax County and its intersection with Sterling Boulevard in Loudoun County.

**"[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 the 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 Board Year in equal amounts to but not including the applicable Principal Payment Date.

**"Proportionately"** means pro rata based on the relative sizes of the Authority Proportion and the Board Proportion for a particular Fiscal Year, each compared to the sum of the Authority Proportion and the Board Proportion for the same Fiscal Year.

**"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 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 Code.

**"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 the Trust Agreement.

**"Refunding Bonds"** means all Authority 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 the Trust Agreement.

**"Reserve Subfund"** means the Route 28 Debt Service Reserve Subfund created and so designated by Section 501 of the Trust Agreement.

**"Reserve Subfund Requirement"** as to Bonds, means as of any date of calculation, an amount of cash, securities or Reserve Subfund Surety Bond, 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 the Trust Agreement, the Reserve Subfund Requirement shall be MADS for any Fiscal Year subsequent to the Fiscal Year ending June 30, 2004 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.

**"Reserve Subfund Surety Bond"** 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 Surety Bond 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 Surety Bond 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).

**"Revenue Fund"** means the fund of that name created in accordance with the District Contract and held by the Fiscal Agent.

**"Revenue Stabilization Subfund Requirement"** means the amount required or permitted to be on deposit in the Revenue Stabilization Subfund, as determined in accordance with the District Contract.

**"Revenues"** means the Annual Authority Share paid or to be paid to the Authority by the Commission under the District Contract and any such other revenues as provided in the Trust Agreement.

**"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 the Trust Agreement.

**"Special Improvements Tax"** means a special improvements tax levied and collected not less frequently than annually on taxable real estate zoned for commercial or industrial use or used for such purposes and taxable leasehold interests zoned for commercial or industrial use or used for such purposes located within the District.

**"Special Tax Revenues"** means the revenues collected from the levy of the Special Improvements Tax and the collection of the payments ("Lump Sum Payments") provided for in the First District Act Amendment and calculated under the formula set forth in the District Contract.

**"State Bonds of 2002"** means the $120,643,667.45 Transportation Contract Revenue and Revenue Refunding Bonds (Route 28 Project), Series 2002 issued by the Board on September 26, 2002 and any bonds issued to refund such bonds.

**"Subfund"** or **"Subfunds"** means any one or more, as the case may be, of the separate special subfunds established by the Trust Agreement or by any Supplemental Trust Agreement.

**"Supplemental Trust Agreement"** means an amendment or supplement, executed by the Authority and the Trustee, to the Trust Agreement, and in conformity with the provisions of the Trust Agreement, 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 with the Trust Agreement including any amendments and supplements thereto permitted hereby and any other such agreement permitted by the Trust 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.

**"Transportation Improvements"** means the Phase I Transportation Improvements and Phase II Transportation Improvements.

**"Trust Agreement"** means the 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 the Trust Agreement and the fees and expenses of any paying agent and the Bond Registrar such fees and expenses will be approved in writing by an Authority Representative.

"**Trust Estate**" means,

(a) the items enumerated in clauses (a), (b), (c) and (d) in Appendix E–"Summary of Certain Provisions of the Trust Agreement" under the heading "Granting Clause"; and

(b) proceeds of the foregoing.

# APPENDIX E

## SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

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## SUMMARY OF CERTAIN PROVISIONS OF THE TRUST AGREEMENT

The following is a summary of certain provisions of the Trust Agreement. Reference is made to the respective sections in the Trust Agreement for a complete recital of the terms thereof.

**Granting Clause**

The Authority (a) assigns all rights, title and interest of the Authority in and to the District Contract, including, without limitation, its rights to receive Special Tax Revenues (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), (b) assigns all rights, title and interest of the Authority in and to the Local Contract derived through its rights under the District Contract including without limitation, its rights to receive payments by the Counties pursuant to the Local Contract, (c) assigns all rights, title and interest of the Authority as a third party beneficiary of the Fiscal Agent Agreement, including without limitation, its rights to receive payments from the Revenue Fund and transfers from the District Project Completion Fund, reserving, however, the rights of the Authority thereunder to receive notices, reports and other statements to be given to the Authority thereunder, and (d) pledges the payments received pursuant to the District Contract and Fiscal Agent Agreement, all moneys and securities (other than Excess Earnings) in the Debt Service Subfund, Reserve Subfund and Revenue Stabilization Subfund and, until applied in payment of any cost of the District Project or otherwise applied as permitted under the Trust Agreement, all moneys and securities (other than Excess Earnings) in the Construction Subfund to the Trustee, and unto its successors and assigns, in trust, forever.

**Additional Bonds (Section 209)**

Additional Series of Bonds may be issued for the purpose of providing funds, with any other available funds, for paying all or any portion of the remaining unpaid Costs of the District Project not funded by Initial Bonds. Before Additional Bonds of any Series will be issued under the provisions described under this subcaption, the Authority will enter into a Supplemental Trust Agreement authorizing the issuance of such Bonds, fixing the amount and the details thereof and the purpose thereof. Except as to any Credit Facility or insurance policy in respect of the Additional Bonds or any Reserve Subfund Surety Bond 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, Revenue Stabilization Subfund or Debt Service Subfund, such Series of Additional Bonds will be on a parity with and will be entitled to the same benefit and security of the Trust Agreement as all other Bonds theretofore or thereafter issued under the 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 will be filed with the Bond Registrar items comparable to those required upon the issuance of the initial Bonds and the following: (a) 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 the 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, (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; (b) written confirmation from each Rating Agency that the issuance of such Series of Additional Bonds will not cause its credit rating on any Bonds outstanding immediately prior to such issuance to be lowered or withdrawn after the issuance of such Additional Bonds has been made; (c) an executed counterpart of an amendment to the Local Contract that will make the covenants of the Counties in the Local Contract and the Fiscal Agent Agreement thereof applicable to the Initial Bonds and any Refunding Bonds that will refund the Initial Bonds or other Refunding Bonds applicable to the Additional Bonds; and (d) an executed counterpart of an amendment to the District Contract which allows the issuance of such Additional Bonds.

**Refunding Bonds (Section 210)**

Series of refunding Bonds of the Authority (herein called "Refunding Bonds"), may be issued 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 and interest that will accrue thereon 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 will be issued, the Authority will 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. Except as to any Credit Facility, insurance policy, or Reserve Subfund Surety Bond and as to any differences in the maturities, interest rates, redemption provisions and the use of moneys in various accounts in the Reserve Subfund, Revenue Stabilization Subfund or Debt Service Subfund, Refunding Bonds will be on a parity with and entitled to the benefits and security provisions as any other Bonds issued under the Trust Agreement.

Prior to authenticating and delivering Refunding Bonds, the Bond Registrar must receive, in addition to comparable documents required upon the issuance of the initial Bonds the following: (a) 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 the Trust Agreement has occurred and is continuing, it will be cured upon the issuance of such Series of Refunding Bonds; (b) written confirmation from each Rating Agency that the issuance of such Series of Refunding Bonds will not cause its credit rating on any Bonds outstanding immediately prior to such issuance to be lowered or withdrawn after the issuance of such Refunding Bonds has been made; and (c) an executed counterpart of an amendment to the Local Contract that will make the covenants of the Counties in the Local Contract and the Fiscal Agent Agreement thereof applicable to the Initial Bonds and any Refunding Bonds that will refund the initial Bonds or other Refunding Bonds applicable to the Additional Bonds and any Refunding Bonds that will refund any Indebtedness other than Authority Bonds.

Simultaneously with the delivery of such Refunding Bonds the Authority will apply the proceeds of the Refunding Bonds as follows: (a) an amount that, together with the interest that will accrue on the Defeasance Obligations acquired pursuant to this clause, will be sufficient to pay the principal of and redemption premium, if any, and the interest on the Indebtedness to be refunded under the Trust Agreement will 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 will, as nearly as may be practicable and reasonable, be invested and reinvested by such Trustee, as directed by the Authority, in Defeasance Obligations that will mature or be subject to redemption by the holder thereof at the option of such holder, at such time or times as will be necessary or desirable to effectuate the purpose of such Refunding Bonds as stated in the applicable Supplemental Trust Agreement; and (b) such amount will be paid to the Trustee for deposit to the credit of any account established in the Reserve Subfund as will 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 heading (which amount will 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 (c) any balance of such proceeds will 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 Revenue Stabilization Subfund or any account created therein pursuant to the 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 for the refunded Indebtedness.

**Construction Subfund (Section 401)**

The Trust Agreement establishes a special subfund within the Route 28 Project Fund designated the "Route 28 Project Construction Subfund." The Trustee will 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 will maintain within the Construction Subfund the Construction Account and the Costs of Issuance Account and such additional accounts as may be provided for in the Trust Agreement and in any Supplemental Trust Agreement. Deposits will be made to the credit of the Construction Subfund and any special accounts as provided in the applicable Supplemental Trust Agreement.

**Payments from the Construction Subfund (Section 402)**

The Trustee will use money in the Construction Subfund solely as follows:

(a) (1) money in the Construction Account will be used solely to pay or reimburse the Board for the payment of any Costs of the District Project for which the Commission under the District Contract 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 Board, in Investment Obligations in accordance with the provisions of the Trust Agreement; (2) all investment income resulting from the investment of the Construction Account will be credited to a subaccount in the Construction Account as realized and, except in the case of any moneys reserved to pay 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 will 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 Board for payment of Costs of the District Project for which the Commission is liable under the terms of the District Contract, there will be filed with the Trustee as a condition precedent to each disbursement a requisition, signed by a Board Representative, stating to the best knowledge of the signer, that (i) the obligation has been incurred by or is otherwise payable by the Board to pay Costs of the District Project for which the District is liable under the District Contract, (ii) the item is a proper charge against the Construction Account, and (iii) the obligation has not been the basis for a prior requisition which has been paid; (4) if the maturities of all Bonds outstanding have been accelerated pursuant to the Trust Agreement, all of the money in the Construction Account will be transferred to the Debt Service Subfund;

(b) (1) money in the Costs of Issuance Account will 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 Trust Agreement; (2) all investment income resulting from the investment of the Costs of Issuance Account will remain to the credit of such account. Any losses resulting from the investment of the Construction Account will 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 will be filed with the Trustee as a condition precedent to each disbursement a requisition, signed by an Authority Representative, stating that to the best knowledge of the signer, that (i) the obligation has been incurred by or is otherwise payable by the Board to pay the Costs of the District Project for which the District is liable under District Contract, (ii) the item is a proper charge against the Costs of Issuance Account and (iii) the obligation has not been the basis for a prior requisition which has been paid.

**Disposition of Balance in Construction Subfund (Section 403)**

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 the District Project, if any, have not been paid (including amounts reimbursable to the Board, the Commission, the Authority or the Counties) 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 District Project or Costs of Issuance will, 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 the Trust Agreement; or (c) if the Authority causes 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.

**Establishment of Fund and Subfunds (Section 501)**

The Trust Agreement establishes a Route 28 Project Fund as a discrete, special fund of the Authority. The Trust Agreement establishes within the Route 28 Project Fund the following subfunds: the Route 28 Project Bond Debt Service Subfund (the "Debt Service Subfund"), the Route 28 Project Debt Service Reserve Subfund (the "Reserve Subfund"), the Route 28 Project Revenue Stabilization Subfund (the "Revenue Stabilization Subfund") and the Route 28 Project Rebate Subfund (the "Rebate Subfund"). The money in each of said Subfunds will be held in trust.

**Funds Received (Section 502)**

All Trust Estate moneys received by the Trustee will be deposited in the Debt Service Subfund and will be subject to a lien and charge in favor of the Holders. Semi-annually, on each Deposit Day or such other day, on which the Trustee will receive from the Fiscal Agent the Special Tax Revenues held to the credit of the Revenue Fund under the Fiscal Agent Agreement, the Trustee will from such moneys (a) 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 the Trust Agreement from other subfunds (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; (b) 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; (c) 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; (d) fourth, deposit in the Revenue Stabilization Subfund, an amount that, together with the amount credited to such Subfund on such date, is equal to the current Revenue Stabilization Subfund Requirement; (e) fifth, 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; and (f) sixth, pay over to the Fiscal Agent for deposit in the District Project Completion Fund held by the Fiscal Agent under the Fiscal Agent Agreement the balance, if any, of the Special Tax Revenues.

The payments and deposits required pursuant to this Section will be cumulative, and the amount of any deficiency on any Deposit Day will be added to the amount otherwise required to be paid or deposited thereafter until such time as such deficiency will have been made up.

Twenty five (25) days prior to each Deposit Day, the Trustee will notify, the Fiscal Agent, the Board, the Commission, the Counties 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, the Revenue Stabilization 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.

If there is to the credit of a Subfund or any special account created therein on a Deposit Day the amount required to be on deposit, no further deposit into such Subfund is required.

**Application of Moneys in Debt Service Subfund (Section 503)**

Except as otherwise provided in the Trust Agreement moneys in the Debt Service Subfund will be used solely for the payment of Parity Indebtedness and the principal of and premium, if any, and the interest on the Bonds. On each Interest Payment Date, the Trustee will withdraw and transfer such moneys to the Bond Registrar or Paying Agent who will remit to each Holder the amounts required for paying the interest on such Bonds. On each Principal Payment Date, the Trustee will withdraw from and transfer such moneys to the Bond Registrar or Paying Agent the amounts required for paying the principal of and premium, if any, on the Bonds. Payment of Parity Indebtedness will be timely made from moneys set aside for such purpose, and such amounts will be paid or will be deposited in trust with the Bond Registrar or any Paying Agent for such purpose.

The Trustee may purchase Bonds prior to maturity at prices not to exceed the principal amount of such Bonds. No such purchase will be made within 45 days immediately preceding any Interest Payment Date on which the Bonds are subject to call for redemption 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 to reimburse the Credit Bank for amounts drawn under such Credit Facility to pay the principal, if any, and interest on Bonds.

**Application of Money in Reserve Subfund (Section 504)**

Moneys to the credit of the Reserve Subfund will 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 and only after first crediting to the Debt Service Subfund any transfers from the Fiscal Agent of funds credited to the District Project Completion Fund and after withdrawing the entire balance from the Revenue Stabilization Subfund, the Trustee will 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 will notify the Authority, the Counties, the Commission, the Fiscal Agent and the Board 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 heading is less than the amount required to be transferred under such provisions, any amount thereafter deposited to the credit of the Reserve Subfund will 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 the Trust Agreement the necessary withdrawals will be made solely from and to the extent of moneys credited to the account corresponding to such Series of Bonds; otherwise, such accounts will 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 the Trust Agreement, 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 will exceed the Reserve Subfund Requirement as then calculated, the Trustee will 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 will notify the Authority, the Fiscal Agent, the Commission and the Counties of the amount of the deficiency. Upon notification, the Authority will as soon as possible deliver to the Trustee the amount of such deficiency, drawing upon funds to be made available by the Counties pursuant to the Local Contract and the Fiscal Agent Agreement.

(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 the 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 will 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 will be transferred immediately upon receipt to the Rebate Subfund 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, 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 Surety Bond 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 Surety Bond, or (2) any amount up to the Reserve Subfund Requirement, to be released at the direction of the Authority Representative. The Reserve Subfund Surety Bond will be payable (upon the giving of notice as required thereunder) on any due date on which money will 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 on deposit in the Reserve Subfund. If a disbursement is made pursuant to a Reserve Subfund Surety Bond provided pursuant to this subsection, the Authority is obligated either (i) to reinstate the maximum limits of such Reserve Subfund Surety Bond or (ii) to deposit into the Reserve Subfund funds in the amount of the disbursement made under such Reserve Subfund Surety Bond, or a combination of such alternatives, as will 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 the Trust Agreement, no deposit into the Reserve Subfund of a Reserve Subfund Surety Bond 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.

**Rebate Subfund (Section 505)**

Except with respect to earnings on funds and accounts qualifying for exceptions to the rebate requirements of Section 148 of the Code, the Authority will determine and pay or cause to be paid, from any legally available source, the Rebate Liability to the United States of America.

The Trustee will 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 will 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 will be paid to the Authority.

**Revenue Stabilization Subfund (Section 506)**

As contemplated in the Fiscal Agent Agreement and in the District Contract, on or after April 2 of each year, the Trustee will transfer any Special Tax Revenues transferred by the Fiscal Agent from the Revenue Fund under the Fiscal Agent Agreement to the Revenue Stabilization Subfund until the balance in the Revenue Stabilization Subfund equals the Revenue Stabilization Subfund Requirement.

Except as provided in a Supplemental Trust Agreement and consistent with the provisions with respect to Excess Earnings in the Trust Agreement, if the amount of moneys held for the credit of the Revenue Stabilization Subfund will exceed the Revenue Stabilization Subfund Requirement as then calculated, the Trustee will transfer from the Revenue Stabilization Subfund the amount of such excess that does not consist of Excess Earnings to the Debt Service Subfund.

With respect to each applicable Series of Bonds, any moneys reserved to pay any Rebate Liability in the Revenue Stabilization Subfund will be transferred to the Rebate Subfund. Additionally, any additional Excess Earnings in the Revenue Stabilization Subfund will be transferred immediately upon receipt to the Rebate Subfund but only to the extent that the amount to the credit of the Revenue Stabilization Subfund exceeds the Revenue Stabilization Subfund Requirement. In the event that after the amounts transferred to the Rebate Subfund from the Construction Subfund, Reserve Subfund and Revenue Stabilization Subfund to the Rebate Subfund pursuant to the provisions of the Trust Agreement there remains a deficiency in amount credited to the Rebate Subfund to pay the Rebate Liability, the Trustee shall withdraw from the Revenue Stabilization Subfund the amount required to make up such deficiency and transfer the amount so withdrawn to the Rebate Subfund.

In the event that on any Deposit Day after the Trustee has deposited to the credit of the Debt Service Subfund the amounts transferred to the Trustee from the Revenue Subfund and, if necessary, the District Project Completion Fund, there remains a deficiency in the amount credited to the Debt Service Subfund and available to pay debt service due on the Bonds on the next Interest Payment Date or Interest and Principal Payment Date, prior to making any withdrawal from the Reserve Subfund, the Trustee will withdraw from the Revenue Stabilization Subfund the amount required, and if insufficient for the purpose the entire balance of the Revenue Stabilization Subfund, and transfer the amount so withdrawn to the Reserve Subfund.

**Investments (Section 602)**

Moneys held for the credit of the Rebate Subfund, Revenue Stabilization Subfund and the Construction Subfund will, as nearly as may be practicable, be invested and reinvested in Investment Obligations that will mature, or that will 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 will, as nearly as may be practicable be invested and reinvested in Investment Obligations that will mature or that will 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 will, as nearly as may be practicable, be invested and reinvested in Investment Obligations that will mature, or that will be subject to redemption at the option of the holder thereof, not later than the respective dates when the moneys will be required for the purposes intended.

Moneys held for the credit of the Reserve Subfund will, 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 Appendix D "Definitions of Certain Terms", which obligations will mature, or will 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.

**Valuation (Section 603)**

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 will have been invested will be valued at amortized cost if the average weighted life of the investments to the credit of such subfund 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 Surety Bond will be valued at the amount that the Trustee is authorized to draw upon to pay debt service on Bonds.

The Trustee will 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 Fiscal Agent, the Authority, the Board, the Commission and the Counties. In addition, the Investment Obligations will 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 will not be required to value the Investment Obligations more than once in any calendar month.

**Certain Covenants of the Authority (Article VII)**

*Payment of Principal, Interest and Premium*. The Authority covenants to pay, 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 in the Trust Agreement.

The Bonds are payable solely from the Trust Estate derived by the Authority from the District Contract and other money pledged under the Trust Agreement. The Bonds will not be deemed to constitute a pledge of the faith and credit of the State or of any political subdivision thereof, including the Authority, the District and the Counties. Neither the faith and credit of the State nor the faith and credit of the Authority, the District and the Counties are pledged to the payment of the principal of or premium, if any, or interest on the Bonds, and the issuance of the Bonds will not directly or indirectly or contingently obligate the State, the District or the Counties 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 the Trust Agreement. The Authority has no taxing power. (Section 701)

*Covenant to Perform*. The Authority covenants to perform at all times all of its covenants, undertakings and agreements contained in the Trust Agreement and in any Bond executed, authenticated and delivered under the Trust Agreement. (Section 702)

*Covenants with Credit Banks, Insurers, etc.* The Authority may covenant with any Insurer, Credit Bank or other financial institution that will agree to insure or to provide for Bonds of any one or more Series credit - or liquidity-support that will enhance the security or the value of such Bonds and thereby reduce the Principal and Interest Requirements on such Bonds. (Section 703)

*Limitations on Parity Indebtedness* The Authority may incur and refund Parity Indebtedness, provided that the documents providing for such Parity Indebtedness will 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 will determine that all the requirements of the Trust Agreement will 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 the Trust Agreement, respectively; provided however that such Parity Indebtedness will not have a lien on the Reserve Subfund and at the election of the Authority, Parity Indebtedness may or may not have the benefit of the covenants of the Counties contained in the Local Contract and the Fiscal Agent Agreement (the Local Contract and Fiscal Agent Agreement must be amended to benefit Parity Indebtedness in a manner consistent with their respective amendment provisions). (Section 704)

*Further Instruments and Actions*. The Authority covenants to execute and deliver such further instruments or take such further actions as may be required to carry out the purposes of the Trust Agreement. (Section 705)

*Request of Counties to Appropriate*. In the event that the Trustee makes a withdrawal from the Reserve Subfund and the amount to the credit of the Reserve Subfund will be less than the Reserve Subfund Requirement, the Trustee will notify the Authority of such withdrawal in accordance with the Trust Agreement and the Authority will covenant that it will, through its Authority Representative, (i) notify the Counties 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 each of the Counties to budget, if it will not have already done so, and appropriate and pay to the Trustee pursuant to the Local Contract and the Fiscal Agent Agreement, an amount equal to fifty percent (50%) of such difference. (Section 706)

**Defaults and Remedies (Article VIII)**

The Trust Agreement defines "Event of Default" to include (a) failure to pay any installment of interest on any Bonds or Parity Indebtedness when due; or (b) failure to pay principal or redemption premium, if any, of any Bonds or Parity Indebtedness when due; or (c) the default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Trust Agreement remaining unremedied for 90 days after written notice to the Authority.

If the Authority is unable in whole or in part to carry out any of its agreements described in (c) above contained in the Trust Agreement due to any cause, circumstance or event that is not reasonably foreseeable and that is not within the control of the Authority, including, without limitation: 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, then such failure by the Authority will not be deemed an Event of Default during the continuance of such inability, including a reasonable time for the removal of the effect thereof. (Section 801)

Upon the happening and continuance of any Event of Default specified in subsection (a) or (b) two paragraphs above, 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 will, 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 will become and be immediately due and payable, subject to the right of the Authority to cure such default as provided in the Trust Agreement. (Section 802)

Holders of a majority in aggregate principal amount of Bonds then outstanding will have the right 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 under the Trust Agreement, provided that such direction will be in accordance with law and provisions of the Trust Agreement. (Section 806)

The Trustee will provide to the Bond Registrar to mail to all Holders a written notice of the occurrence of any Event of Default set forth in the Trust Agreement, within 30 days after the Trustee will have received notice of the same. (Section 811)

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, such Bonds will be deemed to be outstanding and such Credit Bank or Insurer will 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 upon presentation to the Bond Registrar, such Bond will be registered in the name of the Credit Bank or Insurer or its nominee. (Section 813)

**Supplemental Trust Agreement (Article XI)**

The Authority may enter into such supplements and amendments to the Trust Agreement that are consistent with the terms and provisions of the Trust Agreement (a) to cure any ambiguity or formal defect or omission, or to correct or supplement any provision of the Trust Agreement, 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 to be observed by the Authority under the provision of the Trust Agreement, or (d) to add to the covenants and agreements of the Authority in the Trust Agreement other covenants and agreements thereafter to be observed by the Authority or to surrender any right or power reserved to or conferred upon the Authority in the Trust Agreement, or (e) to provide for the issuance of the Initial, Additional and Refunding Bonds and to provide for such other related matters as may be required or contemplated by or appropriate under the Trust Agreement, or (f) to make changes necessary to comply with the requirements of any Rating Agency, 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 1101)

All other supplemental agreements require the written consent of the Holders of not less than a majority in aggregate principal amount of Bonds then outstanding and affected thereby; provided, however, that no supplemental agreement will permit (a) an extension of the maturity of the principal of or the interest on any Bonds, 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, Revenue Stabilization Subfund or Construction Subfund other than the pledge and lien created by the 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. (Section 1102)

**Supplements and Amendments to the Other Agreements (Article XII)**

The Authority may enter into supplements and amendments to the Fiscal Agent Agreement, the Local Contract, the District Contract and any Credit Facility only in accordance with the provisions of the Trust Agreement. 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 thirty (30) days prior notice 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 that would not be adverse to the interests of the Holders. (Section 1201)

All other supplements or amendments to any of the Fiscal Agent Agreement, the Local Contract, the District Contract and any Credit Facility require the written consent of the Holders of more than a majority in aggregate principal amounts of the Bonds then outstanding in the same manner of consent and approval as specified for supplements and amendments to the Trust Agreement. (Section 1202)

**Defeasance (Article XIII)**

Any outstanding Bonds will be deemed to have been paid for the purposes of the Trust Agreement when, among other things, (i) there have been deposited with the Trustee either moneys in an amount, or Defeasance Obligations, the principal of and the interest on which when due, will provide moneys in an amount which will be sufficient to pay when due the principal of and premium, if any, and interest due and to become due on said Bonds then outstanding on or prior to the redemption date, dates fixed for Sinking Fund Redemption or maturity date thereof, as the case may be, (ii) in case said Bonds have been selected for redemption in accordance with the provisions of the Trust Agreement prior to their maturity, the Authority given to the Trustee irrevocable instructions to give notice of redemption of such Bonds, and (iii) satisfactory provisions have been made for the payment of all other obligations payable by the Authority in connection with the defeasance of said indebtedness. (Section 1301)

# APPENDIX F

## FORM OF BOND COUNSEL OPINION

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**APPENDIX G**

**FORM OF NOTICE OF SALE**

**NOTICE OF SALE**

**$_____***

**FAIRFAX COUNTY (VIRGINIA) ECONOMIC DEVELOPMENT AUTHORITY**

**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016A**

Electronic Bids, BiDCOMP/Parity Competitive Bidding System ("BiDCOMP/Parity") only, will be received by the Board of Commissioners of the Fairfax County (Virginia) Economic Development Authority (the "EDA"), on:

**Sale Date: _____ July __, 2016***

**Sale Time: 11:00 a.m. Fairfax, Virginia Time**

for the purchase of the EDA's $_____* Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A (the "Bonds"), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of April in the following years and in the following amounts, respectively:

**Initial Maturity Schedule***

| Maturity Date (April 1) | Principal Amount | Maturity Date (April 1) | Principal Amount |
|---|---|---|---|

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

* Preliminary, subject to change

## BID PARAMETERS TABLE*

The following table sets forth the bid parameters for the Bonds:

| Dated Date | Due Dates | First Int Date | Anticipated Delivery |
|---|---|---|---|
| Date of Delivery | 4/1/20__ through 4/1/20__ | [10/1/2016] | 8/__/2016 |
| **Bid Award** | | **Bank Qualified** | |
| Low TIC - Dated Date excluding Accrued Int | | No | |

| | | | |
|---|---|---|---|
| **Max TIC** | None | **Series Min Bid** | 98% |
| **Denomination** | $5,000.00 | **Series Max Bid** | 114% |
| **Coupon Mults** | 1/8 and 1/20 of 1% only | **Zeros Cpn** | Not permitted |
| **Overall Cpn Dif** | None | **Rates per Mat** | One |
| **Low Cpn** | None | **Term Bonds** | Permitted, bidders option |
| **Low Dollar** | None | **# of Cpns** | No limit |
| **High Cpn** | Nx 4.5% | **Asc Cpn** | No |
| **High Yield** | None | **Good Faith Deposit** | $_____, as more fully described on page 5 of this Notice of Sale under "Good Faith Deposit." |
| **High Dollar** | None | **Call Feature** | Bonds due after April 1, 20__ are callable on or after April 1, 20__ at par. |

Changes to Initial Maturity Schedule

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

Changes to Bid Maturity Schedule

The EDA hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a **10% increase or decrease** in the aggregate principal amount of the Bonds. The EDA anticipates that it will communicate the final principal amounts by 4:00 p.m. on the sale date, but reserves the right to communicate the final principal amounts no later than 10:00 a.m. on the day following the sale date.

THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING TERMS (AS HEREAFTER DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the final aggregate principal amount of the Bonds.

* Preliminary, subject to change.

Such adjusted bid price will reflect changes in the dollar amount of the underwriters' discount and original issue discount/premium, if any, but will not change the selling compensation per $1,000 of par amount of Bonds from the selling compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Terms. The interest rates specified by the successful bidder for the various maturities at the Initial Reoffering Terms will not change. The EDA anticipates that the final annual principal amounts and the final aggregate principal amount of the Bonds will be communicated to the successful bidder within twenty-four hours of the EDA's receipt of the initial public offering prices and yields of the Bonds (the "Initial Reoffering Terms").

Book-Entry System

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of $5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable [October 1, 2016] and semiannually thereafter on April 1 and October 1, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The EDA will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

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

The Bonds

The Bonds are limited obligations of the EDA payable solely from the revenues pledged under the provisions of an Amended and Restated Trust Agreement dated as of November 1, 2006 and a Sixth Supplemental Trust Agreement dated as of August 1, 2016 (collectively, the "Trust Agreement") each between EDA and a trustee. The revenues pledged to the Bonds are the revenues and receipts of EDA derived from a special improvements tax levied and collected on taxable real estate zoned for commercial or industrial use or used for such purpose and taxable leasehold interests zoned for commercial or industrial use or used for such purposes located within the State Route 28 Highway Transportation Improvement District (the "District").

The Bonds are being issued for the purpose of providing funds to finance the advance refunding of the Authority's $41,505,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2007A. Per the EDA's authorizing resolution, adopted on June 21, 2016, the net present value of the savings to be obtained from the redemption of the prior bonds must not be less than 3% of the par amount of such prior bonds. The EDA reserves the right to reject any bids that do not meet this requirement, in accordance with the section of this notice of sale entitled "Right of Rejection."

**Term Bonds**

The successful bidder may designate two or more of the consecutive serial maturities as any number of term bond maturities equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities. In the event that the bidder specifies a term bond, each such term bond shall be subject to mandatory redemption on April 1 in the years and amounts shown herein for the serial maturities of the Bonds corresponding to the years which have been combined to form such term bond. Bonds to be redeemed in any

year by mandatory redemption shall be selected by lot from the bonds of the maturity being redeemed and shall be redeemed at par plus the interest accrued on the principal amount to be redeemed to the date fixed for redemption.

**Optional Redemption***

The Bonds maturing on or before April 1, 20__ are not subject to redemption prior to their stated date of maturity. The Bonds maturing on or after April 1, 20__ are subject to redemption at the option of the EDA, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 20__ at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to the redemption date.

***Electronic Bidding and Bidding Procedures***

Registration to Bid

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

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

Disclaimer

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the EDA nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the EDA nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. The EDA is using BiDCOMP/Parity as a communication mechanism, and not as the EDA's agent, to conduct the electronic bidding for the Bonds. The EDA is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders; and the EDA is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., Fairfax County's financial advisor, by telephone at (703) 741-0175 or Davenport & Company LLC, Loudoun County's financial advisor at (804) 697-2902. After receipt of bids is closed, the EDA through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers, and does not constitute the award of the Bonds. Each bid will remain subject to review by the EDA to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

* Preliminary, subject to change.

Bidding Procedures

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

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

Good Faith Deposit

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (the "Deposit") of $_____ to Fairfax County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit by not later than 4:00 p.m. (Fairfax, Virginia Time) on the date of the sale, and the Bonds will not be awarded to such bidder until the Authority has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

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

**Award of Bonds**

Award or rejection of bids will be made by the EDA, with the approval of Fairfax County and Loudoun County prior to 5:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by the EDA within such six-hour period of time (11:00 a.m. – 5:00 p.m.).

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

**Right of Rejection**

EDA expressly reserves the right (i) to waive any informalities, (ii) to reject all bids, any incomplete bid or any bid not fully complying with all of the requirements set forth herein, and (iii) to solicit new bids or proposals for the sale of the Bonds or otherwise provide for the public sale of the Bonds if all bids are rejected or the winning bidder defaults, including, without limitation, sale of the Bonds to one or more of the losing or rejected bidders without regard to their original bid or its relationship to any other bid.

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

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

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

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

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

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

Conflict Waiver

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

Undertakings of the Successful Bidder

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

Delivery

The Bonds will be delivered on or about August __, 2016 in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Sidley Austin LLP, Washington D.C. in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation and an opinion of disclosure counsel from Nixon Peabody LLP, Washington, D.C. as to certain matters. Such opinion will include a statement that subject to certain limitations described therein no information has come to their attention which would cause them to believe that the Official Statement contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The form of the opinion of disclosure counsel may be obtained from Public Financial Management, Inc. and Davenport & Company LLC upon request.

CUSIP Numbers

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

Official Statements

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

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

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

Fairfax County has complied with its previous undertakings with regard to the amended Rule 15c2-12 within the last five years. **[CONFIRM]**

With respect to Loudoun County, there have been instances in the previous five years in which the filings were not made within the required time period. Specifically, the annual report for the Fiscal Year ended June 30, 2009 was filed on February 4, 2010, the annual report for the Fiscal Year ended June 30, 2010 was filed on January 5, 2011 and the annual report for the Fiscal Year ended June 30, 2014 was filed on January 8, 2015. Under the terms of its continuing disclosure agreements for its general obligation bonds, Loudoun County's annual report is required to be filed within 180 days following the end of the fiscal year, December 27th. For Loudoun County's annual report for Fiscal Year ended June 30, 2013, the report was not linked to the CUSIP numbers for Loudoun County's General Obligation Public Improvement Bonds, Series 2013C (the "2013C Bonds") on EMMA. Loudoun County has since amended that filing by associating the appropriate CUSIP numbers for the 2013C Bonds.

Loudoun County inadvertently filed its 2009 and 2010 information with the previously designated depositories and not through the MSRB's EMMA system. Additionally, while Loudoun County prepared information required by its continuing disclosure agreements related to its other bond issues, such filings did not indicate that they were related to the annual filings required under its other continuing disclosure agreements. Loudoun County has undertaken to supplement its prior filings on EMMA, where necessary, and to post on EMMA a notice summarizing the instances of noncompliance described above.

Loudoun County has been deemed an "obligated person" (as defined by the Rule) with respect to certain series of Lease Revenue Bonds issued by the Authority (the "IDA Bonds") and certain series of Transportation Contract Revenue Bonds (Route 28 Project) issued by the EDA (the "Fairfax EDA Bonds"). With respect to its continuing disclosure agreements for such bonds, there have been instances during the previous five years in which Loudoun County's annual report was either not made by Loudoun County within the required time period, was inadvertently filed with the previously designated repositories or was not properly filed under the IDA Bonds or the Fairfax EDA Bonds at the time Loudoun County filed its annual report for its general obligation bonds. The delays in filing range from several months to several years. In addition, Loudoun County failed to file a material event notice of a ratings downgrade on certain IDA Bonds occasioned by a downgrade of the bond insurer and failed in certain years to include a particular table of operating data in its annual report for the Fairfax EDA Bonds.

Loudoun County is now current on all of its filings and has instituted procedures to ensure the timely and complete filing of such information in the future.

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

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175 or Davenport & Company LLC at 804-697-2900.

**FAIRFAX COUNTY (VIRGINIA)**
**ECONOMIC DEVELOPMENT AUTHORITY**

**By: Steven L. Davis, Chairman**

**FORM OF NOTICE OF SALE**

**NOTICE OF SALE**

**$_____***

**FAIRFAX COUNTY (VIRGINIA) ECONOMIC DEVELOPMENT AUTHORITY**

**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016B**

Electronic Bids, BiDCOMP/Parity Competitive Bidding System ("BiDCOMP/Parity") only, will be received by the Board of Commissioners of the Fairfax County (Virginia) Economic Development Authority (the "EDA"), on:

**Sale Date: _____ July __, 2016***

**Sale Time: 11:00 a.m. Fairfax, Virginia Time**

for the purchase of the EDA's $_____* Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B (the "Bonds"), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of April in the following years and in the following amounts, respectively:

**Initial Maturity Schedule***

| Maturity Date (April 1) | Principal Amount | Maturity Date (April 1) | Principal Amount |
|---|---|---|---|

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

* Preliminary, subject to change

## BID PARAMETERS TABLE*

The following table sets forth the bid parameters for the Bonds:

| Dated Date | Due Dates | First Int Date | Anticipated Delivery |
|---|---|---|---|
| Date of Delivery | 4/1/20__ through 4/1/20__ | [10/1/2016] | 8/__/2016 |
| **Bid Award** | | **Bank Qualified** | |
| Low TIC - Dated Date excluding Accrued Int | | No | |

| | | | |
|---|---|---|---|
| **Max TIC** | None | **Series Min Bid** | 98% |
| **Denomination** | $5,000.00 | **Series Max Bid** | 114% |
| **Coupon Mults** | 1/8 and 1/20 of 1% only | **Zeros Cpn** | Not permitted |
| **Overall Cpn Dif** | None | **Rates per Mat** | One |
| **Low Cpn** | None | **Term Bonds** | Permitted, bidders option |
| **Low Dollar** | None | **# of Cpns** | No limit |
| **High Cpn** | Nx 4.5% | **Asc Cpn** | No |
| **High Yield** | None | **Good Faith Deposit** | $_____, as more fully described on page 5 of this Notice of Sale under "Good Faith Deposit." |
| **High Dollar** | None | **Call Feature** | Bonds due after April 1, 20__ are callable on or after April 1, 20__ at par. |

Changes to Initial Maturity Schedule

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

Changes to Bid Maturity Schedule

The EDA hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a **10% increase or decrease** in the aggregate principal amount of the Bonds. The EDA anticipates that it will communicate the final principal amounts by 4:00 p.m. on the sale date, but reserves the right to communicate the final principal amounts no later than 10:00 a.m. on the day following the sale date.

THE SUCCESSFUL BIDDER MAY NOT WITHDRAW ITS BID OR CHANGE THE INTEREST RATES BID OR THE INITIAL REOFFERING TERMS (AS HEREAFTER DEFINED) AS A RESULT OF ANY CHANGES MADE TO THE PRINCIPAL AMOUNTS WITHIN THESE LIMITS. The dollar amount bid by the successful bidder will be adjusted to reflect any adjustments in the final aggregate principal amount of the Bonds.

* Preliminary, subject to change.

Such adjusted bid price will reflect changes in the dollar amount of the underwriters' discount and original issue discount/premium, if any, but will not change the selling compensation per $1,000 of par amount of Bonds from the selling compensation that would have been received based on the purchase price in the winning bid and the Initial Reoffering Terms. The interest rates specified by the successful bidder for the various maturities at the Initial Reoffering Terms will not change. The EDA anticipates that the final annual principal amounts and the final aggregate principal amount of the Bonds will be communicated to the successful bidder within twenty-four hours of the EDA's receipt of the initial public offering prices and yields of the Bonds (the "Initial Reoffering Terms").

Book-Entry System

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of $5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable [October 1, 2016] and semiannually thereafter on April 1 and October 1, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The EDA will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

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

The Bonds

The Bonds are limited obligations of the EDA payable solely from the revenues pledged under the provisions of an Amended and Restated Trust Agreement dated as of November 1, 2006 and a Sixth Supplemental Trust Agreement dated as of August 1, 2016 (collectively, the "Trust Agreement") each between EDA and a trustee. The revenues pledged to the Bonds are the revenues and receipts of EDA derived from a special improvements tax levied and collected on taxable real estate zoned for commercial or industrial use or used for such purpose and taxable leasehold interests zoned for commercial or industrial use or used for such purposes located within the State Route 28 Highway Transportation Improvement District (the "District").

The Bonds are being issued for the purpose of providing funds to finance the advance refunding of the Authority's $45,315,000 Transportation Contract Revenue Bonds (Route 28 Project), Series 2008 maturing April 1, 2018-2037, inclusive. The Authority's $1,935,000 Transportation Contract Revenue Bond (Route 28 Project) Series 2008 maturing April 1, 2017 will remain outstanding following the issuance of the Bonds. Per the EDA's authorizing resolution, adopted on June 21, 2016, the net present value of the savings to be obtained from the redemption of the prior bonds must not be less than 3% of the par amount of such prior bonds. The EDA reserves the right to reject any bids that do not meet this requirement, in accordance with the section of this notice of sale entitled "Right of Rejection."

**Term Bonds**

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

subject to mandatory redemption on April 1 in the years and amounts shown herein for the serial maturities of the Bonds corresponding to the years which have been combined to form such term bond. Bonds to be redeemed in any year by mandatory redemption shall be selected by lot from the bonds of the maturity being redeemed and shall be redeemed at par plus the interest accrued on the principal amount to be redeemed to the date fixed for redemption.

**Optional Redemption***

The Bonds maturing on or before April 1, 20__ are not subject to redemption prior to their stated date of maturity. The Bonds maturing on or after April 1, 20__ are subject to redemption at the option of the EDA, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 20__ at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed plus interest accrued thereon to the redemption date.

***Electronic Bidding and Bidding Procedures***

Registration to Bid

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

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

Disclaimer

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the EDA nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the EDA nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. The EDA is using BiDCOMP/Parity as a communication mechanism, and not as the EDA's agent, to conduct the electronic bidding for the Bonds. The EDA is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders; and the EDA is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., Fairfax County's financial advisor, by telephone at (703) 741-0175 or Davenport & Company LLC, Loudoun County's financial advisor at (804) 697-2902. After receipt of bids is closed, the EDA through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers, and does not constitute the award of the Bonds. Each bid will remain subject to review by the EDA to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

* Preliminary, subject to change.

Bidding Procedures

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

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

Good Faith Deposit

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (the "Deposit") of $_____ to Fairfax County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit by not later than 4:00 p.m. (Fairfax, Virginia Time) on the date of the sale, and the Bonds will not be awarded to such bidder until the Authority has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

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

**Award of Bonds**

Award or rejection of bids will be made by the EDA, with the approval of Fairfax County and Loudoun County prior to 5:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by the EDA within such six-hour period of time (11:00 a.m. – 5:00 p.m.).

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

**Right of Rejection**

EDA expressly reserves the right (i) to waive any informalities, (ii) to reject all bids, any incomplete bid or any bid not fully complying with all of the requirements set forth herein, and (iii) to solicit new bids or proposals for the sale of the Bonds or otherwise provide for the public sale of the Bonds if all bids are rejected or the winning bidder defaults, including, without limitation, sale of the Bonds to one or more of the losing or rejected bidders without regard to their original bid or its relationship to any other bid.

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

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

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

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

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

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

Conflict Waiver

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

Undertakings of the Successful Bidder

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

Delivery

The Bonds will be delivered on or about August __, 2016 in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Sidley Austin LLP, Washington D.C. in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation and an opinion of disclosure counsel from Nixon Peabody LLP, Washington, D.C. as to certain matters. Such opinion will include a statement that subject to certain limitations described therein no information has come to their attention which would cause them to believe that the Official Statement contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The form of the opinion of disclosure counsel may be obtained from Public Financial Management, Inc. and Davenport & Company LLC upon request.

CUSIP Numbers

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

Official Statements

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

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

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

Fairfax County has complied with its previous undertakings with regard to the amended Rule 15c2-12 within the last five years. **[CONFIRM]**

With respect to Loudoun County, there have been instances in the previous five years in which the filings were not made within the required time period. Specifically, the annual report for the Fiscal Year ended June 30, 2009 was filed on February 4, 2010, the annual report for the Fiscal Year ended June 30, 2010 was filed on January 5, 2011 and the annual report for the Fiscal Year ended June 30, 2014 was filed on January 8, 2015. Under the terms of its continuing disclosure agreements for its general obligation bonds, Loudoun County's annual report is required to be filed within 180 days following the end of the fiscal year, December 27th. For Loudoun County's annual report for Fiscal Year ended June 30, 2013, the report was not linked to the CUSIP numbers for Loudoun County's General Obligation Public Improvement Bonds, Series 2013C (the "2013C Bonds") on EMMA. Loudoun County has since amended that filing by associating the appropriate CUSIP numbers for the 2013C Bonds.

Loudoun County inadvertently filed its 2009 and 2010 information with the previously designated depositories and not through the MSRB's EMMA system. Additionally, while Loudoun County prepared information required by its continuing disclosure agreements related to its other bond issues, such filings did not indicate that they were related to the annual filings required under its other continuing disclosure agreements. Loudoun County has undertaken to supplement its prior filings on EMMA, where necessary, and to post on EMMA a notice summarizing the instances of noncompliance described above.

Loudoun County has been deemed an "obligated person" (as defined by the Rule) with respect to certain series of Lease Revenue Bonds issued by the Authority (the "IDA Bonds") and certain series of Transportation Contract Revenue Bonds (Route 28 Project) issued by the EDA (the "Fairfax EDA Bonds"). With respect to its continuing disclosure agreements for such bonds, there have been instances during the previous five years in which Loudoun County's annual report was either not made by Loudoun County within the required time period, was inadvertently filed with the previously designated repositories or was not properly filed under the IDA Bonds or the Fairfax EDA Bonds at the time Loudoun County filed its annual report for its general obligation bonds. The delays in filing range from several months to several years. In addition, Loudoun County failed to file a material event notice of a ratings downgrade on certain IDA Bonds occasioned by a downgrade of the bond insurer and failed in certain years to include a particular table of operating data in its annual report for the Fairfax EDA Bonds.

Loudoun County is now current on all of its filings and has instituted procedures to ensure the timely and complete filing of such information in the future.

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

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175 or Davenport & Company LLC at 804-697-2900.

**FAIRFAX COUNTY (VIRGINIA)**
**ECONOMIC DEVELOPMENT AUTHORITY**

**By: Steven L. Davis, Chairman**

# CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by Fairfax County, Virginia ("Fairfax County") and Loudoun County, Virginia ("Loudoun County;" Fairfax County and Loudoun County each a "County" and together the "Counties") in connection with the issuance by the Fairfax Economic Development Authority (the "Authority") of its $_____ Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A and $_____ Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B (collectively, the "Series 2016 Bonds") pursuant to the provisions of a resolution (the "Authorizing Resolution") adopted by the Authority on June 21, 2016 and under an Amended and Restated Trust Agreement, dated as of November 1, 2006, as previously supplemented, and as supplemented by a Sixth Supplemental Trust Agreement dated as of August 1, 2016 (the "Trust Agreement"), between the Authority and U.S. Bank, National Association, as trustee (the "Trustee").

The Counties hereby covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Counties for the benefit of the holders of the Series 2016 Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). The Counties acknowledge that they are undertaking primary responsibility for any reports, notices or disclosures that may be required under this Disclosure Agreement as set forth in this Disclosure Agreement.

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

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

"Dissemination Agent" shall mean the Counties, or either of them, acting as Dissemination Agent under this Disclosure Agreement or any successor Dissemination Agent designated in writing by the Counties and which has filed with the Authority and both Counties a written acceptance of such designation.

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

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

"Holder" or "holder" shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of a Series 2016 Bond.

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

- principal and interest payment delinquencies
- non-payment related defaults; if material
- unscheduled draws on debt service reserves reflecting financial difficulties
- unscheduled draws on credit enhancements reflecting financial difficulties
- substitution of credit or liquidity providers, or their failure to perform
- adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2016 Bonds, or other material events affecting the tax-exempt status of the Series 2016 Bonds
- modifications to rights of holders (including Beneficial Owners), if material
- bond calls, if material, and tender offers
- defeasances
- release, substitution, or sale of property securing repayment of the Series 2016 Bonds, if material
- rating changes
- bankruptcy, insolvency, receivership or similar events
- the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions other than pursuant to its terms, if material
- appointment of a successor or additional trustee or the change of name of a trustee, if material

"Official Statement" shall mean the Official Statement of the Authority with respect to the Series 2016 Bonds.

"Participating Underwriter" shall mean any of the original underwriters of the Series 2016 Bonds required to comply with the Rule in connection with the offering of such Series 2016 Bonds.

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

"State" shall mean the Commonwealth of Virginia.

"State Repository" shall mean any public or private depository or entity designated by the State as a state depository for the purpose of the Rule. As of the date of this Agreement, there is no State Repository.

SECTION 3. Provision of Annual Reports.

(a) The Counties shall, or shall cause the Dissemination Agent to, provide the Municipal Securities Rulemaking Board ("MSRB") via the Electronic Municipal Market Access system for municipal securities disclosure or any other single dissemination agent or conduit required, designated or permitted by the SEC ("EMMA"), an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date or dates (the "Filing Date") that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year ended June 30, 2017). Not later than ten (10) days prior to the Filing Date, the Counties shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of this Disclosure Agreement and (iii) shall include the Counties' audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the Counties must be submitted, if and when available, together with or separately from the Annual Report.

(b) The annual financial statements of the Counties shall be prepared on the basis of generally accepted accounting principles and will be audited. Each County assumes the responsibility to file copies of its audited annual financial statements, which may be filed separately from the Annual Report, with the Repositories when such statements become publicly available.

(c) If the Counties fail to provide an Annual Report to the MSRB through EMMA by the date required in subsection (a) hereto, Fairfax County shall, or if either County fails to file its audited annual financial statements with the MSRB through EMMA when they become publicly available, the County failing to file timely its audited financial statements shall, send a notice to the MSRB through EMMA and any State Repository in substantially the form attached hereto as Exhibit A.

SECTION 4. Content of Annual Reports. (a) With respect to Fairfax County, Fairfax County will include in each Annual Report required to be filed hereunder or incorporate by reference, at a minimum, the following: (i) audited financial statements of Fairfax County; (ii) operating data updating information in Exhibit A-1 to the Official Statement for the Series 2016 Bonds as described in Schedule 1 hereto, and (iii) updates of the information that relates to Fairfax County under the heading "THE DISTRICT—District Tax Base Data," all with a view toward assisting Participating Underwriters in complying with the Rule.

(b) With respect to Loudoun County, each Annual Report required to be filed hereunder shall contain or incorporate by reference, at a minimum, the following: (i) audited financial statements of Loudoun County; (ii) updates of the information in Exhibit B-1 to the Official Statement for the Series 2016 Bonds as described in Schedule 1 hereto, and (iii) updates of the information that relates to Loudoun County under the heading "THE DISTRICT—District Tax Base Data", all with a view toward assisting Participating Underwriters in complying with the Rule.

(c) As between the two Counties, Fairfax County accepts responsibility for filing that portion of the Annual Report described in clauses (a)(iii) and (b)(iii) of this section and for preparation of the appropriate tables to update the information that relates to Loudoun County under the heading "THE DISTRICT—District Tax Base Data," and to that end, Loudoun County agrees to furnish to Fairfax

County no later than February 15 of each year the relevant information concerning Loudoun County necessary for Fairfax to update such tables.

(d) Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which a County is an "obligated person" (within the meaning of the Rule), which have been filed with the MSRB through EMMA or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the MSRB through EMMA. The Counties shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Listed Events. Fairfax County will provide within 10 business days to the MSRB through EMMA and to each State Repository, if any, notice of any of the Listed Events. Loudoun County will assist Fairfax County in this regard by notifying Fairfax County of any such event of which Loudoun County has notice.

SECTION 6. Termination of Reporting Obligation. The Counties' obligations under this Disclosure Agreement shall terminate upon the earlier to occur of the legal defeasance or final retirement of all the Series 2016 Bonds.

SECTION 7. Amendment. Notwithstanding any other provision of this Disclosure Agreement, this Disclosure Agreement may be amended, or any provision hereof may be waived, by written agreement of the parties, if such amendment is supported by an opinion of independent counsel with expertise in federal securities laws to the effect that such amendment is permitted or required by the Rule.

SECTION 8. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Counties from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Counties choose to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the Counties shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 9. Default. Any person referred to in Section 10 (other than the Counties) may take such action as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Counties to file their Annual Reports or to give notice of a Listed Event. The holders of not less than a majority in aggregate principal amount of Series 2016 Bonds outstanding may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to challenge the adequacy of any information provided pursuant to this Disclosure Agreement, or to enforce any other obligation of the Counties hereunder. A default under this Disclosure Agreement shall not be deemed an event of default under the Authorizing Resolution, the Trust Agreement or the Series 2016 Bonds of the Authority, and the sole remedy under this Disclosure Agreement in the event of any failure of the Counties to comply herewith shall be an action to compel performance. Nothing in this provision shall be deemed to restrict the rights or remedies of any holder pursuant to the Securities Exchange Act of 1934, the rules and regulations promulgated thereunder, or other applicable laws.

SECTION 10. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Counties, the Participating Underwriters, and holders from time to time of the Series 2016 Bonds, and shall create no rights in any other person or entity.

Date: _____, 2016

FAIRFAX COUNTY, VIRGINIA

By: _____
Authorized Representative

LOUDOUN COUNTY, VIRGINIA

By: _____
Authorized Representative

## SCHEDULE 1

## CONTENT OF ANNUAL REPORT

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

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

(c) **Demographic Information**. Updated demographic information respecting the County such as its population.

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

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

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

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

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT), SERIES 2016A**

**and**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT), SERIES 2016B**

**CUSIP NOS.**

Dated: _____ __, ____

NOTICE IS HEREBY GIVEN that _____ County, Virginia has not provided an Annual Report as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds, the proceeds of which were used to refinance bonds that were issued to fund a portion of the costs of construction of certain improvements to State Route 28 in Fairfax County, Virginia and Loudoun County, Virginia. The Counties anticipate that the Annual Report will be filed by _____.

_____ COUNTY, VIRGINIA

By: _____

Attachment 6

FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY

to

U.S. BANK NATIONAL ASSOCIATION,

Trustee

# SIXTH SUPPLEMENTAL TRUST AGREEMENT

Dated as of August 1, 2016

214397878v.3

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# SIXTH SUPPLEMENTAL TRUST AGREEMENT

This **SIXTH SUPPLEMENTAL TRUST AGREEMENT**, dated as of [August 1, 2016], by and between **FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the "Authority"), and **U.S. BANK NATIONAL ASSOCIATION**, a banking corporation duly organized and existing under the laws of the Commonwealth of Virginia, and having a corporate trust office in Richmond, Virginia, which is authorized under such laws to exercise corporate trust powers and is subject to examination by state authority, trustee under the Amended and Restated Trust Agreement hereinafter mentioned (the "Trustee"):

**W I T N E S S E T H:**

**WHEREAS,** the Authority has executed and delivered a trust agreement, originally dated as of October 1, 2003, and amended and restated as of November 1, 2006 (the "Amended and Restated Trust Agreement"), by and between the Authority and the Trustee, for the purpose of fixing and declaring the conditions upon which bonds are to be issued, authenticated, delivered, secured and accepted by all persons who shall from time to time be or become holders thereof, and in order to secure the payment of all bonds at any time issued and outstanding thereunder, and the interest thereon, according to their tenor, purport and effect; and

**WHEREAS**, in accordance with the provisions of Section 208 of the Amended and Restated Trust Agreement, the Authority by resolution, adopted on September 16, 2003 (the "2003 authorizing resolution"), authorized the issuance of two or more series of Transportation Contract Revenue Bonds (Route 28 Project) to provide $90,000,000 to the Commonwealth Transportation Board (the "Board") for certain modifications to State Route 28, including the construction of ten (10) interchanges and two (2) additional lanes for Route 28 between its intersection with Route 50 in Fairfax County and its intersection with Sterling Boulevard in Loudoun County (the "District Project"), to fund a debt service reserve (the "Reserve Subfund") and to pay costs in connection with the issuance of the bonds; and

**WHEREAS**, in accordance with Section 208 of the Amended and Restated Trust Agreement, a First Supplemental Trust Agreement dated as of October 1, 2003, and the 2003 authorizing resolution, the Authority issued on October 29, 2003, $33,375,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2003 (the "Series 2003 Bonds;" and

**WHEREAS**, in accordance with Section 208 of the Amended and Restated Trust Agreement, a Second Supplemental Trust Agreement dated as of August 1, 2004, and the 2003 authorizing resolution, the Authority issued on August 26, 2004, $57,410,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2004 (the "Series 2004 Bonds" and together with the Series 2003 Bonds, the "Initial Bonds"); and

**WHEREAS**, Section 209 of the Amended and Restated Trust Agreement contemplates that the Authority may issue one or more additional series of bonds to provide additional funds to pay all or a portion of the remaining Costs of the District Project; and

**WHEREAS**, in accordance with the provisions of Section 209 of the Amended and Restated Trust Agreement, a Third Supplemental Trust Agreement dated as of March 1, 2007, and an authorizing resolution of the Authority adopted on January 30, 2007, the Authority issued on March 14, 2007, $41,505,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2007A (the "Series 2007 Bonds"); and

**WHEREAS**, in accordance with the provisions of Section 209 of the Amended and Restated Trust Agreement, a Fourth Supplemental Trust Agreement dated as of July 1, 2008, and an authorizing resolution of the Authority adopted on June 17, 2008, the Authority issued on July 28, 2008, $51,505,000 of its Transportation Contract Revenue Bonds (Route 28 Project) Series 2008 (the "Series 2008 Bonds"); and

**WHEREAS**, in accordance with the provisions of Section 210 of the Amended and Restated Trust Agreement, a Fifth Supplemental Trust Agreement dated as of May 1, 2012, and an authorizing resolution of the Authority adopted on April 17, 2012, the Authority issued on May 23, 2012, $86,275,000 of its Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2012 (the "Series 2012 Bonds" and together with the Series 2003 Bonds, the Series 2004 Bonds, the Series 2007 Bonds and the Series 2008 Bonds, the "Authority Bonds") for purposes of refunding certain outstanding Series 2003 Bonds and Series 2004 Bonds; and

**WHEREAS**, Section 210 of the Amended and Restated Trust Agreement contemplates the refunding from time to time of Authority Bonds; and

**WHEREAS**, the Authority has by resolution, adopted on [June 21, 2016] (the "Authorizing Resolution") determined to issue refunding bonds, pursuant to Section 210 of the Amended and Restated Trust Agreement, in an aggregate principal amount not to exceed $91,040,000 for purposes of refunding certain maturities of the Series 2007 Bonds (the "Series 2016A Bonds") and the Series 2008 Bonds (the "Series 2016B Bonds" and together with the Series 2016A Bonds, the "Series 2016 Bonds"); and

**WHEREAS**, Section 1101(e) of the Amended and Restated Trust Agreement provides that the Authority may enter into a supplement to the Amended and Restated Trust Agreement, in form satisfactory to the Trustee, as shall not be inconsistent with the terms and provisions of the Amended and Restated Trust Agreement, to provide for the issuance and to fix the details of the additional series of bonds to be issued under Section 210 of the Amended Restated Trust Agreement; and

**WHEREAS**, in connection with the issuance of the Series 2007 Bonds, the Authority delivered to the Trustee a Reserve Subfund Insurance Policy (the "Reserve Subfund Insurance Policy") issued by MBIA Insurance Corporation in satisfaction of the Reserve Subfund Requirement of maximum annual debt service on the Initial Bonds and the Series 2007 Bonds; and; and

**WHEREAS,** the Reserve Subfund Insurance Policy by its terms secures any refunding bonds issued to refund the Initial Bonds or the Series 2007 Bonds so long as certain refunding requirements are met and such will secure the Series 2016A Bonds; and

**WHEREAS**, Section 210 and Section 504(b) of the Amended and Restated Trust Agreement provides that the Authority may deposit into a separate account in the Reserve Subfund for the sole benefit of the Owners of a particular Series of Bonds an amount which together with amounts on deposit in the Reserve Subfund for the benefit of the holders of outstanding Bonds is equal to the Reserve Subfund Requirement, and the Authority has determined to authorize the making of such a deposit into such account in connection with the issuance of Series 2016B Bonds under this Sixth Supplemental Trust Agreement; and

**WHEREAS**, the execution and delivery of this Sixth Supplemental Trust Agreement have been duly authorized by the Authorizing Resolution, and the Authority has requested the Trustee to join with it in the execution of this Sixth Supplemental Trust Agreement; and

**WHEREAS**, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia and by the resolutions of the Authority to happen, exist and be performed precedent to and in the execution of this Sixth Supplemental Trust Agreement have happened, exist and have been performed as so required; and

**WHEREAS**, the Trustee has accepted the trusts created by this Sixth Supplemental Trust Agreement and in evidence thereof has joined in the execution hereof;

**NOW, THEREFORE, THIS SIXTH SUPPLEMENTAL TRUST AGREEMENT WITNESSETH**, that in consideration of the premises and of the acceptance by the Trustee of the trusts created hereby and by the Amended and Restated Trust Agreement, 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 Sixth Supplemental Trust Agreement, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed and covenanted by and between the parties hereto, as follows:

**Section 1. Terms of the Series 2016 Bonds.** The Series 2016 Bonds shall be designated "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A" and "Fairfax County Economic Development Authority Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B". The Series 2016 Bonds shall be issued in registered form without coupons, registered in the name of CEDE & Co., as nominee of The Depository Trust Company, and numbered R-1 and upward. The definitive Series 2016 Bonds issued under the provisions of the Amended and Restated Trust Agreement as supplemented by the First Supplemental Trust Agreement, the Second Supplemental Trust Agreement, the Third Supplemental Trust Agreement, the Fourth Supplemental Trust Agreement, the Fifth Supplemental Trust Agreement and as further supplemented by this Sixth Supplemental Agreement (the Amended and Restated Trust Agreement as so supplemented, the "Trust Agreement") shall be in substantially the form set forth in the Amended and Restated Trust Agreement.

The Series 2016A Bonds shall be issued in the aggregate principal amount of $_____, shall be dated the date of their delivery and shall be issued in denominations of $5,000 or any multiple thereof. All of the Series 2016A Bonds shall be Current Interest Bonds. [All of the Series 2016A Bonds shall be Serial Bonds maturing in the years, in the principal

amounts and bearing interest at the rates per annum (based upon a 360-day year of twelve 30 day months), as follows:

| Year [April 1] | Principal Amount | Interest Rate |
|---|---|---|
| | $ | % |

The Series 2016B Bonds shall be issued in the aggregate principal amount of $_____, shall be dated the date of their delivery and shall be issued in denominations of $5,000 or any multiple thereof. All of the Series 2016B Bonds shall be Current Interest Bonds. [All of the Series 2016B Bonds shall be Serial Bonds maturing in the years, in the principal amounts and bearing interest at the rates per annum (based upon a 360-day year of twelve 30 day months), as follows:

| Year [April 1] | Principal Amount | Interest Rate |
|---|---|---|
| | $ | % |

**Section 2. Redemption Provisions of the Series 2016 Bonds.**

*Optional Redemption.* The Series 2016A Bonds maturing on or before April 1, 202_, are not subject to redemption prior to their stated date of maturity. The Series 2016A Bonds maturing on or after April 1, 202_, are subject to redemption at the option of the Authority, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 202_, at a Redemption Price equal to 100% of the principal amount of the Series 2016A Bonds to be redeemed plus interest accrued thereon to the Redemption Date.

The Series 2016B Bonds maturing on or before April 1, 202_, are not subject to redemption prior to their stated date of maturity. The Series 2016B Bonds maturing on or after April 1, 202_, are subject to redemption at the option of the Authority, as directed by the Counties and the District, in whole or in part, at any time on or after April 1, 202_, at a Redemption Price equal to 100% of the principal amount of the Series 2016B Bonds to be redeemed plus interest accrued thereon to the Redemption Date.

*Notice of Redemption.* At least 30 but not more than 60 days before the redemption date of any Series 2016 Bonds, whether in whole or in part, the Trustee will cause notice of any such redemption to be mailed by certified mail, return receipt requested, to all holders of Series 2016 Bonds to be redeemed in whole or in part. Any defect in such notice or the failure to mail such notice, shall not affect the validity of the proceedings for the redemption of any other Series 2016 Bonds. While the Series 2016 Bonds are held in the name of DTC or its nominee, such redemption notices will be sent to Cede & Co., not to the beneficial owners of the Series 2016 Bonds.

Any notice of optional redemption of the Series 2016 Bonds may state that it is conditioned upon there being available on the redemption date an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if 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.

If the Authority gives an unconditional notice of redemption, then on the redemption date the Series 2016 Bonds called for redemption will become due and payable. If the Authority gives a conditional notice of redemption and if on the redemption date money to pay the redemption price of the affected Series 2016 Bonds shall have been set aside in escrow with the Trustee or a depositary (either, a "depositary") for the purpose of paying such Series 2016 Bonds, then on the redemption date the Series 2016 Bonds will become due and payable. In either case, if on the redemption date Authority holds money to pay the Series 2016 Bonds called for redemption, thereafter, no interest will accrue on those Series 2016 Bonds, and a bondholder's only right will be to receive payment of the redemption price upon surrender of those Series 2016 Bonds.

**Section 3. Authentication of Series 2016 Bonds.** Upon their execution in the form and manner set forth in the Amended and Restated Trust Agreement and this Sixth Supplemental Trust Agreement, the Series 2016 Bonds shall be deposited with the Bond Registrar for authentication, and the Bond Registrar is hereby authorized and directed to authenticate and the Trustee shall cause the Bond Registrar to deliver the Series 2016 Bonds for the account of _____ as _____ (the "Underwriters"), at The Depository Trust Company, New York, New York, against payment therefor in accordance with and subject to the provisions of Sections 210 of the Amended and Restated Trust Agreement and Section 4 hereof.

**Section 4. Sale and Application of Proceeds of the Series 2016 Bonds.**

(a) [The Series 2016 Bonds were [sold/awarded] to the Underwriters in a _____ sale, pursuant to the terms of the [Bond Purchase Agreement/Official Notice of Sale for the Series 2016 Bonds.]

(b) The proceeds of the Series 2016 Bonds shall be deposited by the Authority in accordance with Section 210 of the Amended and Restated Trust Agreement, simultaneously with the delivery of the Series 2016 Bonds as follows:

(1) with the Trustee serving as escrow agent (the "Escrow Agent") under the Escrow Deposit Agreement dated as of August __, 2016, between the Escrow Agent and the Authority, to the credit of the Escrow Fund created in the Escrow Deposit Agreement, an amount that shall equal $_____; and

(3) with the Trustee, to the credit of the Costs of Issuance Account in the Construction Subfund the amount of $_____ which is equal to the entire balance of the proceeds of the Series 2016 Bonds.

**Section 5. Tax Covenants.** The Authority covenants that it will not take any action which will, or fail to take any action which failure will, cause interest on the Series 2016 Bonds to become subject to federal income taxation pursuant to the provisions of the Internal Revenue Code of 1986, as amended and regulations promulgated thereunder.

(a) As of a date not later than five years after the issue date of the Series 2016 Bonds (the "Initial Installment Computation Date"), and at least once every five years thereafter, the Authority shall cause the Rebate Liability to be computed by a Rebate Analyst and will deliver a copy of the applicable Rebate Liability calculation to the Trustee (the "Rebate Liability Certificate"). Amounts paid for the purpose of funding the Rebate Liability, or otherwise made available therefor, shall be deposited by the Trustee in the Rebate Subfund.

(1) not later than sixty (60) days after each Initial Installment Computation Date, the Authority shall pay, or direct the Trustee to pay from amounts in the Rebate Subfund, to the United States of America at least ninety percent (90%) of the Rebate Liability as set forth in the Rebate Liability Certificate prepared with respect to such installment computation date;

(2) no later than sixty (60) days after the installment computation date that is the fifth anniversary of the Initial Installment Computation Date and no later than sixty (60) days after every fifth anniversary date thereafter until final payment of the applicable Series of Bonds, the Authority shall direct the Trustee to pay from amounts in the Rebate Subfund (such amounts constituting Excess Earnings as consistent with the tax certificate delivered in connection with the issuance of the Series 2016 Bonds (as supplemented and amended from time to time, the "Authority Tax Certificate"), transferred from the Construction Subfund, Reserve Subfund and Revenue Stabilization Subfund and any of their applicable accounts) to the United States of America not less than the amount, if any, by which ninety percent (90%) of the Rebate Liability set forth in the most recent Rebate Liability Certificate exceeds the aggregate of all such payments theretofore made to the United States of America with respect to the applicable Series of Bonds;

(3) no later than sixty (60) days after final payment of a Series of Bonds, the Authority shall pay, or direct the Trustee to pay from amounts in the Rebate Subfund, to the United States of America the amount, if any, by which 100% of the Rebate Liability set forth in the Rebate Liability Certificate with respect to the date of final payment of the applicable Series of Bonds exceeds the aggregate of all payments theretofore made pursuant to this Section.

(b) The Authority represents that it will instruct the Trustee as to the final application of the amounts in the Rebate Subfund to the make payments to the United States of America of all or a portion of the Rebate Liability on such dates or amounts in order for the Authority to comply with the conditions in this section of the Sixth Supplemental Trust Agreement and the Authority Tax Certificate.

All such payments shall be made by, or at the direction of, an Authority Representative from any legally available source, including moneys in the Rebate Subfund.

Notwithstanding any provision of this Section to the contrary, (i) no such Rebate Liability payment need be made if the Authority receives and delivers to the Trustee an Opinion of Bond Counsel to the effect that such payment (1) is not required under the Code to prevent the Series 2016 Bonds from becoming "arbitrage bonds" within the meaning of Section 148 of the Code, or (2) may or should be calculated and paid on some alternative basis under the Code, and the Authority complies with such alternative basis and (ii) an Authority Representative may direct the Trustee to transfer all or any portion of the moneys held for the credit of the Rebate Subfund to any other Subfund or account under the Trust Agreement to which such a transfer may be made under the terms of the Authority Tax Certificate.

The Trustee shall provide the Authority within ten (10) days after each April 1, or other computation date selected by the Authority, and within ten (10) days after the final payment of a Series of Bonds with such reports and information with respect to earnings of amounts held under the Amended and Restated Trust Agreement and this Sixth Supplemental Trust Agreement as may be requested by the Authority to comply with the provisions of this Section.

**Section 6. Series 2016 Reserve Accounts.**

(a) Pursuant to the terms of a Reserve Subfund Insurance Policy issued by MBIA Insurance Corporation on March 14, 2007, maintained within the Reserve Subfund established and held by the Trustee pursuant to the Amended and Restated Trust Agreement as supplemented, the Reserve Subfund Insurance Policy shall secure the Series 2016A Bonds.

(b) Owners of Series 2016A Bonds shall only have the benefit and security of the Reserve Subfund Insurance Policy and shall not have the benefit or credit of amounts to the credit of other accounts in the Reserve Subfund including amounts on deposit in the Series 2008 Reserve Account established solely for the benefit and security of the Series 2008 Bonds and the 2016B Reserve Account established herein solely for the benefit of the Series 2016B Bonds.

(c) All provisions of the Amended and Restated Trust Agreement relating to the Reserve Subfund (including Section 504) not inconsistent with the provisions of this Sixth Supplemental Trust Agreement shall apply to the Reserve Subfund Insurance Policy.

(d) Pursuant to Section 210 and Section 504(b) of the Amended and Restated Trust Agreement, the "Series 2016B Reserve Account" to be maintained within the Reserve Subfund is hereby established and is to be held by the Trustee pursuant to the Amended and Restated Trust Agreement and this Sixth Supplemental Trust Agreement.

(e) The Series 2016B Reserve Account shall be held solely for the benefit and security of Owners of the Series 2016B Bonds. Owners of outstanding Bonds or any other Series of Bonds hereinafter issued under the Amended and Restated Trust Agreement shall not have the benefit or security of amounts on deposit in the Series 2016B Reserve Account.

(f) Owners of Series 2016B Bonds shall not have the benefit or security of amounts to the credit of the Reserve Subfund other than the amounts on deposit in the Series 2016B Reserve Account.

(g) All provisions of the Amended and Restated Trust Agreement relating to the Reserve Subfund (including Section 504) not inconsistent with the provisions of this Sixth Supplemental Trust Agreement shall apply to the Series 2016B Reserve Account.

**Section 7. Recitals, Statements and Representations made by Authority, not Trustee.** The recitals, statements and representations contained herein 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 8. Sixth Supplemental Trust Agreement as supplemental agreement.** This Sixth Supplemental Trust Agreement is executed and shall be construed as an agreement supplemental to the Amended and Restated Trust Agreement as previously supplemented by the First Supplemental Trust Agreement, Second Supplemental Trust Agreement, Third Supplemental Trust Agreement, Fourth Supplemental Trust Agreement and the Fifth Supplemental Trust Agreement and shall form a part thereof, and the Amended and Restated Trust Agreement as hereby and heretofore supplemented is hereby ratified, approved and confirmed.

**Section 9. Authority, Counties, Trustee and Bondholders Alone to Have Rights.** Nothing in this Sixth Supplemental Trust Agreement expressed or implied is intended or shall be construed to give to any person other than the Authority, the Counties, the Trustee and the holders of the Series 2016 Bonds issued under the Amended and Restated Trust Agreement any legal or equitable right, remedy or claim under or in respect of the Amended and Restated Trust Agreement, or this Sixth Supplemental Trust Agreement, or under any covenant, condition or provisions therein or herein or in said Series 2016 Bonds contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Counties, the Trustee and the holders of said Series 2016 Bonds issued under the Trust Agreement.

**Section 10. Trustee to Perform Duties of Bond Registrar.** The Trustee accepts and agrees to execute the trusts imposed upon it as Bond Registrar under this Sixth Supplemental Trust Agreement, but only upon the terms and conditions set forth in the Amended and Restated Trust Agreement and subject to the provisions of the Trust Agreement, to all of which the parties hereto and the owners of the Series 2016 Bonds agree.

**Section 11. Identifying Information.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires the Trustee to obtain, verify and record information that identifies each person who opens an account. The Authority agrees to provide documentation to verify its formation and existence as a legal entity if requested by the Trustee. The Trustee may also ask to see financial statements, licenses, and identification and authorization documents from the Authority or other relevant documentation.

**Section 12. Headings Not Part of Agreement; Certain Definitions.** (a) The title of Sections and any wording on the cover of this Sixth Supplemental Trust Agreement are inserted for convenience only and are not a part hereof.

(b) All terms not defined herein shall have the meanings given to them in the Amended and Restated Trust Agreement.

**Section 13. Covenants to Bind Successors.** All the covenants, stipulations, promises and agreements in this Sixth Supplemental Trust Agreement contained made by or on behalf of the Authority or for the Trustee shall inure to and bind their respective successors and assigns.

**IN WITNESS WHEREOF,** Fairfax County Economic Development Authority has caused this Sixth Supplemental Trust Agreement to be executed by its Chairman and its official seal to be impressed hereon and attested by its Secretary, and U.S. Bank National Association has caused this Sixth Supplemental Trust Agreement to be executed in its behalf by an authorized officer, all as of the day and year first above written.

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

By _____
Chairman

[SEAL]

Attest:

_____
Secretary

**U.S. BANK NATIONAL ASSOCIATION, Trustee**

By _____
Name:
Title:

**NOTICE OF SALE**

**FAIRFAX COUNTY (VIRGINIA) ECONOMIC DEVELOPMENT AUTHORITY**

**$_____***
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016A**

**and**

**$_____***
**Transportation Contract Revenue Refunding Bonds**
**(Route 28 Project)**
**Series 2016B**

Electronic Bids, BiDCOMP/Parity Competitive Bidding System ("BiDCOMP/Parity") only, will be received by the Board of Commissioners of the Fairfax County (Virginia) Economic Development Authority (the "EDA"), on:

**Sale Date: _____ _, 2016***

**Sale Time: _____ a.m. Fairfax, Virginia Time***

for the purchase of the EDA's $_____* Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016A (the "Series 2016A Bonds") and $_____*Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B (the "Series 2016B Bonds" and together with the Series 2016A Bonds, the "Bonds"), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of April in the following years and in the following amounts, respectively:

**2016A Bonds**
**Initial Maturity Schedule***

| Maturity Date (April 1) | Principal Amount | Maturity Date (April 1) | Principal Amount |
|---|---|---|---|
| 20__ | $ | 20__ | $ |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |

* Preliminary, subject to change

ACTIVE 214524927v.2

**2016B Bonds**
**Initial Maturity Schedule***

| Maturity Date (April 1) | Principal Amount | Maturity Date (April 1) | Principal Amount |
|---|---|---|---|
| 20__ | $ | 20__ | $ |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |
| 20__ | | 20__ | |

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

## BID PARAMETERS TABLE*

The following table sets forth the bid parameters for the Bonds:

| Dated Date | Due Dates | First Int Date | Anticipated Delivery |
|---|---|---|---|
| Date of Delivery | 4/1/20__ through 4/1/20__ | [10/1/2016] | 8/__/2016 |
| **Bid Award** | | **Bank Qualified** | |
| Low TIC - Dated Date excluding Accrued Int | | No | |

| | | | |
|---|---|---|---|
| **Max TIC** | None | **Series Min Bid** | __% |
| **Denomination** | $5,000.00 | **Series Max Bid** | ___% |
| **Coupon Mults** | 1/8 and 1/20 of 1% only | **Zeros Cpn** | Not permitted |
| **Overall Cpn Dif** | None | **Rates per Mat** | One |
| **Low Cpn** | None | **Term Bonds** | Permitted, bidders option |
| **Low Dollar** | None | **# of Cpns** | No limit |
| **High Cpn** | ___% | **Asc Cpn** | No |
| **High Yield** | None | **Good Faith Deposit** | $_____, as more fully described on page 6 of this Notice of Sale under "Good Faith Deposit." |
| **High Dollar** | None | **Call Feature** | Bond due after April 1, 20__ are callable on or after April 1, 20__ at par. |

* Preliminary, subject to change.

**Changes to Initial Maturity Schedule**

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

**Changes to Bid Maturity Schedule**

The EDA hereby further reserves the right to change the Bid Maturity Schedule after the determination of the winning bidder, by increasing or decreasing the aggregate principal amount of the Bonds, subject to the limitation of no more than a **10% increase or decrease** in the aggregate principal amount of the Bonds. The EDA anticipates that it will communicate the final principal amounts by 4:00 p.m. on the sale date, but reserves the right to communicate the final principal amounts no later than 10:00 a.m. on the day following the sale date.

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

**Book-Entry System**

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of $5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable [October 1, 2016] and semiannually thereafter on April 1 and October 1, and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The EDA will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

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

**The Bonds**

The Bonds are limited obligations of the EDA payable solely from the revenues pledged under the provisions of an Amended and Restated Trust Agreement dated as of November 1, 2006 and a Sixth Supplemental Trust Agreement dated as of [August 1, 2016] (collectively, the "Trust Agreement") each between EDA and a trustee. The revenues pledged to the Bonds are the revenues and receipts of EDA derived from a special improvements tax levied and collected on taxable real estate zoned for commercial or industrial use or used for such purpose and taxable leasehold interests zoned for commercial or industrial use or used for such purposes located within the State Route 28 Highway Transportation Improvement District (the "District").

The Series 2016A Bonds are being issued for the purpose of providing funds to refinance $_____* of the EDA's Transportation Contract Revenue Bonds (Route 28 Project) Series 2007A maturing [on April 1, 20__* through and including April 1, 20__*, inclusive] (the "Refunded Series 2007 Bonds") and the Series 2016B Bonds are being issued for the purpose of providing funds to refinance $_____* of the EDA's Transportation Contract Revenue Bonds (Route 28 Project) Series 2008 maturing [on April 1, 20__* through and including April 1, 20__*, inclusive] (the "Refunded Series 2008 Bonds" and, together with the Refunded Series 2007 Bonds, the "Refunded Bonds"). Per the EDA's authorizing resolution, adopted on June 21, 2016, the net present value of the savings to be obtained from the redemption of the prior bonds must not be less than 3.0% of the par amount of such prior bonds. The EDA reserves the right to reject any bids that do not meet this requirement, in accordance with the section of this notice of sale entitled "Right of Rejection."

**Term Bonds**

The successful bidder may designate two or more of the consecutive serial maturities as any number of term bond maturities equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities. In the event that the bidder specifies a term bond, each such term bond shall be subject to mandatory redemption on April 1 in the years and amounts shown herein for the serial maturities of the Bonds corresponding to the years which have been combined to form such term bond. Bonds to be redeemed in any year by mandatory redemption shall be selected by lot from the bonds of the maturity being redeemed and shall be redeemed at par plus the interest accrued on the principal amount to be redeemed to the date fixed for redemption.

**Optional Redemption***

The Series 2016A Bonds may be redeemed, at the option of EDA, before their respective maturities on any date not earlier than April 1, 20__, in whole or in part (in integral multiples of $5,000), upon payment of the redemption price of par plus accrued interest to the redemption date. The Series 2016A Bonds maturing on or before April 1, 20__ are not subject to optional redemption prior to their stated date of maturity. The Series 2016A Bonds maturing after April 1, 20__ are subject to optional redemption at the option of the Authority, in whole or in part, at any time on or after April 1, 20__ at a redemption price equal to 100% of the principal amount of the Series 2016A Bonds to be redeemed plus interest accrued thereon to the redemption date.

The Series 2016B Bonds may be redeemed, at the option of EDA, before their respective maturities on any date not earlier than April 1, 20__, in whole or in part (in integral multiples of $5,000), upon payment of the redemption price of par plus accrued interest to the redemption date. The Series 2016B Bonds maturing on or before April 1, 20__ are not subject to optional redemption prior to their stated date of maturity. The Series 2016B Bonds maturing after April 1, 20__ are subject to optional redemption at the option of the Authority, in whole or in part, at any time on or after April 1, 20__ at a redemption price equal to 100% of the principal amount of the Series 2016B Bonds to be redeemed plus interest accrued thereon to the redemption date.

* Preliminary, subject to change.

***Electronic Bidding and Bidding Procedures***

**Registration to Bid**

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

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

**Disclaimer**

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of this Notice of Sale. Neither the EDA nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the EDA nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. The EDA is using BiDCOMP/Parity as a communication mechanism, and not as the EDA's agent, to conduct the electronic bidding for the Bonds. The EDA is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders; and the EDA is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., Fairfax County's financial advisor, by telephone at (703) 741-0175 or Davenport & Company LLC, Loudoun County's financial advisor at (804) 697-2900. After receipt of bids is closed, the EDA through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers, and does not constitute the award of the Bonds. Each bid will remain subject to review by the EDA to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

**Bidding Procedures**

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

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

**Good Faith Deposit**

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (the "Deposit") of $____ to Fairfax County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit by not later than 4:00 p.m. (Fairfax, Virginia Time) on the date of the sale, and the Bonds will not be awarded to such bidder until the Authority has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

Bank Name:
ABA:
Account Name:
Account Number:
Attention: Tammy Kennedy-Nichols,

**Award of Bonds**

Award or rejection of bids will be made by the EDA, with the approval of Fairfax County and Loudoun County prior to 5:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by the EDA within such six-hour period of time (11:00 a.m. – 5:00 p.m.).

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

**Right of Rejection**

EDA expressly reserves the right (i) to waive any informalities, (ii) to reject all bids, any incomplete bid or any bid not fully complying with all of the requirements set forth herein, and (iii) to solicit new bids or proposals for the sale of the Bonds or otherwise provide for the public sale of the Bonds if all bids are rejected or the winning bidder defaults, including, without limitation, sale of the Bonds to one or more of the losing or rejected bidders without regard to their original bid or its relationship to any other bid.

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

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

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

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

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

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

**Conflict Waiver**

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

**Undertakings of the Successful Bidder**

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

**Delivery**

The Bonds will be delivered on or about August __, 2016 in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

The approving opinion of Sidley Austin LLP, Washington D.C. in substantially the form appearing in the Preliminary Official Statement, will be furnished without cost to the successful bidder. There will also be furnished the usual closing papers, including certifications as to the Official Statement and no-litigation and an opinion of disclosure counsel from Nixon Peabody LLP, Washington, D.C. as to certain matters. [Such opinion will include a statement that subject to certain limitations described therein no information has come to their attention which would cause them to believe that the Official Statement contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The form of the opinion of disclosure counsel may be obtained from Public Financial Management, Inc. and Davenport & Company LLC upon request.]

**CUSIP Numbers**

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

**Official Statements**

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

After the award of the Bonds, the EDA will prepare copies of the Official Statement (no more than 300) and will include therein such additional information concerning the reoffering of the Bonds as the successful bidder may reasonably request; provided, however, that the EDA will not include in the Official Statement a "NRO" ("not reoffered") designation with respect to any maturity of the Bonds. The successful bidder will be responsible to the

EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering. The EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to the Municipal Securities Rulemaking Board's ("MSRB") Electronic Municipal Market Access ("EMMA") system. The successful bidder will be required to acknowledge receipt of such Official Statement, to certify that it has made delivery of the Official Statement to EMMA and to acknowledge that the EDA expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to certify that the Bonds will only be offered pursuant to such Official Statement and only in states where the offer is legal. The successful bidder will be responsible to the EDA in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering.

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

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

Further information will be furnished upon application to Public Financial Management, Inc. at (703) 741-0175 or Davenport & Company LLC at 804-697-2900.

**FAIRFAX COUNTY (VIRGINIA)**
**ECONOMIC DEVELOPMENT AUTHORITY**

**By: Steven L. Davis, Chairman**

Attachment 8

**BOND PURCHASE AGREEMENT**

**$_____**
**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT)**
**SERIES 2016A**

**AND**

**$_____**
**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**
**TRANSPORTATION CONTRACT REVENUE REFUNDING BONDS**
**(ROUTE 28 PROJECT)**
**SERIES 2016B**

July _, 2016

Fairfax County Economic Development Authority
8300 Boone Boulevard, Suite 450
Vienna, Virginia 22182

The undersigned, _____, (the "Representative"), on its own behalf and on behalf of _____, _____ and _____ (collectively, the "Underwriters"), hereby agrees to purchase the above-captioned bonds (collectively, the "Series 2016 Bonds") from the Fairfax County Economic Development Authority (the "Authority") pursuant to the terms and conditions of this Bond Purchase Agreement (this "Agreement").

The Series 2016 Bonds are to be authorized and issued pursuant to the Constitution and laws of the Commonwealth of Virginia (the "Commonwealth"), including Chapter 643 of the 1964 Acts of the General Assembly of Virginia, as amended (the "Enabling Act"), and a resolution duly adopted by the Authority on June 21, 2016 (the "Resolution"). The Authority's Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016 are being issued to refund certain outstanding Authority Transportation Contract Revenue Bonds (Route 28 Project) Series 2007A. The Authority's Transportation Contract Revenue Refunding Bonds (Route 28 Project) Series 2016B are being issued to refund certain outstanding Authority Transportation Contract Revenue Bonds (Route 28 Project) Series 2008.

This offer is made subject to (i) the acceptance hereof by the Authority and the approval hereof by Fairfax County, Virginia (the "County"), evidenced by each party's execution and delivery (manually or by facsimile or electronic (PDF) transmission) of this Agreement (or the signature page) to the Representative or counsel to the Underwriters, at or prior to 5:00 p.m., Eastern Time, today, and (ii) receipt by the Underwriters at or prior to 5:00 p.m., Eastern Time, today, of the Letter of Representation of Fairfax County, Virginia (the "Fairfax County Letter of Representation") and the Letter of Representation of Loudoun County, Virginia (the "Loudoun County Letter of Representation" and together with the Fairfax County Letter of Representation, the "Letters of Representation") substantially in the forms attached hereto as Exhibit B, which must be duly executed and delivered by an authorized official of the County, evidenced as in the case of the execution and delivery of the Agreement. If not so accepted, this offer shall expire upon written notice sent by the Representative to the Authority, Fairfax County, Virginia ("Fairfax County") or Loudoun County, Virginia ("Loudoun County" and together with Fairfax County, the "Counties") at any time prior to acceptance.

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings ascribed to them in the Preliminary Official Statement (as defined herein).

***Section 1. Offer and Sale of Series 2016 Bonds; Good Faith Deposit***

(a) On the basis of the representations, warranties, covenants and agreements contained in this Agreement (including the Letters of Representation), and in the other agreements referred to herein, and subject to the terms and conditions described in this Agreement, the Underwriters agree, jointly and severally, to purchase all the Series 2016 Bonds for the sum of $_____, representing the par amount of the Series 2016 Bonds ($_____), plus original issue premium of $_____, less an underwriting discount of $_____.

The Series 2016 Bonds shall be dated their date of issuance and shall be payable as to principal and interest in years and amounts and at rates as shown on Exhibit A.

(b) The Underwriters acknowledge that neither the Counties nor the Authority has authorized or consented to any of the following:

(i) the sale of the Series 2016 Bonds to any purchaser in connection with the initial public offering of the Series 2016 Bonds unless a copy of the Official Statement (as defined herein) is delivered to such purchaser not later than the settlement of such transaction;

(ii) the offer or sale of Series 2016 Bonds in any jurisdiction where any such offer or sale would be in violation of such jurisdiction's securities or "Blue Sky" laws;

(iii) making any representations or providing any information to prospective purchasers of the Series 2016 Bonds in connection with the public offering and sale of the Series 2016 Bonds other than the information set forth in the Preliminary Official Statement (as defined herein), the Official Statement and any amendment thereto approved in writing by the County and the Authority; or

(iv) any actions in connection with the offering and sale of the Series 2016 Bonds in violation of applicable requirements of federal and state securities laws and any applicable requirements of the MSRB or the Financial Industry Regulatory Authority. The Underwriters agree that in their offering of the Series 2016 Bonds it will comply with the applicable rules of the MSRB.

(c) On the date hereof, the sum of $_____ being payment in good faith on account of the purchase price of the Series 2016 Bonds (the "Good Faith Deposit"), shall be delivered by wire transfer from the Underwriters to the account identified by the Authority. The Good Faith Deposit represents approximately 1% of the aggregate principal amount of the Series 2016 Bonds provided in the Preliminary Official Statement (defined herein). In the event the Authority does not accept this offer, such Good Faith Deposit shall be immediately returned to the Underwriters by wire transfer to the account designated by the Underwriters. In the event that the Underwriters fail (other than for a reason permitted herein) to accept and pay for the Series 2016 Bonds on the Closing Date (as defined herein) as herein provided, the amount of such Good Faith Deposit plus any interest earned thereon shall be retained by the Authority as and for liquidated damages for such failure and for any defaults hereunder on the part of the Underwriters, and such retention shall constitute a full release and discharge of all claims by the Authority and the Counties against the Underwriters arising out of the transactions contemplated hereby. In the event of the Authority's failure to tender delivery of the Series 2016 Bonds on the Closing Date, or if the Authority or the County shall be unable to satisfy the conditions to the obligations of the Underwriters contained herein (unless such conditions are waived by the Underwriters), or if the obligations of the Underwriters shall be terminated

for any reason permitted herein, the Authority shall immediately return to the Underwriters the Good Faith Deposit, plus any interest earned by the Authority on said sum from the date hereof to the date of return of the Good Faith Deposit, by wire transfer of immediately available funds.

***Section 2. Official Statement***

The Authority hereby deems the Preliminary Official Statement, dated _____ __, 2016, relating to the Series 2016 Bonds (the "Preliminary Official Statement") to be final as of its date within the meaning of Rule 15c2-12 ("Rule 15c2-12") of the Securities and Exchange Commission (the "SEC"), except for the omission of pricing and other information allowed to be omitted pursuant to Rule 15c2-12. The Authority will take all proper steps to complete the Preliminary Official Statement as an Official Statement in final form, including the completion of all information required pursuant to Rule 15c2-12 (the "Official Statement"). The execution of the Official Statement in final form by the Authority's Chairman or Vice Chairman shall be conclusive evidence that the Authority has deemed it final as of its date. The Authority shall arrange for the delivery within seven business days of today of a reasonable number of printed copies of the Official Statement in final form (which need not be manually executed) to the Underwriters for delivery to each potential investor requesting a copy of the Official Statement and to each purchaser to which the Underwriters initially sell Series 2016 Bonds.

The Underwriters agree that a copy of the Official Statement will be deposited before the "end of the underwriting period" (as defined herein) with the MSRB.

The Authority shall prepare the Official Statement, including any amendments thereto, in word-searchable PDF format as described in MSRB Rule G-32 and shall provide the electronic copy of the word-searchable PDF format of the Official Statement to the Underwriters no later than one business day prior to the Closing Date to enable the Underwriters to comply with MSRB Rule G-32.

The Authority further agrees to provide the Underwriters with the advance refunding documents (as defined in MSRB Rule G-32) in a word-searchable PDF format no later than four (4) business days after the Closing Date to enable the Underwriters to comply with MSRB Rule G-32.

***Section 3. Authority's Representations, Warranties, Covenants and Agreements***

The Authority hereby represents, warrants, covenants and agrees as follows:

(a) The Authority is, and will be at the Closing Time (as defined herein), (i) a political subdivision of the Commonwealth of Virginia created by the Enabling Act and (ii) authorized to adopt the Resolution and to perform its obligations under the Series 2016 Bonds, the Amended and Restated Trust Agreement dated as of November 1, 2006, as, previously supplemented, and the Sixth Supplemental Trust Agreement, dated as of August 1, 2016, each between the Authority and U.S. Bank National Association, as Trustee (collectively, the "Trust Agreement"), the Amended and Restated District Contract, dated as of May 1, 2012, by and among the Commonwealth Transportation Board, the Authority and the State Route 28 Highway Transportation Improvement District Commission (the "District Contract") and this Agreement (collectively, the "Documents").

(b) The Authority has complied with all provisions of the Commonwealth's constitution and laws pertaining to the Authority's issuing, adopting or entering into the Documents and has full power and authority to consummate all transactions contemplated by the Documents and the Official Statement and any and all other agreements relating thereto to which the Authority is a party, including the financing and refinancing of the District Project (as defined in the Trust Agreement) through the issuance of bonds pursuant to the terms of the Trust Agreement.

(c) At the time of the Authority's acceptance of this Agreement and (unless an event occurs of the nature described in Section 3(h) below) at all subsequent times up to and including the Closing Time, the information contained in the Preliminary Official Statement and the Official Statement (except for the information contained under the headings **"THE DISTRICT," "THE SERIES 2016 BONDS – Book-Entry Only System"** and **"TAX MATTERS"** and Appendices A-1, A-2, B-1 and B-2) and in any amendment or supplement thereto that the Authority may authorize for use with respect to the Series 2016 Bonds is and will be true and correct and does not contain and will not contain any untrue statement of a material fact and does not omit and will not omit to state a material fact necessary to make the statements in such document, in the light of the circumstances under which they were made, not misleading. If the Official Statement is supplemented or amended pursuant to Section 3(h) below, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such Section 3(h)) at all times subsequent thereto up to and including the Closing Time, the Authority shall take all steps necessary to ensure that the Official Statement (except for the information contained under the headings **"THE DISTRICT," "THE SERIES 2016 BONDS – Book-Entry Only System"** and **"TAX MATTERS"** and Appendices A-1, A-2, B-1 and B-2) as so supplemented or amended does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) The Authority has duly adopted and authorized, at one or more public meetings duly called and held at which quorums were present and acting throughout, (i) the distribution and use of the Official Statement; (ii) the adoption or the execution, delivery and due performance of the Documents and any and all such other agreements and documents as may be required to be executed and delivered by the Authority in order to carry out, give effect to and consummate the transactions contemplated by the Documents and by the Official Statement; and (iii) the carrying out, giving effect to and consummation of the transactions contemplated by the Documents and the Official Statement. Upon the Closing Date, the Authority shall have duly adopted or authorized, executed and delivered each Document and the Official Statement.

(e) Except as and to the extent described in the Preliminary Official Statement and the Official Statement, there is no action, proceeding or investigation before or by any court or other public body pending or, to the Authority's knowledge, threatened against or affecting the Authority or any Authority officer or employee in an official capacity (or, to the Authority's knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated or described herein or in the Official Statement, or the validity of the Documents or of any other agreement or instrument to which the Authority is or is expected to be a party and which is used or contemplated for use in the consummation of the transactions contemplated or described herein or in or by the Official Statement, or (ii) the condition of the Authority, financial or otherwise.

(f) The Authority's adoption or execution and delivery of the Documents and other agreements contemplated by the Documents and by the Official Statement, and compliance with the provisions thereof, will not constitute on the Authority's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any contract, agreement, loan or other instrument to which the Authority is subject or by which the Authority is or may be bound. No event has occurred or is continuing that, with the lapse of time or the giving of notice, or both, would constitute an event of default under any such agreement, including the Documents.

(g) The Authority will not take or omit to take any action the taking or omission of which will in any way cause the proceeds from the sale of the Series 2016 Bonds to be applied in a manner other than as described in the Official Statement and as permitted by the Resolution or Trust Agreement or that would cause the interest on the Series 2016 Bonds to be includable in the gross income of the recipients thereof for federal or Commonwealth income tax purposes.

(h) If between the date of this Agreement and the date that is 25 days after the "end of the underwriting period," as defined below, any event shall occur that might or would cause the Official Statement, as then supplemented or amended (except for the information related to book-entry only), to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Authority shall promptly notify the Underwriters and the Counties. If, in the opinion of the Underwriters, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority shall at its expense supplement or amend the Official Statement in a form and in a manner approved by the Underwriters.

The "end of the underwriting period" is the time that is the later of (i) the Closing Time (as defined herein) and (ii) the time the Underwriters do not retain, directly or as members of an underwriting syndicate, an unsold balance of the Series 2016 Bonds for sale to the public. Unless the Underwriters shall otherwise advise the Authority in writing prior to the Closing Date, the Authority may assume that the end of the underwriting period is the Closing Time.

(i) The Authority is not required to obtain any further consent, approval, authorization or order of any governmental or regulatory authority as a condition precedent to its adoption or authorization, execution and delivery of the Series 2016 Bonds, the Documents or the Official Statement, or the Authority's performance hereunder and thereunder (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the Underwriters' offers or sales of the Series 2016 Bonds).

(j) Any certificate signed by any Authority officer and delivered to the Underwriters shall be deemed a representation and warranty by the Authority to the Underwriters as to the statements made therein.

(k) The Authority agrees to take all reasonable steps as requested to cooperate with the Underwriters and their counsel in order to qualify the Series 2016 Bonds for offering and sale under the securities or "Blue Sky" laws of such jurisdictions of the United States as the Underwriters may request, provided that the Authority need not consent to jurisdiction or service of process in any jurisdiction other than the Commonwealth.

(l) The Authority has never defaulted in the payment of the principal of or interest on any indebtedness, has not exercised any rights of nonappropriation or similar rights. No proceedings have ever been taken, are being taken, or are contemplated by the Authority under the United States Bankruptcy Code or under any similar law or statute of the United States or the Commonwealth.

(m) Other than as described in the Official Statement, the Authority has not entered into any contract or arrangement of any kind that might give rise to any lien or encumbrance on the payments to be received by the Authority as described on the Official Statement.

***Section 4. Delivery of Series 2016 Bonds***

The Series 2016 Bonds shall be delivered to the order of the Underwriters through The Depository Trust Company in New York, New York, by 12:00 noon, Eastern Time, on August __, 2016, or such other place, time or date as shall be mutually agreed on in writing by the Authority and the Underwriters. Simultaneously, the Underwriters shall make the payment required pursuant to Section 1 above, in immediately available funds, to the Authority or at its direction. In this Agreement, the date of such delivery and payment is called the "Closing Date," and the time and date of such delivery and payment is called the "Closing Time."

The Series 2016 Bonds shall be delivered in fully registered form, in the form of one Series 2016 Bond for each maturity, bearing CUSIP numbers (provided neither the inclusion of a wrong CUSIP number on any Series 2016 Bond nor the failure to include a number thereon shall constitute cause to refuse delivery of any Series 2016 Bond).

***Section 5. Conditions to Underwriters' Obligations***

The Underwriters' obligation hereunder is subject to the following conditions:

(a) The Documents, the Fairfax County Documents (as defined in the Fairfax County Letter of Representation), the Loudoun County Documents (as defined in the Loudoun County Letter of Representation) and the Official Statement shall have been duly authorized or adopted and, if applicable, executed and delivered in the forms heretofore approved by the Underwriters with only such changes as are mutually agreed on by the Authority or the County, as applicable, and the Underwriters.

(b) The performance by the Authority of its obligations and adherence to its covenants hereunder, the performance by Fairfax County of its obligations and adherence to its covenants under the Fairfax County Letter of Representation and the performance by Loudoun County of its obligations and adherence to its covenants under the Loudoun County Letter of Representation, to have been performed at or prior to the Closing Time.

(c) The representations and warranties contained in this Agreement by the Authority, the representations and warranties contained in the Fairfax County Letter of Representation by Fairfax County and in the Loudoun County Letter of Representation by Loudoun County, are true, complete and correct today and as of the Closing Time as if made at the Closing Time.

(d) There is no material change in the Counties', District's or the Authority's condition (financial or otherwise) between the most recent dates as to which information is given in the Official Statement and the Closing Time, other than as reflected in or contemplated by the Official Statement, and there are at the Closing Time no material transactions or obligations (not in the ordinary course of business) entered into by the Authority or the Counties after the date of the Official Statement, other than as reflected in or contemplated by the Official Statement.

(e) All necessary approvals, whether legal or administrative, have been obtained from such federal, state and local entities or agencies as are appropriate and are required in connection with the financing.

(f) At the Closing Time, the Underwriters must receive:

(i) Opinions dated the Closing Date of (A) Sidley Austin LLP, Bond Counsel, in substantially the form of Appendix [F] to the Official Statement, [(B) Nixon Peabody, LLP, disclosure counsel, in form and substance acceptable to the Underwriters] and (C) _____, counsel to the Underwriters, in form and substance acceptable to the Underwriters.

(ii) An opinion of [Elizabeth D. Teare, Esq., Fairfax County Attorney], dated the Closing Date and addressed to the Underwriters, to the effect that (A) Fairfax County is a political subdivision of the Commonwealth, duly organized and validly existing under the Constitution and laws of the Commonwealth and vested with all the rights, powers and privileges conferred upon it by the Constitution and laws of the Commonwealth, (B) the Fairfax County Resolution (as defined herein) was duly adopted by the Board of Supervisors of Fairfax County and is in full force and effect, (C) Fairfax County has all the necessary power and authority (1) to execute and deliver, if

applicable, the Fairfax County Documents and (2) to consummate all of the actions contemplated by the Fairfax County Documents, (D) the Fairfax County Documents have been duly authorized and, if applicable, executed and delivered by the County and constitute valid and legally binding obligations of Fairfax County, enforceable (subject to customary exceptions) against Fairfax County in accordance with their terms, (E) no further approval, consent or withholding of objection on the part of any regulatory body, federal, Commonwealth or local, is required for Fairfax County to execute and deliver and perform its obligations under the Fairfax County Documents, (G) the adoption by the Board of Supervisors of Fairfax County of the Fairfax County Resolution and the execution and delivery by Fairfax County of the other Fairfax County Documents and the consummation by Fairfax County of the transactions contemplated by them are not prohibited by, and do not violate any provision of and will not result in the breach of any law, rule, regulation, judgment, decree, order or other requirement applicable to Fairfax County, any ordinance or resolution of Fairfax County, or any material contract, indenture or agreement to which Fairfax County is a party or by which Fairfax County is bound, and have not resulted, and will not result, in the creation or imposition of any lien, encumbrance, mortgage or other similar conflicting ownership or security interest in favor of any third person in or to Fairfax County's revenues, assets, properties or funds except as contemplated in the Fairfax County Documents, and (H) to his knowledge, there is no legal action or other proceeding, or any investigation or inquiry (before any court, agency, arbitrator or otherwise), pending or threatened against Fairfax County or any of their officials, in their respective capacities, (1) to restrain or enjoin the issuance, sale or delivery of the Series 2016 Bonds or the application of proceeds of the Series 2016 Bonds as provided in the Official Statement or (2) that may reasonably be expected to have a material and adverse effect upon the due performance by Fairfax County of the transactions contemplated by the Fairfax County Documents and the Official Statement or the validity or enforceability of the Series 2016 Bonds or the Fairfax County Documents.

(iii) An opinion of [Leo Rogers, Esq., Loudoun County Attorney], dated the Closing Date and addressed to the Underwriters, to the effect that (A) Loudoun County is a political subdivision of the Commonwealth, duly organized and validly existing under the Constitution and laws of the Commonwealth and vested with all the rights, powers and privileges conferred upon it by the Constitution and laws of the Commonwealth, (B) the Loudoun County Resolution (as defined herein) was duly adopted by the Board of Supervisors of Loudoun County and is in full force and effect, (C) Loudoun County has all the necessary power and authority (1) to execute and deliver, if applicable, the Loudoun County Documents and (2) to consummate all of the actions contemplated by the Loudoun County Documents, (D) the Loudoun County Documents have been duly authorized and, if applicable, executed and delivered by the County and constitute valid and legally binding obligations of Loudoun County, enforceable (subject to customary exceptions) against Loudoun County in accordance with their terms, (E) no further approval, consent or withholding of objection on the part of any regulatory body, federal, Commonwealth or local, is required for Loudoun County to execute and deliver and perform its obligations under the Loudoun County Documents, (G) the adoption by the Board of Supervisors of Loudoun County of the Loudoun County Resolution and the execution and delivery by Loudoun County of the other Loudoun County Documents and the consummation by Loudoun County of the transactions contemplated by them are not prohibited by, and do not violate any provision of and will not result in the breach of any law, rule, regulation, judgment, decree, order or other requirement applicable to Loudoun County, any ordinance or resolution of Loudoun County, or any material contract, indenture or agreement to which Loudoun County is a party or by which Loudoun County is bound, and have not resulted, and will not result, in the creation or imposition of any lien, encumbrance, mortgage or other similar conflicting ownership or security interest in favor of any third person in or to Loudoun County's revenues, assets, properties or funds except as contemplated in the Loudoun County Documents, and (H) to his knowledge, there is no legal action or other proceeding,

or any investigation or inquiry (before any court, agency, arbitrator or otherwise), pending or threatened against Loudoun County or any of their officials, in their respective capacities, (1) to restrain or enjoin the issuance, sale or delivery of the Series 2016 Bonds or the application of proceeds of the Series 2016 Bonds as provided in the Official Statement or (2) that may reasonably be expected to have a material and adverse effect upon the due performance by Loudoun County of the transactions contemplated by the Loudoun County Documents and the Official Statement or the validity or enforceability of the Series 2016 Bonds or the Loudoun County Documents.

(iv) An opinion of Thomas O. Lawson, Esq., PLC, dated the Closing Date and addressed to the Underwriters, to the effect that (A) the Authority is a political subdivision of the Commonwealth, duly organized and validly existing under the Constitution and laws of the Commonwealth and vested with all the rights, powers and privileges conferred upon it by the Constitution and laws of the Commonwealth, (B) the Resolution was duly adopted by the Authority and are in full force and effect, (C) the Authority has all necessary power and authority (1) to execute and deliver, if applicable, the Documents and (2) to consummate all of the actions contemplated by the Documents, (D) the Documents have been duly authorized and, if applicable, executed and delivered by the Authority and constitute valid and legally binding obligations of the Authority, enforceable (subject to customary exceptions) against the Authority in accordance with their terms, (E) no further approval, consent or withholding of objection on the part of any regulatory body, federal, Commonwealth or local, is required for the Authority to execute and deliver and perform its obligations under the Documents, (F) the adoption by the Authority of the Resolution and the execution and delivery by the Authority of the other Documents and the consummation by the Authority of the transactions contemplated by them are not prohibited by, and do not violate any provision of and will not result in the breach of any law, rule, regulation, judgment, decree, order or other requirement applicable to the Authority, any ordinance or resolution of the Authority, or any material contract, indenture or agreement to which the Authority is a party or by which the Authority is bound, and have not resulted, and will not result, in the creation or imposition of any lien, encumbrance, mortgage or other similar conflicting ownership or security interest in favor of any third person in or to the Authority's revenues, assets, properties or funds except as contemplated in the Documents, and (G) to his knowledge, there is no legal action or other proceeding, or any investigation or inquiry (before any court, agency, arbitrator or otherwise), pending or threatened against the Authority or any of its officials, in their respective capacities, (1) to restrain or enjoin the issuance, sale or delivery of the Series 2016 Bonds or the application of proceeds of the Series 2016 Bonds as provided in the Official Statement or (2) which may reasonably be expected to have a material and adverse effect upon the due performance by the Authority of the transactions contemplated by the Documents and the Official Statement or the validity or enforceability of the Documents.

(v) A supplemental opinion of Bond Counsel, dated the Closing Date and in form and substance acceptable to the Underwriters to the effect that:

(A) (i) the information contained in those portions of the Official Statement entitled ["ESTIMATED SOURCES AND USES OF FUNDS," "SECURITY FOR THE SERIES 2016 BONDS," "THE SERIES 2016 BONDS, (excluding Book-Entry Only System)," "CERTAIN LEGAL MATTERS," "TAX MATTERS" and "CONTINUING DISCLOSURE," and Appendices C, D, E and F], insofar as such information summarizes provisions of the Documents or the Fairfax County Documents or the Loudoun County Documents or is a description of opinions rendered by Bond Counsel, is a fair and accurate summary of the information purported to be summarized and (ii) nothing has come to Bond Counsel's attention that has caused such counsel to believe that the Official Statement (excepting information relating to The Depository Trust Company and any statistical and

financial data included in the Official Statement) contains any untrue statement of material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(B) the Series 2016 Bonds do not require registration under the Securities Act of 1933, as amended (the "Securities Act");

(C) the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), does not require the qualification of the Resolution and Trust Agreement thereunder; and

(D) this Agreement has been duly authorized, executed and delivered and constitutes a valid and legal obligation of the Authority.

(vi) A certificate signed by the Authority's Chairman or Vice Chairman, dated the Closing Date and in form and substance acceptable to the Underwriters, stating that (A) such officer has reviewed the Preliminary Official Statement and the Official Statement and that, as of the dates of such documents and as of the Closing Date, such documents do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements in such documents, in the light of the circumstances under which they were made, not misleading, and (B) such officer has reviewed the Authority's covenants, agreements, representations and warranties hereunder, and further confirming the Authority's compliance with such covenants and agreements and the accuracy of such representations and warranties.

(vii) Evidence satisfactory to the Underwriters that the Series 2016 Bonds have received a rating of ["__" from Moody's Investors Service, Inc., and "__" Standard & Poor's Rating Services, a division of The McGraw Hill Companies ("S&P")], and that each such rating is in effect at the Closing Time.

(viii) Certified copies of all relevant proceedings of the Board of Commissioners of the Authority, the Board of Supervisors of Fairfax County and Board of Supervisors of Loudoun County.

(ix) Original executed or certified copies of the Documents, the Fairfax County Documents and the Loudoun County Documents.

(x) Evidence satisfactory to the Underwriters that the Authority's issuance of the Series 2016 Bonds has received the County's required approval and that such approval remains in effect.

(xi) Signed copies of a certificate or certificates, dated the Closing Date, signed by the Authority's Chairman or Vice Chairman to the effect that (1) the representations and warranties of the Authority contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date; (2) to the best of the knowledge of such officer, the information in the Official Statement, excluding the information under the captions ["THE DISTRICT PROJECT," "THE DISTRICT," "THE SERIES 2016 BONDS – Book-Entry Only System" and "TAX MATTERS" and Appendices A-1, A-2, B-1 and B-2 (the "Authority Information")], does not contain any untrue statement of material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (3) to the knowledge of such officer, no litigation is pending against the Authority or pending against any other entity or person or threatened in any court in any way adversely affecting the legal existence of the Authority or seeking to restrain or enjoin the

issuance, sale, execution or delivery of the Series 2016 Bonds, or materially and adversely affecting the right of the Authority to collect revenues and other moneys pledged or to pledged to pay the principal of and interest on the Series 2016 Bonds, or the pledge thereof, or in any way materially and adversely contesting or affecting the validity or enforceability of the Documents or this Agreement, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the power of the Authority or its authority with respect to the Documents or this Agreement; (4) to the best of the knowledge of such officer, no event materially and adversely affecting the Authority or the transactions contemplated by the Official Statement has occurred since the date of the Official Statement which, in the reasonable opinion of the Authority, is necessary to be set forth in an amendment or supplement to the Official Statement (whether or not the Official Statement shall have been amended or supplemented to set forth such event) to make the statements therein, in the light of the circumstances under which they were made, not misleading; (5) the Authority has the full legal right, power and authority to carry out and consummate the transactions contemplated to be carried out by the Authority by the Official Statement; and (6) the Authority has complied with all the requirements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date.

(xii) Signed copies of a certificate or certificates, dated the Closing Date, signed by the Chief Financial Officer of Fairfax County to the effect that (1) the representations and warranties of Fairfax County contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date; (2) to the best of the knowledge of such officer, the information in the Official Statement, excluding the Authority Information and Appendices A-1, A-2, C, D, E and F (the "Fairfax County Information"), does not contain any untrue statement of material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (3) to the knowledge of such officer, no litigation is pending against Fairfax County or, pending against any other entity or person or threatened in any court in any way adversely affecting the legal existence of Fairfax County or seeking to restrain or enjoin the issuance, sale, execution or delivery of the Series 2016 Bonds, or materially and adversely affecting the ability of Fairfax County to make payments under the [Local Contract (as defined in the Fairfax County Letter of Representation)], or in any way materially and adversely contesting or affecting the validity or enforceability of the Series 2016 Bonds, the resolution duly adopted by the Fairfax County Board of Supervisors on June 21, 2016 (the "Fairfax County Resolution"), this Agreement or the Fairfax County Letter of Representation, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the power of Fairfax County or its authority with respect to the Fairfax County Documents or the Fairfax County Letter of Representation; (4) to the knowledge of such officer, no event materially and adversely affecting Fairfax County or the transactions contemplated by the Official Statement has occurred since the date of the Official Statement which, in the reasonable opinion of Fairfax County, is necessary to be set forth in an amendment or supplement to the Official Statement (whether or not the Official Statement shall have been amended or supplemented to set forth such event) to make the statements therein, in the light of the circumstances under which they were made, not misleading; (5) Fairfax County has the full legal right, power and authority to carry out and consummate the transactions contemplated to be carried out by Fairfax County as described in the Official Statement; and (6) Fairfax County has complied with all the requirements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date.

(xiii) Signed copies of a certificate or certificates, dated the Closing Date, signed by the [Chief Financial Officer] of Loudoun County to the effect that (1) the representations and warranties of Loudoun County contained herein are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date; (2) to the best of the knowledge of such

officer, the information in the Official Statement, excluding the Authority Information and Appendices B-1, B-2, C, D, E and F (the "Loudoun County Information"), does not contain any untrue statement of material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (3) to the knowledge of such officer, no litigation is pending against Loudoun County or, pending against any other entity or person or threatened in any court in any way adversely affecting the legal existence of Loudoun County or seeking to restrain or enjoin the issuance, sale, execution or delivery of the Series 2016 Bonds, or materially and adversely affecting the ability of Loudoun County to make payments under the [Local Contract], or in any way materially and adversely contesting or affecting the validity or enforceability of the Series 2016 Bonds, the resolution duly adopted by the Loudoun County Board of Supervisors on June 23, 2016 (the "Loudoun County Resolution"), this Agreement or the Loudoun County Letter of Representation, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the power of Loudoun County or its authority with respect to the Loudoun County Documents or the Loudoun County Letter of Representation; (4) to the knowledge of such officer, no event materially and adversely affecting Loudoun County or the transactions contemplated by the Official Statement has occurred since the date of the Official Statement which, in the reasonable opinion of Loudoun County, is necessary to be set forth in an amendment or supplement to the Official Statement (whether or not the Official Statement shall have been amended or supplemented to set forth such event) to make the statements therein, in the light of the circumstances under which they were made, not misleading; (5) Loudoun County has the full legal right, power and authority to carry out and consummate the transactions contemplated to be carried out by Loudoun County as described in the Official Statement; and (6) Loudoun County has complied with all the requirements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date.

(xiv) [Signed copies of a certificate or certificates, dated the Closing Date, signed by the Chairman or Vice Chairman of the State Route 28 Highway Transportation Improvement District Commission to the effect that (1) to the best of the knowledge of such officer, the information in the Official Statement, under the heading "THE DISTRICT," does not contain any untrue statement of material fact or omit any statement of a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; (2) to the knowledge of such officer, no litigation is pending against the State Route 28 Highway Transportation Improvement District (the "District") or pending against any other entity or person or threatened in any court in any way adversely affecting the legal existence of the District or seeking to restrain or enjoin the issuance, sale, execution or delivery of the Series 2016 Bonds, or in any way materially and adversely contesting or affecting the validity or enforceability of the Series 2016 Bonds, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the power of the District or its authority with respect to the District Contract; (3) to the knowledge of such officer, no event materially and adversely affecting the District or the transactions contemplated by the Official Statement has occurred since the date of the Official Statement which, in the reasonable opinion of the District, is required to be set forth in an amendment or supplement to the Official Statement (whether or not the Official Statement shall have been amended or supplemented to set forth such event); (4) the District has the full legal right, power and authority to carry out and consummate the transactions contemplated to be carried out by the District as described in the Official Statement; and (5) the District has complied with all the requirements and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date.]

(xv) Such additional certificates and other documents in such form and substance as the Underwriters, their counsel or Bond Counsel may request to evidence performance of or

compliance with the provisions of the Documents or the Official Statement and the transactions contemplated hereby and thereby, the truth and accuracy as of the Closing Time of the Authority's, Fairfax County's and Loudoun County's representations herein and in the Official Statement, and the Authority's, Fairfax County's and Loudoun County's due performance at or prior to the Closing Time of all agreements then to be performed by the Authority, Fairfax County or Loudoun County, as applicable.

The delivery of the above documents shall be made on the Closing Date, at or prior to the Closing Time, at Sidley Austin LLP's Washington D.C. office, or at such other place as the Authority and the Underwriters may hereafter determine.

The Authority, Fairfax County and Loudoun County shall exercise their reasonable best efforts to fulfill such of the foregoing conditions as may be under their control or direction. In no event shall the failure of any such condition to be met constitute a default on the part of any party (except any party who had such condition under its control or direction). The provisions of Section 1(c) shall apply whether or not the failure of any such condition to be met constitutes a default on the part of any party.

***Section 6. Underwriters' Right to Cancel***

The Underwriters have the right to cancel their obligations hereunder by notifying the Authority, Fairfax County or Loudoun County in writing of their election to do so between today and the Closing Time, if at any time before the Closing Time:

(a) legislation shall have been enacted by the Congress of the United States, or a decision shall have been rendered by a court of the United States or the Commonwealth, or a ruling, resolution, regulation, or temporary regulation, release, or announcement shall have been made or shall have been proposed to be made by the Treasury Department of the United States or the Internal Revenue Service, or other federal or Commonwealth authority, with respect to federal or Commonwealth taxation upon revenues or other income of the general character of that to be derived by the Authority, Fairfax County or Loudoun County from its operations, or upon interest received on obligations of the general character of the Series 2016 Bonds that, in the Underwriters' reasonable judgment, materially adversely affects the market for the Series 2016 Bonds, or the market price generally of obligations of the general character of the Series 2016 Bonds; or

(b) there shall exist any event or circumstance that in the Underwriters' reasonable judgment either makes untrue or incorrect in any material respect any statement or information in the Official Statement or is not reflected in the Official Statement but should be reflected therein in order to make any statement of material fact therein not misleading in any material respect; or

(c) there shall have occurred (a) an outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war occurs, or (b) the occurrence of any other calamity or crisis or any change in the financial, political, or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (a) or (b), in the judgment of the Underwriters, materially adversely affects the market for the Series 2016 Bonds; or

(d) there shall be in force a general suspension of trading on the New York Stock Exchange, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange, whether by virtue of a determination by that Exchange or by an order of the United States Securities and Exchange Commission (the "SEC") or any other governmental authority having jurisdiction that, in the Underwriters' reasonable judgment, materially adversely affects the market for the Series 2016 Bonds; or

(e) a general banking moratorium shall have been declared by federal or state authorities having jurisdiction and be in force that, in the Underwriters' reasonable judgment, materially adversely affects the market for the Series 2016 Bonds; or

(f) legislation shall be enacted or be proposed or actively considered for enactment, or a decision by a court of the United States shall be rendered, or a ruling, regulation, proposed regulation, or statement by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter shall be made, to the effect that the Series 2016 Bonds or any comparable securities of the Authority, or any obligations of the general character of the Series 2016 Bonds are not exempt from the registration, qualification or other requirements of the Securities Act, or otherwise, or would be in violation of any provision of the federal securities laws or that the Trust Agreement is not exempt from the qualification requirements of the Trust Indenture Act; or

(g) there shall be established any new restriction on transactions in securities materially affecting the free market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a change to the net capital requirements of, the Underwriters established by the New York Stock Exchange, the SEC, any other federal or state agency or the Congress of the United States, or by Executive Order; or

(h) a stop order, release, regulation, or no-action letter by or on behalf of the SEC or any other governmental agency having jurisdiction of the subject matter shall have been issued or made to the effect that the issuance, offering or sale of the Series 2016 Bonds, including all underlying obligations as contemplated hereby or by the Official Statement, or any Documents, Fairfax County Documents, Loudoun County Documents or other documents relating to the issuance, offering or sale of the Series 2016 Bonds, is or would be in violation of any provision of the federal securities laws; or

(i) there shall have been any material adverse change in the affairs of the Authority, Fairfax County, Loudoun County or the District that in the Underwriters' reasonable judgment will materially adversely affect the market for the Series 2016 Bonds; or

(j) there shall have occurred, after the signing hereof, either a financial crisis or a default with respect to the debt obligations of the Authority, Fairfax County, Loudoun County or the Commonwealth (which, in the case of a financial crisis or default of the Commonwealth, causes a material adverse change in the affairs of the Authority, Fairfax County or Loudoun County) or proceedings under the bankruptcy laws of the United States or of the Commonwealth shall have been instituted by the Authority, Fairfax County, Loudoun County or the Commonwealth (which, in the case of a bankruptcy proceeding with respect to the Commonwealth, causes a material adverse change in the affairs of the Authority, Fairfax County or Loudoun County), in either case the effect of which, in the reasonable judgment of the Underwriters, is such as to materially and adversely affect the market price or the marketability of the Series 2016 Bonds; or

(k) any downgrading (including being placed on "Credit watch" or "negative watch") or withdrawal of a rating of the Series 2016 Bonds or any other bonds issued under the Trust Agreement by a nationally recognized rating service, which downgrading, suspension or withdrawal, in the reasonable judgment of the Underwriters, materially adversely affects the marketability of the Series 2016 Bonds.

***Section 7. Representations, Warranties, Covenants and Agreements to Survive Delivery***

All of the Authority's representations, warranties, covenants and agreements in this Agreement shall remain operative and in effect, regardless of any investigation made by the Underwriters on their own

behalf, after delivery of and payment for any Series 2016 Bonds or of termination or cancellation of this Agreement.

***Section 8. Expenses***

The Authority acknowledges that the underwriting fee provided for in Section 1 represents compensation and reimbursement to the Underwriters for their professional services and direct expenses (for such items as travel and postage); provided, however, that nothing in this acknowledgement shall be deemed to make the Underwriters an agent of the Authority.

The Underwriters shall pay their out-of-pocket expenses, including the fees and expenses of Underwriters' counsel (including the cost of performing any blue sky and legal investment surveys), including advertising expenses in connection with a public offering of the Series 2016 Bonds, fees of the CUSIP Bureau and any fees of the MSRB or the Securities Industry and Financial Markets Association.

[The Counties shall pay, from District funds on hand and proceeds of the Series 2016 Bonds, all expenses and costs to effect the authorization, preparation, execution, delivery and sale of the Series 2016 Bonds, including, without limitation, the Counties' and Authority's fees and expenses (at or prior to closing), the incidental expenses of the employees of the Authority and the Counties incurred in connection with this financing, the fees and expenses of Bond Counsel, Disclosure Counsel, rating agency fees and expenses, the fees and expenses of the bond registrar and paying agent, any registration or similar fees for qualifying the Series 2016 Bonds for sale in various jurisdictions chosen by the Underwriters and the expenses and costs for the preparation, printing, photocopying, execution and delivery of the Series 2016 Bonds and the Official Statement and all other agreements and documents contemplated by this Agreement.]

***Section 9. Use of Official Statement***

The Authority hereby ratifies and confirms the use of the Preliminary Official Statement by the Underwriters. The Authority authorizes the use of, and will make available, the Official Statement for use by the Underwriters in connection with the offer and sale of the Series 2016 Bonds.

***Section 10. Miscellaneous***

(a) Any notice or other communication to be given hereunder may be given by mailing or delivering the same in writing as follows:

If to the Underwriters:

If to the Authority:

Fairfax County Economic Development Authority
8300 Boone Boulevard, Suite 450
Vienna, Virginia 22182
Attention: President, CEO

With a copy thereof sent to:
Thomas O. Lawson, P.L.C.
10810 Main Street, Suite 200
Fairfax, Virginia 22030

| | |
|---|---|
| If to Fairfax County: | Fairfax County<br>12000 Government Center Parkway<br>Fairfax, Virginia 22035-0064<br>Attention: Department of Management and Budge |
| If to Loudoun County: | [Loudoun County<br>1 Harrison Street, S.E.<br>Leesburg, Virginia 20175<br>Attention: ] |

(b) The Authority represents and warrants that there are no fees payable by it or on its behalf, other than as described in this Agreement, to any person or party for brokering or arranging (or providing any similar services related to) the transactions contemplated by this Agreement.

(c) This Agreement shall be governed by the laws of the Commonwealth of Virginia, without regard to conflict of law principles.

(d) This Agreement may be executed in several counterparts (including separate counterparts), each of which shall be regarded as an original and all of which shall constitute one and the same document.

(e) This Agreement will inure to the benefit of and be binding on the Authority, the Underwriters and the Counties and their respective successors and assigns, but will not confer any rights on any other person, partnership, association or corporation other than persons, if any, controlling the Authority, the Counties and the Underwriters within the meaning of the Securities Act or the Securities Exchange Act of 1934, as amended. The terms "successors" and "assigns" shall not include any purchaser of any Series 2016 Bond from the Underwriters merely because of such purchase.

(f) No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of a present or future member, officer, employee or agent of the Authority, Fairfax County or Loudoun County in such person's individual capacity, and no officer, member, employee or agent of the Authority, Fairfax County or Loudoun County shall be liable personally for the performance of any obligation under this Agreement. No recourse shall be had by the Underwriters for any claim based on this Agreement or otherwise against any officer, member, employee or agent of the Authority, Fairfax County or Loudoun County in his or her individual capacity, provided such person acts in good faith, all such liabilities, if any, being hereby expressly waived and released by the Underwriters.

(g) The Authority acknowledges and agrees that (i) the purchase and sale of the Series 2016 Bonds pursuant to this Agreement is an arm's-length commercial transaction between the Authority and the Underwriters, (ii) in connection with such transaction, the Underwriters are acting solely as a principal and not as an agent or a fiduciary of the Authority, (iii) the Underwriters have not assumed (individually or collectively) a fiduciary responsibility in favor of the Authority with respect to the offering of the Series 2016 Bonds or the process leading thereto (whether or not the Underwriters, or any affiliate of any Underwriters, have advised or is currently advising the Authority on other matters) or any other obligation to the Authority except the obligations expressly set forth in this Agreement, (iv) the Authority has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Series 2016 Bonds and (v) the Underwriters have financial and other interests that differ from those of Fairfax County, Loudoun County and the Authority.

(h) Section headings in this Agreement are a matter of convenience of reference only, and such section headings are not part of this Agreement and shall not be used in the interpretation of any provisions of this Agreement. Terms of any gender used herein shall include the masculine, feminine and neuter.

(i) Notwithstanding any provision herein to the contrary, the Underwriters, in their sole discretion, may waive the performance of any and all obligations of the Authority hereunder and the performance of any and all conditions contained herein for the Underwriters' benefit, and the Underwriters' approval when required hereunder or the determination of their satisfaction as to any document referred to herein shall be in writing signed by an appropriate officer or officers of the Underwriters, on the Underwriters' behalf, and delivered to the Authority.

(j) This Agreement is the entire agreement of the parties, superseding all prior agreements, and may not be modified except in writing signed by the parties hereto.

(k) This Agreement is effective on its acceptance by the Authority and approval by the Counties.

Attachment 8

[Counterpart Signature Page to Bond Purchase Agreement]

_____,
as Representative of the Underwriters

By _____

[Signatures Continued on Following Pages]

214501695v.2

Attachment 8

[Counterpart Signature Page to Bond Purchase Agreement]

**Accepted and agreed to:**

**FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY**

By:_____

[Signatures Continued on Following Pages]

214501695v.2

Attachment 8

[Counterpart Signature Page to Bond Purchase Agreement]

**Approved by:**

**FAIRFAX COUNTY, VIRGINIA**

By:_____
Joseph M. Mondoro
Chief Financial Officer

214501695v.2

Attachment 8

[Counterpart Signature Page to Bond Purchase Agreement]

**Approved by:**

**LOUDOUN COUNTY, VIRGINIA**

By:_____

214501695v.2

**EXHIBIT A**

**RATE AND MATURITY SCHEDULE**

**SERIES 2016A BONDS**

| Maturity (April 1) | Principal Amount | Interest Rate | Yield |
|---|---|---|---|
| 20__ | $ | % | % |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |

* Yield to first par call on April 1, 20__.

**SERIES 2016B BONDS**

| Maturity (April 1) | Principal Amount | Interest Rate | Yield |
|---|---|---|---|
| 20__ | $ | % | % |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |
| 20__ | | | |

* Yield to first par call on April 1, 20__.

Attachment 8

# EXHIBIT B

## LETTERS OF REPRESENTATION

214501695v.2

**Exhibit B-1**

## LETTER OF REPRESENTATION

## FAIRFAX COUNTY, VIRGINIA

I am an authorized official of Fairfax County, Virginia ("Fairfax County"), and am hereby executing and delivering this Fairfax County Letter of Representation as required under the terms of that certain Bond Purchase Agreement of even date herewith (the "Bond Purchase Agreement") between _____ as representative of the underwriters named therein (the "Underwriters") and the Fairfax County Economic Development Authority (the "Authority"), and approved by the Fairfax County and Loudoun County, Virginia ("Loudoun County"). Terms not otherwise defined in this Fairfax County Letter of Representation shall have the meanings assigned to them in the Bond Purchase Agreement.

***Section 1. Fairfax County's Representations, Warranties, Covenants and Agreements***

Fairfax County hereby represents, warrants, covenants and agrees as follows:

(a) Fairfax County is, and will be at the Closing Time, (i) duly organized in the county executive form of government, a political subdivision of the Commonwealth of Virginia (the "Commonwealth") with all power and authority granted to counties so organized under the Constitution and laws of the Commonwealth, and (ii) authorized to enter into and adopt and perform its obligations under a resolution duly adopted by the Fairfax County Board of Supervisors on June 21, 2016 (the "Fairfax County Resolution"), the Amended and Restated Local Contract by and among November 1 2006, the State Route 28 Highway Transportation Improvement District Commission, Fairfax County and Loudoun County (the "Local Contract"), the Bond Purchase Agreement, a Continuing Disclosure Agreement delivered by Fairfax County and Loudoun County, dated the Closing Date (the "Continuing Disclosure Agreement"), and this Fairfax County Letter of Representation (collectively, the "Fairfax County Documents") to have been performed at or prior to the Closing Time.

(b) Fairfax County has complied with all provisions of the Commonwealth's constitution and laws pertaining to Fairfax County's adopting or entering into the Fairfax County Documents and has full power and authority to consummate all transactions contemplated by the Fairfax County Documents and the Official Statement and any and all other agreements relating thereto to which Fairfax County is a party.

(c) At the time of Fairfax County's delivery of this Letter of Representation and (unless an event occurs of the nature described in Section 1(i) below) at all subsequent times up to and including the Closing Time, the Fairfax County Information contained in the Preliminary Official Statement and the Official Statement and in any amendment or supplement thereto that Fairfax County may authorize for use with respect to the Series 2016 Bonds is and will be true and correct and does not contain and will not contain any untrue statement of a material fact and does not omit and will not omit to state a material fact necessary to make the statements in such document, in the light of the circumstances under which they were made, not misleading. If the Official Statement is supplemented or amended pursuant to Section 1(i) below, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to Section 1(i) below) at all times subsequent thereto up to and including the Closing Time, Fairfax County shall take all steps necessary to ensure that the Fairfax County Information in the Official Statement as so supplemented or amended does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Except as otherwise described in the Preliminary Official Statement and the Official Statement, Fairfax County has complied in all material respects during the last five years with its prior continuing disclosure undertakings with respect to Rule 15c2-12.

(d) Fairfax County has duly adopted and authorized, at one or more public meetings duly called and held at which quorums were present and acting throughout, (i) the distribution and use of the Official Statement; (ii) the adoption, execution, delivery and due performance of the Fairfax County Documents and any and all such other agreements and documents as may be required to be executed and delivered by Fairfax County in order to carry out, give effect to and consummate the transactions contemplated by the Fairfax County Documents and by the Official Statement; and (iii) the carrying out, giving effect to and consummation of the transactions contemplated by the Fairfax County Documents and the Official Statement. Upon the Closing Date, Fairfax County shall have duly adopted or authorized, executed and delivered each Fairfax County Document and the Official Statement.

(e) Except as and to the extent described in the Preliminary Official Statement and the Official Statement, there is no action, proceeding or investigation before or by any court or other public body pending or, to Fairfax County's knowledge, threatened against or affecting Fairfax County or any Fairfax County officer or employee in an official capacity (or, to Fairfax County's knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated or described herein or in the Official Statement, or the validity of the Fairfax County Documents or of any other agreement or instrument to which Fairfax County is or is expected to be a party and which is used or contemplated for use in the consummation of the transactions contemplated or described herein or in or by the Official Statement, or (ii) the condition of Fairfax County, financial or otherwise.

(f) Fairfax County's adoption or execution and delivery of the Fairfax County Documents and other agreements contemplated by the Fairfax County Documents and by the Official Statement, and compliance with the provisions thereof, will not constitute on Fairfax County's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any contract, agreement, loan or other instrument to which Fairfax County is subject or by which Fairfax County is or may be bound. No event has occurred or is continuing that, with the lapse of time or the giving of notice, or both, would constitute an event of default under any such agreement, including the Fairfax County Documents.

(g) Fairfax County will not take or omit to take any action the taking or omission of which will in any way cause the proceeds from the sale of the Series 2016 Bonds to be applied in a manner other than as described in the Official Statement and as permitted by the Resolution, the Fairfax County Resolution and the Loudoun County Resolution and which would cause the interest on the Series 2016 Bonds to be includable in the gross income of the recipients thereof for federal or Commonwealth income tax purposes.

(h) The Fairfax County Information included in the Official Statement presents fairly the financial information purported to be shown as of the indicated dates. There has been no material adverse change in the financial condition of Fairfax County as a whole since June 30, 2015. Fairfax County is not a party to any contract or agreement or subject to any statutory or other restriction not disclosed in the Official Statement, the performance of or compliance with which may have a material, adverse effect on Fairfax County's or the Authority's financial condition or operations.

(i) If between the date of this Agreement and the date that is 25 days after the "end of the underwriting period," as defined below, any event shall occur that might or would cause the Fairfax County Information included in the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, Fairfax County shall promptly notify the Underwriters. If, in the opinion of the Underwriters, such event requires the preparation and publication of a supplement or amendment to the Official Statement, Fairfax County will cooperate with the Authority and at Fairfax County's expense supplement or amend the Official Statement in a form and in a manner approved by the Underwriters.

The "end of the underwriting period" is the time that is the later of (i) the Closing Time and (ii) the time the Underwriters do not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Series 2016 Bonds for sale to the public. Unless the Underwriters shall otherwise advise Fairfax County in writing prior to the Closing Date, Fairfax County may assume that the end of the underwriting period is the Closing Time.

(j) Fairfax County is not required to obtain any further consent, approval, authorization or order of any governmental or regulatory authority as a condition precedent to its adoption or authorization, execution and delivery of the Fairfax County Documents or the Official Statement, or Fairfax County's performance hereunder and thereunder (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the Underwriters' offer or sale of the Series 2016 Bonds).

(k) Any certificate signed by any Fairfax County officer and delivered to the Underwriters shall be deemed a representation and warranty by Fairfax County to the Underwriters as to the statements made therein.

(l) Fairfax County agrees to take all reasonable steps as requested to cooperate with the Underwriters and their counsel in order to qualify the Series 2016 Bonds for offering and sale under the securities or "Blue Sky" laws of such jurisdictions of the United States as the Underwriters may request, provided that Fairfax County need not consent to jurisdiction or service of process in any state other than the Commonwealth.

(m) Fairfax County has never defaulted in the payment of principal or interest on any indebtedness, has not exercised any rights of nonappropriation or similar rights with respect to such indebtedness, and has not borrowed for general fund cash-flow purposes. No proceedings have ever been taken, are being taken, or are contemplated by Fairfax County under the United States Bankruptcy Code or under any similar law or statute of the United States or the Commonwealth.

(n) Fairfax County will comply with the information reporting requirements adopted by the SEC under Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule") and the Municipal Securities Rulemaking Board with respect to tax-exempt obligations such as the Series 2016 Bonds as provided in the Continuing Disclosure Agreement. Except as described under the caption "Continuing Disclosure", in the five years preceding the date of this Official Statement, Fairfax County has materially complied with its undertakings under the Rule.

(o) Fairfax County acknowledges and agrees that (i) the purchase and sale of the Series 2016 Bonds pursuant to this Agreement is an arm's-length commercial transaction between the Authority and the Underwriters as consented to by Fairfax County and Loudoun County, (ii) in connection with such transaction, the Underwriters are acting solely as a principal and not as an agent or a fiduciary of Fairfax County, (iii) the Underwriters have not assumed (individually or collectively) a fiduciary responsibility in favor of Fairfax County with respect to the offering of the Series 2016 Bonds or the process leading thereto (whether or not the Underwriters, or any affiliate of any Underwriters, have advised or is currently advising Fairfax County on other matters) or any other obligation to Fairfax County except the obligations expressly set forth in this Agreement, (iv) Fairfax County has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Series 2016 Bonds and (v) the Underwriters have financial and other interests that differ from those of Fairfax County, Loudoun County and the Authority.

***Section 2. Representations, Warranties, Covenants and Agreements to Survive Delivery***

All of Fairfax County's representations, warranties, covenants and agreements in this Letter of Representation shall remain operative and in effect, regardless of any investigation made by the Underwriters on their own behalf, after delivery of and payment for any Series 2016 Bonds or of termination or cancellation of the Bond Purchase Agreement or this Letter of Representation.

***Section 3. Official Statement***

Fairfax County authorizes the use and distribution of, and will cooperate with the Authority and Loudoun County to make available, the Preliminary Official Statement and the Official Statement for the use and distribution by the Underwriters in connection with the sale of the Series 2016 Bonds.

Fairfax County shall cooperate with the Authority and Loudoun County to deliver, or cause to be delivered, to the Underwriters copies of the final Official Statement in sufficient quantity in order for the Underwriter to comply with Rule 15c2-12(b)(2) promulgated under the Securities Exchange Act of 1934, as amended.

***Section 4. Continuing Disclosure Undertaking***

Fairfax County will undertake, pursuant to the Continuing Disclosure Agreement, to provide annual reports and notices to certain events.

***Section 5. Notice***

Any notice or other communication to be given to Fairfax County under the Bond Purchase Agreement or this Fairfax County Letter of Representation may be given by mailing or delivering the same in writing to 12000 Government Center Parkway, Fairfax, Virginia 22035-0064, Attention: Department of Management and Budget.

This Letter of Representation is delivered this ___ day of July, 2016.

**FAIRFAX COUNTY, VIRGINIA**

By:_____
Joseph M. Mondoro
Chief Financial Officer

**Exhibit B-2**

**LETTER OF REPRESENTATION**

**LOUDOUN COUNTY, VIRGINIA**

I am an authorized official of Loudoun County, Virginia ("Loudoun County"), and am hereby executing and delivering this Loudoun County Letter of Representation as required under the terms of that certain Bond Purchase Agreement of even date herewith (the "Bond Purchase Agreement") between _____ as representative of the underwriters named therein (the "Underwriters") and the Fairfax County Economic Development Authority (the "Authority"), and approved by Loudoun County and Fairfax County, Virginia ("Fairfax County"). Terms not otherwise defined in this Loudoun County Letter of Representation shall have the meanings assigned to them in the Bond Purchase Agreement.

***Section 1. Loudoun County's Representations, Warranties, Covenants and Agreements***

Loudoun County hereby represents, warrants, covenants and agrees as follows:

(a) Loudoun County is, and will be at the Closing Time, (i) duly organized in the county executive form of government, a political subdivision of the Commonwealth of Virginia (the "Commonwealth") with all power and authority granted to counties so organized under the Constitution and laws of the Commonwealth, and (ii) authorized to enter into and adopt and perform its obligations under a resolution duly adopted by the Loudoun County Board of Supervisors on June 23, 2016 (the "Loudoun County Resolution"), the Amended and Restated Local Contract by and among November 1 2006, the State Route 28 Highway Transportation Improvement District Commission, Fairfax County and Loudoun County (the "Local Contract"), the Bond Purchase Agreement, a Continuing Disclosure Agreement delivered by Loudoun County and Fairfax County, dated the Closing Date (the "Continuing Disclosure Agreement"), and this Loudoun County Letter of Representation (collectively, the "Loudoun County Documents") to have been performed at or prior to the Closing Time.

(b) Loudoun County has complied with all provisions of the Commonwealth's constitution and laws pertaining to Loudoun County's adopting or entering into the Loudoun County Documents and has full power and authority to consummate all transactions contemplated by the Loudoun County Documents and the Official Statement and any and all other agreements relating thereto to which Loudoun County is a party.

(c) At the time of Loudoun County's delivery of this Letter of Representation and (unless an event occurs of the nature described in Section 1(i) below) at all subsequent times up to and including the Closing Time, the Loudoun County Information contained in the Preliminary Official Statement and the Official Statement and in any amendment or supplement thereto that Loudoun County may authorize for use with respect to the Series 2016 Bonds is and will be true and correct and does not contain and will not contain any untrue statement of a material fact and does not omit and will not omit to state a material fact necessary to make the statements in such document, in the light of the circumstances under which they were made, not misleading. If the Official Statement is supplemented or amended pursuant to Section 1(i) below, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to Section 1(i) below) at all times subsequent thereto up to and including the Closing Time, Loudoun County shall take all steps necessary to ensure that the Loudoun County Information in the Official Statement as so supplemented or amended does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Except as otherwise described in the Preliminary Official

Statement and the Official Statement, Loudoun County has complied in all material respects during the last five years with its prior continuing disclosure undertakings with respect to Rule 15c2-12.

(d) Loudoun County has duly adopted and authorized, at one or more public meetings duly called and held at which quorums were present and acting throughout, (i) the distribution and use of the Official Statement; (ii) the adoption, execution, delivery and due performance of the Loudoun County Documents and any and all such other agreements and documents as may be required to be executed and delivered by Loudoun County in order to carry out, give effect to and consummate the transactions contemplated by the Loudoun County Documents and by the Official Statement; and (iii) the carrying out, giving effect to and consummation of the transactions contemplated by the Loudoun County Documents and the Official Statement. Upon the Closing Date, Loudoun County shall have duly adopted or authorized, executed and delivered each Loudoun County Document and the Official Statement.

(e) Except as and to the extent described in the Preliminary Official Statement and the Official Statement, there is no action, proceeding or investigation before or by any court or other public body pending or, to Loudoun County's knowledge, threatened against or affecting Loudoun County or any Loudoun County officer or employee in an official capacity (or, to Loudoun County's knowledge, any basis therefor), wherein an unfavorable decision, ruling or finding would materially adversely affect (i) the transactions contemplated or described herein or in the Official Statement, or the validity of the Loudoun County Documents or of any other agreement or instrument to which Loudoun County is or is expected to be a party and which is used or contemplated for use in the consummation of the transactions contemplated or described herein or in or by the Official Statement, or (ii) the condition of Loudoun County, financial or otherwise.

(f) Loudoun County's adoption or execution and delivery of the Loudoun County Documents and other agreements contemplated by the Loudoun County Documents and by the Official Statement, and compliance with the provisions thereof, will not constitute on Loudoun County's part a breach of or a default under any existing law, court or administrative regulation, decree or order or any contract, agreement, loan or other instrument to which Loudoun County is subject or by which Loudoun County is or may be bound. No event has occurred or is continuing that, with the lapse of time or the giving of notice, or both, would constitute an event of default under any such agreement, including the Loudoun County Documents.

(g) Loudoun County will not take or omit to take any action the taking or omission of which will in any way cause the proceeds from the sale of the Series 2016 Bonds to be applied in a manner other than as described in the Official Statement and as permitted by the Resolution, the Loudoun County Resolution or the Fairfax County Resolution and which would cause the interest on the Series 2016 Bonds to be includable in the gross income of the recipients thereof for federal or Commonwealth income tax purposes.

(h) The Loudoun County Information included in the Official Statement presents fairly the financial information purported to be shown as of the indicated dates. There has been no material adverse change in the financial condition of the Loudoun County as a whole since June 30, 2015. Loudoun County is not a party to any contract or agreement or subject to any statutory or other restriction not disclosed in the Official Statement, the performance of or compliance with which may have a material, adverse effect on Loudoun County's or the Authority's financial condition or operations.

(i) If between the date of this Agreement and the date that is 25 days after the "end of the underwriting period," as defined below, any event shall occur that might or would cause the Loudoun County Information included in the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements

therein, in the light of the circumstances under which they were made, not misleading, Loudoun County shall promptly notify the Underwriters. If, in the opinion of the Underwriters, such event requires the preparation and publication of a supplement or amendment to the Official Statement, Loudoun County will cooperate with the Authority and at Loudoun County's expense supplement or amend the Official Statement in a form and in a manner approved by the Underwriters.

The "end of the underwriting period" is the time that is the later of (i) the Closing Time and (ii) the time the Underwriters do not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Series 2016 Bonds for sale to the public. Unless the Underwriters shall otherwise advise Loudoun County in writing prior to the Closing Date, Loudoun County may assume that the end of the underwriting period is the Closing Time.

(j) Loudoun County is not required to obtain any further consent, approval, authorization or order of any governmental or regulatory authority as a condition precedent to its adoption or authorization, execution and delivery of the Loudoun County Documents or the Official Statement, or Loudoun County's performance hereunder and thereunder (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the Underwriters' offer or sale of the Series 2016 Bonds).

(k) Any certificate signed by any Loudoun County officer and delivered to the Underwriters shall be deemed a representation and warranty by Loudoun County to the Underwriters as to the statements made therein.

(l) Loudoun County agrees to take all reasonable steps as requested to cooperate with the Underwriters and their counsel in order to qualify the Series 2016 Bonds for offering and sale under the securities or "Blue Sky" laws of such jurisdictions of the United States as the Underwriters may request, provided that Loudoun County need not consent to jurisdiction or service of process in any state other than the Commonwealth.

(m) Loudoun County has never defaulted in the payment of principal or interest on any indebtedness, has not exercised any rights of nonappropriation or similar rights with respect to such indebtedness, and has not borrowed for general fund cash-flow purposes. No proceedings have ever been taken, are being taken, or are contemplated by Loudoun County under the United States Bankruptcy Code or under any similar law or statute of the United States or the Commonwealth.

(n) Loudoun County will comply with the information reporting requirements adopted by the SEC under Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule") and the Municipal Securities Rulemaking Board with respect to tax-exempt obligations such as the Series 2016 Bonds as provided in the Continuing Disclosure Agreement. Except as described under the caption "Continuing Disclosure", in the five years preceding the date of this Official Statement, Loudoun County has materially complied with its undertakings under the Rule.

(o) Loudoun County acknowledges and agrees that (i) the purchase and sale of the Series 2016 Bonds pursuant to this Agreement is an arm's-length commercial transaction between the Authority and the Underwriters as consented to by Loudoun County and Fairfax County, (ii) in connection with such transaction, the Underwriters are acting solely as a principal and not as an agent or a fiduciary of Loudoun County, (iii) the Underwriters have not assumed (individually or collectively) a fiduciary responsibility in favor of Loudoun County with respect to the offering of the Series 2016 Bonds or the process leading thereto (whether or not the Underwriters, or any affiliate of any Underwriters, have advised or is currently advising Loudoun County on other matters) or any other obligation to Loudoun County except the obligations expressly set forth in this Agreement, (iv) Loudoun County has consulted with its own legal

and financial advisors to the extent it deemed appropriate in connection with the offering of the Series 2016 Bonds and (v) the Underwriters have financial and other interests that differ from those of Loudoun County, Fairfax County and the Authority.

***Section 2. Representations, Warranties, Covenants and Agreements to Survive Delivery***

All of Loudoun County's representations, warranties, covenants and agreements in this Letter of Representation shall remain operative and in effect, regardless of any investigation made by the Underwriters on their own behalf, after delivery of and payment for any Series 2016 Bonds or of termination or cancellation of the Bond Purchase Agreement or this Letter of Representation.

***Section 3. Official Statement***

Loudoun County authorizes the use and distribution of, and will cooperate with the Authority and Fairfax County to make available, the Preliminary Official Statement and the Official Statement for the use and distribution by the Underwriters in connection with the sale of the Series 2016 Bonds.

Loudoun County shall cooperate with the Authority and Fairfax County to deliver, or cause to be delivered, to the Underwriters copies of the final Official Statement in sufficient quantity in order for the Underwriter to comply with Rule 15c2-12(b)(2) promulgated under the Securities Exchange Act of 1934, as amended.

***Section 4. Continuing Disclosure Undertaking***

Loudoun County will undertake, pursuant to the Continuing Disclosure Agreement, to provide annual reports and notices to certain events.

***Section 5. Notice***

Any notice or other communication to be given to Loudoun County under the Bond Purchase Agreement or this Loudoun County Letter of Representation may be given by mailing or delivering the same in writing to 1 Harrison Street SE, __ Floor, Leesburg, VA 20175.

This Letter of Representation is delivered this ___ day of July, 2016.

**LOUDOUN COUNTY, VIRGINIA**

By:_____

Board Agenda Item
June 21, 2016

ACTION – 3

Approval of Memorandum of Understanding Between the Board of Supervisors and Clean Fairfax Council, Incorporated

ISSUE:
The Board of Supervisors' approval of a Memorandum of Understanding between Fairfax County, Virginia and Clean Fairfax Council, Incorporated.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the Memorandum of Understanding between the Board of Supervisors and Clean Fairfax Council, Incorporated, and authorize the transfer of the 2016 Litter Grant to Clean Fairfax Council, Incorporated.

TIMING:
Approval of the Memorandum of Understanding by the Board of Supervisors on June 21, 2016, is requested to allow transfer of Commonwealth of Virginia Litter Grant Funds to Clean Fairfax Council, Incorporated.

BACKGROUND:
The Commonwealth of Virginia established the Litter Control and Recycling Fund (the "Fund") to provide grants to communities for the purpose of litter abatement. For the past several decades, Fairfax County has received funding from this Fund.

To facilitate its use of this funding, the Board of Supervisors originally signed a Memorandum of Understanding with Clean Fairfax County (since renamed Clean Fairfax Council, Incorporated) in 1985 (the "1985 MOU"). The 1985 MOU enabled the Board of Supervisors to transfer monies it received from the Fund to Clean Fairfax Council, Incorporated. In turn, the MOU required Clean Fairfax Council, Incorporated to provide education regarding litter abatement and to coordinate volunteer litter cleanups across Fairfax County.

The 1985 MOU was revised and renewed in 2007 (the "2007 MOU") and 2011 (the "2011 MOU"). The 2011 MOU is set to terminate on December 31, 2016.

The current MOU, for which approval is sought, largely reiterates the terms of the 1985, 2007, and 2011 MOUs. Additionally, at the request of the Department of Public Works and Environmental Services' Stormwater Program, the MOU directs Clean Fairfax Council, Incorporated to support the County in complying with the Municipal Separate Storm Sewer System permit ("MS4 Permit").

This revised MOU will terminate on December 31, 2021, unless the Board of Supervisors or Clean Fairfax Council, Incorporated seek earlier termination.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Memorandum of Understanding between Fairfax County Board of Supervisors and Clean Fairfax Council, Incorporated

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
John W. Kellas, Deputy Director, DPWES, Solid Waste Management Program
Sarah A. Hensley, Assistant County Attorney

Attachment I

**MEMORANDUM OF UNDERSTANDING BETWEEN**
**FAIRFAX COUNTY BOARD OF SUPERVISORS AND CLEAN FAIRFAX COUNCIL**

This Memorandum of Understanding, by and between the Board of Supervisors of Fairfax County, Virginia (hereinafter "the Board") and Clean Fairfax Council, Incorporated (hereinafter "the Corporation"), and together known as the "Parties," is for the purpose of defining the relationship between both Parties. This Memorandum of Understanding shall replace all other Agreements, Memoranda of Understanding or Contracts that may be in existence between the Parties, including, but not limited to, the Memorandum of Understanding dated March 27, 1985, the Memorandum of Understanding dated December 11, 2007, and the Memorandum of Understanding dated April 30, 2012.

WHEREAS, the Corporation has been organized in the Commonwealth of Virginia as a non-profit corporation for charitable, educational and other non-profit purposes to promote interest in the general improvement of the environment in Fairfax County; and

WHEREAS, the Corporation, either in its present name or previous name of Clean Fairfax County, has operated in the County of Fairfax since the early 1980's; and

WHEREAS, the Corporation is an independent, separate, legal entity apart from the Board; and

WHEREAS, the Board is authorized pursuant to Va. Code Ann. § 15.2-953 to make contributions to organizations such as the Corporation; and

WHEREAS, the Board receives an annual state litter grant from the Commonwealth of Virginia;

WHEREAS, effective April 1, 2015, the Board received a Municipal Separate Storm Sewer System Permit (the "MS4 Permit") from the Commonwealth of Virginia pursuant to the Clean Water Act and the Virginia Stormwater Management Act; and

WHEREAS, it is in the mutual interest of the Board and Corporation to work toward the abatement of litter in the County through education, training, clean-up events, and to uphold the Board's principles of promoting environmental stewardship;

NOW THEREFORE, in consideration of the above, both the Board and Corporation agree as follows:

1. <u>Contributions</u>

   The Board, from time to time in its sole discretion, may make contributions to the Corporation in furtherance of its aforesaid purposes.

2. <u>Office Space</u>

   The Board in its sole discretion may provide office and storage space to the Corporation in furtherance of its aforesaid purposes. Office location is critical to a proactive and

collaborative working relationship between the two parties, and said office space shall be near the offices of the Fairfax County Solid Waste Management Program, if feasible.

3. Tax Exempt Status

The Corporation shall comply with all requirements of the Internal Revenue Code so as to remain an approved 501 (c) (3) charitable tax exempt corporation.

4. In-Kind Donations

The Corporation is encouraged to seek financial and in-kind donations to the organization to further litter control efforts in the County.

5. Coordination

The Corporation shall coordinate litter education, outreach and collection activities with designated staff representatives of the Board as long as the Board provides funding to the Corporation. For these general purposes, the Board's designee shall be: Director of the Division of Recycling, Engineering and Environmental Compliance, Department of Public Works & Environmental Services, 12000 Government Center Parkway, Suite 458, Fairfax, Virginia, 22035 (the "Director").

The Corporation shall additionally coordinate support for the litter prevention requirements of the Board's MS4 Permit with designated staff representatives of the Board as long as the Board provides funding from the Stormwater Fund for such support to the Corporation. For purposes of the MS4 Permit, the Board's designee shall be: Chief of the MS4 Coordination Section, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia, 22035 (the "MS4 Permit Chief").

6. Reporting

a. The Corporation will provide the Director a detailed annual performance and accounting report for the purposes of applying for and retaining funding from the Commonwealth's Litter Control and Recycling Fund. Such report shall be of sufficient detail to comply with standards required by the Commonwealth of Virginia and audit requirements of the Board.

b. The Corporation will provide both the Director and the MS4 Chief a separate, detailed annual report for the purposes of applying for and retaining funding from the Board's Stormwater Fund to support implementation of the litter prevention requirements of the MS4 Permit. Such report shall be of sufficient detail to comply with the standards required by the Commonwealth of Virginia, the terms of the MS4 Permit, and audit requirements of the Board.

c. In addition to the annual reports referenced in § 6(a) and (b), the Corporation shall be required (as a condition of the Board providing any other funding to the Corporation) to submit reports of yearly activity to the appropriate County agency representatives for inclusion in official County and State environmental reports.

7. Mission

The Corporation shall concentrate primarily on litter abatement and litter collection activities in Fairfax County, and in cooperation with the Board's designee, promote recycling and other environmental best practices in order to assist the County in fulfilling its environmental missions and mandates.

8. County Officials or County Employees as Corporation Officers or Directors

A County official, employee, member of the Board of Supervisors, member of the Board's staff, and/or member of a Fairfax County board, commission or authority may serve as an officer or director of the Corporation, provided however that no compensation is paid by the Corporation to any such director or officer.

9. Annual Funding Request

The Corporation shall submit to the Board's designee an annual funding request for consideration prior to the Board's application to the Statewide Litter and Recycling Grant Fund. Upon receipt of funds from the Commonwealth, the Board's designee shall annually seek approval from the Board to transfer the grant funds to the Corporation for its use in accordance with the submitted request.

The Corporation shall submit to the Board's MS4 Coordination Section designee an annual funding request for consideration prior to applying to receive funds from the Stormwater Fund.

10. Dissolution

The Corporation shall retain the provision in its Articles of Incorporation which requires, upon dissolution or other termination of the Corporation, that all outstanding fund balances or assets derived from Fairfax County appropriations or fund transfers shall revert back to the Fairfax County government.

11. Executive Director Selection

In the event that it becomes necessary for the Corporation to select a new Executive Director, the selection process shall include input from the Board's designee.

12. Additional Provisions

a. The Corporation shall abide by any conditions imposed by the Board and/or the Commonwealth with respect to any contribution made by the Board to the Corporation.

b. This Memorandum shall not be abrogated, changed or modified without the consent of the Corporation and the Board.

c. This Memorandum shall not be construed to abrogate the statutory responsibility of the Board.

d. This Memorandum shall continue in effect until December 31, 2021 unless terminated by the Parties before that date. The Parties may agree to extend this Memorandum for additional five year periods on such terms and conditions that may be mutually agreeable. Should any funding or permitting contemplated herein terminate, the Parties shall review this Memorandum, make any necessary revisions to it, or terminate it at their discretion. In any event, the Board and the Corporation shall review the Memorandum at least as often as every five years to determine whether any changes to its terms are desired.

e. The Corporation shall make available all financial information or permit the review of such information upon reasonable request from the Board or its auditors.

13. Notices

Notices hereunder and reports and other documents to be furnished by the Corporation in accordance with the terms herein shall be given in writing only directed to the following addresses:

1. If to the Corporation:

   Executive Director
   Clean Fairfax Council
   12000 Government Center Parkway, Suite 458
   Fairfax, VA 22035

2. If to the Board's Division of Recycling, Engineering and Environmental Compliance designee:

   Director
   Division of Recycling, Engineering & Environmental Compliance
   Fairfax County Department of Public Works & Environmental Services
   12000 Government Center Parkway, Suite 458
   Fairfax, VA 22035

3. If to the Board's MS4 Coordination Section designee:

   Chief
   MS4 Coordination Section
   Stormwater Planning Division
   Fairfax County Department of Public Works & Environmental Services
   12000 Government Center Parkway, Suite 449
   Fairfax, VA 22035

Every such notice shall be deemed to have been given on the date on which it is received or refused by the party to whom it is sent. Any changes of address shall be given in accordance with the terms herein, and shall not be effective until five business days after the date received.

**IN WITNESS WHEREOF**, the Board and the Corporation have caused this Memorandum to be executed as of the date appearing by their signatures.

**CORPORATION**

BY _____
Jen Cole, Executive Director

Date: _____

**BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**

BY _____
Sharon Bulova, Chairman

Date: _____

Clerk _____

Date: _____

Board Agenda Item
June 21, 2016

ACTION - 4

Approval of Agreement Between the Virginia Department of Transportation ("VDOT") and Fairfax County for the Utilization of Congestion Mitigation and Air Quality (CMAQ) Funds for the Fiscal Year 2017 Transportation Demand Management (TDM) Program

ISSUE:
Board approval for the Director of the Department of Transportation to sign agreement for use of Commonwealth Transportation Funds (CMAQ) in the amount of $322,364 for the promotion of TDM programs in FY 2017. The grant period runs from July 1, 2016, through June 30, 2017.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the attached Agreement and authorize the Director of the Department of Transportation to execute the Agreement on behalf of the Board and approve the Resolution in Attachment 2.

TIMING:
Board action is requested on June 21, 2016, to continue implementation and promotion of TDM programs in Fairfax County for FY 2017.

BACKGROUND:
The Transportation Planning Board (TPB) of the National Capital Region adopted Transportation Control Measure (TCM)-47c in the FY95-00 Transportation Improvement Program (TIP). TCM-47c encourages private sector employers with more than 100 employees in the Metropolitan Washington region to voluntarily implement alternative commute (trip reduction) programs and is now classified as a Transportation Emission Reduction Measure (TERM). The funding in the grant is provided to Fairfax County to assist with educational, promotional and / or other related TDM assistance within the Northern Virginia District to achieve the objects of reducing traffic congestion, promoting alternative transportation modes and improving air quality.

FISCAL IMPACT:
The County will receive funding of $322,364 composed of $257,891 in federal CMAQ funds and $64,473 in state matching funds that will be deposited in Fund 50000 (Federal-State Grant Fund). No funding is required from the County. The grant period runs from July 1, 2016 through June 30, 2017.

Board Agenda Item
June 21, 2016

ENCLOSED DOCUMENTS:
Attachment I: Agreement for the Utilization of Congestion Mitigation and Air Quality Improvement (CMAQ) Funds for Fiscal Year 2017.
Attachment II: Resolution

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Department of Transportation
Beth Francis, Chief, Transportation Marketing Section, Department of Transportation
Walter E. Daniel, Jr., Transportation Marketing Section, Department of Transportation
Daniel Robinson, Assistant County Attorney

# AN AGREEMENT FOR THE UTILIZATION OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT (CMAQ) FUNDS IN FAIRFAX COUNTY

THIS AGREEMENT, made this **___ day of _____** in the year **two thousand and sixteen**, by and between the Commonwealth of Virginia, Department of Transportation, hereinafter called the DEPARTMENT, and **Fairfax County,** hereinafter called the LOCALITY.

WHEREAS, the LOCALITY has submitted a Scope of Work for undertaking certain activities related to the promotion of Travel Demand Management (TDM) programs in the Northern Virginia District; and

WHEREAS, the DEPARTMENT has concurred with this Scope;

NOW, THEREFORE, the DEPARTMENT and the LOCALITY do hereby agree as follows:

## ARTICLE I - PURPOSE OF FUNDS

CMAQ funds made available under this AGREEMENT are to be used in cooperation with the DEPARTMENT for TDM activities. The purpose shall be to provide educational, promotional and / or other related TDM assistance within the Northern Virginia District. A scope of work is attached in accordance with ARTICLE III which promotes the reduction of single-occupant auto usage in order to achieve at least one of the following objectives:

- Reduction of traffic congestion
- Promotion of alternative transportation modes
- Improvement of air quality

## ARTICLE II - SOURCE OF FUNDS

Under the provisions of the Title 23 of the United States Code, CMAQ funds are available to the COMMONWEALTH for use in CMAQ-eligible projects. The sum of **$322,364** composed of **$257,891** in federal CMAQ funds and **$64,473** in state matching funds shall be provided and made available to the LOCALITY for expenditure in FY17. This amount is provided to carry out the work activities described in the approved project scope of work incorporated in Attachment A.

The total amount of CMAQ funds allocated to LOCALITY and reimbursable under this agreement is **$322,364**. Federal funds cannot be used to match in-kind service.

## ARTICLE III - SCOPE OF WORK

The transportation planning activities to be financed with CMAQ funds are described in a Scope of Work developed by the LOCALITY and attached to this AGREEMENT as Attachment A. Any change in the character or extent of the work to be performed with CMAQ funds shall require an amendment to the Scope of Work and approval by the DEPARTMENT. Such requests must be received and approved prior to the expenditure of CMAQ funds for these activities.

Unless authorized in writing by the DEPARTMENT, the LOCALITY shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment, or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written consent of the DEPARTMENT. The DEPARTMENT will review and approve Request for Proposals which use CMAQ funds prior to their issuance. All requests or invitations for bids, proposals, qualifications, or interest, or other official procurement processes, however referred to by the LOCALITY, must receive written consent by the DEPARTMENT prior to advertisement or issue.

Those activities and description of work documented in the approved Scope of Work and any subsequent amendments thereto as approved by the DEPARTMENT are hereby approved for CMAQ funding subject to the conditions of this AGREEMENT.

## ARTICLE IV - BASIS OF PAYMENT

For services performed in accordance with the provisions of this AGREEMENT, the DEPARTMENT shall pay to the LOCALITY actual costs as defined herein.

Payments shall be made under the terms set forth in the Scope of Work.

All costs are subject to audit by the DEPARTMENT and/or the U.S. Department of Transportation. Any such audit shall be made in accordance with generally accepted auditing standards and procedures and be governed by 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments; OMB Circular A-87, Cost Principles for State and Local Governments. Additional auditing requirements are set forth in Attachment B.

Any expenditure made or work or grant proposal performed by the LOCALITY on activities contained in the attached scope of work prior to the execution of this agreement by the DEPARTMENT will not be eligible for reimbursement.

## ARTICLE V - PROGRESS SCHEDULES AND REPORTS

The LOCALITY shall document expenditures and progress in executing the Scope of Work through the invoicing and reporting requirements established in Tasks 5 and 7 of the Scope.

ARTICLE VI - PERFORMANCE PERIOD

Work to be performed under this AGREEMENT shall be initiated no sooner than July 1, 2016, and completed within the period established in the Scope of Work.

ARTICLE VII - TERMINATION OF AGREEMENT

This AGREEMENT shall be terminated upon the occurrence of any of the following:

1. Withdrawal by the DEPARTMENT from this Planning Process in LOCALITY.
2. Withdrawal of the LOCALITY from this Planning Process.
3. By mutual agreement of the parties.

In the event of termination under provision 1 at least 30 days written notice shall be given prior to termination. Work completed within this notice period shall be eligible for compensation.

In the event of termination under provision 2 said termination shall be effective the date of notification. In the event of termination under provision 3 said termination shall be effective when both parties have signed an agreement to terminate. Work completed up to the date of notification or agreement to terminate shall be eligible for compensation.

The sum of any payments made under this Article shall be based on actual work completed through the date of termination, subject to final audit.

Upon termination, all data, tabulations, documents and other material prepared under this AGREEMENT by and for the LOCALITY shall become the property of the DEPARTMENT.

ARTICLE VIII - RETENTION OF COST RECORDS

The LOCALITY and its subcontractors shall maintain all books, documents, papers, accounting records, and any other evidence supporting the costs incurred. Such information shall be consistent with the provisions of 49 CFR Part 18 and shall be made available at their respective offices at all reasonable times during the contract period, and for a period of three (3) years from the date of final payment from the DEPARTMENT to the LOCALITY, for inspection and audit by any authorized representative of the DEPARTMENT or U.S. Department of Transportation. Copies of such information shall be furnished to the DEPARTMENT upon request.

ARTICLE IX - PUBLICATION PROVISIONS

The LOCALITY shall be free to copyright material developed under this AGREEMENT with the provisions that the DEPARTMENT reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

Planning reports developed under this AGREEMENT shall be submitted to the DEPARTMENT for review and approval prior to publication and distribution.

All materials published by the LOCALITY or subrecipient shall:

1. contain an acknowledgment, "Prepared in cooperation with the Northern Virginia District of the Virginia Department of Transportation", and

2. comply with all appropriate state and federal laws.

ARTICLE X - SETTLEMENT OF DISPUTES

Any factual disputes in connection with the work performed in conjunction with this AGREEMENT, which are not disposed of by mutual agreement between the DEPARTMENT and the LOCALITY shall be transmitted in writing to the Commissioner of the DEPARTMENT and a 60-day period provided for his review and decision. The Commissioner, with assistance as needed from the Federal Highway Administration, will rule on the question and his decision shall be final.

Any legal disputes in connection with the work performed in conjunction with this AGREEMENT, which are not disposed of by mutual agreement between the DEPARTMENT and the LOCALITY shall be transmitted in writing to the Commissioner of the DEPARTMENT and a 60-day period provided for his review and decision. The Commissioner, with assistance as needed from the Federal Highway Administration, will rule on the question and their decision shall be final unless the legal dispute is adjudicated in court. Exhaustion of the administrative procedure outlined herein above is a prerequisite of and not a substitute for the right of judicial review of the legal dispute.

ARTICLE XI - COMPLIANCE WITH TITLE VI OF CIVIL RIGHTS ACT

The Locality will insure that all contracts, agreements made with any person, firm agency of whatever nature shall require compliance with the provisions of Title VI of the Civil Rights Act of 1964 as set out in Attachment C, attached hereto, and made a part of this AGREEMENT by reference.

ARTICLE XII - VIRGINIA FAIR EMPLOYMENT CONTRACTING ACT

The Locality will insure that all contracts, agreements made with any person, firm agency of whatever nature shall require compliance with the provisions of the Virginia Fair Employment Contracting Act (Sections 2.2-4200 through 2.2-4201 of the Code of Virginia (1950), as amended). Section 2.2-4201 is set out in Attachment D attached hereto and made part of this AGREEMENT.

ARTICLE XIII - DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES

In connection with the performance of this AGREEMENT, the LOCALITY will cooperate with the DEPARTMENT in meeting its commitments and goals with regard to the utilization of Disadvantaged Business Enterprises (DBEs-inclusive of women). The

LOCALITY shall follow the Virginia Department of Transportation's Disadvantaged Business Enterprise program, the Virginia Public Procurement Act requirements and use its best efforts to insure that DBEs shall have equal opportunity to compete for contracts under this AGREEMENT.

The Locality will insure that all contracts, agreements made with any person, firm agency of whatever nature shall require compliance with the provisions of 49 CFR Part 26, as amended, and set out in Attachment E attached hereto, and made part of this AGREEMENT by reference.

Further, the LOCALITY agrees to provide the DEPARTMENT with quarterly reports on the actual dollar amount of funds expended with each DBE contractor.

ARTICLE XIV - AMENDMENTS

Amendments to this AGREEMENT, as may be mutually agreed to, may be made by written agreement between the DEPARTMENT and the LOCALITY.

ARTICLE XV – CERTIFICATIONS

The LOCALITY and the DEPARTMENT acknowledge that neither the representative for the LOCALITY nor the DEPARTMENT has been required, directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this contract to:

a) employ or retain, or agree to employ or retain, any firm or person, or

b) pay, or agree to pay, to any firm, person or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated (if any).

Prohibition Against the Use of Federal Funds for Lobbying

The prospective contractor and all subcontractors agree to comply with the provisions of 31 U.S.C. § 1352, which prohibit the use of federal funds for lobbying any official or employee of any federal agency, or member or employee of Congress; and requires the recipient to disclose any lobbying of any official or employee of any federal agency, or member or employee of Congress in connection with federal assistance. In addition, no federal assistance funds shall be used for activities designed to influence Congress or State Legislature on legislation or appropriations, except through proper, official channels. The prospective contractor shall comply and assure the compliance of subcontractors at any tier with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20.

For contracts of $100,000 or more, the prospective contractor shall submit to the LOCALITY a signed "Certification of Restrictions on Lobbying," and shall require all subcontractors with contracts of $100,000 or more to submit to the prospective contractor and the LOCALITY such signed certifications.

ARTICLE XVI – LIABILITY WAIVER

The LOCALITY shall not seek redress for damages or injury caused in whole or in part by the COMMONWEALTH, the DEPARTMENT or their officers, agents or employees acting within the scope of their duties. The LOCALITY will reimburse the COMMONWEALTH, the DEPARTMENT and their officers, agents and employees for any damage or injury caused by the negligence of the LOCALITY, its officers, agents or employees which arise from their use of funds provided under this AGREEMENT.

ARTICLE XVII – ANNUAL APPROPRIATIONS

Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.

ARTICLE XVIII – SOVEREIGN IMMUNITY

Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.

ARTICLE XVIX – THIRD PARTIES

The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

ARTICLE XX – INDIVIDUAL LIABILITY

The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.

IN WITNESS WHEREOF, the DEPARTMENT and the LOCALITY have executed this AGREEMENT on the day and year first above written.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

BY: _____
Signature

Charles A. Kilpatrick, P.E.
Printed Name

Commissioner of Highways
Title

DATE:_____

LOCALITY

BY: _____
Signature

_____
Printed Name

_____
Title

DATE:_____

ATTACHMENT A - Scope of Work
ATTACHMENT B - Contract Audit
ATTACHMENT C - Title VI
ATTACHMENT D - Virginia Fair Employment Contracting Act
ATTACHMENT E - Disadvantaged and Women-Owned Business Enterprises

ATTACHMENT A

EMPLOYER OUTREACH
SCOPE OF WORK

Fiscal Year 2017

Transportation Control Measure (TCM)-47c was adopted in the FY95-00 Transportation Improvement Program (TIP) by the Transportation Planning Board (TPB) of the National Capital Region. TCM-47c does not mandate employer participation. This measure will encourage private sector employers with more than 100 employees in the Metropolitan Washington region to voluntarily implement alternative commute (trip reduction) programs and is now classified as a Transportation Emission Reduction Measure (TERM).

**Fairfax County Employer Outreach Program** will provide outreach services directly to employers in Fairfax County, which will help promote commute alternatives, create new or expanded alternative commute programs, maintain existing programs, and provide a means to evaluate the impact of these employer efforts.

Activities to be performed include, but are not limited to, the following:

TASK 1: **Contact Employers and Promote Alternative Commute Programs -** Establish and maintain regular contact with employers. Encourage employers to establish an Employee Transportation Coordinator (ETC). Conduct sales calls and face-to-face meetings with employer ETCs and decision makers. Promote Alternative Commute Programs described in **Attachment A-1** as may be determined from the results of Task 2 or as may be developed through discussions with the employer.

TASK 1A **Maintain Contact with Employers with Existing Programs.** – No less frequently than quarterly, communicate with employers in the jurisdiction's database (see Task 4 below) that have existing TDM programs to verify and update contact information and encourage the continuation and / or strengthening of existing programs.

TASK 2: **Conduct Employee Commute Surveys** – Conduct employee commute surveys for employers who voluntarily choose to survey their employees. Although surveys are voluntary, strongly encourage the employer to conduct a survey. Ideally, the survey will be conducted once prior to the implementation of commute incentives, benefit programs or promotions, and again six months to one year after the employer has instituted an incentive or benefit program. The survey will consist of the core questions (as agreed to by Northern Virginia Employer Outreach representatives and the Commuter Connections Employer Outreach Committee) designed to assist in developing and evaluating alternative commute programs. The survey may be customized, including the addition of questions, to fit the needs of the employer and to obtain

information to develop a comprehensive employee commute plan for the employer.

Survey data will be used (a) to provide the employer with commute mode preferences, (b) to provide the jurisdictional employer outreach staff with basic information to make recommendations, and develop or change strategies that will help the employer and employees, and (c) to provide a site specific mode split which could be compared to follow-up data to determine success of the TDM strategies that were implemented. It is also a good tool for employers to track and evaluate program success (if appropriate or desired), and to give employees an opportunity to request additional commuter information.

Surveys will be distributed in one or both of the following methods, depending on the needs of the employer: 1) hard copies, or 2) email with a link to the Commuter Connections and / or Virginia online survey maintained either by MWCOG or through another online survey site.

When using hard copies or the online survey maintained by MWCOG, the request, survey editing and survey processing procedures agreed to by the Employer Outreach Committee will be followed.

TASK 3: **Develop TDM Program Recommendations -** Develop and provide in a written document with recommendations for the employers for the implementation of alternative commute incentives, benefits and programs. The recommendations will be based on the results of the initial employee commute survey if possible, and interviews with employer representatives. Provide copies of documents prepared under this Task to VDOT.

TASK 4: **Record Keeping and Database Maintenance -** Maintain the elements of the regional ACT Employer Outreach database that pertain to employers in the LOCALITY to include the following elements at a minimum:

- Employer name, location, contact name, phone number, email address, number of total employees, number of participating employees, and existing TDM programs,
- TDM program implementation dates and participation rates,
- All contact, communications and work conducted with employers including sales calls, meetings, survey dates and results, and promotions.

Update information in the ACT Employer Outreach database no less frequently than every three months. Incorporate the results from surveys conducted in Task 2 as data is available.

The ACT database will be used for the purpose of:

- recording the status of each employer-based TDM program for which the jurisdiction has knowledge,
- tracking Employer Outreach activities conducted by each jurisdiction,
- identifying employers with additional office locations in other jurisdictions and for viewing past outreach activities for an employer that is relocating from another jurisdiction.

Close coordination with Employer Outreach representatives from other jurisdictions will be adhered to for outreach with employers with additional office locations in other jurisdictions and employers relocating from another jurisdiction.

TASK 5: **Reports -** Provide an Activity Report, in the format shown as Attachment A-2, summarizing employer outreach activities and results to VDOT no less than quarterly and with all reimbursement requests.

TASK 6: **Meetings and Training -** Attend Commuter Connections Employer Outreach Committee meetings as desired and as may be made available by COG.

TASK 7: **Reimbursement Requests -** Provide an invoice to VDOT at least once every three months from the start of the fiscal year. The final invoice for the fiscal year should be submitted by August 31, 2017. Invoices shall be accompanied by sufficient documentation to substantiate costs incurred during the period, and include at a minimum:

- number of hours devoted to Employer Outreach and resulting labor costs;
- description of Direct Costs, accompanied by copies of invoices for individual Direct Costs exceeding $1,500;
- invoices for any work performed by subcontractors for which reimbursement is requested;
- number of new employers contacted;
- brief summary of major activities conducted during invoice period if not reflected on Activity Report (Form A-2).

Invoices which do not include the above information may not be approved by VDOT for payment. The preferred format for invoices submitted to VDOT is shown as Attachment A-3.

## FISCAL YEAR 2017 PROJECT GOALS

These Goals represent target values. Program funding is not dependent upon achievement of specific values. Progress towards achieving Goals will be monitored and will serve as guidance for potential program adjustments throughout the year.

- Conduct commute surveys at all employers that implement a new alternative commute program.
- Establish [INSERT NUMBER] new Level 3 or 4 employers.
- Maintain the existing number of Level 3 and 4 employers.
- Meet with [INSERT NUMBER] employers.
- Conduct [INSERT NUMBER] sales calls.
- Conduct [INSERT NUMBER] outreach activities such as transportation information fairs and other events designed to promote the use of alternative travel modes.

**ATTACHMENT A**
**ATTACHMENT A-1**

## Potential Alternate Commute Programs to be Promoted in Employer Outreach Activities

**Carpool and Vanpool Formation -** Work with the employer and employees to encourage and establish carpools and vanpools. The Commuter Connections ridematching system as well as other on-site ridematching systems, promotion of carpool incentives, and van start/van save incentives through the state grants received by the local commuter assistance programs will be used to facilitate carpool and vanpool formation. Coordination with third party vanpool operators will also be used for vanpool formation.

**Telework/Telecommuting -** Encourage and assist employers with the development and/or expansion of formal telework programs. Request assistance, as needed, from the Department of Rail and Public Transportation and coordinate with DRPT on promotion and employer participation in the Telework!VA program.

**Parking Management Strategies -** Encourage and assist employers with development of strategies to reduce parking demand, including car sharing, parking cash-out, preferential carpool/vanpool parking and bicycle parking.

**TDM Information -** Provide transportation and employer benefit and incentive information to employer and employees through onsite promotions, displays, emails, and employer web site.

**Transit/Vanpool/Bicycle Benefit Programs -** Encourage and assist employers with the development of transportation benefit programs [in accordance with IRS Section 132(f)], pre-tax transit pass purchase programs, and / or other non-SOV commuter benefit programs. Work directly with WMATA SmartBenefits sales force to promote SmartBenefits and assist employers with planning and implementation of SmartBenefits transportation benefit programs for employees that commute via transit or a qualified vanpool. Provide information to employers on benefit administration programs through WMATA and other third party administrators who can assist in implementing a transit/vanpool benefit program at an employer worksite. Provide planning assistance to employers to establish onsite transit pass, token and ticket sales, and SmartBenefit exchange services.

**New Hire Programs -** Assist employers in providing commute alternative information to newly hired employees. This may consist of delivery of commute options and employer provided benefits and incentive information to new employees through the development of a packet of transportation information, oral presentations at new hire orientations, email, and the employer's web site.

**Guaranteed Ride Home (GRH) Program -** Assist employers with offering the Commuter Connections regional GRH service to employees who take alternative commute modes at least two days per week. Assist employers seeking to provide supplemental GRH trips for their employees.

**Alternative Work Scheduling -** Encourage and assist employers with the implementation of flexible work schedules, compressed work weeks and staggered work hour programs.

## ATTACHMENT A-2

**JURISDICTION / AGENCY** _____

**TIME PERIOD From**
**To**

| | NEWLY ACTIVE Employers[1] | FOLLOW-UP Employers | Total |
|---|---|---|---|
| Contacts via Personal Contact (Voice, Letter or Personal E-mail) [2] | | | |
| Contacts via Broadcast Contact (Letters, Flyers, Newsletter or Broadcast E-mail)[3] | | | |
| Sales Meetings / Site Visits | | | |
| On-Site Events / Promotions | | | |
| Employers Surveyed | | | |

| | New TDM Employers[4] | Previously Reported TDM Employers | Total |
|---|---|---|---|
| Level 1 TDM Employers | | | |
| Level 2 TDM Employers | | | |
| Level 3 TDM Employers | | | |
| Level 4 TDM Employers | | | |
| **TOTAL** | | | |

*1 - Newly Active employers are either (a) new to the ACT! database, or (b) included in ACT! database but have been dormant for over 2 years*

*2 - Number of individual calls, letters, e-mails, etc. addressed personally*

*3 - Impersonal brochures, flyers, blast e-mails, etc.*

*4 - Report changes as POSITIVE or NEGATIVE as appropriate*

# VDOT TCM-47c EMPLOYER OUTREACH INVOICE

Jurisdiction / Agency: _____

UPC 106473 Invoice No. _____

Invoice Period: From: _____ To: _____

Invoice Date: _____

Remit Address (MAIL): _____

Remit Address (WIRE): Bank: _____

ABA No.: _____

Acct. No.: _____

Fed ID No.: _____

| LABOR | Hours This Invoice | COST | | |
|---|---|---|---|---|
| | | Total this Invoice | Previously Billed | Total Billings to Date |
| Staff A | | | | |
| Staff B | | | | |
| etc. | | | | |
| **DIRECT COSTS** | | | | |
| Equipment | explain and document over $1,500 | | | |
| Materials and Supplies | explain and document over $1,500 | | | |
| Data Processing | explain and document over $1,500 | | | |
| Travel | explain and document over $1,500 | | | |
| Printing / Reproduction | explain and document over $1,500 | | | |
| Other Direct Costs | explain and document over $1,500 | | | |
| **TOTAL OTHER DIRECT COSTS** | | $ - | $ - | $ - |
| **CONSULTANT / CONTRACTOR INVOICES [1]** | | | | |
| | Consultant / Contractor A | | | |
| | Consultant / Contractor B | | | |
| | Consultant / Contractor C | | | |
| | **CONSULTANT / CONTRACTOR TOTAL** | $ - | $ - | $ - |
| | **TOTAL** | $ - | $ - | |

**Not to exceed contract total**

**CONTRACT TOTAL =** _____

(Signature) (Date)

*1 - Itemize by contractor and activity. Provide copies of contractor invoices and status reports*

**ATTACHMENT B**
**CONTRACT AUDIT**

The LOCALITY shall permit the Department to audit, examine, and copy all documents, computerized records, electronic mail, or other records of the LOCALITY relating to this Agreement, and the program(s) funded pursuant to this AGREEMENT, during the life of the contract and for a period of not less than three years after date of final payment, or date LOCALITY is declared in default of Contract, or date of termination of the Contract.

1. The documents and records shall include, but not be limited to those required to be retained pursuant to Section VIII (RETENTION OF COST RECORDS) as well as those that were used to prepare all schedules used on the project, record the progress of work on the project, accounting records, purchasing records, personnel payments or records necessary to determine employee credentials, vendor payments and written policies and procedures used to record, compute and analyze all costs incurred on the project, including those used in the preparation or presentation of claims to the Department.

2. Records pertaining to the project as the Department may deem necessary in order to permit adequate evaluation and verification of LOCALITY's compliance with contract requirements, compliance with the Department's business policies, and compliance with provisions for pricing work orders or claims submitted by the LOCALITY or the LOCALITY's subcontractors, insurance agents, surety bond agents and material suppliers shall be made available to the auditor(s) at the Department's request. The LOCALITY shall make its personnel available for interviews when requested by the Department.

3. Upon request, the LOCALITY shall provide the Department with data files on data disks, or other suitable alternative computer data exchange format.

The LOCALITY shall ensure that the requirements of this provision are made applicable to his subcontractors, insurance agents, surety bond agents and material suppliers. The LOCALITY shall cooperate and shall cause all related parties to furnish or make available in an expeditious manner all such information, materials, and data. The LOCALITY shall be forthcoming in disclosing all sources and locations of media.

It shall be the LOCALITY’S responsibility to notify the Department, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the LOCALITY’S liability for any costs not supported by the proper documentation for the subcontractor’s phase of the services.

The LOCALITY shall provide immediate access to records for the audit and provide immediate acceptable facilities for the audit.

ATTACHMENT C

NOTICE TO CONTRACTORS
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

(1) Compliance with Regulations: The contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (49 CFR, Part 21 and Part 26, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, religion, color, sex, national origin, age or handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the regulations.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, religion, color, sex, national origin, age or handicap.

(4) Information and Reports: The contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the DEPARTMENT or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions.

Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the DEPARTMENT, or the Federal Highway

Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the DEPARTMENT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

(a) withholding of payments to the contractor under the contract until the contractor compiles, and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor will include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions in the event a contractor becomes involved in or is threatened with litigation with a subcontractor. The contractor may request the State and/or the United States to enter into such litigation in order to protect their respective interests.

# ATTACHMENT D

## VIRGINIA FAIR EMPLOYMENT CONTRACTING ACT

Section 2.2-4201 Code of Virginia (1950) as amended

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin 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 nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts of over ten thousand dollars.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that such contractor is an equal opportunity employer; provided, however, that 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 chapter.

The contractor will include the provisions of the foregoing paragraphs 1 and 2 in every subcontract or purchase order of over ten thousand dollars, so that such provisions will be binding upon each subcontractor or vendor. Nothing contained in this chapter shall be deemed to empower any agency to require any contractor to grant preferential treatment to, or discriminate against, any individual or any group because of race, color, religion, sex or national origin on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by such contractor in comparison with the total number or percentage of persons of such race, color, religion, sex or national origin in any community or in the State. (1975, c.626.)

ATTACHMENT E

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION PROGRAMS
49 CFR Part 26, as amended

It is the policy of the Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, as amended, shall have equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, 49 CFR Part 26, as amended, applies to this agreement.

The LOCALITY agrees to ensure that DBEs as defined in 49 CFR Part 26, as amended, shall have equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard the LOCALITY shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBEs have equal opportunity to compete for and perform contracts. The LOCALITY shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

The LOCALITY agrees that failure to carry out the requirements set forth herein shall constitute a breach of contract and after the notification of the Department of Transportation, may result in termination of this agreement by the DEPARTMENT or such remedy as the DEPARTMENT deems appropriate.

Attachment II

# 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, June 21, 2016, 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 the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, Project Funding Agreements with the Virginia Department of Transportation (VDOT) to provide educational, promotional and / or other related TDM assistance within the Northern Virginia District.

Adopted this 21st day of June 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
June 21, 2016

ACTION - 5

Approval of Additional Funding for the Tysons-Wide Roadway Improvement Project, Jones Branch Connector (Providence District)

ISSUE:
Board approval of additional funding needed for the Jones Branch Connector project in Tysons to advance the project into the construction phase.

RECOMMENDATION:
The County Executive recommends Board approval of $4,000,000 in additional funding for the Jones Branch Connector project. This additional funding is needed to fully fund the project in accordance with the updated project estimate. Additional funding will be federal Regional Surface Transportation Program (RSTP) funds.

TIMING:
The Board should act on this item on June 21, 2016, so that the project can be advertised for construction on August 9, 2016.

BACKGROUND:
The final design of the Jones Branch Connector project is currently being completed. FCDOT and its consultant are addressing final VDOT comments. The land acquisition phase is in process, and is scheduled to be completed by June 30, 2016. VDOT will advertise for a contractor to construct the project on August 9, 2016. Construction is scheduled to begin in early 2017, and substantial completion is scheduled for December 2018.

The Jones Branch Connector Total Project Estimate (TPE) has increased in the past year from $56,000,000 to $60,000,000, requiring an additional $4,000,000 in funding to proceed with the Virginia Department of Transportation's (VDOT) construction of the project. The construction estimate has increased from $46,000,000 in January 2016 to $50,500,000 in April 2016 due to a VDOT requested increase of $1,300,000 in Construction Engineering and Inspection (CEI) costs; utility cost increase of $2,000,000 which are reimbursable to the project as betterments, and other cost increases of $1,200,000 through final project design. This $4,500,000 increase has been offset by other preliminary engineering and right-of-way decreases of $500,000, leaving a required $4,000,000 funding increase in TPE. In the future, $2,000,000 in

reimbursements will be received from several utilities, but funding needs to be allocated to those costs for bidding purposes.

FISCAL IMPACT:
The Jones Branch Connector project is funded through several sources of revenue; $20,000,000 in FY 2014 Revenue Sharing (includes local cash match); $14,632,000 from commercial and industrial tax revenues in Fund 40010 (County and Regional Transportation Projects), and Fund 30040 (Contributed Roadway Improvements); and, $25,368,000 ($4,000,000 pending Board approval) through federal RSTP. Upon Board approval of the additional $4,000,000, staff will work with VDOT to amend the current agreement to reflect the additional costs and revenues.

Funding in the amount of $4,000,000 is available in FY 2017 - FY 2018 allocations of federal RSTP funds. VDOT advised County staff that previous estimates of RSTP funds increased for the FY 2017 – FY 2022 Six Year Improvement Program (SYIP), resulting in additional federal funds for allocation. Staff requested that the Northern Virginia Transportation Authority allocate $4,000,000 in RSTP funds to Jones Branch Connector, and the Commonwealth Transportation Board approved the FY 2017 – FY 2022 SYIP on June 15, 2016. That approval included the allocation of the additional $4,000,000 in RSTP funds. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:
None.

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
W. Todd Minnix, Chief, Transportation Design Division, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
John Dresser, Transportation Planner, Transportation Design Division, FCDOT
Ray Johnson, Transportation Planner, FCDOT

Board Agenda Item
June 21, 2016

ACTION - 6

Endorsement of Design Plans for Bridge Replacement at Walker Road over Piney Run (Dranesville District)

ISSUE:
Board endorsement of the Virginia Department of Transportation (VDOT) design plans to replace the existing bridge on Walker Road (Route 681) over Piney Run from approximately 0.3 miles north of Colvin Run Road (Route 743) to approximately 0.4 miles north of Colvin Run Road (Route 677), for a total length of 0.114 miles along Walker Road. The new 50 foot long single span structure with total width of 39 feet will be built to accommodate two way traffic and six foot raised sidewalk on the north side.

Aesthetic features compatible with the scenic and historic character of Walker Road, such as architectural stone facing, will be incorporated into the new bridge.

RECOMMENDATION:
The County Executive recommends that the Board endorse the VDOT design plans for the replacement of the existing bridge on Walker Road (Route 681) over Piney Run including two way traffic and six foot raised sidewalk on the north side of the bridge as presented at the February 3, 2016, public hearing.

TIMING:
The Board should take action on June 21, 2016, to allow VDOT to proceed with final approval by the Chief Engineer.

BACKGROUND:
This bridge will replace the one-lane Walker Road Bridge over Piney Run with a new two-way permanent bridge. This segment of Walker Road carries approximately 6,000 vehicles per day. The existing one lane bridge was installed in 1932, and it has been identified as a structure in need of replacement. The existing bridge is 19 feet in length and has a total width of approximately 22 feet and can only accommodate alternating one-way traffic, which is a safety issue.

The permanent bridge alternatives have been developed taking into consideration the historical significance of the Walker Road corridor in Great Falls. Design was coordinated with the Great Falls Citizens Association and Dranesville District Supervisor, Fairfax County Public Schools; Fire and Rescue; Department of Public Works and Environmental Services; Fairfax County Park Authority; community members; and residents of Great Falls. The plans were presented at a public hearing held on February 3, 2016.

A copy of the public hearing brochure is attached.

Environmental Considerations

Since federal aid is anticipated for this project, a Programmatic Categorical Exclusion (PCE) was prepared to fulfill the requirements of the National Environmental Policy Act (NEPA).

VDOT Northern Virginia District Office environmental section reviewed the social, economic, and environmental impacts of the project on the local community and surrounding area. The project was coordinated with the appropriate federal, state, and local officials. As a result of the review, VDOT determined that construction of the project will not result in any significant impacts.

Public Hearing Comments

A public hearing was held on February 3, 2016. Ten people attended the public hearing. Three written comments were received. No oral comments were received for the record. Of the three comments received, all three supported the project; one supported the project with modification.

The following represents a written summary of the concerns expressed after the public hearing for the project:

- Great Falls Citizens Association had concerns regarding VDOT's approach of using stormwater credits in lieu of local remediation and urged VDOT to include a stormwater management program for Piney Run in conjunction with the proposed bridge replacement project in to address environmental issues affecting Great Falls.
- Two citizens supported this project and encouraged VDOT to consider replacing similar one lane bridge on Route 674 (Springvale Road) which is heavily used and creates serious backups during rush hours.

Project Cost and Schedule

The current estimated project cost is $4.85 million, which includes $850,000 for engineering of the bridge and roadway plans, $800,000 for the right-of-way acquisition and utilities relocation, and $3.2 million for construction. The project includes federal funds and is not fully funded for right-of-way acquisition and construction at this time. Assuming VDOT is able to identify funding for this project, the latest schedule is:

| | |
|---|---|
| Design | Currently Underway |
| Begin Land Acquisition | Summer 2016 |
| Advertisement for Construction | Fall 2017 |
| Construction | Summer 2018 (late June to end of August) |

FISCAL IMPACT:

There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment I: Location and Design Public Hearing Brochure

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Karyn Moreland, Chief, Capital Projects Section, FCDOT
Tad Borkowski, Capital Projects Section, FCDOT

# PROJECT DESCRIPTION

The purpose of this project is to replace the bridge on Route 681 (Walker Road) over Piney Run in Fairfax County. The existing bridge was constructed in 1932 and has been identified as a project for replacement. The existing bridge is 19 feet in length and has a total width of approximately 22 feet, and can accommodate alternating one-way traffic. The bridge was constructed with rolled steel beams and a timber deck. The new bridge will consist of a 50 foot long single span structure with a total width of 33 feet to 47 feet (depending on pedestrian alternatives), and will accommodate constant 2-way traffic without the use of existing yield signs.

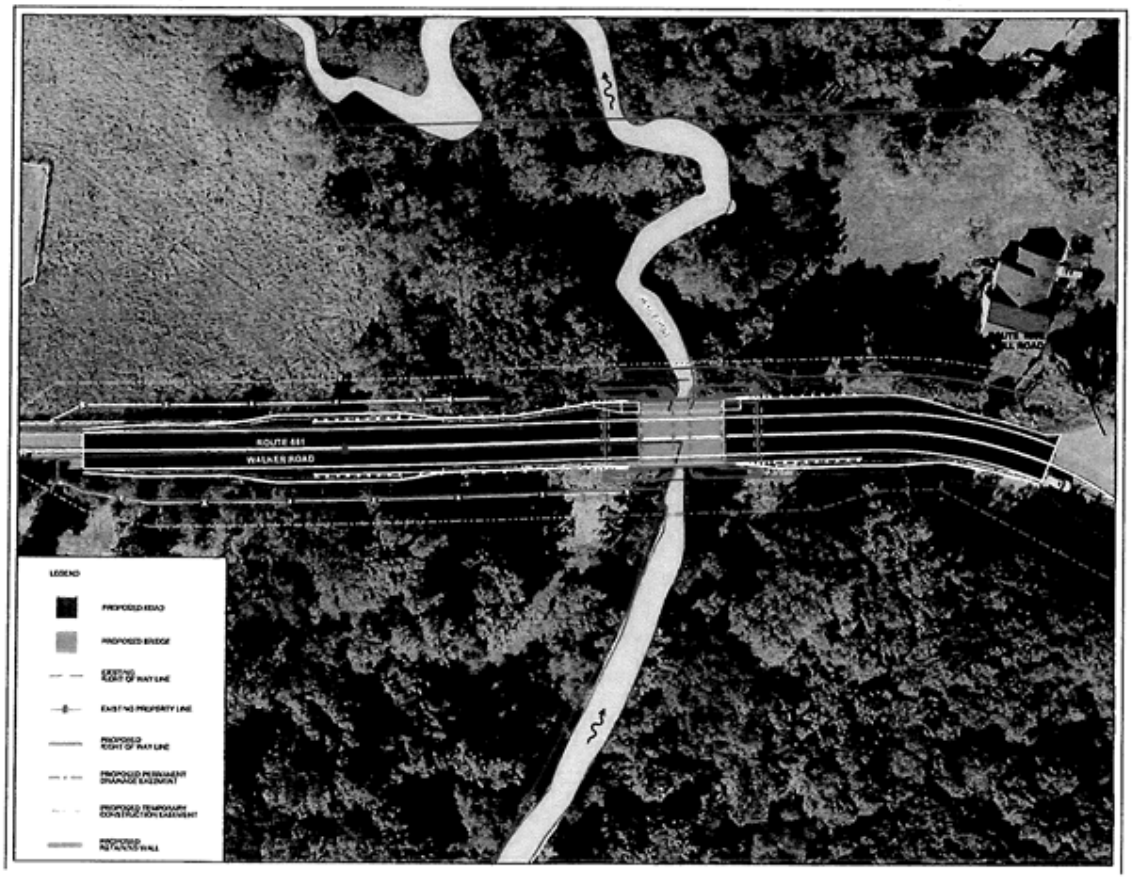
The new bridge will be constructed in the same location as the existing bridge. During construction, the road will be closed to traffic and a temporary detour will be implemented to route traffic around the project area.

The project will be constructed in accordance with the current Road and Bridge Specifications to comply with federal and state regulations pertaining to public welfare and safety.

The new structure will include a 6 foot raised sidewalk on the north side to accommodate pedestrian access. Other alternatives including shared use path were considered during preliminary design. Based on ROW and current use they were deemed unnecessary.

After the project is complete, VDOT will continue to maintain the road system.

## Project Graphic



## Estimated Project Cost

Total Cost:

**$4.85 million**

Engineering of Roadway Plans:

$850,000

Right-of-Way Acquisition and Utility Relocation:

$800,000

Construction:

$3.2 million

*Costs are subject to change as design is further developed*

## Civil Rights

VDOT ensures nondiscrimination in all programs and activities in accordance with Title VI and VII of the Civil Rights Act of 1964. If you need more information in regards to your civil rights on this project or special assistance for persons with disabilities or limited English proficiency, contact the project manager listed in this brochure or VDOT's Civil Rights.

## Right of Way

Construction of this project will not require the displacement of any families, businesses or non-profit organizations. As this project is further developed and finalized, additional easements for utility relocation and pedestrian bridges may be required beyond the proposed Right of Way shown on the public hearing plans. The property owners will be informed of the exact location of the easements during the Right of Way acquisition process and prior to construction.

Information about Right of Way acquisition is discussed in VDOT's brochure, "A Guide for Property Owners and Tenants." Copies of this booklet are available from a VDOT Right of Way agent.

## Anticipated Schedule

**Design Public Hearing** – Feb 2016

**Right-of-Way (R/W) Acquisition and Utility Relocation** – Summer 2016*

**Advertise for construction** – Fall 2017**

**Begin construction** – Beginning of Fall 2018

**Complete construction** – End of Summer 2018

*Project is not funded for R/W acquisition

**If project is fully funded

## Environmental Review

Since federal aid is anticipated for this project, a Programmatic Categorical Exclusion (PCE) was prepared to fulfill the requirements of the National Environmental Policy Act (NEPA).

VDOT's Northern Virginia District environmental section reviewed the social, economic and environmental impacts of the project on the local community and surrounding area. The project was coordinated with the appropriate federal, state and local officials. As a result of this review, it has been determined that construction of the project will not result in any significant impacts.

In compliance with the National Historic Preservation Act, Section 106 and 36 CFR Part 800, information concerning the potential effects of the proposed improvements on properties listed in or eligible for listing in the National Register of Historic Places is available at the hearing.

During construction, all reasonable efforts will be made to protect the environment with respect to dust control, siltation and erosion. Construction will conform to VDOT specifications and special provisions and the Virginia Department of Soil and Water Conservation regulations

## Get Involved

On February, 15th, 2016, the public comment period will close. VDOT will review and evaluate information received as a result of this meeting.

This information, including the meeting summary, will be available for review at VDOT's NOVA District, 4975 Alliance Drive Fairfax, VA 22030.

The information received as a result of the meeting will be presented to VDOT's project development engineer for consideration.

Mailed comments may be sent to Mr. Terry L. Yates, P.E. at the address below and should be postmarked by February 12th, 2016. Email comments may be sent to meeting_comments@vdot.virginia.gov by February 15th, 2016. Please include "Route 681 over Piney Run" in the subject line.

Project information shared here, including a summary of comments received during the comment period, will be available at VDOT's Northern Virginia District Office located at 4975 Alliance Drive, Fairfax, VA 22030. Please call ahead using the contact information below to ensure appropriate personnel are available to answer your questions.

## Contact Information

| | | | |
|---|---|---|---|
| **Primary Contact:**<br>**Terry L. Yates, P.E.**<br>Terry.Yates@VDOT.Virginia.gov | VDOT NOVA District | 4975 Alliance Drive<br>Fairfax, VA 22030 | 703-259-2513 |
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**TTY/TDD Dial 711**

VDOT Virginia Department of Transportation

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Board Agenda Item
June 21, 2016

ACTION - 7

Approval of Changes to the Fairfax County Purchasing Resolution

ISSUE:
Board of Supervisors' approval of changes to the Fairfax County Purchasing Resolution.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the changes outlined below to the Fairfax County Purchasing Resolution, to become effective on July 1, 2016.

TIMING:
Routine.

BACKGROUND:
The Board of Supervisors adopted the current version of the Fairfax County Purchasing Resolution on June 23, 2015. During the 2016 session of the General Assembly, twelve bills were approved relating to procurement and/or contracts. Only one successful bill contained a change that modified a mandatory section of the Virginia Public Procurement Act (VPPA); however it did not impact the County's procurement authority. While no central theme evolved, efforts by contractors and their advocates continue to seek incrementally limitations of a public body's ability to negotiate the most favorable contract terms and pricing. The changes to the VPPA that are proposed for inclusion in the Purchasing Resolution are listed below under the heading "Code Change."

This year, staff recommends seven administrative amendments to the Purchasing Resolution, which can be found under the heading "Administrative Changes." These amendments are clarifications and technical corrections to the Resolution.

Code Change

1. House Bill 1135, Code of Virginia §2.2-4343.A.22; Exempts purchases of Virginia grown food under $100,000. This is a non-mandatory change that is recommended by staff. *See* Attachment I at page 24.
2. House Bill 1166, Code of Virginia §2.2-4303.G.2, Methods of procurement, establishes small purchase authority for transportation-related construction below $25,000. *See* Attachment I at page 39.
3. HB 1288: Code of Virginia §2.2-4310; Defines and adds employment services organizations to the list of business that the County encourages to participate in procurement transactions. *See* Attachment I at page 7, 29.

Board Agenda Item
June 21, 2016

Administrative Changes

1. Construction Contracting Authority, Department of Public Works and Environmental Services: Clarifies construction authority vested with the Department of Public Works and Environmental Services and the County Purchasing Agent. See Attachment I at page 3, 36.
2. Construction Contracting Authority, Department of Transportation: Clarifies that the construction contracting authority vested with the Department of Transportation includes architectural and engineering services related to constructing or improving highways. See Attachment I at page 4, 38.
3. Definition - Construction: Technical correction to match definition in the Virginia Public Procurement Act. See Attachment I at page 6, 38.
4. Exceptions to Requirement for Competitive Procurement: Litigation/Regulatory Proceedings, clarify legal services exception. See Attachment I at page 23.
5. Exceptions to Requirement for Competitive Procurement: Articulate applicability of exception for real estate transactions. See Attachment I at page 24.
6. Contract Audit: Modify this non-mandatory requirement to establish applicability to all contracts in excess of $10,000 (small purchase threshold), regardless of the method of procurement. See Attachment I at page 34.
7. Code of Virginia citations have been updated throughout the document where necessary.

The text changes proposed in the Resolution are presented in “track changes” format and legislative references are provided in the right margin in Attachment I. These changes have been coordinated with the Department of Public Works and Environmental Services, the Department of Housing and Community Development, the Fairfax County Park Authority, the Department of Transportation, Fairfax County Public Schools, and the Office of the County Attorney.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I - Revised Fairfax County Purchasing Resolution

STAFF:
Joseph Mondoro, Chief Financial Officer
Cathy A. Muse, Director, Department of Purchasing and Supply Management

ATTACHMENT 1

# Fairfax County

# Purchasing Resolution

**July 1, ~~2015~~2016**

# FAIRFAX COUNTY PURCHASING RESOLUTION


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*Adopted by the Fairfax County Board of Supervisors on July 1, 2015*

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# FAIRFAX COUNTY PURCHASING RESOLUTION

**WHEREAS, a central purchasing system is authorized by §15.2-1543 of the Code of Virginia, and is thus a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and**

**WHEREAS, the Board of County Supervisors is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved; and**

**WHEREAS, the Code of Virginia, §2.2-4300 through §2.2-4377 (as amended), enunciate the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party, which sections shall be known as the Virginia Public Procurement Act; and**

**WHEREAS, the Code of Virginia, §15.2-1236 (as amended) requires all purchases of and contracts for supplies, materials, equipment and contractual services shall be in accordance with Chapter 43 of Title 2.2 of the Code of Virginia; and**

**WHEREAS, the Code of Virginia, §2.2-4343 (as amended) allows implementation of the Virginia Public Procurement Act by ordinance, resolutions, or regulations consistent with this Act by a public body empowered by law to undertake the activities described by the Act: and**

**WHEREAS, the Code of Virginia, §15.2-1543, empowers the Board of Supervisors to employ a County Purchasing Agent and set his duties as prescribed by the Code of Virginia, §15.2-831, §15.2-1233 through §15.2-1240, and §15.2-1543;**

**THEREFORE BE IT RESOLVED that this resolution prescribes the basic policies for the conduct of all purchasing in Fairfax County (except as otherwise stipulated herein) to take effect immediately upon passage, as follows:**

# FAIRFAX COUNTY PURCHASING RESOLUTION

## Article 1

### GENERAL PROVISIONS

**Section 1. Title.**

**This resolution shall be known as the Fairfax County Purchasing Resolution.**

**Section 2. Organization.**

**A. The Department of ~~Purchasing and Supply~~Procurement and Material Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.**

**B. The Director of the Department of ~~Purchasing and Supply~~ Procurement and Material Management shall be the County Purchasing Agent who shall have general supervision of the Department. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.**

**C. The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce.**

**Section 3. Exclusions from Duties**

**A. The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:**

**Commented [MP1]:** Technical correction. Department name change effective 7/1/2016.

# FAIRFAX COUNTY PURCHASING RESOLUTION

1. **The Department of Public Works and Environmental Services (DPWES), pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, ~~shall be~~is responsible for Fairfax County construction projects administered by DPWES and the ~~related~~ architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.**

2. **The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

3. **The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.**

4. **The Department of Housing and Community Development shall be responsible for**

**Commented [MP2]:** Clarification that County Purchasing Agent retains authority for other County construction.

**capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.**

5. **The Department of Transportation, pursuant to § ~~33.1-75.3~~33.2-338 of the Code of Virginia, and this Resolution, may be responsible for ~~the purpose of~~ constructing or improving highways, including related architectural and engineering services. Highways may include~~, including~~ curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**

**Commented [IP3]:** Update citation and clarify FCDOT contracting authority.

6. **The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.**

**B. The procurement of goods and services for individual schools using funds generated from school activities for the Fairfax County Public Schools is excluded from the duties of the County Purchasing Agent.~~.~~ Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

**C. The Fairfax County Sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates, in accordance with §53.1-127.1~~,~~ Code of Virginia.**

**D. The Department of Administration for Human Services shall be responsible for procurement of goods and services for direct use by a recipient of County administered**

**public assistance programs as defined by Code of Virginia §63.2-100, or the fuel assistance program, or community services board as defined in Code of Virginia §37.2-100 or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (Code of Virginia §2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (Code of Virginia §16.1-309.2 et seq.) provided such good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County.**

## Section 4. Rules and Regulations.

**A. The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and supply management system.**

**B. The Agencies designated in Section 3 A – D shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the ~~County Executive~~ Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.**

## Section 5. Cooperative Procurement.

**The County or any entity identified in Section 3 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, the District of Columbia, or the Metropolitan Washington Council of Governments for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid 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.**

**Except for contracts for architectural and engineering services, as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase from a U.S. General Services Administration contract or a contract awarded by any other agency of**

**the U.S. government.**

## Section 6. Definitions.

**a. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:**

1) **Planning acquisitions.**
2) **Determining what supplies or services are to be acquired by the County, including developing statements of work.**
3) **Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.**
4) **Evaluating bids or proposals.**
5) **Awarding County contracts.**
6) **Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).**
7) **Terminating contracts.**
8) **Determining whether contract costs are reasonable, allocable, and allowable.**

**b. 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.**

**c. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).**

Commented [IP4]: Technical correction

**c.d. Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2 A).**

**e. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).**

**f. Construction shall mean building, altering, repairing, improving or demolishing any**

**structure, building, ~~road, drainage, or sanitary facility~~ or highway, and any draining, dredging, excavation, grading or similar work upon real property.**

**Commented [MP5]:** Technical correction to match definition in the Virginia Public Procurement Act.

**g. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.**

**h. Consultant Services shall mean 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.**

**i. Covered Employee means an individual who**

**1) Is an employee of the contractor or subcontractor, a consultant, partner, or a sole proprietor; and**

**2) Performs an acquisition function closely associated with inherently governmental functions.**

**j. Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.**

**k. ~~DPSM~~ DPMM shall mean the Department of ~~Purchasing and Supply~~Procurement and Material Management**

**l. Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential service.**

**~~m.~~**

**m. Employment Services Organization shall mean an organization that provides community based employment services to individuals and disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.**

**Commented [IP6]:** HB 1288 new definition for Employment Services Organization, moved from page 11

**n. Excess Property shall mean that property which exceeds the requirement of the department to which the property is assigned.**

**o. FCPS shall mean Fairfax County Public Schools.**

**p. Faith–Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.**

**q. Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.**

**r. Fixed Asset shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of $5,000.**

**s. Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.**

**t. Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.**

**u. Independent Contractor shall mean a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of accomplishing the result.**

**v. Ineligibility shall mean an action taken to suspend or debar an individual or firm from consideration for award of contracts. The suspension shall not be for a period exceeding three (3) months and the debarment shall not be for a period exceeding three (3) years.**

**w. Informality shall mean 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.**

**x. Job Order Contracting is a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing.**

**y. Non-public Government Information means any information that a covered employee gains by reason of work under a County contract and that the covered employee knows, or reasonably should know, has not been made public. It includes information that--**

**1) Is exempt from disclosure under the Virginia Freedom of Information Act; or**
**2) Has not been disseminated to the general public and is not authorized by the agency to be made available to the public.**

**z. Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.**

**aa. Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.**

**bb. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural, engineering and related consultant services for construction projects and the contracting for construction projects to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.**

**cc. Pecuniary Interest Arising From the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.**

**dd. Personal Conflict of Interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the County when performing under the contract.**

**Among the sources of personal conflicts of interest are--**

1. **Financial interests of the covered employee, of close family members, or of other members of the household;**
2. **Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and**
3. **Gifts, including travel.**

**Financial interests may arise from--**

a. **Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;**
b. **Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);**
c. **Services provided in exchange for honorariums or travel expense reimbursements;**
d. **Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);**
e. **Real estate investments;**
f. **Patents, copyrights, and other intellectual property interests; or**
g. **Business ownership and investment interests.**

**ee. Potential Bidder or Offeror shall mean a person who, at the time the County negotiates**

**and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.**

**ff. Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.**

**gg. Professional services shall mean any type of 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 this Resolution).**

**hh. Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution. Public body shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.**

**ii. Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.**

**jj. Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.**

**kk. Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.**

**ll. Responsive Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.**

**mm. Reverse Auctioning shall mean a procurement method wherein bidders are invited to**

**bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.**

**nn. SAC shall mean Selection Advisory Committee.**

**oo. Services shall mean 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.**

**pp. ~~Employment Services Organization shall mean a work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services to assist individuals with disabilities to progress toward normal living and a productive vocational status.~~**

**qq. Surplus Property shall mean that property which exceeds the requirement of the entire County.**

# Article 2

## PURCHASING POLICIES

### Section 1. General

**A.** **Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.**

**B.** **Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article.**

**C.** **Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article.**

**D.** **Certification of sufficient funds; orders and contracts in violation of Code of Virginia, §15.2-1238: - Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance shall have certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. Whenever any department or agency of the County government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.**

**E.** **Not-withstanding any other provision of law, the County may, as provided in the Code of Virginia, §2.2-4327, provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction. No more than fifty percent of the funds of the county, calculated on the basis of the average daily balance of the general fund during the previous fiscal year,**

**may be deposited or invested by considering such investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.**

**F. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.**

**G. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.**

## Section 2. Methods of Procurement.

**A. Competitive Sealed Bidding.- is a method of contractor selection which includes the following elements:**

**1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.**

**2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of county wide circulation, or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, bids may be solicited directly from potential vendors.**

**3. Public opening and posting of all bids received.**

**4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining**

**acceptability.**

**5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.**

**B. Competitive Negotiation.- is a method of contractor selection which includes the following elements:**

**1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.**

**2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting in a designated public area or by publication in a newspaper of county wide circulation or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, proposals may be solicited directly from potential vendors.**

**3. Competitive Negotiation – Consultant Services**

**a. Selection Advisory Committee**

**1. When selecting a firm for consultant services where the compensation for such services is estimated to exceed $100,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.**

***2.* When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than $100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to**

**recommend to the Director of the funded Agency or FCPS Department Head those consultant services firms that are to be retained by the County or an agency of the County.**

**3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.**

**b. Public Announcement**

**1. When consultant services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for consultant services is estimated to be less than $100,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.**

**c. Selection, Negotiation and Approval Process.**

**1. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. 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.**

**2. All proposed contracts for consultant services, where the compensation to be paid exceeds $100,000, the Director of DPSM or other Authorized Agency, after review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those consultant services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required**

**by the County Executive or the Division Superintendent, FCPS.**

**3. All proposed contracts for consultant services, where the compensation to be paid is less than $100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.**

**4. For all cost-plus-a-fixed-fee consultant services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any consultant services contract under which such a certificate is required shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.**

**4. Competitive Negotiation – Professional Services**

**a. Selection Advisory Committee.**

**1. When selecting a firm for professional services where the compensation for such professional services is estimated to exceed $60,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.**

**2. When selecting a firm for professional services, where the compensation for such professional services is estimated to be less than $60,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those professional services firms that are to be retained by the County or an agency of the County.**

**3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.**

**b. Public Announcement and Qualifications for Professional Services.**

**1. When professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for such professional services is estimated to be less than $60,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.**

**2. For architectural or engineering services estimated to cost less than $60,000, an annual advertisement requesting qualifications from interested architectural or engineering firms will meet the requirements of paragraph (1) above. The County shall make a finding that the firm to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record of performance, and experience of the firm.**

**c. Selection, Negotiation, and Approval Process**

**1. Selection of Professional Services: Where the cost is expected to exceed $60,000, the County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the County in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point,**

**the County shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. DPSM or other Authorized Agency, with the aid of the Selection Advisory Committee, shall negotiate a proposed contract with the highest qualified firm for the professional services required. The firm deemed to be the most qualified will be required to disclose its fee structure during negotiation. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. 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 and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the County may award contracts to more than one offeror.**

**2. Except for construction projects and related architectural, engineering, and consultant services, all proposed contracts for professional services, where the compensation to be paid exceeds $100,000, the Director of DPSM or other Authorized Agency, after review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those professional services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required by the County Executive or the Division Superintendent, FCPS.**

**3. All proposed contracts for professional services, where the compensation to be paid is less than $100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.**

**4. For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a**

**certificate is required shall contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.**

**5. Multiphase professional services contracts satisfactory and advantageous to the County for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the County shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.**

**6. A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA),§~~2.2-4302.2.4~~ 2.2-4303.1.**

**Commented [IP7]:** Technical correction, code citation

**5. Competitive Negotiation – Non-Professional Services**

**a. Selection Advisory Committee**

**1. When selecting a firm for non-professional services where the compensation is estimated to exceed $100,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those non-professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.**

***2.* When selecting a firm for non-professional services, where the compensation is estimated to be less than $100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those non-professional services firms that are to be retained by the County or**

**an agency of the County.**

**b. Public Announcement**

**1. When non-professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for non-professional services is estimated to be less than $100,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.**

**c. Selection, Negotiation and Approval Process.**

**1. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. 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.**

**2. All proposed contracts for non-professional services shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.**

**C. Emergency.- In case of an emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the appropriate contract or purchase order file. In addition, a notice shall be posted on the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management web site or other appropriate web sites on the day the County awards or announces its decision to award the contract in excess of $100,000, whichever occurs first.**

**1. If an emergency occurs during regular County business hours, the head of the**

**using agency shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.**

**2. If an emergency occurs at times other than regular County business hours, the using agency head may purchase the required goods or services directly. The agency head shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the emergency.**

**3. The County Purchasing Agent shall maintain a record of all emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.**

**D. Informal Procurement.- Any Fairfax County contract when the estimated cost is less than $100,000 in value, shall be deemed an informal procurement and shall not be subject to the rules governing competitive sealed bidding or competitive negotiation. However, the County Purchasing Agent shall, wherever possible, solicit at least four written competitive bids on all informal procurements estimated to exceed $10,000 in value; and solicit at least three oral or written quotes for purchase transactions estimated between $5,000 - $10,000. The rules and regulations adopted pursuant to Section 4 of Article 2 of this Resolution shall prescribe in detail the procedures to be observed in giving notice to prospective bidders, in tabulating and recording bids, in opening bids, in making purchases from the lowest responsive and responsible bidder, and in maintaining records of all informal procurements for public inspection.**

**E. Public Private Education Facilities and Infrastructure.- The "Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)" provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.**

**F. Reverse Auctioning.- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.**

**G. Small Purchase.- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than $5,000, shall be deemed a small purchase and shall not be subject to the rules governing the formal competitive bidding process.**

**H. Sole Source.- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted on the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management web site or other appropriate web sites on the day the County awards or announces its decision to award the contract in excess of $100,000, whichever occurs first.**

## Section 3. Exceptions to the Requirement for Competitive Procurement.

**A. Auction: Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products or commodities from a public auction sale is in the best interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.**

**B. Instructional Materials and Office Supplies: Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2. G.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School Board solely for such purchases.**

**C. Insurance / Electric Utility Services: As provided in the Code of Virginia, subdivision**

**13 of §2.2-4345, the County may enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles.**

**D. Insurance: As provided in § 2.2-4303(C), u~~U~~pon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in §2.2-~~4302.2.3~~4302.2(A)(3) of the Virginia Public Procurement Act.**

**E. ~~Litigation / Regulatory Proceedings~~Legal Services: The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) the purchase of legal services; and (2) expert witnesses~~; and (3)~~ or other services associated with litigation or regulatory proceedings. Any contract for Legal Services may be entered into upon terms established by the County Attorney.**

**F. Public Assistance Programs: The County may procure goods or services without competition for direct use by a recipient of County administered public assistance programs as defined by §63.2-100 of the Code of Virginia, or the fuel assistance program, or community services board as defined in §37.2-100, or any public body purchasing services under the ~~Comprehensive~~ Children's Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.**

**G. Remedial Plan: The purchase of goods and services when such purchases are made under a remedial plan established by the County Executive pursuant to Code of Virginia §15.2-965.1.**

**H. Workshops: The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Visually Handicapped; or which are produced or performed by employment services organizations which offer transitional or supported employment services serving individuals with disabilities, provided that the goods or services can be purchased within ten percent of their fair market value, will be of acceptable quality and**

**Commented [IP8]:** Technical correction

**Commented [IP9]:** Clarification of existing authority and practice

**Commented [IP10]:** Technical correction to match federal program name.

**can be produced in sufficient quantities and within the time required.**

**I. Retirement Board Investments, Actuarial Services, Disability Determination Services: The selection of services related to the management, purchase, or sale of authorized investments, actuarial services, and disability determination services shall be governed by the standard of care in Code of Virginia §51.1-124.32 and shall not be subject to the provisions of the Virginia Public Procurement Act.**

**J. Ballots and Elections Materials: Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall not apply to contracts for equipment, software, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election, except as stated in §24.2-602. The provisions of Code of Virginia §24.2-602 shall apply to such contracts.**

**K. Other Special Exemptions: Procurement for single or term contracts for goods and services not expected to exceed $100,000 as identified by the Purchasing Agent.**

**~~K.~~L. Conference Planning: Acquisition of the use of meeting rooms and lodging rooms in hotels or motels is considered to be short term rentals of portions of real property -real estate transactions. So long as the procurement involves only the use of the facilities, the competitive requirements of the Fairfax County Purchasing Resolution do not apply. However, if the procurement includes the provision of catered meals, audio visual equipment, ~~etc.~~or other related services, and the value of these other included services exceeds the $5,000 level for which competition is required, the entire procurement, including the use of the space, shall be procured competitively as a package based on its anticipated value.**

**Commented [IP11]:** New exemption added to add clarity which establishes consistency with existing practices.

**~~L.~~M. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed $100,000.**

**Commented [IP12]:** HB 1135 (non-mandatory)

## Section 4. General Purchasing Provisions.

**A. Competitive Solicitation Process.-**

**1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the County's vendor database and/or the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and competitive negotiation methods of procurement. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.**

**2. 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 informal procurement methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder 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 bid of such 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 shall render the entire proceedings void and shall require readvertising for bids.**

**3. All solicitations shall include the following provisions:**

**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.**

**4. Unless otherwise provided in the Invitation to 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.**

**5. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established**

**in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.**

**6. Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 4, Section 1.**

**7. The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.**

**8. Withdrawal of bids by a bidder.**

**a. A bidder for a contract other than for public construction may request withdrawal of their 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.**

**3. 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.**

**4. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.**

**5. 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.**

6. **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.**

7. **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 Article 2, Section 4, Paragraph D.**

**B. Contract Award Process.-**

1. **The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in his judgment the public interest is best served. 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 none, to the resident Virginia tie bidder, or if 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.**

2. **The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, 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. 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**

**j. 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.**

**3. All contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.**

**4. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the responsive bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.**

**5. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.**

**6. Every contract in excess of $100,000 shall contain the following: 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 Resolution, 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.**

**C. Non Discrimination.-**

**The County will not discriminate against a bidder or offeror because of race, color, religion, sex, national origin, age, disability, status as a service-disabled veteran or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity. In accordance with the policy of the County's Small and Minority Business Enterprise Program, every effort shall be made to actively and diligently promote the procurement of goods and services from small businesses and minority-owned and woman-owned businesses and service-disabled veteran businesses in all aspects of procurement to the maximum extent feasible. Every contract shall include the following provisions:**

**1. 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 nondiscrimination 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 provision.**

**d. The contractor will include the provisions of 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.**

**D. Disclosure of Information.-**

**Except as provided herein, 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.**

**1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.**

**2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in 3. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.**

**3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section 4 D.3 shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.**

**4. Nothing contained in this section shall be construed to require the County, when**

**procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.**

**E. Bonds.-**

**1. The County may, at the discretion of the County Purchasing Agent, require bid, payment or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.**

**No forfeiture under a bid bond shall exceed the lesser of:**

**a. the difference between the bid for which the bond was written and the next low bid, or**

**b. the face amount of the bid bond.**

**2. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.**

**3. Actions on payment bonds:**

**a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.**

**b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work**

**was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.**

**c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.**

**d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.**

**4. Alternative forms of security:**

**A. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.**

**B. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.**

**F. Prequalification –**

**1. Any prequalification of prospective contractor by the County shall be pursuant to a prequalification process.**

**a. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.**

**b. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.**

**2. The County may deny prequalification to any contractor only if the County finds one of the following:**

**a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;**

**b. The contractor does not have appropriate experience to perform the project in question;**

**c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts;**

**d. The contractor has been in substantial noncompliance with the terms and conditions of prior contracts with the County without good cause. If the County has not contracted with a contractor in any prior contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior file and such information relating thereto given to the contractor at that time, with the opportunity to respond;**

**e. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act**

**(§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;**

**f. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and**

**g. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (a) through (f) of this subsection.**

## Section 5. Compliance with Conditions on Federal Grants or Contract.

**Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the policy of full and open competition, the County Purchasing Agent may comply with the federal requirements only upon written determination by the County Executive and/or Board of Supervisors that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of this section in conflict with the conditions of the grant or contract.**

## Section 6. Audit by the County.

**All contracts and amendments in excess of $10,000 ~~entered into by negotiation, shall~~ shall include a provision permitting the County or its agent to have access to and the right to examine any books, documents, papers, and records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts.**

**Commented [IP13]:** Technical correction. Applicable to all contracts in excess of small purchase threshold.

## Section 7. HIPAA Compliance.

**Fairfax County Government has designated certain health care components as covered by the Health Insurance Portability and Accountability Act of 1996. The successful vendor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board, upon award of contract. The successful vendor must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts**

**160 and 164; and (2) Code of Virginia – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: http://www.fairfaxcounty.gov/hipaa.**

## Section 8. Immigration Reform and Control Act Compliance:

**The County shall provide in every written contract that the contractor 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 Immigration Reform and Control Act of 1986.**

## Section 9. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in the Commonwealth:

**A.** **The County shall include in every contract exceeding $100,000 a provision that 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 or as otherwise required by law.**

**B.** **Pursuant to competitive sealed bidding or competitive negotiation, the County shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. 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 shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.**

**C.** **Any bidder or offeror described in subsection B that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Purchasing Agent.**

**D.** **Any business entity described in subsection A that enters into a contract with the County pursuant to this section 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.**

**E. The County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.** ◙

# Article 3

## CONSTRUCTION CONTRACTING

### Section 1. Authority

**The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:**

1. **The Department of Public Works and Environmental Services (DPWES), pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, shall be responsible for Fairfax County construction projects administered by DPWES and the ~~related~~ architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney**

2. **The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

3. **The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same**

**Commented [IP14]:** Same modification as page 3.

**authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.**

**4. The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.**

**5. The Department of Transportation, pursuant to §~~33.1-75.3~~33.2-338 of the Code of Virginia, and this Resolution, may be responsible for ~~the purpose of~~ constructing or improving highways, including related architectural and engineering services. Highways may include curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**

**6. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.**

## Section 2. Rules and Regulations

**The Agencies designated in Section 1 above shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.**

## Section 3. Definitions

**a. Construction shall mean building, altering, repairing, improving or demolishing any structure, building, ~~road, drainage, or sanitary facility~~ or highway, and any draining, dredging, excavation, grading or similar work upon real property.**

**b. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.**

**c. Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.**

**d. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural and engineering design services to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.**

## Section 4. Purchasing Policies

**A. Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for the construction of highways and any draining, dredging, ~~excavation~~, grading or similar work upon real property.**

**~~A.~~B. The Purchasing Agent may establish written purchase procedures ~~, to be adopted in writing,~~ not requiring competitive sealed bids or competition negotiation for single or term contracts for non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed $100,000; ~~however,~~ and transportation-related construction, if the aggregate or sum of all phases is not expected to exceed $25,000. However, such small purchase procedures shall provide for competition wherever practicable.**

**Commented [IP15]:** Technical correction, match definition in Virginia Public Procurement Act

**Commented [IP16]:** Technical correction to match Virginia Public Procurement Act

**Commented [IP17]:** HB 1166 (non-mandatory)

**Commented [MP18]:** Revised to track language of HB 1166

**~~B.~~C.** **No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of $50,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.**

**~~C.~~D.** **A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year and may be renewable for four additional one-year terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed $6 million, (c) the project fee of any single project shall not exceed $2million. Any unused amounts from the first contract term shall not be carried forward to the additional term(s). Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.**

**~~D.~~E.** **No County construction contract shall waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent such delay is caused by acts or omissions of the County, its agents or employees and due to causes within their control.**

**a.** **Subsection D shall not be construed to render void any provision of a County construction contract that:**

**i.** **Allows the County to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractor, agents or employees;**

**ii.** **Requires notice of any delay by the party claiming the delay;**

**iii.** **Provides for liquidated damages for delay; or**

**iv.** **Provides for arbitration or any other procedure designed to**

**settle contract disputes.**

**b. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.**

**c. A public body denying a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the County shall be equal to the percentage of the contractor's total delay claim for which the County's denial is determined through litigation or arbitration to have been made in bad faith.**

## Section 5. Methods of Procurement

**A. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Resolution and law.**

**B. Competitive Negotiation – Construction Management / Design Build Services**

**Prior to making a determination as to the use of design-build or construction management for a specific construction project, the County shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall advise the public body regarding the use of design-build or construction management for that project and who shall assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals.**

**1. Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the County shall:**

**a. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation and award of design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require Requests for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications; and may define such other requirements as the public body determines appropriate for that particular construction project. Such procedures for:**

**i. Design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department of General Services for state agencies.**

**ii. Construction management projects shall include selection procedures and required construction management contract terms consistent with the procedures as adopted by the Secretary of Administration.**

**2. Have documented in writing that for a specific construction project (i) a design-build or construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.**

**The contract shall be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal.**

**E. Job order contracting; limitations. Where the method for procurement of job order construction is professional services through competitive negotiation is used, the following shall apply:**

**1. A job order contract may be awarded by the County for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section,**

**whichever occurs first.**

2. **Such contracts may be renewable for two additional one-year terms at the option of the County. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed $5 million. Individual job orders shall not exceed $500,000.**

3. **For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.**

4. **Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection 2 is prohibited.**

5. **No job order contract shall be issued solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Article 1, Section 6. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed $25,000 per job order, and (iii) do not exceed $75,000 per contract term.**

**Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass.**

## Section 6. Prequalification, Bonds, Escrow Accounts

**Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.**

**A. Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.**

1. **The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the**

**contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph D.**

2. **In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.**

3. **At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.**

4. **A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. If upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.**

B. **The County may deny prequalification to any contractor only if the County finds one of the following:**

1. **The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;**

2. **The contractor does not have appropriate experience to perform the construction project in question;**

3. **The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;**

4. **The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;**

5. **The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;**

6. **The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and**

7. **The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.**

   a. **If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.**

C. **Withdrawal of bids by a bidder.**

1. **A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his 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.**

**2. The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. No bid shall be withdrawn 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. The lowest remaining bid shall be deemed to be the low bid. 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.**

**3. The County shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the County denies the withdrawal of a bid, it shall state in such notice 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. At the same time that the notice is provided, the County shall return all work papers and copies thereof that have been submitted by the bidder.**

D. **Progress Payments**.

**1. In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with not more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.**

**E. Bonds.-**

**1. Except in cases of emergency, all bids or proposals for nontransportation-related**

**construction contracts in excess of $500,000 or transportation-related projects authorized under ~~§33.1-12~~ Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 that are in excess of $ 350,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.**

**For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with §2.2-4317 of the Code of Virginia.**

**No forfeiture under a bid bond shall exceed the lesser of:**

**a. the difference between the bid for which the bond was written and the next low bid, or**

**b. the face amount of the bid bond.**

**Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 ~~§33.1-12~~ and partially or wholly funded by the Commonwealth.**

~~**The performance and payment bond requirements in E.1 above for transportation-related projects that are valued in excess of $250,000 but less than $350,000 may only be waived by the County if the bidder provides evidence, satisfactory to the County, that a surety company has declined an application from the contractor for a performance or payment bond.**~~

**2. Performance and payment bonds:**

**a. Upon the award of any (i) public construction contract exceeding $500,000 awarded to any prime contractor, (ii) construction contract exceeding $500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body, or (iii) transportation-related projects exceeding $350,000 that are partially or wholly funded by the Commonwealth, or (iv) construction contract exceeding $500,000 in which the**

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**performance of labor of the furnishing of materials will be paid with public funds, the contractor shall furnish to the County the following bonds:**

**1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2~~§33.1-12~~, such bond shall be in a form and amount satisfactory to the public body.**

**2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 ~~§33.1-12~~ and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.**

**b. Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.**

**c. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.**

**d. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 ~~§33.1-12~~ and partially or wholly funded by the Commonwealth.**

**e. Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.**

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**~~e.~~f. The performance and payment bond requirements ~~in E.1~~ above for transportation-related projects that are valued in excess of $250,000 but less than $350,000 may only be waived by the County if the bidder provides evidence, satisfactory to the County, that a surety company has declined an application from the contractor for a performance or payment bond.**

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**3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.**

**4. Actions on payment bonds:**

**a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.**

**b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.**

**c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.**

**d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.**

**5. Alternative forms of security:**

**a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.**

**b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.**

**F. Escrow Accounts.-**

**1. The County, when contracting directly with contractors for public contracts of $200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.**

**2. The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit his rights to the use of the Escrow account procedure.**

**3. The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office**

**located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.**

**4. This subsection E. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.**

**5. Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.**

**6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.**

**This subsection E. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.**

# Article 4

## BIDDER/CONTRACTOR REMEDIES

### Section 1. 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, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a 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.**

## Section 2. 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 4A, paragraph 8, 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 not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.**

## Section 3. 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, 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.**

## Section 4. 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 2, Section 2. 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 4.D, 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 4.D, 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.**

## Section 5. 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.**

## Section 6. Legal Action.

**A. No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.**

# Article 5

## ETHICS IN COUNTY CONTRACTING

### Section 1. General.

**A. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), and Articles 2 (§18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.**

**B. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of A2, A3 and A4 of §2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:**

**1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,**

**2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,**

**3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,**

**4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.**

### Section 2. Solicitation or Acceptance of Gifts.

**No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than**

**nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The County may recover the value of anything conveyed in violation of this section.**

## Section 3. Disclosure of Subsequent Employment.

**No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.**

## Section 4. Gifts.

**No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.**

## Section 5. Kickbacks.

**A.** **No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.**

**B.** **No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.**

**C.** **No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.**

**D.** **If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.**

**E.** **No person who, for compensation, prepares an invitation to bid or request for proposal**

**for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.**

## Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

**A. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.**

**B. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.**

**C. The provisions of this Section shall not apply in the case of emergency.**

## Section 7. Certification of Compliance; Penalty for False Statements.

**A. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.**

**B. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.**

## Section 8. Misrepresentations.

**No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document**

**knowing the same to contain any false, fictitious or fraudulent statement or entry.**

## Section 9. Penalty for Violation.

**The penalty for violations of any of the provisions under Article 5 of this Resolution is provided in the Code of Virginia, §2.2-4377.**

## Section 10. Personal Conflicts of Interest

**It is County policy to require contractors to:**

1) **Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and**
2) **Prohibit employees who have access to non-public County information from using such information for personal gain.**

**Failure to comply may result in suspension or debarment or termination for cause. The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if he determines in writing that such mitigation is in the best interest of the County.**

# Article 6

## SUPPLY MANAGEMENT

**The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management is responsible for the management of all Fairfax County and Fairfax County Public Schools (FCPS) supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes physical accountability of consumable supplies and accountable equipment, as well as, validation of the inventory and accountable equipment values reported in Fairfax County's Comprehensive Annual Financial Report. DPSM shall prescribe the procedures to be used by departments in the acquisition, receipt, storage and management, and issuance of consumable supplies and accountable equipment inventory, and disposition of excess and surplus County property.**

### Section 1. County Consolidated Warehouse

**A. The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management is responsible for operation of the County Consolidated Warehouse which provides temporary storage and distribution of the supplies and equipment to all County departments. The Warehouse may be used as the storage point for goods on consignment from other departments. The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management is responsible for space management at the County Consolidated Warehouse.**

### Section 2. Inventory Accountability

**Departments and Fairfax County Public Schools are required to establish and maintain accountability of consumable inventories and accountable equipment in their custody, and to conduct periodic physical inventories in accordance with schedules published by the Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management.**

## Section 3. Consumable Inventory Management

**A.** **The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management shall exercise oversight responsibility over all consumable inventory warehouses and stockrooms.**

**B.** **The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management shall administer Fairfax County's perpetual inventory management system through FOCUS, and shall approve the management of perpetual inventories through any system other than FOCUS.**

## Section 4. Accountable Equipment Inventory Management

**A.** **The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management shall exercise oversight responsibility over all accountable equipment.**

**B.** **The Director of the ~~Department of Purchasing and Supply management~~Department of Procurement and Material Management is responsible for defining items to be capitalized as accountable equipment, and administering the Accountable Equipment Program in accordance with State and County codes, as well as industry standards and best practices.**

## Section 6. Excess and Surplus Property and Inventory.

**A.** **The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management is responsible for redistribution of serviceable excess property and inventory, to include furniture, office equipment, repair parts, etc.**

**B.** **The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management is responsible for the disposal of surplus property and inventory as applicable by law. Disposals will be evaluated in an effort to maximize financial returns to the County and / or minimize environmental impact.**

**C.** **Confiscated or abandoned property in the hands of the police shall be disposed in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.**

**D.** **Employees and members of their immediate family are not eligible to acquire property for personal use before such property has been declared surplus and has been made available to the general public. The County may, however, sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by**

**the locality to be appropriate.**

## Section 7. Donations

**A. Accepting Donations:**

**1. Items $5,000 or more:**
**The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management or Assistant Superintendent of Financial Services is responsible for approving the acceptance donated items or services with a fair market value of $5,000 or more, and ensuring accepted items are properly accounted for.**

**2. Items under $5,000:**
**Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under $5,000.**

**B. Making Donations:**

**1. Items $5,000 or more:**
**When the fair market value of an item exceeds $5,000, the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may offer surplus County or School property to charitable or non-profit organizations or public bodies for sale or donation, where appropriate. The Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management or Assistant Superintendent of Financial Services shall coordinate all requests to donate items with their respective Board.**

**2. Items under $5,000:**
**When the fair market value of a surplus item is less than $5,000, the Director of the ~~Department of Purchasing and Supply Management~~Department of Procurement and Material Management or FCPS Chief Financial Services may donate the item directly to charitable or nonprofit organizations as appropriate and allowed by law.**

**It is further resolved that this resolution shall be effective July 1, ~~2014~~2016.**

**A Copy Teste:**

**Catherine A. Chianese**

Board Agenda Item
June 21, 2016

ACTION - 8

Approval of an Implementation Plan for Recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission

ISSUE:
Board of Supervisors approval of an implementation plan to further the recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission and Board endorsement of the goal of the Chief of Police to reengineer the Department's use-of-force policies to reinforce the guiding philosophy that reverence for the sanctity of human life is paramount in service to our community. Police officers are guardians of the public, from whom their authority is derived, and the application of force is at times necessary to protect other people, themselves, property, and rights. Police officers must, at times, make split second decisions, but the application of force, particularly the use of deadly force, holds significant consequences and must be applied judiciously to preserve and protect individuals' dignity and rights and must also be investigated in a fair, balanced, and comprehensive manner to ensure accountability and to maintain public trust and police legitimacy.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the attached implementation plan regarding the recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission.

TIMING:
Board action is requested on June 21, 2016.

BACKGROUND:
The creation of an Ad Hoc Police Practices Review Commission was moved by Chairman Sharon Bulova and approved by the Board on March 3, 2015. The purpose of the Commission was to engage the community in an open and transparent process to recommend changes to help the Board and the Police Department achieve the goals of maintaining a safe community, ensuring a culture of public trust, providing for the fair and timely resolution of police-involved incidents and information release, and reviewing Crisis Intervention Training (CIT) and police responses for cases involving mental health.

On October 20, 2015, the Ad Hoc Commission submitted its final report and recommendations to the Board of Supervisors. On November 17, 2015, the

Board of Supervisors approved a process for assigning, prioritizing, reviewing, tracking, and considering the 202 Commission recommendations.

On November 17, 2015, the Board also endorsed the need for more Public Safety Committee meetings to be held as a forum for discussion of the recommendations. To that objective, the newly appointed Chair of the Public Safety Committee, Supervisor John Cook, has held committee meetings on February 9, May 10, and May 24, 2016. Additional committee meetings are also already scheduled for 2016.

The Public Safety Committee, the Police Department and other core partners and stakeholders have focused on the discussion and implementation of the recommendations of the Ad Hoc Commission's Communications, Use of Force, and Mental Health and CIT Subcommittees.

This Action Item is specifically related to the implementation and furtherance of the recommendations of the Use of Force Subcommittee, consistent with the presentations and discussions at the February 9, May 10 and May 24, 2016, Public Safety Committee meetings. The Chief of Police, the Chairs of the Commission's Communications and Use of Force Subcommittees, and sworn police representatives were in attendance for discussion at each of the listed meetings. At the May 10 meeting the Commonwealth's Attorney and a representative of the Police Executive Research Forum (PERF) also presented. Two PERF reports, *the Use-of-Force Policy and Practice Review of the Fairfax County Police Department (June 2015)*, commissioned by the Chief of Police, and *Guiding Principles on Police Use of Force (March 2016)*, have helped inform the Use of Force Subcommittee's recommendations and the reengineering of Police Department use of force philosophy, policies, and training.

Fundamental to the recommendations of the Use of Force Subcommittee is that the Board strongly endorse the goal of the Chief of Police to re-engineer the Department's use-of-force policies to reinforce the guiding philosophy that reverence for the sanctity of human life is paramount in service to our community. Police officers are guardians of the public, from whom their authority is derived, and the application of force is at times necessary to protect other people, themselves, property, and rights. Police officers have a difficult job, and must at times make split second decisions, but the application of force, particularly the use of deadly force, holds significant consequences and must be applied judiciously to preserve and protect individuals' dignity and rights and must also be investigated in a fair, balanced, and comprehensive manner to ensure accountability and to maintain public trust and police legitimacy.

While some of the Use of Force Subcommittee recommendations have already been implemented, the attached implementation plan, if approved, will require future revision(s) as work on some of the recommendations is ongoing and the

Board has also requested reports and/or further information on several of the recommendation areas, to include, but not limited to, for example, body cameras, for further discussion and consideration prior to endorsing or approving some of the recommendations.

On November 17, 2015, the Board had also directed an annual report and a final summary report on the status and implementation of all of the Commission's recommendations. The first annual report shall be presented to the Board at the scheduled Public Safety Committee meeting of December 13, 2016.

FISCAL IMPACT:
No immediate fiscal impact. The implementation of some Use of Force Subcommittee recommendations, if approved, will require additional future funding, but the actions as outlined for approval in this current interim implementation plan are able to be absorbed in the current operating budget of the Police Department. Any recommendations requiring additional funding will be brought forward for appropriate discussion and consideration by the Board.

ENCLOSED:
Attachment 1 - Implementation Plan for Recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission
Attachment 2 - Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ATTACHMENT 1

Adopted by the Board of Supervisors: June 21, 2016

Implementation Plan for the Recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission

The Board of Supervisors (the "Board") has reviewed the recommendations of the Use of Force Subcommittee of the Ad Hoc Police Practices Review Commission ("the Commission").

The Board endorses the goal of the Chief of Police to reengineer the Department's use-of-force policies to reinforce the guiding philosophy that reverence for the sanctity of human life is paramount in service to our community. This policy will clearly articulate what is required of our officers as guardians of the public, from whom their authority is derived, when the application of force is necessary to protect other people, themselves, property, and rights. Police officers have a difficult job, and must at times make split second decisions, but the application of force, particularly the use of deadly force, holds significant consequences and must be applied judiciously to preserve and protect individuals' dignity and rights and must also be investigated in a fair, balanced, and comprehensive manner to ensure accountability and to maintain public trust and police legitimacy.

In reviewing those recommendations, as organized by the *Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet* (the "Spreadsheet") as UOF-1 through UOF-40, the Board directs the County Executive and the Chief of Police (the "Chief") as follows:

1. The Board endorses the Chief's reengineering of the policies governing the use of force on protecting the sanctity of human life and the Police Department's adoption of policies and practices which utilize the Critical Decision Making Model to ensure that all actions are proportionate, lawful, accountable, necessary, and ethical.

2. To that goal, the Board endorses the Chief's promulgation of Amended General Order 540.1, Use of Force, which will create a single policy on use of force that is logically structured and includes all current directives such as standard operating procedures and other standalone orders. The Chief will provide the amended General Order to the Board and report on the implementation of this new policy by September 1, 2016, as personnel will require training on the policy reorganization.

3. UOF-1 through UOF-4; UOF-6 through UOF8g; UOF-9 through UOF-10: To further implement these guiding philosophies, the Board designates the Chief as the Approving Authority for these recommendations. These items will be addressed consistent with Amended General Order 540.1, unless otherwise

directed by the Chief in writing. Adopted strategies and actions should also be consistent with the principles of community engagement and community policing. The Chief is directed to provide a written report back to the Board no later than the scheduled December 13, 2016, Public Safety Committee meeting, regarding actions taken on or status of these items.

4. UOF-5: The Police Department will complete an analysis for the Board regarding the use of the Pursuit Immobilization Technique (PIT). The Department has created a Pursuit and PIT subcommittee comprised of subject matter experts, such as driving instructors from the Criminal Justice Academy, Crash Reconstruction Unit Detectives, Patrol Officers, Motor Traffic Safety Officers, and Policy and Directives Unit members. The Pursuit and PIT subcommittee is reviewing training and policy and will make final recommendations to the Chief by September 1, 2016. The recommendations will be vetted through the Department's senior leadership team and presented to the Board no later than the December 13, 2016, Public Safety Committee Meeting for discussion and consideration.

5. UOF-8h: The Chief shall review this recommendation with the Office of the County Attorney and provide a written recommendation to the Board by September 1, 2016.

6. UOF-11 through UOF-14f: These recommendations center on transparency and use of force reporting, and have, therefore, been moved to a related plan, the *Implementation Plan for the Recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission*.

7. UOF-15a-c; UOF-29c: These recommendations involve Body Cameras, for which the Police Department has previously recommended a pilot project, but as this issue has significant budgetary, privacy, storage, retention, and other policy considerations the Board will move discussion and consideration of these recommendations to a later date. The Chief is directed to continue research and development of equipment recommendations, best practices and policies, and budget estimates, and to make recommendations to the Board in calendar year 2017 regarding these items.

8. UOF-16: This recommendation involves policy on Electronic Control Weapons (ECWs). It will be addressed by Amended General Order 540.1 and corresponding revision to SOP 06-025, Electronic Control Weapon, which will reclassify the ECW as a less-lethal weapon.

9. UOF-17: Personal issue of ECWs for every sworn officer is a significant budget request, and, as such, ECW-certified patrol officers are currently assigned an ECW at the beginning of shift and it is turned in at the end of shift for use by the next oncoming patrol shift. To meet the intent of this recommendation, the Chief has directed an assessment to ensure a sufficient inventory of ECWs exists to equip all certified on-duty uniformed patrol officers. If additional ECWs are required the Police Department will either absorb the operational costs or, if a significant need exists, make an appropriate budget request. Once sufficient equipment is available the Chief may consider mandated carry by certified uniformed patrol officers.

10. UOF-18: Plain clothed, undercover officers, and detectives are currently not all equipped to carry ECWs, and some undercover assignments would preclude this. Any of these ECW-certified units may carry based on operational need. An assessment of current ECW inventory for these units will also be conducted, as will a review of best practices and protocols.

11. UOF-19: The term “excited delirium” or “excited delirium syndrome” is currently a diagnosis accepted by, and used by, the Commonwealth’s Office of the Medical Examiner and the Commonwealth’s Attorney. Although not recognized by the American Medical Association or the American Psychological Association, the term has been accepted by the National Association of Medical Examiners and the American College of Emergency Physicians. The Chief does not have the expertise or authority to replace the term as used by other competent authorities. Training is provided to officers during the ECW certification which describes symptoms associated with excited delirium including failure to follow directions, abnormal strength, odd behavior, incoherency, and a sudden calmness after strong physical exertion. Students are trained to always assess the need for medical assistance if an individual displays symptoms of excited delirium. Students are shown a video of a textbook case of excited delirium in which the suspect drops into sudden calmness and unconsciousness. They are taught that this is a life threatening situation requiring immediate medical attention, handcuffs need to be removed, and emergency medical care, such as CPR, needs to be provided. Fairfax County Fire and Rescue staff and the staffs of the INOVA and Reston Hospital Emergency Departments have received orientation on the revision to SOP 06-025, which requires officers to summon Rescue for persons who exhibit signs of excited delirium. The Board directs the Chief to continue the training of officers on the signs, symptoms, and factors associated with excited delirium and ensure that officers are held to the mandates of the ECW SOP 06-025.

12. UOF-20 and UOF-21: These have already been incorporated in a revision of SOP 06-025 and the Board of Supervisors has endorsed these revisions.

13. UOF-22: Will be incorporated into the Amended Use of Force General Order 540.1 and trained at In-service in the fall of 2016.

14. UOF-23: Already implemented with the February 17, 2016, revision of SOP 06-025.

15. UOF-24 through UOF-28; UOF-29a, b, d: These recommendations focus on the training and deployment of SWAT teams. The Chief, as the Approving Authority, is directed to review and act on these items consistent with the philosophy otherwise outlined in this implementation plan.

16. UOF-30: Shall be considered as part of the implementation of "Diversion First" under the Mental Health Subcommittee report and recommendations.

17. UOF-31; UOF-33; UOF-35: Shall be considered during the review of the Independent Oversight and Investigations Subcommittee report at the July 19, 2016, meeting of the Board's Public Safety Committee.

18. UOF-32: The County Attorney, the Deputy County Executive for Public Safety, and the Chief are directed to coordinate in the development of recommendations, to be submitted to the Board no later than the scheduled December 13, 2016, Public Safety Committee meeting that will detail the actions needed to be taken and target dates for implementation.

19. UOF-34a-c: The Chief has reconstituted the Department's Use of Force Review Committee, which is chaired by the Director of the Fairfax County Criminal Justice Academy and consists of a panel of officers, supervisors, commanders, members from other outside agencies, and members of the public (UOF Subcommittee members). This committee makes recommendations to the Chief on issues related to policies, procedures, training, and equipment. Shall be considered during the review of the Independent Oversight and Investigations Subcommittee report at the July 19, 2016, meeting of the Board's Public Safety Committee.

20. UOF-36a through UOF-38: Shall be addressed by the Chief. The Chief is directed to provide a written status report to the Board by September 1, 2016, regarding the actions taken thus far on these items.

21. UOF-39: The GMU Center for Evidence-Based Crime Policy is currently being consulted to conduct this survey for the Chief. The Chief is directed to report by to the Board, in writing, by September 1, 2016, with a progress report relating to the status of the study, and its expected completion date. Upon completion of the study the Chief will report back to the Board within 30 days on the study's findings and what, if any, actions need to be taken.

22. UOF-40: The Chief and Board will continue to consult with the Use of Force subcommittee during the implementation process.

Revisions may be made to this implementation plan, subject to approval by the Board.

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| NUMBER *(original or assigned)* | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| ***COMMUNICATIONS SUBCOMMITTEE*** | | | | | | | | |
| COMM - 1 | Timely Info Disclosure | 46 | Provide accurate, timely and actionable information (good or bad) using redundant forms of communication. | Police Dept. (PD) | Office of Public Affairs (OPA) | PERF #70 | | Police Dept. (PD) |
| COMM - 2 | Timely Info Disclosure | 46 | Adopt a "predisposition to disclose" approach with public records presumed to be public and exceptions strictly and narrowly construed. | PD | Co. Atty's Office, OPA | PERF #70 | | Board of Supervisors (BOS) |
| COMM - 3 | Timely Info Disclosure | 46 | Share and regularly update details of all officer-involved shootings in multiple ways; disclose not only facts, but also procedures and timing. | PD | Co. Atty's Office, OPA | PERF #70 | | BOS |
| COMM - 3a | Timely Info Disclosure | 46 | Provide the name of the officer(s) as soon as possible but preferably within a week. If a decision is made not to release the name within a week, publicly share specific information that illustrates the reason the name is being withheld. | PD | Co. Atty's Office, Commonwealth's Attorney's Office (CWA) | | | PD |
| COMM - 3b | Timely Info Disclosure | 47 | In cases where a suspect is deceased as a result of an officer-involved shooting, make available immediately upon FOIA request all body-camera, in-dash camera or audio recordings of responding officers to an incident. | PD | Co. Atty's Office, CWA, OPA, Dept. of Information Technology (DIT) | | Yes | BOS |
| COMM - 3c | Timely Info Disclosure | 47 | In officer-involved shootings where a suspect is shot but not deceased, provide a citizens' committee (a communications advisory committee appointed by either the Board of Supervisors or the Chief of Police to carry out this function) access to the recordings for a recommendation on release which should balance public and private interest. This committee's recommendation would be submitted to the Chief of Police who would factor it into a final decision. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 3d | Timely Info Disclosure | 47 | All digital recordings in officer-involved shooting investigations should be carefully preserved, and investigations should end with the public release of all digital recordings within 6 months of the incident. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 4 | Timely Info Disclosure | 47 | Annually report on the demographics of the subjects in all use-of-force incidents including race, gender, age, whether mental health status was a factor, previous involvement with FCPD and any other data. | PD | OPA, CSB | PERF #70 | Yes | PD |
| COMM - 5 | Timely Info Disclosure | 47 | Devote more effort to sharing day-to-day information of police activity with the public. Facilitate unfettered access to blotter-type information, to include a list of every incident and call with the basic who/what/when/where/how information. | PD | OPA, DIT | PERF #70 | | PD |
| COMM - 6 | Timely Info Disclosure | 47 | Include incident based reporting (IBR) categories of statistical crime information broken down by district stations and provided quarterly in accessible, comprehensive online reports. Provide quarterly information by district for all use-of-force and officer involved shootings, CIT calls for service, traffic and pedestrian accidents. | PD | OPA, DIT | | Yes | PD |
| COMM - 7 | Community Engagement | 47 | Embrace and practice increased, proactive community engagement. | PD | OPA | | | PD |
| COMM - 7a | Community Engagement | 47 | Communicate with key community leaders as soon as bad news breaks. | PD | OPA | | | PD |
| COMM - 7b | Community Engagement | 47 | Hold community meetings early and often. | PD | OPA | | | PD |
| COMM - 7c | Community Engagement | 48 | Continue cross-district command meetings to increase situational awareness, spot trends and provide a centralized forum to identify and coordinate responses to emerging community issues. | PD | | | | PD |
| COMM - 7d | Community Engagement | 48 | Create a "Community Engagement Team" within FCPD to respond to community concerns and manage programs that create community trust and engagement. The team members should be fluent in the language and knowledgeable of the customs of the particular community they serve, and the team should reflect the diversity of Fairfax County in order to best serve as liaisons between the community and FCPD. | PD | DMB | | | BOS |
| COMM - 8 | Community Engagement | 48 | Continue supporting Citizen Advisory Committees (CAC); Chief's Citizens Advisory Council; and Citizen's Police Academy (CPA) classes. | PD | Citizen Advisory Committees (CAC), Citizens Police Academy (CPA), OPA | | | PD |
| COMM - 8a | Community Engagement | 48 | Expand promotion of these valuable public forums. | PD | CACs, OPA | | | PD |
| COMM - 8b | Community Engagement | 48 | Improve and expand CAC and Chief's Citizens Advisory Council succession planning and online information. | PD | CACs, OPA | | | PD |
| COMM - 8c | Community Engagement | 48 | Increase the meeting frequency of the Chief's Citizens Advisory Council from four meetings per year to 10 monthly meetings to be in line with the 10 monthly CAC meetings. | PD | CACs | | | PD |

ATTACHMENT 2

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
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| COMM - 8d | Community Engagement | 48 | The structure of the eight CACs and the Chief's Citizens Advisory Council should facilitate a two-way flow of information about police services. | PD | CACs | | | PD |
| COMM - 8e | Community Engagement | 48 | Expand the CPA program by offering a compact, three-hour version in addition to the current 10-session program and include in the CPA training the best practices and reports discussed at meetings of the Ad Hoc Police Practices Review Commission and subcommittee meetings. | PD | CPA | | | PD |
| COMM - 8f | Community Engagement | 48 | The CPA should be designed and structured to be understood by all in the diverse communities of Fairfax County. | PD | OPA | | | PD |
| COMM - 9 | Policies, Procedures & Personnel | 48 | Hire a civilian public information officer (a professional communicator knowledgeable of best communication practices and experienced in the practice and ethics of media and journalism) to lead the FCPD public information office, and have that position and function report directly to the Police Chief. | PD | Dept. of Human Resources (DHR), OPA | PERF #70 | | PD |
| COMM - 10 | Policies, Procedures & Personnel | 48 | Fund and employ 24/7 PIO staff in the central Public Information Office with additional PIO staff assigned to each district station. | PD | DMB | PERF #70 | | BOS |
| COMM - 11 | Policies, Procedures & Personnel | 48 | The Chief of Police should be the official spokesperson for officer-involved shootings. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 12 | Policies, Procedures & Personnel | 48 | Develop a policy statement regarding FCPD PIO release of information for critical events to include hte relationship with the Office of Public Affairs (OPA) and the process for a hand-off to OPA in certain situations. | PD | OPA, Co. Atty's Office | PERF #70 | | PD |
| COMM - 13 | Policies, Procedures & Personnel | 49 | FCPD should prioritize realignment of resources to ensure more transparency, and become the trusted and valued source of information for Fairfax County. | PD | | | | PD |
| COMM-14 | Policies, Procedures & Personnel | 49 | FCPD should develop a continuous process of information declassification, to ensure proactive information release for cases that are no longer active. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 15 | Policies, Procedures & Personnel | 49 | Current FCPD policies overempahasize the media, FCPD should use its own platforms and tools to share information directly with the public. Policies should reflect the communications paradigm by promoting more community engagement and direct information dissemination to the community. | PD | OPA | | | PD |
| COMM - 16 | Policies, Procedures & Personnel | 49 | Shorten the current 6-20 month timeframe to internally investigate and close officer-involved shooting cases; throughout the investigation be responsive to questions and concerns from the public, news media, and elected officials. It is recommended the Board of Supervisors take an active approach throughout the investigative stage by periodically requesting and receiving updates on such incidents in a public forum. | PD | Co. Atty's Office, CWA | PERF #70 | Yes | BOS |
| COMM - 17 | Policies, Procedures & Personnel | 49 | Update policies (with the assistance of FCPD Community Engagement Team members) and mandate usage of plain language that is culturally appropriate for the diverse communities in Fairfax County to eradicate any perceived biases. | PD | OPA | | | PD |
| COMM - 18 | F.O.I.A. | 49 | The Board of Supervisors should publicly adopt a resolution (and forward it to the County's delegation in the General Assembly) to revisit FOIA laws with an eye toward expanding instead of limiting the public release of information related to police-involved shootings and other police practices and procedures. | BOS | PD, Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 19 | F.O.I.A. | 49 | The County Executive should establish a countywide FOIA policy and procedure through issuance of a new procedural memorandum that would replace former County Executive Griffin's memo regarding FOIA compliance, which currently guides county staff. The new policy should encourage transparency and accountability by establishing a culture of disclosure. It should give guidance to all county staff custodians of public records to lean automatically toward releasing all public records upon request, changing the current practice of automatically withholding all exempt records. | Co. Atty's Office | County Executive's Office, OPA | | Yes | Co. Exec. |
| COMM - 20 | F.O.I.A. | 49 | Where possible, release police reports with redactions rather than creating a summary document. | PD | Co. Atty's Office, CWA, OPA | | Yes | PD |

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| COMM - 21 | F.O.I.A. | 50 | Develop FCPD administrative guidelines for FOIA, even in the absence of FOIA reform at the state level. | PD | Co. Atty's Office, OPA | | Yes | PD |
| COMM - 22 | F.O.I.A. | 50 | Move function and staff for responding to FOIA requests out of Internal Affairs and into the FCPD Public Information Office. | PD | Co. Atty's Office | | | PD |
| COMM - 23 | F.O.I.A. | 50 | Cease the blanket approach to FOIA requests; when records are withheld, an explanation should be provided without merely claiming exemption. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 24 | Transparency | 50 | With goal of becoming a transparent and highly accountable police department, the Department should make proactive statements to the community it serves, communicating with the public on all aspects of police procedure, policy, and actions, particularly in an officer-involved shooting or other high-profile incident involving use of force. The use of numerous communications channels should be utilized to explain what happened, what is known at the time, what is revealed over time, and lessons learned and perspective after the fact. | PD | Co. Atty's Office, OPA, | | | PD |
| COMM - 25 | Transparency | 50 | Fairfax County should adopt the type of progressive release of information practices and policies that govern most states as FCPD's current practices on releasing information is not aligned with agencies located <u>outside</u> the Commonwealth of Virginia. | PD | Co. Atty's Office, all County agencies | | Yes | BOS |
| COMM - 26 | Transparency | 50 | Create and utilize written standards and criteria for the day-to-day release of information from FCPD PIO to standardize information flow/release, and to enhance professional communications, transparency, and accountability. | PD | Co. Atty's Office, OPA | | | PD |
| COMM - 27 | Transparency | 50 | Get "buy-in" and cooperation from all levels of the FCPD to improve communications and expand information release. | PD | | | | PD |
| COMM - 28 | Transparency | 50-51 | Basic requests for information should be addressed in a timely manner by openly providing routine information about incidents, activities, calls, investigations (internal and external) with unfettered public access. | PD | | PERF #70 | | PD |
| COMM - 29 | Transparency | 51 | Endorse and implement the recommendations of the final report of The President's Task Force on 21st Century Policing, dated May 2015, that are related to communications, which call for such actions as making all Department policies available for public review, clearly stating what types of information will be released, when and in what situation after serious incidents; communicating swiftly, openly and neutrally while complying with legal requirements related to confidentiality. | PD | OPA | | | PD |
| COMM - 30 | Transparency | 51 | Create a change management process to change the FCPD culture and facilitate the successful implementation of the improved policies. | PD | DHR | PERF #71 | | PD |
| COMM - 31 | Transparency | 51 | Endorse and implement communications-related recommendations contained in the report of the U.S. Conference of Mayors' Working Group of Mayors and Police Chiefs, *"Strengthening Police-Community Relations in America's Cities."* | PD | OPA | | | PD |
| COMM - 32 | Transparency | 51 | Endorse and implement communications-related recommendations from PERF's use-of-force policy and practice review of FCPD. | PD | OPA | PERF #70 | | PD |
| COMM - 33 | Open Data | 51 | Develop an open data policy to improve transparency; this will reduce the cost of responding to FOIA requests, since data and reports will be published online making FCPD more efficient and serving community needs more effectively. | PD | Co. Atty's Office, OPA, DIT | | Yes | PD |
| COMM - 34 | Open Data | 51 | Provide more specificity and detail in crime stats and information released by the district stations. | PD | Co. Atty's Office, DIT | PERF #70 | | PD |
| COMM - 35 | Open Data | 51 | Make all department policies and procedures available for public review online, updating them as needed. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| COMM - 36 | Moving Forward | 52 | The Board of Supervisors should publicly set dates for community forums to revisit the recommendations of the Ad Hoc Police Practices Review Commission and the progress made toward their implementation. These reviews should take place in April 2016, October 2016, April 2017 and annually thereafter. Other methods should also be used to update the public, possibly an online 'report card' that is continually updated. | Dep. Co. Exec. for Public Safety | PD, CSB, Sheriff's Office (SO), CWA, OPA | | | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| COMM - 37 | Moving Forward | 52 | Recommends that this subcommittee continue its service beyond presentation of its final report, in order to meet with the PERF contractors conducting an independent review of the county's communications practices and review and comment on the PERF report and recommendations when they are finally submitted. | Dep. Co. Exec. for Public Safety | | | | Dep. Co. Exec. for Public Safety |
| COMM - 38 | Moving Forward | 52 | Anticipating a proposal for an independent citizen oversight group emerging from the Investigations and Oversight Subcommittee, it is recommended that any group established be mandated to provide robust communications in a transparent process that keeps the community informed and ensures a culture of public trust. | Dep. Co. Exec. for Public Safety | PD, OPA | | Yes | BOS |
| ***RECRUITMENT, DIVERSITY AND VETTING SUBCOMMITTEE*** | | | | | | | | |
| RD&V - 1 | Recruitment | 58 | Provide a referral incentive for employees who are successful in recruiting personnel into the Department. | PD | DHR, Co. Atty's Office, DMB | | | BOS |
| RD&V - 2 | Recruitment | 58 | Develop and implement a marketing plan for all programs and vacancies to include e-mail blasts to interfaith organizations and School Career Centers. | PD | OPA, NCS/Community Interfaith Coordination, Faith Communities in Action (FCIA), Fairfax County Public Schools (FCPS) | | | PD |
| RD&V - 3 | Recruitment | 58 | Expand the Explorer and Cadet programs to include a diverse pool of participants. | PD | DHR, FCPS | | | PD |
| RD&V - 4 | Recruitment | 58 | Enter into a Recruitment Agreement with all Cadets to include reimbursement of educational expenses for breach of contract. | PD | Co. Atty's Office, DHR, DMB | | Yes | BOS |
| RD&V - 5 | Recruitment | 58 | Collaborate and build recruitment-oriented partnerships with key segments of the Fairfax County community to further diversify both the applicant pool and workforce to more closely reflect the community. | PD | DHR, FCPS, Faith Communities in Action (FCIA) | | | PD |
| RD&V - 6 | Recruitment | 58 | Identify ways to reduce the time from application to hiring (includes staffing resources). | PD | DHR, DMB | | | BOS |
| RD&V - 7 | Recruitment | 58 | Formalize the selection process by putting certain standards and processes into writing. | PD | DHR, Co. Atty's Office | PERF #1 | Yes | PD |
| RD&V - 8 | Recruitment | 58 | Ensure written directives are kept up to date. | PD | | PERF #2 | | PD |
| RD&V - 9 | Recruitment | 58 | Create a diverse Selection Review Committee that includes community leaders. | PD | DHR, Co. Atty's Office | PERF #3 | Yes | PD |
| RD&V - 10 | Diversity | 59 | Establish a diversity goal for each commander, making them responsible for enhancing the diversity within the department. The progress toward achieving that goal should be reflected in the performance management system. | PD | DHR | | | PD |
| RD&V - 11 | Diversity | 59 | Educate and train recruiting and selecting officers about implicit bias, which the current neuroscience research shows can occur even in people with no-prejudiced attitudes, and the impact on both individual and organizational selection decision. | PD | DHR | | | PD |
| RD&V - 12 | Vetting | 61 | Increase resources in order to reduce length of time it takes to conduct background investigations and polygraphs. | PD | DMB | | | BOS |

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| RD&V - 13 | Vetting | 61 | Formalize the officer selection process. | PD | DHR | PERF #1 | | PD |
| RD&V - 14 | Retention | 62 | The Board of Supervisors should continue to work with the Department's Pay and Benefits Committee to ensure competitive salaries and benefits to secure and maintain a diverse workforce. | PD | DHR, DMB | | | BOS |
| ***MENTAL HEALTH AND CIT SUBCOMMITTEE*** | | | | | | | | |
| MH-CIT - 1 | FCPD | 81 | Establish Memphis Model/Virginia CIT Essential Elements. FCPD should immediately establish the Memphis Model for Crisis Intervention Team training as adopted by the Virginia Essential Elements of CIT, ensuring each squad has a CIT trained officer and creating a specialty squad of selected CIT officers to work closely with CSB and Mobile Crisis units. | PD | CSB | PERF #58, 67, 68 | Yes | PD & BOS |
| MH-CIT - 2 | FCPD | 82 | Attract the right officers for CIT, FCPD should create incentives, such as flexible shift hours, to make serving on a Crisis Intervention Team attractive to potential volunteers | PD | DMB, CSB | | | PD |
| MH-CIT - 3 | FCPD | 82 | The subcommittee recommends that the FCPD create a uniform pin to identify Crisis Intervention Team trained officers to the public. | PD | | | | PD |
| MH-CIT - 4 | FCPD | 82 | Make CIT a requirement for selected command assignments. The subcommittee recommends that FCPD leadership consider CIT training and experience in selections to certain command positions, for instance in the patrol division. | PD | DHR | PERF #57 | | PD |
| MH-CIT - 5 | FCPD | 82 | Form teams. The subcommittee recommends that officers detailed to Crisis Intervention Teams maintain their regular patrol duties, but also form partnerships with mental health workers and community partners trained and experienced in dealing with residents living with mental illness. These teams would be availlable to be dispatched to identified mental health calls. | PD | CSB | PERF #67 | | PD & Community Services Board (CSB) |
| MH-CIT - 6 | FCPD | 82 | Be proactive. The subcommittee recommends that Crisis Intervention Teams be empowered to work proactively to help mentally ill persons obtain treatment and take other steps to manage their illness, diverting them from the criminal justice system and the courts. | PD | CSB, Courts, CWA | | | PD |
| MH-CIT - 7 | FCPD | 83 | Integrate dispatch personnel. The subcommittee recommends 100% of all dispatchers continue to receive at least eight hours of CIT training. | Dept. of Public Safety Communications (DPSC) | PD, CSB | PERF #69 | | Dept. of Public Safety Communications (DPSC) |
| MH-CIT - 8 | FCSO & CSB | 84 | Implement "Stepping Up." The Board of Supervisors, the CSB, the Judiciary, State legislators, and the Sheriff's Office should collaborate to implement a community-wide system of care overhaul using the BOS-endorsed, national initiative known as "Stepping Up." | CSB | Multiple | | | BOS |
| MH-CIT - 9 | FCSO & CSB | 84 | Fully implement Diversion First. The subcommittee recommends Fairfax County develop a mechanism for oversight of systems of mental health/substance use/justice services — a diversion-oriented system of care collaborative stakeholder group now known as "Diversion First." | CSB | PD, SO | | Yes | BOS |
| MH-CIT - 10 | FCSO & CSB | 84 | Identify and collect pertinent data to establish metrics for success. The subcommittee strongly emphasizes the importance of data collection and its intimate linkage to measuring the progress and impact of CIT programs. | CSB | PD, SO, DIT | | | CSB |
| MH-CIT - 11 | FCSO & CSB | 85 | Increase language and cultural competency. The subcommittee recommends that Fairfax County increase services to special populations to include cultural competency to better serve non-English-speaking justice-involved individuals, as de-escalation and diversion require the ability to effectively communicate with persons. | CSB | PD, SO | | | BOS |

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| MH-CIT - 12 | FCSO & CSB | 85 | Provide CIT Training to jail and custodial personnel. The subcommittee recommends that the Sheriff's Office provide the forty-hour Crisis Intervention Team training course to deputies detailed to courtroom security and deputies working inside the Adult Detention Center. | SO | CSB, PD | | | SO |
| MH-CIT - 13 | FCSO & CSB | 85 | Establish strategically located CIT assessment sites. The subcommittee recommends that Fairfax County establish strategically located 24-hour assessment sites staffed and operated by CSB, FCPD, and the Sheriff's Office collaboratively. | CSB | PD, SO, DMB | | | BOS |
| MH-CIT - 14 | FCSO & CSB | 86 | Redeploy CSB to provide services when they are needed most. The subcommittee recommends that the CSB should redeploy both forensic and community-based teams to expand capacity to provide mental health services at each point in the criminal/community mental health continuum rather than incarcerate individuals. | CSB | PD, SO | | | CSB |
| MH-CIT - 15 | FCSO & CSB | 86 | Expand Mobile Crisis Unit (MCU) program to strategic locations in Fairfax County. MCU is an emergency mental health program of the Fairfax-Falls Church Community Services Board that provides on-scene evaluation, treatment, and crisis intervention in the community. The recommendation is to have MCUs by Jan. 1, 2017. | CSB | | | | BOS |
| MH-CIT - 16 | FCSO & CSB | 87 | CSB and Sheriff's Office to consider increasing behavioral health clinician staff hour availability inside the Adult Detention Center (ADC), to include not only on-site, but through technology. | CSB | SO, DIT | | | CSB & Sheriff's Office (SO) |
| MH-CIT - 17 | FCSO & CSB | 87 | Increase release planning to support successful reentry. The subcommittee recommends that more CSB staff resources be devoted to release planning inside the ADC. It is also recommended that Dept. of Family Services (DFS) make availalble resources to initiate benefit eligibility determination. | CSB | SO, Dept. of Family Services (DFS) | | | CSB |
| MH-CIT - 18 | FCSO & CSB | 87 | Review pharmacy policies inside the ADC. The subcommittee recommends that the CSB and ADC medical staff review policies, especially for psychotropic medications, to ensure that inmates receive the most effective treatment relative to their conditions and medical histories by January 1, 2016. | SO | CSB | | Yes | CSB & SO |
| MH-CIT - 19 | Judiciary & Mental Health Dockets | 88 | Implement Mental Health dockets. The subcommittee recommends that Fairfax County work with judges and the Clerk of the Court to establish a Mental Health Docket for both adults and juveniles by January 1, 2016. | Dep. Co. Exec. for Public Safety (preliminary) | Courts, Clerk of the Court, CWA, CSB, PD, SO | | Yes | BOS & Courts |
| MH-CIT - 20 | Judiciary & Mental Health Dockets | 88 | Encourage Mental Health Awareness training for the judiciary. The subcommittee recommends that appropriate mental health awareness training be developed and deployed for judges, magistrates, probation and parole officers, and other officials who may come into contact with people who are living with mental illness by January 1, 2016. | CSB | Courts, Magistrates, Probation & Parole, Others | | | CSB |
| MH-CIT - 21 | VA CIT Elements | 89 | Establish standing law enforcement Mental Health Units staffed by full-time police officers and deputies tasked with responding to individuals experiencing a mental health crisis. | PD & SO | CSB, DMB, Co. Atty's Office | | | BOS |
| MH-CIT - 22 | VA CIT Elements | 89 | Institute plainclothes Mental Health Unit officers. Mental Health Unit officers in Bexar County wear civilian clothing and use unmarked vehicles during the course of their duties to avoid unintentionally escalating a mental health crisis. | PD & SO | PD, CSB | | | PD & SO |
| MH-CIT - 23 | VA CIT Elements | 89 | Re-focus and develop a full range of mental health and disability awareness training at the Criminal Justice Academy. CIT is important, but other trainings are also vital. | PD | PD, CSB | | | PD & SO |
| MH-CIT - 24 | VA CIT Elements | 90 | Clarify mental health response protocols for first responders. The Fairfax County Fire and Rescue responds to more than 50,000 calls annually, and must transport some individuals without a medical condition to emergency rooms rather than a mental health facility as this is required by the Code of Virginia. Subcommittee recommends the Board of Supervisors consider supporting a bill that would allow first responders to transport individuals whose primary condition is a mental health isse direrectly to a mental health facility once medically cleared by an EMT. | Fire and Rescue Dept. (FRD) | Govt. Relations, CSB, Co. Atty's Office | | Yes | BOS |

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| MH-CIT - 25 | VA CIT Elements | 90 | Involve peers whenever and wherever possible. According to Virginia's Essential Elements program guide for CIT, dynamic community involvement should reflect the composition of the local community, with particular emphasis on the inclusion of persons with mental illness. | CSB | PD, SO | PERF #67 | | CSB |
| MH-CIT - 26 | Public Outreach | 91 | Develop a public outreach program. The subcommittee recommends that the FCPD work with the CSB to develop materials for delivery to the public, to increase awareness of steps that may be taken prior to the instance of a potential interaction. | CSB | PD, SO, OPA | | | CSB |
| ***USE OF FORCE SUBCOMMITTEE*** | | | | | | | | |
| UOF - 1 | Guiding Philosophy | 107 | Ensure that FCPD's philosophy, policies and orders promote treating persons respectfully and are protective of their dignity; maintain an appropriate balance between an officer's role as a guardian/warrior or peacemaker/fighter; reinforce a reverence for the sanctity of human life. | PD | | PERF #4, 5 | | PD |
| UOF - 2a | Guiding Philosophy | 107 | Adopt policies, programs and practices that require officers to identify themselves by their full name, rank, and command (as applicable) and provide that information, when practicable, on a business card to individuals they have stopped. | PD | | | | PD |
| UOF - 2b | Guiding Philosophy | 107 | Adopt policies, programs and practices that, for policing mass demonstrations, continue to employ a continuum of managed tactical resources designed to be protective of officer safety and promote de-escalation of tensions; minimize the appearance of a military operation; and avoid provocative tactics, equipment, and language that might heighten tensions. | PD | | | | PD |
| UOF - 2c | Guiding Philosophy | 108 | Adopt policies, programs and practices that continue and strengthen opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders. | PD | | | | PD |
| UOF - 2d | Guiding Philosophy | 108 | Adopt policies, programs and practices that reward officers for their efforts to engage members of the community and the partnerships they build and make this part of the performance evaluation process, placing an increased value on developing such partnerships. | PD | DHR | | | PD |
| UOF - 2e | Guiding Philosophy | 108 | Adopt policies, programs and practices that ensure deployment schedules provide sufficient time for patrol officers to participate in problem solving and community engagement activities. | PD | | | | PD |
| UOF - 2f | Guiding Philosophy | 108 | Adopt policies, programs and practices that infuse a renewed commitment to community policing throughout the FCPD culture and organizational structure. | PD | | | | PD |
| UOF - 3 | Guiding Philosophy | 108 | Commit and assure in G.O. 201.6 - PRESERVATION OF PEACE AND PROTECTION OF LIFE AND PROPERTY, that medical assistance will be provided to anyone who is injured, alleges an injury, or requests medical assistance, stating, as follows: *It shall be the duty of each sworn officer of the Department to: preserve the public peace; protect life and property; assure medical assistance; and enforce and uphold the laws of the Commonwealth of Virginia and the Ordinances of the County of Fairfax.* | PD | Co. Atty's Office | | Yes | PD |
| UOF - 4 | Guiding Philosophy | 108 | Review policies on use of physical control equipment and techniques to assure that they address any unique requirements of vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others deemed appropriate by the on-scene officer(s). | PD | Co. Atty's Office | PERF #7 | Yes | PD |
| UOF - 5 | PERF Recommended | 109 | Implement all PERF Use of Force report recommendations except #54, "termination of the use of PIT." FCPD should complete an analysis for approval by the Board of Supervisors on whether or not to maintain or restrict PIT use. Complete a publicly available and periodically updated action plan that assigns responsibility by name or position and target date for completion of all of the other recommendations. | PD | Co. Atty's Office | PERF #1 - 71 (except #54) | Yes | PD (BOS for PERF Recommendation #54) |
| UOF - 6 | Use of Force Policies | 110 | Establish a comprehensive and integrated policy on use of force to include training, investigations, prosecutions, data collection and information sharing. This policy must be clear, concise, and openly available for public inspection. | PD | Co. Atty's Office | PERF #13,14,16 | Yes | PD |
| UOF - 7 | Use of Force Policies | 110 | Consistent with the PERF Use of Force report, replace the current Department definition of use of force with a more comprehensive definition. Proposed new language: "Force means the following actions by a member of the department; any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. Force includes the use of firearms, Electronic Control Weapons (ECWs), checmical spray, bean bag shotgun, PepperBall gun and hard empty hands; the taking of a person to the ground; the use of vehicles; or the deployment of a canine; and excludes escorting or handcuffing a person who is exhibiting minimal or no resistance." | PD | Co. Atty's Office | PERF #12, 13, 30, 45, 46, 47 | Yes | PD |

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| UOF - 8a | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to Establish "sanctity of life" clearly and unambiguously as a philosophy and value system that remains paramount in the mind of every officer. | PD | Co. Atty's Office | PERF #4 | Yes | PD |
| UOF - 8b | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to maintain "objectively reasonable" as the standard to be followed by an officer when determining whether to use force and all references to "reasonable" must therefore be understood to mean "objectively reasonable." | PD | Co. Atty's Office | PERF#8 | Yes | PD |
| UOF - 8c | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to include as the definition of "reasonable: "...use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against his or her responsibility to protect public safety, as well as the suspect's civil liberties." | PD | Co. Atty's Office | PERF #8, 13 | Yes | PD |
| UOF - 8d | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to reword, II. POLICY as follows: "A police officer shall employ only such force in discharge of his or her duty as is objectively reasonable in all circumstances. The use of force is to be generally considered by an officer as a last resort after discussion, negotiation or persuasion have been found to be ineffective or inappropriate in light of the situation. While the use of force is occasionally unavoidable, every police officer will refrain from unwarranted infliction of pain or suffering and will never engage in cruel, degrading or inhumane physical or verbal treatment of any person." | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8e | Use of Force Policies | 111 | In revising the General Order, and while first and foremost meeting the criteria specified by the Supreme Court, consider the Customs and Border Patrol's definition with regard to "Objectively Reasonable and the Totality of Circumstances," which is as follows:<br>i. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation.<br>ii. In determining whether a use of force is "objectively reasonable" an officer must give careful attention to the totality of facts and circumstances of each particular case, including:<br>1. Whether the suspect poses an imminent threat to the safety of the officer/agent or others;<br>2. The severity of the crime at issue;<br>3. Whether the suspect is actively resisting seizure or attempting to evade arrest by flight;<br>4. Whether the circumstances are tense, uncertain and rapidly evolving; and<br>5. The foreseeable risk of injury to involved suspects and others.<br>iii. Totality of circumstances refers to all factors existing in each individual case. In addition to those listed in subsection e.ii., these factors may include (but are not limited to) the:<br>1. training, mental attitude, age, size and strength of the officer;<br>2. training, mental attitude, age, size and perceived strength of the suspect;<br>3. weapon(s) involved;<br>4. presence of other officers, suspects or bystanders; and<br>5. environmental conditions. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8f | Use of Force Policies | 111 | Institute the following use of firearms requirements, by establishing or clarifying that:<br>i. the act of a police officer placing his or her weapon "in a ready gun position" at a suspect will be a reportable action [NOTE: Un-holstering his or her weapon, pointing downward toward the ground next to an officer's leg, with finger on frame of weapon, is not to be a reportable action in the context of this policy as officers may do so when they reasonably believe or know suspects are nearby, i.e., entering a dark building, alley, other location of concern.];<br>ii. the "ready gun" position is defined as pointing the weapon, with finger on the frame of the weapon, so the officer can see the suspect's hands and waist.;<br>iii. the officer must announce "Police!" after and not before attaining the "ready gun" position and if feasible followed by simple, specific and clear direction to the suspect;<br>iv. the "ready gun" position will be utilized in the specific circumstance where it is necessary to establish control and gain compliance through the pointing of a firearm;<br>v. the pointing of the firearm will be considered non-deadly use of force in this circumstance if the weapon is not aimed at center of mass, which is normally the chest; and<br>vi. an officer's finger should be moved from the frame to the trigger of a weapon only if the use of deadly force is authorized under the objectively reasonable standard, which would exclude pointing a weapon at center of mass simply for control and compliance under the "ready gun" position addressed in iv. above. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8g | Use of Force Policies | 112 | Requirements for assuring medical assistance should be instituted consistent with the following:<br>i. State in Section II that "[i]n all situations, medical assistance shall be provided promptly to any person who is obviously injured, alleges an injury, or requests medical assistance."<br>ii. Incorporate a separate implementation section, including a requirement that an operational and implementation plan be created and incorporated in the General Order.<br>iii. Assure that any such plan includes ECW (Taser) non-lethal incidents and specifies the officer's medical action requirements in the event that an ECW deployment is taken against a suspect. | PD | Co. Atty's Office | | Yes | PD |

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| UOF - 8h | Use of Force Policies | 112 | A requirement should be established with regard to the state of the officer at the time of an officer involved death or serious injury per the following: Drug and steroid testing will be conducted on police officers involved in incidents that result in death or serious injury as soon as possible after the incident but not longer than an amount of time as determined by medical experts to detect whether drugs or steroids were present in the officers at the time of the incident. | PD | DHR, Co. Atty's Office | | Yes | BOS |
| UOF - 9 | Use of Force Policies | 112 | Benchmark FCPD Use of Force policies and practices with those of five urban jurisdictions that are comparable in their economic base, population density, and population demographics to Fairfax County. | PD | | | | PD |
| UOF - 10 | Use of Force Policies | 112 | Restrict vehicle pursuit to only those situations where there is a reasonable suspicion that a violent felony has been committed and that there is a potential for imminent risk to public safety and/or injury to individuals if pursuit is not initiated. | PD | DPSC | PERF #52, 53, 54, 55 | Yes | PD |
| UOF - 11 | Use of Force Reporting | 113 | Engage in robust public reporting on the demographics of the suspects in all use of force incidents and in-custody deaths, including for each incident: race, gender, age; any indicators of homelessness and of mental illness and CIT response; any previous involvement with FCPD; the type of weapon, if any, in the suspect's possession; police use of force; and resulting death/injury. | PD | PD, Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 12 | Use of Force Reporting | 113 | Collect and publicly report online all uses of force that result in death or serious injury; specifically for purposes of determining (a) whether the actions taken or not taken conformed to FCPD policies and procedures; (b) prior instances of use of force by the officer(s) involved and determination of appropriateness; and (c) opportunities for officer, supervisor, and commander training. (Note: Release of use of force data does not necessarily have to include names of officers or victims until cases are concluded.) | PD | Co. Atty's Office, CWA | PERF # 65, 70 | Yes | PD |
| UOF - 13 | Use of Force Reporting | 114 | Annually report to the U.S. Department of Justice through the FBI's Uniform Crime Reporting System, all use of force and in-custody deaths, and disseminate such data to the public. | PD | OPA | PERF # 65, 70 | | PD |
| UOF - 14a | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include a narrative of the incidents and aftermath, updated in real time, including all UOF events that result in death or serious injury, not just shootings. | PD | OPA | PERF # 65, 70 | Yes | PD |
| UOF -14b | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include the details available in all press releases, updates and other public information should be integrated into the summaries, including names suspects and officers and links to press releases and their updates provided. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14c | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include demographic information: race, age, gender, whether the call included concerns about a mental health crisis, whether the suspect was homeless. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14d | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include information on what special teams were involved, if any. | PD | | PERF # 65, 70 | Yes | PD |
| UOF - 14e | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include appropriate information about whether/what discipline was administered in cases with policy violations. | PD | Co. Atty's Office, DHR | PERF # 65, 70 | Yes | BOS |
| UOF - 14f | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include any changes of policy or training that result from review and lessons learned from the use of force incidents. | PD | Co. Atty's Office | PERF #65, 70 | Yes | PD |
| UOF - 15a | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the enactment of laws, policies, and procedures that protect individual privacy. | PD | Co. Atty's Office, DIT, CWA, Govt. Relations | | Yes | BOS |
| UOF - 15b | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the provision that police officers are consulted, with feedback provided as to how their concerns and recommendations were considered. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |

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| UOF - 15c | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the implementation of a training program not only for police officers, but the wide-ranging personnel who will oversee, process and manage the digital data, as well as for prosecutors who will use the data for criminal prosecutions. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |
| UOF - 16 | Tasers / ECW | 117 | Reclassify Electronic Control Weapons as "less-lethal weapons" rather than "non-deadly weapons" per the recommendation by the 2011 Electronic Control Weapons Guidelines and the PERF Report. | PD | Co. Atty's Office | PERF #30 | Yes | PD |
| UOF - 17 | Tasers / ECW | 117 | Mandate that all uniformed officers in enforcement units carry an ECW on their duty belt (or elsewhere on their person if necessary) when on patrol. The recommendation is contingent on police officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | PERF #32 | | BOS |
| UOF - 18 | Tasers / ECW | 118 | Mandate that all detectives and plainclothes officers, regardless of rank, carry an ECW in their vehicles when on duty; contingent on officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | | | BOS |
| UOF - 19 | Tasers / ECW | 118 | General Order 540.1, USE OF FORCE - replace all use of the term "excited delirium" with a more medically and physiologically descriptive term. | PD | Co. Atty's Office, CWA | PERF #18 | Yes | PD |
| UOF - 20 | Tasers / ECW | 118 | Prohibit use of an ECW on a handcuffed, or otherwise restrained individual, who is actively resisting, unless an objectively reasonable officer concludes that the resistance could result in serious injury to him or herself or others and less severe force alternatives have been ineffective or are deemed unacceptable for the situation. | PD | Co. Atty's Office | PERF #27 | Yes | PD |
| UOF - 21 | Tasers / ECW | 118 | Prohibit use of an ECW on a frail or elderly person, child or a pregnant woman unless deadly force would otherwise be justified, since they face an elevated risk. | PD | Co. Atty's Office | PERF #28 | Yes | PD |
| UOF - 22 | Tasers / ECW | 118 | Absent exigent circumstances, require supervisory approval for ECW use on a suspect in excess of three cycles. | PD | Co. Atty's Office | | Yes | PD |
| UOF -23 | Tasers / ECW | 118 | Treat each ECW cycle as an independent application of the device, thus requiring its own justification, since multiple or prolonged ECW shocks may increase the risk of adverse effects on the heart or respiratory system. | PD | Co. Atty's Office | PERF #33 | Yes | PD |
| UOF - 24 | SWAT | 119 | Employ SWAT and the use of other advanced tactics only in situations where there is a high risk of violence, resistance, or harm to the officers involved, the public or the suspect as defined by set of "high risk" factors that are captured in the recent modifications to the Risk Assessment Matrix. | PD | Co. Atty's Office | PERF #62, 63, 64 | | PD |
| UOF - 25 | SWAT | 119 | Consolidate FCPD policies and protocols, including threat assessment, supervisory approval, training and post-use review and lessons learned, for the use and documentation of SWAT and other advanced tactics. | PD | | PERF #66 | Yes | PD |
| UOF - 26 | SWAT | 119 | Require that all police divisions, most notably the Narcotics Division, employ the same risk assessment procedures as SWAT for planning any high-risk operation. | PD | | | | PD |
| UOF - 27 | SWAT | 119 | Ensure broad community understanding of FCPD SWAT capabilities and how and when SWAT can be deployed. | PD | | PERF #60 | | PD |
| UOF - 28 | SWAT | 119 | Ensure that SWAT SOPs and the recently updated threat assessment process are clear in their requirement for approval by a single designated command officer who will bear overall responsibility for each use of SWAT. | PD | | PERF #60, 62, 63, 64, 65, 66 | | PD |
| UOF - 29a | SWAT | 119 | Establish policies and practices that ensure SWAT is deployed proportional to the unique needs of each individual incident. | PD | | PERF #60 | | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| UOF - 29b | SWAT | 119 | Include a trained crisis negotiator with every SWAT deployment. | PD | | | | PD |
| UOF - 29c | SWAT | 119 | Require SWAT officers to wear body cams during every deployment. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 29d | SWAT | 119 | Require that every SWAT deployment results in a post-deployment report that documents the following, in a manner that allows for the data to be readily compiled and analyzed for lessons learned:<br>i. the purpose of the deployment;<br>ii. the specific reason for believing that the situation for which the SWAT team was being deployed presented an imminent threat to the lives or safety of civilians and/or police personnel;<br>iii. whether forcible entry or a breach was conducted and, if so, the equipment used and for what purpose;<br>iv. whether a distraction device was used and, if so, what type and for what purpose;<br>v. whether an armored personnel carrier was used and, if so, for what purpose;<br>vi. the race, sex, ethnicity and age of each individual encountered during the deployment, whether as a suspect or bystander;<br>vii. whether any civilians, officers, or domestic animals sustained any injury or death;<br>viii. a list of any controlled substances, weapons, contraband, or evidence of crime that is found on the premises or any individuals; and<br>ix. a brief narrative statement describing any unusual circumstances or important data elements not captured in the list above. | PD | | PERF #66 | | PD |
| UOF - 30 | Mobile Crisis | 120 | Establish as a budget priority the 24-hour staffing of three additional Mobile Crisis Units, by directing the immediate funding of a second Mobile Crisis Unit, in support of the Mental Health Subcommittee recommendation 15; and over the appropriate budget cycles, but no later than January 1, 2017, fund of two additional Mobile Crisis Units, for a total of four units, one for each human services district. | CSB | PD, DMB | | | BOS |
| UOF - 31 | Oversight | 122 | Implement independent investigative oversight and civilian review of Use of Force incidents. Consistent with the findings of the White House Task Force and the recommendations of NACOLE, independent oversight and civilian review will provide public accountability, trust and confidence, education of both the public and the police, and a positive, ongoing feedback loop that would result in the reduction of both UOF incidents and complaints. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| UOF - 32 | Oversight | 122 | Establish a police legal advisor position within FCPD who would not only advise the department on legal issues but also ensure implementation of recommendations and timely implementation of policy changes. | PD | Co. Atty's Office, DMB | | Yes | BOS |
| UOF - 33 | Oversight | 122 | Collect data, and publish an annual statistical report, covering all stops, frisks, citations, arrests, and use-of force by district station and magisterial district - include the race, gender, and ethnicity of the individual involved and note whether the suspect is homeless and/or if a mental health crisis is a factor. The data should also include the race, gender and ethnicity of the FCPD officer involved and whether the interaction was initiated by FCPD or by the suspect. Document the outcome of each incident and regularly report the collected data to the BOS and the public and post the data online. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| UOF - 34 | Oversight | 122 | Reconstitute the FCPD Use of Force Committee to review selective use of force events, to include the decision to employ UOF, use of de-escalation and alternatives, compliance with law and regulations, as well as administrative, training, supervisory and tactical issues. | PD | Co. Atty's Office | | | PD |
| UOF - 34a | Oversight | 122 | The Use of Force Committee should receive and consider after action reports (AARs) on each selected use of force event, identify lessons learned, and make recommendations as to any needed changes in policy or practice. The Committee should meet on a regular basis (no less than semi-annually) with the Independent Auditor and the Civilian Review Panel to identify and address issues of concern arising out of use of force incidents and FCPD policies and practices. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34b | Oversight | 122 | At least two members of the public should be appointed to the Use of Force Committee to ensure that the police and public can mutually benefit from their respective views about a use of force situation and contribute to any lessons that might be learned in the process. The policies and procedures guiding the appointment and role of the civilian appointees should be developed with public review and input and should protect against real or perceived conflicts of interest and assure that they are bound by the level of confidentiality that will protect candid and honest assessments, which is at the core of an effective continuous improvement process, as well as related criminal investigations. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34c | Oversight | 123 | Experts and representatives from other law enforcement agencies should be invited to attend Use of Force Committee meetings to provide critical external perspective, insight and expertise on a permanent or ad hoc basis. | PD | | | | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| UOF - 35 | Oversight | 123 | The Board of Supervisors should review the Police Chief's determination in all lethal UOF cases and go on record with approval or disapproval of the action. | Co. Atty's Office | PD | | Yes | BOS |
| UOF - 36a | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the distinction in the use of "ready gun" and muzzle pointing in the conduct of a building search and room clearing. | PD | | PERF #58 | | PD |
| UOF - 36b | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to skill development in the use of de-escalation, tactical retreat and verbal interaction as alternatives to use of force. | PD | | PERF #41, 57, 58 | | PD |
| UOF - 36c | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the expected and effective use of Crisis Intervention Training. | PD | | PERF #67 | | PD |
| UOF - 36d | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to tactical and operational training on lethal and nonlethal use of force, with emphasis on de-escalation and tactical retreat skills. | PD | | PERF #56, 57, 58 | | PD |
| UOF - 37 | Workforce Practices | 124 | Establish a "hire-to-retire" focus on officer fitness to serve, particularly in relation to any propensity for being overly aggressive in the conduct of duty. This focus should be a key component in: vetting and selection; ensuring that the Early Identification System is monitoring officer-involved shootings, excessive use of force incidents, and complaints of abuse of power; monitoring each officer's known and understood risk factors to ensure that they maintain the right personality and temperament for policing; reinforcing the "duty-to-intervene"; providing services to assist officers who may need attention or treatment. | PD | Co. Atty's Office, DHR | PERF #1 | Yes | PD |
| UOF - 38 | Workforce Practices | 125 | Conduct a study of the relationship of the supervisor to the patrol officers, including the current ratio as a potential factor in strengthening the leadership direction provided to patrol officers in non-routine situations, particularly as it relates to the potential for use of force. | PD | DHR, DMB | | | BOS |
| UOF - 39 | Workforce Practices | 125 | Conduct a workforce climate survey and publish summary results on a biennial basis to monitor FCPD's operating culture, including officer attitudes about their work, leadership and equipment; or any perceived barriers to their ability to perform their duties consistent with FCPD's values, philosophy and policies. Use the detailed survey results broken down by organizational unit as a basis for dialogue between and among police officers, supervisors and the command structure. | PD | DHR | | | PD |
| UOF - 40 | UOF Sub-Committee | 126 | The charter for the UOF subcommittee should be extended beyond the completion of the Ad Hoc Commission's report and presentation to the Board of Supervisors to meet its charge to "...review the roles of and relationships between the FCPD, the Office of the County Attorney, and the Office of the Commonwealth's Attorney in connection with use of force and critical incident responses; follow up on open issues, such as the internal FCPD UOF Committee charter; and support implementation of any of the UOF recommendations for which UOF Subcommittee participation would be beneficial. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| ***INDEPENDENT OVERSIGHT AND INVESTIGATIONS COMMITTEE*** | | | | | | | | |
| IOV&I - 1 | Investigations | 180 | Criminal investigations of FCPD officers involved in incidents in which an individual is killed or seriously injured as defined in General Order 540.1 ("Death or Serious Injury Cases") should continue to be conducted by the FCPD Major Crimes Division. Exceptions could occur when the Chief of Police, in consultation with the Commonwealth's Attorney, determines that the criminal investigation should be conducted by investigators from another Northern Virginia jurisdiction police department or by the Virginia State Police. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2 | Investigations | 180 | Funds should be appropriated to the Commonwealth's Attorney's Office to allow for the fulltime employment of two independent criminal investigators who will report to and be used at the discretion of the Commonwealth's Attorney in connection with criminal investigations within the scope of the Independent Police Auditor. | CWA | Dep. Co. Exec. for Public Safety, DMB | | | BOS |
| IOV&I - 2a | Investigations | 181 | Such investigators shall participate in MCD criminal investigations of cases as the Commonwealth's Attorney may direct and may be used in connection with other criminal investigations, time permitting. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2b | Investigations | 181 | The Independent Police Auditor shall monitor MCD criminal investigations of cases and other criminal investigations within the scope of the responsibilities of the Independent Police Auditor. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 3 | Investigations | 181 | FCPD Internal Affairs investigations should be conducted concurrently with the criminal investigation to the extent practicable, provided that the Constitutional and statutory rights of any potential subject of the criminal investigation are fully protected. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

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| IOV&I - 4 | Investigations | 181 | The right of FCPD officers under the Virginia Law Enforcement Officers Procedural Guarantee Act to be "questioned at a reasonable time and place" shall continue to be preserved, but the questioning should commence as soon as reasonable, under all of the relevant facts and circumstances, as determined by the Commonwealth's Attorney in consultation with the Chief of Police. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 5 | Investigations | 181 | All FCPD officers shall be required to abstain from speaking to other officers involved or having witnessed any conduct subject to a MCD or IAB investigation within the scope of the responsibilities of the Independent Police Auditor, or to any third parties involved in or witnessing such conduct until advised by MCD or IAB that they may do so. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | PD |
| IOV&I - 6 | Prosecution | 181 | The prosecution, including the decision whether to charge an FCPD officer with a crime arising out of a death or serious injury case, or other case within the scope of the responsibilities of the Independent Police Auditor, should continue to be handled by the Commonwealth's Attorney for Fairfax County unless the Commonwealth's Attorney determines that the prosecution, including the decision to charge, should be handled by another Virginia Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, PD, Co. Atty's Office | | Yes | CWA |
| IOV&I - 7 | Prosecution | 181 | The Commonwealth's Attorney should be requested to issue timely and comprehensive public reports in any case involving death or serious injury when no criminal charges are filed. The reports should describe the investigation conducted by the FCPD, any additional investigation or consultation undertaken by the Commonwealth's Attorney, and the basis for the conclusions reached by the Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, Co. Atty's Office, PD, OPA | | Yes | CWA |
| IOV&I - 8 | Independent Auditor | 183 | The Fairfax County Board of Supervisors shall establish the Office of Independent Police Auditor ("Auditor"). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8a | Independent Auditor | 183 | The Auditor shall be appointed by and report directly to the Board of Supervisors. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8b | Independent Auditor | 183 | The Auditor shall have experience in public safety, public program auditing, the investigation of police operations and use of force incidents. In order to ensure the Independent Auditor is perceived as truly independent, the Auditor shall have never been employed by Fairfax County. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8c | Independent Auditor | 183 | The Auditor shall review (i) all investigations of death or serious injury cases conducted by the IAB; and (ii) all use of force investigations by IAB which are the subject of a public complaint made to the FCPD or the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA | | Yes | BOS |
| IOV&I - 8d | Independent Auditor | 183 | The Auditor shall have full access to the MCD criminal investigation file as well as full access to the IAB file, including any administrative action taken, for each investigation reviewed. The Auditor shall be entitled to receive copies of any portion(s) of such files. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA, | | Yes | BOS |
| IOV&I - 8e | Independent Auditor | 183 | The Auditor shall determine with respect to each such MCD and IAB investigation its thoroughness, completeness, accuracy, objectivity and impartiality. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8f | Independent Auditor | 183 | The Auditor shall be appointed by the Board of Supervisors for a term not less than 2 years and not more than 5 years, with a goal of maintaining continuity and independence, subject to dismissal only for good cause. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9 | Independent Auditor | 183 | The Auditor shall participate in and monitor IAB investigations within its scope of responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9a | Independent Auditor | 184 | The County Executive or his/her designee shall require, subject to discipline up to and including termination, the attendance and testimony of any Fairfax County employee, including all Fairfax County law enforcement officers, whose appearance at the interview is requested by the Auditor, and shall also require the production of any documents or other materials in the possession of the FCPD or other County offices and departments. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, DHR | | Yes | BOS |
| IOV&I - 10 | Independent Auditor | 184 | If the Auditor determines that an IAB investigation was deficient or that IAB's conclusions as to the relevant facts were incorrect or unsupported by the evidence, the Auditor may request further investigation by IAB or the Auditor may conduct such further investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 11 | Independent Auditor | 184 | Absent good cause, the Auditor shall issue a public report with respect to each reviewed investigation within sixty (60) days of the Auditor's access to the complete IAB file. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 12 | Independent Auditor | 184 | The FCPD shall provide a public report quarterly to the Auditor on the disposition of all citizen complaints made against the FCPD. The Auditor shall be provided such additional information as the Auditor may deem necessary to enable him/her to determine that the FCPD is properly responding to and investigating complaints in a timely manner. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

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| IOV&I - 13 | Independent Auditor | 184 | An individual may file a complaint concerning alleged misconduct by a Fairfax County law enforcement officer involving a death or serious injury case, the use of force, or the death of an individual with the FCPD for investigation or the citizen may instead file the complaint with the Auditor, who shall immediately forward the complaint to the FCPD for investigation, which will report on the disposition of the complaint within 30 days.. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 14 | Independent Auditor | 184 | If the Auditor disagrees with the results or conclusions of an IAB investigation in a death or serious injury case, the Auditor shall advise the Chief of Police who shall resolve the disagreement and make the final decision. The Chairman of the Board of Supervisors shall be informed of the Auditor's disagreement and the ultimate resolution. The Chief's decision shall be made in a public statement that sets forth the basis for the Chief's resolution of the disagreement. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 15 | Independent Auditor | 184 | The Auditor shall make public recommendations to the Chief of Police, with copies to the Chairman of the Board of Supervisors, concerning the revision of FCPD policies, training, and practices based on the Auditor's reviews. The Auditor shall also issue a public report annually concerning the thoroughness, completeness, accuracy, objectivity and impartiality of the IAB investigations reviewed by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 16 | Independent Auditor | 184 | The Auditor shall have an adequate budget and a trained staff to meet his/her responsibilities. The Auditor's office shall be separate and apart (physically and administratively) from those of the FCPD and the Commonwealth's Attorney. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 17 | Independent Auditor | 184 | Any findings, recommendations and actions taken by the Auditor shall reflect the Auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the Auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18 | Civilian Review | 186 | Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18a | Civilian Review | 186 | Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18b | Civilian Review | 186 | The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18c | Civilian Review | 186 | Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or criminal investigative experience, reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18d | Civilian Review | 186 | The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19 | Civilian Review | 186 | An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19a | Civilian Review | 186 | "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19b | Civilian Review | 186 | The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19c | Civilian Review | 186 | Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20 | Civilian Review | 186 | Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20a | Civilian Review | 186 | The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

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| IOV&I - 20b | Civilian Review | 186 | Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 21 | Civilian Review | 187 | The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review. If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 22 | Civilian Review | 187 | The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 23 | Civilian Review | 187 | The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 24 | Follow-Up | 187 | Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel. | Dep. Co. Exec. for Public Safety | PD | | Yes | BOS |
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Board Agenda Item
June 21, 2016

ACTION - 9

Approval of an Implementation Plan for Recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission

ISSUE:
Board of Supervisors approval of an implementation plan to further the recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission and the endorsement of a guiding philosophy for the Police Department and County to lean forward, be more transparent, and have a predisposition to release appropriate factual information in a timely manner to maintain accountability, public trust, and police legitimacy.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the attached implementation plan regarding the recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission.

TIMING:
Board action is requested on June 21, 2016.

BACKGROUND:
The creation of an Ad Hoc Police Practices Review Commission was moved by Chairman Sharon Bulova and approved by the Board on March 3, 2015. The purpose of the Commission was to engage the community in an open and transparent process to recommend changes to help the Board and the Police Department achieve the goals of maintaining a safe community, ensuring a culture of public trust, providing for the fair and timely resolution of police-involved incidents and information release, and reviewing Crisis Intervention Training (CIT) and police responses for cases involving mental health.

On October 20, 2015, the Ad Hoc Commission submitted its final report and recommendations to the Board of Supervisors. On November 17, 2015, the Board of Supervisors approved a process for assigning, prioritizing, reviewing, tracking, and considering the 202 Commission recommendations.

On November 17, 2015, the Board also endorsed the need for more Public Safety Committee meetings to be held as a forum for discussion of the

recommendations. To that objective, the newly appointed Chair of the Public Safety Committee, Supervisor John Cook, has held committee meetings on February 9, May 10, and May 24, 2016. Additional committee meetings are also already scheduled for 2016.

The Public Safety Committee, the Police Department and other core partners and stakeholders have focused on the discussion and implementation of the recommendations of the Ad Hoc Commission's Communications, Use of Force, and Mental Health and CIT Subcommittees.

This Action Item is specifically related to the implementation and furtherance of the recommendations of the Communications Subcommittee, consistent with the presentations and discussions at the May 10 and May 24, 2016, Public Safety Committee meetings. The Chief of Police, the Chairs of the Commission's Communications and Use of Force Subcommittees, and sworn police representatives were in attendance for discussion at each of the listed meetings. At the May 10 meeting the Commonwealth's Attorney and a representative of the Police Executive Research Forum (PERF) also presented. A PERF report, the *Review of Information Release Policies and Procedures of the Fairfax County Police Department (April 2016)*, commissioned by the Board, was not yet available to help inform the Communications Subcommittee recommendations, but will be another source for the Police Department as the recommendations of the Communications Subcommittee are considered and implemented.

Fundamental to the recommendations of the Communications Subcommittee is that the Board strongly endorse the goal for the Police Department and the County to improve communications through transparency and policies that lean toward releasing appropriate information as soon as possible – a "predisposition to release." This will improve accountability and lead to increased support and trust in the dedicated public servants who risk their lives every day for the benefit and safety of Fairfax County. The Board should further endorse policies and procedures that ensure the release of timely information and a culture that embraces the concept of maximum disclosure with minimum delay.

The Chief of Police and the Police Department have already moved forward in embracing and adopting many of the recommendations, but this implementation plan is important in that it provides a Board endorsement for the guiding philosophy and principles of information disclosure, a request for information back to the Board on a few of the recommendations, and support or guidance for the Chief of Police on others.

On November 17, 2015, the Board also directed an annual report and a final summary report on the status and implementation of all of the Commission's recommendations. The first annual report shall be presented to the Board at the scheduled Public Safety Committee meeting of December 13, 2016.

FISCAL IMPACT:
No immediate fiscal impact. The implementation of some Communications Subcommittee recommendations may require additional future funding, but the actions as outlined in this current implementation plan are able to be absorbed in the current operating budget of the Police Department. If, after further review, any recommendation is determined to require additional funding, it shall be brought forward for appropriate discussion and consideration by the Board.

ENCLOSED:
Attachment 1 - Implementation Plan for Recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission
Attachment 2 - Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ATTACHMENT 1

Adopted by the Board of Supervisors: June 21, 2016

Implementation Plan for the Recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission

The Board of Supervisors (the "Board") has reviewed the recommendations of the Communications Subcommittee of the Ad Hoc Police Practices Review Commission ("the Commission"). In addition, some recommendations from the Commission's Use of Force Subcommittee are included in this plan as they are related to communications and reporting to the public.

The Board embraces the goal to improve communications through transparency and policies that lean toward releasing appropriate information as soon as possible. This will improve accountability and lead to increased support and trust in the dedicated public servants who risk their lives every day for the benefit and safety of Fairfax County.

The Board endorses policies and procedures that ensure the release of timely information and a culture that embraces the concept of maximum disclosure with minimum delay.

Furthermore, in reviewing those recommendations, as organized by the *Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet* (the "Spreadsheet") as COMM-1 through COMM-38 and UOF-11 through UOF-14f, the Board directs the County Executive and the Chief of Police (the "Chief") as follows:

1. COMM-1; COMM-4 through 7c; COMM-8 through 9; COMM-11 through 15; COMM-17; COMM-24; COMM-26 through 35: The Police Department is designated as the Approving Authority for these recommendations. The Chief is directed to provide a written report back to the Board, no later than the scheduled December 13, 2016 Public Safety Committee meeting, regarding actions taken on or status of these items.

2. COMM-2; COMM-3; COMM-25: The Board directs the Chief to adopt a predisposition to disclose approach to public information and records and to share timely information and updates regularly with the public on officer-involved shootings and other critical incidents.

3. COMM-3a through 3d; UOF-14a through 14f (Use of Force Subcommittee): For cases of use of force by a police officer the Board has consulted with the Chief and the Commonwealth's Attorney and directs the following:
    a. Release of the names of any involved police officer(s): The Chief shall, within ten days of an officer-involved deployment of deadly force or an officer-involved critical incident where another person has suffered death or

life threatening injuries, release the name, rank, assignment, tenure of the officer(s) involved, and the current status of the officer(s). If the Chief has determined a credible threat to the officer's safety and/or the safety of their family cannot be fully investigated or mitigated within the ten days and additional time is needed the Chief shall inform the Board in writing - through the Chairman of the Board and the Chair of the Board's Public Safety Committee - of his decision not to release the information or to delay the release of the information, and his reasons therefore. The Chief shall also inform the public the name release is pending final review and risk mitigation through the threat assessment process if the name is not expected to be released within the prescribed ten days. The Board may review the Chief's decision at the next regularly scheduled meeting of the Board, in closed session as appropriate, and it may decide to either support the decision or direct the Chief to release the name(s). If the Board conducts such a review it shall then announce its decision to the public. It is important to note the ten day period is primarily related to the release of officer names and is only designed as a limit to not be exceeded without cause, not a recommended standard, and the Board and the public expect the Police Department to release other appropriate preliminary factual information and updates to the public as soon as possible.

b. Release or disclosure of factual information and criminal investigative files[1] in ongoing use of force investigations in an officer-involved deployment of deadly force or an officer-involved critical incident where another person has suffered death or life threatening injuries: The Chief or his designee shall provide the community and the Board with a summary of facts based on the information known at the time of the event while balancing and protecting the integrity of the criminal and administrative investigations. This balance has to also be weighed carefully case-by-case in any ongoing criminal investigation as to any request for the release of any criminal investigative file materials. It is of the utmost importance that the fairness and integrity of any investigation or prosecution be protected, and in an ongoing investigation an individual's due process rights and right to a fair trial must be weighted heavily in any disclosure decision, but the Police Department shall refrain from blanket exemptions and may disclose any such criminal investigative file materials when it is deemed to not knowingly harm or jeopardize the safety of any individual, due process rights, or any investigation or prosecution, and any release or disclosure is not prohibited by law. For any criminal investigative file material or

[1] Criminal investigative files are defined in Virginia Code § 2.2-3706 of the Virginia Freedom of Information Act (FOIA) as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution (http://foiacouncil.dls.virginia.gov/)

information being withheld the Police Department should explain *why* it is being withheld. Additionally, the Chief shall ensure the public and the Board are updated on the progress and status of the investigation as new information is developed. If no new information is developed the Chief shall still provide a brief status update to the community within 30 days of each of the last updates. The Chief is directed to consult with the Office of the County Attorney and the Office of the Commonwealth's Attorney to craft and promulgate Police Department policies consistent with this section.

c. COMM-16: With the goal of shortening administrative investigation timelines in serious use of force cases or other critical incidents, the Chief shall consult with the Commonwealth's Attorney, or other appropriate authority if an independent investigation or legal or prosecutorial review is being conducted, on a case-by-case basis toward the goal of completing the department's administrative investigation as soon as possible without interfering with or jeopardizing any criminal investigation or prosecution, or the due process rights and procedural guarantees afforded any involved officer(s).

4. The Board directs the Chief to provide, in closed session, factual information briefings on all officer-involved deployment of deadly force or officer-involved critical incidents where another person has suffered death or life threatening injuries within 30 days of an event and then at intervals of no more than every 90 days thereafter, or as requested by the Board. These timeline requirements can be waived by the Board if the next scheduled Board meeting exceeds any requirement. In these rare instances the next available meeting shall be used for the closed session briefing.

5. UOF-11 (Use of Force Subcommittee): Some of the information prescribed in this recommendation will be reported, if known, following an incident, but the Police Department's Internal Affairs Bureau also compiles an annual report which captures the relevant data and the Chief will make these reports available to the public.

6. UOF-12 (Use of Force Subcommittee): The Chief and the Police Department have compiled and published more than a decade of officer-involved shooting data and incidents, and this format will be continually updated to meet this recommendation.

7. UOF-13 (Use of Force Subcommittee): The goal of the FBI is to create a national database similar to the officer involved shooting web site the Police Department launched in the summer of 2015. The FBI will pilot the national database in January 2017 and the Police Department will participate in this nationwide pilot project to increase transparency in the law enforcement profession. Chief Roessler is the lead representative for the Major Cities Chiefs Association assisting the FBI.

8. COMM-7d: The Board declines to establish a standing "community engagement team," but endorses the intent of the recommendation to enhance community engagement and directs the Chief to consider whether to do so with existing staffing resources and to also explore alternative methods and resources to meet the intent of this recommendation. These alternative methods and resources include, but are not limited to, existing positions already dedicated to community engagement such as Neighborhood Patrol Officers (Bike Officers), the Tysons Urban Team (TUT), Crime Prevention Officers, Domestic Violence Detectives, School Resource Officers, and Traffic Safety Officers. It also includes ongoing initiatives and programs such as the Communities of Trust, Citizen Advisory Committees and Council, and the Citizen Police Academy. Any strategies and actions taken to address this recommendation shall also align with the community's longstanding willingness to engage and desire and right to be kept informed. If additional positions are recommended by the Chief, the Police Department will explore appropriate grant opportunities for initial funding of any associated positions for this recommendation and potentially dual duties and responsibilities for COMM-10 (increased PAB/PIO staffing and shift coverage).

9. COMM-9: The Chief has established a civilian Public Affairs Bureau (PAB) Director position, as a direct report to the Chief. This position, once filled, will have an important role and responsibility for many of the Communication recommendations. The Director should also establish and maintain a strong collaborative relationship with the County's Office of Public Affairs and the media.

10. COMM-10: The PAB Director, once hired, is to also review this recommendation, the intent of which is to provide increased staffing availability and coverage for the Public Affairs Bureau, and if not addressed in the above item (8.), work with the Chief to identify alternative methods and/or resources to meet the recommendation or its intent or to make a recommendation to the Board by the end of calendar year 2016.

11. COMM-18 through COMM-23, FOIA: The County Executive has begun a review of the County's overall FOIA policies. Police Department FOIA policy and practices should be consistent with County FOIA policy and practices and therefore the Board directs that these recommendations be made part of that review.

12. COMM-36: The Board will hold annual community meetings (COMM-36) to review with the public its progress on reviewing and implementing the recommendations of the Commission. The first annual review shall occur at the first meeting of the Public Safety Committee in 2017, to allow conclusion of Board review of all commission recommendations.

13. COMM-37: The Chief and the Deputy County Executive for Public Safety shall continue to consult with the subcommittee as recommended.

14. COMM-38: This will be considered during the review of the Independent Oversight and Investigations Subcommittee, currently scheduled for a July 19, 2016 meeting of the Board's Public Safety Committee.

Revisions may be made to this implementation plan, subject to approval by the Board.

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

| NUMBER *(original or assigned)* | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
|---|---|---|---|---|---|---|---|---|
| ***COMMUNICATIONS SUBCOMMITTEE*** | | | | | | | | |
| COMM - 1 | Timely Info Disclosure | 46 | Provide accurate, timely and actionable information (good or bad) using redundant forms of communication. | Police Dept. (PD) | Office of Public Affairs (OPA) | PERF #70 | | Police Dept. (PD) |
| COMM - 2 | Timely Info Disclosure | 46 | Adopt a "predisposition to disclose" approach with public records presumed to be public and exceptions strictly and narrowly construed. | PD | Co. Atty's Office, OPA | PERF #70 | | Board of Supervisors (BOS) |
| COMM - 3 | Timely Info Disclosure | 46 | Share and regularly update details of all officer-involved shootings in multiple ways; disclose not only facts, but also procedures and timing. | PD | Co. Atty's Office, OPA | PERF #70 | | BOS |
| COMM - 3a | Timely Info Disclosure | 46 | Provide the name of the officer(s) as soon as possible but preferably within a week. If a decision is made not to release the name within a week, publicly share specific information that illustrates the reason the name is being withheld. | PD | Co. Atty's Office, Commonwealth's Attorney's Office (CWA) | | | PD |
| COMM - 3b | Timely Info Disclosure | 47 | In cases where a suspect is deceased as a result of an officer-involved shooting, make available immediately upon FOIA request all body-camera, in-dash camera or audio recordings of responding officers to an incident. | PD | Co. Atty's Office, CWA, OPA, Dept. of Information Technology (DIT) | | Yes | BOS |
| COMM - 3c | Timely Info Disclosure | 47 | In officer-involved shootings where a suspect is shot but not deceased, provide a citizens' committee (a communications advisory committee appointed by either the Board of Supervisors or the Chief of Police to carry out this function) access to the recordings for a recommendation on release which should balance public and private interest. This committee's recommendation would be submitted to the Chief of Police who would factor it into a final decision. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 3d | Timely Info Disclosure | 47 | All digital recordings in officer-involved shooting investigations should be carefully preserved, and investigations should end with the public release of all digital recordings within 6 months of the incident. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 4 | Timely Info Disclosure | 47 | Annually report on the demographics of the subjects in all use-of-force incidents including race, gender, age, whether mental health status was a factor, previous involvement with FCPD and any other data. | PD | OPA, CSB | PERF #70 | Yes | PD |
| COMM - 5 | Timely Info Disclosure | 47 | Devote more effort to sharing day-to-day information of police activity with the public. Facilitate unfettered access to blotter-type information, to include a list of every incident and call with the basic who/what/when/where/how information. | PD | OPA, DIT | PERF #70 | | PD |
| COMM - 6 | Timely Info Disclosure | 47 | Include incident based reporting (IBR) categories of statistical crime information broken down by district stations and provided quarterly in accessible, comprehensive online reports. Provide quarterly information by district for all use-of-force and officer involved shootings, CIT calls for service, traffic and pedestrian accidents. | PD | OPA, DIT | | Yes | PD |
| COMM - 7 | Community Engagement | 47 | Embrace and practice increased, proactive community engagement. | PD | OPA | | | PD |
| COMM - 7a | Community Engagement | 47 | Communicate with key community leaders as soon as bad news breaks. | PD | OPA | | | PD |
| COMM - 7b | Community Engagement | 47 | Hold community meetings early and often. | PD | OPA | | | PD |
| COMM - 7c | Community Engagement | 48 | Continue cross-district command meetings to increase situational awareness, spot trends and provide a centralized forum to identify and coordinate responses to emerging community issues. | PD | | | | PD |
| COMM - 7d | Community Engagement | 48 | Create a "Community Engagement Team" within FCPD to respond to community concerns and manage programs that create community trust and engagement. The team members should be fluent in the language and knowledgeable of the customs of the particular community they serve, and the team should reflect the diversity of Fairfax County in order to best serve as liaisons between the community and FCPD. | PD | DMB | | | BOS |
| COMM - 8 | Community Engagement | 48 | Continue supporting Citizen Advisory Committees (CAC); Chief's Citizens Advisory Council; and Citizen's Police Academy (CPA) classes. | PD | Citizen Advisory Committees (CAC), Citizens Police Academy (CPA), OPA | | | PD |
| COMM - 8a | Community Engagement | 48 | Expand promotion of these valuable public forums. | PD | CACs, OPA | | | PD |
| COMM - 8b | Community Engagement | 48 | Improve and expand CAC and Chief's Citizens Advisory Council succession planning and online information. | PD | CACs, OPA | | | PD |
| COMM - 8c | Community Engagement | 48 | Increase the meeting frequency of the Chief's Citizens Advisory Council from four meetings per year to 10 monthly meetings to be in line with the 10 monthly CAC meetings. | PD | CACs | | | PD |

ATTACHMENT 2

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

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|---|---|---|---|---|---|---|---|---|
| COMM - 8d | Community Engagement | 48 | The structure of the eight CACs and the Chief's Citizens Advisory Council should facilitate a two-way flow of information about police services. | PD | CACs | | | PD |
| COMM - 8e | Community Engagement | 48 | Expand the CPA program by offering a compact, three-hour version in addition to the current 10-session program and include in the CPA training the best practices and reports discussed at meetings of the Ad Hoc Police Practices Review Commission and subcommittee meetings. | PD | CPA | | | PD |
| COMM - 8f | Community Engagement | 48 | The CPA should be designed and structured to be understood by all in the diverse communities of Fairfax County. | PD | OPA | | | PD |
| COMM - 9 | Policies, Procedures & Personnel | 48 | Hire a civilian public information officer (a professional communicator knowledgeable of best communication practices and experienced in the practice and ethics of media and journalism) to lead the FCPD public information office, and have that position and function report directly to the Police Chief. | PD | Dept. of Human Resources (DHR), OPA | PERF #70 | | PD |
| COMM - 10 | Policies, Procedures & Personnel | 48 | Fund and employ 24/7 PIO staff in the central Public Information Office with additional PIO staff assigned to each district station. | PD | DMB | PERF #70 | | BOS |
| COMM - 11 | Policies, Procedures & Personnel | 48 | The Chief of Police should be the official spokesperson for officer-involved shootings. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 12 | Policies, Procedures & Personnel | 48 | Develop a policy statement regarding FCPD PIO release of information for critical events to include hte relationship with the Office of Public Affairs (OPA) and the process for a hand-off to OPA in certain situations. | PD | OPA, Co. Atty's Office | PERF #70 | | PD |
| COMM - 13 | Policies, Procedures & Personnel | 49 | FCPD should prioritize realignment of resources to ensure more transparency, and become the trusted and valued source of information for Fairfax County. | PD | | | | PD |
| COMM-14 | Policies, Procedures & Personnel | 49 | FCPD should develop a continuous process of information declassification, to ensure proactive information release for cases that are no longer active. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 15 | Policies, Procedures & Personnel | 49 | Current FCPD policies overempahasize the media, FCPD should use its own platforms and tools to share information directly with the public. Policies should reflect the communications paradigm by promoting more community engagement and direct information dissemination to the community. | PD | OPA | | | PD |
| COMM - 16 | Policies, Procedures & Personnel | 49 | Shorten the current 6-20 month timeframe to internally investigate and close officer-involved shooting cases; throughout the investigation be responsive to questions and concerns from the public, news media, and elected officials. It is recommended the Board of Supervisors take an active approach throughout the investigative stage by periodically requesting and receiving updates on such incidents in a public forum. | PD | Co. Atty's Office, CWA | PERF #70 | Yes | BOS |
| COMM - 17 | Policies, Procedures & Personnel | 49 | Update policies (with the assistance of FCPD Community Engagement Team members) and mandate usage of plain language that is culturally appropriate for the diverse communities in Fairfax County to eradicate any perceived biases. | PD | OPA | | | PD |
| COMM - 18 | F.O.I.A. | 49 | The Board of Supervisors should publicly adopt a resolution (and forward it to the County's delegation in the General Assembly) to revisit FOIA laws with an eye toward expanding instead of limiting the public release of information related to police-involved shootings and other police practices and procedures. | BOS | PD, Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 19 | F.O.I.A. | 49 | The County Executive should establish a countywide FOIA policy and procedure through issuance of a new procedural memorandum that would replace former County Executive Griffin's memo regarding FOIA compliance, which currently guides county staff. The new policy should encourage transparency and accountability by establishing a culture of disclosure. It should give guidance to all county staff custodians of public records to lean automatically toward releasing all public records upon request, changing the current practice of automatically withholding all exempt records. | Co. Atty's Office | County Executive's Office, OPA | | Yes | Co. Exec. |
| COMM - 20 | F.O.I.A. | 49 | Where possible, release police reports with redactions rather than creating a summary document. | PD | Co. Atty's Office, CWA, OPA | | Yes | PD |

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| COMM - 21 | F.O.I.A. | 50 | Develop FCPD administrative guidelines for FOIA, even in the absence of FOIA reform at the state level. | PD | Co. Atty's Office, OPA | | Yes | PD |
| COMM - 22 | F.O.I.A. | 50 | Move function and staff for responding to FOIA requests out of Internal Affairs and into the FCPD Public Information Office. | PD | Co. Atty's Office | | | PD |
| COMM - 23 | F.O.I.A. | 50 | Cease the blanket approach to FOIA requests; when records are withheld, an explanation should be provided without merely claiming exemption. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 24 | Transparency | 50 | With goal of becoming a transparent and highly accountable police department, the Department should make proactive statements to the community it serves, communicating with the public on all aspects of police procedure, policy, and actions, particularly in an officer-involved shooting or other high-profile incident involving use of force. The use of numerous communications channels should be utilized to explain what happened, what is known at the time, what is revealed over time, and lessons learned and perspective after the fact. | PD | Co. Atty's Office, OPA, | | | PD |
| COMM - 25 | Transparency | 50 | Fairfax County should adopt the type of progressive release of information practices and policies that govern most states as FCPD's current practices on releasing information is not aligned with agencies located <u>outside</u> the Commonwealth of Virginia. | PD | Co. Atty's Office, all County agencies | | Yes | BOS |
| COMM - 26 | Transparency | 50 | Create and utilize written standards and criteria for the day-to-day release of information from FCPD PIO to standardize information flow/release, and to enhance professional communications, transparency, and accountability. | PD | Co. Atty's Office, OPA | | | PD |
| COMM - 27 | Transparency | 50 | Get "buy-in" and cooperation from all levels of the FCPD to improve communications and expand information release. | PD | | | | PD |
| COMM - 28 | Transparency | 50-51 | Basic requests for information should be addressed in a timely manner by openly providing routine information about incidents, activities, calls, investigations (internal and external) with unfettered public access. | PD | | PERF #70 | | PD |
| COMM - 29 | Transparency | 51 | Endorse and implement the recommendations of the final report of The President's Task Force on 21st Century Policing, dated May 2015, that are related to communications, which call for such actions as making all Department policies available for public review, clearly stating what types of information will be released, when and in what situation after serious incidents; communicating swiftly, openly and neutrally while complying with legal requirements related to confidentiality. | PD | OPA | | | PD |
| COMM - 30 | Transparency | 51 | Create a change management process to change the FCPD culture and facilitate the successful implementation of the improved policies. | PD | DHR | PERF #71 | | PD |
| COMM - 31 | Transparency | 51 | Endorse and implement communications-related recommendations contained in the report of the U.S. Conference of Mayors' Working Group of Mayors and Police Chiefs, *"Strengthening Police-Community Relations in America's Cities."* | PD | OPA | | | PD |
| COMM - 32 | Transparency | 51 | Endorse and implement communications-related recommendations from PERF's use-of-force policy and practice review of FCPD. | PD | OPA | PERF #70 | | PD |
| COMM - 33 | Open Data | 51 | Develop an open data policy to improve transparency; this will reduce the cost of responding to FOIA requests, since data and reports will be published online making FCPD more efficient and serving community needs more effectively. | PD | Co. Atty's Office, OPA, DIT | | Yes | PD |
| COMM - 34 | Open Data | 51 | Provide more specificity and detail in crime stats and information released by the district stations. | PD | Co. Atty's Office, DIT | PERF #70 | | PD |
| COMM - 35 | Open Data | 51 | Make all department policies and procedures available for public review online, updating them as needed. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| COMM - 36 | Moving Forward | 52 | The Board of Supervisors should publicly set dates for community forums to revisit the recommendations of the Ad Hoc Police Practices Review Commission and the progress made toward their implementation. These reviews should take place in April 2016, October 2016, April 2017 and annually thereafter. Other methods should also be used to update the public, possibly an online 'report card' that is continually updated. | Dep. Co. Exec. for Public Safety | PD, CSB, Sheriff's Office (SO), CWA, OPA | | | BOS |

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| COMM - 37 | Moving Forward | 52 | Recommends that this subcommittee continue its service beyond presentation of its final report, in order to meet with the PERF contractors conducting an independent review of the county's communications practices and review and comment on the PERF report and recommendations when they are finally submitted. | Dep. Co. Exec. for Public Safety | | | | Dep. Co. Exec. for Public Safety |
| COMM - 38 | Moving Forward | 52 | Anticipating a proposal for an independent citizen oversight group emerging from the Investigations and Oversight Subcommittee, it is recommended that any group established be mandated to provide robust communications in a transparent process that keeps the community informed and ensures a culture of public trust. | Dep. Co. Exec. for Public Safety | PD, OPA | | Yes | BOS |
| ***RECRUITMENT, DIVERSITY AND VETTING SUBCOMMITTEE*** | | | | | | | | |
| RD&V - 1 | Recruitment | 58 | Provide a referral incentive for employees who are successful in recruiting personnel into the Department. | PD | DHR, Co. Atty's Office, DMB | | | BOS |
| RD&V - 2 | Recruitment | 58 | Develop and implement a marketing plan for all programs and vacancies to include e-mail blasts to interfaith organizations and School Career Centers. | PD | OPA, NCS/Community Interfaith Coordination, Faith Communities in Action (FCIA), Fairfax County Public Schools (FCPS) | | | PD |
| RD&V - 3 | Recruitment | 58 | Expand the Explorer and Cadet programs to include a diverse pool of participants. | PD | DHR, FCPS | | | PD |
| RD&V - 4 | Recruitment | 58 | Enter into a Recruitment Agreement with all Cadets to include reimbursement of educational expenses for breach of contract. | PD | Co. Atty's Office, DHR, DMB | | Yes | BOS |
| RD&V - 5 | Recruitment | 58 | Collaborate and build recruitment-oriented partnerships with key segments of the Fairfax County community to further diversify both the applicant pool and workforce to more closely reflect the community. | PD | DHR, FCPS, Faith Communities in Action (FCIA) | | | PD |
| RD&V - 6 | Recruitment | 58 | Identify ways to reduce the time from application to hiring (includes staffing resources). | PD | DHR, DMB | | | BOS |
| RD&V - 7 | Recruitment | 58 | Formalize the selection process by putting certain standards and processes into writing. | PD | DHR, Co. Atty's Office | PERF #1 | Yes | PD |
| RD&V - 8 | Recruitment | 58 | Ensure written directives are kept up to date. | PD | | PERF #2 | | PD |
| RD&V - 9 | Recruitment | 58 | Create a diverse Selection Review Committee that includes community leaders. | PD | DHR, Co. Atty's Office | PERF #3 | Yes | PD |
| RD&V - 10 | Diversity | 59 | Establish a diversity goal for each commander, making them responsible for enhancing the diversity within the department. The progress toward achieving that goal should be reflected in the performance management system. | PD | DHR | | | PD |
| RD&V - 11 | Diversity | 59 | Educate and train recruiting and selecting officers about implicit bias, which the current neuroscience research shows can occur even in people with no-prejudiced attitudes, and the impact on both individual and organizational selection decision. | PD | DHR | | | PD |
| RD&V - 12 | Vetting | 61 | Increase resources in order to reduce length of time it takes to conduct background investigations and polygraphs. | PD | DMB | | | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| RD&V - 13 | Vetting | 61 | Formalize the officer selection process. | PD | DHR | PERF #1 | | PD |
| RD&V - 14 | Retention | 62 | The Board of Supervisors should continue to work with the Department's Pay and Benefits Committee to ensure competitive salaries and benefits to secure and maintain a diverse workforce. | PD | DHR, DMB | | | BOS |
| ***MENTAL HEALTH AND CIT SUBCOMMITTEE*** | | | | | | | | |
| MH-CIT - 1 | FCPD | 81 | Establish Memphis Model/Virginia CIT Essential Elements. FCPD should immediately establish the Memphis Model for Crisis Intervention Team training as adopted by the Virginia Essential Elements of CIT, ensuring each squad has a CIT trained officer and creating a specialty squad of selected CIT officers to work closely with CSB and Mobile Crisis units. | PD | CSB | PERF #58, 67, 68 | Yes | PD & BOS |
| MH-CIT - 2 | FCPD | 82 | Attract the right officers for CIT, FCPD should create incentives, such as flexible shift hours, to make serving on a Crisis Intervention Team attractive to potential volunteers | PD | DMB, CSB | | | PD |
| MH-CIT - 3 | FCPD | 82 | The subcommittee recommends that the FCPD create a uniform pin to identify Crisis Intervention Team trained officers to the public. | PD | | | | PD |
| MH-CIT - 4 | FCPD | 82 | Make CIT a requirement for selected command assignments. The subcommittee recommends that FCPD leadership consider CIT training and experience in selections to certain command positions, for instance in the patrol division. | PD | DHR | PERF #57 | | PD |
| MH-CIT - 5 | FCPD | 82 | Form teams. The subcommittee recommends that officers detailed to Crisis Intervention Teams maintain their regular patrol duties, but also form partnerships with mental health workers and community partners trained and experienced in dealing with residents living with mental illness. These teams would be availlable to be dispatched to identified mental health calls. | PD | CSB | PERF #67 | | PD & Community Services Board (CSB) |
| MH-CIT - 6 | FCPD | 82 | Be proactive. The subcommittee recommends that Crisis Intervention Teams be empowered to work proactively to help mentally ill persons obtain treatment and take other steps to manage their illness, diverting them from the criminal justice system and the courts. | PD | CSB, Courts, CWA | | | PD |
| MH-CIT - 7 | FCPD | 83 | Integrate dispatch personnel. The subcommittee recommends 100% of all dispatchers continue to receive at least eight hours of CIT training. | Dept. of Public Safety Communications (DPSC) | PD, CSB | PERF #69 | | Dept. of Public Safety Communications (DPSC) |
| MH-CIT - 8 | FCSO & CSB | 84 | Implement "Stepping Up." The Board of Supervisors, the CSB, the Judiciary, State legislators, and the Sheriff's Office should collaborate to implement a community-wide system of care overhaul using the BOS-endorsed, national initiative known as "Stepping Up." | CSB | Multiple | | | BOS |
| MH-CIT - 9 | FCSO & CSB | 84 | Fully implement Diversion First. The subcommittee recommends Fairfax County develop a mechanism for oversight of systems of mental health/substance use/justice services — a diversion-oriented system of care collaborative stakeholder group now known as "Diversion First." | CSB | PD, SO | | Yes | BOS |
| MH-CIT - 10 | FCSO & CSB | 84 | Identify and collect pertinent data to establish metrics for success. The subcommittee strongly emphasizes the importance of data collection and its intimate linkage to measuring the progress and impact of CIT programs. | CSB | PD, SO, DIT | | | CSB |
| MH-CIT - 11 | FCSO & CSB | 85 | Increase language and cultural competency. The subcommittee recommends that Fairfax County increase services to special populations to include cultural competency to better serve non-English-speaking justice-involved individuals, as de-escalation and diversion require the ability to effectively communicate with persons. | CSB | PD, SO | | | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| MH-CIT - 12 | FCSO & CSB | 85 | Provide CIT Training to jail and custodial personnel. The subcommittee recommends that the Sheriff's Office provide the forty-hour Crisis Intervention Team training course to deputies detailed to courtroom security and deputies working inside the Adult Detention Center. | SO | CSB, PD | | | SO |
| MH-CIT - 13 | FCSO & CSB | 85 | Establish strategically located CIT assessment sites. The subcommittee recommends that Fairfax County establish strategically located 24-hour assessment sites staffed and operated by CSB, FCPD, and the Sheriff's Office collaboratively. | CSB | PD, SO, DMB | | | BOS |
| MH-CIT - 14 | FCSO & CSB | 86 | Redeploy CSB to provide services when they are needed most. The subcommittee recommends that the CSB should redeploy both forensic and community-based teams to expand capacity to provide mental health services at each point in the criminal/community mental health continuum rather than incarcerate individuals. | CSB | PD, SO | | | CSB |
| MH-CIT - 15 | FCSO & CSB | 86 | Expand Mobile Crisis Unit (MCU) program to strategic locations in Fairfax County. MCU is an emergency mental health program of the Fairfax-Falls Church Community Services Board that provides on-scene evaluation, treatment, and crisis intervention in the community. The recommendation is to have MCUs by Jan. 1, 2017. | CSB | | | | BOS |
| MH-CIT - 16 | FCSO & CSB | 87 | CSB and Sheriff's Office to consider increasing behavioral health clinician staff hour availability inside the Adult Detention Center (ADC), to include not only on-site, but through technology. | CSB | SO, DIT | | | CSB & Sheriff's Office (SO) |
| MH-CIT - 17 | FCSO & CSB | 87 | Increase release planning to support successful reentry. The subcommittee recommends that more CSB staff resources be devoted to release planning inside the ADC. It is also recommended that Dept. of Family Services (DFS) make availalble resources to initiate benefit eligibility determination. | CSB | SO, Dept. of Family Services (DFS) | | | CSB |
| MH-CIT - 18 | FCSO & CSB | 87 | Review pharmacy policies inside the ADC. The subcommittee recommends that the CSB and ADC medical staff review policies, especially for psychotropic medications, to ensure that inmates receive the most effective treatment relative to their conditions and medical histories by January 1, 2016. | SO | CSB | | Yes | CSB & SO |
| MH-CIT - 19 | Judiciary & Mental Health Dockets | 88 | Implement Mental Health dockets. The subcommittee recommends that Fairfax County work with judges and the Clerk of the Court to establish a Mental Health Docket for both adults and juveniles by January 1, 2016. | Dep. Co. Exec. for Public Safety (preliminary) | Courts, Clerk of the Court, CWA, CSB, PD, SO | | Yes | BOS & Courts |
| MH-CIT - 20 | Judiciary & Mental Health Dockets | 88 | Encourage Mental Health Awareness training for the judiciary. The subcommittee recommends that appropriate mental health awareness training be developed and deployed for judges, magistrates, probation and parole officers, and other officials who may come into contact with people who are living with mental illness by January 1, 2016. | CSB | Courts, Magistrates, Probation & Parole, Others | | | CSB |
| MH-CIT - 21 | VA CIT Elements | 89 | Establish standing law enforcement Mental Health Units staffed by full-time police officers and deputies tasked with responding to individuals experiencing a mental health crisis. | PD & SO | CSB, DMB, Co. Atty's Office | | | BOS |
| MH-CIT - 22 | VA CIT Elements | 89 | Institute plainclothes Mental Health Unit officers. Mental Health Unit officers in Bexar County wear civilian clothing and use unmarked vehicles during the course of their duties to avoid unintentionally escalating a mental health crisis. | PD & SO | PD, CSB | | | PD & SO |
| MH-CIT - 23 | VA CIT Elements | 89 | Re-focus and develop a full range of mental health and disability awareness training at the Criminal Justice Academy. CIT is important, but other trainings are also vital. | PD | PD, CSB | | | PD & SO |
| MH-CIT - 24 | VA CIT Elements | 90 | Clarify mental health response protocols for first responders. The Fairfax County Fire and Rescue responds to more than 50,000 calls annually, and must transport some individuals without a medical condition to emergency rooms rather than a mental health facility as this is required by the Code of Virginia. Subcommittee recommends the Board of Supervisors consider supporting a bill that would allow first responders to transport individuals whose primary condition is a mental health isse direrectly to a mental health facility once medically cleared by an EMT. | Fire and Rescue Dept. (FRD) | Govt. Relations, CSB, Co. Atty's Office | | Yes | BOS |

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| MH-CIT - 25 | VA CIT Elements | 90 | Involve peers whenever and wherever possible. According to Virginia's Essential Elements program guide for CIT, dynamic community involvement should reflect the composition of the local community, with particular emphasis on the inclusion of persons with mental illness. | CSB | PD, SO | PERF #67 | | CSB |
| MH-CIT - 26 | Public Outreach | 91 | Develop a public outreach program. The subcommittee recommends that the FCPD work with the CSB to develop materials for delivery to the public, to increase awareness of steps that may be taken prior to the instance of a potential interaction. | CSB | PD, SO, OPA | | | CSB |
| ***USE OF FORCE SUBCOMMITTEE*** | | | | | | | | |
| UOF - 1 | Guiding Philosophy | 107 | Ensure that FCPD's philosophy, policies and orders promote treating persons respectfully and are protective of their dignity; maintain an appropriate balance between an officer's role as a guardian/warrior or peacemaker/fighter; reinforce a reverence for the sanctity of human life. | PD | | PERF #4, 5 | | PD |
| UOF - 2a | Guiding Philosophy | 107 | Adopt policies, programs and practices that require officers to identify themselves by their full name, rank, and command (as applicable) and provide that information, when practicable, on a business card to individuals they have stopped. | PD | | | | PD |
| UOF - 2b | Guiding Philosophy | 107 | Adopt policies, programs and practices that, for policing mass demonstrations, continue to employ a continuum of managed tactical resources designed to be protective of officer safety and promote de-escalation of tensions; minimize the appearance of a military operation; and avoid provocative tactics, equipment, and language that might heighten tensions. | PD | | | | PD |
| UOF - 2c | Guiding Philosophy | 108 | Adopt policies, programs and practices that continue and strengthen opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders. | PD | | | | PD |
| UOF - 2d | Guiding Philosophy | 108 | Adopt policies, programs and practices that reward officers for their efforts to engage members of the community and the partnerships they build and make this part of the performance evaluation process, placing an increased value on developing such partnerships. | PD | DHR | | | PD |
| UOF - 2e | Guiding Philosophy | 108 | Adopt policies, programs and practices that ensure deployment schedules provide sufficient time for patrol officers to participate in problem solving and community engagement activities. | PD | | | | PD |
| UOF - 2f | Guiding Philosophy | 108 | Adopt policies, programs and practices that infuse a renewed commitment to community policing throughout the FCPD culture and organizational structure. | PD | | | | PD |
| UOF - 3 | Guiding Philosophy | 108 | Commit and assure in G.O. 201.6 - PRESERVATION OF PEACE AND PROTECTION OF LIFE AND PROPERTY, that medical assistance will be provided to anyone who is injured, alleges an injury, or requests medical assistance, stating, as follows: *It shall be the duty of each sworn officer of the Department to: preserve the public peace; protect life and property; assure medical assistance; and enforce and uphold the laws of the Commonwealth of Virginia and the Ordinances of the County of Fairfax.* | PD | Co. Atty's Office | | Yes | PD |
| UOF - 4 | Guiding Philosophy | 108 | Review policies on use of physical control equipment and techniques to assure that they address any unique requirements of vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others deemed appropriate by the on-scene officer(s). | PD | Co. Atty's Office | PERF #7 | Yes | PD |
| UOF - 5 | PERF Recommended | 109 | Implement all PERF Use of Force report recommendations except #54, "termination of the use of PIT." FCPD should complete an analysis for approval by the Board of Supervisors on whether or not to maintain or restrict PIT use. Complete a publicly available and periodically updated action plan that assigns responsibility by name or position and target date for completion of all of the other recommendations. | PD | Co. Atty's Office | PERF #1 - 71 (except #54) | Yes | PD (BOS for PERF Recommendation #54) |
| UOF - 6 | Use of Force Policies | 110 | Establish a comprehensive and integrated policy on use of force to include training, investigations, prosecutions, data collection and information sharing. This policy must be clear, concise, and openly available for public inspection. | PD | Co. Atty's Office | PERF #13,14,16 | Yes | PD |
| UOF - 7 | Use of Force Policies | 110 | Consistent with the PERF Use of Force report, replace the current Department definition of use of force with a more comprehensive definition. Proposed new language: "Force means the following actions by a member of the department; any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. Force includes the use of firearms, Electronic Control Weapons (ECWs), checmical spray, bean bag shotgun, PepperBall gun and hard empty hands; the taking of a person to the ground; the use of vehicles; or the deployment of a canine; and excludes escorting or handcuffing a person who is exhibiting minimal or no resistance." | PD | Co. Atty's Office | PERF #12, 13, 30, 45, 46, 47 | Yes | PD |

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| UOF - 8a | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to Establish "sanctity of life" clearly and unambiguously as a philosophy and value system that remains paramount in the mind of every officer. | PD | Co. Atty's Office | PERF #4 | Yes | PD |
| UOF - 8b | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to maintain "objectively reasonable" as the standard to be followed by an officer when determining whether to use force and all references to "reasonable" must therefore be understood to mean "objectively reasonable." | PD | Co. Atty's Office | PERF#8 | Yes | PD |
| UOF - 8c | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to include as the definition of "reasonable: "...use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against his or her responsibility to protect public safety, as well as the suspect's civil liberties." | PD | Co. Atty's Office | PERF #8, 13 | Yes | PD |
| UOF - 8d | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to reword, II. POLICY as follows: "A police officer shall employ only such force in discharge of his or her duty as is objectively reasonable in all circumstances. The use of force is to be generally considered by an officer as a last resort after discussion, negotiation or persuasion have been found to be ineffective or inappropriate in light of the situation. While the use of force is occasionally unavoidable, every police officer will refrain from unwarranted infliction of pain or suffering and will never engage in cruel, degrading or inhumane physical or verbal treatment of any person." | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8e | Use of Force Policies | 111 | In revising the General Order, and while first and foremost meeting the criteria specified by the Supreme Court, consider the Customs and Border Patrol's definition with regard to "Objectively Reasonable and the Totality of Circumstances," which is as follows:<br>i. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation.<br>ii. In determining whether a use of force is "objectively reasonable" an officer must give careful attention to the totality of facts and circumstances of each particular case, including:<br>1. Whether the suspect poses an imminent threat to the safety of the officer/agent or others;<br>2. The severity of the crime at issue;<br>3. Whether the suspect is actively resisting seizure or attempting to evade arrest by flight;<br>4. Whether the circumstances are tense, uncertain and rapidly evolving; and<br>5. The foreseeable risk of injury to involved suspects and others.<br>iii. Totality of circumstances refers to all factors existing in each individual case. In addition to those listed in subsection e.ii., these factors may include (but are not limited to) the:<br>1. training, mental attitude, age, size and strength of the officer;<br>2. training, mental attitude, age, size and perceived strength of the suspect;<br>3. weapon(s) involved;<br>4. presence of other officers, suspects or bystanders; and<br>5. environmental conditions. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8f | Use of Force Policies | 111 | Institute the following use of firearms requirements, by establishing or clarifying that:<br>i. the act of a police officer placing his or her weapon "in a ready gun position" at a suspect will be a reportable action [NOTE: Un-holstering his or her weapon, pointing downward toward the ground next to an officer's leg, with finger on frame of weapon, is not to be a reportable action in the context of this policy as officers may do so when they reasonably believe or know suspects are nearby, i.e., entering a dark building, alley, other location of concern.];<br>ii. the "ready gun" position is defined as pointing the weapon, with finger on the frame of the weapon, so the officer can see the suspect's hands and waist.;<br>iii. the officer must announce "Police!" after and not before attaining the "ready gun" position and if feasible followed by simple, specific and clear direction to the suspect;<br>iv. the "ready gun" position will be utilized in the specific circumstance where it is necessary to establish control and gain compliance through the pointing of a firearm;<br>v. the pointing of the firearm will be considered non-deadly use of force in this circumstance if the weapon is not aimed at center of mass, which is normally the chest; and<br>vi. an officer's finger should be moved from the frame to the trigger of a weapon only if the use of deadly force is authorized under the objectively reasonable standard, which would exclude pointing a weapon at center of mass simply for control and compliance under the "ready gun" position addressed in iv. above. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8g | Use of Force Policies | 112 | Requirements for assuring medical assistance should be instituted consistent with the following:<br>i. State in Section II that "[i]n all situations, medical assistance shall be provided promptly to any person who is obviously injured, alleges an injury, or requests medical assistance."<br>ii. Incorporate a separate implementation section, including a requirement that an operational and implementation plan be created and incorporated in the General Order.<br>iii. Assure that any such plan includes ECW (Taser) non-lethal incidents and specifies the officer's medical action requirements in the event that an ECW deployment is taken against a suspect. | PD | Co. Atty's Office | | Yes | PD |

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| UOF - 8h | Use of Force Policies | 112 | A requirement should be established with regard to the state of the officer at the time of an officer involved death or serious injury per the following: Drug and steroid testing will be conducted on police officers involved in incidents that result in death or serious injury as soon as possible after the incident but not longer than an amount of time as determined by medical experts to detect whether drugs or steroids were present in the officers at the time of the incident. | PD | DHR, Co. Atty's Office | | Yes | BOS |
| UOF - 9 | Use of Force Policies | 112 | Benchmark FCPD Use of Force policies and practices with those of five urban jurisdictions that are comparable in their economic base, population density, and population demographics to Fairfax County. | PD | | | | PD |
| UOF - 10 | Use of Force Policies | 112 | Restrict vehicle pursuit to only those situations where there is a reasonable suspicion that a violent felony has been committed and that there is a potential for imminent risk to public safety and/or injury to individuals if pursuit is not initiated. | PD | DPSC | PERF #52, 53, 54, 55 | Yes | PD |
| UOF - 11 | Use of Force Reporting | 113 | Engage in robust public reporting on the demographics of the suspects in all use of force incidents and in-custody deaths, including for each incident: race, gender, age; any indicators of homelessness and of mental illness and CIT response; any previous involvement with FCPD; the type of weapon, if any, in the suspect's possession; police use of force; and resulting death/injury. | PD | PD, Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 12 | Use of Force Reporting | 113 | Collect and publicly report online all uses of force that result in death or serious injury; specifically for purposes of determining (a) whether the actions taken or not taken conformed to FCPD policies and procedures; (b) prior instances of use of force by the officer(s) involved and determination of appropriateness; and (c) opportunities for officer, supervisor, and commander training. (Note: Release of use of force data does not necessarily have to include names of officers or victims until cases are concluded.) | PD | Co. Atty's Office, CWA | PERF # 65, 70 | Yes | PD |
| UOF - 13 | Use of Force Reporting | 114 | Annually report to the U.S. Department of Justice through the FBI's Uniform Crime Reporting System, all use of force and in-custody deaths, and disseminate such data to the public. | PD | OPA | PERF # 65, 70 | | PD |
| UOF - 14a | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include a narrative of the incidents and aftermath, updated in real time, including all UOF events that result in death or serious injury, not just shootings. | PD | OPA | PERF # 65, 70 | Yes | PD |
| UOF -14b | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include the details available in all press releases, updates and other public information should be integrated into the summaries, including names suspects and officers and links to press releases and their updates provided. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14c | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include demographic information: race, age, gender, whether the call included concerns about a mental health crisis, whether the suspect was homeless. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14d | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include information on what special teams were involved, if any. | PD | | PERF # 65, 70 | Yes | PD |
| UOF - 14e | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include appropriate information about whether/what discipline was administered in cases with policy violations. | PD | Co. Atty's Office, DHR | PERF # 65, 70 | Yes | BOS |
| UOF - 14f | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include any changes of policy or training that result from review and lessons learned from the use of force incidents. | PD | Co. Atty's Office | PERF #65, 70 | Yes | PD |
| UOF - 15a | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the enactment of laws, policies, and procedures that protect individual privacy. | PD | Co. Atty's Office, DIT, CWA, Govt. Relations | | Yes | BOS |
| UOF - 15b | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the provision that police officers are consulted, with feedback provided as to how their concerns and recommendations were considered. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |

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| UOF - 15c | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the implementation of a training program not only for police officers, but the wide-ranging personnel who will oversee, process and manage the digital data, as well as for prosecutors who will use the data for criminal prosecutions. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |
| UOF - 16 | Tasers / ECW | 117 | Reclassify Electronic Control Weapons as "less-lethal weapons" rather than "non-deadly weapons" per the recommendation by the 2011 Electronic Control Weapons Guidelines and the PERF Report. | PD | Co. Atty's Office | PERF #30 | Yes | PD |
| UOF - 17 | Tasers / ECW | 117 | Mandate that all uniformed officers in enforcement units carry an ECW on their duty belt (or elsewhere on their person if necessary) when on patrol. The recommendation is contingent on police officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | PERF #32 | | BOS |
| UOF - 18 | Tasers / ECW | 118 | Mandate that all detectives and plainclothes officers, regardless of rank, carry an ECW in their vehicles when on duty; contingent on officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | | | BOS |
| UOF - 19 | Tasers / ECW | 118 | General Order 540.1, USE OF FORCE - replace all use of the term "excited delirium" with a more medically and physiologically descriptive term. | PD | Co. Atty's Office, CWA | PERF #18 | Yes | PD |
| UOF - 20 | Tasers / ECW | 118 | Prohibit use of an ECW on a handcuffed, or otherwise restrained individual, who is actively resisting, unless an objectively reasonable officer concludes that the resistance could result in serious injury to him or herself or others and less severe force alternatives have been ineffective or are deemed unacceptable for the situation. | PD | Co. Atty's Office | PERF #27 | Yes | PD |
| UOF - 21 | Tasers / ECW | 118 | Prohibit use of an ECW on a frail or elderly person, child or a pregnant woman unless deadly force would otherwise be justified, since they face an elevated risk. | PD | Co. Atty's Office | PERF #28 | Yes | PD |
| UOF - 22 | Tasers / ECW | 118 | Absent exigent circumstances, require supervisory approval for ECW use on a suspect in excess of three cycles. | PD | Co. Atty's Office | | Yes | PD |
| UOF -23 | Tasers / ECW | 118 | Treat each ECW cycle as an independent application of the device, thus requiring its own justification, since multiple or prolonged ECW shocks may increase the risk of adverse effects on the heart or respiratory system. | PD | Co. Atty's Office | PERF #33 | Yes | PD |
| UOF - 24 | SWAT | 119 | Employ SWAT and the use of other advanced tactics only in situations where there is a high risk of violence, resistance, or harm to the officers involved, the public or the suspect as defined by set of "high risk" factors that are captured in the recent modifications to the Risk Assessment Matrix. | PD | Co. Atty's Office | PERF #62, 63, 64 | | PD |
| UOF - 25 | SWAT | 119 | Consolidate FCPD policies and protocols, including threat assessment, supervisory approval, training and post-use review and lessons learned, for the use and documentation of SWAT and other advanced tactics. | PD | | PERF #66 | Yes | PD |
| UOF - 26 | SWAT | 119 | Require that all police divisions, most notably the Narcotics Division, employ the same risk assessment procedures as SWAT for planning any high-risk operation. | PD | | | | PD |
| UOF - 27 | SWAT | 119 | Ensure broad community understanding of FCPD SWAT capabilities and how and when SWAT can be deployed. | PD | | PERF #60 | | PD |
| UOF - 28 | SWAT | 119 | Ensure that SWAT SOPs and the recently updated threat assessment process are clear in their requirement for approval by a single designated command officer who will bear overall responsibility for each use of SWAT. | PD | | PERF #60, 62, 63, 64, 65, 66 | | PD |
| UOF - 29a | SWAT | 119 | Establish policies and practices that ensure SWAT is deployed proportional to the unique needs of each individual incident. | PD | | PERF #60 | | PD |

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| UOF - 29b | SWAT | 119 | Include a trained crisis negotiator with every SWAT deployment. | PD | | | | PD |
| UOF - 29c | SWAT | 119 | Require SWAT officers to wear body cams during every deployment. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 29d | SWAT | 119 | Require that every SWAT deployment results in a post-deployment report that documents the following, in a manner that allows for the data to be readily compiled and analyzed for lessons learned:<br>i. the purpose of the deployment;<br>ii. the specific reason for believing that the situation for which the SWAT team was being deployed presented an imminent threat to the lives or safety of civilians and/or police personnel;<br>iii. whether forcible entry or a breach was conducted and, if so, the equipment used and for what purpose;<br>iv. whether a distraction device was used and, if so, what type and for what purpose;<br>v. whether an armored personnel carrier was used and, if so, for what purpose;<br>vi. the race, sex, ethnicity and age of each individual encountered during the deployment, whether as a suspect or bystander;<br>vii. whether any civilians, officers, or domestic animals sustained any injury or death;<br>viii. a list of any controlled substances, weapons, contraband, or evidence of crime that is found on the premises or any individuals; and<br>ix. a brief narrative statement describing any unusual circumstances or important data elements not captured in the list above. | PD | | PERF #66 | | PD |
| UOF - 30 | Mobile Crisis | 120 | Establish as a budget priority the 24-hour staffing of three additional Mobile Crisis Units, by directing the immediate funding of a second Mobile Crisis Unit, in support of the Mental Health Subcommittee recommendation 15; and over the appropriate budget cycles, but no later than January 1, 2017, fund of two additional Mobile Crisis Units, for a total of four units, one for each human services district. | CSB | PD, DMB | | | BOS |
| UOF - 31 | Oversight | 122 | Implement independent investigative oversight and civilian review of Use of Force incidents. Consistent with the findings of the White House Task Force and the recommendations of NACOLE, independent oversight and civilian review will provide public accountability, trust and confidence, education of both the public and the police, and a positive, ongoing feedback loop that would result in the reduction of both UOF incidents and complaints. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| UOF - 32 | Oversight | 122 | Establish a police legal advisor position within FCPD who would not only advise the department on legal issues but also ensure implementation of recommendations and timely implementation of policy changes. | PD | Co. Atty's Office, DMB | | Yes | BOS |
| UOF - 33 | Oversight | 122 | Collect data, and publish an annual statistical report, covering all stops, frisks, citations, arrests, and use-of force by district station and magisterial district - include the race, gender, and ethnicity of the individual involved and note whether the suspect is homeless and/or if a mental health crisis is a factor. The data should also include the race, gender and ethnicity of the FCPD officer involved and whether the interaction was initiated by FCPD or by the suspect. Document the outcome of each incident and regularly report the collected data to the BOS and the public and post the data online. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| UOF - 34 | Oversight | 122 | Reconstitute the FCPD Use of Force Committee to review selective use of force events, to include the decision to employ UOF, use of de-escalation and alternatives, compliance with law and regulations, as well as administrative, training, supervisory and tactical issues. | PD | Co. Atty's Office | | | PD |
| UOF - 34a | Oversight | 122 | The Use of Force Committee should receive and consider after action reports (AARs) on each selected use of force event, identify lessons learned, and make recommendations as to any needed changes in policy or practice. The Committee should meet on a regular basis (no less than semi-annually) with the Independent Auditor and the Civilian Review Panel to identify and address issues of concern arising out of use of force incidents and FCPD policies and practices. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34b | Oversight | 122 | At least two members of the public should be appointed to the Use of Force Committee to ensure that the police and public can mutually benefit from their respective views about a use of force situation and contribute to any lessons that might be learned in the process. The policies and procedures guiding the appointment and role of the civilian appointees should be developed with public review and input and should protect against real or perceived conflicts of interest and assure that they are bound by the level of confidentiality that will protect candid and honest assessments, which is at the core of an effective continuous improvement process, as well as related criminal investigations. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34c | Oversight | 123 | Experts and representatives from other law enforcement agencies should be invited to attend Use of Force Committee meetings to provide critical external perspective, insight and expertise on a permanent or ad hoc basis. | PD | | | | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| NUMBER *(original or assigned)* | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| UOF - 35 | Oversight | 123 | The Board of Supervisors should review the Police Chief's determination in all lethal UOF cases and go on record with approval or disapproval of the action. | Co. Atty's Office | PD | | Yes | BOS |
| UOF - 36a | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the distinction in the use of "ready gun" and muzzle pointing in the conduct of a building search and room clearing. | PD | | PERF #58 | | PD |
| UOF - 36b | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to skill development in the use of de-escalation, tactical retreat and verbal interaction as alternatives to use of force. | PD | | PERF #41, 57, 58 | | PD |
| UOF - 36c | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the expected and effective use of Crisis Intervention Training. | PD | | PERF #67 | | PD |
| UOF - 36d | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to tactical and operational training on lethal and nonlethal use of force, with emphasis on de-escalation and tactical retreat skills. | PD | | PERF #56, 57, 58 | | PD |
| UOF - 37 | Workforce Practices | 124 | Establish a "hire-to-retire" focus on officer fitness to serve, particularly in relation to any propensity for being overly aggressive in the conduct of duty. This focus should be a key component in: vetting and selection; ensuring that the Early Identification System is monitoring officer-involved shootings, excessive use of force incidents, and complaints of abuse of power; monitoring each officer's known and understood risk factors to ensure that they maintain the right personality and temperament for policing; reinforcing the "duty-to-intervene"; providing services to assist officers who may need attention or treatment. | PD | Co. Atty's Office, DHR | PERF #1 | Yes | PD |
| UOF - 38 | Workforce Practices | 125 | Conduct a study of the relationship of the supervisor to the patrol officers, including the current ratio as a potential factor in strengthening the leadership direction provided to patrol officers in non-routine situations, particularly as it relates to the potential for use of force. | PD | DHR, DMB | | | BOS |
| UOF - 39 | Workforce Practices | 125 | Conduct a workforce climate survey and publish summary results on a biennial basis to monitor FCPD's operating culture, including officer attitudes about their work, leadership and equipment; or any perceived barriers to their ability to perform their duties consistent with FCPD's values, philosophy and policies. Use the detailed survey results broken down by organizational unit as a basis for dialogue between and among police officers, supervisors and the command structure. | PD | DHR | | | PD |
| UOF - 40 | UOF Sub-Committee | 126 | The charter for the UOF subcommittee should be extended beyond the completion of the Ad Hoc Commission's report and presentation to the Board of Supervisors to meet its charge to "...review the roles of and relationships between the FCPD, the Office of the County Attorney, and the Office of the Commonwealth's Attorney in connection with use of force and critical incident responses; follow up on open issues, such as the internal FCPD UOF Committee charter; and support implementation of any of the UOF recommendations for which UOF Subcommittee participation would be beneficial. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| ***INDEPENDENT OVERSIGHT AND INVESTIGATIONS COMMITTEE*** | | | | | | | | |
| IOV&I - 1 | Investigations | 180 | Criminal investigations of FCPD officers involved in incidents in which an individual is killed or seriously injured as defined in General Order 540.1 ("Death or Serious Injury Cases") should continue to be conducted by the FCPD Major Crimes Division. Exceptions could occur when the Chief of Police, in consultation with the Commonwealth's Attorney, determines that the criminal investigation should be conducted by investigators from another Northern Virginia jurisdiction police department or by the Virginia State Police. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2 | Investigations | 180 | Funds should be appropriated to the Commonwealth's Attorney's Office to allow for the fulltime employment of two independent criminal investigators who will report to and be used at the discretion of the Commonwealth's Attorney in connection with criminal investigations within the scope of the Independent Police Auditor. | CWA | Dep. Co. Exec. for Public Safety, DMB | | | BOS |
| IOV&I - 2a | Investigations | 181 | Such investigators shall participate in MCD criminal investigations of cases as the Commonwealth's Attorney may direct and may be used in connection with other criminal investigations, time permitting. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2b | Investigations | 181 | The Independent Police Auditor shall monitor MCD criminal investigations of cases and other criminal investigations within the scope of the responsibilities of the Independent Police Auditor. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 3 | Investigations | 181 | FCPD Internal Affairs investigations should be conducted concurrently with the criminal investigation to the extent practicable, provided that the Constitutional and statutory rights of any potential subject of the criminal investigation are fully protected. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

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|---|---|---|---|---|---|---|---|---|
| IOV&I - 4 | Investigations | 181 | The right of FCPD officers under the Virginia Law Enforcement Officers Procedural Guarantee Act to be "questioned at a reasonable time and place" shall continue to be preserved, but the questioning should commence as soon as reasonable, under all of the relevant facts and circumstances, as determined by the Commonwealth's Attorney in consultation with the Chief of Police. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 5 | Investigations | 181 | All FCPD officers shall be required to abstain from speaking to other officers involved or having witnessed any conduct subject to a MCD or IAB investigation within the scope of the responsibilities of the Independent Police Auditor, or to any third parties involved in or witnessing such conduct until advised by MCD or IAB that they may do so. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | PD |
| IOV&I - 6 | Prosecution | 181 | The prosecution, including the decision whether to charge an FCPD officer with a crime arising out of a death or serious injury case, or other case within the scope of the responsibilities of the Independent Police Auditor, should continue to be handled by the Commonwealth's Attorney for Fairfax County unless the Commonwealth's Attorney determines that the prosecution, including the decision to charge, should be handled by another Virginia Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, PD, Co. Atty's Office | | Yes | CWA |
| IOV&I - 7 | Prosecution | 181 | The Commonwealth's Attorney should be requested to issue timely and comprehensive public reports in any case involving death or serious injury when no criminal charges are filed. The reports should describe the investigation conducted by the FCPD, any additional investigation or consultation undertaken by the Commonwealth's Attorney, and the basis for the conclusions reached by the Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, Co. Atty's Office, PD, OPA | | Yes | CWA |
| IOV&I - 8 | Independent Auditor | 183 | The Fairfax County Board of Supervisors shall establish the Office of Independent Police Auditor ("Auditor"). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8a | Independent Auditor | 183 | The Auditor shall be appointed by and report directly to the Board of Supervisors. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8b | Independent Auditor | 183 | The Auditor shall have experience in public safety, public program auditing, the investigation of police operations and use of force incidents. In order to ensure the Independent Auditor is perceived as truly independent, the Auditor shall have never been employed by Fairfax County. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8c | Independent Auditor | 183 | The Auditor shall review (i) all investigations of death or serious injury cases conducted by the IAB; and (ii) all use of force investigations by IAB which are the subject of a public complaint made to the FCPD or the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA | | Yes | BOS |
| IOV&I - 8d | Independent Auditor | 183 | The Auditor shall have full access to the MCD criminal investigation file as well as full access to the IAB file, including any administrative action taken, for each investigation reviewed. The Auditor shall be entitled to receive copies of any portion(s) of such files. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA, | | Yes | BOS |
| IOV&I - 8e | Independent Auditor | 183 | The Auditor shall determine with respect to each such MCD and IAB investigation its thoroughness, completeness, accuracy, objectivity and impartiality. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8f | Independent Auditor | 183 | The Auditor shall be appointed by the Board of Supervisors for a term not less than 2 years and not more than 5 years, with a goal of maintaining continuity and independence, subject to dismissal only for good cause. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9 | Independent Auditor | 183 | The Auditor shall participate in and monitor IAB investigations within its scope of responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9a | Independent Auditor | 184 | The County Executive or his/her designee shall require, subject to discipline up to and including termination, the attendance and testimony of any Fairfax County employee, including all Fairfax County law enforcement officers, whose appearance at the interview is requested by the Auditor, and shall also require the production of any documents or other materials in the possession of the FCPD or other County offices and departments. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, DHR | | Yes | BOS |
| IOV&I - 10 | Independent Auditor | 184 | If the Auditor determines that an IAB investigation was deficient or that IAB's conclusions as to the relevant facts were incorrect or unsupported by the evidence, the Auditor may request further investigation by IAB or the Auditor may conduct such further investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 11 | Independent Auditor | 184 | Absent good cause, the Auditor shall issue a public report with respect to each reviewed investigation within sixty (60) days of the Auditor's access to the complete IAB file. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 12 | Independent Auditor | 184 | The FCPD shall provide a public report quarterly to the Auditor on the disposition of all citizen complaints made against the FCPD. The Auditor shall be provided such additional information as the Auditor may deem necessary to enable him/her to determine that the FCPD is properly responding to and investigating complaints in a timely manner. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET

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|---|---|---|---|---|---|---|---|---|
| IOV&I - 13 | Independent Auditor | 184 | An individual may file a complaint concerning alleged misconduct by a Fairfax County law enforcement officer involving a death or serious injury case, the use of force, or the death of an individual with the FCPD for investigation or the citizen may instead file the complaint with the Auditor, who shall immediately forward the complaint to the FCPD for investigation, which will report on the disposition of the complaint within 30 days.. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 14 | Independent Auditor | 184 | If the Auditor disagrees with the results or conclusions of an IAB investigation in a death or serious injury case, the Auditor shall advise the Chief of Police who shall resolve the disagreement and make the final decision. The Chairman of the Board of Supervisors shall be informed of the Auditor's disagreement and the ultimate resolution. The Chief's decision shall be made in a public statement that sets forth the basis for the Chief's resolution of the disagreement. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 15 | Independent Auditor | 184 | The Auditor shall make public recommendations to the Chief of Police, with copies to the Chairman of the Board of Supervisors, concerning the revision of FCPD policies, training, and practices based on the Auditor's reviews. The Auditor shall also issue a public report annually concerning the thoroughness, completeness, accuracy, objectivity and impartiality of the IAB investigations reviewed by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 16 | Independent Auditor | 184 | The Auditor shall have an adequate budget and a trained staff to meet his/her responsibilities. The Auditor's office shall be separate and apart (physically and administratively) from those of the FCPD and the Commonwealth's Attorney. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 17 | Independent Auditor | 184 | Any findings, recommendations and actions taken by the Auditor shall reflect the Auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the Auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18 | Civilian Review | 186 | Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18a | Civilian Review | 186 | Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18b | Civilian Review | 186 | The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18c | Civilian Review | 186 | Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or criminal investigative experience, reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18d | Civilian Review | 186 | The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19 | Civilian Review | 186 | An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19a | Civilian Review | 186 | "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19b | Civilian Review | 186 | The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19c | Civilian Review | 186 | Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20 | Civilian Review | 186 | Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20a | Civilian Review | 186 | The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| IOV&I - 20b | Civilian Review | 186 | Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 21 | Civilian Review | 187 | The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review. If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 22 | Civilian Review | 187 | The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 23 | Civilian Review | 187 | The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 24 | Follow-Up | 187 | Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel. | Dep. Co. Exec. for Public Safety | PD | | Yes | BOS |
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Board Agenda Item
June 21, 2016

10:40 a.m.

Matters Presented by Board Members

Board Agenda Item
June 21, 2016

11:30 a.m.

CLOSED SESSION:

(a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).

(b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).

(c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).

1. *Lenir Richardson v. Officer O.J. Faulk, Officer D.N. Custer, Officer Rizza, Commonwealth of Attorney [sic], Sergeant Mario Torres*, Case No. 16-1125 (U.S. Ct. of App. for the Fourth Cir.)

2. *Gary S. Pisner v. Fairfax County Board of Zoning Appeals*, Record No. 151793 (Va. Sup. Ct.) (Springfield District)

3. *Anthony D. Craft v. County of Fairfax, Virginia*, Case No. 1:16cv86 (E.D. Va.)

4. *Patricia Tomasello v. Michael Reilly, Peter Pullins, Tim Young, Edward Brinkley, Glen Jackson, Michael Louis, Daniel Kwiatkowski, Sheryl Hemmingway, James Sobota, John Diamantes, Manuel Anthony Barrero, Guy Morgan, Phyllis Schwartz, Terry Hall, John Caussin, Richard Bowers, Brian Edmonston*, Case No. CL-2016-0007306 (Fx. Co. Cir. Ct.)

5. U.S. Department of Justice Investigation of Sexual Harassment Charge of Jimmy Son La (Department of Vehicle Services)

6. *Leslie B. Johnson, Fairfax County Zoning Administrator v. John N. Withrow*, Case No. CL-2008-0010681 (Fx. Co. Cir. Ct.) (Mount Vernon District)

7. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Yang Fang Li and Hong Chen*, Case No. CL-2016-0007403 (Fx. Co. Cir. Ct.) (Lee District)

8. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia and Leslie B. Johnson, Fairfax County Zoning Administrator v. Shepherd Scott and Marquetta J. Scott*, Case No. CL 2016-0007733 (Fx. Co. Cir. Ct.) (Braddock District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Uttam S. Das and Utpala Das*, Case No. CL 2016-0007784 (Fx. Co. Cir. Ct.) (Springfield District)

10. *State Farm Mutual Automobile Insurance Company as subrogee of Elizabeth Scott v. Alberto Hernan Reyes Perez and Gary Moore, Jr.*, Case No. GV16-007894 (Fx. Co. Gen. Dist. Ct.)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sean P. Malone and Susan M. Malone*, Case No. GV15-036370 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. James E. Lucas and Mary A. Lucas*, Case Nos. GV16-007970 and GV16-007971 (Fx. Co. Gen. Dis. Ct.) (Dranesville District)

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Board Agenda Item
June 21, 2016

3:30 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic

ISSUE:
Public Hearing on amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Section 82-1-6, Adoption of State Law, Section 82-6-38.1, Use of a Protective Helmet While Operating a Bicycle, and the repeal of Section 82-9-6, Playing on streets or highways, etc.

RECOMMENDATION:
The County Executive recommends approval the proposed amendments to Chapter 82.

TIMING:
On May 17, 2016, the Board authorized advertisement of a public hearing to consider this matter on June 21, 2016, at 3:30 p.m.

BACKGROUND:
As a housekeeping measure to update Chapter 82, portions of Section 82-1-6 (Adoption of State Law) have been amended to reflect changes made to the *Code of Virginia* by the 2016 General Assembly. Additionally, Section 82-6-38.1 has been amended to reflect the change in promulgating organization of the required minimum safety standard. Finally, Section 82-9-6, playing on streets or highways, etc., is being repealed because it was previously incorporated by reference into Section 82-1-6. A summary of the changes as a result of the 2016 General Assembly amendments affecting Chapter 82 is provided in Attachment 4.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic
Attachment 2 – Proposed Amendment to Section 82-6-38.1, Use of a protective helmet while operating a bicycle.
Attachment 3- Repeal of Section 82-9-6, Playing on streets or highways, etc.
Attachment 4 - Summary of 2016 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic.

Board Agenda Item
June 21, 2016

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

**ATTACHMENT 1**

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

**Article 1. – In General.**

**Section 82-1-6. Adoption of State Law**

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2015~~ 2016, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2015~~ 2016~~, except where noted~~.

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|---|---|---|
| 18.2-266 | 18.2-268.12 | 46.2-111 |
| 18.2-266.1 | 18.2-269 | 46.2-112 |
| 18.2-267 | 18.2-270 | 46.2-203.1 |
| 18.2-268.1 | 18.2-270.01 | 46.2-218 |
| 18.2-268.2 | 18.2-270.1 | 46.2-300 |
| 18.2-268.3 | 18.2-271 | 46.2-301 |
| 18.2-268.4 | 18.2-271.1 | 46.2-301.1 |
| 18.2-268.5 | 18.2-272 | 46.2-302 |
| 18.2-268.6 | 46.2-100 | 46.2-329 |
| 18.2-268.7 | 46.2-102 | 46.2-334.001 |
| 18.2-268.8 | 46.2-104 | 46.2-341.20:5 |
| 18.2-268.9 | 46.2-108 | 46.2-341.21 |
| 18.2-268.10 | 46.2-109 | 46.2-346 |
| 18.2-268.11 | 46.2-110 | 46.2-349 |

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46.2-1561
46.2-2812
46.2-2910

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the County. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18-2.272 of the *Code of Virginia* which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

**ATTACHMENT 2**

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

**Article 6. – Equipment.**

**Section 82-6-38.1. Use of a protective helmet while operating a bicycle.**

Any person under the age of fifteen years of age shall wear a protective helmet that at least meets the Consumer Product Safety Commission Standard ~~standards promulgated by the American National Standards Institute or the Snell Memorial Foundation~~ while riding or being carried on a bicycle on any highway, sidewalk, or public bicycle path. The term "highway" has the meaning set forth in *Code of Virginia,* Section 46.2-100. Any person who violates this section shall be punishable by a fine of twenty-five dollars. However, such a fine shall be suspended for first-time violators and for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section.

A violation of this section shall not constitute negligence, assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of operation of any bicycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action.

**ATTACHMENT 3**

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

## Article 9. – Protection of Pedestrians.

~~Section 82-9-6. - Playing on streets or highways; roller skates, toys or devices on wheels or runners; use of motor powered vehicles on sidewalks and other posted property; persons riding bicycles, etc.~~[165]

~~(a) It shall be unlawful for any person to play in or on a street or highway, other than upon the sidewalks thereof.~~

~~(b) It shall be unlawful for any person to use on a street or highway roller skates, toys or other devices on wheels or runners, except that any bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped may be operated on a street or highway in accordance with Virginia Code Section 46.2-905.~~

~~(c) It shall further be unlawful for any person to ride (1) a bicycle or other similar such wheeled, rider-propelled device, (2) an electric personal assistive mobility device, or (3) an electric power-assisted bicycle on sidewalks where such activity has been prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where the riding of such devices is prohibited; provided, that this Section shall not be deemed to prohibit the ordinary use of devices for the assistance of the physically handicapped or bicycles and similar rider-propelled devices used by police officers in furtherance of their duties.~~

~~(d) For purposes of this Section, the term "sidewalk" shall be deemed to include any privately owned system of defined pedestrian ways, when the owner thereof shall have requested in writing that the governing body treat such private pedestrian ways as sidewalks for purposes of this Section, and such owner posts notice of that fact at typical points of access from the public right-of-way to such privately owned systems of pedestrian ways. Such owner may request such treatment with respect to some or all of the devices prohibited by this Section, and notices required hereby shall describe the devices prohibited on such privately owned system of walkways.~~

~~(e) Nothing in this Section shall be construed to prohibit the designation of play areas for sledding and other activities under the provisions of Section 82-5-5. (3-13-63; 5-26-71; 1-10-71; 1961 Code, § 16-226; 16-73-16; 17-74-16; 28-74-16; 37-76-82; 9-78-82; 34-78-82; 35-89-82; 35-02-82.)~~

165. ~~For state law as to playing on highways and as to skating, etc., see Va. Code Ann., § 46.2-932.~~ For similar state law, see Va. Code Ann. § 46.2-932, adopted in § 82-1-6.

**ATTACHMENT 4**

SUMMARY OF 2016 GENERAL ASSEMBLY
AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 18.2 and Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Be it enacted by the General Assembly of Virginia:

*An Act to amend and reenact* 46.2-100 of the Code of Virginia, Gas-powered low-speed vehicles. Includes in the definition of "low-speed vehicle" gas-powered vehicles that have a maximum speed of more than 20 miles per hour but not more than 25 miles per hour and are manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500. The current definition of "low-speed vehicle" only includes electrically powered vehicles that meet these criteria.

*An Act to amend and reenact 46.2-818.1.* of the Code of Virginia, Opening and closing motor vehicle doors. Requires drivers to wait for a reasonable opportunity to open vehicle doors on the side adjacent to moving traffic. A violation constitutes a traffic infraction punishable by a fine of not more than $50.

*An Act to amend and reenact* 46.2-844 of the Code of Virginia, Passing stopped school buses; mailing of summons; rebutting presumption. Provides that a locality that has authorized by ordinance the installation and operation of a video-monitoring system on school buses for recording violations of unlawfully passing a stopped school bus may execute a summons for such violation by mailing a copy of the summons to the owner of a vehicle that unlawfully passed a stopped school bus. The bill also provides a means by which the existing presumption that the registered owner of the vehicle was the vehicle operator at the time of the violation can be rebutted and requires that this information be included with the mailing of the summons. The bill gives the summoned person 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

*An Act to amend and reenact* 46.2-1025 of the Code of Virginia, Amber lights on public transit buses. Allows publicly owned or operated transit buses to use flashing amber lights.

*An Act to amend and reenact* 46.2-1030 of the Code of Virginia is amended and reenacted as follows: General illumination lights; motorcycles. Increases from four to five the maximum number of lights allowed on a motorcycle and used for general illumination ahead of the motorcycle. Current law restricts all motor vehicles to no more than four lights, including headlights, fog lights, etc., to provide general illumination ahead of the vehicle.

*An Act to amend and reenact* 46.2-1077 of the Code of Virginia, Motor vehicles equipped with television and video. Provides that motor vehicles may be equipped with visual displays of moving images if the equipment is factory-installed and has an interlock device that disables the equipment when the motor vehicle operator is performing a "driving task," which is defined by the bill. Current law allows equipment with a visual display of a television broadcast or signal if the equipment's interlock disables when the motor vehicle is driven. The bill would allow the viewing of a visual display while the vehicle is being operated autonomously. The bill also provides that vehicles used by universities for vehicle technology research are not required to have government plates.

*An Act to amend and reenact* 46.2-1112 of the Code of Virginia, Length of vehicle combinations. Clarifies that the provision limiting vehicles coupled with another vehicle to a maximum combined length of 65 feet applies to motor homes and buses. The bill is declarative of existing law.

Board Agenda Item
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3:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Approval Process for Monopoles and Towers

ISSUE:
The proposed amendment has been requested by the Board of Supervisors (Board) and is in response to House Bill 883 which was adopted by the 2016 Virginia General Assembly with an effective date of July 1, 2016. This legislation provides that telecommunications towers and monopoles located in a zoning district that allows such facilities by right, shall be deemed to be substantially in accord with the County's Comprehensive Plan and Planning Commission approval under §15.2-2232 of the *Code of Virginia* (2232 Review) shall not be required. Currently monopoles and towers up to 199 feet in height are permitted by right in certain zoning districts when specific standards are met, and monopoles up to 199 feet in height are allowed by right in all zoning districts when located in major utility easements or on County owned and controlled properties when certain standards are met. Given that such facilities can have adverse impacts on surrounding properties, an amendment is proposed that would require all mobile and land based telecommunication monopoles and towers to be subject to special exception approval from the Board.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, June 15, 2016, the Planning Commission voted 11-0 (Commissioner Lawrence was absent from the meeting) to recommend the following actions by the Board of Supervisors:

- Approval of the Approval Process for Monopoles and Towers Zoning Ordinance Amendment, as advertised and contained in the Staff Report dated May 17, 2016, with an effective date of 12:01 A.M. on the day following adoption; and

- Direct staff to continue their work on the subject matter by engaging all appropriate stakeholders to streamline the approval process for the siting of monopoles and cell towers in commercial and industrial sections of the county.

RECOMMENDATION:
The County Executive concurs with the Planning Commission's recommendation.

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TIMING:
Board of Supervisors' authorization to advertise on May 17, 2016; Planning Commission public hearing on June 15, 2016 at 8:15 p.m., and Board public hearing on June 21, 2016 at 3:30 p.m.

BACKGROUND:
House Bill 883 pertains to the approval process for telecommunication towers and monopoles and stipulates that when these facilities are located in a zoning district where such facilities are permitted by right the telecommunications tower shall be deemed to be substantially in accord with the Comprehensive Plan and Planning Commission approval under §15.2-2232 of the *Code of Virginia* (2232 Review) shall not be required. The new state code provisions eliminate the current 2232 Review process for monopoles and towers that are permitted by right in the Zoning Ordinance. Given that monopoles and towers can have adverse impacts on adjacent properties, particularly at a height of 199 feet, and in response to House Bill 883, the proposed Zoning Ordinance amendment would require special exception approval by the Board prior to the installation of all monopoles and telecommunication towers in lieu of the current Zoning Ordinance provisions which allow monopoles and towers by right in certain zoning districts and monopoles by right in all zoning districts when located in major utility easements or on County owned and controlled properties, and when all applicable zoning regulations are met. If the proposed amendment is adopted, all monopoles and towers would continue to require 2232 Reviews and would be subject to the expedited timelines associated with such reviews.

The proposed Zoning Ordinance Amendment does the following:

1) Deletes Paragraphs 3 and 4 of Sect. 2-514, thereby requiring special exception approval from the Board of Supervisors prior to the installation of any mobile and land based telecommunications monopole or tower.

2) Adds a new telecommunications facility definition which states that such facilities process information through the use of telecommunication, including telegraph or telephone central offices and repeat stations. A telecommunication facility shall not include a mobile and land based telecommunication facility, a radio and television broadcasting tower facility, microwave facility or a satellite earth station.

3) Clarifies that mobile and land based telecommunication facilities include those facilities that are subject to Sect. 2-514 of the Zoning Ordinance and Va. Code Sect. 15.2-2232, including monopoles and telecommunications towers.

4) Revises the cross references in Par. 5 of Sect. 2-514 to reflect the renumbered paragraphs that have resulted from the deletion of Paragraphs 3 and 4.

In the future, it may be appropriate to consider allowing certain monopoles and tower by right in certain situations with a maximum height that is greatly reduced from 199 feet and/or with minimum setbacks from all property lines. Historically, staff has worked closely with both the telecommunication facility industry as well as citizens in developing the mobile and land based telecommunication zoning and Comprehensive Plan provisions, and it is anticipated that staff will work closely with the Planning Commission and interested stakeholders in the development of any future by right provisions for telecommunications monopoles and towers.
A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:
The proposed Zoning Ordinance would require special exception approval by the Board for all telecommunications monopoles and towers. Currently monopoles and towers up to 199 feet in height in certain locations are permitted by right, when certain standards are met. In addition, all telecommunications monopoles and towers would still be subject to the Planning Commission review under §15.2-2232 of the *Code of Virginia*. The 2232 Review and special exception processes would be conducted concurrently and the review timelines required by §15.2-2232, among others, must still be met.

FISCAL IMPACT:
The special exception requirement for the establishment of all monopoles and towers will cost the monopole and tower providers the special exception application filing fee, which currently is $16,375. There has been and will continue to be no application filing fee for the Planning Commission 2232 Review. Since 2012, there have been approximately two monopoles and towers each year that have received Planning Commission approval under §15.2-2232 of the *Code of Virginia* and had met the by right conditions under the Zoning Ordinance. Therefore, it would appear that there will be a minimal increase in the staff work load with the additional special exception application requirements for all monopoles and towers.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report available online at:
http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/monopoles.pdf
Attachment 2 – Planning Commission Verbatim Transcript

STAFF:
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Lorrie Kirst, Senior Deputy Zoning Administrator, DPZ

Board Agenda Item
June 21, 2016

3:30 p.m.

Public Hearing on PCA 84-L-020-25/ CDPA 84-L-020-06 (Kingstown M&N LP and Kingstowne Towne Center LP) to Amend the Proffers and Conceptual Development Plan for RZ 84-L-020 Previously Approved for Mixed-Use Development to Permit Residential Mixed-Use and Associated Modifications to Proffers and Site Design at a Density of 18.5 Dwelling Units Per Acre, Located on Approximately 5.46 Acres of Land Zoned PDC NR Comprehensive Plan Recommended Mixed-Use (Lee District)

This property is located South and East of Kingstowne Village Parkway North of Kingstowne Boulevard and West of South Van Dorn Street. Tax Map 91-2 ((1)) 36B and 36G (part).

This public hearing was deferred by the Board of Supervisors on June 7, 2016 to June 21, 2106 at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, April 20, 2016, the Planning Commission voted 11-0 (Commissioner Flanagan was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 84-L-020-25, subject to the execution of proffers consistent with those dated April 19, 2016;
- Approval of CDPA 84-L-020-06, subject to the approval of PCA 87-L-020-25;
- Approval of a modification to permit more than 50 percent of the gross floor area devoted to dwellings as a secondary use;
- Reaffirmation of a modification of the transitional screening requirements along the northern property boundary line to that shown on the CDPA/FDPA; and
- Reaffirmation of a waiver of the barrier requirements along the northern property line.

In a related action, the Planning Commission voted 11-0 (Commissioner Flanagan was absent from the meeting) to approve FDPA 84-L-020-02-14, subject to the concurrent approval PCA 87-L-020-25.

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ENCLOSED DOCUMENTS:
Planning Commission Verbatim Excerpt and Staff Report available online at:
http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ),
Casey Gresham, Planner, DPZ

Board Agenda Item
June 21, 2016

4:00 p.m.

Public Hearing on Proposed Amendments to The Code of the County of Fairfax, Virginia - Chapter 30 (Minimum Private School and Child Care Facility Standards), Article 3 (Home Child Care Facilities)

ISSUE:
Public hearing to consider amendments to The Code of the County of Fairfax, Virginia (Fairfax County Code) Chapter 30, Article 3. The amendments will reduce the total number of non-resident children in care at any one time to align with new state law requirements, clarify requirements regarding the disclosure of barrier crimes, and reduce the required temperature of refrigerators to align with refrigeration safety guidelines.

RECOMMENDATION:
The County Executive recommends adoption of the proposed amendments to Chapter 30, Article 3 of the Fairfax County Code.

TIMING:
On May 17, 2016, the Board of Supervisors authorized a public hearing to take place on June 21, 2016 to consider amendments to the Fairfax County Code, Chapter 30, Article 3. This ordinance would become effective July 1, 2016.

BACKGROUND:
Chapter 30, Article 3, of the Fairfax County Code regulates Home Child Care Facilities in which a person cares for five or fewer children. Section 30-3-5 of this Chapter sets forth the requirements of the number of children that are allowed in care by Fairfax County permitted family child care providers. Section 30-3-2 of this Chapter sets forth the requirements for the applicant of a proposed home child care facility and each adult resident in the facility. Section 30-3-6 sets forth requirements of the physical facilities, equipment and operations of the home child care facility.

Section 30-3-5(a) currently allows permitted family child care providers to care for a maximum of five non-resident children in their respective homes at any one time. The proposed amendment to Section 30-3-5(a) will reduce the maximum number of non-resident children in care at any one time to four. The amendment is required in order to comply with an amendment to Virginia Code Section 63.2-100. State law currently

requires family child care providers to obtain a state license if they care for six or more children, not including the provider's own children or resident children. The amendment to Virginia Code Section 63.2-100, which is effective on July 1, 2016, reduces that threshold number from six to five children. Fairfax County is only authorized to issue permits to family child care providers that are not licensed by the state and the threshold number reduction requires that Fairfax amend its ordinance to accurately reflect its permitting authority. The proposed amendment will be effective on July 1, 2016 to coincide with the effective date of the state amendments.

Section 30-3-2(a) currently requires the applicant and each adult resident in the proposed facility to disclose annually whether he or she has committed any barrier offense. The Office for Children is proposing to amend the ordinance to clarify that this disclosure is a sworn statement.

Section 30-3-6(g) currently requires that a refrigerator used for the storage of perishable foods is maintained at a constant temperature of 41 degrees Fahrenheit or less. The Office for Children is proposing to amend this requirement to reflect that a refrigerator used for perishable food be maintained at a constant temperature of 40 degrees Fahrenheit or less. The amendment will align refrigerator temperature requirements with those found in the Virginia Department of Social Services Standards for Licensed Family Day Care, 22 VAC 40-111-940. The amendment will also align the County requirements with the recommendations from the United States Department of Agriculture on refrigeration safety.

The Child Care Advisory Council has reviewed and endorsed the proposed amendments to the ordinance.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Proposed Amendments to The Code of the County of Fairfax, Virginia, Chapter 30, Article 3.

STAFF:
Patricia D. Harrison, Deputy County Executive
Nannette M. Bowler, Director, Department of Family Services
Anne-Marie D. Twohie, Director, Office for Children
Daniel Robinson, Assistant County Attorney

# AN ORDINANCE AMENDING ARTICLE 3 OF CHAPTER 30 OF THE FAIRFAX COUNTY CODE, RELATING TO HOME CHILD CARE FACILITIES

**Draft of April 12, 2016**

**AN ORDINANCE** to amend the Fairfax County Code by amending and readopting Sections 30-3-2, 30-3-5 and 30-3-6, all relating to home child care facilities.

**Be it ordained by the Board of Supervisors of Fairfax County:**

**1. That Sections 30-3-2, 30-3-5 and 30-3-6 are amended and readopted as follows:**

## Article 3. – Home Child Care Facilities.

### Section 30-3-2. - Annual permit application, issuance or denial.

(a) A person proposing to operate a home child care facility shall submit an application on a form prepared by the Director of the Office for Children, which shall include:

(i) The name and address of the home child care facility;

(ii) The name of the applicant;

(iii) A statement of whether the applicant currently holds or previously held a home child care facility permit in the County;

(iv) The names of all persons who reside in the home;

(v) ~~Disclosures~~ A sworn statement from the applicant and each adult who resides in the proposed facility stating whether he or she has committed any barrier offense, consent forms signed by the applicant and each adult who resides in the proposed facility allowing the Director of the Office for Children to request a search of the Central Criminal Records Exchange for files on each such person, and payment of an investigation fee in an amount equal to the fee established by the Virginia State Police for conducting a records search multiplied by the number of persons making disclosures and providing consent forms. When the Central Criminal Records Exchange records indicate that any such person has a criminal record in another state, or when the Director otherwise deems appropriate, the Director may also require that the applicant or such adult who resides in the proposed facility consent to and pay for a national criminal background check;

(vi) Statements from the applicant and each adult who resides in the proposed facility, and statements from a parent, guardian or legal custodian on behalf of all minors age 14 and older who reside in the proposed facility, consenting to the release of information to the Director of the Office for Children from child protective services investigating agencies reflecting whether any such individual has been the subject of a founded complaint of abuse or neglect; the term "child protective services" shall have the meaning defined by Virginia law;

(vii) Copies of the applicant's current certifications in first aid and cardiopulmonary resuscitation (CPR);

(viii) Proof of the applicant's compliance with the training requirements established in Section 30-3-4(b), which shall consist of records provided by the trainer or, if none are provided by the trainer, records maintained by the applicant;

(ix) A description of the structure in which the home child care facility is proposed to be operated, including a description of all places and areas to which the children shall have access;

(x) The proposed hours of operation;

(xi) A statement of whether the applicant is 18 or more years old;

(xii) A certificate from a physician, physician's designee, or Health Department official stating that acceptable screening methods (tuberculin skin test and/or tuberculosis risk and symptom screen and/or chest X-ray), singly or in combination as determined appropriate by the signatory, indicate that the applicant and all adult household residents are currently free from communicable tuberculosis. The screen must be performed every two years or more frequently as recommended by a physician or the local health department;

(xiii) A written policy describing what the applicant will do with children in care who are sick and a written emergency preparedness plan;

(xiv) Such other information, including, but not limited to, information concerning applicant's child care training and special skills, as the Director of the Office for Children may deem appropriate;

(xv) The application fee of $14, which is in addition to any business or occupation license tax imposed by the County, and any other taxes or fees that may be required to engage in the business.

If the information the provider submits in accordance with subsections (iv), (v), (vi), and (xii) changes during the term of the permit, the provider must report the change to the Director of the Office for Children within 21 days and must promptly submit updated information and documents.

(b) Upon submission of an application to the Office for Children:

(i) The Director of the Office for Children shall inspect the proposed facility to determine whether it is in compliance with this Article and all applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(ii) The Fire Code Official shall conduct a fire safety inspection of the proposed facility and advise the Director of the Office for Children of any noncompliance with this Article or any applicable Virginia law that may affect the health and safety of the children who may attend or be present at the facility.

(iii) If the applicant does not hold a permit under this Article at the time of the application, the Director of the Office for Children shall request a search of the Central Criminal Records Exchange to determine whether the applicant or any persons who reside in the home have committed any crimes that constitute barrier offenses. When the Central Criminal Records Exchange records indicate that any such person has a criminal record in another state, or when the Director otherwise deems appropriate, the Director may also

require that the applicant or such adult who resides in the proposed facility consent to and pay for a national criminal background check. Otherwise, the Director may request a criminal records search if three or more years have passed since the last records search on an individual, or upon receipt of new information submitted in accordance with this section, or as the Director deems appropriate in extenuating circumstances.

(iv) The Director of the Office for Children shall request information from child protective services investigating agencies as deemed necessary to determine whether the applicant or any person age 14 and older who resides in the proposed facility has been the subject of a founded complaint of abuse or neglect.

(c) The Director of the Office for Children shall issue a permit to an applicant if the Director determines from the information contained in the permit application, the facility inspections, and the records searches that (i) the applicant is an adult; (ii) neither the applicant nor any person who resides in the facility has committed any barrier offense; and (iii) both the applicant and the proposed facility are in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. The permit shall be displayed in the home child care facility by the provider.

(d) The Director of the Office for Children shall deny a permit to any applicant if the Director determines from the information contained in the permit application, the facility inspections, and the records searches that (i) the applicant is not an adult; (ii) the applicant or any person who resides in the facility has committed any barrier offense; or (iii) either the applicant or the proposed facility is not in compliance with this Article and all applicable Virginia laws that may affect the health and safety of the children who may attend or be present at the proposed facility. If the denial is based on the results of the searches of the records of the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the Director shall provide the applicant a copy of the information upon which the denial was based.

**Section 30-3-5. - Permitted Numbers of Children.**

No home child care facility shall care for more children than specified in each of the following provisions:

(a) The total number of nonresident children at a home child care facility at any one time shall not exceed ~~five~~four; and

(b) The total number of children at a home child care facility at any one time who are less than two years of age, including any resident children, shall not exceed four; and

(c) The total number of children at a home child care facility at any one time who are under the age at which they are required to be enrolled in a public or private school pursuant to Virginia Code § 22.1-254, including any resident children, shall not exceed six; and

(d) The total number of children at a home child care facility at any one time, including any resident children who are less than ten years of age, shall not exceed eight.

**Section 30-3-6. - Physical facilities, equipment and operation.**

(a) Providers shall supervise children in a manner which ensures that the provider is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary. In deciding how closely to supervise children, providers shall consider the ages of the children, individual differences and abilities, layout of the house and play area, neighborhood circumstances or hazards and risk activities in which children are engaged.

(b) All rooms used for child care shall be dry, well-lighted and have adequate ventilation and shall be smoke free when any child in care is present. Windows that can be opened shall be screened from April 1 through November 1 of each year.

(c) The provider shall provide each child with adequate space to allow free movement and active play indoors and out. Indoor and outdoor areas shall provide developmentally appropriate activities, supplies, and materials that are safe and accessible. All areas shall be free of dangerous and hazardous conditions.

(d) Covered, washable waste receptacles shall be provided for all waste materials, diapers, garbage, and refuse. Trash and other waste materials shall be removed as often as necessary to prevent excessive accumulations and shall be deposited in trash or waste disposal containers.

(e) Toxic or dangerous materials shall be stored in areas that are inaccessible to children and separate from food supplies and areas in which food is prepared.

(f) Dogs and cats four months old or older that regularly are present at the facility shall be immunized for rabies, and records of such immunizations shall be kept available at the facility for inspection by the Director of the Office for Children.

(g) A refrigerator shall be used for perishable food and that refrigerator shall maintain a constant temperature of ~~41~~40 degrees Fahrenheit or less. Food brought into any home child care facility for consumption by nonresident children shall be clearly marked for consumption by the children for whom the food is intended. Meals or snacks shall be offered to the children at least once every three hours. Home child care facilities that provide meals or snacks to children in care shall follow the most recent, age-appropriate nutritional guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service.

(h) Each home child care facility that is not served by a public water supply shall have a private water supply approved by the Department of Health. Each home child care facility that is not served by a public sewage disposal system shall have a private sewage disposal system approved by the Department of Health. Drinking water from a public water supply, well permitted by the Department of Health, or other source acceptable to the Department of Health shall be available for all children.

(i) Except for those rooms used by children while sleeping under covers, all rooms used for child care shall be maintained at a temperature of not less than 68 degrees Fahrenheit.

(j) Providers shall not use or allow any other person to use corporal punishment, physical, verbal, or emotional punishment, or any humiliating or frightening methods of discipline.

(k) Firearms of every type and purpose shall be stored unloaded in a locked container, compartment, or cabinet, and apart from ammunition. Ammunition shall be stored in a locked container, compartment, or cabinet during the home child care facility's hours of operation. If

a key is used to lock the container, compartment, or cabinet, the key shall be inaccessible to children.

(l) Providers shall handle blood, bodily fluids, and other potentially infectious materials as if known to be infectious for human immunodeficiency virus, hepatitis B virus, and other blood borne pathogens.

(m) During rest times the provider shall provide appropriate sleeping equipment that meets the current standards of the United States Consumer Product Safety Commission for children birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or bed. If children are in care overnight on a regular or frequent basis, then the provider shall provide cribs that meet the current standards of the United States Consumer Product Safety Commission for full-size baby cribs for children from birth through 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or bed.

(n) All home child care facilities shall be maintained free from rodents and insect infestation.

(o) Except as set forth in subsection (p) below, whenever the home child care facility has agreed to administer prescription medications or non-prescription medications, the medication shall be administered in compliance with the Virginia Drug Control Act by a provider who has satisfactorily completed the training required by Section 30-3-4(d).

(p) Notwithstanding subsection (o) above, a provider may administer nonprescription topical skin products such as sunscreen, diaper ointment and lotion, oral teething medicine, and insect repellent, provided the following requirements are met:

(i) The provider has obtained written authorization, at least annually, from a parent or guardian noting any known adverse reactions;

(ii) The product is in the original container and, if the product is provided by the parent, labeled with the child's name;

(iii) The product is applied in accordance with the manufacturer's instructions;

(iv) Parents are informed immediately of any adverse reaction;

(v) The product shall not be used beyond the expiration date of the product;

(vi) Sunscreen must have a minimum sunburn protection factor (SPF) of 15; and

(vii) The product does not need to be kept locked, but shall be inaccessible to children.

(q) The home child care facility shall annually obtain written permission from the parent of each child who participates in swimming or wading activities, and a written statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.

(i) The provider shall have a system for accounting for all children in the water.

(ii) Outdoor swimming activities shall occur only during daylight hours.

(iii) When one or more children are in water that is more than two feet deep in a pool, lake, or other swimming area on or off the premises of the home child care facility, the provider and another person 15 years or older shall be present at all times and either the provider or the other person must be currently certified in basic water rescue, community water

safety, water safety instruction, or lifeguarding. The certification shall be obtained from a national organization such as the American Red Cross or the YMCA.

(r)

(i) Access to the water in above-ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to children.

(ii) A non-climbable barrier at least four feet high such as, but not limited to, a fence or impenetrable hedge shall surround outdoor play areas located within 30 feet of drowning hazards such as, but not limited to, in-ground swimming or wading pools, ponds, or fountains not enclosed by safety fences.

(iii) Portable wading pools without integral filter systems shall be emptied, rinsed, and filled with clean water after use by each group of children or more frequently as necessary; and shall be emptied, sanitized, and stored in a position to keep them clean and dry when not in use during the home child care facility's hours of operation. Portable wading pools shall not be used by children who are not toilet trained. Bathtubs, buckets, and other containers of liquid accessible to children shall be emptied immediately after use.

(iv) Hot tubs, spas, and whirlpools shall not be used by children in care, and shall be covered with safety covers while children are in care.

**2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.**

**3. That this Ordinance is effective on July 1, 2016.**

GIVEN under my hand this _____ day of _____, 2016

_____

Clerk to the Board of Supervisors

Board Agenda Item
June 21, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-I-A1, Located West of Heritage Drive Between Commons Drive and Rectory Lane (Braddock District)

ISSUE:
Plan Amendment (PA) 2016-I-A1 proposes to amend the Comprehensive Plan guidance for an approximately 11-acre area known as Heritage Mall, located west of Heritage Drive between Commons Drive and Rectory Lane, in the A10-Ossian Hall Community Planning Sector. The subject area is currently planned for a neighborhood and community serving retail center which includes an office component. The amendment will consider the development of 68 single-family attached dwelling units and associated residential amenities, as well as the development of a community center on the property, improved pedestrian connectivity and additional enhancements to the shopping center parking lot and plaza areas.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, May 25, 2016, the Planning Commission voted 11-0 (Commissioner Flanagan was absent from the meeting) to recommend to the Board of Supervisors the adoption of the Planning Commission alternative to the staff recommendation for PA 2016-I-A1, as shown in Attachment II dated May 25, 2016.

RECOMMENDATION:
The County Executive recommends that the Board adopt the Planning Commission recommendation.

TIMING:
Planning Commission public hearing – May 25, 2016
Board of Supervisors' public hearing – June 21, 2016

BACKGROUND:
On January 12, 2016, the Board authorized PA 2016-I-A1 for Tax Map Parcels 70-2((1))1D1, 2A and 2C to consider an amendment to the Comprehensive Plan guidance to facilitate development of the western portion of the site with 68 single-family attached dwelling units and associated residential amenities. In addition, the Board authorized staff to consider the development of a community center on the property, improved pedestrian connectivity and additional enhancements to the shopping center parking lot and plaza areas.

Board Agenda Item
June 21, 2016

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt
Attachment 2: Planning Commission Alternative to the Staff Recommendation
The Staff Report for 2016-I-A1 has been previously furnished and is available online at:
http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-i-a1.pdf

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Leanna H. O'Donnell, Branch Chief, Planning Division (PD), DPZ
Mike D. Van Atta, Planner II, Policy and Plan Development Branch, PD, DPZ

PA 2016-I-A1 – COMPREHENSIVE PLAN AMENDMENT (HERITAGE MALL) (Braddock District)

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed. Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. As we just mentioned, the Amendment would modify the Plan language to reduce to the allowable FAR and reduce from about 200 possible dwelling units to down to only about 68. And these would be single-family attached dwelling units and with the associated residential amenities on the western half of the site, as well as the community center on the property, improved connectivity for pedestrians, and additional enhancements to the shopping center and lot and plaza areas. The language distributed this evening with my motion dated 25, May, 2016 includes changes to the staff recommendation that reflect additional input from the Braddock Land Use and Environment Committee, who unanimously endorsed this Comprehensive Plan Amendment as revised. At the main change – that you'll see is that Option 2, which would have left that 200 unit option, is completely gone now. That was very important to the community. My proposed changes are noted in the bold italics so therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE TO THE STAFF RECOMMENDATION FOR PA 2016-I-A1, AS SHOWN ON TONIGHT'S HANDOUT DATED 25, MAY, 2016.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by 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 adopt this Plan Amendment, PA 2016-I-A1, as articulated by Ms. Hurley tonight, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

//

(The motion carried by a vote of 11-0. Commissioner Flanagan was absent from the meeting.)

JLC

Attachment II

**MOTION**
**May 25, 2016**

**Commissioner Ellen J. Hurley, Braddock District**
**Planning Commission Public Hearing and Decision**

**Plan Amendment 2016-I-A1**

**Motion:**

As staff indicated, the amendment would modify the Plan language for Tax Map Parcels 70-2 ((1)) 1D1, 2A, and 2C to facilitate the development of 68 single-family attached dwelling units and associated residential amenities on the western portion of the site, as well as the development of a community center on the property, improved pedestrian connectivity, and additional enhancements to the shopping center parking lot and plaza areas. The language distributed this evening with my motion dated May 25, 2016 includes changes to the staff recommendation that reflect additional input from the Braddock Land Use and Environment Committee.

My proposed changes are noted in bold italics. Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of a Planning Commission Alternative to the staff recommendation for Plan Amendment 2016-I-A1, as shown on tonight's handout dated May 25, 2016.

End of Motion

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**PLANNING COMMISSION ALTERNATIVE**
**PROPOSED PLAN LANGUAGE**
**Plan Amendment 2016-I-A1**

Recommended modifications to the Comprehensive Plan are shown as underlined for text to be added and as ~~strikethrough~~ as text to be deleted.

**RECOMMENDATION**

**MODIFY:** Fairfax County Comprehensive Plan, 2013 Edition, Area I, Annandale Planning District, as amended through October 20, 2015, A10-Ossian Hall Community Planning Sector, Recommendations, Land Use, Recommendation #4, new option, pages 148-149:

4. The Heritage Mall (Parcels 70-2((1))1D1, 2A and 2C) is developed and planned for a neighborhood and community serving retail center which includes an office component.

   "***~~Option 1:~~As an option, retail, ~~Retail~~***, office and residential uses up to 0.55 FAR to allow for additional residential uses, inclusive of affordable dwelling units and associated bonus densities, may be appropriate provided the following conditions are met:

   - The residential uses should be located on the western portion of the site, which could include ***~~up to~~*** approximately 68 single-family attached dwelling units. In order to provide more open space area and to ensure

adequate transitions to the surrounding residential neighborhoods and adjacent retail center, a limited mixture of unit types may be considered.

- Appropriate transitions to the surrounding residential neighborhoods and ~~***from***~~ ***between*** the new residential units ~~***to***~~ ***and*** the existing retail center should be provided. ~~***High-quality design should be utilized to soften the transition and relationship between the retail uses and new residential use.***~~

- Orientation of new residential units should minimize visual ***and noise*** impacts ***of*** ~~***from***~~ the retail center ~~***and not preclude a logical redevelopment of the retail center in the future***~~.

- A community serving use such as a community resource center should be provided onsite. Consideration of the community center's location and ability to improve the transition from the retail uses to the residential use is encouraged.

- The development should provide a pedestrian oriented environment including ~~***publicly accessible***~~ open space amenities ***for the townhomes.*** ~~***such as a community green with well-lighted and landscaped pedestrian connections to surrounding areas. The location of the open space amenities should assist with the transition from the retail uses to the residential use, if possible.***~~

- Pedestrian connections to surrounding areas and improved pedestrian connections to Ossian Hall Park should be provided, including enhancing the existing crosswalk across Heritage Drive.

~~***Option 2:***~~ ~~***As an option, M***~~***mixed use up to 0.70 FAR with retail, office and residential uses may be appropriate provided the following conditions are met:***

- ~~***The commercial component should not exceed a maximum of 91,000 square feet, which should include about 30% office use and about 70% neighborhood and community serving retail uses. In addition, a community serving use such as a community resource center should be provided and located within the structure occupied by the existing convenience retail use at the southwest corner of the property.***~~

- ~~***Development should be phased to ensure that the redevelopment of the existing shopping center occurs before or concurrently and is integrated with any new residential development.***~~

- ~~***The residential use should be limited to a maximum of 200 dwelling units (excluding bonus and affordable dwelling units) and should be designed as an integral component of the mixed use development and may include ground floor retail.***~~

- ~~***The residential development should be designed in a manner such that its mass and scale are compatible with the surrounding residential uses. The residential structure should be limited to five (5) stories including ground floor retail. The exception is when parking for the residential use is designed as an integral part of the residential structure, in which case the height limit should not exceed six stories for portions of the buildings that include any above ground parking structure.***~~

- ~~***The mixed use development should provide a pedestrian oriented environment including open space amenities such as a community green with well-lighted and landscaped pedestrian connections to surrounding areas.***~~

- ~~***Public facility and infrastructure impacts of any proposed development, such as transportation, schools, and parks will need to be mitigated through on-site and off-site improvements or contributions.***~~*"*

**COMPREHENSIVE LAND USE PLAN MAP:**

The Comprehensive Land Use Plan Map will not change.

**TRANSPORTATION PLAN MAP:**

The Countywide Transportation Plan Map will not change.

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Board Agenda Item
June 21, 2016

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Jones Branch Connector - Final Design (Providence District)

ISSUE:
Public Hearing on the acquisition of certain land rights necessary for the construction of Project AA1400093-13, Jones Branch Connector - Final Design, Fund 50000; Federal-State Grants, and Project 2G40-062-000, Jones Branch Connector, in Fund 40010.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:
On May 17, 2016, the Board authorized advertisement of a Public Hearing to be held on June 21, 2016, at 4:00 p.m.

BACKGROUND:
This project consists of a connection between Route 123 and the I-495 Express Lane ramps and ultimately to Jones Branch Drive. The project involves the reconstruction and extension of Scotts Crossing Road from Route 123 across I-495 and tying to the existing Jones Branch Connector and Jones Branch Drive. The project will require widening of the existing I-495 Express Lane bridges over the I-495 outer loop (southbound) and construction of new bridges spanning the I-495 inner loop (northbound) and Express Lanes.

Land rights for these improvements are required on 10 properties, two of which have already been acquired by the Land Acquisition Division (LAD). Also, the Washington Metropolitan Area Transit Authority (WMATA) is included and cannot be considered in the eminent domain process. The construction of the project requires the acquisition of deeds of dedication, perpetual street easement, traffic signal equipment easement, ingress-egress easement, retaining wall easement, terminable retaining wall easement, Washington Gas easement, and grading agreement and temporary construction easements to accommodate the appropriate work area to construct the roadway project.

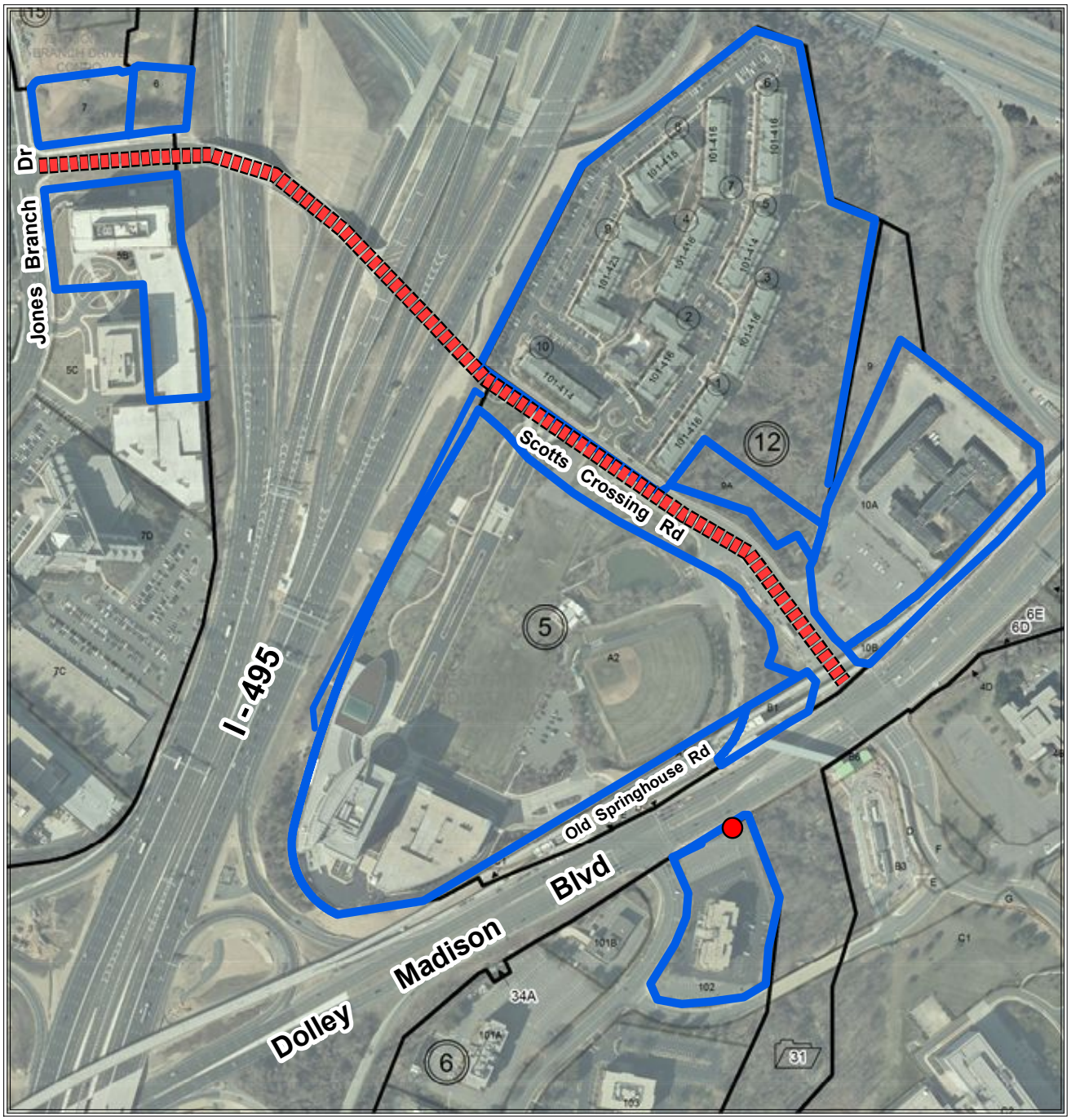
Negotiations are in progress with several owners of these properties; however, all land rights must be cleared by June 30, 2016, for the Virginia Department of Transportation to advertise the construction of this project on August 9, 2016; therefore, because resolution of these acquisitions is not imminent, it may become necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:
Funding is available in Project AA1400093-13, Jones Branch Connector - Final Design, Fund 50000, Federal-State Grant Fund and Project 2G40-062-000, Jones Branch Connector, in Fund 40010, County & Regional Transportation Projects. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to FY 2026). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:
Attachment A – Project Location Map
Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachments 1 through 8C).

STAFF:
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

**ATTACHMENT A**




# JONES BRANCH CONNECTOR

**Tax Map: 29-4**

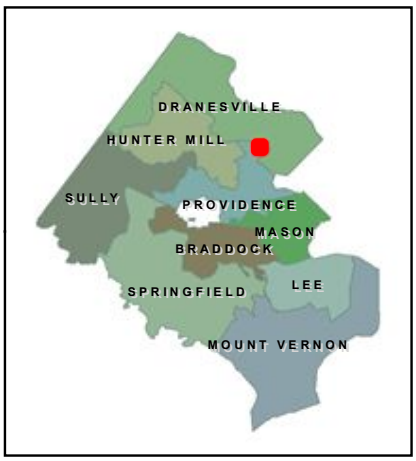
**Project AA1400093-13**

**Providence District**

**Affected Properties:**

**Proposed Improvements:**

0 0.0475 0.095 0.19 Miles



ATTACHMENT B

**RESOLUTION**

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 Tuesday, June 21, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

**WHEREAS**, certain Project AA1400093-13, Jones Branch Connector - Final Design, Fund 50000; Federal-State Grants, and Project 2G40-062-000, Jones Branch Connector, in Fund 40010, County & Regional Transportation Projects, had been approved; and

**WHEREAS**, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

**WHEREAS**, the property interests that are necessary have been identified; and

**WHEREAS**, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than June 30, 2016.

**NOW THEREFORE BE IT RESOLVED**, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 8C by gift, purchase, exchange, or eminent domain; and be it further

**RESOLVED**, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of constructing new roadway, sidewalk improvements and to provide adequate storm drainage as shown and described

in the plans of Project AA1400093-13, Jones Branch Connector - Final Design, Fund 50000; Federal-State Grants, and Project 2G40-062-000, Jones Branch Connector, in Fund 40010, County & Regional Transportation Projects, on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

**RESOLVED**, that this Board does hereby exercise those powers granted to it by the *Code of Virginia* and does hereby authorize and direct the Director, Land Acquisition Division, on or subsequent to June 22, 2016, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the *Code of Virginia* as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

**RESOLVED**, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project AA1400093-13
Jones Branch Connector - Final Design
(Providence District)

PROPERTY OWNER(S)

1. Cleveland 1820 Dolley Madison, LLC — 029-4-05-0009-A, 029-4-05-0010-A

   Address:
   1820 Dolley Madison Blvd.
   McLean, Virginia 22102

2. Grant 1651 Old Meadow Road, LLC — 029-4-06-0102

   Address:
   1651 Old Meadow Road, Suite 650
   McLean, Virginia 22102

3. Pentagon Federal Credit Union — 029-2-15-0006, 029-2-15-0007

   Address:
   Jones Branch Drive,
   McLean, Virginia 22102

4. Tysons Park Place II, LLC — 029-4-07-0005-B

   Address:
   7930 Jones Branch Drive
   McLean, Virginia 22102

5. Capital One Bank — 029-4-05-A2

   Address:
   1680 Capital One Drive
   McLean, Virginia 22102

6. Gates of McLean Condominium Unit Owners Association — 029-4-12-CONDO

Address:
1600 Spring Gate Drive
McLean, Virginia 22101

A Copy – Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 029-4-05-0009-A

Street Address: 1820 Dolley Madison Blvd.
McLean, Virginia 22102

OWNER(S): Cleveland 1820 Dolley Madison, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 96 sq. ft.

VALUE

Estimated value of interests and damages:

(Proffered)

ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Number: 029-4-05-0010-A

Street Address: 1820 Dolley Madison Blvd.
McLean, Virginia 22102

OWNER(S): Cleveland 1820 Dolley Madison, LLC

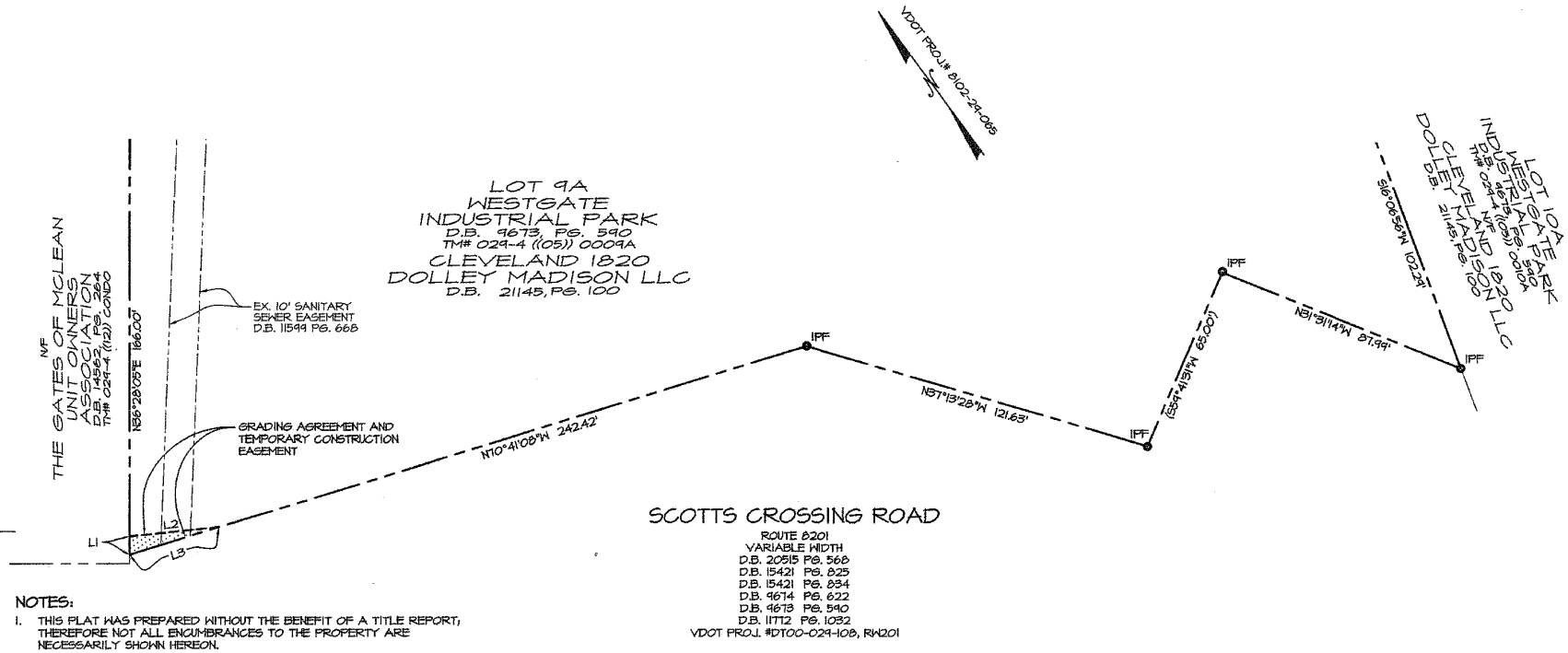
INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication - 702 sq. ft.
Grading Agreement and Temporary Construction Easement - 3,692 sq. ft.

VALUE

Estimated value of interests and damages:

(Proffered)




## NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
2. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULT OF AN ACTUAL FIELD RUN BOUNDARY SURVEY.
3. ALL PREVIOUSLY RECORDED RIGHTS-OF WAY, EASEMENTS, OR OTHER INTERESTS OF THE COUNTY SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
4. THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE BLOCK HEREON AND RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY; ALL EASEMENTS AND DEDICATIONS FOR PUBLIC STREET PURPOSES ARE WITHIN THE BOUNDS OF THE ORIGINAL TRACT, AS DESCRIBED AND RECORDED THEREIN.
5. DENSITY/INTENSITY CREDIT APPROVED ON BEHALF OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, PURSUANT TO SECTION 2.308-4-A(3) OF THE FAIRFAX COUNTY ZONING ORDINANCE AND REFERENCED IN THE DEED OF DEDICATION AND CONVEYANCE AND GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT ATTACHED HERETO.
6. THERE IS AN APPROVED PUBLIC COMMUTER PARK-AND-RIDE LOT AGREEMENT DATED DECEMBER 31, 2013 REGARDING THE DONATION OF LAND RIGHTS BETWEEN CLEVELAND 1820 DOLLY MADISON LLC AND THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY.
7. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((05)) 0009A.

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L1 | N36°28'05"E | 6.26' |
| L2 | S54°28'05"E | 30.77' |
| L3 | N10°41'08"W | 32.03' |

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400093-13

### AREA TABULATION

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT 46 SQ. FT.

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPI, JR
Lic. No. 2887
4-5-16
LAND SURVEYOR

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

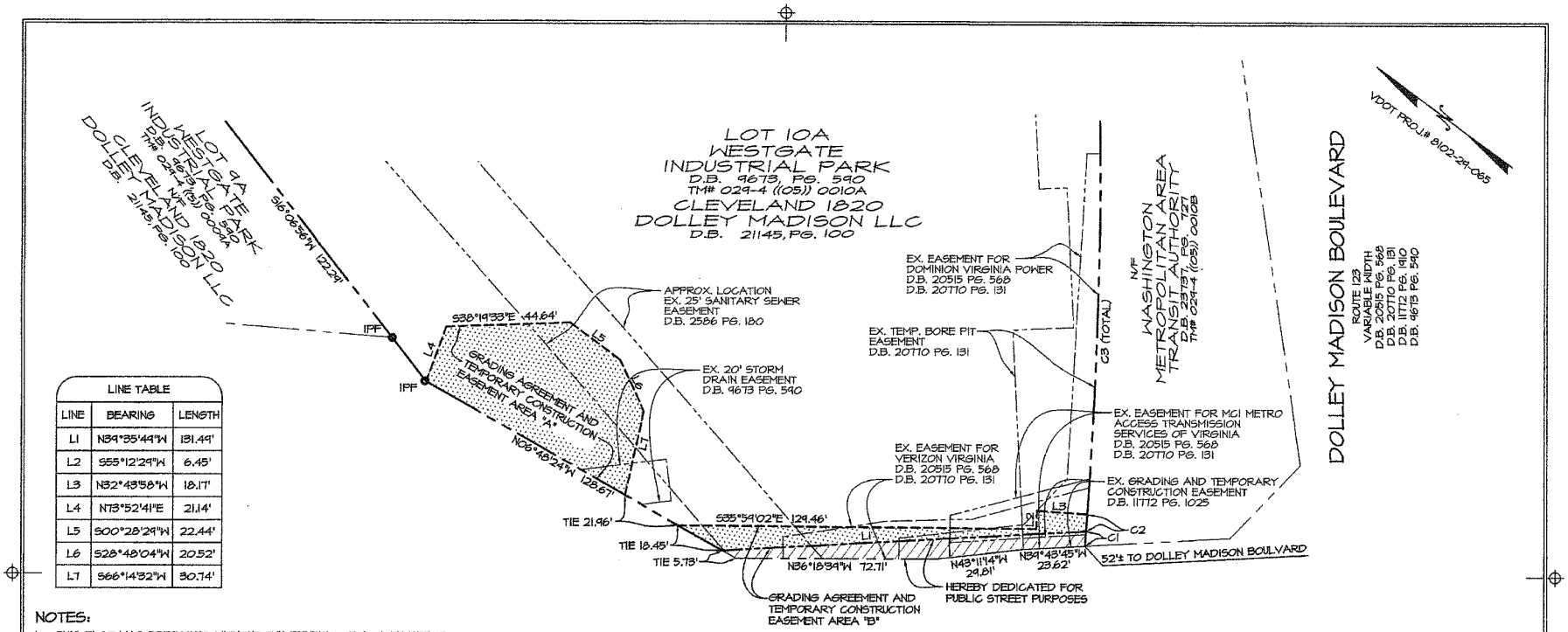
PLAT SHOWING
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 9A
WESTGATE INDUSTRIAL PARK
D.B. 9673, PG. 590

PROPERTY BEING IN THE NAME OF
CLEVELAND 1820 DOLLEY MADISON LLC
D.B. 21145, PG. 100

PROVIDENCE DISTRICT, FAIRFAX COUNTY SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 04/05/2016 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 1A




| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L1 | N39°35'44"W | 131.49' |
| L2 | S55°12'29"W | 6.45' |
| L3 | N32°43'58"W | 18.17' |
| L4 | N73°52'41"E | 21.14' |
| L5 | S00°28'29"W | 22.44' |
| L6 | S28°48'04"W | 20.52' |
| L7 | S66°14'32"W | 30.74' |

## NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
2. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULT OF AN ACTUAL FIELD RUN BOUNDARY SURVEY.
3. ALL PREVIOUSLY RECORDED RIGHTS-OF WAY, EASEMENTS, OR OTHER INTERESTS OF THE COUNTY SHALL REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.
4. THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE BLOCK HEREON AND RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY; ALL EASEMENTS AND DEDICATIONS FOR PUBLIC STREET PURPOSES ARE WITHIN THE BOUNDS OF THE ORIGINAL TRACT, AS DESCRIBED AND RECORDED THEREIN.
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6. THERE IS AN APPROVED PUBLIC COMMUTER PARK-AND-RIDE LOT AGREEMENT DATED DECEMBER 31, 2013 REGARDING THE DONATION OF LAND RIGHTS BETWEEN CLEVELAND 1820 DOLLY MADISON LLC AND THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY.
7. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((05)) 0010A.

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
| C1 | 1868.41' | 5.40' | 2.70' | S57°55'16"W | 5.40' | 00°09'56" |
| C2 | 1868.41' | 6.14' | 3.07' | S57°44'39"W | 6.14' | 00°11'18" |
| C3 | 1868.41' | 131.19' | 65.62' | S55°54'33"W | 131.16' | 04°01'23" |

## AREA TABULATION

| | |
|---|---|
| DEDICATION FOR PUBLIC STREET PURPOSES | 702 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | AREA "A" 2,876 SQ. FT.<br>AREA "B" 816 SQ. FT.<br>TOTAL 3,692 SQ. FT. |

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR
Lic. No. 2887
4-5-16
LAND SURVEYOR

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400093-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 10A
WESTGATE INDUSTRIAL PARK
D.B. 9673, PG. 590

PROPERTY BEING IN THE NAME OF
CLEVELAND 1820 DOLLEY MADISON LLC
D.B. 21145, PG. 100

PROVIDENCE DISTRICT, FAIRFAX COUNTY SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 04/05/16 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 2A

ATTACHMENT 3

AFFECTED PROPERTY

Tax Map Number: 029-4-06-0102

Street Address: 1651 Old Meadow Road, Suite 650
McLean, Virginia 22102

OWNER(S): Grant 1651 Old Meadow Road, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication - 213 sq. ft.
Grading Agreement and Temporary Construction Easement - 376 sq. ft.

VALUE

Estimated value of interests and damages:

ONE HUNDRED SEVEN THOUSAND SEVEN HUNDRED DOLLARS
($107,700.00)

ATTACHMENT 4

AFFECTED PROPERTY

Tax Map Number: 029-2-15-0006

Street Address: Jones Branch Drive,
McLean, Virginia 22102

OWNER(S): Pentagon Federal Credit Union

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement -1,166 sq. ft.

VALUE

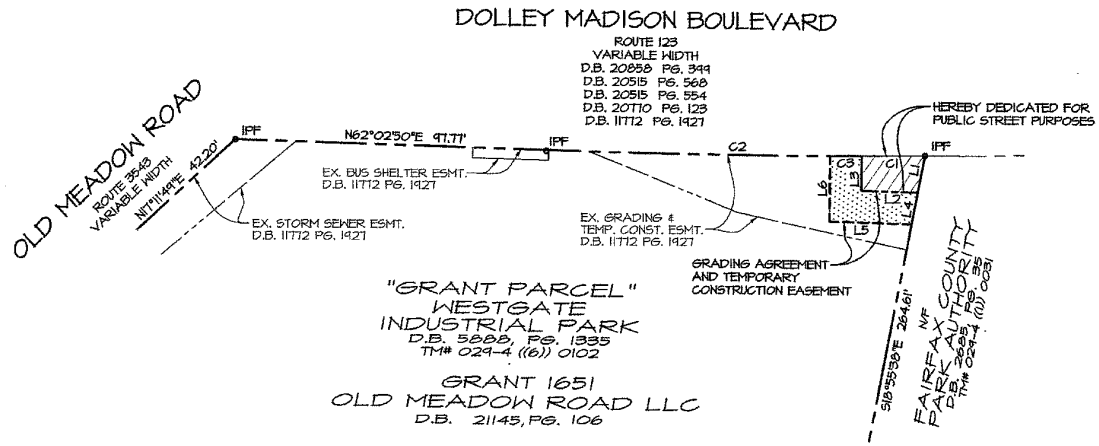
Estimated value of interests and damages:

(Special Exception)

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L1 | S18°55'38"E | 11.84' |
| L2 | S62°06'28"W | 17.73' |
| L3 | N24°29'24"W | 10.98' |
| L4 | S18°55'38"E | 10.12' |
| L5 | S62°06'28"W | 25.87' |
| L6 | N24°29'24"W | 20.65' |

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
| C1 | 2444.79' | 19.90' | 9.95' | N54°54'33"E | 19.90' | 00°23'14" |
| C2 | 2444.79' | 119.84' | 59.93' | N60°52'53"E | 119.83' | 02°19'54" |
| C3 | 2444.79' | 10.00' | 5.00' | N60°12'00"E | 10.00' | 00°11'40" |

VDOT PROJ.# 81102-029-065




NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
2. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULT OF AN ACTUAL FIELD RUN BOUNDARY SURVEY.
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4. THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE BLOCK HEREON AND RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY; ALL EASEMENTS AND DEDICATIONS FOR PUBLIC STREET PURPOSES ARE WITHIN THE BOUNDS OF THE ORIGINAL TRACT, AS DESCRIBED AND RECORDED THEREIN.
5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((06)) 0102.

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400043-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES
AND
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT
THROUGH
"GRANT PARCEL"
WESTGATE INDUSTRIAL PARK
D.B. 5888, PG. 1335

PROPERTY BEING IN THE NAME OF
GRANT 1651 OLD MEADOW ROAD LLC
D.B. 21145, PG. 106

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 04/07/16 | DRAWN BY: TEB |
|---|---|---|

DEDICATION FOR PUBLIC STREET PURPOSES

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

*AREA TABULATION*

| | |
|---|---|
| DEDICATION FOR PUBLIC STREET PURPOSES | 213 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | 376 SQ. FT. |

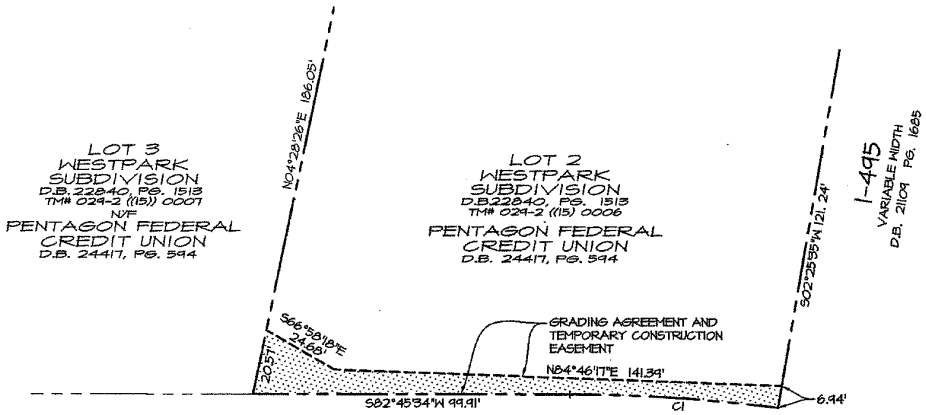
25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-968-3200
WWW.RICESURVEYS.COM

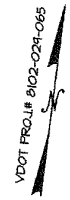
COMMONWEALTH OF VIRGINIA
WILLIAM G. UPPY, JR.
Lic. No. 2887
4-7-16
LAND SURVEYOR

ATTACHMENT 3A

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
| C1 | 528.00' | 65.84' | 32.99' | S86°20'05"W | 65.85' | 07°09'02" |




RAMP TO I-495 EXPRESS LANES
VARIABLE WIDTH
D.B. 22840 PG. 1513

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5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 024-2 ((15)) 0006.

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400043-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 2
WESTPARK SUBDIVISION
D.B. 22840, PG. 1513

PROPERTY BEING IN THE NAME OF
PENTAGON FEDERAL CREDIT UNION
D.B. 24417, PG. 594

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 07/31/15 | DRAWN BY: TEB |
|---|---|---|

GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT

*AREA TABULATION*

| | |
|---|---|
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | 1,166 SQ. FT. |

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-466-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR
Lic. No. 2887
1-14-16
LAND SURVEYOR

ATTACHMENT 4A

ATTACHMENT 5

AFFECTED PROPERTY

Tax Map Number: 029-2-15-0007

Street Address: Jones Branch Drive,
McLean, Virginia 22102

OWNER(S): Pentagon Federal Credit Union

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication - 651 sq. ft.
Grading Agreement and Temporary Construction Easement -3,933 sq. ft.

VALUE

Estimated value of interests and damages:

NINETY-THREE THOUSAND FIVE HUNDRED DOLLARS ($93,500.00)
Deed of Dedication only, Grading and Temporary Construction Easement
(Special Exception)

ATTACHMENT 6

AFFECTED PROPERTY

Tax Map Number: 029-4-07-0005-B

Street Address: 7930 Jones Branch Drive
McLean, Virginia 22102

OWNER(S): Tysons Park Place II, LLC

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Deed of Dedication – 2,932 sq. ft.
Retaining Wall Easement – 2,776 sq. ft.
Grading Agreement and Temporary Construction Easement 5,534 sq. ft.

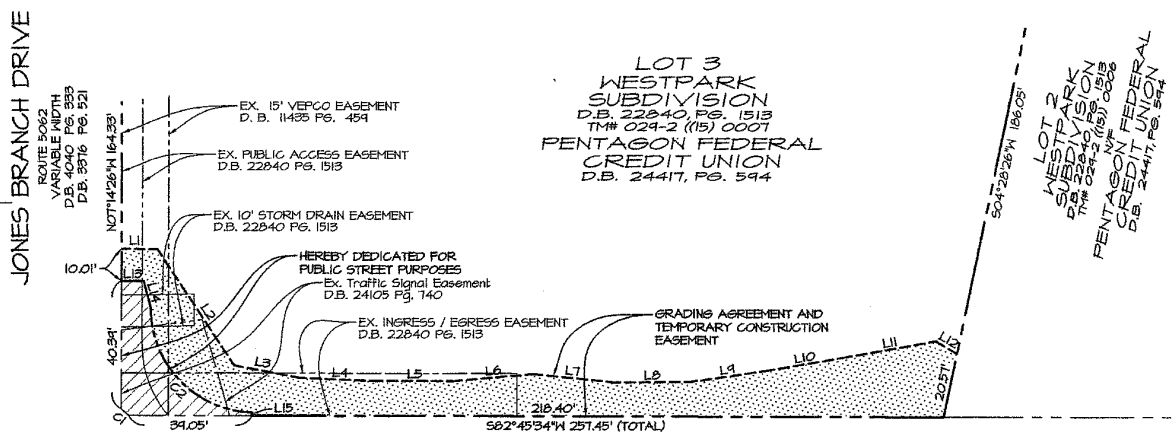
VALUE

Estimated value of interests and damages:

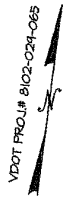
FIVE HUNDRED SEVENTY THOUSAND DOLLARS ($570,000.00)

| LINE TABLE | | | | | |
|---|---|---|---|---|---|
| LINE | BEARING | LENGTH | LINE | BEARING | LENGTH |
| L1 | N82°50'14"E | 11.48' | L9 | N74°18'07"E | 24.46' |
| L2 | S40°45'16"E | 43.87' | L10 | N72°51'55"E | 25.22' |
| L3 | S86°25'09"E | 21.02' | L11 | N72°26'29"E | 29.07' |
| L4 | N84°44'17"E | 24.08' | L12 | S66°58'18"E | 7.84' |
| L5 | N82°51'34"E | 24.34' | L13 | S82°45'34"W | 7.14' |
| L6 | N77°43'23"E | 25.60' | L14 | N21°52'00"W | 8.90' |
| L7 | N88°33'14"E | 25.53' | L15 | N05°31'36"W | 1.02' |
| L8 | N82°15'45"E | 23.76' | | | |

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
| C1 | 33.70' | 3.06' | 1.53' | N54°01'57"W | 3.06' | 05°12'09" |
| C2 | 32.92' | 50.67' | 31.90' | N51°25'33"W | 45.81' | 88°12'06" |




RAMP TO I-495 EXPRESS LANES
VARIABLE WIDTH
D.B. 22840 PG. 1513
D.B. 19233 PG. 1090




NOTES:

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5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-2 ((15)) 0007.

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400093-13

DEDICATION FOR PUBLIC STREET PURPOSES

GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT

*AREA TABULATION*

| | |
|---|---|
| DEDICATION FOR PUBLIC STREET PURPOSES | 651 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | 3,933 SQ. FT. |

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-968-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR.
Lic. No. 2887
4-7-16
LAND SURVEYOR

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

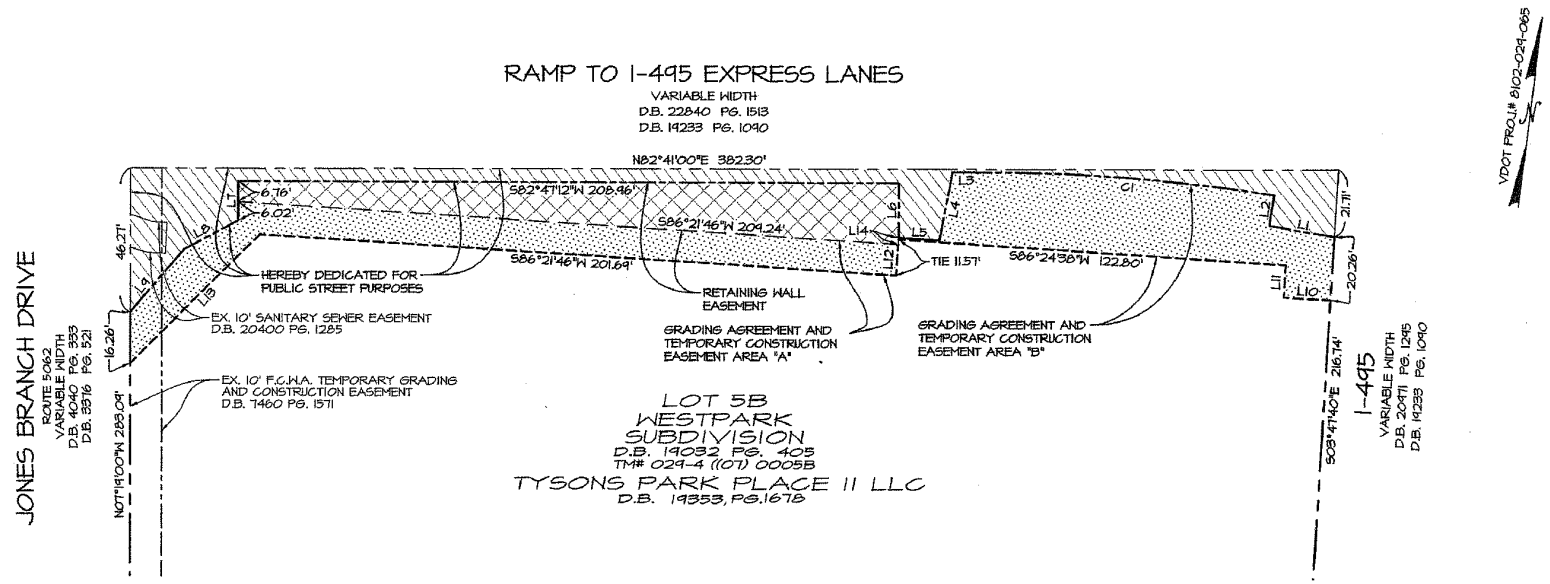
PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 3
WESTPARK SUBDIVISION
D.B. 22840, PG. 1513

PROPERTY BEING IN THE NAME OF
PENTAGON FEDERAL CREDIT UNION
D.B. 24417, PG. 594

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 04/07/16 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 5A




DEDICATION FOR PUBLIC STREET PURPOSES

RETAINING WALL EASEMENT

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

## NOTES:

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5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((01)) 0005B.

LINE TABLE

| LINE | BEARING | LENGTH | LINE | BEARING | LENGTH |
|---|---|---|---|---|---|
| L1 | N87°14'12"W | 20.90' | L8 | S54°09'50"W | 19.31' |
| L2 | N01°42'14"E | 10.00' | L9 | S33°01'40"W | 26.50' |
| L3 | S82°47'12"W | 8.40' | L10 | S86°12'20"W | 14.81' |
| L4 | S03°20'58"W | 22.28' | L11 | N03°46'26"W | 10.33' |
| L5 | S85°54'37"W | 12.86' | L12 | S03°38'14"E | 10.00' |
| L6 | N07°12'48"W | 17.70' | L13 | S37°31'36"W | 58.16' |
| L7 | S07°12'48"E | 12.78' | L14 | S03°38'14"E | 2.11' |

CURVE TABLE

| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
|---|---|---|---|---|---|---|
| C1 | 577.54' | 93.89' | 47.05' | N87°02'47"W | 93.79' | 09°18'54" |

## AREA TABULATION

| | | |
|---|---|---|
| DEDICATION FOR PUBLIC STREET PURPOSES | | 2,932 SQ. FT. |
| RETAINING WALL EASEMENT | | 2,716 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | AREA "A" | 2,678 SQ. FT. |
| | AREA "B" | 2,856 SQ. FT. |
| | TOTAL | 5,534 SQ. FT. |

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM B. LIPPY, JR
Lic. No. 2887
2-1-16
LAND SURVEYOR

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400043-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
DEDICATION FOR PUBLIC STREET PURPOSES,
RETAINING WALL EASEMENT
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
LOT 5B
WESTPARK SUBDIVISION
D.B. 19032, PG. 405
PROPERTY BEING IN THE NAME OF
TYSONS PARK PLACE II LLC
D.B. 19353, PG. 1678

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 07/31/15 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 6A

ATTACHMENT 7

AFFECTED PROPERTY

Tax Map Number: 029-4-05-A2

Street Address: 1680 Capital One Drive
McLean, Virginia 22102

OWNER(S): Capital One Bank

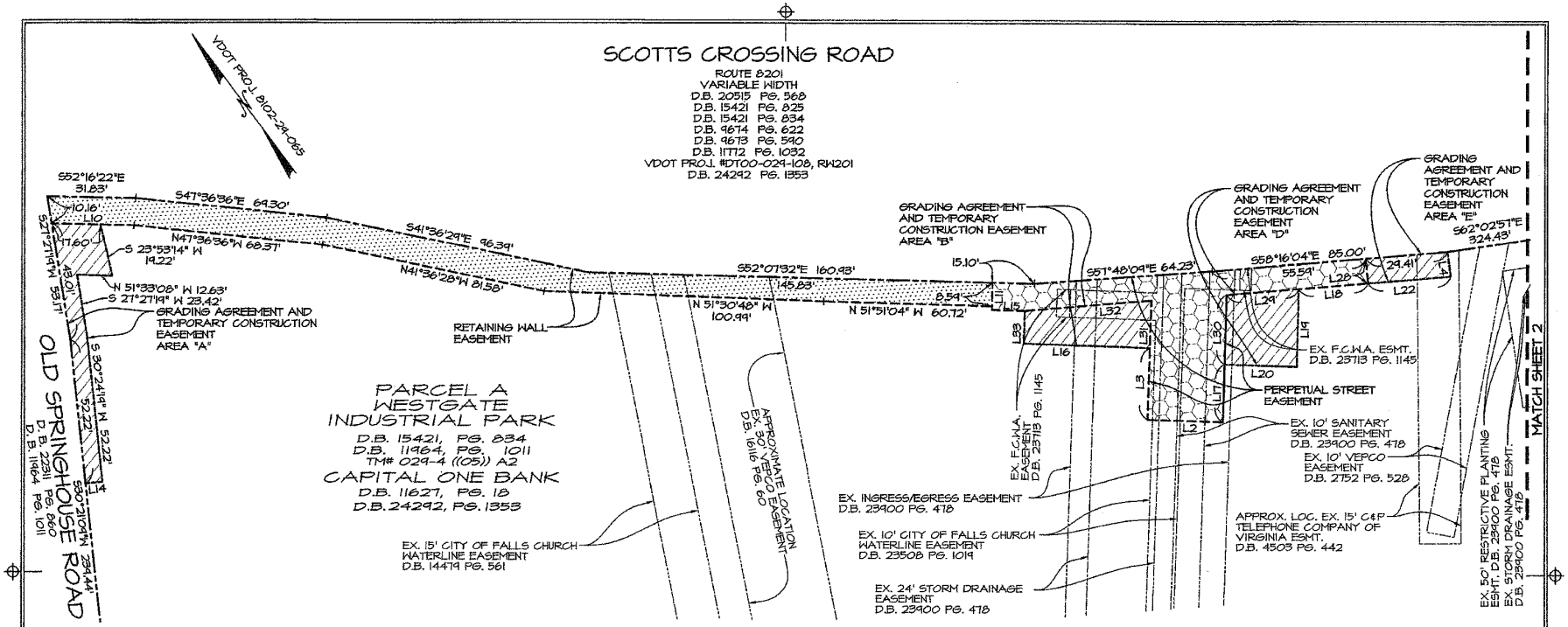
INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Retaining Wall Easement – 3,125 sq. ft.
Perpetual Street Easement – 2,452 sq. ft.
Grading Agreement and Temporary Construction Easement - 9,057 sq. ft.
Terminable Retaining Wall Easement – 2,515 sq. ft.

VALUE

Estimated value of interests and damages:

SEVEN HUNDRED THOUSAND ($700,000.00)




## NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT; THEREFORE NOT ALL ENCUMBRANCES TO THE PROPERTY ARE NECESSARILY SHOWN HEREON.
2. THE INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULT OF AN ACTUAL FIELD RUN BOUNDARY SURVEY.
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5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((05)) A2.

### AREA TABULATION

| | | |
|---|---|---|
| RETAINING WALL EASEMENT | | 3,125 SQ. FT. |
| PERPETUAL STREET EASEMENT | | 2,452 SQ. FT. |
| GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT | AREA "A" | 802 SQ. FT. |
| | AREA "B" | 664 SQ. FT. |
| | AREA "C" | 6,629 SQ. FT. |
| | AREA "D" | 645 SQ. FT. |
| | AREA "E" | 267 SQ. FT. |
| | TOTAL | 9,057 SQ. FT. |

LINE TABLE

| LINE | BEARING | LENGTH | LINE | BEARING | LENGTH |
|---|---|---|---|---|---|
| L2 | N51°43'19"W | 27.10' | L19 | S38°06'44"W | 28.26' |
| L3 | N38°18'27"E | 25.84' | L20 | N51°41'32"W | 25.97' |
| L4 | N24°12'51"E | 9.01' | L22 | N58°16'03"W | 29.81' |
| L10 | N52°16'22"W | 29.61' | L28 | S31°43'57"W | 9.00' |
| L11 | S37°52'24"W | 9.91' | L29 | N58°16'03"W | 26.13' |
| L14 | N54°38'51"W | 6.08' | L30 | S38°06'40"W | 25.27' |
| L15 | N51°41'50"W | 11.84' | L31 | N38°18'27"E | 17.31' |
| L16 | N51°41'32"W | 45.55' | L32 | N58°33'04"W | 45.88' |
| L17 | S38°06'40"W | 20.82' | L33 | N38°18'30"E | 11.84' |
| L18 | S58°16'03"E | 24.96' | | | |

RETAINING WALL EASEMENT

PERPETUAL STREET EASEMENT

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

25 0 25 50 75
Scale: 1" = 25'

COMMONWEALTH OF VIRGINIA
WILLIAM C. LIPPY, JR
Lic. No. 2887
4-6-16
LAND SURVEYOR

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AAI400043-13

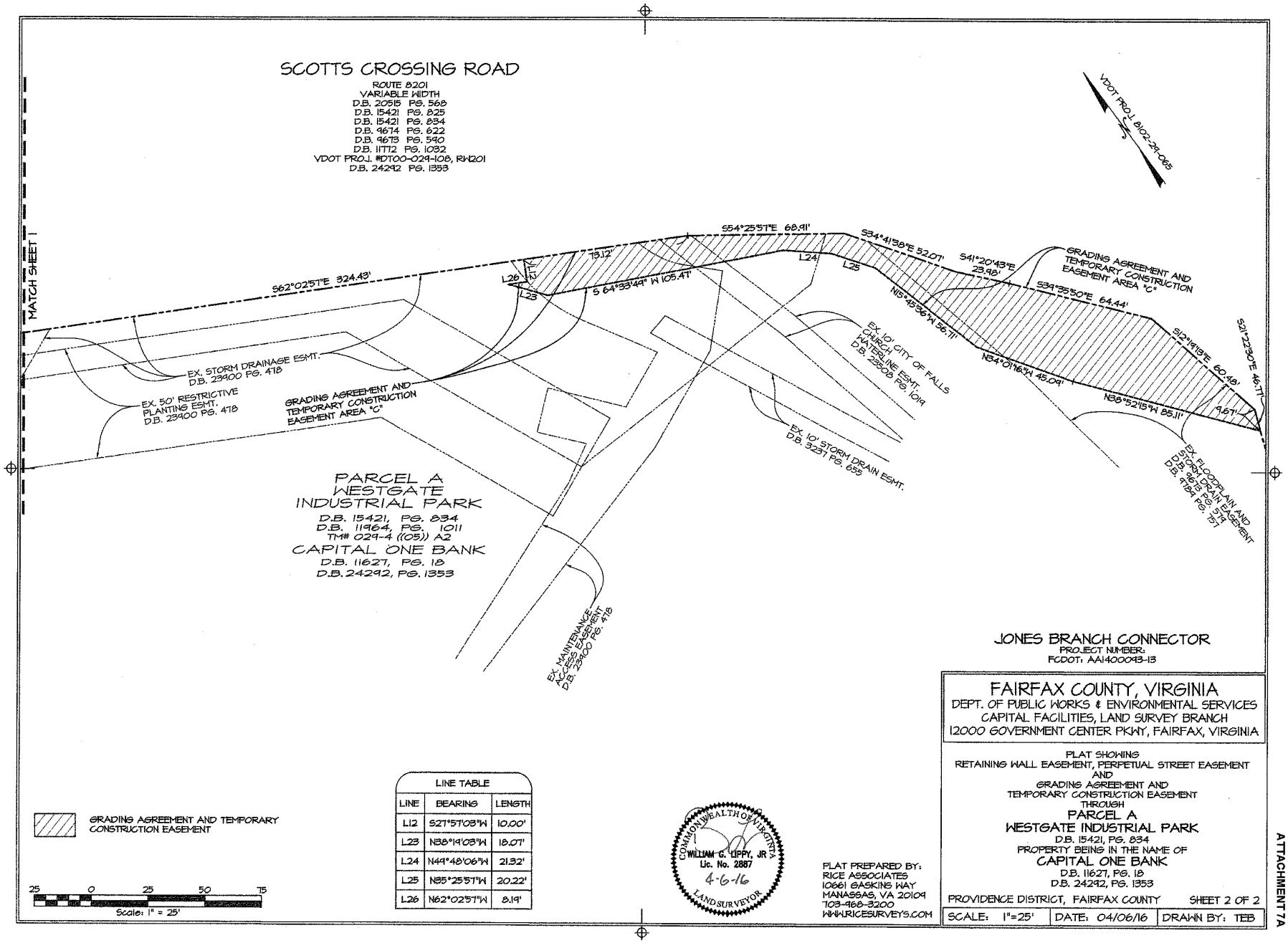
FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
RETAINING WALL EASEMENT, PERPETUAL STREET EASEMENT
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
PARCEL A
WESTGATE INDUSTRIAL PARK
D.B. 15421, PG. 834
PROPERTY BEING IN THE NAME OF
CAPITAL ONE BANK
D.B. 11627, PG. 18
D.B. 24292, PG. 1353

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 2

SCALE: 1"=25' | DATE: 04/06/16 | DRAWN BY: TEB

ATTACHMENT 7A




LINE TABLE

| LINE | BEARING | LENGTH |
|---|---|---|
| L12 | S27°57'08"W | 10.00' |
| L23 | N38°19'08"W | 18.07' |
| L24 | N49°48'06"W | 21.32' |
| L25 | N85°25'57"W | 20.22' |
| L26 | N62°02'57"W | 8.19' |

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400043-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
RETAINING WALL EASEMENT, PERPETUAL STREET EASEMENT
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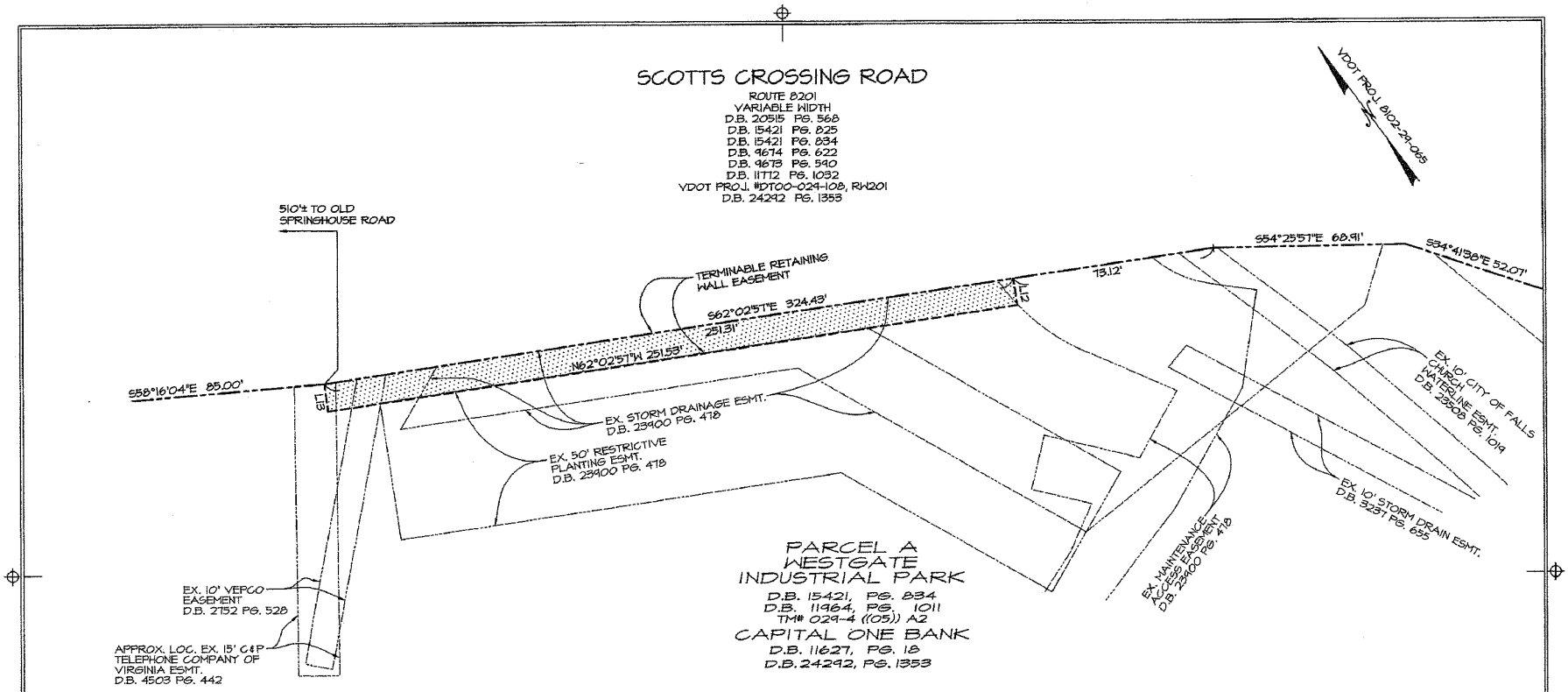
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
PARCEL A
WESTGATE INDUSTRIAL PARK
D.B. 15421, PG. 834
PROPERTY BEING IN THE NAME OF
CAPITAL ONE BANK
D.B. 11627, PG. 18
D.B. 24292, PG. 1353

PROVIDENCE DISTRICT, FAIRFAX COUNTY SHEET 2 OF 2

| SCALE: 1"=25' | DATE: 04/06/16 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 7A




## NOTES:

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5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 029-4 ((05)) A2.

**AREA TABULATION**

TERMINABLE RETAINING WALL EASEMENT 2,515 SQ. FT.

TERMINABLE RETAINING WALL EASEMENT

25 0 25 50 75
Scale: 1" = 25'

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L12 | S27°57'03"W | 10.00' |
| L13 | N24°12'51"E | 10.00' |

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR
Lic. No. 2867
1-7-16
LAND SURVEYOR

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-468-3200
WWW.RICESURVEYS.COM

JONES BRANCH CONNECTOR
PROJECT NUMBER:
FCDOT: AA1400093-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
TERMINABLE RETAINING WALL EASEMENT
THROUGH
PARCEL A
WESTGATE INDUSTRIAL PARK
D.B. 15421, PG. 834
PROPERTY BEING IN THE NAME OF
CAPITAL ONE BANK
D.B. 11627, PG. 18
D.B. 24292, PG. 1353

PROVIDENCE DISTRICT, FAIRFAX COUNTY SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 12/02/15 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 7B

ATTACHMENT 8

AFFECTED PROPERTY

Tax Map Number: 029-4-12-CONDO

Street Address: 1600 Spring Gate Drive
McLean, Virginia 22101

OWNER(S): Gates of McLean Condominium
Unit Owners Association

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

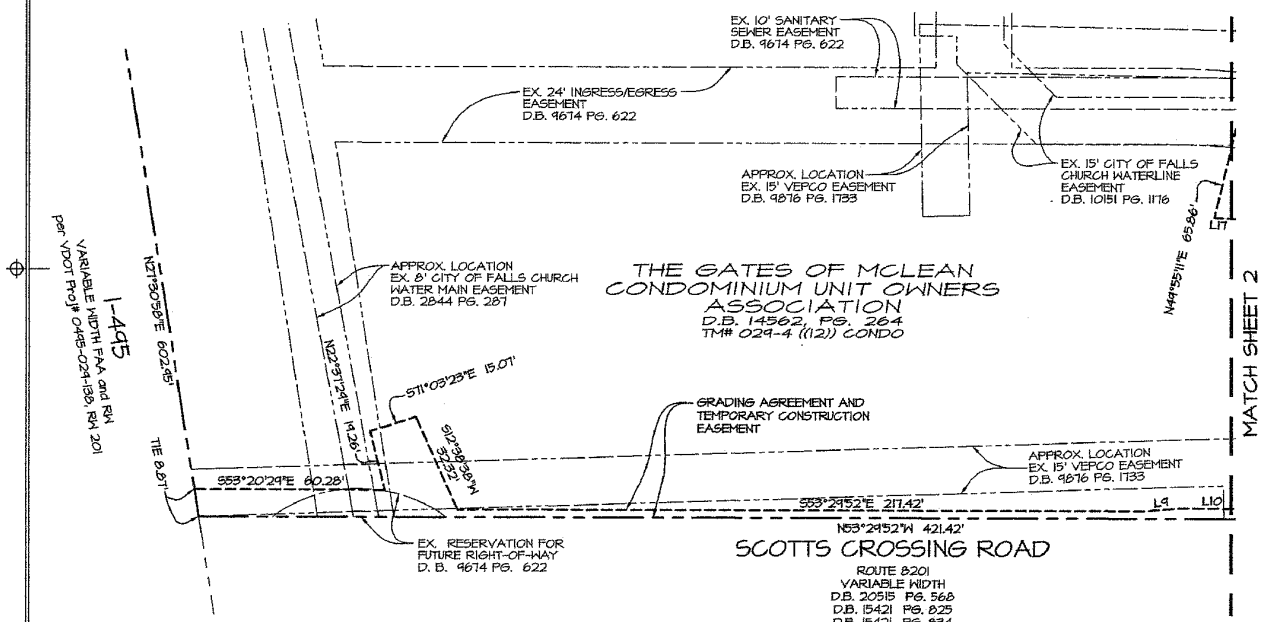
Ingress-Egress Easement – 3,084 sq. ft.
Grading Agreement and Temporary Construction Easement - 32,680 sq. ft.
Traffic Signal Equipment Easement - 629 sq. ft.
**Washington Gas Easement – 1432.05 sq. ft.**

VALUE

Estimated value of interests and damages:

~~**SIX HUNDRED EIGHTY THOUSAND DOLLARS ($680,000.00)**~~ SIX HUNDRED NINETY-THREE THOUSAND ONE HUNDRED DOLLARS ($693,100.00)

| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | LENGTH |
| L9 | S58°21'17"E | 11.53' |
| L10 | S53°19'33"E | 29.43' |
| L17 | N50°35'24"W | 16.25' |

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4. PORTION OF EASEMENT WITHIN DEDICATION FOR PUBLIC STREET PURPOSES HEREBY VACATED.
5. THE LAND SHOWN ON THIS PLAT IS NOW HELD AS NOTED IN THE TITLE BLOCK HEREON AND RECORDED AMONG THE LAND RECORDS OF FAIRFAX COUNTY; ALL EASEMENTS AND DEDICATIONS FOR PUBLIC STREET PURPOSES ARE WITHIN THE BOUNDS OF THE ORIGINAL TRACT, AS DESCRIBED AND RECORDED THEREIN.
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JONES BRANCH CONNECTOR

PROJECT NUMBER:
FCDOT: AA1400093-13

AREA TABULATION

INGRESS/EGRESS EASEMENT

AREA "A" 12 SQ. FT.
AREA "B" 955 SQ. FT.
AREA "C" 2,117 SQ. FT.
TOTAL 3,084 SQ. FT.

GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT

32,680 SQ. FT.

25 0 25 50 75
Scale: 1" = 25'

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-968-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR
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LAND SURVEYOR

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
INGRESS/EGRESS EASEMENT
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
AND
VACATION OF INGRESS/EGRESS EASEMENT

THROUGH THE PROPERTY BEING
THE GATES OF MCLEAN
CONDOMINIUM UNIT OWNERS ASSOCIATION
AS DECLARED AND RECORDED AT
D.B. 14562, PG. 264

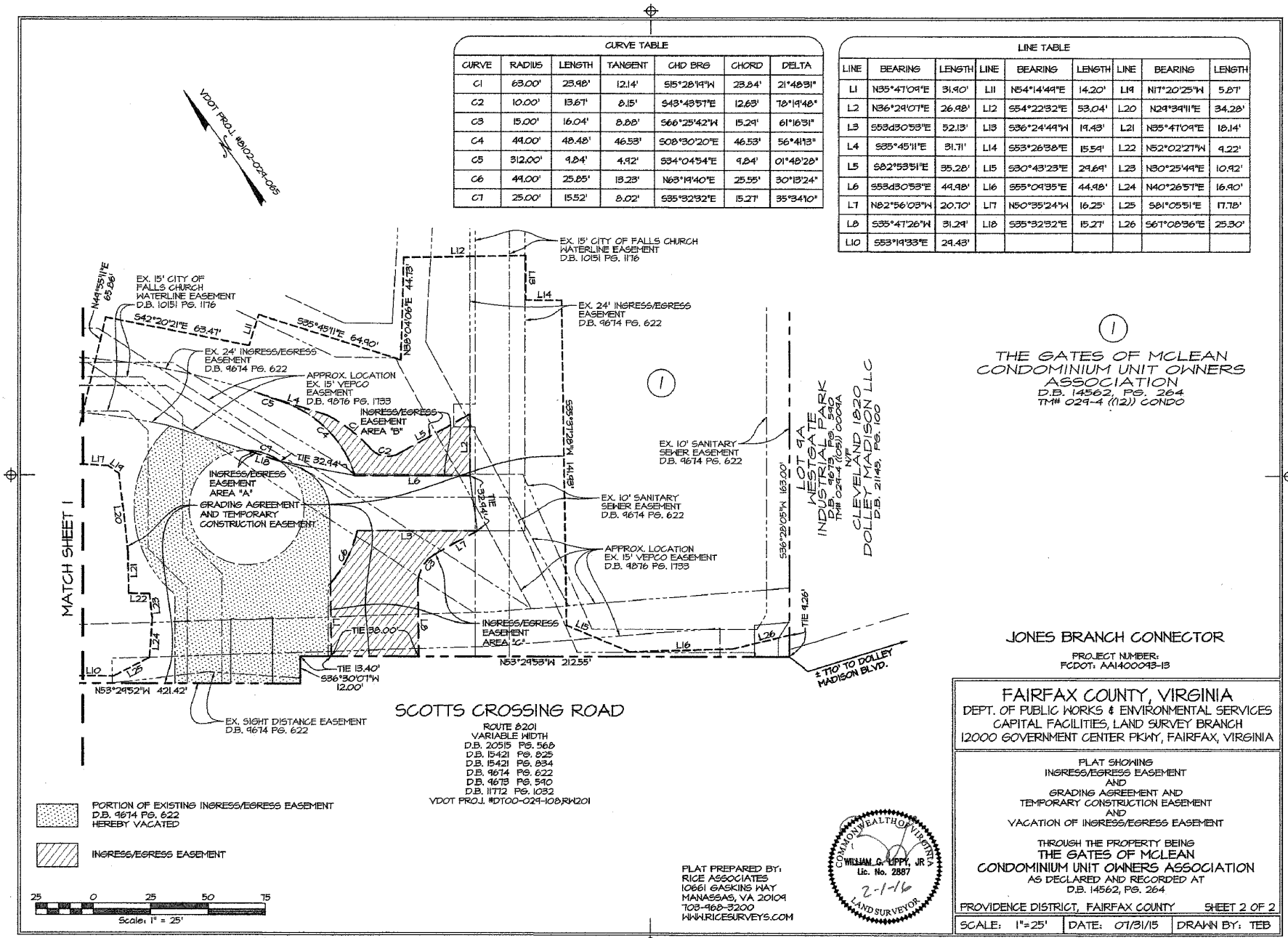
PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 2

| SCALE: 1"=25' | DATE: 07/31/15 | DRAWN BY: TEB |
|---|---|---|

ATTACHMENT 8A

| CURVE TABLE | | | | | | |
|---|---|---|---|---|---|---|
| CURVE | RADIUS | LENGTH | TANGENT | CHD BRG | CHORD | DELTA |
| C1 | 63.00' | 23.98' | 12.14' | S15°28'19"W | 23.84' | 21°48'31" |
| C2 | 10.00' | 13.67' | 8.15' | S43°43'57"E | 12.63' | 78°19'48" |
| C3 | 15.00' | 16.04' | 8.88' | S66°25'42"W | 15.29' | 61°16'31" |
| C4 | 44.00' | 48.48' | 46.53' | S08°30'20"E | 46.53' | 56°41'13" |
| C5 | 312.00' | 9.84' | 4.92' | S34°04'54"E | 9.84' | 01°48'28" |
| C6 | 44.00' | 25.85' | 13.23' | N63°19'40"E | 25.55' | 30°13'24" |
| C7 | 25.00' | 15.52' | 8.02' | S35°32'32"E | 15.27' | 35°34'10" |

| LINE TABLE | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| LINE | BEARING | LENGTH | LINE | BEARING | LENGTH | LINE | BEARING | LENGTH |
| L1 | N35°47'09"E | 31.90' | L11 | N54°14'49"E | 14.20' | L19 | N17°20'25"W | 5.87' |
| L2 | N36°29'07"E | 26.98' | L12 | S54°22'32"E | 53.04' | L20 | N29°39'11"E | 34.28' |
| L3 | S53d30'53"E | 52.13' | L13 | S36°24'49"W | 19.43' | L21 | N35°47'09"E | 18.14' |
| L4 | S35°45'11"E | 31.71' | L14 | S53°26'38"E | 15.59' | L22 | N52°02'27"W | 9.22' |
| L5 | S82°53'51"E | 35.28' | L15 | S30°43'23"E | 29.69' | L23 | N30°25'49"E | 10.92' |
| L6 | S53d30'53"E | 44.98' | L16 | S55°09'35"E | 44.98' | L24 | N40°26'57"E | 16.90' |
| L7 | N82°56'03"W | 20.70' | L17 | N50°35'24"W | 16.25' | L25 | S81°05'51"E | 17.78' |
| L8 | S35°47'26"W | 31.29' | L18 | S35°32'32"E | 15.27' | L26 | S67°08'36"E | 25.30' |
| L10 | S53°19'33"E | 29.43' | | | | | | |




JONES BRANCH CONNECTOR

PROJECT NUMBER:
FCDOT: AA1400043-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
INGRESS/EGRESS EASEMENT
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
AND
VACATION OF INGRESS/EGRESS EASEMENT

THROUGH THE PROPERTY BEING
THE GATES OF MCLEAN
CONDOMINIUM UNIT OWNERS ASSOCIATION
AS DECLARED AND RECORDED AT
D.B. 14562, PG. 264

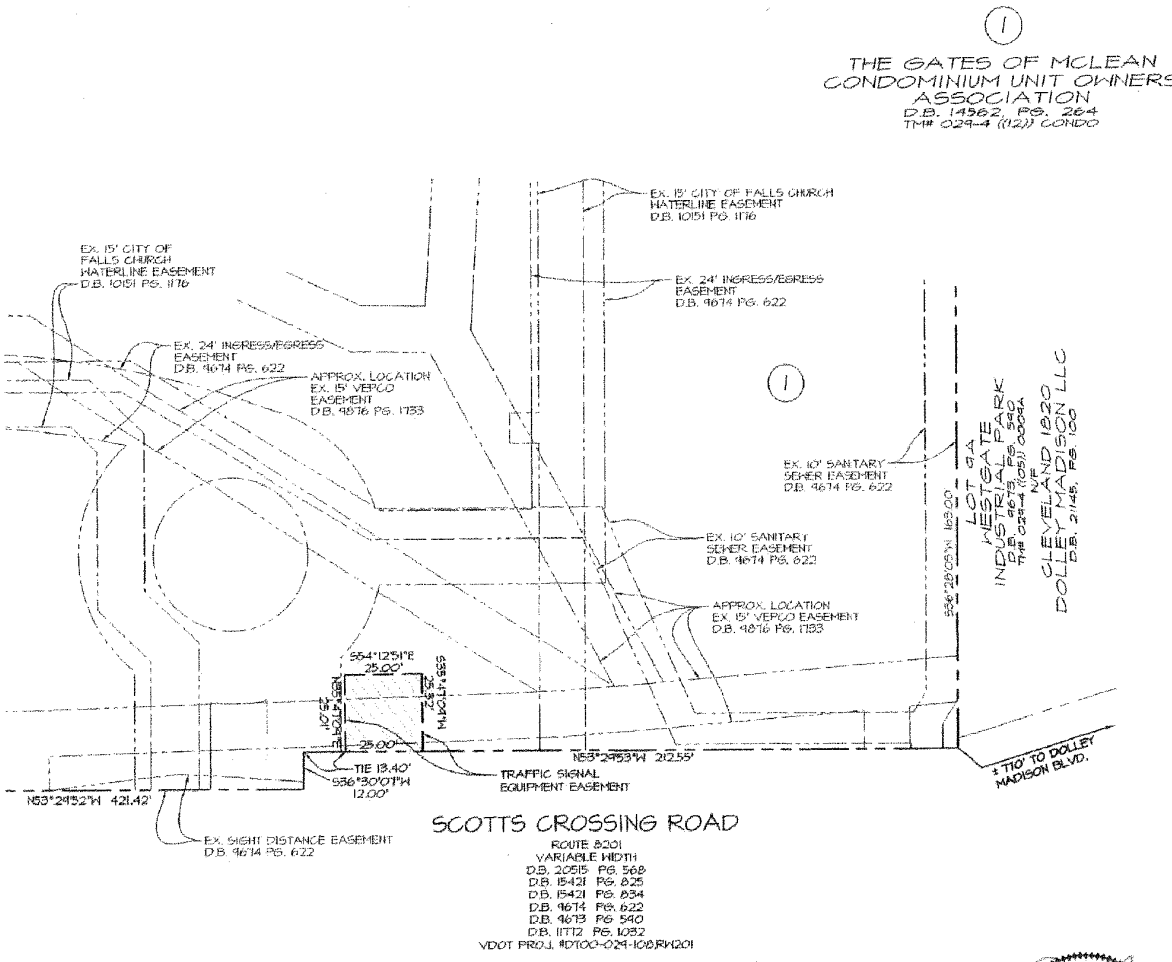
PROVIDENCE DISTRICT, FAIRFAX COUNTY SHEET 2 OF 2

| SCALE: 1"=25' | DATE: 07/31/15 | DRAWN BY: TEB |
|---|---|---|

PLAT PREPARED BY:
RICE ASSOCIATES
10661 GASKINS WAY
MANASSAS, VA 20109
703-968-3200
WWW.RICESURVEYS.COM

COMMONWEALTH OF VIRGINIA
WILLIAM G. LIPPY, JR
Lic. No. 2887
2-1-16
LAND SURVEYOR

ATTACHMENT 8A

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JONES BRANCH CONNECTOR

PROJECT NUMBER:
FCDOT: AA140004B-13

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
TRAFFIC SIGNAL EQUIPMENT EASEMENT

THROUGH THE PROPERTY BEING
THE GATES OF MCLEAN
CONDOMINIUM UNIT OWNERS ASSOCIATION
AS DECLARED AND RECORDED AT
D.B. 14562, PG. 264

PROVIDENCE DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

| SCALE: 1"=25' | DATE: 07/31/15 | DRAWN BY: TEB |
|---|---|---|

TRAFFIC SIGNAL EQUIPMENT EASEMENT

**AREA TABULATION**

TRAFFIC SIGNAL EQUIPMENT EASEMENT 629 SQ. FT.

25 0 25 50 75
Scale: 1" = 25'

COMMONWEALTH OF VIRGINIA
WILLIAM G. PUPPY, JR.
Lic. No. 2887
1-7-16
LAND SURVEYOR

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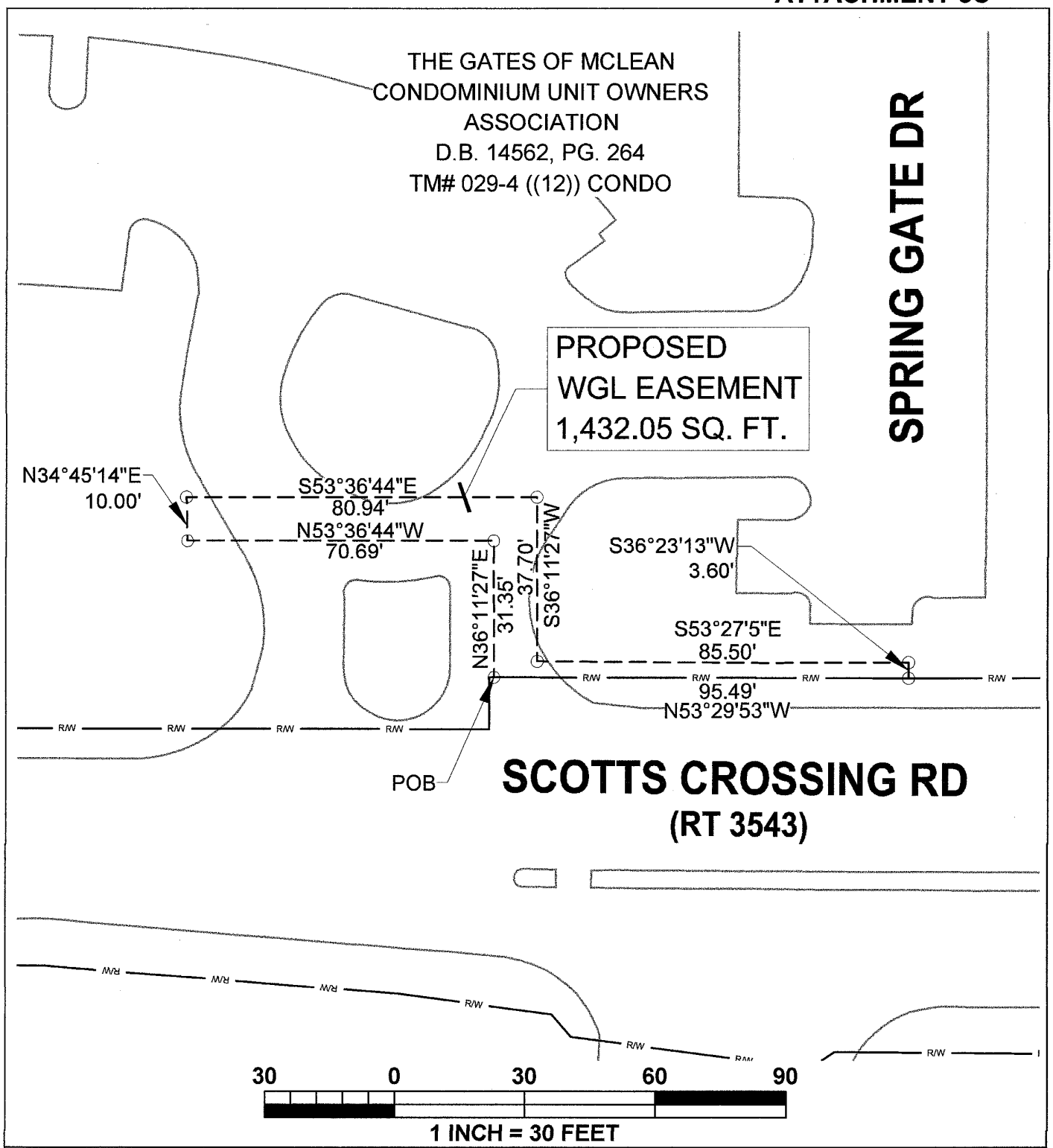
ATTACHMENT 8B




# WGL EASEMENT AGREEMENT

Washington Gas

PROJECT:
**BCA# 177240**
**JONES BRANCH CONNECTOR**

DATE: **05-10-2016**

EASEMENT DRAFTER INITIALS: **(ENE) AC**

Board Agenda Item
June 21, 2016

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 2, 6, 9, 11, 13, 16 and Appendix 7 – Modifications to the Planned Development Commercial (PDC) District, Planned Residential Mixed Use (PRM) District and Other Associated Provisions

ISSUE:
The proposed Zoning Ordinance amendment includes, among other things, changes that relate to the PDC, PRM, CRD Districts and other modifications, which are necessary to provide the implementation tools needed to address recent changes to the comprehensive plan in Transit Station Areas (TSA), Commercial Revitalization Districts (CRD), Commercial Revitalization Areas (CRA) and Community Business Centers (CBC). The proposed amendment will increase the maximum allowable FAR overall, for the PDC and PRM Districts with additional potential increases available for properties located in a TSA, CRD and/or CBC (collectively, Selective Areas for the purpose of this amendment) when such intensity is recommended by the comprehensive plan. Further, the proposed amendment will also clarify and update terminology for certain provisions, add uses to the PDC and PRM Districts, codify current practices related to parking reductions, require the inclusion of cellar space in the calculation of Floor Area Ratio (FAR) in the PDC and PRM Districts, and other changes.

Staff notes that the proposed changes to the Zoning Ordinance do not, in and of themselves, implement any increases in FAR for any properties, reduce parking or yards for any property, or authorize any new uses for properties subject to an approved rezoning. In order to implement such changes, a rezoning or an amendment to a previously approved rezoning is required. Further, the proposed changes would not amend the guidance, limitations or recommendations of the adopted comprehensive plan. Any changes to the comprehensive plan would require a specific amendment to be adopted by the Board, subject to the requisite public hearing process.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, June 15, 2016, the Planning Commission voted 11-0 (Commissioner Lawrence was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of the proposed Zoning Ordinance Amendment regarding Articles 2, 6, 9, 11, 13, 16 and Appendix 7, Planned Development Commercial, Planned

Residential Mixed Use Districts and other associated provisions, as set forth in the Staff Report dated April 26, 2016, subject to the following:

- Regarding Paragraph 5 of Section 6-206 of the Zoning Ordinance regarding secondary uses in the PDC District, the Planning Commission recommend Option 1, which does not increase the current provision regarding the 25 percent maximum limit of secondary uses that can be permitted in a PDC District;

- Regarding Paragraph 10 of Section 6-206 of the Zoning Ordinance regarding fast food restaurants in the PDC District, the Planning Commission recommend staff's alternative language that was provided as a handout at the May 25th public hearing. The recommended language for Paragraph 10A2 of Section 6-206 of the Zoning Ordinance would be revised to state, "Such Use(s) shall comprise not more than 15 percent of the approved Gross Floor Area of the planned development;"

- In terms of a clarifying change to the provisions about parking reduction requests, the Planning Commission recommends a modification to Paragraph 5 of Section 11-102 on Page 26, line 24 of the Staff Report to add the words, "Including potential impacts on existing overflow parking in nearby neighborhoods," and add that to the end sentence after, "or the adjacent area;"

- Regarding Sections 6-208 and 6-408 of the Zoning Ordinance regarding the maximum Floor Area Ratio (FAR) in the PDC and PRM Districts, the Planning Commission recommend Option 1, which would establish a maximum FAR of 5.0 for developments located in a selective area. A selective area is used to identify those geographic areas that are either a Transit Station Area, Commercial Revitalization District, and/or a Community Business District; and

- The Planning Commission recommends that the Board of Supervisors adopt this Zoning Ordinance Amendment, with the changes and options outlined in this motion, with effective date of 12:01 A.M., on the day following adoption.

In addition the Planning Commission recommends that the Board of Supervisors:

- Expedite the review and consideration of Item Number 17 on the Priority 1 list of the Draft 2016 Work Program regarding parking reductions;

- Direct The Department of Planning and Zoning to include a statement about any concurrent rezoning application that is currently under review with any notification of a proposed plan amendment and on the project-specific plan amendment website and similarly, that any notification of the rezoning application include a notice that there is a current proposed comprehensive plan amendment; and

- Direct staff to continue to ensure that the traffic impacts associated with applications for a rezoning to the PDC and PRM Districts in selective areas be thoroughly evaluated. Such analysis should include, for example:

    - Vehicle trip reductions gained through design, mix of uses, and amenities provided on site and within walking distance;

    - Trip reductions during and at the completion of the development achieved through Transportation Demand Management programs; and

    - The capacity of the transportation network serving the site and surroundings, as it relates to current conditions, other proposed developments in the area, and upon development of the application property.

RECOMMENDATION:
The County Executive concurs with the Planning Commission's recommendation.

TIMING:
Board of Supervisors' authorization to advertise- April 26, 2016; Planning Commission public hearing - May 25, 2016, at 8:15 p.m.; Planning Commission deferral of decision to May 26, 2016; Planning Commission deferral of decision to June 15, 2016; Board of Supervisors public hearing - June 21, 2016, at 4:00 p.m.

BACKGROUND:
The proposed amendment addresses a number of topics set forth in the 2015 Priority 1 Zoning Ordinance Amendment Work Program. The proposed changes are in response to the increased density/intensity and other recommendations that have been adopted into the comprehensive plan over the past several years for such areas as the Silver Line extension of the Metro, Seven Corners/Baileys Crossroads, Annandale, Richmond Highway and other areas.

Preparation of the proposed amendment has included extensive public outreach, including the development of a website specifically for this proposed amendment;

meetings with various groups and individuals that had expressed an interest in the changes, including The Fairfax Federation of Citizens Associations, McLean Citizens Association, Bailey's Crossroad Seven Corners Corporation (BC7RC), Southeast Fairfax Development Corporation, Northern Virginia Building Industry Association, National Association of Industrial and Office Parks and others; as well as distribution of previous drafts of the amendment using the Zoning Administration Listserv and amendment website to solicit public input. On December 5, 2015, the Board of Supervisors directed the Planning Commission to conduct a Public Input Session to consider the proposal prior to the formal authorization of the amendment. The Planning Commission conducted the session on January 20, 2016, at which time eight individuals provided testimony about the proposed changes.

Subsequent to the Public Input Session, the Planning Commission Land Use Committee met on March 10, 2016, to discuss the comments received at the public input session. The Planning Commission requested that staff make a number of changes and/or provide options for the Planning Commission and Board's consideration, to include:

1. An option to adopt a 5.0 FAR maximum in TSAs and a 4.0 FAR maximum in CRDs and CBCs.

2. An option to eliminate the provision limiting fast food restaurants to 15% of the gross floor area of the structure in which located and an option to increase from 25% to 50% the limitation on the amount of gross floor area permitted for all secondary uses in the PDC District.

3. Clarification of the Purpose and Intent provisions of the PDC and PRM Districts to strengthen the connection between the purposes of the zoning districts and the guidelines and recommendations set forth in the comprehensive plan.

Staff has made changes to the proposed amendment based on public input and the Planning Commissions directives. Among other changes, the amendment proposes to:

1. Establish a maximum FAR of 5.0 in the PDC and PRM Districts for properties located in a Selective Area, with an option for the Board to establish a maximum FAR of 5.0 only for TSAs and a maximum FAR of 4.0 for CBCs and CRDs. For advertising purposes, the proposed amendment will allow the Board to consider an FAR from the current maximums up to 5.0. The maximum FAR in the PDC District will increase to 2.5 for properties located outside the Selective Areas.

2. In the PDC District, revise the Purpose and Intent section to strengthen the connection between the district and the comprehensive plan; add commercial recreation restaurants, vehicle sale, rental and ancillary service establishments

(limited to indoor facilities only), and fast food restaurants with no drive-through in a residential building; as options, eliminate the 15% gross floor area of any building limit for fast food restaurants and increase from 25% to 50% the maximum gross floor area for all secondary uses (Staff is not recommending these two options); update terminology by changing “housing for the elderly” to independent living facilities and medical care facilities, limited to assisted living facilities and/or nursing facilities; revise the minimum district size provisions to add Commercial Revitalization Areas (CRA) and TSAs for determining when land may be classified to the PDC District.

3. In the PRM District, modify the Purpose and Intent section to strengthen the connection between the district and the comprehensive plan and identify areas appropriate for such district; add commercial recreation restaurants and vehicle sale, rental and ancillary service establishments, kennels and veterinary hospitals, each limited to indoor facilities only; require that not more than half of the minimum required open space shall be permitted above street level, unless modified by the Board.

4. Require cellar space to be included in the calculation of gross floor area (GFA) for any rezoning to the PDC or PRM Districts approved after the date of this amendment and clarify the exclusions related to loading, storage, mechanical equipment, an unmanned datacenter or other similar telecommunications and electronic equipment.

5. Amend certain provisions related to parking, including:
   a. Clarifying the Board’s authority to approve a parking reduction as part of a rezoning or special exception application in proximity to a mass transit station, transportation facility or high frequency service bus stop.
   b. Clarifying the Board’s authority to grant a parking reduction for mixed use developments in a CRD (including residential and non-residential uses) associated with a PDC or PRM District rezoning.
   c. Allowing the of Board and/or Director of the Department of Public Works and Environmental Services the authority to approve a temporary parking reduction and/or relocation of required parking when associated with the redevelopment of an existing property that includes the retention of some uses/structures and the elimination of some on-site parking.
   d. Requiring that a substantial portion of parking in a PDC District be provided in structures (above or below grade.)

6. For commercial recreation restaurants, eliminate the additional standard that requires any person under 18 years of age to be accompanied by a parent or guardian.

7. Allow the Board to modify the minimum sight distance requirements on a corner lot in conjunction with a rezoning or special exception and allow the Board or the Director to modify the transitional screening and barrier requirements along the Dulles International Airport Access Highway and the Dulles Toll Road.

8. Specify that the bulk regulations and landscaping and screening provisions of the conventional district that most closely characterizes the particular type of development under consideration shall have general applicability in a PRM and PDC District that is located in a Selective Area or CRA and only at the periphery of such Selective Area or CRA.

9. Clarify the provisions regarding reductions of yards in TSAs, CBCs and CRAs to specify that yards and other distances from lot lines may be reduced in conjunction with a rezoning or special exception in accordance with the specified yard/distance recommended in the adopted comprehensive plan for the area.

10. For clarity, replace references to the term “variance” in Article 16 with the term “modification” and delete the term “exception” in those specific provisions.

As noted previously, the majority of these changes relate to the Zoning Ordinance provisions of the PDC and PRM Districts and, as such, these proposed changes do not, in and of themselves, implement any increases in FAR for any properties, reduce parking or yards, or authorize any new uses for properties subject to an approved rezoning. In order to implement such changes, a rezoning or an amendment to a previously approved rezoning is required. Further, the proposed changes would not amend the guidance, limitations or recommendations of the adopted comprehensive plan. Any changes to the comprehensive plan would require a specific amendment to be adopted by the Board, subject to the requisite public hearing process.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

REGULATORY IMPACT:
The proposed amendment will provide for the appropriate zoning regulations needed to implement the adopted comprehensive plan recommendations for future development around transit stations and in revitalization and redevelopment areas.

FISCAL IMPACT:
There are no fiscal impacts related to staffing associated with this amendment.

Board Agenda Item
June 21, 2016

ENCLOSED DOCUMENT:
Attachment 1: Planning Commission Verbatim Transcript
Attachment 2: Staff Report available online at:
http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/pdc-prm-crd.pdf

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Donna Pesto, Senior Assistant to the Zoning Administrator, DPZ

Planning Commission Meeting Attachment 1
June 15, 2016
Verbatim Excerpt

ZONING ORDINANCE AMENDMENT (PDC/PRM INCREASE IN FAR) (Countywide)

Decision Only During Commission Matters
(Public Hearing held on May 25, 2016)

Commissioner Sargeant: Thank you, Mr. Chairman. I have a decision only tonight for the Zoning Ordinance Amendment on the PDC/PRM District. I would like to make some comments, which will be followed by several motions and my proposal is to go through all the motions related to this Zoning Ordinance Amendment and then have – hopefully have a second and then move on for discussion, if that would be okay. And I have some motions after that. First of all – some comments before several motions. Transition is a word we hear in the lexicon of planning. We are certainly a County in transition from a suburban community to a suburban and urban community. We're in transition from a way of life that is very much dependent on the automobile to an era where the words "multi-modal transit" are part of the new vision for Fairfax County. And we are continuing the transition from planning visions that have served us well for decades to new planning visions and horizons to meet contemporary needs and expectations or our fellow citizens. And that is where this Zoning Ordinance Amendment comes in. It is needed for those areas of our County that are poised for revitalization. And it will be need for those areas in the County where citizens are working to create a new vision. The Zoning Ordinance Amendment is not a vision. It does not bypass any of the development requirements that are necessary in a good application. Whether it's stormwater management, landscape requirements, desirable and proportional residential and commercial scale for a particular site – and, most certainly, transportation and traffic. None of the usual criteria we all utilize when reviewing a development application can or should be ignored. The changes that we will consider in this Zoning Ordinance Amendment do not exempt any development from compliance with any applicable County, State or Federal regulations. Does this Zoning Ordinance Amendment override the Comprehensive Plan recommendations for floor area ratio in a given area? No. And it does not delete the requirements for traffic analysis or transportation demand management or transportation alternatives, especially when we are considering development in the revitalization areas. This Zoning Ordinance Amendment is a tool for implementation of Comprehensive Plan guidance in the revitalization areas, now and in the future. With all of that said, we have received from thoughtful input during the public review process and have worked to address concerns. For example, we heard some concerns about possible overflow parking in adjacent neighborhoods. We will address that with additional language in the Zoning Ordinance Amendment. Just this afternoon, I received additional text that does not require re-advertising and may offer more specific consideration for adjacent neighborhoods near the higher density developments. In addition, I will offer a separate motion for Board of Supervisors Action that may further address that issue. It's also important to note that the County's Parking District regulations may be appropriate for addressing overflow parking in a neighborhood, whether it is caused by nearby high-density development or citizens who don't wish to pay for parking at a Metro parking garage. Regarding the concerns we heard about allowing 50 percent of the open space requirements above grade, it should be noted that current regulations allow 100 percent open space above grade. This amendment to 50 percent should be an improvement. And finally, Mr. Chairman, I am anticipating some thoughtful discussion from my fellow Planning Commissioners as we consider whether to recommend approval of Option 1, which would allow an increase in Floor Area Ratio up to 5.0 when a development application is located in a

Selective Area, or Option 2, which would allow a maximum FAR of 5.0 in the Transit Station Areas and a maximum FAR of 4.0 in the Community Business Centers and Community Revitalization Districts. And with that, Mr. Chairman, I'm ready to make several motions related to this Amendment. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING ARTICLES 2, 6, 9, 11, 13, 16 AND APPENDIX 7, PLANNED DEVELOPMENT COMMERCIAL, PLANNED RESIDENTIAL MIXED USE DISTRICTS AND OTHER ASSOCIATED PROVISIONS, AS SET FORTH IN THE STAFF REPORT DATED APRIL 26, 2016, SUBJECT TO THE FOLLOWING:

- WITH REGARD TO PARAGRAPH 5 OF SECTION 6-206 REGARDING SECONDARY USES IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH DOES NOT INCREASE THE CURRENT PROVISION REGARDING THE 25 PERCENT MAXIMUM LIMIT OF SECONDARY USES THAT CAN BE PERMITTED IN A PDC DISTRICT;

- WITH REGARD TO PARAGRAPH 10 OF SECTION 6-206 REGARDING FAST FOOD RESTAURANTS IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND STAFF'S ALTERNATIVE LANGUAGE THAT WAS PROVIDED AS A HANDOUT AT THE MAY 25TH PUBLIC HEARING. THE RECOMMENDED LANGUAGE FOR PARAGRAPH 10A2 OF SECTION 6-206 WOULD BE REVISED TO STATE, "SUCH USE OR USES SHALL COMPRISE NOT MORE THAN 15 PERCENT OF THE APPROVED GROSS FLOOR AREA OF THE PLANNED DEVELOPMENT;"

- IN TERMS OF A CLARIFYING CHANGE TO THE PROVISIONS ABOUT PARKING REDUCTION REQUESTS, I MOVE THAT THE PLANNING COMMISSION MODIFY PARAGRAPH 5 OF SECTION 11-102 ON PAGE 26, LINE 24 TO ADD THE WORDS, "INCLUDING POTENTIAL IMPACTS ON EXISTING OVERFLOW PARKING IN NEARBY NEIGHBORHOODS," AND ADD THAT TO THE END SENTENCE AFTER, "OR THE ADJACENT AREA;"

- WITH REGARD TO SECTIONS 6-208 AND 6-408 REGARDING THE MAXIMUM FLOOR AREA RATIO IN THE PDC AND PRM DISTRICTS, I MOVE THAT THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A SELECTIVE AREA. A SELECTIVE AREA IS USED TO IDENTIFY THOSE GEOGRAPHIC AREAS THAT ARE EITHER A TRANSIT STATION AREA, Commercial Revitalization Area – COMMERCIAL REVITALIZATION DISTRICT, AND/OR COMMUNITY BUSINESS DISTRICT;

- AND LASTLY, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD ADOPT THIS AMENDMENT, WITH THE CHANGES AND OPTIONS OUTLINED IN THIS MOTION, WITH EFFECTIVE DATE OF 12:01 A.M., ON THE DAY FOLLOWING ADOPTION.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion, as articulate by-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Yeah, I think there – there was going to be discussion. Let me – let me OFFER AN AMENDMENT. Let's just see what happens. I MOVE THAT WE AMEND MR. SARGEANT'S MOTION, SUCH THAT INSTEAD OF OPTION 1 FOR 6-208 AND 6-408 – I move that THE PLANNING COMMISSION RECOMMEND OPTION 2, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A TRANSIT STATION AREA AND A MAXIMUM FAR OF 4.0 FOR DEVELOPMENTS LOCATED IN A COMMERCIAL REVITALIZATION DISTRICT OR COMMUNITY BUSINESS CENTER, IN BOTH DISTRICTS ONLY WHEN THE DEVELOPMENT WILL IMPLEMENT THE SITE SPECIFIC DENSITY/INTENSITY AND OTHER RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN. Other than that change, Mr. Sargeant's motion would be left alone.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the alternate motion?

Commissioner Migliaccio: Mr. Chairman, I'm supporting the alternate – the Option 2 because I believe that the 5.0 that staff has recommended, outside of the TSA areas, is just too much right now. And that – coupled with an open space requirement that – granted, is 50 percent rather than the 100 percent that was in – doesn't mean that the 100 percent was a good policy at 3.0. And I would rather have that a different number, perhaps 35 percent, but that's outside of the realm of the advertising so we can't debate that this evening. But I believe Option 2 is a better way forward on this and that's why I'm supporting Mr. Hart's motion.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes.

Chairman Murphy: And then Mr. de la Fe.

Commissioner Hart: I made the motion because I wanted in an orderly fashion to discuss – I think there's some disagreement as to 4.0/5.0 and where we were going to go. I can see it both ways and I think it's a – I think it's a close call. I have never bought into the assumption that by adopting Option 1, we were somehow raising the FAR to 5.0 across the board in these vast areas throughout the County, which never-the-less is the – the drumbeat that we've been hearing in all of the letters – or many letters and emails that – never-the-less, I would be more comfortable

with Option 2 and I would have suggested – I don't have it – but a follow-on motion – something to the effect that we revisit this in two years and see where we care and if it needs to be tweaked further. Nothing is permanent, but I was more comfortable with the – Option 2 and the 4.0, at least outside of the Transit Station Areas.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Yes, I seconded the original motion and I support the original motion because I think nothing in that motion of setting the – setting it at 5.0 means that you have to have 5.0 in all of these places. And I just think that the flexibility should be there. There may be a situation where that would be appropriate. I don't know, but as Mr. Hart said, everything changes. But I would much rather have the flexibility, as recommended by staff, rather than making a distinction between the two areas.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan. Then Ms. Strandlie.

Commissioner Flanagan: Yes, I would – I am in favor of the original motion, as proposed. In Richmond Highway, we have quite a few Community Business Centers that – to be effected by this. And we have a special advisory group at the present considering changes to the Comprehensive Plan, specifically with regard to density. And at one of those – at one of our early meetings, I indicated that my principle concern is that we would have a development limited to 4.0, only to have the Yellow Line built in where each of those Community Business Centers will become TSAs – Transit Station Areas. And that means that the redevelopment of those areas at a later date would be greatly difficult because once the buildings are built – you know, three or four stories high – and they have life of 20 or 25 years – and so, consequently, I think that I had encouraged the advisory group on – the Embark Advisory Group to start planning now for the higher density – and so that we will eventually have some very nice open space around taller buildings and have much more walkable community – one that's more attractive. And so consequently, I'm inclined to go with the 5.0 now so that we can start planning some of those Community Business Centers for the higher density that they will eventually enjoy when they become stations on the Yellow Line.

Chairman Murphy: Thank you. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. I too would support Option 1. This has been a very difficult process and decision. We've heard from many members of our community, some who support the – Option 1 in its entirety – some who support Option 2 – some who don't want any changes whatsoever. Because the *Virginia Code* requires that planned developments shall not exceed the density or intensity permitted in the adopted Plan, I think that Option 1 is appropriate – and that there is not that concern that has been generated – that it may result in increased density beyond that. We also have a very vigorous community involvement process where we have full community involvement. We have multiple meetings of our Land Use Committee and, of course, we have the required public hearings. And further, there could be – and this is hard to

visualize and conceptualize in some cases – there could be a time when a 4.0 FAR could prevent Seven Corners and Annandale from achieving the vision that is in the current plans that are already adopted. And because of that, I would support Option 1.

Chairman Murphy: Further discussion?

Commissioner Migliaccio: Mr. Chairman, just on Mr. Flanagan's point regarding the Embark Richmond Highway planning process that you're talking about – I understand the CBC – that we have the CBCs in there, but we also – by the end of it – we will be designating two of them for the TSA areas. So they will be 5.0 anyway because of the extension of two stops. Thank you.

Chairman Murphy: Further discussion? All right, we'll vote on the alternate motion first. All those in favor of the alternate motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: The alternate – wait a minute now – alternate motion is-

Commissioner de la Fe: Option 2.

Commissioner Sargeant: Option 2

Chairman Murphy: Option 2.

Commissioner Migliaccio: An amendment.

Commissioner Sargeant: Amended motion.

Commissioner Hart: My motion is to amend his motion.

Chairman Murphy: All those in favor of-

Commissioner Migliaccio: Mr. Hart's amendment?

Commissioner Ulfelder: It's a – it's a single amendment so that we either that up or down and then go back to the original motion.

Chairman Murphy: Right. Yes, that's what we're going to do.

Commissioner Ulfelder: Okay. That's – I just want to be clear. We're just voting on whether Option 1 or Option 2 will be part of the broader amendment that Mr. Sargeant-

Chairman Murphy: Right. So – okay, all those in favor of Mr. Hart's motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Hedetniemi, and Sargeant: Aye.

Chairman Murphy: I believe-

Commissioner de la Fe: Or nay.

Chairman Murphy: -nay.

Commissioner Sargeant: Nay. We haven't done too many nays. That's a-

Chairman Murphy: I believe the nays – all right. Ms. Keys-Gamarra, yes or no on Mr. Hart's motion?

Commissioner Keys-Gamarra: Yes.

Chairman Murphy: Ms. Strandlie?

Commissioner Strandlie: No.

Chairman Murphy: Ms. Hedetniemi?

Commissioner Hedetniemi: Nay.

Chairman Murphy: Mr. Flanagan?

Commissioner Flanagan: Nay.

Chairman Murphy: Mr. de la Fe?

Commissioner de la Fe: No.

Chairman Murphy: Mr. Hart?

Commissioner Hart: Aye.

Chairman Murphy: Mr. Migliaccio?

Commissioner Migliaccio: Aye.

Chairman Murphy: Mr. Sargeant?

Commissioner Sargeant: No.

Chairman Murphy: Just so that I can keep the record straight. Ms. Hurley?

Commissioner Hurley: No.

Chairman Murphy: Mr. Ulfelder?

Commissioner Ulfelder: Aye.

Chairman Murphy: Okay, the motion is defeated – two, four, six to five – the Chair votes no.

Commissioner Hart: Four to seven.

Chairman Murphy: Four to seven. I'm sorry, yes. Thank you very much. Returning to the main motion, which would be Option 1 and 2. All those in-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: yes.

Commissioner Hart: I did want to say something on the main motion as well. I'm going to support the main motion, notwithstanding the-

Chairman Murphy: Option 2.

Commissioner Hart: -Option 2 issue. I think that the – the most important circumstance here is that every case is going to have a case-by-case review with two public hearings. And if there some ridiculous proposal or inappropriate density or intensity or whatever it is, I think we're capable of making that determination – hearing the citizens – listening to that. And that case-by-case review is going to, I think, be the firewall. So I think we're all right.

Chairman Murphy: Alright, all those in favor of the motion say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman.

Chairman Murphy: Thank you, Mr. Sargeant.

Commissioner Sargeant: I have two additional motions and then some final comments, if I may.

Chairman Murphy: Please.

Commissioner Sargeant: Stemming from the process and public input here – Mr. Chairman, I'd like to be able to address some of the concerns we heard further about overflow parking in adjacent neighborhoods. And as such, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS EXPEDITE THE REVIEW AND CONSIDERATION OF ITEM NUMBER 17 ON THE PRIORITY 1 LIST OF THE DRAFT 2016 WORK PROGRAM REGARDING PARKING REDUCTIONS.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. Two more motions and I'm finished here.

Chairman Murphy: You're pressing your luck, but that's okay.

Commissioner Sargeant: I know, well – it has been suggested that in the past, public outreach regarding these associated comprehensive plan amendments or rezoning proposals have been insufficient to foster a broad community assessment of the proposal. In order to highlight any circumstance where a rezoning application is associated with a concurrent comprehensive plan amendment, I MOVE THAT THE DEPARTMENT OF PLANNING AND ZONING INCLUDE A STATEMENT ABOUT ANY CONCURRENT REZONING APPLICATION THAT IS CURRENTLY UNDER REVIEW WITH ANY NOTIFICATION OF A PROPOSED PLAN AMENDMENT AND ON THE PROJECT-SPECIFIC PLAN AMENDMENT WEBSITE AND SIMILARLY, THAT ANY NOTIFICATION OF THE REZONING APPLICATION INCLUDE A NOTICE THAT THERE IS A CURRENT PROPOSED COMPREHENSIVE PLAN AMENDMENT.

Commissioner Strandlie: Second.

Chairman Murphy: Seconded by Ms. Strandlie. Is there a discussion of that motion? All those in favor of the motion, as articulated by Mr. Sargeant, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. And finally, the proposed changes to the floor area ratio maximum in the PDC and PRM Districts are specifically tied to those areas of the comprehensive plan that include land use guidelines that may accommodate higher-intensity developments in selective areas. In those areas, the impact of traffic is typically of paramount concern to the occupants of nearby developments. As such, I FURTHER MOVE THAT STAFF CONTINUE TO ENSURE THAT THE TRAFFIC IMPACTS ASSOCIATED WITH APPLICATIONS FOR A REZONING TO THE PDC AND PRM DISTRICTS IN SELECTIVE AREAS BE THOROUGHLY EVALUATED. SUCH ANALYSIS SHOULD INCLUDE, FOR EXAMPLE:

- VEHICLE TRIP REDUCTIONS GAINED THROUGH DESIGN, MIX OF USES, AND AMENITIES PROVIDED ON SITE AND WITHIN WALKING DISTANCE;

- TRIP REDUCTIONS DURING AND AT THE COMPLETION OF THE DEVELOPMENT ACHIEVED THROUGH TRANSPORTATION DEMAND MANAGEMENT PROGRAMS; AND

- THE CAPACITY OF THE TRANSPORTATION NETWORK SERVING THE SITE AND SURROUNDINGS, AS IT RELATES TO CURRENT CONDITIONS, OTHER PROPOSED DEVELOPMENTS IN THE AREA, AND UPON DEVELOPMENT OF THE APPLICATION PROPERTY.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Migliaccio: Just for clarification, this is what staff is currently doing. You just want to reinforce that so that the citizens know that we're not just getting to this now?

Commissioner Sargeant: Absolutely.

Commissioner Migliaccio: Thank you.

Chairman Murphy: All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman, thank you very much. And finally, let me just add my thanks to Leslie Johnson and Donna Pesto, who have worked so hard for so many months in support of this and the outreach and the very difficult, sometimes very controversial case. I'd also like to thank my fellow Planning Commissioners for their thoughtful input and consideration of this Zoning Ordinance Amendment – not only tonight, but during Work Programs, committee meetings, public hearings – it's been very helpful and very informative. And finally, let me thank the citizens who have participated in this process, whether for or against this particular Zoning Ordinance Amendment and who continue to particulate through their local planning processes and civic groups and Comprehensive Plan input. Your input was essential and will continue to be essential because, as I think Commissioner Hart indicated, nothing is specific and permanent and lasts forever. And always, we need your guidance and vigilance. So thank you very much.

Chairman Murphy: Thank you. And just to keep the record straight, I'm going to call for an omnibus motion. I would recommend to the Board of Supervisors that we adopt Articles 2, 6, 9, 11, 13, 16, and Appendix 7, as modified and articulated by Mr. Sargeant this evening.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you all who participated in the process.

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(Commissioner Hart's amendment to the first motion failed by a vote of 4-7. Commissioners de la Fe, Flanagan, Hedetniemi, Hurley, Murphy, Sargeant, and Strandlie voted in opposition. Commissioner Lawrence was absent from the meeting.

(The original first motion and each subsequent motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

JLC

Board Agenda Item
June 21, 2016

4:30 p.m.

Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2017 through 2022 and FY 2017 Budget

ISSUE:
Public hearing and Board approval of the proposed Virginia Department of Transportation (VDOT) Six-Year Secondary System Construction Program (SSYP) for Fiscal Years (FY) 2017 through 2022.

RECOMMENDATION:
The County Executive recommends that the Board approve the attached Secondary System Construction Program for FY 2017 through 2022 (Attachment 1), the FY 2017 Budget, and the resolution (Attachment 2) required by VDOT.

TIMING:
The Board is requested to act on this item on June 21, 2016, following the public hearing.

BACKGROUND:
The proposed SSYP has been prepared by VDOT, in coordination with County staff, pursuant to Section 33.2-331 of the *Code of Virginia*. This is an update of the previous Program which was the subject of a public hearing before the Board on May 12, 2015. Project schedule information is also included in the proposed program.

Until FY 2020, the CTB has the authority to allocate up to $500 million from the Transportation Trust Fund to priority projects before funds are provided to the construction fund. This continues to prevent any significant new funds from flowing to the primary, secondary, and urban allocation formulas. Additionally, due to recently enacted legislation (HB 1887) that replaces both the $500 million formula and the "40-30-30" (primary-secondary-urban) formula with a new formula that focuses on state of good repair and grant programs in FY 2021, no additional secondary road funds are expected in the future. However, HB 1887 specifies that this change will not affect the expenditure of the secondary funds that were allocated by July 1, 2016. Therefore, the County can continue to utilize those secondary funds already allocated to projects. Although the program has limited funds, there are several changes to the program.

The projects in the previously approved SSYP have undergone the following changes:

- $11,370 in Additional funding has been appropriated from the Unpaved Road State-wide formula and District Grant Program.
- Transferred $7,797 (surplus, project complete) from Lee Road Box Culvert Extension (92143) to Beluah Road Bridge Rehab (82213)
- Transferred $240,070 from Lee Road Box Culvert Extension (92143) to Walker Road Bridge Replacement (84383)

Table A shows the annual VDOT Secondary System Construction Program for Fairfax County from FY 2008 through FY 2022.

Table A

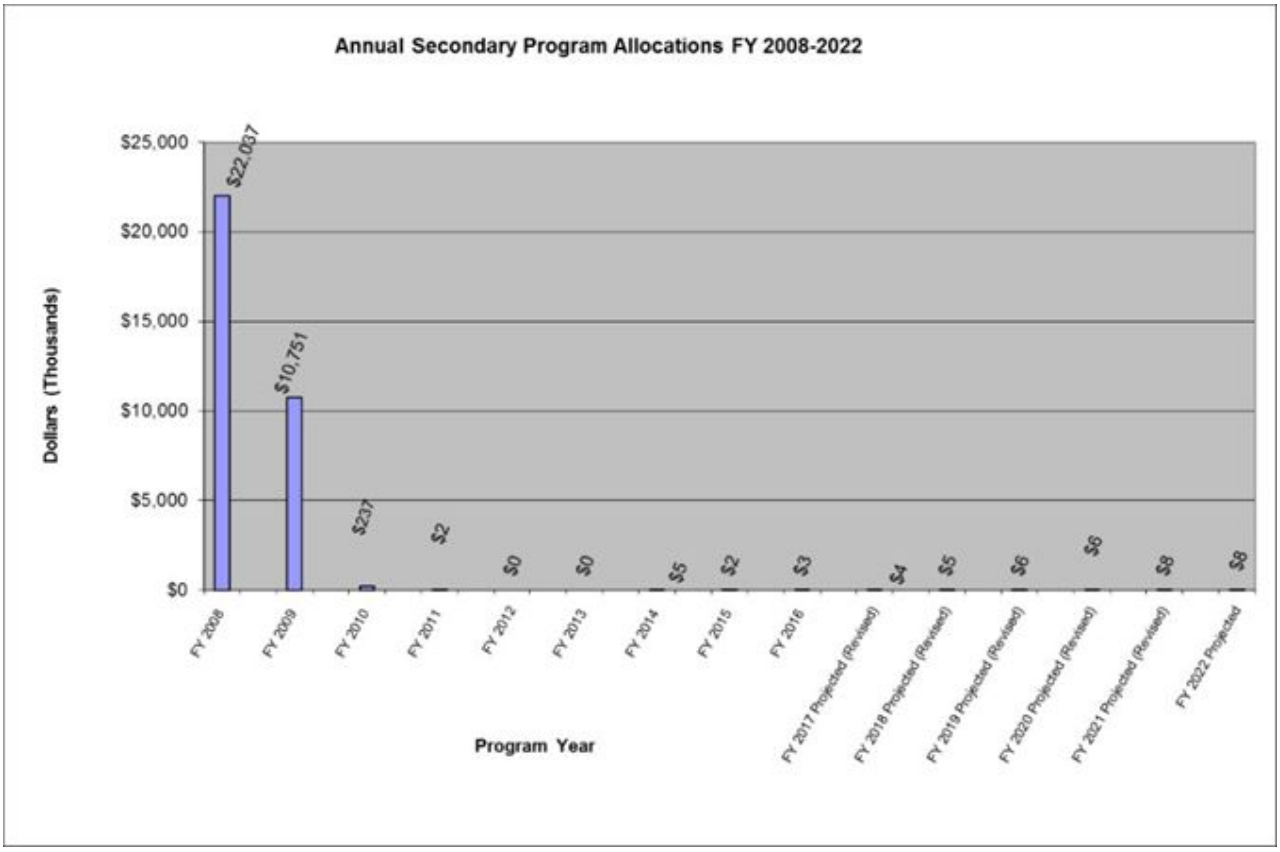


Table B shows the changes in the Six-Year Secondary Construction Program amounts from the FY 2003 to FY 2008 Program through the current Program.

Table B: Secondary Program Comparison

| | |
|---|---|
| 2003-2008 | $138,335,526 |
| 2004-2009 | $153,442,084 |
| 2005-2010 | $113,686,186 |
| 2006-2011 | $131,445,086 |
| 2007-2012 | $78,270,291 |
| 2008-2013 | $119,121,972 |
| 2009-2014 | $10,994,320 |
| 2010-2015 | $1,443,761 |
| 2011-2016 | $11,798 |
| 2012-2017 (revised) | $19,591 |
| 2013-2018 (revised) | $11,382 |
| 2014-2019 (revised) | $25,680 |
| 2015-2020 (revised)) | $43,396 |
| 2016-2021 (revised) | $33,275 |
| 2017-2022 (projected) | $38,155 |

FISCAL IMPACT:
There is no impact to the Fairfax County budget at this time. At such time as individual projects are constructed, the County may send VDOT any related funds that have been collected for a particular project by the County through proffers, construction escrows and/or other local funds.

ENCLOSED DOCUMENTS:
Attachment 1: Secondary System Construction Program for FY 2017 through FY 2022
Attachment 2: Resolution approving budget and program.
Attachment 3: Secondary Priority Road Widening Status Update

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Kenneth Kanownik, Coordination and Funding Division, FCDOT
Terry Yates, Arlington/Fairfax Preliminary Engineering Manager, VDOT

Attachment 1

# Secondary System
# Fairfax County
# Construction Program
# Estimated Allocations

| Fund | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 | Total |
|---|---|---|---|---|---|---|---|
| CTB Formula - Unpaved State | $4,489 | $5,293 | $6,089 | $5,852 | $0 | $0 | $21,723 |
| Secondary Unpaved Roads | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| TeleFee | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Residue Parcels | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| STP Converted from IM | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Federal STP - Bond Match | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Formula STP | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| MG Formula | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| BR Formula | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Other State Match | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| State Funds | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| Federal STP | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| District Grant - Unpaved | $0 | $0 | $0 | $0 | $8,216 | $8,216 | $16,432 |
| Total | $4,489 | $5,293 | $6,089 | $5,852 | $8,216 | $8,216 | $38,155 |

Board Approval Date:

Fairfax PE Manager Date

County Administrator Date

# SSYP Budget Detail Report

## Fairfax County

### Fairfax County (029)

| UPC | Description |
|---|---|

**100162** COUNTYWIDE TRAFFIC SERVICES

0000.03 Budget Item 1204007 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 6030601 .Formula - Secondary :Federal/State - | $96 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030601 Regular :Secondary :Fairfax | $17 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030623 Local Project Contributions - | $45 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030672 Secondary Formula - State : Fairfax | $441 | $0 | $0 | $0 | $0 | $0 | $0 |

**100373** COUNTYWIDE RIGHT OF WAY ENGR.

0000.04 Budget Item 1204008 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 6030601 .Formula - Secondary :Federal/State - | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030672 Secondary Formula - State : Fairfax | $20 | $0 | $0 | $0 | $0 | $0 | $0 |

**99180** Countywide Traffic Calming

0000.05 Project 9999029S37 Countywide Subdivision Streets

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $366,407 | | $0 | |
| | $0 | | $366,407 |
| | Total Estimate | | $366,407 |
| | Balance: | | $0 |

| | PE | RW | CN |
|---|---|---|---|
| Schedule: | | | 07/01/14 |
| | | $0 | $366,407 |
| Estimate: | | | |
| | $0 | | |

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 6030601 .Formula - Secondary :Federal/State - | $366 | $0 | $0 | $0 | $0 | $0 | $0 |

**76256** COLCHESTER ROAD - RTE 612 -RECON & PAVE GRAVEL ROAD

0003.01 Project 0612029P87 CHAPEL ROAD (ROUTE 641) 0.24 MILE NORTHWEST OF ROUTE 641

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $81,198 | | $16,432 | |
| | $0 | | $97,630 |
| | Total Estimate | | $445,000 |
| | Balance: | | $347,370 |

| | PE | RW | CN |
|---|---|---|---|
| Schedule: | | 01/15/19 | 01/15/20 |
| | 01/15/18 | $50,000 | $335,000 |
| Estimate: | | | |
| | $60,000 | | |

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 3001500 CTB Formula: Unpaved - Fairfax | $9 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030605 Secondary Formula - Unpaved Roads | $72 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6071700 HB2 DG: Unpaved - Fairfax | $0 | $0 | $0 | $0 | $0 | $8 | $8 |

**104103** WALNEY RD - RTE 657 - BRIDGE REPLACEMENT AND WIDENING - D/B

5000.00 Project 0657029099 .083 MI. South of Flatlick Branch 0.033 MI. North of Dallas St

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $14,839,791 | | $0 | |
| | $0 | | $14,839,791 |
| | Total Estimate | | $14,839,791 |
| | Balance: | | $0 |

| | PE | RW | CN |
|---|---|---|---|
| Schedule: | | 09/13/13 | 09/13/13 |
| | 08/08/13 | $1,071,658 | $13,572,882 |
| Estimate: | | | |
| | $195,251 | | |

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 6030473 | RSTP - Primary : Northern Virginia | $838 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030474 | RSTP Match - Primary : Northern | $210 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030601 | .Formula - Secondary :Federal/State - | $895 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030653 | Federal Formula - Secondary Bond | $7 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030668 | Secondary Formula - EB(MG) : | $194 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030669 | Secondary Formula - Bridge : Fairfax | $1,729 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030670 | Secondary Formula - Match : Fairfax | $481 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030672 | Secondary Formula - State : Fairfax | $2,379 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030673 | RSTP - Secondary : Northern Virginia | $13 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030673 | RSTP :Secondary :Federal STP | $6,452 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030674 | RSTP Match - Secondary : Northern | $3 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030674 | Secondary :State Match Non-Formula | $1,613 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030675 | Federal Formula STP - Secondary : | $27 | $0 | $0 | $0 | $0 | $0 | $0 |

**84383** **WALKER RD - RTE 681 - REPLACE BRIDGE OVER PINEY RUN**

5000.02 Project 0681029717 0.3 Mi. N of Route 743 (Colvin Run Road) 0.4 Mi N of Route 743 (Colvin Run Road)

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $600,000 | | $0 | |
| | $0 | | $600,000 |

**Total Estimate** $4,651,800

**Balance:** $4,051,800

| | PE | RW | CN |
|---|---|---|---|
| **Schedule:** | | 08/03/15 | 03/13/18 |
| | 02/22/10 | $500,000 | $3,551,800 |
| **Estimate:** | | | |
| | $600,000 | | |

| Funding Detail (in $1000s) | | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|---|
| 6030601 | .Formula - Secondary :Federal/State - | $303 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030652 | Bond Match - Secondary (CNB266) | $44 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030672 | Secondary Formula - State : Fairfax | $76 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030689 | Federal STP - Statewide: Secondary | $177 | $0 | $0 | $0 | $0 | $0 | $0 |

**76247** **TOWLSTON RD - RT 676 - REPLACE BRIDGE OVER ROCKY RUN**

5000.04 Project 0676029389 BRIDGE REPLACEMENT OVER ROCKY RUN (0.15 MILE FROM ROUTE 738) STRUCTURE # 6137

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $434,000 | | $0 | |
| | $0 | | $434,000 |

**Total Estimate** $593,000

**Balance:** $159,000

| | PE | RW | CN |
|---|---|---|---|
| **Schedule:** | | | |
| | 05/21/07 | $0 | $0 |
| **Estimate:** | | | |
| | $593,000 | | |

| Funding Detail (in $1000s) | | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|---|
| 6030210 | Federal Demonstration Funds | $240 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030669 | Secondary Formula - Bridge : Fairfax | $155 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030670 | Secondary Formula - Match : Fairfax | $39 | $0 | $0 | $0 | $0 | $0 | $0 |

**32213** **BEULAH ROAD - RT 702 BRIDGE REHAB - SCOUR COUNTERMEASURE**

5000.04 Project 0702029395 0.70 miles E of intersection of Rte 7 and Rte 702 0.65 mile N of intersection of Rte 267 and Rte 702

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $738,571 | | $0 | |
| | $0 | | $738,571 |

**Total Estimate** $957,797

**Balance:** $219,226

| | PE | RW | CN |
|---|---|---|---|
| **Schedule:** | | | 04/10/12 |
| | 08/01/07 | $0 | $621,372 |
| **Estimate:** | | | |
| | $336,425 | | |

| Funding Detail (in $1000s) | | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|---|
| 6030669 | Secondary Formula - Bridge : Fairfax | $183 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030670 | Secondary Formula - Match : Fairfax | $46 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6040000 | Maintenance Funds :Statewide | ($211) | $0 | $0 | $0 | $0 | $0 | $0 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 6040300 | Maintenance Funds :Statewide - | $270 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6040302 | Maintenance Funds :Statewide - | $20 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6040305 | Maintenance Funds :Statewide - | $341 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6040309 | Maintenance Funds :Statewide - | $90 | $0 | $0 | $0 | $0 | $0 | $0 |

## 11012 TELEGRAPH RD -RTE 611 - WIDEN TO 4-LANES

9999.00 Project 0611029303 ROUTE 613 (BEULAH STREET) LEAF ROAD

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $25,868,000 | | $0 | |
| | $0 | | $25,868,000 |
| | Total Estimate | | $25,868,000 |
| | Balance: | | $0 |

| | PE | RW | CN |
|---|---|---|---|
| Schedule: | | 09/30/10 | 03/16/11 |
| | 07/14/87 | $1,292,000 | $23,351,000 |
| Estimate: | | | |
| | $1,225,000 | | |

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 6030267 Bond Proceeds - Capital Projects | $1,000 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030601 .Formula - Secondary :Federal/State - | $1,202 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030620 Residue Parcel - Fairfax County | $14 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030653 Federal Formula - Secondary Bond | $3 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030670 Secondary Formula - Match : Fairfax | $113 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030672 Secondary Formula - State : Fairfax | $2,274 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030673 RSTP :Secondary :Federal STP | $517 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030674 RSTP Match - Secondary : Northern | $394 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6030674 Secondary :State Match Non-Formula | $747 | $0 | $0 | $0 | $0 | $0 | $0 |
| 6031204 .Bond Proceeds :NVTD Project | $911 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030211 Special Grants Projects : Federal : | $8,731 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030601 Secondary Funds :Access :All | $2,225 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030667 Secondary Formula - STP: NOPOST | $410 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030668 Secondary Formula - EB(MG) | $42 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030673 RSTP Federal STP Regional (No | $3,659 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030675 Federal Formula STP - Secondary : | $11 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9030676 Minimum Guarantee: Equity Bonus | $388 | $0 | $0 | $0 | $0 | $0 | $0 |
| 9090623 Local Project Contributions - | $3,227 | $0 | $0 | $0 | $0 | $0 | $0 |

## 106327 COUNTYWIDE DRAINAGE IMPROVEMENTS

9999.99 Project 9999029120 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

| Previous | Budget | Projected | Total |
|---|---|---|---|
| $100,000 | | $0 | |
| | $0 | | $100,000 |
| | Total Estimate | | $100,000 |
| | Balance: | | $0 |

| | PE | RW | CN |
|---|---|---|---|
| Schedule: | | | |
| | 09/03/14 | $0 | $0 |
| Estimate: | | | |
| | $100,000 | | |

| Funding Detail (in $1000s) | Previous | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | FY2022 |
|---|---|---|---|---|---|---|---|
| 6030672 Secondary Formula - State : Fairfax | $100 | $0 | $0 | $0 | $0 | $0 | $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, June 21, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

PROGRAM ENDORSEMENT RESOLUTION

WHEREAS, Sections 33.2-331 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, Terry Yates, Arlington/Fairfax Preliminary Engineering Manager , Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (FY2017 through FY2022) and the FY 2017 Budget for Fairfax County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Fairfax County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (FY2017 through FY2022) and FY 2017 Budget are hereby approved as presented at the public hearing;

Adopted this 21st day of June, 2016, Fairfax, Virginia

ATTEST _____

Catherine A. Chianese
Clerk to the Board of Supervisors

Attachment 3

# FY 2017 - 2022 Secondary Six Year Program Summary

## COST ESTIMATES IN THOUSANDS

| # | SSYP Project | FY 2016 COST Jun-15 | FY 2017 COST Jun-16 | CHANGE/ COST INCREASE | PERCENT COST INCREASE SINCE Jun-15 | Bid/Advertisement Date | |
|---|---|---|---|---|---|---|---|
| | | | | | | FY16 | FY17 |
| 1 | COLCHESTER ROAD RECONSTRUCTION AND PAVE GRAVEL ROAD | $445 | $ 445 | $0 | 0.0% | January-20 | January-20 |
| 2 | WALNEY ROAD - BRIDGE REPLACEMENT AND WIDENING | $14,840 | $ 14,840 | $0 | 0.0% | Complete, Awaiting Closeout | |
| 3 | WALKER ROAD- REPLACE BRIDGE OVER PINEY RUN | $378 | $ 4,652 | $4,274 | 1130.7% | N/A | N/A |
| 4 | TOWLSTON ROAD - REPLACE BRIDGE OVER ROCKY RUN | $593 | $ 593 | $0 | 0.0% | N/A | N/A |
| 5 | BEULAH ROAD - SCOUR COUNTER MEASURE | $950 | $ 958 | $8 | 0.8% | Complete, Awaiting Closeout | |
| 6 | TELEGRAPH ROAD - WIDENING BEULAH TO LEAF ROAD | $24,868 | $ 25,868 | $1,000 | 4.0% | Complete, Awaiting Closeout | |
| | TOTALS | $42,074 | $47,356 | $5,282 | 12.6% | | |

Board Agenda Item
June 21, 2016

5:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern