FAIRFAX COUNTY
BOARD OF SUPERVISORS
November 1, 2016

AGENDA

9:30	Presentations
10:00	Board Appointments
10:10	Items Presented by the County Executive

ADMINISTRATIVE ITEMS

1	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Kirby Road Sidewalk (Dranesville District)
2	Extension of Review Period for 2232 Applications (Providence, Dranesville and Mount Vernon Districts)
3	Authorization to Advertise a Public Hearing to Consider Revisions to the Fairfax County Code, Chapter 84.1, Public Transportation, Regarding Taxicab Regulation
4	Authorization of a Public Hearing on a Proposal to Abandon Part of Lee Road (Sully District)
5	Authorization of a Public Hearing on a Proposal to Vacate Part of Eskridge Road (Providence District)
6	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Mason District)
7	Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Rehabilitation of the Difficult Run Force Main (Hunter Mill and Dranesville Districts)

ACTION ITEMS

1	Approval of a Memorandum of Understanding Between the Fairfax County Police Department, the United States Attorney for the District of Columbia and the Metropolitan Police Department of Washington, D.C.

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ACTION ITEMS (Continued)

2	Authorization to Sign a Standard Component Agreement (SCA) for Distribution of I-66 Inside the Beltway Toll Revenues Allocated by the Commonwealth Transportation Board to the Northern Virginia Transportation Commission NVTC (Providence and Braddock Districts)
3	Approval of the Department of Neighborhood and Community Services' Gym Allocation Policy
4	Approval to Expend Office of Economic Adjustment Funding for the Richmond Highway Widening Project From Jeff Todd Way/Mount Vernon Memorial Highway to Telegraph Road to Address Access to the Woodlawn Plantation (Mount Vernon District)

INFORMATION ITEMS

1	Contract Award - Medical Services for Youth
10:20	Matters Presented by Board Members
11:10	Closed Session

PUBLIC HEARINGS

3:00	Public Hearing to Receive Comment from Citizens on the Proposed Legislative Program to be Presented to the 2017 Virginia General Assembly
3:00	Decision Only on PCA B-715 (L&F Bock Farm, LLC) (Mount Vernon District)
3:00	Decision Only on RZ 2015-MV-015 (L&F Bock Farm, LLC) (Mount Vernon District)
3:00	Decision Only on SE 2015-MV-030 (L&F Bock Farm, LLC) (Mount Vernon District)
3:30	Public Hearing on SE-2016-PR-014 (Caboose Brewing Company, LLC) (Providence District)

FAIRFAX COUNTY
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	PUBLIC HEARINGS (Continued)	
3:30		Public Hearing on RZ 2015-HM-013 (Wiehle Station Ventures, LLC) (Hunter Mill District)
3:30		Public Hearing on SEA 94-H-049-02 (Wiehle Station Ventures, LLC) (Hunter Mill District)
3:30	**To be Deferred**	Public Hearing on PCA 84-P-114-04 (Arden Courts - Fair Oaks of Fairfax VA, LLC) (Springfield District)
3:30	**To be Deferred**	Public Hearing on SEA 84-P-129-04 (Arden Courts - Fair Oaks of Fairfax VA, LLC) (Springfield District)
3:30	**To be Deferred**	Public Hearing on SE 2016-LE-005 (Ruth Villanueva DBA The Little Home Daycare) (Lee District)
3:30		Public Hearing on RZ 2015-HM-005 (Pulte Home Corporation) (Hunter Mill District)
3:30		Public Hearing on RZ 2016-DR-021 (The Board of Supervisors) (Dranesville District)
4:00		Public Hearing on Proposed Plan Amendment 2016-II-M1, Proposed Expansion of the Langley Fork Historic Overlay District (Dranesville District)
4:00		Public Hearing on Proposed Plan Amendment 2016-II-M2, Located on the West Side of Beverly Road and the North Side of Elm Street (Dranesville District)
4:00		Public Hearing on a Proposed Amendment to Chapter 4 (Geotechnical Guidelines) of the Public Facilities Manual (PFM) Regarding Expansive Soils and Slope Stability
4:00		Public Hearing on Proposed Plan Amendment 2016-CW-1CP, Countywide Policy Plan
4:00	**To be Deferred**	Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) (Hunter Mill District)

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
November 1, 2016

9:30 a.m.

RECOGNITION OF ACCREDITATION

- RECOGNITION – The American Public Works Association will present the Fairfax County Department of Public Works and Environmental Services with its accreditation for following nationally recognized public works practices.

PRESENTATIONS

- RESOLUTION – To congratulate the Reston Chorale for its 50th anniversary. Requested by Supervisor Hudgins.

- RESOLUTION – To thank Michel Margosis for his years of service on the Human Rights Commission. Requested by Supervisor McKay.

- RESOLUTION – To thank Karen Garza for her years of service as the superintendent of Fairfax County Public Schools. Requested by Supervisors Smith and Storck.

- PROCLAMATION – To designate November 2016 as American Indian Heritage Month in Fairfax County. Requested by Chairman Bulova.

- RESOLUTION – To congratulate the Burgundy Farm Country Day School for its 70th anniversary. Requested by Supervisor McKay.

— more —

Board Agenda Item
November 1, 2016

- PROCLAMATION – To designate November 2016 as Adoption Awareness Month in Fairfax County. Requested by Supervisor Herrity.

- PROCLAMATION – To designate December 1, 2016, as HIV/AIDS Awareness Day in Fairfax County. Requested by Chairman Bulova.

- RESOLUTION – To congratulate the Fairfax County Master Gardeners Association for its 40th anniversary. Requested by Chairman Bulova and Supervisor McKay.

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

Board Agenda Item
November 1, 2016

10:00 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard November 1, 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

November 1, 2016

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

APPOINTMENTS TO BE HEARD NOVEMBER 1, 2016

(ENCOMPASSING VACANCIES PROJECTED THROUGH NOVEMBER 30, 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 (Formerly held by Heather Scott; appointed 4/16 by Cook) Term exp. 9/17 *Resigned*	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Margaret Osborne; appointed 12/14 by McKay) Term exp. 9/16 *Resigned*	Lee District Representative		McKay	Lee
VACANT (Formerly held by Virginia L. Peters; appointed 10/14 by Hyland) Term exp. 9/16 *Resigned*	Mount Vernon District Representative		Storck	Mount Vernon

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

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

AIRPORTS ADVISORY COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by 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	**Darren Dickens** (Bulova)	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
VACANT (John Boland; appointed 2/91-9/95 by Dix; 7/01 by Mendelsohn; 9/04-9/07 by DuBois; 9/10-9/13 by Foust) Term exp. 9/16 *Resigned*	Attorney Representative		By Any Supervisor	At-Large
Joseph Plumpe (Appointed 9/07-9/13 by Frey) Term exp. 9/16	Landscape Architect Representative		By Any Supervisor	At-Large
VACANT (Formerly held by John Manganello; appointed 7/15 by Hudgins) Term exp. 9/18 *Resigned*	Related Professional Group #4 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
VACANT (Formerly held by Jonathan Willmott; Appointed 5/07-4/15 by Hyland) Term exp. 3/17 *Resigned*	Mount Vernon District Principal Representative		Storck	Mount Vernon

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
VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 *Resigned*	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

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

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by 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
Jason M. Chung (Appointed 2/11-9/14 by Frey) Term exp. 9/16 ***Not eligible for reappointment***	At-Large #2 Representative		By Any Supervisor	At-Large
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
Courtney Park (Appointed 2/10-10/14 by Hudgins) Term exp. 9/16	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 *Resigned*	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Hugh Mc Cannon; appointed 12/09-9/14 by Herrity) Term exp. 9/16 *Resigned*	Springfield District Representative		Herrity	Springfield

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Alan Potter; appointed 3/14 by Smyth) Term exp. 5/16 *Resigned*	Providence District Representative		L. Smyth	Providence
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 Maria Jarmila Vorel; appointed 10/13 by Hyland) Term exp. 10/16 *Resigned*	Mount Vernon District Representative		Storck	Mount Vernon
VACANT (Formerly held by Miriam Erickson; appointed 10/11-10/14 by L. Smyth) Term exp. 10/17 *Resigned*	Providence District Representative		L. Smyth	Providence

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 Mill
VACANT (Formerly held by Denton Urban Kent; Appointed 9/14 by Gross) Term exp. 5/16 *Resigned*	Mason District Representative		Gross	Mason

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

Incumbent History	Requirement	Nominee	Supervisor	District
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
VACANT (Formerly held by Rodney Scott; appointed 3/11-2/14 by Hudgins) Term exp. 2/17 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Gregory W. Packer; appointed 9/10-2/13 by Hyland) Term exp. 2/16 *Resigned*	Mount Vernon District Representative		Storck	Mount Vernon

CONSUMER PROTECTION COMMISSION
(3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Adam Samuel Roth; appointed 9/15 by L. Smyth) Term exp. 7/18 *Resigned*	Fairfax County Resident #13 Representative		By Any Supervisor	At-Large

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Howard Foard; appointed 11/12-10/15 by Hudgins) Term exp. 8/18 *Resigned*	At-Large Representative		By Any Supervisor	At-Large
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

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
George W. Lamb (Appointed 1/06-11/13 by Bulova) Term exp. 11/16	At-Large #3 Representative		By Any Supervisor	At-Large
Paul Pitera (Appointed 3/15 by Cook) Term exp. 11/16	Braddock District Representative		Cook	Braddock
Johna Gagnon (Appointed 8/93-10/95 by Alexander; 10/98-1/08 by Kauffman; 11/10-11/13 by McKay) Term exp. 11/16	Lee District Representative	**Johna Gagnon**	McKay	Lee

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
Alexandria Dixon (Appointed 9/14 by L. Smyth) Term exp. 11/16	At-Large #1 Business Representative		By Any Supervisor	At-Large
Jacqueline Browne (Appointed 9/08-12/11 by Gross) Term exp. 11/14	Mason District Representative		Gross	Mason

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FAIRFAX AREA DISABILITY SERVICES BOARD
continued

Incumbent History	Requirement	Nominee	Supervisor	District
Deborah K. Hammer (Appointed 3/16 by Storck) Term exp. 11/16	Mount Vernon District Representative	**Deborah K. Hammer**	Storck	Mount Vernon
Harriet M. Epstein (Appointed 5/10-12/13 by L. Smyth) Term exp. 11/16	Providence District Representative		L. Smyth	Providence

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	**Daria Akers** *(Will be confirmed on November 1, 2016)*	Bulova	At-Large Chairman's
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

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Phil Tobey; appointed 6/11-5/14 by Hudgins) Term exp. 6/17 *Resigned*	Consumer #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Ananth Thyagarajan; Appointed 7/15 by Bulova) Term exp. 6/18 *Resigned*	Provider #1 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 Rachel Rifkind; appointed 12/13 by Gross) Term exp. 9/16 *Resigned* *Mason District*	Citizen #7 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michel Margosis; appointed 7/03-1/08 by Kauffman; 9/10-9/13 by McKay) Term exp. 9/16 *Resigned*	At-Large #7 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Sergio R. Rimola (Appointed 6/15 by Foust) Term exp. 7/16	Dranesville District #2 Representative		Foust	Dranesville
VACANT (Formerly held by Stephanie Mensh; appointed 1/06-7/14 Term exp. 7/18 *Resigned*	Mason District #1 Representative		Gross	Mason
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 Jack Dobbyn; appointed 2/13 by Hyland) Term exp. 7/16 *Resigned*	Mount Vernon District #1 Representative		Storck	Mount Vernon

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

Incumbent History	Requirement	Nominee	Supervisor	District
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

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Stella Koch (Appointed 3/10-11/12 by Bulova) Term exp. 10/16	Fairfax County #2 Representative		By Any Supervisor	At-Large

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
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

PARK AUTHORITY (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Edward Batten; appointed 1/03-1/08 by Kauffman; 12/11-1/16 by McKay) Term exp. 12/19 *Resigned*	Lee District Representative		McKay	Lee

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 #1 Representative		By Any Supervisor	At-Large

REDEVELOPMENT AND HOUSING AUTHORITY
(4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by John Betts; appointed 3/11-4/13 by Herrity) Term exp. 4/17 *Deceased*	Springfield District Representative		Herrity	Springfield

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 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

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 Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 *Resigned*	Tenant Member #3 Representative		By Any Supervisor	At-Large

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 Charles Ayers (Appointed 12/13-10/14 by L. Smyth) Term exp. 10/17 *Resigned*	Providence District Representative		L. Smyth	Providence

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	**Pindar Van Arman**	L. Smyth	Providence

WETLANDS BOARD (5 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Deana M. Crumbling (appointed 1/14 by Bulova) Term exp. 7/16	Alternate #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Julia E. Pfaff; appointed 9/10-11/14 by McKay) Term exp. 12/19 *Resigned*	Lee District Representative		McKay	Lee

Board Agenda Item
November 1, 2016

10:10 a.m.

Items Presented by the County Executive

Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 1

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Kirby Road Sidewalk (Dranesville District)

ISSUE:
Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Kirby Road Sidewalk in Project ST-000036, County-Maintained Pedestrian Improvements, in Fund C30050, Transportation Improvements.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for December 6, 2016, at 4:30 p.m.

TIMING:
Board action is requested on November 1, 2016, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:
This project consists of the installation of approximately 800 linear feet of concrete sidewalk, curb and gutter, pedestrian curb ramps, storm drainage pipes and structures, minor grading, and driveway reconstructions.

Land rights for these improvements are required from six (6) property owners, four (4) of which have been acquired by the Land Acquisition Division (LAD). The construction of this project requires the acquisition of Deeds of Dedication, Storm Drainage Easements, and Grading Agreement and Temporary Construction Easements.

Negotiations are in progress with the affected property owners; however, because resolution of these acquisitions is not imminent, it may be 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.

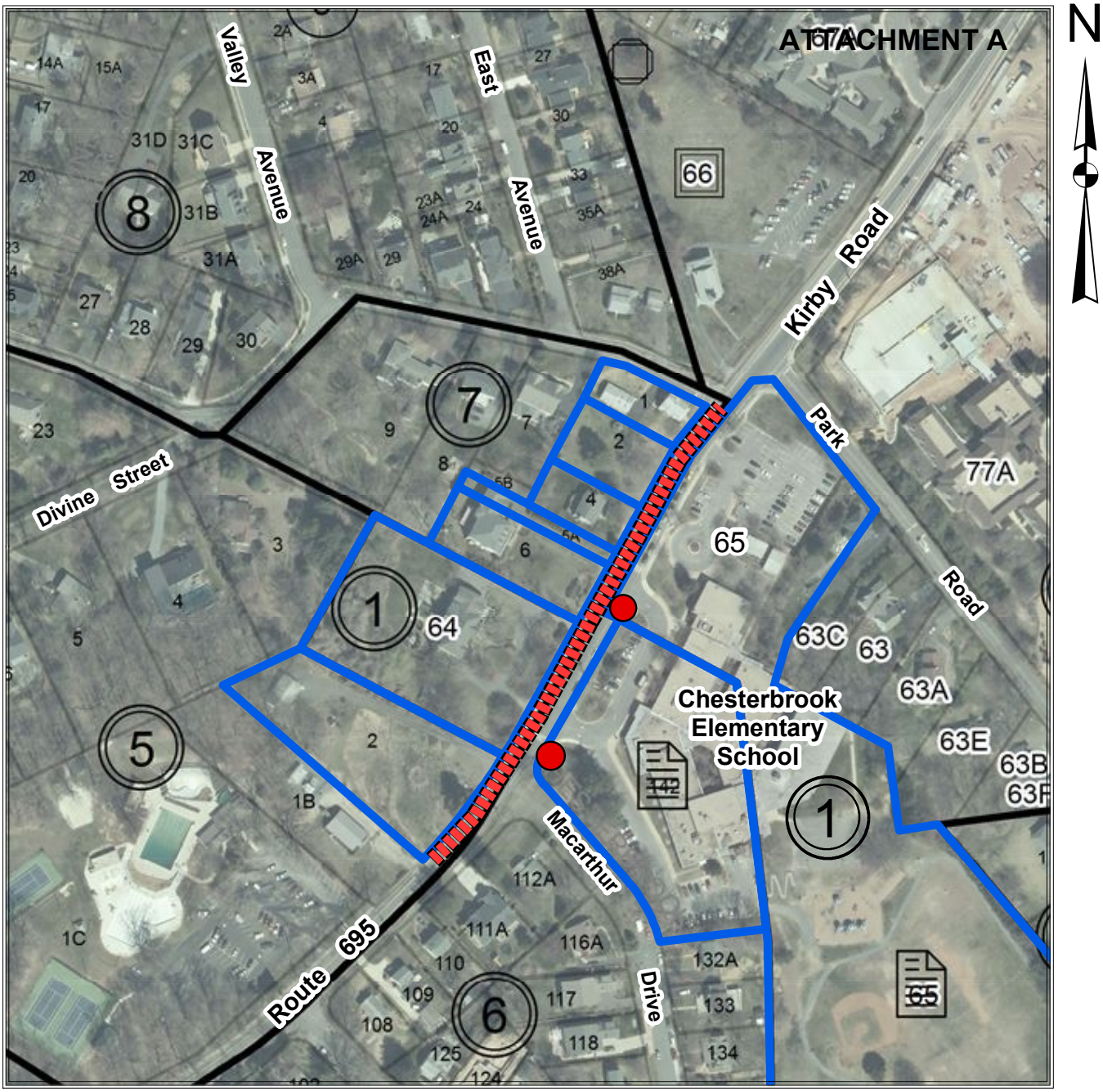
Board Agenda Item
November 1, 2016

FISCAL IMPACT:
Funding is available for the Kirby Road Sidewalk in Project ST-000036, County-Maintained Pedestrian Improvements, Fund C30050, Transportation Improvements. This project is included in the Adopted FY 2017 – FY 2021 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 - Listing of Affected Properties

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

KIRBY ROAD SIDEWALK



Tax Map:31-3

Project
Dranesville District
ST-000036-002

Affected Properties:

Proposed Improvements:

0 0.025 0.05 0.1 Miles

ATTACHMENT B

LISTING OF AFFECTED PROPERTIES
Project ST-000036-002
Kirby Road Sidewalk
(Dranesville District)

	PROPERTY OWNER(S)	TAX MAP NUMBER(S)
1.	Colby M. May and Nina O. May, Trustees Address: 1770 Kirby Road McLean, VA 22101	031-3-01-0064
2.	Chenggang Wu Wen Gong Address: 1762 Kirby Road McLean, VA 22101	031-3-07-0005-A and 031-3-07-0006

Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 2

Extension of Review Period for 2232 Applications (Providence, Dranesville and Mount Vernon Districts)

ISSUE:
Extension of review period for 2232 applications 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 applications: FS-P16-39, 2232-D16-37, and 2232-V16-38.

TIMING:
Board action is required on November 1, 2016, to extend the review period of the applications noted above before their 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." Subsection F of *Section* 15.2-2232 of the *Code of Virginia* states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission." The need for the full time of an extension may not be necessary, and is not intended to set a date for final action.

Board Agenda Item
November 1, 2016

The review period for the following applications should be extended:

FS-P16-39	Fairfax County Public Schools Oakton High School 2900 Sutton Road Vienna, VA Providence District Accepted September 21, 2016 Extend to March 31, 2017
2232-D16-37	Verizon Wireless 1451 Chain Bridge Road McLean, VA Dranesville District Accepted August 24, 2016 Extend to January 21, 2017
2232-V16-38	Verizon Wireless 6065 Richmond Highway Alexandria, VA Mount Vernon District Accepted August 24, 2016 Extend to January 21, 2017

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
None

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning, DPZ
Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 3

Authorization to Advertise a Public Hearing to Consider Revisions to the Fairfax County Code, Chapter 84.1, Public Transportation, Regarding Taxicab Regulation

ISSUE:
At its public hearing on September 20, 2016, the Consumer Protection Commission (CPC) approved recommendations to the Board regarding revisions to Chapter 84.1, including those that reduce regulatory costs and burdens for both taxicab operators and drivers while continuing to ensure the public safety and welfare.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing on the Consumer Protection Commission's recommendations to the Board for revisions to Chapter 84.1, regarding taxicab regulation.

TIMING:
Board authorization is requested on November 1, 2016, to advertise a public hearing for December 6, 2016 at 5:00 pm on the Consumer Protection Commission's recommendations for revisions to Chapter 84.1, regarding taxicab regulation.

BACKGROUND:
For several decades, the Fairfax County market for on-demand for-hire transportation has been served by taxicab companies subject to the regulations set forth in Chapter 84.1 of the Fairfax County Code, as authorized pursuant to Title 46.2 of the Code of Virginia. This market is now experiencing a period of unprecedented change due to widespread customer acceptance of transportation network companies (TNCs) like UberX and Lyft, which are lightly regulated by the state. TNCs rely on smartphone applications to match an interested passenger with an available non-professional driver.

The Commonwealth authorized the operation of TNCs in February 2015. By June 30, 2016, over 12,000 private vehicles garaged in Fairfax County were registered as TNC "partners," or drivers. It is unknown how many of these vehicles are actually providing service. For comparison purposes, as of June 30, 2016 there were 654 authorized Fairfax County taxicabs.

Given competitive pressures from TNCs, in late 2015 and early 2016 the county's taxicab drivers and operators requested revisions to Chapter 84.1, primarily regarding vehicles and equipment. At the same time, the Department of Cable and Consumer Services (DCCS) was reviewing all county taxicab regulations, including those regarding entry, pricing and procedure, in recognition of the rapidly-evolving transportation landscape.

DCCS developed a comprehensive proposal to update Chapter 84.1 that is informed by substantial outreach. This proposal includes revisions to nine of the Chapter's 10 articles. From March through June 2016, DCCS surveyed taxicab drivers and met with interested taxicab operators. In May 2016, DCCS presented its preliminary proposals to the Transportation Advisory Commission (TAC), which endorsed them, and in June 2016 gave a similar presentation to the Mobility and Transportation Committee of the Long Term Care Coordinating Council. In July 2016, DCCS convened a meeting of all taxicab operators for discussion of staff's proposed revisions and followed up on this meeting with individual exchanges.

On September 20, 2016, the Consumer Protection Commission (CPC) held a public hearing on the staff proposal to revise Chapter 84.1. Speakers included two taxicab drivers and representatives of three taxicab companies. One of the taxicab drivers had submitted a petition in late 2015 requesting that the permissible vehicle age be extended from six years to eight, supported by the signatures of over 100 other licensed drivers. This speaker expressed strong support for the staff proposal to extend the permissible vehicle age. Taxicab operators were generally supportive of the entire staff proposal, although one favored eliminating driver-testing requirements, not just simplifying them, and two objected to the proposed elimination of provisions that cap the number of taxicab certificates that are available for award during each application cycle.

Following receipt of public comment and discussion, the CPC voted in favor of amending the staff proposal in three respects: (1) allowing applicants to request authority to provide taxicab service on an annual basis, not a biennial basis (5-3-1); (2) retaining a 60-day period for the submission of appeals in lieu of the proposed 90-day period (8-1); and (3) requiring that taxicab drivers transport service animals in training at no charge (9-0). Thereafter, on a vote of 6-2, with one abstention, the CPC voted in favor of recommending to the Board that it adopt the proposed revisions to Chapter 84.1 as presented by staff during the public hearing and amended by the CPC. The proposed revisions, including the CPC amendments, are explained on an article-by-article basis in Attachment 1.A and are shown in Attachments 1.B (clean version) and 1.C (track-changes version).

Board Agenda Item
November 1, 2016

Staff recommends that the Board authorize the advertisement of a public hearing on December 6, 2016, to consider the recommendations made by the Consumer Protection Commission at its September 20, 2016 public hearing.

ENCLOSED DOCUMENTS:
Attachment 1 – Consumer Protection Commission Recommendations to the Board of Supervisors on Proposed Revisions to Fairfax County Code Chapter 84.1, Regarding Taxicab Regulation

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

ATTACHMENT 1

CONSUMER PROTECTION COMMISSION RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON PROPOSED REVISIONS TO CHAPTER 84.1 OF THE FAIRFAX COUNTY CODE, REGARDING TAXICAB REGULATION

Department of Cable and Consumer Services
Public Utilities Branch
October 5, 2016

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Attachment 1.A, Summary of Revisions by Article

Attachment 1.B, Proposed Chapter 84.1 (Clean)

Attachment 1.C, Proposed Chapter 84.1 (Track-Changes)

INTRODUCTION

This report was prepared on behalf of the Consumer Protection Commission (CPC or Commission) by staff of the Public Utilities Branch in the Department of Cable and Consumer Services (DCCS) following the CPC's September 20, 2016 public hearing on proposed revisions to Chapter 84.1 of the County Code, regarding taxicab regulation. On a vote of 6-2, with one abstention, the CPC voted to recommend that the Board of Supervisors (Board) adopt the proposed revisions to Chapter 84.1 presented herein.

The proposed revisions to Chapter 84.1 revise certain regulations applicable to taxicab drivers and operators, thereby reducing regulatory costs and burdens while continuing to ensure the public safety and welfare. Section 1 of this report provides context for this initiative. Section II discusses staff outreach conducted as part of the development of the proposed revisions to Chapter 84.1. Section III describes the specific requests made by taxicab drivers and operators for changes in Chapter 84.1, as well as input from citizen groups. Section IV summarizes the proposed revisions to Chapter 84.1 in three categories: taxicab operations, the regulatory framework, and structural and organizational revisions. Section V is a concluding discussion that includes the CPC's recommendations to the Board of Supervisors.

I. BACKGROUND

For several decades, the Fairfax County market for on-demand for-hire transportation has been served by certificated taxicab companies subject to the regulations set forth in Chapter 84.1 of the Fairfax County Code, as authorized pursuant to Title 46.2 of the Code of Virginia. This market is now experiencing a period of unprecedented change due to widespread customer acceptance of transportation network companies (TNCs) like UberX and Lyft, which are lightly regulated by the state. TNCs rely on smartphone applications to match an interested passenger with an available non-professional driver.

The Commonwealth of Virginia authorized the operation of TNCs in February 2015. By June 30, 2016, there were over 56,000 TNC-affiliated vehicles registered in Virginia, according to the Virginia Department of Motor Vehicles. Of these, 12,216 vehicles – or over 20 percent of the state's total – were garaged in Fairfax County.[1] A significant percentage of these vehicles are likely to be used to provide TNC service only on a part-time basis, or not at all, but that percentage cannot be determined because state law prohibits localities from regulating TNCs and, with very few exceptions, obtaining data on TNC activity. For comparison purposes, as of June 30, 2016 there were 654 authorized Fairfax County taxicabs.

Given competitive pressures from TNC activity, in late 2015 and early 2016 the county's taxicab drivers and operators requested a number of revisions to Chapter 84.1, regarding taxicab regulation. Most of these revisions, if adopted, would reduce operator

[1] See *Reports to General Assembly – Transportation Network Companies and Other Passenger* Carriers, FY2016 Fourth Quarter Report, Appendix 1, "Number of Active TNC Registrations by Jurisdiction for Virginia Plated Vehicles as of June 30, 2016," available at https://www.dmv.virginia.gov/general/tncrepts/pdf/2016_q4_app1.pdf.

or driver costs and increase flexibility. At the same time these requests were received, the Department of Cable and Consumer Services (DCCS) was beginning its own review of the county's Code provisions regulating taxicabs, in recognition of the rapidly-evolving transportation landscape. In this item, DCCS recommends updating Chapter 84.1, including updates to regulations regarding entry, pricing, and procedure. Other than periodic rate revisions, Chapter 84.1 was last updated in 2008.

II. OUTREACH

As it evaluated the industry and developed these recommendations, DCCS reached out to drivers, the industry and the public for their input and suggestions.

Beginning in March 2016, DCCS surveyed taxicab drivers and met with interested taxicab operators on an individual basis.[2] In May and June 2016, DCCS staff presented preliminary recommendations to the Transportation Advisory Commission and the Mobility and Transportation Committee of the Long Term Care Coordinating Council, respectively. In July 2016, DCCS convened a meeting of all certificated taxicab operators for discussion on topics including pricing, and followed up on this meeting with individual conversations or email exchanges.

In August 2016, DCCS appeared before the Consumer Protection Commission (CPC) and requested authority to advertise a public meeting before the CPC on September 20, 2016, which the CPC granted. Section V summarizes the CPC's public hearing.

III. SPECIFIC REQUESTS AND RECOMMENDATIONS

A. Taxicab Drivers

In late October 2015, licensed taxicab driver and owner/operator Mahmood Behnam submitted a petition to the Chairman's office requesting that the permissible age of taxicabs be extended from six years to eight. Mr. Behnam's petition was accompanied by the signatures of over 100 licensed taxicab drivers. Though not expressly stated, the petition sought a revision to Section 84.1-8-5(m)(1), which currently states that "it will be unlawful to operate as a taxicab in the County any vehicle that is older than six model years or that has more than 380,000 miles, whichever occurs first." According to the petition, extending the permissible vehicle life would allow owner/operators to significantly reduce their operating costs and compete more effectively against TNCs.

Throughout March and April 2016 and periodically thereafter, staff surveyed taxicab drivers regarding their recommended revisions to Chapter 84.1. A majority of surveyed drivers requested downward pricing flexibility to compete with TNCs. While not a regulatory matter, they also expressed support for greater company marketing of their services.

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[2] In addition, in March 2016 DCCS posted a webpage soliciting public comment, but to date has not received any comment from this posting. See *Fairfax County Seeks Public Comment on Taxicab Service* at http://www.fairfaxcounty.gov/consumer/public-comment-taxicab-service.htm.

B. Taxicab Operators

In February 2016, Murphy Brothers d/b/a Fairfax Yellow and Fairfax Taxi d/b/a Red Top, requested an even more significant change to Section 84.1-8-(5)(m)(1). The operators proposed that the provision be revised to allow for vehicles of up to 10 model years and 500,000 miles. Fairfax Yellow and Red Top proposed two additional revisions to Chapter 84.1: (1) that age and mileage requirements applicable to vehicles placed into taxicab service be either eliminated or significantly increased; and (2) that provisions requiring non-absorbent seat and floor coverings in taxicabs be deleted.

In March 2016, Paul Wallace Management, Inc. d/b/a Springfield Yellow requested that the permissible vehicle age be increased from six years to 10 years and that mileage restrictions be eliminated for vehicles as long as they passed state safety inspections. It also proposed use of electronic GPS meters, the ability to reduce rates to compete with TNCs, the addition of an unspecified "snow emergency" rate, and relief from its obligation to provide wheelchair-accessible service. Section 84.1-8-5 currently provides that when an operator is authorized to operate 25 or more taxicabs, at least four percent of its taxicabs must be wheelchair-accessible. Springfield Yellow suggested that the four percent be reduced but did not offer a specific proposal.

Staff continued discussions with the operators during the period April through July 2016. During that time, Fairfax Yellow and Red Top offered additional proposed revisions, including those to extend the permissible vacancy period for taxicab certificates from six months to twelve, revisions that would allow for GPS metering if permitted by the Commonwealth, and pricing flexibility for contract service. Subsequently, Fairfax Yellow and Red Top revised their initial request regarding vehicle age to eliminate any mileage limitation, consistent with action taken in May 2016 by Arlington County, and also requested the elimination of certain vehicle requirements regarding dome lights and lettering. Other operators expressed support for virtually all these proposals in a July meeting held with all Fairfax County operators.

C. County Commissions and Committees

In May 2016, DCCS presented preliminary recommendations regarding Chapter 84.1 to the Transportation Advisory Commission (TAC). Topics addressed at that meeting included discussion of the impact of TNCs on both the taxicab industry and the county's entry regulations, which were adopted in an effort to balance taxicab supply with demand. Following that discussion, the TAC adopted a resolution recommending that the Department "review County taxi certification policies and consider eliminating limits on the number of certifications that are issued." These limits are currently set on a biennial basis pursuant to Section 84.1-2-5(a) but may be revised by subsequent resolution of the Board of Supervisors (Board).

A similar DCCS presentation was made to the Mobility and Transportation Committee of the Long Term Care Coordinating Council in June 2016. The committee made no specific recommendations.

IV. SUMMARY OF SIGNIFICANT PROPOSED REVISIONS

Staff's proposed revisions to Chapter 84.1 incorporate many of the revisions requested by operators and drivers. An overview of the most significant changes are identified and explained in the three sections below. Attachment 1.A summarizes revisions on an article-by-article basis, excluding editorial and formatting revisions. Attachment 1.B is "clean" version of Chapter 84.1 that incorporates all proposed revisions. Attachment 1.C shows all proposed changes in track-changes format.

A. Taxicab Operations

These revisions primarily affect Articles 7 and 8, which address vehicle, taximeter and inspection requirements.

- *Vehicle Age/Mileage Limits.* Staff recommends that the permissible vehicle age set forth in Sec. 84.1-8-5 be increased from the lesser of six years or 380,000 miles to the lesser of 10 years or 500,000 miles. Periodic taxicab inspections will help ensure the safety of the taxicab fleet despite the longer vehicle life. If adopted, this revision will allow approximately 80 taxicabs to remain in the county's taxicab fleet that would otherwise need to be replaced at the end of 2016. This recommendation is consistent with a regional trend to allow older vehicles to be used as taxicabs. In May 2016, Arlington County revised its taxicab regulations by increasing the vehicle age to 10 model years, with no mileage restriction; it previously limited vehicles to the greater of seven years or 350,000 miles. The maximum taxicab age in the City of Alexandria is generally eight years, but hybrid and alternative fuel vehicles may be 10 model years old.
- *Placing Vehicles in Service.* Staff recommends deleting restrictions currently set forth in Sec. 84.1-8-5 that limit the age and mileage of vehicles that can be placed into service. Currently, a vehicle may not be placed into service as a taxicab unless it is no more than two model years old and has fewer than 80,000 miles. Arlington deleted its comparable restrictions in May 2016. No such restrictions apply in Alexandria.
- *Upholstery and Floor Coverings.* Staff recommends deleting the requirement in Sec. 84.1-8-5 that seat and floor coverings be non-absorbent. The requirement of nonabsorbent coverings, which dates to at least 1969, adds approximately $1,500 to the cost of outfitting a vehicle for taxicab use. The plastic coverings need to be replaced every few years, further increasing cost. In addition to cost savings, reasons supporting this revision include (1) significant improvements in the washability of seat and floor coverings since these requirements were adopted; (2) the possibility that non-standard seat coverings may impair deployment of rear-seat airbags; and (3) continuing inspection requirements, which safeguard against the operation of unsanitary taxicabs.
- *Vehicle Inspections.* Currently, all taxicabs are inspected by county staff twice a year. Staff recommends that Sec. 84.1-8-6(c) be revised to provide for annual, not semi-annual, county inspection of taxicabs that are at or below six model years. Semi-annual inspections will be required only for vehicles that are older than six model years. This revision corresponds to the recommended extension in

permissible vehicle age. In addition, new language regarding the inspection of taxicabs has been added to Sec. 84.1-8-6(a). This new language, which lists the items that the Taxicab Inspector evaluates on a periodic basis, codifies long-standing DCCS practice.

- *Pricing.* Staff recommends that mileage rates set forth in Sec. 84-1-6-3 be described as "maximum." This revision provides the pricing flexibility requested by both operators and taxicab drivers and is an approach taken in numerous states, including California, Georgia, Maine and South Carolina.
- *Taximeters.* Staff recommends revising the definition of "taximeter" and taximeter inspection provisions to accommodate possible changes in state law that may allow for use of electronic GPS meters in the future.

B. The Regulatory Framework

These revisions primarily affect Article 2, regarding Operator's Certificates.

- *Biennial Determination.* Consistent with the TAC's May 2016 resolution, staff recommends deleting two related requirements in Sec. 84-1-2-5 regarding the "biennial determination" intended to control market entry. The first requirement obligates the Board to determine the number of taxicab certificates available to be awarded on a biennial basis – that is, to set a cap on the number of available certificates. The second requirement provides that applicants seeking certificates in excess of this number both provide evidence of demand for taxicab service and demonstrate that the award of requested certificates will enhance the public welfare.

  When adopted in 1997, these provisions were designed as a mechanism to balance supply and demand in the market for on-demand for-hire transportation services. At that time, the county regulated the sole source of supply (taxicabs) and therefore could adjust supply by controlling entry. This is no longer the case. In 2015, the Commonwealth authorized a second source of supply – TNCs like UberX – that compete with taxicabs outside of local regulatory frameworks. As a result, the county can no longer regulate the number of providers operating in the county's on-demand transportation market. Moreover, even if Fairfax County could regulate the supply of providers, staff can only assess demand for taxicab service in the county. It lacks the tools or data to assess the public's demand for TNC and similar types of services.
- *Transfers of Control.* Staff recommends rewriting the transfer of control provisions in Sec. 84.1-2-10 to clarify that a prospective purchaser or transferee must apply for and be awarded its own taxicab certificates prior to providing service. This subsection was revised in 2000 to avoid automatic nullification of certificates in the event of a sale or transfer of a taxicab operator. Unfortunately, the revision inadvertently introduced several procedural ambiguities and could be construed to imply that an operator may enjoy a property right in taxicab certificates, contrary to other chapter provisions. Proposed Sec. 84.1-2-10 corrects these deficiencies and its approval process mirrors that of any other applicant for certificates. The proposed subsection includes provisions that allow for interim authority pending

Board action, thereby avoiding the concern regarding automatic nullification of certificates that the 2000 revision sought to address.

- *Duration of Taxicab Certificates.* Staff recommends extending the permissible vacancy period from 180 days (6 months) to 18 months and, given this significant lengthening, deleting the 90-day extension period. As the Code provides today, certificates that remain vacant longer than the permissible vacancy period will be deemed null and void. The vacancy period is intended to ensure that an operator is in fact using its certificates by operating taxicabs in the county. Lengthening the vacancy period is a recognition that TNC entry has been disruptive to the industry and affected operators' ability to retain or locate drivers or owner/operators. Staff does not support an unlimited vacancy period, however. Among other things, an operator's financial and other qualifications could change significantly during an extended vacancy period, thereby affecting its ability to provide service.
- *Vehicle Requirements.* Staff recommends adding several provisions to Article 8 to codify long-standing vehicle requirements enforced by DCCS but not currently specified in the chapter. These provisions address vehicle registration and safety inspection, windows and windshield wipers, the vehicle's exterior lighting including headlights, brake lights and turn signals, safety items including seat belts, mirrors and horn, and the vehicle's interior and exterior condition.

C. Structural and Organizational Revisions

- *Meaning of "Certificate."* Staff recommends revising the definition of "operator's certificate" throughout Chapter 84.1 so that it has only a single meaning, not dual meanings dependent on context as is currently the case. To accomplish this goal, staff recommends using "operator's certificate" to refer only to the authority granted to provide taxicab service in Fairfax County, and using the new term "taxicab certificate" to refer to a taxicab vehicle that is authorized to operate in the county.
- *Taxicab Driver.* Staff recommends replacing the term "hacker" with "taxicab driver" throughout the chapter. The meaning of hacker has evolved significantly since the chapter was adopted and is now most commonly associated with those seeking to exploit weaknesses in computer systems and networks.
- *Organization and Categorization.* Staff recommends restructuring portions of Articles 3 and 7 to more clearly set forth driver and operator responsibilities.
    - Revised Sec. 84.1-3-6 consolidates in one subsection several driver responsibilities regarding reporting and record-keeping that are currently located in multiple provisions. These duties include a driver's duty to complete a daily manifest (log) of trips taken, the duty to report accidents, traffic-related summons or arrests, and the duty report a change in operator affiliation.
    - Revised Sec. 84.1-3-7 has been restructured so that grounds for suspension and revocation of a taxicab driver's license are listed separately, rather than intermingled.
    - Revised Sec. 84.1-7-1 consolidates in one subsection requirements applicable to operators that are currently found in various provisions of Articles 7 and 8.

These requirements address items including business location, training of personnel, the provision of wheelchair-accessible taxicab service, and fleet fuel economy.

- Revised Sec. 84.1-7-2 consolidates in one subsection numerous requirements and standards applicable to taxicab drivers related to the transport of passengers. These requirements and standards are currently found in Sec. 84.1-7-1(b)-(o), (r), (s), and (u).

V. CONSUMER PROTECTION COMMISSION RECOMMENDATIONS

On September 20, 2016, the Consumer Protection Commission held a public hearing on the staff proposal to revise Chapter 84.1, regarding taxicab regulation. Speakers at the public hearing including staff, who presented the proposal and certain minor amendments, two taxicab drivers including petitioner Mahmood Behnam, and representatives of three taxicab companies. Mr. Behnam expressed strong support for the staff proposal to extend the permissible vehicle age and mileage limits to 10 years and 500,000 miles. Taxicab operators were supportive as well, although two took exception to the staff proposal to eliminate the biennial determination and one favored eliminating driver testing requirements.

Following the public hearing and discussion, Commission members voted in favor of amending the staff proposal in three respects: (1) allowing applicants to request authority to provide taxicab service on an annual basis, not a biennial basis (5-3-1); (2) retaining a 60-day period for the submission of appeals in lieu of the proposed 90-day period (8-1); and (3) requiring that taxicab drivers transport service animals in training at no charge (9-0). The CPC also voted unanimously in support of a motion directing staff to explore the possible addition of a statement of non-discrimination. The County Attorney's Office subsequently concluded that such a statement is unnecessary in light of the county's Human Rights Ordinance, including the policies and provisions set forth in Fairfax County Code Sections 11-1-1 and 11-1-6.

Thereafter, on a vote of 6-2, with one abstention, the CPC voted in favor of recommending to the Board that it adopt the proposed revisions to Chapter 84.1 as presented by staff during the public hearing and amended by the CPC. The proposed revisions are explained on an article-by-article basis in Attachment 1.A and are shown in Attachments 1.B (clean version) and 1.C (track-changes version).

SUMMARY OF REVISIONS BY ARTICLE

Global Revisions throughout Chapter 84.1

- Revise the definition of "operator's certificate" so that it has only a single meaning, not dual meanings dependent on context as is currently the case. "Operator's certificate" now refers only to the authority granted to provide taxicab service in Fairfax County. The new term "taxicab certificate" refers to the authorization of a specific taxicab vehicle.
- Replace "hacker" with "taxicab driver."
- Use "Department" in lieu of Department acronyms.

Article 1, In General

Section 84.1-1-1, regarding Purpose of Chapter

- Delete a clause suggesting that the county's regulation is intended to benefit only citizens, because safe and reliable taxicab service benefits all users, including visitors.

Section 84.1-1-2, regarding Definitions

- As noted under Global Revisions, above, revise the definition of "operator's certificate," add a definition of "taxicab certificate," and replace "hacker" and "hacker's license" with "taxicab driver" and "taxicab driver's license."
- Revise the definition of "certificate holder or operator" to reflect the redefined term "operator's certificate."
- Delete the definition of "calendar day," which is inconsistent with common usage and so introduces ambiguity regarding the timing of actions.
- Add a definition of "manifest" that accommodates both paper and electronic recording of trip data by a driver.
- Update the definition of "persons with disabilities" to conform to current terminology used by the American with Disabilities Act.
- Revise the definition of "taxicab inspector" by replacing "investigator" with the broader term "Department personnel."
- Revise the definition of "taximeter" to accommodate possible changes in state law that would allow for use of GPS meters.
- Delete the definitions of "cruising," "parking," passenger car," "service animal," and "taxi stand." Apart from the *Definitions* section, each of these terms is used in only a single chapter provision. Since the meaning of the terms in these paragraphs is clear, they need not be defined.

Article 2, Operator's and Taxicab Certificates

Rename the Article and certain section titles so that they include the new term "taxicab" certificate."

Section 84.1-2-2, regarding Applications

- Revise the filing period so that applicants may request authority to provide taxicab service on an annual basis, not a biennial basis. This amendment was proposed by the CPC during its discussion of the item and adopted on a vote of 5-3-1.

- Delete the requirement that DCCS review applications for sufficiency and identification of deficiencies. The staff "sufficiency review" masks inadequacies on the part of applicants and can create inequities among applicants.
- Delete the requirement that currently-authorized operators post notice of their applications for additional taxicab certificates at their places of business. The posting does not serve as public notice because these locations are not visited by the public.

Section 84.1-2-5, regarding Establishment of Public Convenience and Necessity and Applicant Burden

- Delete the biennial determination in Sec. 84.1-2-5(a) regarding the number of additional taxicab certificates needed to adequately serve the market. When adopted in 1997, this provision, in conjunction with related requirements in Sec. 84.1-2-5(b) applicable to certain applicants, was intended to help balance supply and demand in the market for on-demand for-hire transportation services. At that time, the county regulated the sole source of supply (taxicabs) and could adjust supply by determining the number of available certificates. This is no longer the case. In 2015, the Commonwealth authorized a second source of supply – TNCs like UberX – that compete with taxicabs outside of local regulatory frameworks. As a result, the county can no longer regulate the number of providers operating in the county's on-demand transportation market. Moreover, even if Fairfax County could regulate the supply of providers, staff can only assess demand for taxicab service in the county. It lacks the tools or data to assess the public's demand for TNC and similar types of services.
- Given elimination of the biennial determination, delete the applicant's duty, when it seeks certificates in excess of that number, to (1) provide evidence regarding the demand for taxicab service and (2) establish that the public welfare will be enhanced by the award of more certificates. This provision historically served as an entry barrier that dissuaded or prevented applicants from obtaining certificates. Because the county can no longer control the supply of providers of on-demand transportation service, this provision no longer serves its intended purpose.
- In lieu of provisions related to the biennial determination, add the statement that it is the applicant's burden to demonstrate that the authority it requests is consistent with the public convenience and necessity. This applicant burden was included in Code versions dating to at least 1973 but were apparently deleted in 1997, at the time the biennial determination provisions were added. Restoring the burden ensures that public interest considerations are addressed and satisfied prior to an award of certificates.

Section 84.1-2-6, regarding CPC Public Hearing Requirements

- Revise paragraph (a) to clarify that a hearing on an application is to be scheduled as soon as practical, and delete notice requirements applicable only to certificate holders as the posting of notice at the certificate holder's place of business does not serve to provide notice to the public.
- Revise paragraph (b) to delete language pertaining to the biennial determination and the additional burden on applicants that seek certificates in excess of the number set as a result of that process.

- Consolidate in (b)(1) the consideration of passenger transportation service issues that are currently identified in both (b)(1) and (b)(2).
- Revise (b)(2) so that it focuses on the applicant's proposed service, including its ability to provide service on a 24-hour basis as required under Article 7.
- Delete the reference to dispatch service in (b)(3) and address it separately in (b)(4).
- Delete from (b)(4) the need to demonstrate that operational facilities comply with "zoning and other legal requirements." Operational facilities are significantly less intrusive than in the past. For example, electronic communications have replaced private radio dispatch, eliminating the need for radio antennas or other private radio facilities, and increasing reliance on owner/operators to drive taxicabs means that certificate holders need not maintain extensive garage facilities to service vehicles that they lease to drivers.
- Supplement (b)(6), regarding the applicant's business experience, by including consideration of the applicant's business plan, including its plans regarding driver recruitment and retention.

Section 84.1-2-8, regarding Certificate Fees

- Retitle the section and add subsection (a) through (d) to separately address the various types of fees that apply to certificate holders.

Section 84.1-2-9, regarding Duration of Taxicab Certificates

- Consistent with Sec. 84.1-2-12(b), state that the fees and taxes that must be paid are those imposed under any chapter of the County Code, not just Chapter 84.1.
- Extend the permissible vacancy period for taxicab certificates from 180 days to 18 months. As is the case today, certificates that remain vacant longer than the permissible vacancy period will be deemed null and void.
- Given the significant lengthening of the permissible vacancy period, delete the option of a 90-day extension.

Section 84.1-2-10, regarding Sale or Transfer of an Operating Company

- Rename the section to reflect proposed revisions.
- Because taxicab certificates are the property of the Department, not certificate holder (see e.g., Sec. 84.1-2-7(c)), add language stating that that the prospective transferee of an operating company must apply for and be awarded its own certificates prior to providing service in Fairfax County.
- Add language describing an application and evaluation process that mirrors the process set forth in Sec. 84.1-2-6, excluding consideration of Sec. 84.1-2-6(b)(1), regarding demand. Since the application requests the transfer of existing certificates, a consideration of demand is not necessary.
- In recognition of the time associated to consider an application, add provisions for interim authority and a stay of the permissible taxicab certificate vacancy period.
- Delete provisions requiring notification of a change in management and/or operation of an operator's vehicles and proof that the intended manager or operator can provide service consistent with the chapter's requirements. Such notification and showing is unnecessary so long as the operator remains

ultimately responsible for the provision of taxicab service and compliance with county regulations.

Section 84.1-2-11, regarding Insurance Requirements

- Delete a reporting requirement applicable to self-insured operators, regarding claims history and procedures, and move it to Article 5, regarding operator reporting requirements.

Section 84.1-2-12, regarding Suspension or Revocation of Operator Certificates

- Delete subsection (c), regarding revocation of operator authority, and address it in relettered paragraph (d). This change ensures that the operator is entitled to a hearing prior to revocation.
- Revise relettered paragraph (d) to address revocation only, to provide for notice to the operator via email rather than certified mail, and to eliminate the Director's duty to notify the Commission of revocation or suspension of operator authority.
- Require operators to return suspended or revoked certificates in two business days, rather than seven calendar days.

- *Section 84.1-2-13, regarding Vehicle Substitution*
  - Delete paragraph (d), regarding the fee, as it is addressed in Sec. 84.1-2-8.

Article 3, Taxicab Driver's License

Rename the article and revise certain section titles by replacing "Hacker's" with "Taxicab Driver's."

Section 84.1-3-2, regarding Application

- Delete from paragraph (c) the requirement that a non-resident applicant must comply with his or her home state's taxicab driver licensing requirements as a condition of obtaining a Fairfax County taxicab license.
- Include age and driving experience (21 years and one year as a licensed driver within the U.S., respectively) among the minimum requirements for licensing. Age and driving experience are currently identified as grounds for refusal to issue a license under Section 84.1.3-4.
- Simplify testing requirements associated with county geography and locations and substitute the permissive "may" for the mandatory "will" so that testing requirements may be further simplified in the future without the need for a Code revision.

Section 84.1-3-3, regarding Applicant Investigation

- Revise the provision to ensure that document retention complies with the Library of Virginia's document retention schedule.

Section 84.1-3-4, regarding License Issuance

- Delete age and driving experience as grounds to refuse to issue a license, as these are now designated as minimum requirements for application.
- Clarify that criminal convictions or driving offenses provide a basis for refusal to issue a taxicab driver license only if the offense occurred within certain specified periods (e.g., three years immediately preceding the date of the application).

- In identifying the types of convictions that warrant denial of a taxicab driver's license, (1) delete overbroad language, such as "moral turpitude;" and (2) use the statutory language "controlled substances" in lieu of "alcohol or narcotics."
- Restructure the subsection so that grounds for refusal to issue a license are listed in descending order (i.e., preceding periods of five years, three years, and 12 months).

Section 84.1-3-5, regarding License Fees

- Retitle the section and add subsection (a) through (c) to separately address the various types of fees that apply to licensed taxicab drivers.

Section 84.1-3-6, regarding Driver Reporting and Record-keeping

- Consolidate in one section numerous duties currently set forth in multiple provisions and retitle the section accordingly. These duties include a driver's duty to maintain a daily manifest (log) of trips taken, and the duty to report traffic accidents, traffic-related summons or arrests, and a change in operator affiliation. These obligations are currently found in Articles 3, 5 and 7 (Sec. 84.1-3-7(a)(6) and (a)(7), Sec. 84.1-3-9, Sec. 84.1-5-c, and Sec. 84.1-7-1(p) and (u).)
- Simplify the record-keeping requirements applicable to a daily manifest. The duty to maintain a manifest has been moved from Article 5 to Article 3.

Section 84.1-3-7, regarding Suspension or Revocation of Taxicab Driver's License

- Restructure the section so that grounds for suspension and revocation are listed separately, rather than intermingled.
- Reduce the maximum stated suspension period from 60 days to 30 days.
- Supplement notice provisions to ensure that an operator receives electronic notice via email when a taxicab driver affiliated with that operator has his or her taxicab driver's license suspended or revoked.
- Delete provisions regarding driver reporting of accidents and traffic-related summons or arrests and move them to Sec. 84.1-3-6.
- Require drivers to return suspended or revoked licenses in two business days rather than seven calendar days.

Section 84.1-3-8, regarding Filing After Denial or Revocation of License

- Delete language describing the start date of the one-year period within which certain individuals may not apply for a taxicab driver's license or renewal. Current Code language provides that the start date is the effective date of an application denial or license revocation; it is not the date of the Director's action. Setting the start date at the effective date penalizes drivers who unsuccessfully appeal a denial of their license application or revocation of their taxicab driver's license, because it adds to the waiting period the time associated with an appeal and Commission consideration of that appeal.

Section 84.1-3-9, regarding Notice of Change in Affiliation

- Delete this provision and include the driver duty it describes in Sec. 84.1-3-6.

Article 4, Appeals

Section 84.1-4-1, regarding Appeals from Director Decisions

- Correct usage by referring to "Commission's decision," not "Commissioner's order."

Article 5, Records and Reports

Section 84.1-5-1, regarding Records to be Maintained

- Add a requirement that that operators maintain taxicab meter data sufficient to comply with biennial reporting requirements and that they make such data available upon Department request.
- Delete paragraph (c), regarding driver manifests, and move the duty to Sec. 84.1-3-6, which lists numerous other driver duties.

Section 84.1-5-2, regarding Records to be Filed

- Revise the operating and service data that operators must report by deleting "number of units" and adding "stand dues," which are paid by owner/operators to the certificate holders. An operator is currently required to report the lease rates that it charges drivers who lease vehicles. Information on stand dues provides a more complete picture of the revenues the company generates from those who drive on its behalf.
- Move a reporting requirement applicable to self-insured operators from Article 2 to this Article 5 provision.

Article 6, Rates and Charges

Section 84.1-6-2, regarding Changes to Rules, Regulations, and Rates

- Update the Taxicab Industry Price Index chart by using current Bureau of Labor Statistics (BLS) category or subcategory names.
- Replace "fare" with "rate" in the text of the notice that must be posted in each taxicab of a taxicab rate change proceeding. A fare is typically understood as the total cost of a trip.

Section 84.1-6-3, regarding Establishment of Rates, Fares, and Charges

- Include the phrase "for the riding public" from Sec. 84.1-6-1 to clarify that the rates, fares and charges established in Article 3 do not apply to contract service.
- Describe mileage rates as "maximum" rates. This revision, which codifies long-standing informal driver practice, ensures that passengers will pay reasonable rates yet allows some operator and driving pricing flexibility in response to TNCs. For example, setting maximum rates would allow operators to implement and market promotional programs. Maximum taxicab rates have been adopted by jurisdictions in numerous states, including California, Georgia, Maine and South Carolina.
- State that a driver may not charge waiting time for time not directly related to transporting a passenger to his or her destination (e.g., refueling).
- Simplify the additional charges that passengers may incur by deleting additional charges for grocery bags ($0.25 per bag, up to a maximum of $1.00) and "large luggage" of three or more cubic feet ($2.00, per item handled by the driver).

- Retain charges for personal service and the handling of luggage, so long as the passenger is informed of these charges at the time of pick-up, but increase each charge to $1.00, from $0.75 and $0.50 per item handled, respectively.
- Require that taxicab drivers transport not only service animals free of charge, but also service animals in training. This revision reflects a unanimous CPC amendment of the staff proposal.
- Increase the cleaning charge from $4.00 to $25.00 when a passenger leaves the cab in such an unsanitary condition that it must be removed from service for immediate cleaning. The current $4.00 charge dates to at least 1992.
- Revise subsection (g) by deleting the permissible discount of 25 percent. Because taxicab drivers have been granted flexibility to charge rates below the maximum, retaining the 25 percent figure may have the unintended consequence of imposing a floor on the permissible discount that can be charged to senior citizens and persons with disabilities

Article 7, Operations

Restructure the article by breaking the single subsection, Sec. 84.1-7-1, into three, each addressing different topics. Restructuring allows the article to more clearly distinguish requirements applicable to operators and drivers.

Revised Section 84.1-7-1, regarding General Requirements and Standards for Operators

- Consolidate in this subsection the operator duties currently identified in Sec. 84.1-7-1 (a), (t), and (u) and in Article 8. These requirements address items including business location, training of personnel, the provision of wheelchair-accessible taxicab service, and fleet fuel economy. Except as noted below, no substantive change has been made to the requirements.
- Recognizing the increasingly regional nature of the taxicab business, allow the certificate holder's business office to be located within the county or in any Virginia jurisdiction adjacent to the county.
- Delete the requirement that the certificate holder or its agent be available "in person" on a 24-hour basis. The phrase "in person" suggests that a physical presence is required and that use of a call center may be insufficient.
- Delete the requirement that the certificate holder respond to all requests for service within a three-mile radius of taxicab facilities or any taxicab stand. This requirement has been rendered obsolete by a shift in the predominant business model. The majority of Fairfax County taxicabs are now owned and operated by drivers, not certificate holders, and taxicabs typically are not stationed at the certificate holder's taxicab facilities. Further, the county currently has no formal taxicab stands from which the three-mile radius could be determined.
- Highlight the duty owed by the operator not to discriminate against persons with disabilities. The duty is currently applicable to "taxicab service providers" (an undefined term).

Revised Section 84.1-7-2, regarding General Requirements and Standards for Taxicab Drivers

- Consolidate in this subsection the taxicab driver duties currently found in Sec. 84.1-7-1(b)-(o), (r), (s), and (u). Except as noted below, no substantive change has been made to these duties.
- Highlight the duty owed by the taxicab driver not to discriminate against persons with disabilities. The duty is currently applicable to "taxicab service providers" (an undefined term).
- Revise and separately address standards intended to provide for passenger comfort while in a taxicab by (1) prohibiting smoking while the taxicab is occupied; (2) allowing the passenger to request that the driver discontinue use of any mobile device or entertainment system; and (3) moving from Article 8 to this paragraph the driver's obligation to adjust the vehicle's heating, cooling, or windows as requested by the passenger.
- Revise obsolete phrasing in several provisions regarding driver requirements (e.g., "service received by telephone, radio or otherwise").
- Specify the charges that apply when passengers agree to accept another passenger into the cab, consistent with Article 6 regarding rates, fares and charges.
- With respect to passenger possessions that have been left in a taxicab, delete the Department's duty to serve as a repository for any article that has not been claimed beyond a 30 day period.
- Delete a provision requiring that the driver report a change in residential or business address. Changes of residence address, if any, are noted on the annual license renewal application. Changes of business address occur only when the driver changes affiliation, which drivers are already required to report under Article 3.
- Add a sentence stating that drivers must accept the electronic forms of payment that the operator has chosen to accept. This revision ensures that when a taxicab displays logos indicating that it accepts certain credit or debit cards, the driver will in fact accept those cards.

Revised Section 84.1-7-3, regarding Other Requirements and Standards

- This new subsection includes two current duties that do not apply solely to operators or drivers.

Article 8, Taximeters, Equipment, Maintenance, and Inspections

Restructure the article by consolidating four subsections that address taximeters into two subsections. Restructuring allows the article to more clearly distinguish requirements applicable to taximeters and vehicles.

Section 84.1-8-1, regarding Taximeters

- Add language clarifying that the taximeter must clearly display the passenger's maximum fare and be visible to a passenger seated in the back seat.
- Delete the requirement that the taximeter must visually display the number of "units" and "extras," and clarify that the display is for the benefit of the Taxicab Inspector, not the passenger.

Revised Section 84.1-8-2, regarding Taximeter Inspections and Tampering

- Revise language to accommodate possible changes in state law that would allow for use of GPS meters rather than mechanical meters. Revisions include the deletion of phrasing such as calibration by "a Virginia certified Weights and Measures technician."
- Include as new subsection (b) the provisions of Sec. 84.1-8-4 regarding taximeter inspections. Revise the language to require annual rather than semi-annual meter inspections for time accuracy. Meters will continue to be inspected on an annual basis for distance accuracy.
- Include as new subsection (c)(1) and (c)(2) the provisions of Sec. 84.1-8-3 regarding prohibitions on tampering.

Section 84.1-8-3, regarding Vehicles

- Add several provisions to codify long-standing vehicle requirements enforced by DCCS but not currently specified. These provisions address vehicle registration and safety inspection (new paragraph (a)), windows and windshield wipers (new paragraph (e)), and the vehicle's exterior lighting including headlights, brake lights and turn signals (new paragraph (f)).
- Extend the permissible vehicle age and mileage limits from six model years or 380,000 miles, whichever comes first, to ten model years or 500,000 miles, whichever comes first. Extending the permissible vehicle age and mileage reduces costs for both owner/operators and certificate holders, while alternating DMV and DCCS inspections help safeguard public safety. The vehicle age and mileage provision, formerly part of paragraph (m), is now set forth in paragraph (b).
- Delete age and mileage requirements applicable to vehicles placed into taxicab service, currently set forth in paragraph (m). Currently, a vehicle may not be placed into service as a taxicab unless it is two or less model years old and has fewer than 80,000 miles.
- With respect to tires, replace a reference to tread depth with reference to the condition and tread depth requirements specified in the Virginia Motor Vehicle Safety Inspection Rules and Regulations. Additionally, because manufacturers are increasingly providing alternatives to a spare tire, revise the requirement that each taxicab carry a fully-inflated spare tire.
- Require that upholstery and carpet be washable but not necessarily nonabsorbent. Reasons supporting this change include cost savings, significant improvements in the washability of seat and floor coverings since these requirements were adopted, the possibility that non-standard seat coverings may impair deployment of rear-seat airbags, and continuing inspection requirements, which safeguard against the operation of unsanitary taxicabs.
- Revise relettered paragraph (i) to focus on safety matters. Revisions include (1) listing safety equipment that is currently inspected (e.g., seat belts, mirrors and horn); (2) deleting language regarding state inspection, which is now addressed in new paragraph (a); (3) deleting language regarding correction of defects, as this topic is currently addressed in Section 84.1-8-6, regarding vehicle inspections; and (4) moving language regarding painting to relettered paragraph (o), regarding vehicle condition.

- Clarify the discussion of rooftop lighting by using the term "rooftop" in the first sentence to encompass both the dome and marker light requirements that follow and by replacing "cruising lights" with the industry-standard "dome light" in the subsequent discussion. In addition, the phrase "Unless otherwise authorized by the Director" has been added to the first sentence so that the Department may revise rooftop lighting requirements without a Code revision in the event the Commonwealth authorizes the use of GPS meters. The flexibility is needed because the marker lights located on either side of the dome light currently must be "connected to, and operated by, the meter" and a GPS meter is unlikely to be capable of supporting this arrangement.
- Reduce height requirements for the exterior taxicab number from four to three inches. Requirements regarding removal of taxicab markings when a vehicle is taken out of service are now addressed in this same provision, rather than in a separate paragraph.
- Delete language regarding placement of a wheelchair symbol on the front windshield, as this potentially conflicts with state safety inspection provisions.
- Move from paragraph (b) to paragraph (n) the prohibition against shielding taxicab occupants or the driver from observation outside the vehicle.
- Revise relettered paragraph (o), regarding taxicab condition, to address inspection requirements that apply to interior and exterior vehicle condition as currently enforced by DCCS. The revisions clarify what constitutes a clean interior and passable exterior.
- Delete the obligation to equip the vehicle with a taximeter, as it is already required by Sec. 84.1-8-1(a).
- Move the obligation to maintain heating and air conditioning equipment in good working condition from paragraph (n) to relettered paragraph (m). The requirement to provide heating or air conditioning per passenger request, formerly included in paragraph (n), is now addressed in Sec. 84.1-7-2(c)(3).
- Delete former paragraph (o), regarding wheelchair accessibility, as this requirement is now identified as an operator duty under Sec. 84.1-7-1.
- Delete former paragraph (p), regarding fuel efficiency, as fleet fuel economy is now identified as an operator duty under Sec. 84.1-7-1.

Section 84.1-8-4, regarding Vehicle Inspections

- Add new paragraph (a) to specify the items that are inspected and evaluated during a taxicab inspection.
- Delete from paragraph (b) both the Taxicab Inspector's duty to determine vehicle compliance with state motor vehicle laws and a statement regarding semi-annual inspections.
- Implement a two-tiered inspection framework that allows for annual inspection of taxicabs of six or fewer model years, and semi-annual inspection of taxicabs of seven or more model years. Current practice requires semi-annual inspection of all taxicabs. Taxicabs subject to annual DCCS inspections will be inspected six months after the DMV safety inspection.

- Delete language regarding the cleaning of taxicabs, as relettered Sec. 84.1-8-5(o) requires that taxicabs be kept in as clean and sanitary a condition as is reasonable, given weather conditions.

Article 9, Penalties
No changes.

Article 10, Jurisdictional Reciprocity and Sightseeing Operations

Section 84.1-10-1, regarding Jurisdictional Reciprocity

- Revise the language to impose the duty to abide by a current reciprocity agreement on either the certificate holder or driver, not the taxicab.

AN ORDINANCE AMENDING CHAPTER 84.1 OF THE FAIRFAX COUNTY CODE, RELATING TO PUBLIC TRANSPORTATION

Draft of October 5, 2016

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Chapter 84.1 relating to public transportation.

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

1. **That Chapter 84.1 of the Fairfax County Code is amended and readopted as follows:**

CHAPTER 84.1 - Public Transportation.

ARTICLE 1. - In General.

Section 84.1-1-1. - Purpose of Chapter.

The purpose of this Chapter is to regulate the operation of taxicabs for hire within the County to ensure safe, reliable, adequate and efficient taxicab service and to prescribe a schedule of reasonable rates for the services regulated herein. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-2. - Definitions.

For the purpose of this Chapter, the following words and phrases have the meanings ascribed to them by this Section:

Applicant means any person, company, corporation, partnership or other such legal entity that seeks new or expanded authority to operate taxicabs in Fairfax County or any individual who seeks a taxicab driver's license, as applicable.

Board means the Board of Supervisors of Fairfax County, Virginia.

Certificate Holder or Operator means one who has been granted authority by the Board to operate taxicabs in Fairfax County and holds one or more Taxicab Certificates.

Commission means the Consumer Protection Commission of Fairfax County, Virginia.

Department means the Fairfax County Department of Cable and Consumer Services.

Director means the Director of the Department of Cable and Consumer Services of Fairfax County or the duly authorized agent of the Director of the Department.

Driver or Taxicab Driver means an individual who is licensed under this Chapter to drive a taxicab in Fairfax County.

Driver Association means any membership organization which is authorized by law to do business in Virginia and is composed of at least 10 taxicab drivers who are currently licensed to drive taxicabs in Fairfax County.

Fairfax County and County mean jurisdictional boundaries of Fairfax County.

Manifest means a daily record, either on a form or through an electronic format approved by the Director, of all trips made by the taxicab driver. The manifest shall include at a minimum the driver name, taxicab number, date, place and time the transportation of each paying passenger commenced and terminated, number of passengers and the amount of the fare. An electronic manifest must be capable of providing a printed record immediately upon request by a Taxicab Inspector or duly sworn law enforcement officer.

Operator's Certificate means the authority granted by the Board to operate taxicabs in Fairfax County and that comprises the specific number of taxicab certificates that have been awarded by the Board.

Passenger means a person transported in consideration of a fare.

Personal Service means any service, at the request of the passenger, which requires the driver to leave the vicinity of the taxicab.

Persons with Disabilities means any persons who have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment or are regarded as having such an impairment. For the purposes of this Chapter, the term "major life activities" means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Senior Citizen means a person who is 60 years of age or older.

Taxicab means a passenger vehicle held for public hire carrying six or less passengers to destinations without following any fixed routes.

Taxicab Certificate means the individual numbered certificate associated with a specific taxicab that is issued by the Director to an operator.

Taxicab Driver's License means the license, issued pursuant to this Chapter, permitting an individual to drive a taxicab pursuant to this Chapter.

Taxicab Inspector means the Department personnel designated by the Director to enforce the provisions of this Chapter.

Taximeter means an instrument approved by the Director which meets the requirements of the laws of the Commonwealth of Virginia for use in taxicabs by which the fare for hire of a taxicab is computed for mileage and for waiting time and upon which such fare is plainly visible to the passenger at all times.

Wheelchair Accessible Taxicab means a taxicab that is equipped with a ramp, lift or other equipment necessary for the transport of persons who use wheelchairs. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-3. - Consumer Protection Commission duties and hearings.

(a) In addition to all other duties, the Commission will consider applications for operator's certificates and taxicab rate changes and act upon appeals from actions taken by the Director.

(b) All hearings or other public proceedings conducted by the Commission in accordance with this Chapter will be conducted in an informal manner. The Commission will have the discretion to admit all evidence which may be of probative value even if that evidence is not in accord with formal rules of legal practice and procedure. Applicants and appellants may appear, either by personal appearance, legal counsel, or other representation, to present argument and evidence on their behalf. In addition, the Commission may establish rules of procedure for the conduct of hearings. Any interested party may record all public proceedings of any hearing in any manner which will not impede the orderly conduct of the hearing.

(c) The Commission will report all recommendations and/or decisions in writing, and the Commission will furnish copies of those decisions to the Director and to any applicant or appellant affected thereby. To any other person entitled to receive a copy pursuant to the Virginia Freedom of Information Act, the Commission will furnish copies in accordance with that Act. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-4. - Filing requirements for driver associations.

(a) Each driver association will notify the Department within 30 calendar days after beginning activities within the County, and that date will be the earliest date upon which an association had at least 10 members and the organization was qualified to do business in the Commonwealth of Virginia.

(b) Each driver association will file an annual notification with the Department no later than January 31 of each year. Each such notification will include the name of the organization, the business address of the organization, the officers of the organization, and a list of members of the organization. (4-00-84.1; 56-08-84.1.)

ARTICLE 2. - Operator's and Taxicab Certificates.

Section 84.1-2-1. - Operator's and taxicab certificates required.

(a) No person will operate or permit to be operated a taxicab or taxicabs in the County without having been granted authority by the Board to operate taxicabs. Each individual numbered taxicab certificate associated with the operator's grant of authority must be carried in the taxicab to which it pertains at all times during operation and must be presented, upon request, to any Taxicab Inspector or duly sworn law enforcement officer.

(b) The driver of a taxicab which is duly authorized as a taxicab in any other jurisdiction of this State or in any other state may convey into and discharge within the County a passenger or passengers; and, if required by the passenger or passengers, the taxicab driver who conveyed the passenger or passengers into the County may wait for the passenger or passengers and convey the passenger to his or her ultimate destination. The driver of a taxicab registered in any other jurisdiction will not otherwise convey, pick up, wait for or solicit a passenger or passengers within this County, except as permitted in Article 10. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-2. - Application; forms; contents; notice of application.

(a) Applications for operator's certificates or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder will be accepted by the Director on an annual basis by 4:00 p.m. June 30.

(b) Application for operator's certificates, or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder will be made upon forms provided and in the format requested by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. The Director may require full disclosure of all corporate, financial, and business interests of the applicant and of all corporate, financial and business interests of persons having a corporate, financial or business interest in the applicant. Information required on the application will be related to the considerations of the Commission in its investigation of the public convenience and necessity of additional certificates as stated in Section 84.1-2-6(b).

(c) The fee for processing applications will be $100.00 for each taxicab certificate that the applicant requests. This application processing fee is nonrefundable, and it will be paid by check or money order upon submission of the application to the Director.

(d) In order to carry out the purposes of this Chapter, the Department, the Commission, or the Board may request that the applicant provide information in addition to that provided on the application.

(e) An applicant for an operator's certificate, or a certificate holder applying for an increase in the number of taxicab certificates authorized to be issued to such certificate holder, will, within seven calendar days of such application, provide written notice of such application to all other certificate holders and to any driver association as defined herein. Such notice will be provided by certified mail to the regular place of business of other certificate holders and to the legal address of any driver association as defined herein. Notice will be sufficient if it describes the number of certificates sought, the area to be served, identification of the applicant, and the date of the application.

(f) If the Department has not received proof of notification by any applicant within 15 calendar days from the date of the receipt by the Department, that applicant's application will be returned and not processed. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-3. - False statements on applications.

It will be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring an operator's certificate, taxicab certificates or a taxicab driver's license, or to make any false statements or entry on the records required to be kept by this Chapter. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-4. - Investigation of applicant; procedure.

(a) Following receipt of an application filed under Section 84.1-2-2, the Director will cause to be made a thorough investigation of the character, traffic, criminal record, financial status and service plan of the applicant or its officers, among other relevant factors. Upon completion of the investigation, the information obtained as a result of this investigation, together with all pertinent documents, will be submitted by the Director to the Commission.

(b) The Director's report pertaining to all applications will be distributed to members of the Commission and will be made available to each applicant and the public not later than 10 calendar days before the scheduled hearing date. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-5. - Establishment of public convenience and necessity; burden of applicant.

An applicant that has filed an application under Section 84.1-2-2 shall have the burden of establishing that the authority it requests is consistent with the public convenience and necessity. The burden will be upon the applicant to establish the existence of all facts and statements within its application and to provide such other information as is required or requested pursuant to this Chapter. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-6. - Public hearing; requirements; regulations.

(a) Upon the filing of applications under Section 84.1-2-2, the Commission will hold hearings as promptly as practical. The Commission will give the applicant, certificate holders, and any driver association as defined herein notice of the hearing at least 14 calendar days prior to the hearing date and will cause notice to be published once a week for two successive weeks in a newspaper published or circulated in the County.

(b) The Commission will, upon holding public hearings and after such further investigation as it may deem advisable, make recommendations to the Board regarding the award of taxicab certificates. In making its recommendations, the Commission will consider the following:

(1) Current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market;

(2) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis in those areas;

(3) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used;

(4) The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;

(5) The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application;

(6) The character, business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;

(7) The investigative report of the Director and the applications of the applicants.

(c) All parties will have the right to present comments when the Commission holds public hearings to investigate the public convenience and necessity of applied for certificates. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-7. - Issuance of taxicab certificates; contents.

(a) Upon the Board's award of taxicab certificates, the Director will issue such certificates upon receiving proof that each proposed vehicle is ready for service as set forth herein.

(b) Each taxicab certificate will contain the following information:

(1) Name, including trading as name if not the same as name, and business address of the certificate holder.

(2) The make, model, model year, vehicle identification number, seating capacity of the vehicle, and the lettering, marks and color scheme to be used on the taxicab authorized by the certificate to be operated.

(3) The date of issuance and expiration.

(4) A number assigned in a manner determined by the Director.

(5) Such other information as the Director determines may assist in carrying out the purpose of this Chapter.

(c) Each taxicab certificate issued by the Director will remain the property of the Department, may not be copied and will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-2-12. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-8. - Certificate and other fees.

(a) The annual fee for each taxicab certificate will be $150.00. The fee for each newly authorized taxicab certificate will be established on a pro rata basis from the date of initial issuance until December 31 of the calendar year in which the certificate was issued.

(b) An annual taxicab inspection fee of $20.00 will be paid for each taxicab certificate.

(c) A vehicle substitution fee of $25.00 will be paid for each vehicle substitution made in accordance with Section 84.1-2-13.

(d) A replacement taxicab certificate fee of $25.00 will be paid for each replacement taxicab certificate issued to an operator. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-9. - Duration of taxicab certificates; nontransferable.

(a) No taxicab certificates will be issued under this Article nor continued in effect until all fees and taxes imposed by this Chapter or any other Chapter of this Code are paid, insofar as such fees relate to operation of a taxicab business within the County.

(b) Such certificates will be nontransferable by sale, lease, or otherwise and will be valid from the date of issuance until relinquished or revoked as provided in this Chapter; provided, if any certificate holder will fail to place in operation, within 18 months of the date of authorization for new or additional taxicab certificates, any taxicabs so authorized for operation under a numbered certificate, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days.

(c) In the event that a taxicab is permanently removed from service, the certificate holder may substitute a replacement vehicle on that numbered taxicab certificate, but any such replacement vehicle will meet the requirements of Section 84.1-8-3 and the holder will submit that replacement vehicle to Director for inspection prior to placement in service. If the replacement vehicle is not placed in service within 18 months, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-10. - Sale or transfer of the operating company.

(a) In the event of an agreement to sell or otherwise transfer control of a certificate holder, including, but not limited to, any form of lease-purchase or other long-term arrangement, the certificate holder must notify the Department of the agreement as soon as practicable, including the identity of the transferee or transferees and anticipated date on which control will transfer. Notification does not relieve the certificate holder of its obligations under Chapter 84.1. A transferee may not provide taxicab service in Fairfax County until authorized to do so on an interim basis by the Director or on a permanent basis by the Board.

(b) Each transferee must submit an application for an operator's certificate to the Director to establish its ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation. That application will be made upon forms provided and in the format requested by the Department, and completed as required by Section 84.1-2-2(b).

(c) A transferee that has submitted an application for an operator's certificate (hereinafter applicant) may request interim authority to provide taxicab service until such time as the Board can act upon its application.

(1) A written request for interim authority shall be submitted by the applicant to the Director no earlier than the submission of the application required by Section 84.1-2-10(b). The request for interim authority may be granted by the Director based upon the information provided in the application.

(2) If the Director grants interim authority, the transferor may cancel its insurance after the applicant files acceptable proof of insurance, files all other required documents, and the Director has advised the transferee in writing that it is authorized to begin operations.

(3) A grant of interim authority shall terminate no later than the date on which the Board takes action on the application. The interim authority shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.

(d) Following submission of the application required by Section 84.1-2-10(b), either the certificate holder or applicant may submit a written request to the Director for a stay of the 18-month period provided in Section 84.1-2-9(b) and (c). A stay shall be effective upon the Department's receipt of the written request and shall terminate no later than the date on which the Board takes action on the application. The stay shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.

(e) The Commission will hold a public hearing on the application, as provided in Section 84.1-2-6. Upon holding public hearings and after such further investigation as it may deem advisable, the Commission will make recommendations to the Board. In making its recommendations to the Board, the Commission will consider the provisions of Section 84.1-2-6(b), excluding Section 84.1-2-6(b)(1).

(f) Upon Board approval of the applicant's request for operating authority and award of taxicab certificates, the Director will reassign the taxicab certificates from the transferor to a transferee in compliance with Section 84.1-2-7. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-11. - Insurance requirements; self-insurance requirements.

(a) Except as otherwise provided by Subsection (d) or (e) of this section, no taxicab certificates will be issued or continued in effect unless there is in full force and effect a public liability automobile insurance policy for each authorized taxicab in the amount of at least $100,000.00 for bodily injury or death to any person, and in the amount of at least $300,000.00 for injuries or death to more than one person sustained in the same accident, and in the amount of $50,000.00 for property damages resulting from any one accident.

(b) Such insurance policy will inure to the benefit of any person who may be injured or the estate in the event of death, or to the benefit of any persons sustaining damage to property for which the certificate holder may be liable.

(c) Evidence of such insurance will be filed with the Director prior to the issuance of any taxicab certificates and will include provisions for notice by the insurance carrier to the Director prior to termination of such coverage. In the case where the certificate holder is not the vehicle owner, the certificate holder is fully responsible for providing evidence of insurance for all authorized taxicabs under his or her company, and for ensuring that all owner-operators maintain adequate insurance according to this Chapter. The certificate holder must notify the Director prior to termination of any owner-operator's insurance coverage. In the event an owner-operator's insurance has lapsed, and the owner-operator incurs a liability from an accident or other circumstance, the certificate holder's insurance must be so written that it will cover such liability up to the coverage levels prescribed in this Chapter.

(d) If the minimum State automobile insurance requirements exceed the above rates, then the State minimum requirements will automatically apply.

(e) The requirements of this Section may be met in part by a self-insurance certificate which has been adopted and approved by the Commonwealth of Virginia in accordance with Virginia Code, Section 46.2-368, as amended, and that such self-insurance certificate will be in full force and effect at all times and that evidence of such a policy will be filed with the Director prior to the issuance of any taxicab certificates and will include provision for notice by the Commonwealth of Virginia to the Director prior to termination of such coverage. If the minimum State insurance requirements do not equal or exceed the requirements of this Section, the certificate holder may self-insure up to the amount of $100,000.00 and must carry an umbrella insurance policy against all risks specified above in an amount at least equal to the amounts specified in Subsection (a) above and further provided that the following requirements are met:

(1) Application for approval to partially meet insurance requirements through self-insurance up to $100,000.00 will be made by the certificate holder or duly authorized agent upon forms provided by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. In addition, the applicant must provide:

(A) Proof that all requirements for self-insurance established by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission have been met;

(B) Claims history for the company for the preceding four-year period.

(2) The certificate holder must file all documents and other materials required by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission with the Department simultaneously with the filing requirements established by the Virginia Department of Motor Vehicles and Virginia State Corporation Commission.

(3) The certificate holder must report its claims history and claims procedures as part of the filing required under Section 84.1-5-2. The report will be ordered and undertaken at the company's expense.

(4) If at any time it should appear that the certificate holder no longer meets the criteria required for approval as a self-insurer as set forth herein or fails to file any required documents, the certificate holder will be given written notice identifying the failure of criteria or filing default. The written notice will stipulate a reasonable date and time by which the certificate holder must furnish evidence, satisfactory to the Director, that the approval criteria are again met or the default cured. Failure to timely respond to the notice, failure to meet approval criteria or failure to cure a default will result in revocation of the right to self-insure. Nothing in this Subsection will preclude the suspension of a certificate holder's taxicab certificate(s) pursuant to Section 84.1-2-12(a)(4) for failure to maintain adequate insurance during the time a certificate holder fails to meet the criteria for approval as a self-insurer. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-12. - Revocation or suspension of certificates.

(a) In response to any finding that the public safety and welfare so demands, the Director may suspend any individual numbered taxicab certificate(s) of a certificate holder, until proof of compliance is met to the Director's satisfaction for any of the following reasons:

(1) Failure to maintain the taxicab(s) and/or meter(s) identified in such certificates in good order and repair, in accordance with Article 8 of this Chapter.

(2) Failure to pay any fees lawfully assessed upon the ownership or operation of any such vehicle(s), identified as taxicabs in such individual numbered taxicab certificates, under this Chapter.

(3) Failure to supply information required under Sections 84.1-2-11(c) and (e) and 84.1-5-2 of this Code pertinent to any taxicabs operated under such certificates.

(4) Failure to maintain proper insurance, as required by this Chapter, on any taxicab, including any taxicab operated by an owner-operator. The certificate holder's right to operate such taxicab will be suspended for as long as the required amount of insurance is not in effect.

(5) Failure to comply with the taxicab inspection requirements set forth in Section 84.1-8-4.

(6) Failure of drivers to respond to or pick up a fare.

(b) A certificate holder's entire operating authority and all individual numbered taxicab certificates issued to the certificate holder may be suspended by the Director until proof of compliance is met to the satisfaction of the Director upon finding that the public safety and welfare so demands, or for any of the following reasons:

(1) Discontinuance of service of the entire business of the certificate holder for more than five consecutive calendar days.

(2) Failure to pay all fees and taxes imposed by this Chapter or any other Chapter of this Code insofar as such fees relate to operation of a taxicab business within the County.

(3) Three or more violations by the certificate holder of any of the provisions of this Chapter within a twelve-month period.

The Director's failure to suspend an individual numbered operator's certificate for any of the causes set forth in Subsection (a) of this Section will not impair the authority of the Director to suspend all certificates held by an operator based on such causes.

(c) Written notice of any suspension pursuant to Section 84.1-2-12(a) or (b) will be given to the certificate holder by electronic mail. Such suspension will be effective upon receipt, unless a different effective date is specified.

(d) The Director, upon a determination that the certificate holder is not operating the authorized taxicabs in such a manner as to serve the public adequately, safely, efficiently or legally, may revoke the certificate holder's authority to operate a taxicab business and all individual numbered taxicab certificates issued thereunder. Such determination will be based upon the Director's consideration of evidence showing violation, by the certificate holder, of one or more of the provisions of this Chapter. Such revocation will only be taken after such certificate holder has been notified of such proposed action and given an opportunity for a hearing before the Commission.

(e) It will be unlawful for a person to operate or permit to be operated a taxicab in the County when the taxicab certificate under which the taxicab was placed in service is under suspension or revocation.

(f) A taxicab certificate that has been suspended or revoked will be returned to the Director within two business days from the effective date of the revocation or suspension. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-13. - Filing for vehicle substitution.

(a) A certificate holder or its designated agent may at any time substitute a replacement vehicle for a vehicle that has an individual numbered taxicab certificate and is to be removed from service.

(b) Such substituted vehicle will comply with all provisions of this Chapter, including Section 84.1-2-11. A taxicab certificate corresponding to the replacement vehicle will be issued upon receipt of vehicle data, proof of insurance, and written verification that the vehicle being removed from service has had all taxicab markings removed.

(c) If the substituted vehicle is a used vehicle, the certificate holder or its designated agent will present to the Director for inspection the title or current registration for the vehicle, and documented proof of the vehicle's mileage. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-14. - Filing after denial or revocation of operator's certificates.

(a) An applicant whose application for an operator's certificate has been denied or a certificate holder whose operating authority and all taxicab certificates has been revoked may not apply for certificates until the following open period specified in Section 84.1-2-2(a).

(b) A certificate holder whose application for additional taxicab certificates has been denied may not apply for additional certificates until the following open period specified in Section 84.1-2-2(a). (4-00-84.1; 56-08-84.1.)

ARTICLE 3. - Taxicab Driver's License.

Section 84.1-3-1. - License required.

(a) It will be unlawful for any person to drive a taxicab for hire from an origin within the County to a destination within or outside the County except as provided in Sections 84.1-2-1, 84.1-10-1 and 84.1-10-2, unless the driver has obtained and has in his possession a current County taxicab driver's license.

(b) The taxicab driver's license is valid only while operating a taxicab which is duly authorized in Fairfax County with a taxicab certificate issued by the Director. This license is not valid while operating a taxicab authorized, licensed, or having a certificate issued from any other jurisdiction.

(c) Each taxicab driver's license will remain the property of the Department, and it will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-3-7. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-2. - Application; forms; contents; requirements.

(a) Application for a taxicab driver's license, and for renewals thereof, will be made in person on forms provided by the Department and endorsed by a certificate holder. Such endorsement will be on the form provided by the Department and will indicate the certificate holder's consent to authorize the driver to operate a taxicab on the certificate holder's behalf. The applicant will provide full answers to all questions on the application under oath. Information required to be provided by the applicant will include, but not be limited to, pertinent personal data, description of physical characteristics, traffic and criminal history records, experience in operating motor vehicles, and experience in driving taxicabs for hire.

(b) Each applicant is required to be fingerprinted by the Fairfax County Police Department.

(c) Each applicant is required to have a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia which is recognized as a lawful license to drive a motor vehicle on the highways of the County by the Commonwealth of Virginia.

(d) Each applicant must be at least 21 years of age and have at least one year's experience as a licensed driver of a motor vehicle within the United States.

(e) Prior to submitting the initial application for a taxicab driver's license, an applicant may be required to successfully complete each part of a general examination that tests the applicant's knowledge of Chapter 84.1 of the Fairfax County Code, significant locations and major roadways within the County, and the applicant's ability to communicate orally with passengers in the English language concerning the trip, destination, fares, route, and related matters. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-3. - Investigation of applicant; procedure.

The Director will have an investigation made of the applicant for a taxicab driver's license, and a confidential record of the investigation will be kept on file by the Department. The record will be made available to the Commission upon request; such record will also be made available to the applicant, upon the request of the applicant. The record will be retained in accordance with the Library of Virginia's document retention schedule. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-4. - Issuance of taxicab driver's license.

(a) If the Director determines that the applicant for a taxicab driver's license has complied with all provisions of this Chapter and, based upon the information supplied in Section 84.1-3-2 and the information obtained in accordance with Section 84.1-3-3, the Director further determines that there are no reasons for refusal pursuant to Section 84.1-3-4(c), the Director will issue a taxicab driver's license for a period of one year containing such information thereon as the Director deems pertinent.

(b) The Director may issue an applicant a temporary taxicab driver's license for a period not to exceed 60 calendar days pending investigation and processing of the initial application. In deciding whether to issue a temporary license, the Director will conduct a preliminary review and consider the following:

(1) Applicant's score on a written exam;

(2) Applicant's traffic record; and

(3) Applicant's criminal history.

(c) The Director may refuse to issue a taxicab driver's license to any applicant for any of the following reasons:

(1) Within the five-year period immediately preceding the date of the application, suspension or revocation of a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia. However, a financial responsibility suspension or revocation will not be grounds for denial if the applicant has presented proof of financial responsibility in accordance with the motor vehicle laws of this State.

(2) Within the five-year period immediately preceding the date of the application, conviction of any felony, any crime of violence or any law regulating sexual conduct or controlled substances.

(3) Within the three-year period immediately preceding the date of the application, conviction of any of the offenses of state law that would permit the Virginia Department of Motor Vehicles to revoke a driver's license to operate a motor vehicle on the highways of this State.

(4) Within the three-year period immediately preceding the date of the application, conviction in any jurisdiction of any of the offenses listed below regardless of how any such offense is styled, described, or labeled:

(A) Hit and run.

(B) Habitual offender.

(C) Driving while operator's license is revoked or suspended.

(D) Driving while intoxicated.

(E) Reckless driving.

(5) Within the 12-month period immediately preceding the date of the application, two or more violations, while operating a moving vehicle, of the motor vehicle laws of the Commonwealth of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.

(6) Applicant made a false statement of one or more material and relevant facts on an application for a taxicab driver's license.

(7) In the case of applications for renewal of a taxicab driver's license, any of the grounds for suspension or revocation of a taxicab driver's license under Section 84.1-3-7.

(d) In the event the Director denies a taxicab driver's license application, the Director will notify the applicant in writing within seven calendar days of the action taken. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-5. - Application and other fees.

(a) A nonrefundable examination fee of $25.00 will be paid prior to taking the examination described in Section 84.1-3-2(e).

(b) A nonrefundable application fee of $40.00 will be paid for the initial taxicab driver's license and for each annual renewal of the taxicab driver's license. The applicant will bear the cost of obtaining traffic and criminal history reports.

(c) A replacement fee of $15.00 will be paid for a replacement taxicab driver's license. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-6. -Taxicab driver duties; record-keeping.

(a) Every taxicab driver licensed under this Chapter will post their taxicab driver's license in such a place as to be in full view of any passenger seat, while the taxicab is for hire.

(b) Each taxicab driver will complete a daily manifest. Each manifest shall completed in a legible fashion. Paper manifests or the information contained in electronic manifests shall be provided to the operator by the taxicab driver as soon as practicable after the workday but no later than weekly.

(c) The driver of a taxicab involved in any accident will, within seven calendar days from the date of the accident, report such accident to the Taxicab Inspector, giving such facts in the case as the Taxicab Inspector may reasonably require.

(d) A taxicab driver will report to the Taxicab Inspector each arrest or summons issued for a traffic offense while operating a motor vehicle or any offense identified in Section 84.1-3-4(c), within seven calendar days of such arrest or receipt of such summons.

(e) A taxicab driver shall provide written notice to the Taxicab Inspector of any change of affiliation with the certificate holder that endorsed the driver's most current application for a taxicab driver's license. Written notice shall be provided within 15 calendar days of any such change in affiliation. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-7. - Suspension or revocation.

(a) The Director may suspend a taxicab driver's license for a period extending from one to 30 calendar days, or until the reason for the suspension is resolved, for any of the following reasons:

(1) Driving a taxicab determined by the Director to be unsafe or insufficiently insured.

(2) Any violations of any Articles of this Chapter which regulate driver duties.

(3) Repeated passenger complaints regarding the provision of taxicab service.

(4) Failure to pick up a person when requested to do so by the certificate holder or at any location, without justification stated in Section 84.1-7-2(a).

(b) The Director may revoke a taxicab driver's license for any of the following reasons:

(1) Occurrence of any of the grounds for refusal to issue a license listed in Section 84.1-3-4(c).

(2) Using or attempting to use a taxicab driver's license for the purpose of operating, within or outside the jurisdiction of Fairfax County, a taxicab not authorized to operate in Fairfax County.

(3) Withdrawal by the endorsing certificate holder of its consent for the driver to operate a taxicab on its behalf.

(c) Written notice of any suspension or revocation under the above provisions of this Section will be given by the Director to the driver in person and to the endorsing certificate holder by electronic mail, effective upon receipt unless a different effective date is specified.

(d) It will be unlawful for any person to drive a taxicab in the County when their taxicab driver's license is under suspension or revocation.

(e) A taxicab driver's license that has been suspended or revoked will be returned to the Director within two business days of the effective date of suspension or revocation. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-8. - Filing after denial or revocation of license.

An applicant whose application for a taxicab driver's license has been denied or a taxicab driver whose license has been revoked may not file an application for a taxicab driver's license for a period of one year following the denial or revocation. (4-00-84.1; 56-08-84.1.)

ARTICLE 4. - Appeals.

Section 84.1-4-1. - Appeals from decisions of the director; procedure.

(a) If the Director denies, suspends or revokes any taxicab driver's license or suspends or revokes any or all taxicab certificates, or denies or revokes a certificate holder's approval to self-insure, any party aggrieved thereby may appeal such decision to the Commission.

(b) Any appeal will be filed with the Department by the appellant or by the legal representative of the appellant. Appeals will be in writing, and appeals will include a brief statement of the reasons thereof. Appeals will be filed within 45 calendar days of receipt of the notice of denial, suspension or revocation, and appeals will be signed by the appellant or the legal representative of the appellant.

(c) Upon receipt of any notice of appeal, the Commission will set a time and place for such hearing and will give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals will be scheduled and determined as promptly as practicable and in no event more than 60 calendar days from the date the notice of appeal is filed.

(d) The Commission will consider the case record as well as the statement offered by any interested party and will consider the matter de novo, and the Commission will, upon the basis of the record before it, affirm, modify or reverse the decision of the Director.

(e) If the Commission affirms the decision of the Director to suspend or revoke a taxicab driver's license, any taxicab certificates, or a certificate holder's approval to self-insure, then the suspension or revocation will be effective from the date of the Commission's decision.

(f) If the Commission reverses the decision of the Director, the Director will issue or restore the taxicab driver's license, taxicab certificate(s), or a certificate holder's approval to self-insure in accordance with the Commission's decision.

(g) Except as otherwise provided in this Subsection, an appeal of the decision of the Director to suspend or revoke a taxicab driver's license under Section 84.1-3-7, or the suspension or revocation of any or all operator's certificates under Section 84.1-2-12 will stay the effective date of the suspension or revocation. However, if any suspension or revocation of any operator's certificates is based on Section 84.1-2-12(a)(4), or if any suspension or revocation of any taxicab driver's license is based on Section 84.1-3-4(c)(2), (5) or (6) or Section 84.1-3-7(b)(2), then the decision of the Director will remain in effect until the Commission has rendered its decision on the appeal. (4-00-84.1; 56-08-84.1.)

ARTICLE 5. - Records and Reports.

Section 84.1-5-1. - Records to be maintained; inspection and examination.

(a) A certificate holder will maintain books and records of its operations to show the following in sufficient detail, consistent with generally accepted accounting procedures:

(1) Total revenues, by category of service and source derived;

(2) Operating expenses, by category;

(3) Capital expenditures;

(4) Depreciation expenses, by category.

(b) A certificate holder will maintain records of the following in sufficient accuracy and detail to comply with the filing requirements of this Chapter and requests that may be made by the Director:

(1) Requests for taxicab service received by the certificate holder and responses thereto, including average wait-time for passengers after pick-up request.

(2) Number of taxicabs available for service and in operation on a daily basis;

(3) Maintenance and repair records of taxicabs and other equipment employed in operating the certificate holder's taxicab business;

(4) Requests for wheelchair accessible taxicab service received by the certificate holders and responses thereto, including average wait-time for passengers after pick-up request;

(5) Number of calls for wheelchair accessible taxicab service referred to other Fairfax County operators;

(6) Daily manifests, completed by drivers as provided in Section 84.1-3-6(b);

(7) Taxicab meter data for each taxicab that at minimum identifies on a daily, weekly and monthly basis the total miles driven, paid miles driven, and number of trips.

(c) A certificate holder will retain and preserve all of the records required by this Section to be maintained, for a period of no less than three years. Such records may be kept in any reasonable form in ordinary business practice; provided, manifests must be preserved as originally filed, although their contents may be abstracted for other record or filing requirements.

(d) The books, records and data required to be maintained by a certificate holder under the provisions of this Section will be made available, within a reasonable period of time not to exceed 30 calendar days after request for inspection and examination by the Director. If it should become necessary for the Director to remove manifests or other records from the certificate holder's offices, the certificate holder will be given a receipt reasonably identifying the items so removed. (4-00-84.1; 56-08-84.1.)

Section 84.1-5-2. - Reports to be filed.

(a) In order to accomplish the purpose of this Chapter, all certificate holders will file, under oath, to the best of their knowledge, with the Department on a biennial basis (or more frequently if requested by the Department), financial and statistical reports. Such reports will include data solely related to the operations of Fairfax County authorized taxicabs. Such reports must be filed by May 1.

(b) The following information and data must be filed with the Department in every odd-numbered year, for the preceding two calendar years; each separately stated, according to generally accepted accounting principles:

(1) Certificate holder's balance sheet.

(2) Certificate holder's income statement.

(3) Copies of certificate holder's income tax returns that will remain confidential and for governmental use only.

(4) Operating and service data, for each of the two preceding calendar years, will include: total meter revenue; total wheelchair accessible taxicab meter revenue; number and types of cabs; number of drivers affiliated with the company, including number of owner operators; miles operated, including total, paid; number of trips; number of passengers; schedule of the company's lease rates and stand dues; average number of cabs in service on weekdays; number of calls for service referred to other Fairfax County operators; number of calls for wheelchair accessible service referred to other Fairfax County operators; location of taxi stands; and such other data as may

reasonably be requested in furtherance of this Chapter. The Director may provide forms or specify the format for the information to be collected and reported by certificate holders. (4-00-84.1; 56-08-84.1.)

(5) For operators that have received approval to self-insure in whole or part pursuant to Section 84.1-2-11(e), a report detailing the company's insurance claims procedures and claims history for the preceding two calendar years.

ARTICLE 6. - Rules, Regulations, Rates, Fares, and Charges.

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

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

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

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

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

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

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

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

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

Fairfax County Taxicab Industry Price Index

Taxicab Cost Element	BLS Index	Weight
Salaries, Wages, and Profits	CPI-U (All Items)	0.62
Vehicle Purchase	New Vehicles	0.14
Fuel	Motor Fuel	0.11
Insurance and Other	Private Transportation Services	0.08

Maintenance, Parts, and Equipment	Motor Vehicle Maintenance and Repairs	0.05
TOTAL COMPOSITE INDEX		1.00

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

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

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

A proposed change in taxicab rates is under consideration by the Fairfax County government. The proposed rates are: (Insert description of the proposed changes).

The proposed taxicab rate change will be considered by the Consumer Protection Commission at a public hearing on (insert date, time, and location). Any interested person may appear before the Commission to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable and Consumer Services at 703-222-8435.

Notices with respect to the request for a rate change will be posted at least 15 calendar days prior to the Consumer Protection Commission public hearing and the Board of Supervisor's public hearing and will remain posted until the change in rates is denied or becomes effective.

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

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

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

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

(c) Taxicab rates and charges

(1) Maximum Mileage Rate

First one-sixth of a mile or fraction thereof $3.50

Each subsequent one-sixth of a mile or fraction thereof $0.36

(2) Additional Passenger Rate

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

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

(3) Waiting Time - For each 61 seconds of waiting time $0.36

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

(4) Other Charges - The following charges are authorized only when the driver informs the passenger of such charges at the point of pickup.

Luggage - per item, only when handled by the driver $1.00

Personal service - Each time the driver is required to leave the vicinity of the taxicab at the request of the passenger will constitute a separate personal service, except no such charge will be made for persons with disabilities $1.00

(5) All service animals and service animals in training will be transported and free of charge when accompanying persons with disabilities. All other animals will be transported at the discretion of the driver and only if the passenger agrees to keep the animal under control. The charge to transport each such animal.....$1.00

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

(7) Where the taxicab driver paid an airport surcharge the surcharge may be added to the passenger's fare.

(d) A cleaning charge of $25.00 will be imposed if the taxicab is left in an unsanitary condition which requires the taxicab to be removed from service and cleaned immediately after completion of the trip.

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

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

(g) Operators may offer to senior citizens and persons with disabilities discounts for taxicab service for all applicable rates and charges for transportation and other services.

(1) Any operator offering such a discount rate must notify the Director of the discount program no later than 30 calendar days prior to the offering and no later than 30 days prior to its modification or discontinuance.

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

(3) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified. (4-00-84.1; 2-01-84.1; 24-05-84.1; 56-08-84.1; 30-12-84.1; 38-14-84.1.)

ARTICLE 7. - Operation.

Section 84.1-7-1. - General requirements and standards for certificate holders.

(a) Each certificate holder will maintain a place of business or office with telephone service within the County or within a jurisdiction that is adjacent to the County. The certificate holder or its agents must be available 24 hours per day to receive requests for service and dispatch taxicabs. If requests for service are received at a time when no taxicabs are available within one hour, the certificate holder or agent will so advise the requesting party and refer the caller to another Fairfax County certificate holder.

(b) Each certificate holder will ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat all passengers, including persons with disabilities, in a respectful and courteous way. For drivers operating wheelchair accessible taxicabs, training shall include operation of ramps, lifts or other equipment necessary for the transport of persons who use wheelchairs and techniques to ensure that wheelchairs are appropriately secured or stowed.

(c) Certificate holders will not discriminate against individuals with disabilities. Every certificate holder having authority to operate 25 or more taxicabs will have at least four (4) percent of those taxicabs which qualify as wheelchair accessible taxicabs. In the event that four (4) percent of the number of taxicabs in the certificate holder's fleet is not a whole number, then this requirement will be computed on the number of authorized taxicabs and rounded to the nearest whole number.

(d) Certificate holders will comply with minimum fuel economy standards. Each certificate holder will ensure that 60 percent or more of the gasoline-fueled taxicabs added to its fleet each year has a minimum Environmental Protection Agency combined city/highway fuel economy rating of 25 miles per gallon. This fuel economy requirement does not apply to wheelchair accessible taxicabs.

Section 84.1-7-2. - General requirements and standards for taxicab drivers.

(a) Load refusal. No taxicab driver may refuse transportation to any orderly person except under the following conditions:

(1) Such vehicle is already engaged by another passenger;

(2) Such vehicle is in route to pick up a passenger, in which case a "not in service," "not for hire" or "on call" sign must be exhibited;

(3) Such vehicle is out of service because of the end of the driver's shift or for other reasons, in which case a "not in service," "not for hire" or "off duty" sign will be displayed.

(4) The driver reasonably believes that the driver's life or safety would be endangered by picking up a person who otherwise would be entitled to transportation.

(5) The passenger seeks transport outside Fairfax County.

(b) Nondiscriminatory treatment of persons with disabilities. A taxicab driver shall not discriminate against persons with disabilities by actions including, but not limited to, refusing to provide service to such persons who can use taxi vehicles, refusing to assist with the stowing of mobility devices, or charging

higher fares or fees for transporting such persons and their equipment than are charged to other persons.

(c) Passenger comfort. A taxicab driver shall ensure the passenger's comfort while transporting the passenger by:

(1) Not smoking or using tobacco in the taxicab while it is occupied by one or more passengers:

(2) Not using a mobile phone, other mobile device, radio or other in-car entertainment system if the passenger requests that the taxicab driver not do so. This subparagraph does not apply to the methods of communications used to communicate with the dispatcher or law enforcement personnel or used to obtain traffic information;

(3) Adjusting the heating, air conditioning or windows in the taxicab if requested to do so by a passenger.

(d) Receiving and discharging passengers. No taxicab or part thereof will be stopped on the traveled portion of any highway to take on or discharge passengers except where parking is permitted, and when so permitted the taxicab will be parked in the manner prescribed by law.

(e) Maximum number of persons in taxicabs. No taxicab driver will permit more passengers in a taxicab than the number authorized by the taxicab certificate issued for that vehicle, and no taxicab driver will permit more persons in a taxicab than the number of seat belts which are available for use within the vehicle.

(f) Front seat occupancy. No taxicab driver will permit more than one passenger in the front seat of any taxicab.

(g) Additional passengers. When a taxicab is occupied by one or more passengers, the driver will not accept additional passengers unless the taxicab driver has the concurrence of all passengers. No charge will be made for this additional passenger except when the additional passenger rides beyond the original destination, and then only for the additional distance traveled.

(h) Deception of passengers. It will be unlawful for a driver to deceive or attempt to deceive any passenger as to the rate or fare to be charged or to take a longer route to a destination than necessary. The taxicab driver may take a longer route when requested to do so by a passenger.

(i) Passenger receipts. The driver of any taxicab will, upon request of a passenger, give a receipt to the passenger for any fare charged. All receipts will contain the name of the certificate holder, the amount of fare charged, and the date of the trip. The name of the driver, the license number of the taxicab, and the origin and destination of the trip shall be included on the receipt upon customer request.

(j) Advance payment. Any driver may, at his or her discretion, demand estimated payment in advance of the rendering of any service. Adjustments will be made at the passenger's destination in accordance with the rates and charges established by this Chapter.

(k) Acceptance of payment. Method(s) of payment acceptance for transportation fares and charges will be at the discretion of the certificate holder. A payment acceptance notice listing all forms of electronic payment accepted will be posted in such a manner as to be easily visible to all passengers inside the taxicab and from the outside right side of the taxicab. If credit card(s) and debit card(s) are accepted, logo sign(s) indicating which card(s) are accepted will be displayed both inside and to the outside right side of the taxicab. Drivers must accept all forms of payment accepted by the certificate holder.

(l) Lost articles. Any article found in a taxicab will be returned with reasonable promptness to the owner if known or the owner will be promptly notified of the whereabouts of the article so that the owner may claim it. If the owner is not known, the driver will immediately inform the dispatcher and return the article at the close of the taxicab driver's workday to the certificate holder's place of business. The certificate holder will maintain the lost article in a safe place for at least 30 calendar days.

(m) Alcoholic beverages. It will be unlawful for a driver knowingly to transport alcoholic beverages in the taxicab unless such beverages are in the lawful possession of a passenger.

(n) Length of workday. No driver will physically operate a taxicab for more than 13 hours in any consecutive 24-hour period, nor will any driver physically operate a taxicab if his or her physical condition may impair his or her ability to operate the vehicle.

(o) Carrying money. No driver will be required to carry more than $20.00 in change.

(p) Taximeter. It will be unlawful for a driver transporting any passenger to fail to operate the taximeter. (4-00-84.1; 56-08-84.1.)

Section 84.1-7-3. – Other requirements and standards.

(a) It will be unlawful for any person to refuse to pay the legal fare or to engage any taxicab with the intent to defraud the certificate holder or taxicab driver of the value of such service.

(b) It will be unlawful for any person to lend or knowingly permit the use of, by one not entitled thereto, any taxicab driver's license or taxicab certificate, and it will be unlawful for any person to display or represent as their own any taxicab driver's license or taxicab certificate not issued to the person or vehicle displaying the same.

ARTICLE 8. – Taximeters and Vehicles.

Section 84.1-8-1. - Taximeter requirements.

(a) All taxicabs operating under the authority of this Chapter will be equipped with taximeters capable of computing fares on a mileage and time basis, visible to a passenger seated in the back seat and that for each trip clearly displays the passenger's maximum fare at all times.

(b) Taximeters must display or provide for use by the Taxicab Inspector, at a minimum, total miles, paid miles and number of trips.

(c) A taximeter set in accordance with the rates established pursuant to this Chapter and which computes and clearly displays the passenger's maximum fare shall meet the requirements of this Section. (4-00-84.1; 56-08-84.1.)

Section 84.1-8-2. – Taximeter inspections and approval.

(a) Prior to being used in passenger service, the taximeter required by Section 84.1-8-1 will be calibrated and sealed as required by the laws of the Commonwealth of Virginia. The taximeter will be inspected for accuracy by the Taxicab Inspector before the taxicab is placed in service. (4-00-84.1; 56-08-84.1.)

(b) All taximeters will be subject to inspections at all reasonable times by the Taxicab Inspector for accuracy. Each taximeter will be evaluated for time accuracy at each vehicle inspection conducted by the Taxicab Inspector. Each taximeter will be evaluated for distance accuracy at least once every 12 months at a place designated by the Taxicab Inspector. (4-00-84.1; 56-08-84.1.)

(c) It will be unlawful for any person to:

(1) Tamper with any taximeter required by Section 84.1-8-1, or to in any manner change or cause to be changed any part of any taximeter or any part of any vehicle to which such taximeter is attached, directly, or indirectly, which may alter the accuracy of such meter.

(2) Operate or permit to be operated any taxicab for hire if such taxicab's meter has not been properly sealed in accordance with Section 84.1-8-2(a) or to operate or permit to be operated a taxicab for hire with knowledge of a violation of Section 84.1-8-2. (4-00-84.1; 56-08-84.1.)

Section 84.1-8-3. – Vehicle requirements.

(a) Any vehicle authorized to transport passengers under this Chapter will be a taxicab. Every taxicab will be titled and registered as a for-hire vehicle in Virginia and will display Virginia taxi license plates, valid

registration decals on the license plates, and a valid Virginia safety inspection sticker issued by a certified Virginia state safety inspection facility.

(b) It shall be unlawful to operate as a taxicab in the County any vehicle that has a model-year age greater than ten (10) years or that has more than 500,000 miles, whichever occurs first. Vehicle age shall be calculated as if the vehicle was placed into service on December 31st of the vehicle year as shown on its Virginia motor vehicle registration.

(c) Every taxicab will be equipped with at least two doors for the entrance and exit of passengers, in addition to the front door located on the driver's side. All passenger doors will be so constructed that they will remain securely fastened during normal operation but may be easily opened by a passenger upon entering or exiting the vehicle or in an emergency.

(d) No taxicab will be operated with unsafe tires. Every taxicab will be equipped with tires whose condition and tread depth comply with the requirements specified in the Virginia Motor Vehicle Safety Inspection Rules and Regulations. Every taxicab will be equipped with a usable spare tire or the tire repair kit identified in the vehicle owner's manual.

(e) All taxicab windows must be intact, reasonably clean and be able to be opened and closed as intended by the manufacturer. No taxicab will be operated with a windshield that contains cracks or chips that could interfere with the driver's vision. The taxicab will be equipped with adequate windshield wipers maintained in good operating condition.

(f) Every taxicab will be equipped with headlights that are operable on both high and low beam and with operable brake or rear lights, signal lights, a rear license plate light, and interior lights. All exterior lights must be fitted with the appropriate type and color of lenses and bulbs.

(g) Every taxicab will be equipped with a properly installed speedometer and odometer, maintained in working order, and exposed to view. If a taxicab is found to have a defective speedometer or odometer, then the taxicab will not be operated until the speedometer or odometer is repaired. The certificate holder will provide to the Director, within 15 calendar days of the odometer replacement, the date of change, old odometer reading, reading on replacement odometer at the time of installation, and taxicab number.

(h) The upholstery covering the interior lining of every taxicab will be of a washable material and not torn, ripped or improperly repaired. No floor mat will be permitted in any taxicab, unless it will be made of a washable material and easily removable, except that such floor covering material may be cemented in place on the floor of a taxicab when the whole area of the floor is covered.

(i) Every taxicab will be so maintained as to provide for the safety of the public and for continuous and satisfactory operation, and to reduce to a minimum, noise and vibration caused by operation. All factory-installed safety equipment, including seat belts, mirrors and horn, will be in good working condition at all times.

(j) Every taxicab will have rooftop lights mounted on the top of the taxicab in the forward portion thereof, unless otherwise authorized by the Director. The dome light is to be of such a design as to identify the vehicle as a taxicab. Drivers, when holding forth their cab for hire, will have the cruising light on from sunset to sunrise. Each taxicab will also be equipped with two marker lights on either side of the dome light. The marker lights will be connected to, and operated by, the meter such that when the meter is on, these lights are off, and when the meter is off, these lights are on.

(k) The exterior of each taxicab will display the name of the taxicab company in letters not less than three inches in height. The taxicab number will be permanently painted or otherwise permanently affixed to each of the two front quarter panels of the taxicab and to the right and left side of the rear window in lettering of no less than three inches in height. If a vehicle is taken out of service as a taxicab on a permanent basis, the certificate holder will, within 72 hours, remove the taxicab markings along with all other indications of the vehicle's use as a taxicab. (l) Every wheelchair accessible taxicab will be plainly marked with a reflective six-inch by six-inch blue with white markings international wheelchair symbol on each side of the vehicle and on the rear of the vehicle. All wheelchair symbols will be above door handle height.

(m) Every taxicab will be equipped with heating and air conditioning to be maintained in good working condition at all times.

(n) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from outside the vehicle.

(o) Every taxicab interior will be kept in a clean and sanitary condition and be free of foreign matter, litter and offensive odors. A taxicab exterior will be painted, contain no significant unrepaired dents or other body damage, and be kept as clean as is reasonable considering existing weather conditions. A certificate holder will be given reasonable time in which to clean a taxicab upon direction of the Taxicab Inspector. (4-00-84.1; 56-08-84.1.)

Section 84.1-8-4. – Vehicle Inspections.

(a) During the initial and each subsequent taxicab inspection, the Taxicab Inspector will inspect and evaluate the taxicab for compliance with Chapter requirements, including: taximeter operation and accuracy; state registration, licensing and safety inspection requirements; vehicle age and mileage; tires; windows and windshield wipers; exterior and interior lights; speedometer and odometer operation; safety equipment including seat belts, mirrors, and horn; exterior lettering and other taxicab markings; the condition of the vehicle's interior and exterior; and the display of materials provided by the Department, including the rate card, complaint notice, and taxicab driver's license.

(b) Prior to the first use and operation of any vehicle under the provisions of this Chapter, the vehicle will be inspected by the Taxicab Inspector as provided in Section 84.1-8-4(a). If the Taxicab Inspector determines that the vehicle complies with applicable regulations, a taxicab certificate setting forth such approval and stating the authorized seating capacity of the vehicle will be issued by the Director to the certificate holder.

(c) Every certificate holder will permit all reasonable inspections by the Taxicab Inspector of taxicabs licensed to operate under this Chapter and will cause each of its taxicabs to be inspected on a periodic basis by the Taxicab Inspector. Taxicabs with a vehicle age of six or fewer model years will be inspected by the Taxicab Inspector annually, with the inspection to occur six months from the month shown on the Virginia Motor Vehicle Safety Inspection decal affixed to the vehicle. Taxicabs with a vehicle age of seven or more model years will be inspected on a semi-annual basis by the Taxicab Inspector at intervals of no longer than six months.

(d) If the Taxicab Inspector finds any taxicab unsafe for the transportation of passengers, or in an unsanitary condition warranting removal from service, or its taximeter is not registering accurately, then notice will be given to the taxicab driver and certificate holder and it will be unlawful to operate the taxicab until the deficiencies have been corrected and the taxicab has been re-inspected and approved for service.

(e) The individual numbered taxicab certificate, the current manifest, and the taxicab driver's license must be presented to any Taxicab Inspector or duly sworn law enforcement officer upon request. (4-00-84.1; 56-08-84.1.)

ARTICLE 9. - Penalties. Section 84.1-9-1. - General penalties.

Any person who violates or causes to be violated any provision of this Chapter will be guilty of a misdemeanor punishable by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense. (4-00-84.1; 56-08-84.1; 38-14-84.1.)

ARTICLE 10. - Jurisdictional Reciprocity and Sightseeing Operations.

Section 84.1-10-1. - Jurisdictional reciprocity.

Notwithstanding the provisions of Section 84.1-2-1, a certificate holder or a taxicab driver will be required to abide by any current reciprocity agreement. (4-00-84.1; 56-08-84.1.)

Section 84.1-10-2. - Sightseeing operations.

A taxicab or other vehicle for hire not licensed in the County, which brings passengers from another jurisdiction into the County for the purpose of sightseeing, may pick up and wait for such passengers for the purpose of continuing such sightseeing trip either within or without the County. Such taxicab may not pick up other passengers in the County except pursuant to the provisions of Section 84.1-10-1. (4-00-84.1; 56-08-84.1.)

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 all taxicab certificates that were awarded by the Board of Supervisors on or before February 11, 2014 are deemed to be authorized as of December 6, 2016.**

4. **That the provisions of this ordinance shall take effect on December 6, 2016.**

GIVEN under my hand this 6th day of December 2016.

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Clerk to the Board of Supervisors

AN ORDINANCE AMENDING CHAPTER 84.1 OF THE FAIRFAX COUNTY CODE, RELATING TO PUBLIC TRANSPORTATION

Draft of October 5, 2016

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Chapter 84.1 relating to public transportation.

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

1. **That Chapter 84.1 of the Fairfax County Code is amended and readopted as follows:**

CHAPTER 84.1 - Public Transportation.

ARTICLE 1. - In General.

Section 84.1-1-1. - Purpose of Chapter.

The purpose of this Chapter is to regulate the operation of taxicabs for hire within the County ~~in order to provide the citizens of the County with~~ to ensure safe, reliable, adequate and efficient taxicab service and to prescribe a schedule of reasonable rates for the services regulated herein. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-2. - Definitions.

For the purpose of this Chapter, the following words and phrases have the meanings ~~respectively~~ ascribed to them by this Section:

Applicant means any person, ~~individual,~~ company, corporation, partnership or other such legal entity that seeks ~~an operator's certificate~~ new or expanded authority to operate taxicabs in Fairfax County or ~~hacker's~~ any individual who seeks a taxicab driver's license, as applicable.

Board means the Board of Supervisors of Fairfax County, Virginia.

~~Calendar day means a working day (When the last day for performing an act under this ordinance falls on a Saturday, Sunday, legal holiday, or any day or part of a day on which Fairfax County governmental offices are closed, the act may be performed on the next day that is not a Saturday, Sunday, legal holiday, or day or part of a day on which Fairfax County governmental offices are closed.).~~

Certificate ~~h~~Holder or ~~o~~Operator means one who has ~~applied for, been awarded,~~ been granted authority by the Board to operate taxicabs in Fairfax County and holds one or more ~~operator's~~Taxicab ~~c~~Certificates.

Commission means the Consumer Protection Commission of Fairfax County, Virginia.

~~Cruising means the driving of a taxicab in search of or soliciting prospective passengers for hire.~~

Department ~~or DCCCP~~ means the Fairfax County Department of Cable ~~Communications~~ and Consumer ~~Protection~~Services.

Director means the Director of the Department of Cable ~~Communications~~ and Consumer ~~Protection~~Services of Fairfax County or the duly authorized agent of the Director of the Department.

Driver or ~~hacker~~Taxicab Driver means ~~the~~ an individual ~~person~~ who is ~~driving or physically operating the taxicab~~ licensed under this Chapter to drive a taxicab in Fairfax County.

Driver ~~a~~Association means any membership organization which is authorized by law to do business in Virginia and is composed of at least 10 taxicab drivers who are currently licensed to ~~operate~~ drive taxicabs ~~that are authorized by~~ in Fairfax County.

Fairfax County and County mean jurisdictional boundaries of Fairfax County.

~~Hacker's license means the license, issued pursuant to this Chapter, permitting a driver to operate a taxicab pursuant to this Chapter and is plainly visible to the passenger.~~

Manifest means a daily record, either on a form or through an electronic format approved by the Director, of all trips made by the taxicab driver. The manifest shall include at a minimum the driver name, taxicab number, date, place and time the transportation of each paying passenger commenced and terminated, number of passengers and the amount of the fare. An electronic manifest must be capable of providing a printed record immediately upon request by a Taxicab Inspector or duly sworn law enforcement officer.

Operator's ~~c~~Certificate ~~or certificate~~ means the ~~operating~~ authority ~~required by the provisions of this Chapter to be obtained by any individual, company, partnership, corporation, or other organization to engage in the taxicab business in the County, and specifically, when so indicated, to individual numbered certificates issued by the Director under such grant of operating authority pursuant to this Chapter~~ granted by the Board to operate taxicabs in Fairfax County and that comprises the specific number of taxicab certificates that have been awarded by the Board.

~~Parking means stopping the taxicab along the edge of a highway, road, street, or other public way or place for the purpose of soliciting prospective passengers.~~

Passenger means a person ~~carried or~~ transported in consideration of a fare.

~~Passenger car means every motor vehicle other than a motorcycle designed and used primarily for the transportation of no more than 10 persons including the driver.~~

Personal ~~s~~Service means any service, at the request of the passenger, which requires the driver to leave the vicinity of the taxicab.

Persons with ~~d~~Disabilities means any ~~individual~~ persons who has~~ve~~ a physical or mental impairment ~~which~~ that substantially limits one or more major life activities, have a record of such impairment or are regarded as having such an impairment. For the purposes of this ~~Section~~Chapter, the term "major life activities" means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning~~,~~ and working.

Senior ~~c~~Citizen means ~~an individual~~ person who is 60 years of age or older.

~~Service animal means any animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. Some, but not all, service animals wear special collars and harnesses. A service animal is not a pet.~~

Taxicab means a passenger ~~car~~ vehicle held for public hire~~, but~~ carrying six or less passengers to destinations without following any fixed routes.

Taxicab Certificate means the individual numbered certificate associated with a specific taxicab that is issued by the Director to an operator.

~~Hacker's~~Taxicab Driver's ~~l~~License means the license, issued pursuant to this Chapter, permitting ~~a driver~~an individual to ~~operate~~ drive a taxicab pursuant to this Chapter ~~and is plainly visible to the passenger.~~

Taxicab Inspector means the ~~investigator~~ Department personnel designated by the Director to enforce the provisions of this Chapter.

Taximeter means an instrument approved by the Director which meets the requirements of the ~~National Conference on Weights and Measures~~ laws of the Commonwealth of Virginia for use in taxicabs by which the fare for hire of a taxicab is computed for mileage and for waiting time and upon which such fare is plainly visible to the passenger at all times.

~~Taxi Stand means a location which has been designated for passenger hire. Taxi Stands may be exclusive to certain taxicabs or open to all authorized taxicabs.~~

Wheelchair ~~a~~Accessible ~~t~~Taxicab means a taxicab that ~~has been modified and specially~~ is equipped with ~~the installation of~~a ramp, lifts or other equipment necessary for the transport of persons who use wheelchairs ~~or wheelchair conveyances~~. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-3. - Consumer Protection Commission duties and hearings.

(a) In addition to all other duties, the Commission will consider applications for operator's certificates and taxicab rate changes and act upon appeals from actions taken by the Director.

(b) All hearings or other public proceedings conducted by the Commission in accordance with this Chapter will be conducted in an informal manner. The Commission will have the discretion to admit all evidence which may be of probative value even if that evidence is not in accord with formal rules of legal practice and procedure. Applicants and appellants may appear, either by personal appearance, legal counsel, or other representation, to present argument and evidence on their behalf. In addition, the Commission may establish rules of procedure for the conduct of hearings. Any interested party may record all public proceedings of any hearing in any manner which will not impede the orderly conduct of the hearing.

(c) The Commission will report all recommendations and/or decisions in writing, and the Commission will furnish copies of those decisions to the Director and to any applicant or appellant affected thereby. To any other person entitled to receive a copy pursuant to the Virginia Freedom of Information Act, the Commission will furnish copies in accordance with that Act. (4-00-84.1; 56-08-84.1.)

Section 84.1-1-4. - Filing requirements for driver associations.

~~All driver associations will:~~

(a) Each driver association will ~~N~~notify the Department within 30 calendar days after beginning activities within the County, and that date will be the earliest date upon which an association had at least 10 members ~~currently licensed to drive taxicabs authorized by Fairfax County,~~ and the organization was qualified to do business in the Commonwealth of Virginia.

(b) Each driver association will ~~F~~file an annual notification with the Department no later than January 31 of each year. ~~All~~ Each such notifications will include the name of the organization, the business address of the organization, the officers of the organization, and a list of members of the organization. (4-00-84.1; 56-08-84.1.)

ARTICLE 2. - Operator's and Taxicab Certificates.

Section 84.1-2-1. - Operator's and taxicab certificates required.

(a) No person will operate or permit to be operated a taxicab or taxicabs in the County without having been ~~approved for and been issued operator's certificates by the County~~ granted authority by the Board to operate taxicabs. ~~The~~ Each individual numbered taxicab certificate~~, issued by the Department,~~ associated with the operator's grant of authority must be carried in the taxicab to which it pertains at all times during operation and must be presented, upon request, to any ~~t~~Taxicab ~~i~~Inspector or duly sworn law enforcement officer.

(b) The driver of a taxicab which is duly authorized as a taxicab in any other jurisdiction of this State or in any other state may convey into and discharge within the County a passenger or passengers; and, if required by the passenger or passengers, the taxicab driver who conveyed the passenger or passengers into the County may wait for the passenger or passengers and convey the passenger to his or her ultimate destination. The driver of a taxicab registered in any other jurisdiction will not otherwise convey, pick up, wait for or solicit a passenger or passengers within this County, except as permitted in ~~Section 84.1-10-1 or Section 84.1-10-2~~Article 10. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-2. - Application; forms; contents; notice of application.

(a) Applications for operator's certificates or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder will be accepted by the Director on an annual ~~biennial~~ basis~~, in odd numbered years~~ by 4:00 p.m. June 30. ~~Incomplete applications will be returned to the applicant, who will be given seven calendar days after receipt of a rejected application to correct any deficiencies. A resubmitted application which remains incomplete will be returned and will not be processed. In the event that certificates are made available for redistribution as in Section 84.1-2-9, the Director will establish prescribed milestone dates for certificate application similar to the timing intervals for the biennial certificate application process as set forth herein.~~

(b) Application for operator's certificates, or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder~~,~~ will be made ~~by the proposed operator or its duly authorized agent~~ upon forms provided and in the format requested by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. The Director may require full disclosure of all corporate, financial, and business interests of the applicant and of all corporate, financial and business interests of persons having a corporate, financial or business interest in the applicant. Information required on the application will be related to the considerations of the Commission in its investigation of the public convenience and necessity of additional certificates as stated in Section 84.1-2-6(b).

(c) The fee for processing ~~operator's certificate~~ applications will be $100.00 for each ~~vehicle to be operated under the application~~ taxicab certificate that the applicant requests. This application processing fee is nonrefundable, and it will be paid by check or money order upon submission of the application to the Director.

(d) In order to carry out the purposes of this Chapter, the Department, the Commission, or the Board may ~~ask for~~ request that the applicant provide information in addition to that provided on the application ~~from the applicant~~.

(e) An applicant for an operator's certificate~~s~~, or a certificate holder applying for an increase in the number of ~~individual~~taxicab certificates authorized to be issued to such certificate holder, will, within seven calendar days of such application, provide written notice of such application to all other ~~County~~ certificate holders~~,~~ and to any driver association as defined herein~~, and if a current County Certificate holder, will conspicuously display notice of such application at the applicant's place of business~~. Such notice will be provided by certified mail to the regular place of business of other certificate holders and to the legal address of any driver association as defined herein. Notice will be sufficient if it describes the number of certificates sought, the area to be served, identification of the applicant, and the date of the application.

(f) If the Department has not received proof of notification by any applicant within 15 calendar days from the date of the receipt by the Department, that applicant's application will be returned and not processed. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-3. - False statements on applications.

It will be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring an operator's certificate, taxicab certificates or a ~~hacker's~~taxicab driver's license, or to make any false statements or entry on the records required to be kept by this Chapter. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-4. - Investigation of applicant; procedure.

(a) ~~Upon the Director's determination that~~ Following receipt of an application filed under Section 84.1-2-2 ~~of this Chapter is technically complete~~, the Director will cause to be made a thorough investigation of the character, traffic, criminal record, financial status and service plan of the applicant or its officers, among other relevant factors. Upon completion of the investigation, the information obtained as a result of this investigation, together with all pertinent documents, will be submitted by the Director to the Commission.

(b) The Director's report pertaining to all applications ~~for certificates~~ will be distributed to members of the Commission and will be made available to each applicant ~~companies~~ and the public not later than 10 calendar days before the scheduled hearing date. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-5. - Establishment of public convenience and necessity; burden of applicant.

~~(a) The number of certificates that are available to be issued on a biennial basis, will be determined by the Board, based on public convenience and necessity, after considering any appropriate recommendations submitted by the Commission or the Director and such other information as the Board chooses to consider. That number will be reviewed and established by resolution of the Board after May 1 of each odd numbered year, but the Board reserves the right to revise that number by subsequent resolution as the Board deems appropriate. The burden will be upon the applicant to establish the existence of all facts and statements within the applicant's application and to provide such other information as is required or requested pursuant to this Chapter.~~

~~(b) If the applicant applies for certificates in excess of the number determined by the Board, based on public convenience and necessity, the burden of proof for the excess certificates shifts to the applicant. The applicant will then have the burden of establishing that public welfare will be enhanced by the award of the certificates of public convenience and necessity requested in the application. The applicant will be required to provide factual documented evidence indicating the demand and establishing public welfare.~~

An applicant that has filed an application under Section 84.1-2-2 shall have the burden of establishing that the authority it requests is consistent with the public convenience and necessity. The burden will be upon the applicant to establish the existence of all facts and statements within ~~the applicant's~~its application and to provide such other information as is required or requested pursuant to this Chapter. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-6. - Public hearing; requirements; regulations.

(a) Upon the filing of applications ~~for operator's certificates, or for any additions to the number of individually numbered certificates issued to an existing certificate holder~~under Section 84.1-2-2, the Commission will hold hearings as promptly as practical~~, prior to September 30 of each year, or as soon thereafter as the Commission conveniently may schedule the matter for hearing~~. The Commission will give the applicant, certificate holders, and any driver association as defined herein notice of the hearing at least 14 calendar days prior to the hearing date and will cause notice to be published once a week for two successive weeks in a newspaper published or circulated in the County. ~~If the application is for an increase in the number of certificates, the applying certificate holder must conspicuously display notice of such application and the hearing date and place at the applicant's place of business at least 10 calendar days prior to the hearing date.~~

(b) The Commission will, upon holding public hearings and after such further investigation as it may deem advisable, make recommendations to the Board ~~of Supervisors~~ regarding the award ~~the allocation~~ of taxicab certificates. ~~among the certificate applicants, which have been designated by the Board for the given year. If an applicant meets the burden of proof for excess certificates as set forth in 84.1-2-5, the Consumer Protection Commission may recommend to the Board additional allocations.~~ In making ~~these~~ its recommendations, the Commission will consider the following:

(1) Current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market ~~as set forth in 84.1-2-5~~;

(2) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis ~~adequacy of existing public vehicle service, existing taxicab service, and other forms of passenger transportation~~ in those areas;

(3) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used~~, and the adequacy of the proposed dispatch system~~;

(4) The ~~conformance of proposed operational facilities with zoning and other legal requirements~~ adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;

(5) The financial status of the ~~certificate~~ applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the ~~character of~~ service proposed in the application;

(6) The character, ~~and responsibility and related~~ business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;

(7) The investigative report of the Director and the applications of the applicants.

(c) All parties ~~notified under Section 84.1-2-2(e)~~ will have the right to present comments when the Commission holds public hearings to investigate the public convenience and necessity of applied for certificates. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-7. - Issuance of ~~operator's~~taxicab certificates; contents.

(a) Upon the ~~approval by the~~ Board's award of ~~operator's~~taxicab certificates, the Director will issue such certificates upon receiving proof that each proposed vehicle is ready for service as set forth herein.

(b) ~~All operators'~~Each taxicab certificates ~~issued~~ will contain the following information:

(1) Name, including trading as name if not the same as name, and business address of the certificate holder.

(2) The make, model, model year, vehicle identification number, seating capacity of the vehicle, and the lettering, marks and color scheme to be used on the ~~vehicle~~ taxicab authorized by the certificate to be operated.

(3) The date of issuance and expiration.

(4) A number assigned in a manner determined by the Director.

(5) Such other information as the Director determines may assist in carrying out the purpose of this Chapter.

(c) Each ~~operator's~~taxicab certificate issued by the Director will remain the property of the ~~DCCCP~~Department, may not be copied~~,~~ and will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-2-12. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-8. - Certificate and other fees.

(a) The annual fee for each taxicab certificate will be $150.00. ~~However, t~~The fee for each newly authorized taxicab certificates will be established on a pro rata basis from the date of initial issuance until December 31 of that~~e~~ calendar year in which the certificate was issued.

(b) An annual ~~vehicle~~ taxicab inspection fee of $20.00 will be paid for each taxicab certificate ~~owned by an operator. That annual inspection fee will be paid on a calendar year basis, and be received no later than January 31 of each calendar year~~.

(c) ~~If a~~A vehicle substitution fee of $25.00 will be paid for each vehicle substitution ~~is~~ made in accordance with Section 84.1-2-13~~, the operator will pay a substitution fee of $25.00~~.

(d) ~~The Director may issue~~ A replacement taxicab certificate~~s when appropriate, and operators who are issued replacement certificates will be charged a replacement~~ fee of $25.00 will be paid for each replacement taxicab ~~per~~ certificate issued to an operator. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-9. - Duration of ~~operator's~~taxicab certificates; nontransferable.

(a) No ~~operator's~~taxicab certificates will be issued under this Article nor continued in effect until all fees and taxes imposed by this Chapter or any other Chapter of this~~of the County~~ Code~~, as amended,~~ are paid, insofar as such fees relate to operation of a taxicab business within the County.~~.~~

(b) Such certificates will be nontransferable by sale, lease, or otherwise and will be valid from the date of issuance until relinquished or revoked as provided in this Chapter; provided, if any certificate holder will fail to place in operation, within ~~180 calendar days~~ 18 months of the date of authorization for new or additional taxicab certificates, any taxicabs so authorized for operation under a numbered certificate, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days.~~and available for redistribution to other applicants in accordance with Section 84.1-2-2(a). If an operator faces extenuating circumstances which prohibit the operation of vehicles within 180 calendar days, an application for a one-time 90 calendar day extension may be filed no later than 15 calendar days prior to the 180 calendar day deadline. Requests for extensions will be reviewed by the Director and granted based on the justification for non-compliance and planned corrective action.~~

(c) In the event that a taxicab is permanently removed from service, the certificate holder may substitute a replacement vehicle on that numbered taxicab certificate, but any such replacement vehicle will meet the requirements of Section 84.1-8-~~5~~3 and the holder will submit that replacement vehicle to Director for inspection prior to placement in service. If the replacement vehicle is not placed in service within ~~180 calendar days~~18 months, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days.~~ and available for redistribution to other applicants in accordance with Section 84.1-2-2(a). If an operator faces extenuating circumstances which prohibit the operation of vehicles within 180 calendar days, an application for a one-time 90 calendar day extension may be filed no later than 15 calendar days prior to the 180 calendar day deadline. Requests for extensions will be reviewed by the Director and granted based on the justification for non-compliance and corrective action planned.~~ (4-00-84.1; 56-08-84.1.)

Section 84.1-2-10. - ~~Notice of any s~~Sale ~~agreement,~~or transfer ~~or change in management~~ of the operating company.

(a) ~~Within 45 calendar days of any~~In the event of an agreement to sell or otherwise ~~transfer~~ transfer control of a certificate holder~~any company holding taxicab operator's certificates hereunder~~, including, but not limited to, any form of lease-purchase~~, inheritance,~~ or other long-term arrangements, the ~~owner or manager of the company authorized to operate taxicabs in Fairfax County~~ certificate holder must notify the Department of the agreement as soon as practicable, including the identity of the transferee or transferees and anticipated date on which control will transfer~~seek the approval of the County for the sale or ownership transfer of company held certificates~~. Notification does not relieve the certificate holder of its obligations under Chapter 84.1. A transferee may not provide taxicab service in Fairfax County until authorized to do so on an interim basis by the Director or on a permanent basis by the Board. ~~The prospective owner must submit appropriate information to the Director to establish the intended manager's or operator's ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation.~~

(b) ~~The prospective owner~~ Each transferee must submit ~~appropriate information~~ an application for an operator's certificate to the Director to establish ~~the intended manager's or operator's~~ its ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation. That application will be made upon forms provided and in the format requested by the Department, and completed as required by Section 84.1-2-2(b). ~~In the event any holder of Fairfax County taxicab operator's certificates enters into a contract or agreement with any person or company to operate the certificate holder's taxicab vehicles on the certificate~~

~~holder's behalf, the company authorized to operate taxicabs in Fairfax County must provide notification of such agreement or contract, including the name and business address of the person or company which has been contracted with to operate the service, to the Director no less than 45 calendar days before such a change in the management and/or operation of the vehicles takes effect. The certificate holder must submit appropriate information to the Director to establish the intended manager's or operator's ability to provide taxicab services consistent with requirements of this Chapter. Failure to provide notice as herein required and to establish the capability of the intended manager or operator to provide service as required by this Chapter, may lead to certificate revocation.~~

(c) A transferee that has submitted an application for an operator's certificate (hereinafter applicant) may request interim authority to provide taxicab service until such time as the Board can act upon its application.

(1) A written request for interim authority shall be submitted by the applicant to the Director no earlier than the submission of the application required by Section 84.1-2-10(b). The request for interim authority may be granted by the Director based upon the information provided in the application.

(2) If the Director grants interim authority, the transferor may cancel its insurance after the applicant files acceptable proof of insurance, files all other required documents, and the Director has advised the transferee in writing that it is authorized to begin operations.

(3) A grant of interim authority shall terminate no later than the date on which the Board takes action on the application. The interim authority shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.

(d) Following submission of the application required by Section 84.1-2-10(b), either the certificate holder or applicant may submit a written request to the Director for a stay of the 18-month period provided in Section 84.1-2-9(b) and (c). A stay shall be effective upon the Department's receipt of the written request and shall terminate no later than the date on which the Board takes action on the application. The stay shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.

(e) The Commission will hold a public hearing on the application, as provided in Section 84.1-2-6. Upon holding public hearings and after such further investigation as it may deem advisable, the Commission will make recommendations to the Board. In making its recommendations to the Board, the Commission will consider the provisions of Section 84.1-2-6(b), excluding Section 84.1-2-6(b)(1).

(f) Upon Board approval of the applicant's request for operating authority and award of taxicab certificates, the Director will reassign the taxicab certificates from the transferor to a transferee in compliance with Section 84.1-2-7. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-11. - Insurance requirements; self-insurance requirements.

(a) Except as otherwise provided by Subsection (d) or (e) of this section, no ~~operator's~~taxicab certificates will be issued or continued in effect unless there is in full force and effect a public liability automobile insurance policy for each authorized taxicab in the amount of at least $100,000.00 for bodily injury or death to any person, and in the amount of at least $300,000.00 for injuries or death to more than one person sustained in the same accident, and in the amount of $50,000.00 for property damages resulting from any one accident.

(b) Such insurance policy will inure to the benefit of any person who may be injured or the estate in the event of death, or to the benefit of any persons sustaining damage to property for which the certificate holder may be liable.

(c) Evidence of such insurance will be filed with the Director prior to the issuance of any ~~operator's~~taxicab certificates and will include provisions for notice by the insurance carrier to the Director prior to termination of such coverage. In the case where the certificate holder is not the vehicle owner, the certificate holder is fully responsible for providing evidence of insurance for all authorized taxicabs under his or her company, and for ensuring that all owner-operators maintain adequate insurance

according to this Chapter. The certificate holder must notify the Director prior to termination of any owner-operator's insurance coverage. In the event an owner-operator's insurance has lapsed, and the owner-operator incurs a liability from an accident or other circumstance, the certificate holder's insurance must be so written that it will cover such liability up to the coverage levels prescribed in this Chapter.

(d) If the minimum State automobile insurance requirements exceed the above rates, ~~those~~ then the State minimum requirements will automatically apply.

(e) The requirements of this Section may be met in part by a self-insurance certificate which has been adopted and approved by the Commonwealth of Virginia in accordance with Virginia Code, Section 46.2-368, as amended, and that such self-insurance certificate will be in full force and effect at all times and that evidence of such a policy will be filed with the Director prior to the issuance of any ~~operator~~ taxicab certificates and will include provision for notice by the Commonwealth of Virginia to the Director prior to termination of such coverage~~;~~. ~~provided, i~~If the minimum State insurance requirements do not equal or exceed the requirements of this Section, the certificate holder may self-insure up to the amount of $100,000.00 and must carry an umbrella insurance policy against all risks specified above in an amount at least equal to the amounts specified in Subsection (a) above and further provided that the following requirements are met:

(1) Application for approval to partially meet ~~County~~ insurance requirements through self-insurance up to $100,000.00 will be made by the certificate holder or duly authorized agent upon forms provided by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. In addition, the applicant must provide:

(A) Proof that all requirements for self-insurance established by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission have been met;

(B) Claims history for the company for the preceding four-year period.

(2) The certificate holder must file all documents and other materials required by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission with the Department ~~of Cable Communications and Consumer Protection,~~ simultaneously with the filing requirements established by the Virginia Department of Motor Vehicles and Virginia State Corporation Commission.

(3) The certificate holder must ~~submit a~~ report ~~to the Department of Cable Communications and Consumer Protection two years to the day after receiving approval, and every other year thereafter, concerning the company's~~ its claims history and claims procedures as part of the filing required under Section 84.1-5-2. The report will be ordered and undertaken at the company's expense.

(4) If at any time it should appear that the certificate holder no longer meets the criteria required for approval as a self-insurer as set forth herein or fails to file any required documents, the certificate holder will be given written notice identifying the failure of criteria or filing default. The written notice will stipulate a reasonable date and time by which the certificate holder must furnish evidence, satisfactory to the Director, that the approval criteria are again met or the default cured. Failure to timely respond to the notice, failure to meet approval criteria or failure to cure a default will result in revocation of the right to self-insure. Nothing in this Subsection will preclude the suspension of a certificate holder's taxicab certificate(s) pursuant to ~~the Virginia Code,~~ Section 84.1-2-12(a)(4) for failure to maintain adequate insurance during the time a certificate holder fails to meet the criteria for approval as a self-insurer. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-12. - Revocation or suspension of certificates.

(a) In response to any finding that the public safety and welfare so demands, the Director may suspend any individual numbered taxicab certificate(s) of a certificate holder, until proof of compliance is met to the Director's satisfaction for any of the following reasons:

(1) Failure to maintain the taxicab(s) and/or meter(s) identified in such certificates in good order and repair, in accordance with Article 8 of this Chapter.

(2) Failure to pay any fees lawfully assessed upon the ownership or operation of any such vehicle(s), identified as taxicabs in such individual numbered taxicab certificates, under this Chapter.

(3) Failure to supply information required under Sections 84.1-2-11(c) and (e) and 84.1-5-2 of this Code pertinent to any taxicabs operated under such certificates.

(4) Failure to maintain proper insurance, as required by this Chapter, on any ~~vehicle~~ taxicab, including any ~~vehicle~~ taxicab operated by an owner-operator. The certificate holder's right to operate such ~~vehicle~~ taxicab will be suspended for as long as the required amount of insurance is not in effect.

(5) Failure to comply with the ~~vehicle~~ taxicab inspection requirements set forth in Section 84.1-8-~~6~~4.

(6) Failure of drivers to respond to or pick up a fare.

(b) A certificate holder's entire operating authority and all individual numbered taxicab certificates issued to the certificate holder may be suspended by the Director until proof of compliance is met to the satisfaction of the Director upon finding that the public safety and welfare ~~are~~ so ~~impacted~~demands, or for any of the following reasons:

(1) Discontinuance of service of the entire business of the certificate holder for more than five consecutive calendar days.

(2) Failure to pay all fees and taxes imposed by this Chapter or any other Chapter of this Code insofar as such fees relate to operation of a taxicab business within the County.

(3) Three or more violations by the certificate holder of any of the provisions of this Chapter within a twelve-month period.

The Director's failure to suspend an individual numbered operator's certificate for any of the causes set forth in Subsection (a) of this Section will not impair the authority of the Director to suspend all certificates held by an operator based on such causes.

~~(c) A certificate holder's entire ability to operate within Fairfax County and all individual numbered certificates thereunder may be revoked by the Director for any of the following reasons:~~

~~(1) If the certificate holder makes or causes or allows to be made any false statement in writing for the purpose of procuring operator's certificates or any additions to an existing number of operator's certificates;~~

~~(2) If the certificate holder makes or causes or allows to be made any false statement or entry on the records required to be kept by this Chapter; or~~

~~(3) Operates or permits to be operated a taxicab in the County that the individual numbered operator's certificate under which the taxicab was placed in service is under suspension.~~

~~(4) Operates or permits to be operated in the County any taxicab for which an individual numbered operator's certificate has not been issued.~~

(~~d~~c) Written notice of any suspension ~~or revocation~~ pursuant to Section 84.1-2-12(a) ~~,~~or (b)~~, or (c)~~ will be given to the certificate holder by ~~certified mail by the Director~~ electronic mail. Such suspension ~~or revocation~~ will be effective upon receipt, unless a different effective date is specified.~~seven calendar days after deposit in the mails of the notice of such action; except that no delayed effective date will be required for a suspension pursuant to Section 84.1-2-12(a)(4). The Director will notify the Commission of any revocation or suspension of any operator's certificate within seven calendar days of mailing the notice to the certificate holder.~~

(~~e~~d) The Director, upon a determination that the certificate holder is not operating the authorized taxicabs in such a manner as to serve the public adequately, safely, efficiently or legally, may ~~suspend or~~ revoke ~~its grant of authority to~~ the certificate holder's authority to operate a taxicab business and all individual numbered taxicab certificates issued there-under. Such determination will be based upon the Director's

consideration of evidence showing violation, by the certificate holder, of one or more of the provisions of ~~Article 7 or Article 8 of~~ this Chapter. Such ~~suspension or~~ revocation will only be taken after such certificate holder has been notified of such proposed action and given an opportunity for a hearing before the Commission.

(~~f~~e) It will be unlawful for a person to operate or permit to be operated a taxicab in the County when the ~~operator's~~ taxicab certificate under which the taxicab was placed in service is under suspension or revocation.

(~~g~~f) A taxicab certificate that has been suspended or revoked will be returned to the Director within ~~seven calendar~~two business days from the effective date of the revocation or suspension. (4-00-84.1; 56-08-84.1.)

Section 84.1-2-13. - Filing for vehicle substitution.

(a) A certificate holder or its designated agent may at any time substitute a ~~new~~ replacement vehicle for a vehicle that has an individual numbered taxicab certificate and is to be removed from service~~, if the addition does not increase the total number of taxicabs authorized by the operator's certificates~~.

(b) Such substituted vehicle will comply with all provisions of this Chapter, including Section 84.1-2-11. A taxicab certificate corresponding to the replacement vehicle will be issued ~~The Director, will~~ upon receipt of vehicle data, proof of insurance ~~certificate~~, and written verification that the vehicle being removed from service has had all taxicab markings removed. ~~and vehicle data, issue an addendum to the operator's certificate.~~

(c) If the substituted vehicle is a used vehicle, the certificate holder or its designated agent will present to the Director for inspection the title or current registration for the vehicle, and documented proof of the vehicle's mileage.

~~(d) The fee for vehicle substitution is $25.00 per vehicle.~~ (4-00-84.1; 56-08-84.1.)

Section 84.1-2-14. - Filing after denial or revocation of operator's certificates.

(a) An applicant whose ~~has had his~~ application for an operator's certificate~~(s)~~ has been denied or a certificate holder whose operating authority and all taxicab certificates has ~~had his operator's certificate(s)~~ been revoked may not ~~file another application~~ apply for certificates until the following open period specified in Section 84.1-2-2(a).

(b) A certificate holder whose ~~has had his~~ application for ~~the~~ additional taxicab ~~of vehicles to his authorized number of individual~~ certificates has been denied may not ~~file another application~~apply for additional certificates until the following open period specified in Section 84.1-2-2(a). (4-00-84.1; 56-08-84.1.)

ARTICLE 3. - ~~Hacker's~~Taxicab Driver's License.

Section 84.1-3-1. - License required.

(a) It will be unlawful for any person to drive a taxicab for hire from an origin within the County to a destination within or outside the County except as provided in Sections 84.1-2-1, 84.1-10-1 and 84.1-10-2, unless the driver has obtained and has in his possession a current County ~~hacker's~~ taxicab driver's license.

(b) The ~~County hacker's~~ taxicab driver's license is valid only while operating a taxicab which is duly authorized in Fairfax County with a taxicab certificate issued by ~~DCCCP~~the Director. This license is not valid while operating a taxicab authorized, licensed, or having a certificate issued from any other jurisdiction.

(c) Each ~~hacker's~~ taxicab driver's license ~~issued by the Director~~ will remain the property of the ~~County~~Department, and it will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-3-7. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-2. - Application; forms; contents; requirements.

(a) Application for a ~~hacker's~~taxicab driver's license, and for renewals thereof, will be made in person on forms provided by the Department and endorsed by a certificate holder. Such endorsement will be on the form provided by the Department and will indicate the certificate holder's ~~company's~~ consent to authorize the driver to operate a taxicab ~~under the certificate~~on the certificate holder's behalf. The applicant will provide full answers to all questions on the application under oath. Information required to be provided by the applicant will include, but not be limited to, pertinent personal data, description of physical characteristics, traffic and criminal history records, experience in operating motor vehicles, and experience in driving taxicabs for hire.

(b) Each applicant is required to be fingerprinted by the Fairfax County Police Department.

(c) Each applicant is required to have a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia which is recognized as a lawful license to drive a motor vehicle on the highways of the County by the Commonwealth of Virginia. ~~If the applicant's state of residence requires a classified license to operate a taxicab, then the applicant will be required to present such license. If the applicant's home state does not issue such a classified license, then the applicant must present a valid driver's license of the type that is required by that state from applicants for taxicab licenses.~~

(d) Each ~~A~~applicant ~~is less than~~ must be at least 21 years of age~~.~~ and have at least ~~Applicant has less than~~ one year's ~~of driving~~ experience as a licensed driver of a motor vehicle within the United States.

(e) Prior to submitting the~~Each applicant, upon~~ initial application for a ~~hacker's~~taxicab driver's license, an applicant ~~will~~may be required to successfully ~~pass~~ complete each part of a general examination ~~which~~ that tests the applicant's knowledge of Chapter 84.1 of the Fairfax County Code, significant locations and ~~major landmarks, hospitals, clinics, airports, governmental centers, and shopping centers within the County and major airports near the boundaries of the County. The applicant must also show basic knowledge of map reading and the~~ major roadways within the County, and ~~. The Director may administer a test of~~ the applicant's ability to communicate orally with passengers in the English language concerning the trip, destination, fares, route, and related matters. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-3. - Investigation of applicant; procedure.

The Director will have an investigation made of the applicant for a ~~hacker's~~taxicab driver's license, and a confidential record of the investigation will be kept on file by the Department. The record will be made available to the Commission upon request; such record will also be made available to the applicant, upon the request of the applicant. The record will be ~~kept until such time as the license will be no longer in effect~~retained in accordance with the Library of Virginia's document retention schedule. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-4. - Issuance of ~~hacker's~~taxicab driver's license.

(a) If the Director determines that the applicant for a ~~hacker's~~ taxicab driver's license has complied with all provisions of this Chapter and, based upon the information supplied in Section 84.1-3-2 and the information obtained in accordance with Section 84.1-3-3, the Director further determines that there are no reasons for refusal pursuant to Section 84.1-3-4(c), the Director will issue a ~~hacker's~~taxicab driver's license for a period of one year containing such information thereon as the Director deems pertinent.

(b) The Director may issue an applicant a temporary taxicab driver's license for a period not to exceed 60 calendar days pending investigation and processing of the initial application. In deciding whether to issue a temporary license, the Director will conduct a preliminary review and consider the following:

(1) Applicant's score on a written exam;

(2) Applicant's traffic record; and

(3) Applicant's criminal history.

(c) The Director may refuse to issue a ~~hacker's~~taxicab driver's license to any applicant for any of the following reasons:

(1) Within the five-year period immediately preceding the date of the application, ~~S~~suspension or revocation ~~within the preceding five years~~ of a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia~~,~~ ~~recognized by the Commonwealth of Virginia~~. However, a financial responsibility suspension or revocation will not be grounds for denial if the applicant has presented proof of financial responsibility in accordance with the motor vehicle laws of this State.

(2) Within the five-year period immediately preceding the date of the application, ~~C~~conviction of any felony~~;~~, ~~a~~any crime of violence or ~~moral turpitude; a violation of~~ any law regulating sexual conduct or controlled substances~~; production, sale, possession, or use of alcohol or narcotics; gambling; or any crime of violence~~.

~~(3) Applicant is less than 21 years of age.~~

~~(4) Applicant has not been issued a driver's license by the Commonwealth of Virginia or by another state or by the District of Columbia recognized by the Commonwealth of Virginia.~~

~~(5) Applicant has less than one year of driving experience within the United States.~~

~~(6) Applicant made a false statement of material and relevant facts on an application for a hacker's license.~~

(~~7~~3) Within the three-year period immediately preceding the date of the application, ~~C~~conviction of any of the offenses of state law that would permit the Virginia Department of Motor Vehicles to revoke a driver's license to operate a motor vehicle on the highways of this State.

~~(8) Persistent or repeated violations, while operating a moving vehicle, of the motor vehicle laws of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.~~

(~~9~~4) Within the three-year period immediately preceding the date of the application, ~~C~~conviction in any jurisdiction of any of the offenses listed below regardless of how any such offense is styled, described, or labeled:

(A) Hit and run.

(B) Habitual offender.

(C) Driving while operator's license is revoked or suspended.

(D) Driving while intoxicated.

(E) Reckless driving.

(~~8~~5) Within the 12-month period immediately preceding the date of the application, two or more ~~Persistent or repeated~~ violations, while operating a moving vehicle, of the motor vehicle laws of the Commonwealth of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.

(6) Applicant made a false statement of one or more material and relevant facts on an application for a ~~hacker's~~taxicab driver's license.

~~(10) Applicant is suffering from mental illness or physical condition which creates a threat to the safety of the public.~~

(~~11~~7) In the case of applications for renewal of a ~~hacker's~~taxicab driver's license, any of the grounds for suspension or revocation of a ~~hacker's~~taxicab driver's license under Section 84.1-3-7.

(d) In the event the Director denies a ~~hacker's~~taxicab driver's license application, the Director will notify the applicant in writing within seven calendar days of the action taken. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-5. - ~~Contents, duration, and renewal of license;~~ Application and other fees.

(a) A nonrefundable examination ~~application~~ fee of $25.00 will be ~~payable each time an application is made for a hacker's license~~paid prior to taking the examination described in Section 84.1-3-2(e).

(b) A nonrefundable application fee of $40.00 will be paid for the initial taxicab driver's license and for each ~~issuance and the~~ annual renewal of ~~each~~the taxicab driver's license. The applicant will bear the cost of obtaining traffic and criminal history reports. ~~A hacker's license will be valid for one year from the date of issuance.~~

(c) ~~The Director may issue~~A replacement fee of $15.00 will be paid for a ~~hacker's licenses when appropriate, and persons who are issued a~~ replacement taxicab driver's license ~~will be charged a replacement fee of $15.00~~. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-6. - ~~Posting of license~~Taxicab driver duties; record-keeping.

(a) Every taxicab driver licensed under this Chapter will post their ~~hacker's~~taxicab driver's license in such a place as to be in full view of any passenger seat, while the taxicab is for hire~~.~~.

(b) Each taxicab driver will complete a daily manifest. Each manifest shall completed in a legible fashion. Paper manifests or the information contained in electronic manifests shall be provided to the operator by the taxicab driver as soon as practicable after the workday but no later than weekly.

(c) The driver of a taxicab involved in any accident will, within seven calendar days from the date of the accident, report such accident to the Taxicab Inspector, giving ~~him~~ such facts in the case as the Taxicab Inspector may reasonably require.

(d) A taxicab driver ~~licensed under this Chapter~~ will report to the Taxicab Inspector each arrest or summons issued for a traffic offense while operating a motor vehicle or any offense identified in Section 84.1-3-4(c)~~(2)~~, within seven calendar days of such arrest or receipt of such summons.

(e) A taxicab driver shall provide written notice to the Taxicab Inspector of any change of affiliation with the certificate holder that endorsed the driver's most current application for a taxicab driver's license. Written notice shall be provided within 15 calendar days of any such change in affiliation. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-7. - Suspension or revocation.

(a) The Director may suspend a ~~hacker's~~taxicab driver's license for a period extending from one to ~~60~~30 calendar days, or until the reason for the suspension is resolved,~~. In addition, the Director may suspend or revoke a hacker's license~~ for any of the following reasons:

(1) Driving a~~n unsafe~~ taxicab determined by the Director to be unsafe or insufficiently insured.

(2) Any violations of any Articles of this Chapter which regulate driver ~~conduct and record-keeping~~duties.

~~(3) Occurrence of any of the grounds for refusal to issue a license, listed in Section 84.1-3-4(c).~~

~~(4) Conviction of a violation of the Code of Virginia, Section 46.2-852, as amended, or of any violation of state statute or local ordinance for reckless driving of a motor vehicle on any highway.~~

~~(5) Using or attempting to use a County hacker's license for the purpose of operating, within or outside the jurisdiction of Fairfax County, a taxicab not authorized to operate in Fairfax County.~~

~~(6) Failure to file a report prescribed by Section 84.1-3-7(d) or (e).~~

~~(7) Failure to file a notice of change in affiliation prescribed by Section 84.1-3-9.~~

~~(8) Driving of any taxicab not sufficiently covered by insurance.~~

(~~9~~3) Repeated passenger complaints regarding the ~~operation~~ provision of taxicab service.

(~~10~~4) Failure to pick up a person when requested to do so by the certificate holder or at any location, without justification stated in Section 84.1-7-~~1(b)~~2(a).

~~(11) A hacker's license will automatically be revoked if a driver leaves a certificate holder, voluntarily or involuntarily; such license should be surrendered to the Director's office within seven calendar days.~~

(b) The Director may revoke a taxicab driver's license for any of the following reasons:

(1) Occurrence of any of the grounds for refusal to issue a license~~,~~ listed in Section 84.1-3-4(c~~c~~).

(2) Using or attempting to use a ~~County hacker's~~ taxicab driver's license for the purpose of operating, within or outside the jurisdiction of Fairfax County, a taxicab not authorized to operate in Fairfax County.

(3) Withdrawal by the endorsing certificate holder of its consent for the driver to operate a taxicab on its behalf.

(~~b~~c) Written notice of any suspension or revocation under the above provisions of this Section will be given by the Director to the driver in person and to the endorsing certificate holder by electronic mail, effective upon receipt unless a different effective date is specified.~~or by certified mail. Such suspension or revocation will be effective seven calendar days after the deposit of such notice in the mail. However, any suspension for a violation of Section 84.1-3-4(c)(2), (6) or (8) or 84.1-3-7(a)(5) will become effective upon the date of any such violation~~.

(~~c~~d) It will be unlawful for any person to drive a taxicab in the County when their ~~hacker's~~taxicab driver's license is under suspension or revocation.

~~(d) The driver of a taxicab involved in any accident will, within seven calendar days from the date of the accident, report such accident to the Taxicab Inspector, giving him such facts in the case as the Inspector may reasonably require.~~

~~(e) A driver licensed under this Chapter will report to the Taxicab Inspector each arrest or summons issued for a traffic offense while operating a motor vehicle or any offense identified in Section 84.1-3-4(c)(2), within seven calendar days of such arrest or receipt of such summons.~~

(~~f~~e) A ~~hacker's~~taxicab driver's license that has been suspended or revoked will be returned to the Director within ~~seven calendar~~ two business days of the effective date of suspension or revocation. (4-00-84.1; 56-08-84.1.)

Section 84.1-3-8. - Filing after denial or revocation of license.

An ~~application~~ applicant whose application for a ~~hacker's~~taxicab driver's license has been denied or a taxicab driver whose license has been revoked may not file an application for a taxicab driver's license for a ~~may not be filed by an individual for a~~ period of one year ~~after~~ following the denial or revocation. ~~application for a license has been denied or revoked, except as otherwise designated in this Chapter. For the purposes of this Chapter, the one year period will run from the effective date of any such denial or revocation under this Article or the provisions of Subsection (e) of Section 84.1-4-1.~~ (4-00-84.1; 56-08-84.1.)

~~Section 84.1-3-9. - Filing of notice of any change in affiliation with a fairfax county taxicab company.~~

~~Notice of any change in affiliation with a Fairfax County taxicab company from the company listed on the initial application for a hacker's license will be furnished in writing by any driver to the Taxicab Inspector within 15 calendar days of any such change in affiliation. Any failure to notify the Taxicab Inspector in writing of such change in affiliation within 15 calendar days may lead to the suspension or revocation of the hacker's license under the provisions of Section 84.1-3-7. (4-00-84.1; 56-08-84.1.)~~

ARTICLE 4. - Appeals.

Section 84.1-4-1. - Appeals from decisions of the director; procedure.

(a) If the Director denies, suspends or revokes any ~~hacker's~~taxicab driver's license or ~~revokes or~~ suspends or revokes any or all ~~operator's~~taxicab certificates, or denies or revokes a certificate holder's approval to self-insure, any party aggrieved thereby may appeal such decision to the Commission.

(b) Any appeal will be filed with the Department ~~of Cable Communications and Consumer Protection~~ by the appellant or by the legal representative of the appellant. Appeals will be in writing, and appeals will include a brief statement of the reasons thereof. Appeals will be filed within 45 calendar days of receipt of the notice of denial, suspension or revocation, and appeals will be signed by the appellant or the legal representative of the appellant.

(c) Upon receipt of any notice of appeal, the Commission will set a time and place for such hearing and will give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals will be scheduled and determined as promptly as practicable and in no event more than 60 calendar days from the date the notice of appeal is filed.

(d) The Commission will consider the case record as well as the statement offered by any interested party and will consider the matter de novo, and the Commission will, upon the basis of the record before it, affirm, modify or reverse the decision of the Director.

(e) If the Commission affirms the decision of the Director to suspend or revoke a ~~hacker's~~taxicab driver's license, any ~~operator's~~taxicab certificates, or a certificate holder's approval to self-insure, then the suspension or revocation will be effective from the date of the Commissioner's ~~order~~decision.

(f) If the Commission reverses the decision of the Director, the Director will issue or restore the ~~hacker's~~taxicab driver's license, ~~operator's~~taxicab certificate(s), or a certificate holder's approval to self-insure in accordance with the Commission's decision~~its order~~.

(g) Except as otherwise provided in this Subsection, an appeal of the decision of the Director to suspend or revoke a ~~hacker's~~taxicab driver's license under Section 84.1-3-7~~of this Chapter~~, or the suspension or revocation of any or all operator's certificates under Section 84.1-2-12 ~~of this Chapter~~ will stay the effective date of the suspension or revocation. However, if any suspension or revocation of any operator's certificates is based on ~~Paragraph (4) of Subsection (a) of~~ Section 84.1-2-12(a)(4), or if any suspension or revocation of any ~~hacker's~~taxicab driver's license is based on Section 84.1-3-4(c)(2), (5) or (6) ~~or (8)~~ or Section 84.1-3-7~~(a)(5)~~(b)(2), then the ~~order~~ decision of the Director will remain in effect until the Commission has rendered its decision on the appeal. (4-00-84.1; 56-08-84.1.)

ARTICLE 5. - Records and Reports.

Section 84.1-5-1. - Records to be maintained; inspection and examination.

(a) A certificate holder will maintain books and records of its operations ~~under County certificates~~ to show the following in sufficient detail, consistent with generally accepted accounting procedures:

(1) Total revenues, by category of service and source derived;

(2) Operating expenses, by category;

(3) Capital expenditures;

(4) Depreciation expenses, by category.

(b) A certificate holder will maintain records of the following in sufficient accuracy and detail to comply with ~~information~~ the filing requirements of this Chapter and requests that may be made by the Director:

(1) Requests for taxicab service received by the certificate holder and responses thereto, including ~~;(7)~~ Aaverage wait-time for passengers after pick-up request.

(2) Number of taxicabs available for service and in operation on a daily basis;

(3) Maintenance and repair records of taxicabs and other equipment employed in operating the certificate holder's taxicab business;

(4) Requests for wheelchair accessible taxicab service received by the certificate holders and responses thereto, including average wait-time for passengers after pick-up request;

(5) Number of calls for wheelchair accessible taxicab service referred to other Fairfax County operators;

(6) Daily manifests, completed by drivers as provided in Section 84.1-~~5-1(c)~~3-6(b);

(7) Taxicab meter data for each taxicab that at minimum identifies on a daily, weekly and monthly basis the total miles driven, paid miles driven, and number of trips.

~~(7) Average wait-time for passengers after pick-up request.~~

~~(c) Each driver will complete a daily manifest upon which the driver will record the following:~~

~~(1) The date and time of the day (stated as to a.m., p.m. or 24 hour clock) the driver began operation and stopped operation on the street.~~

~~(2) The taxicab number and the driver's name.~~

~~(3) All trips made each day, showing the time and place of origin, destination, time of arrival, number of passengers, and the amount of the fare for each trip, recorded at the beginning and end of each trip as required.~~

~~(4) The taxicab meter readings of the following: total miles, paid miles, trips, units, and extras. These readings will be recorded on the driver's manifest at the beginning and end of each driver's tour of duty, and these readings will not be transferred from one taxicab to another if a driver changes taxicabs during a workday. A separate manifest will be maintained for each taxicab. Drivers of wheelchair accessible vehicles, will designate on the manifest the particular trips made by persons in wheelchairs.~~

~~(5) The odometer reading at the beginning and end of each driver's workday in a given taxicab. All completed manifests will be returned to the certificate holder by the driver as soon as is practical after the end of the workday.~~

(~~d~~c) A certificate holder will retain and preserve all of the records required by this Section to be maintained, for a period of no less than three years. Such records may be kept in any reasonable form in ordinary business practice; provided, manifests must be preserved as originally filed, although their contents may be abstracted for other record or filing requirements.

(~~e~~d) The books, ~~and~~ records and data required to be maintained by a certificate holder under the provisions of this Section will be made available, within a reasonable period of time not to exceed 30 calendar days after request for inspection and examination by the ~~Department,~~ Director~~except that manifests will be made available within seven calendar days after request for inspection~~. If it should become necessary for the ~~Department~~ Director to remove manifests or other records from the certificate holder's offices, the certificate holder will be given a receipt reasonably identifying the items so removed. (4-00-84.1; 56-08-84.1.)

Section 84.1-5-2. - Reports to be filed.

(a) In order to accomplish the purpose of this Chapter, all certificate holders will file, under oath, to the best of their knowledge, with the Department on a biennial basis (or more frequently if requested by the Department), financial and statistical reports. Such reports will include data solely related to the operations of Fairfax County authorized taxicabs. Such reports must be filed by ~~April 15~~ May 1.

(b) The following information and data must be filed with the Department in every odd-numbered year, for the preceding two calendar years; each separately stated, according to generally accepted accounting principal~~s~~les:

(1) Certificate holder's balance sheet.

(2) Certificate holder's income statement.

(3) Copies of certificate holder's income tax returns that will remain confidential and for governmental use only.

(4) Operating and service data, for each of the two preceding calendar years, will include: total meter revenue; total wheelchair accessible taxicab meter revenue; number and types of cabs; number of drivers affiliated with the company, including number of owner operators; miles operated, including total, paid; number of trips; ~~number of units;~~ number of passengers; ~~copies of manifests;~~ schedule of the company's lease rates and stand dues; average number of cabs in service on weekdays; number of calls for service referred to other Fairfax County operators; number of calls for wheelchair accessible service referred to other Fairfax County operators; location of taxi stands; and such other data as may reasonably be requested in furtherance of this Chapter. The Director may provide forms or specify the format for the information to be collected and reported by certificate holders. (4-00-84.1; 56-08-84.1.)

(5) For operators that have received approval to self-insure in whole or part pursuant to Section 84.1-2-11(e), a report detailing the company's insurance claims procedures and claims history for the preceding two calendar years.

ARTICLE 6. - Rules, Regulations, Rates, Fares, and Charges.

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

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

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

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

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

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

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

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

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

Fairfax County Taxicab Industry Price Index

Taxicab Cost Element	BLS Index	Weight
Salaries, Wages, and Profits	CPI-U (All Items)	0.62
Vehicle Purchase	New ~~Cars~~Vehicles	0.14
Fuel	Motor Fuel	0.11
Insurance and Other	~~Other~~ Private Transportation Services	0.08
Maintenance, Parts, and Equipment	~~Private Transportation~~ Motor Vehicle Maintenance and Repairs	0.05
TOTAL COMPOSITE INDEX		1.00

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

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

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

A proposed change in taxicab ~~fares~~ rates is under consideration by the Fairfax County government. The proposed ~~fares~~ rates are: (Insert description of the proposed changes).

The proposed taxicab ~~fare~~ rate change will be considered by the Consumer Protection Commission at a public hearing on (insert date, time, and location). Any interested person may appear before the Commission to be heard on this proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable ~~Communications~~ and Consumer ~~Protection~~ Services at 703-222-8435.

Notices with respect to the request for a rate change will be posted at least 15 calendar days prior to the Consumer Protection Commission public hearing and the Board of Supervisor's public hearing and will remain posted until the change in ~~fares~~ rates is denied or becomes effective.

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

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

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

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

(c) Taxicab ~~R~~rates and charges

(1) Maximum Mileage Rate

~~f~~First one-sixth of a mile or fraction thereof $3.50

~~e~~Each subsequent one-sixth of a mile or fraction thereof $0.36

(2) Additional Passenger Rate

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

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

(3) Waiting Time - For each 61 seconds of waiting time $0.36

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

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

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

Luggage - per item, only when ~~(If~~ handled by the driver~~)~~ .....~~$0.50~~1.00

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

Personal service - Each time the driver is required to leave the vicinity of the taxicab at the request of the passenger will constitute a separate personal service, except no~~.~~ ~~No~~ such charge will be made for ~~an~~persons ~~individual~~ with ~~a~~ disabilitiesy .....~~$0.75~~1.00

(5) All service animals and service animals in training will be transported and free of charge when accompanying ~~an individual with a disability~~persons with disabilities ~~.....No Charge~~ All other ~~A~~animals ~~(other)~~ will be transported ~~only~~ at the discretion of the driver and only if the passenger agrees to keep the animal under control. AThe charge to transport ~~for~~ each such animal ~~will not exceed~~ $1.00

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

(~~5~~6) ~~Tolls --~~Tolls paid by the driver along a route to a passenger's destination may be added to the passenger's fare provided the passenger was informed of the toll and given the option of taking an alternative route which does not require the payment of the toll. If more than one passenger is transported, the driver may not recover more than the total toll actually paid during the trip.

(~~6~~7) ~~Surcharge --~~Where the taxicab driver paid an airport surcharge the surcharge may be added to the passenger's fare ~~of the trip~~.

(~~7~~d) A ~~C~~cleaning ~~C~~charge of $25.00 will be imposed ~~--~~ if the taxicab is left in an unsanitary condition which requires the taxicab to be removed from service and cleaned immediately after completion of the trip. ~~.....$4.00~~

(~~8~~e) A ~~R~~rate card~~s~~ and complaint notice provided by the Department ~~of Cable and Consumer Services~~ will be posted in each taxicab in such a manner as to be easily visible to all passengers in a taxicab.

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

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

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

(~~A~~1) Any operator offering such a discount rate must notify the Director of the discount program no later than 30 calendar days prior to the offering and no later than 30 days prior to its modification or discontinuance. ~~make the rate available to both senior citizens and individuals with disabilities.~~

(~~B~~2) Any such discount rate and the eligibility criteria for the discount rate must be posted by the operator offering the discount in each taxicab for which it holds a certificate.

(~~C~~3) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified.

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

~~(E) Discontinuance or modification of a discount rate program must be registered with the Director 30 calendar days prior to being discontinued or modified.~~ (4-00-84.1; 2-01-84.1; 24-05-84.1; 56-08-84.1; 30-12-84.1; 38-14-84.1.)

ARTICLE 7. - Operation.

Section 84.1-7-1. - General requirements and standards for ~~the operation of taxicabs; notification requirements~~certificate holders.

(a) ~~Certificate holder's business.~~

~~(1) All persons engaged in the taxicab business in the County~~ Each certificate holder will maintain a place of business or office with telephone service within the County ~~(which for the purposes of this Section will be deemed to include any incorporated towns and cities which were formerly incorporated towns within the County, and military reservations)~~ or within a jurisdiction that is adjacent to the County. The

certificate holder or its agents must be available ~~in person~~ 24 hours per day to receive ~~calls~~ requests for service and dispatch taxicabs. If requests for service are received at a time when no taxicabs are available within one hour, the certificate holder or agent will so advise the requesting party and refer the caller to another Fairfax County ~~taxicab~~ certificate holder. ~~In providing such referral, the certificate holder must include a current telephone number and firm or trade name.~~

~~(2) Certificate holders will respond to all calls and requests for service within a three-mile radius of any taxicab stand, dispatching facility or other operational facility within the County from which taxicabs may respond to calls and requests for service. Should such request be for service beyond the three-mile radius, the certificate holder will have the option of responding to the call for service or referring the caller to another taxicab certificate holder whose place of business is at a shorter distance in the County from the caller.~~

(b) Each certificate holder will ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat all passengers, including ~~individuals~~ persons with disabilities, ~~who use the service~~ in a respectful and courteous way. For drivers operating wheelchair accessible taxicabs, training shall include operation of ramps, lifts or other equipment necessary for the transport of persons who use wheelchairs and techniques to ensure that wheelchairs are appropriately secured or stowed~~, with appropriate attention to the difference among individuals with disabilities.~~

(c) Certificate holders will not discriminate against individuals with disabilities. Every ~~operator~~ certificate holder having authority to operate 25 or more taxicabs will have at least four (4) percent of those taxicabs which qualify as wheelchair accessible taxicabs. In the event that four (4) percent of the number of taxicabs in ~~any operator's~~the certificate holder's fleet is not a whole number, then this requirement will be computed on the number of authorized taxicabs and rounded to the nearest whole number. ~~For example, an operator having authority to operate 60 taxicabs will have at least two wheelchair accessible taxicab, 60 × 0.04 = 2.4 which is rounded to 2.0 vehicles, but an operator having 65 taxicabs will have at least three wheelchair accessible taxicabs, 65 × 0.04 = 2.6 which is rounded to 3.0.~~

(d) Certificate holders will comply with minimum fuel economy standards. Each certificate holder will ensure that 60 percent or more of the gasoline-fueled taxicabs added to its fleet each year has a minimum Environmental Protection Agency combined city/highway fuel economy rating of 25 miles per gallon. This fuel economy requirement does not apply to wheelchair accessible taxicabs.

Section 84.1-7-2. - General requirements and standards for taxicab drivers.

(~~b~~a) Load refusal. No taxicab driver may refuse transportation to any orderly person except under the following conditions:

(1) Such vehicle is already engaged by another passenger;

(2) Such vehicle is ~~e~~in route to pick up a passenger ~~for service in response to an order for service received by telephone, radio or otherwise~~, in which case~~,~~ a "not in service," "not for hire" or "on call" sign must be exhibited;

(3) Such vehicle is out of service because of the end of the driver's shift or for other reasons, in which case a "not in service," "not for hire" or "off duty" sign will be displayed.

(4) The driver reasonably believes that the driver's life or safety would be endangered by picking up a person who otherwise would be entitled to transportation.

(5) The ~~P~~passenger seeks transport outside Fairfax County.

(~~u~~b) Nondiscriminatory treatment of persons with disabilities. A ~~T~~taxicab ~~service providers~~driver shall ~~will~~ not discriminate against ~~individuals~~ persons with disabilities by actions including, but not limited to, refusing to provide service to ~~individuals with disabilities~~such persons who can use taxi vehicles, refusing to assist with the stowing of mobility devices, ~~and~~or charging higher fares or fees for ~~carrying individuals with disabilities~~ transporting such persons and their equipment than are charged to other persons. ~~(4-00-84.1; 56-08-84.1.)~~

(c) ~~Use of tobacco, cell phone, sound system, and radio.~~ Passenger comfort. A taxicab driver shall ensure the passenger's comfort while transporting the passenger by:

(1) Not smoking or using tobacco in the taxicab while it is occupied by one or more passengers:~~No driver, while the taxicab is occupied by a passenger, will smoke,~~

(2) Not using a ~~use a cell~~ mobile phone, other mobile device, radio or other in-car entertainment ~~or play a sound~~ system ~~or radio~~ if the passenger ~~or passengers request~~ requests that the taxicab driver not do so. This subparagraph does not apply to the methods of communications used to communicate with the dispatcher or law enforcement personnel or used to obtain traffic information~~.~~;

(3) Adjusting the heating, air conditioning or windows in the taxicab if requested to do so by a passenger.

(d) Receiving and discharging passengers. No taxicab or part thereof will be stopped on the traveled portion of any highway to take on or discharge passengers except where parking is permitted, and when so permitted the taxicab will be parked in the manner prescribed by law.

(e) Maximum number of persons in taxicabs. No taxicab driver will permit more passengers in a taxicab than the number authorized by the ~~County~~ taxicab certificate issued for that vehicle, and no taxicab driver will permit more persons in a taxicab than the number of seat belts which are available for use within the vehicle.

(f) Front seat occupancy. No taxicab driver will permit more than one passenger in the front seat of any taxicab~~, and no taxicab driver will permit more passengers in the front seat than the number of seat belts which are available for use by passengers in the front seat~~.

(g) Additional passengers. When a taxicab is occupied by one or more passengers, the driver will not accept additional passengers unless the taxicab driver has the concurrence of all passengers. No charge will be made for this additional passenger except when the additional passenger rides beyond the original destination, and then only for the additional distance traveled.

(h) Deception of passengers. It will be unlawful for a driver to deceive or attempt to deceive any passenger as to the rate or fare to be charged or to take a longer route to a destination than necessary. The taxicab driver may take a longer route when ~~, unless~~ requested to do so by ~~the~~ a passenger.

(i) Passenger receipts. The driver of any taxicab will, upon request of a passenger, give a receipt to the passenger for any fare charged. ~~If the passenger requests any of the following information, the receipt will include it: The name of the driver, the license number of the taxicab, the origin, and destination of the trip.~~ All receipts will contain the name of the certificate holder, the amount of fare charged, and the date of the trip. The name of the driver, the license number of the taxicab, and the origin and destination of the trip shall be included on the receipt upon customer request.

(j) Advance payment. Any driver may, at his or her discretion, demand estimated payment in advance of the rendering of any service. Adjustments will be made at the passenger's destination in accordance with the rates and charges established by this Chapter.

(k) Acceptance of payment. Method(s) of payment acceptance for transportation fares and charges will be at the discretion of the ~~operator~~certificate holder. ~~The operator will post a~~A payment acceptance notice listing all forms of electronic payment accepted will be posted in such a manner as to be easily visible to all passengers inside the taxicab and from the outside right side of the taxicab. If credit card(s) and debit card(s) are accepted, logo sign(s) indicating which card(s) are accepted will be displayed both inside and to the outside right side of the taxicab. Drivers must accept all forms of payment accepted by the certificate holder.

~~(l) Refusal to pay fare. It will be unlawful for any person to refuse to pay the legal fare or to engage any taxicab with the intent to defraud the certificate holder or driver of the value of such service.~~

(~~m~~l) Lost articles. Any article found in a taxicab will be returned with reasonable promptness to the owner if known or the owner will be promptly notified of the whereabouts of the article so that the owner may claim it. If the owner is not known, the driver will immediately inform the dispatcher and return the

article at the close of the taxicab driver's workday to the certificate holder's ~~base~~ place of business. The certificate holder will maintain the lost article in a safe place for at least 30 calendar days. ~~If the lost article is not claimed by its owner within 30 calendar days, the article will be turned over by the certificate holder to the Taxicab Inspector.~~

(~~n~~m) Alcoholic beverages. It will be unlawful for a driver knowingly to transport alcoholic beverages in the taxicab unless such beverages are in the lawful possession of a passenger.

(~~o~~n) Length of workday. No driver will physically operate a taxicab for more than 13 hours in any consecutive ~~twenty-four~~24-hour period, nor will any driver physically operate a taxicab if his or her physical condition may impair his or her ability to operate the vehicle.

~~(p) Notice of any change in residence or business address. Notice of any change in residence or business address will be furnished by any driver or certificate holder to the Taxicab Inspector within 15 calendar days of any such change of address.~~

~~(q) Use of licenses and certificates. It will be unlawful for any person to lend to or knowingly permit the use of, by one not entitled thereto, any hacker's license or operator's certificate, and it will be unlawful for any person to display or represent as their own any hacker's license or operator's certificate not issued to the person or vehicle displaying the same.~~

(~~r~~o) Carrying money. No driver will be required to carry more than $20.00 in change.

(~~s~~p) Taximeter. It will be unlawful for a driver transporting any passenger to fail to operate the taximeter. (4-00-84.1; 56-08-84.1.)

~~(t) Training requirements. Each certificate holder will ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.~~

~~(u) Taxicab service providers will not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons. (4-00-84.1; 56-08-84.1.)~~

Section 84.1-7-3. – Other requirements and standards.

(~~l~~a) ~~Refusal to pay fare.~~ It will be unlawful for any person to refuse to pay the legal fare or to engage any taxicab with the intent to defraud the certificate holder or taxicab driver of the value of such service.

(~~q~~b) ~~Use of licenses and certificates.~~ It will be unlawful for any person to lend ~~to~~ or knowingly permit the use of, by one not entitled thereto, any ~~hacker's~~taxicab driver's license or ~~operator's~~taxicab certificate, and it will be unlawful for any person to display or represent as their own any ~~hacker's~~taxicab driver's license or ~~operator's~~taxicab certificate not issued to the person or vehicle displaying the same.

ARTICLE 8. – Taximeters and Vehicles~~, Equipment, Maintenance, and Inspections~~.

Section 84.1-8-1. - Taximeter requirements~~d~~.

(a) All taxicabs operating under the authority of this Chapter will be equipped with taximeters capable of computing fares on a mileage and time basis, visible to a passenger seated in the back seat and that for each trip clearly displays the passenger's maximum fare at all times.

(b) Taximeters must ~~register on visual counters that~~ display or provide for use by the Taxicab Inspector, at a minimum, ~~the following information:~~ total miles, paid miles~~, number of units,~~ and number of trips~~, and number of extras~~.

(~~b~~c) A taximeter set in accordance with the rates ~~hereby~~ established pursuant to this Chapter and which computes and clearly ~~indicates~~ displays the passenger's maximum fare shall meet the requirements of this Section. (4-00-84.1; 56-08-84.1.)

Section 84.1-8-2. ~~–~~ Taximeter ~~I~~inspections and approval ~~prior to use~~.

(a) Prior to being used in passenger service, the taximeter required by Section 84.1-8-1 will be calibrated ~~by a Virginia certified Weights & Measures technician indicated by a Placed In Service Report and a tamper-proof seal affixed~~ and sealed as required by the laws of the Commonwealth of Virginia. ~~Within 30 calendar days of the date of the Placed In Service Report, t~~The taximeter will be inspected for accuracy by the Taxicab Inspector before the taxicab is placed in service. (4-00-84.1; 56-08-84.1.)

~~Section 84.1-8-3. - Tampering prohibited.~~

~~(a) It will be unlawful for any person to tamper with any taximeter required by Section 84.1-8-1, or to in any manner change or cause to be changed any part of any taximeter or any part of any vehicle to which such taximeter is attached, directly, or indirectly, which may alter the accuracy of such meter.~~

~~(b) It will be unlawful for any person to operate or permit to be operated any taxicab for hire if such taxicab's meter has not been properly sealed in accordance with Section 84.1-8-2 or to operate or permit to be operated a taxicab for hire with knowledge of a violation of Subsection (a) of this Section. (4-00-84.1; 56-08-84.1.)~~

~~Section 84.1-8-4. - Inspection generally.~~

(b) All taximeters will be subject to inspections at all reasonable times by the Taxicab Inspector for accuracy. Each~~, and all~~ taximeters will be ~~inspected by the Taxicab Inspector~~evaluated for time accuracy at each vehicle inspection conducted by the Taxicab Inspector. Each taximeter will be evaluated for distance accuracy ~~at least once every six months and distance accuracy~~ at least once every 12 months at a place designated by the Taxicab Inspector. (4-00-84.1; 56-08-84.1.)

(c) It will be unlawful for any person to:

(a1) ~~It will be unlawful for any person to t~~Tamper with any taximeter required by Section 84.1-8-1, or to in any manner change or cause to be changed any part of any taximeter or any part of any vehicle to which such taximeter is attached, directly, or indirectly, which may alter the accuracy of such meter.

(b2) ~~It will be unlawful for any person to o~~Operate or permit to be operated any taxicab for hire if such taxicab's meter has not been properly sealed in accordance with Section 84.1-8-2(a) or to operate or permit to be operated a taxicab for hire with knowledge of a violation of Subsection 84.1-8-2.~~(a) of this Section.~~ (4-00-84.1; 56-08-84.1.)

Section 84.1-8-~~5~~3. ~~–~~ Vehicle ~~s and contents~~requirements.

(a) ~~All~~ Any vehicles authorized to transport passengers under this ~~c~~Chapter will be a taxicab. Every taxicab will be titled and registered as a for-hire vehicle in Virginia and will display Virginia taxi license plates, valid registration decals on the license plates, and a valid Virginia safety inspection sticker issued by a certified Virginia state safety inspection facility. ~~Every taxicab will be of passenger car design, carry no more than six passengers, and will be equipped with at least two doors for the entrance and exit of passengers, in addition to the front door located on the driver's side. All passenger doors will be so constructed that they will remain securely fastened during normal operation but may be easily opened by a passenger in an emergency. Every taxicab will be equipped with tires having at least two-thirty-seconds of an inch of tread, and no taxicab will be operated with unsafe tires. Every taxicab will be equipped with a properly inflated spare tire mounted on the appropriate rim.~~

(b) It shall be unlawful to operate as a taxicab in the County any vehicle that has a model-year age greater than ten (10) years or that has more than 500,000 miles, whichever occurs first. Vehicle age shall be calculated as if the vehicle was placed into service on December 31st of the vehicle year as shown on its Virginia motor vehicle registration.

(c) Every taxicab will ~~be of passenger car design, carry no more than six passengers, and will~~ be equipped with at least two doors for the entrance and exit of passengers, in addition to the front door located on the driver's side. All passenger doors will be so constructed that they will remain securely fastened during normal operation but may be easily opened by a passenger upon entering or exiting the vehicle or in an emergency.

(d) No taxicab will be operated with unsafe tires. Every taxicab will be equipped with tires whose condition and tread depth comply with the requirements specified in the Virginia Motor Vehicle Safety Inspection Rules and Regulations. ~~having at least two-thirty-seconds of an inch of tread, and no taxicab will be operated with unsafe tires.~~ Every taxicab will be equipped with a ~~properly inflated~~ usable spare tire ~~mounted on the appropriate rim~~ or the tire repair kit identified in the vehicle owner's manual.

~~(b) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from outside the vehicle.~~

(~~c~~e) All taxicab windows must be intact, reasonably clean and be able to be opened and closed as intended by the manufacturer. No taxicab will be operated with a windshield that contains cracks or chips that could interfere with the driver's vision. The taxicab will be equipped with adequate windshield wipers maintained in good operating condition.

(f) Every taxicab will be equipped with headlights that are operable on both high and low beam and with operable brake or rear lights, signal lights, a rear license plate light, and interior lights. All exterior lights must be fitted with the appropriate type and color of lenses and bulbs.

(g) Every taxicab ~~in service~~ will be equipped with a properly installed speedometer and odometer, maintained in working order, and exposed to view. If a taxicab is found to have a defective speedometer or odometer, then the taxicab will not be operated until the speedometer or odometer is repaired. The ~~C~~certificate holder will provide to the Director, within 15 calendar days of the odometer replacement, the date of change, old odometer reading, reading on replacement odometer at the time of installation, and taxicab number.

(~~d~~h) The upholstery covering the interior lining of every taxicab will be of a ~~nonabsorbent,~~ washable material and not torn, ripped or improperly repaired. ~~with the exception of a "kick" strip not exceeding a reasonable height at the bottom of the doors. The rear cushion will be removable.~~ No floor mat will be permitted in any taxicab, unless it will be made of ~~some nonabsorbent~~ a washable material and easily removable, except that such floor covering material may be cemented in place on the floor of a taxicab when the whole area of the floor is covered.

(~~e~~i) Every taxicab will be so ~~constructed and~~ maintained as to provide for the safety of the public and for continuous and satisfactory operation, and to reduce to a minimum, noise and vibration caused by operation~~. Every taxicab will be structurally sound and will pass state inspection~~. All factory-installed safety equipment, including seat belts, mirrors and horn, will be in good working condition at all times. ~~A certificate holder will be given a reasonable time to effect needed repairs, except in cases where the defect affects the safety of the taxicab and/or the passengers therein. In such cases the taxicab will not be operated until the defect has been corrected. Every taxicab will be painted to give reasonable protection to all exposed surfaces from the elements, and all identifying marks will be clearly legible at all times.~~

(~~f~~j) Every taxicab will have ~~cruising~~ rooftop lights mounted on the top of the taxicab in the forward portion thereof, unless otherwise authorized by the Director. The dome light is to be of such a design as to identify the vehicle as a taxicab. Drivers, when holding forth their cab for hire, will have the cruising light on from sunset to sunrise. Each taxicab will also be equipped with two marker lights on either side of the ~~cruising~~ dome lights. The marker lights will be connected to, and operated by, the meter such that when the meter is on, these lights are off, and when the meter is off, these lights are on.

(~~g~~k) ~~All identifying marks on taxicabs will be plainly distinguishable in letters not less than three inches in height.~~ The exterior of each taxicab will display the name of the taxicab company in letters not less than three inches in height. The taxicab number will ~~not~~ be ~~less than four inches in height,~~ permanently painted or otherwise permanently affixed to each of the two front quarter panels of the taxicab and to the right and left side of the rear window in lettering of no less than three inches in height. ~~The lettering~~

~~will show the name of the taxicab company.~~ If a vehicle is taken out of service as a taxicab on a permanent basis, the certificate holder will, within 72 hours, remove the taxicab markings along with all other indications of the vehicle's use as a taxicab.

(~~h~~l) Every wheelchair accessible taxicab will be plainly marked with a reflective six-inch by six-inch blue with white markings international wheelchair symbol on each side of the vehicle and on the rear of the vehicle. All wheelchair symbols will be above door handle height. ~~A reflective four-inch by four-inch international wheelchair symbol will be placed on the top center of the front windshield.~~

~~(i) If a vehicle is taken out of service as a taxicab on a permanent basis, the certificate holder will, within 72 hours, remove the taxicab markings along with all other indications of the vehicle's use as a taxicab. A replacement operator's certificate will not be reissued until the certificate holder provides written verification that the vehicle being removed from service has had all taxicab markings removed.~~

~~(j) Every taxicab will be equipped with a light capable of illuminating the interior of the taxicab and controlled by the operation of the doors or manually controlled by the driver.~~

(~~n~~m) Every taxicab will be equipped with heating and air conditioning to be maintained in good working condition at all times ~~and to be turned on by the driver at the passenger's request.~~

(~~b~~n) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from outside the vehicle.

(~~k~~o) Every taxicab interior will be kept in as clean and sanitary ~~a~~ condition and be free of foreign matter, litter and offensive odors. A taxicab exterior will be painted, contain no significant unrepaired dents or other body damage, and be kept as clean as is reasonable~~y possible~~ considering existing weather conditions. A certificate holder will be given reasonable time in which to clean a taxicab upon direction of the Taxicab Inspector.

~~(l) Every taxicab will be equipped with a taximeter as prescribed by this Chapter.~~

~~(m) Used vehicles~~

~~(1) Other than wheelchair accessible taxicabs. A used vehicle may be placed in service as a taxicab in the County that is two or less model years old, has fewer than 80,000 miles, and the Director is satisfied that the vehicle meets all the requirements of this Chapter. It will be unlawful to operate as a taxicab in the County any vehicle that is older than six model years or that has more than 380,000 miles, whichever occurs first. For example, in determining and applying this vehicle model year requirement, all vehicles of a manufacturer's model year 2006 will be replaced by December 31, 2012.~~

~~(2) Wheelchair accessible taxicabs. A used vehicle may be placed in service as a wheelchair accessible taxicab in the County that is four or less model years old, has fewer than 125,000 miles, and the Director is satisfied that the vehicle meets all the requirements of this Chapter. It will be unlawful to operate as a wheelchair accessible taxicab in the County any vehicle that is older than seven model years or that has more than 450,000 miles, whichever occurs first. For example, in determining and applying this vehicle model year requirement, all wheelchair accessible vehicles of a manufacturer's model year 2006 will be replaced by December 31, 2013.~~

~~(n) Every taxicab will be equipped with heating and air conditioning to be maintained in good working condition at all times and to be turned on by the driver at the passenger's request.~~

~~(o) Every operator having authority to operate 25 or more taxicabs will have at least 4 percent of those taxicabs which qualify as wheelchair accessible taxicabs. In the event that 4 percent of the number of taxicabs in any operator's fleet is not a whole number, then this requirement will be computed on the number of authorized taxicabs and rounded to the nearest whole number. For example, an operator having authority to operate 60 taxicabs will have at least two wheelchair accessible taxicab, 60 × 0.04 = 2.4 which is rounded to 2.0 vehicles, but an operator having 65 taxicabs will have at least three wheelchair accessible taxicabs, 65 × 0.04 = 2.6 which is rounded to 3.0.~~

~~(p) Fuel efficiency requirements will be applicable for additional or replacement vehicles placed in service each year by a Fairfax County operator effective~~

~~(i) July 1, 2010 and if -~~

~~A. primarily fueled by gasoline - 50% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 21 miles per gallon - or -~~

~~B. primarily fueled by a clean special fuel - that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~

~~(ii) July 1, 2012 and if -~~

~~A. primarily fueled by gasoline - 55% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 23 miles per gallon - or -~~

~~B. primarily fueled by a clean special fuel - that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~

~~(iii) July 1, 2014 and if -~~

~~A. primarily fueled by gasoline - 60% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 25 miles per gallon - or -~~

~~B. primarily fueled by a clean special fuel - that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~

~~(iv) Wheelchair accessible vehicles are excluded from the requirements of Section 84.1-8-5(p).~~ (4-00-84.1; 56-08-84.1.)

Section 84.1-8-~~6~~4. ~~–~~ Vehicle Inspections ~~of vehicles~~.

(a) During the initial and each subsequent taxicab inspection, the Taxicab Inspector will inspect and evaluate the taxicab for compliance with Chapter requirements, including: taximeter operation and accuracy; state registration, licensing and safety inspection requirements; vehicle age and mileage; tires; windows and windshield wipers; exterior and interior lights; speedometer and odometer operation; safety equipment including seat belts, mirrors, and horn; exterior lettering and other taxicab markings; the condition of the vehicle's interior and exterior; and the display of materials provided by the Department, including the rate card, complaint notice, and taxicab driver's license.

(b) Prior to the first use and operation of any vehicle under the provisions of this Chapter, the vehicle will be inspected by the Taxicab Inspector ~~and found to comply with the provisions of~~as provided in Section 84.1-8-~~5~~ 4(a)~~and the current motor vehicle laws adopted by the State Commissioner of Motor Vehicles~~. If the Taxicab Inspector determines that the vehicle complies with applicable ~~such vehicle is approved as complying with such~~ regulations, a taxicab certificate setting forth such approval and stating the authorized seating capacity of the vehicle will be issued by the Director to the ~~applicant~~certificate holder. ~~The certificate holder of the vehicle will cause the same to be inspected as required in this Chapter at intervals of no longer than six months.~~

(~~b~~c) Every certificate holder will permit all reasonable inspections by the Taxicab Inspector of taxicabs licensed to operate under this Chapter and will cause each of its taxicabs to be inspected on a periodic basis by the Taxicab Inspector. Taxicabs with a vehicle age of six or fewer model years will be inspected by the Taxicab Inspector annually, with the inspection to occur six months from the month shown on the Virginia Motor Vehicle Safety Inspection decal affixed to the vehicle. Taxicabs with a vehicle age of seven or more model years will be inspected on a semi-annual basis by the Taxicab Inspector at intervals of no longer than six months.

(~~c~~d) ~~The Director will, from time to time, order the inspection of all licensed taxicabs by the~~ If the Taxicab Inspector finds ~~. If~~ any taxicab ~~will be found~~ unsafe for the transportation of passengers, or in an unsanitary condition warranting removal from service, or its taximeter is not registering accurately, then notice will be given to the taxicab driver and certificate holder~~,~~ and it will be unlawful to operate the taxicab until the deficiencies have been corrected and the taxicab has been ~~and~~ re-inspected~~,~~ and

approved for ~~such~~ service. ~~A certificate holder, however, will be given a reasonable time, considering the existing weather conditions, to clean a taxicab unless the interior of the taxicab is in such an unsanitary state as to be unfit for the transportation of passengers, in which event the taxicab will not be placed in service until the condition is corrected.~~

(~~d~~e) The individual numbered ~~vehicle~~ taxicab certificate ~~issued by the Department~~, the current manifest, and the taxicab driver's ~~hacker's~~ license must be presented to any ~~t~~Taxicab ~~i~~Inspector or duly sworn law enforcement officer upon request. (4-00-84.1; 56-08-84.1.)

ARTICLE 9. - Penalties.

Section 84.1-9-1. - General penalties.

Any person who violates or causes to be violated any provision of this Chapter will be guilty of a misdemeanor punishable by a fine of not more than $100 for the first offense and not more than $500 for each subsequent offense. (4-00-84.1; 56-08-84.1; 38-14-84.1.)

ARTICLE 10. - Jurisdictional Reciprocity and Sightseeing Operations.

Section 84.1-10-1. - Jurisdictional reciprocity.

Notwithstanding the provisions of Section 84.1-2-1 ~~respecting the obtaining of an operator's certificate~~, a certificate holder or a taxicab driver ~~duly licensed in Fairfax County~~ will be required to abide by any current reciprocity agreement. (4-00-84.1; 56-08-84.1.)

Section 84.1-10-2. - Sightseeing operations.

A taxicab or other vehicle for hire not licensed in the County, which brings passengers from another jurisdiction into the County for the purpose of sightseeing, may pick up and wait for such passengers for the purpose of continuing such sightseeing trip either within or without the County. Such taxicab may not pick up other passengers in the County except pursuant to the provisions of Section 84.1-10-1. (4-00-84.1; 56-08-84.1.)

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 all taxicab certificates that were awarded by the Board of Supervisors on or before February 11, 2014 are deemed to be authorized as of December 6, 2016.**

4. **That the provisions of this ordinance shall take effect on December 6, 2016.**

GIVEN under my hand this 6th day of December 2016.

_____

Clerk to the Board of Supervisors

Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 4

Authorization of a Public Hearing on a Proposal to Abandon Part of Lee Road (Sully District)

ISSUE:
Authorization of a public hearing on a proposal to abandon a portion of Lee Road.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the abandonment of the subject right-of-way.

TIMING:
The Board should take action on November 1, 2016, to provide sufficient time to advertise the public hearing for December 6, 2016, at 5:00 p.m.

BACKGROUND:
The applicant, Southgate Owner III, LLC, is requesting that a portion of Lee Road be abandoned under §33.2-909 of the Code of Virginia. The subject right-of-way is located on the east side of Lee Road immediately south of Penrose Place. While this right-of-way is not currently in use, it is still technically part of the Virginia Department of Transportation (VDOT) State Secondary System (Route 611).

The applicant has made the request per the requirements of the VDOT street acceptance process for the Lee Road culvert project. VDOT identified the subject right-of-way as a holdover from the original relocation of Lee Road, which was moved from the area occupied by the interchange of US Route 50 and Virginia Route 28 to the current alignment, and recommended to the applicant that the anomalous status of the subject right-of-way be corrected through an abandonment.

As the subject right-of-way is prescriptive, the effect of the abandonment will be to return the right-of-way to the applicant's property which holds the residual fee ownership.

Traffic Circulation and Access
The abandonment will have no long-term impact on pedestrian, transit, or vehicle circulation and access. The area is not in use as a public road, and between them Lee Road and Penrose Place provide all necessary public street service.

Easements
No new public easement needs have been identified. Verizon has service lines within the candidate right-of-way that require an expanded easement. The applicants have provided an easement in a form acceptable to all parties. No other easement needs were identified; as the right-of-way is prescriptive, all the previously recorded easements are valid.

The proposal to abandon this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Application Letter
Attachment II: Notice of Intent
Attachment III: Order of Abandonment
Attachment IV: Abandonment Plat
Attachment V: Metes and Bounds Description
Attachment VI: Vicinity Map

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Donald Stephens, FCDOT

WALSH COLUCCI
LUBELEY & WALSH PC

H. Mark Goetzman
Phone: 703.528.4700 x5452
Fax: 703.528.6050
mgoetzman@thelandlawyers.com

February 3, 2016

BY OVERNIGHT DELIVERY

Donald Stephens
Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895

Re: Request for Proposed Abandonment of a Portion of existing Lee Road right-of-way, Sully District, Fairfax County, Virginia

Dear Donald:

This letter constitutes a request and statement of justification to abandon a portion of what VDOT believes is prescriptive right-of-way that became obsolete upon the realignment of Penrose Place and Lee Road, located in the Sully District, Fairfax County, Virginia (the "Abandoned Area"). This request is made on behalf of Southgate Owner III, LLC (the "Applicant"), pursuant to Virginia Code Section 33.2-909. The Applicant is the owner of the property identified as Fairfax County Tax Map #034-3-01-0032, the property upon which the Abandoned Area is located.

The area to be abandoned is shown on the plat entitled "Plat Showing Abandonment of a Portion of Lee Road Route #661 on the Property of Southgate Owner III, LLC," prepared by Vika Virginia, LLC, dated January 8, 2016, and attached hereto. The total area to be abandoned is 16,329 square feet or 0.37486 acres.

The Abandoned Area is not improved and is not necessary for public right-of-way purposes because Lee Road and Penrose Place have been realigned. Following the abandonment, VDOT will be in a position to add the new alignment areas into state maintenance.

This is a clean-up matter. Therefore, I request your prompt review of this application and ask that the matter be scheduled for a public hearing before the Board of Supervisors as soon as possible. If you have any questions or require additional information, please do not hesitate to give me a call. Nadia Alphonse at VDOT is familiar with this matter.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

H. Mark Goetzman

ATTORNEYS AT LAW

703 528 4700 ▪ WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. ▪ SUITE 1300 ▪ ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 ▪ WOODBRIDGE 703 680 4664

{A0696506.DOC / 1 Justification Letter 02.03.16 002815 000010}

NOTICE OF INTENT TO ABANDON

A PORTION OF EXISTING LEE ROAD RIGHT-OF-WAY (ROUTE 611)
SULLY DISTRICT
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on December 6, 2016, at 5:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, to consider the proposed abandonment of a portion of the existing Lee Road right-of-way, pursuant to Virginia Code §33.2-909. That portion of the road, consisting of 16,329 square feet, is located on Tax Map 034-3-01-0032, and is described and shown on the metes and bounds schedule dated January 11, 2016, and on the plat dated January 8, 2016, each prepared by Vika Virginia, LLC, both of which are on file with the Fairfax County Department of Transportation, 4050 Legato Road, 4th Floor, Fairfax, Virginia 22033. Telephone No. (703) 877-5600.

SULLY DISTRICT
§33.2-909

ORDER OF ABANDONMENT OF

A PORTION OF EXISTING LEE ROAD RIGHT-OF-WAY
SULLY DISTRICT
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this 6th day of December, 2016, it was duly moved and seconded that:

WHEREAS, after conducting a public hearing pursuant to notice as required by Virginia Code §32-909, and after giving due consideration to the historic value, if any, of such road, the Board has determined that no public necessity exists for continuance of this portion of the road as a public road, and that the safety and welfare of the public will be served best by an abandonment,

WHEREFORE, BE IT ORDERED:

That the portion of existing Lee Road Right-of-Way (Route 661) comprising a total area of 16, 329 square feet, located on Tax Map 034-3-01-0032 and shown on the plat dated January 8, 2016, and metes and bounds description dated January 11, 2016, each prepared by Vika Virginia, LLC, and attached hereto and incorporated herein, is hereby abandoned as a public road pursuant to Virginia Code §33.2-909.

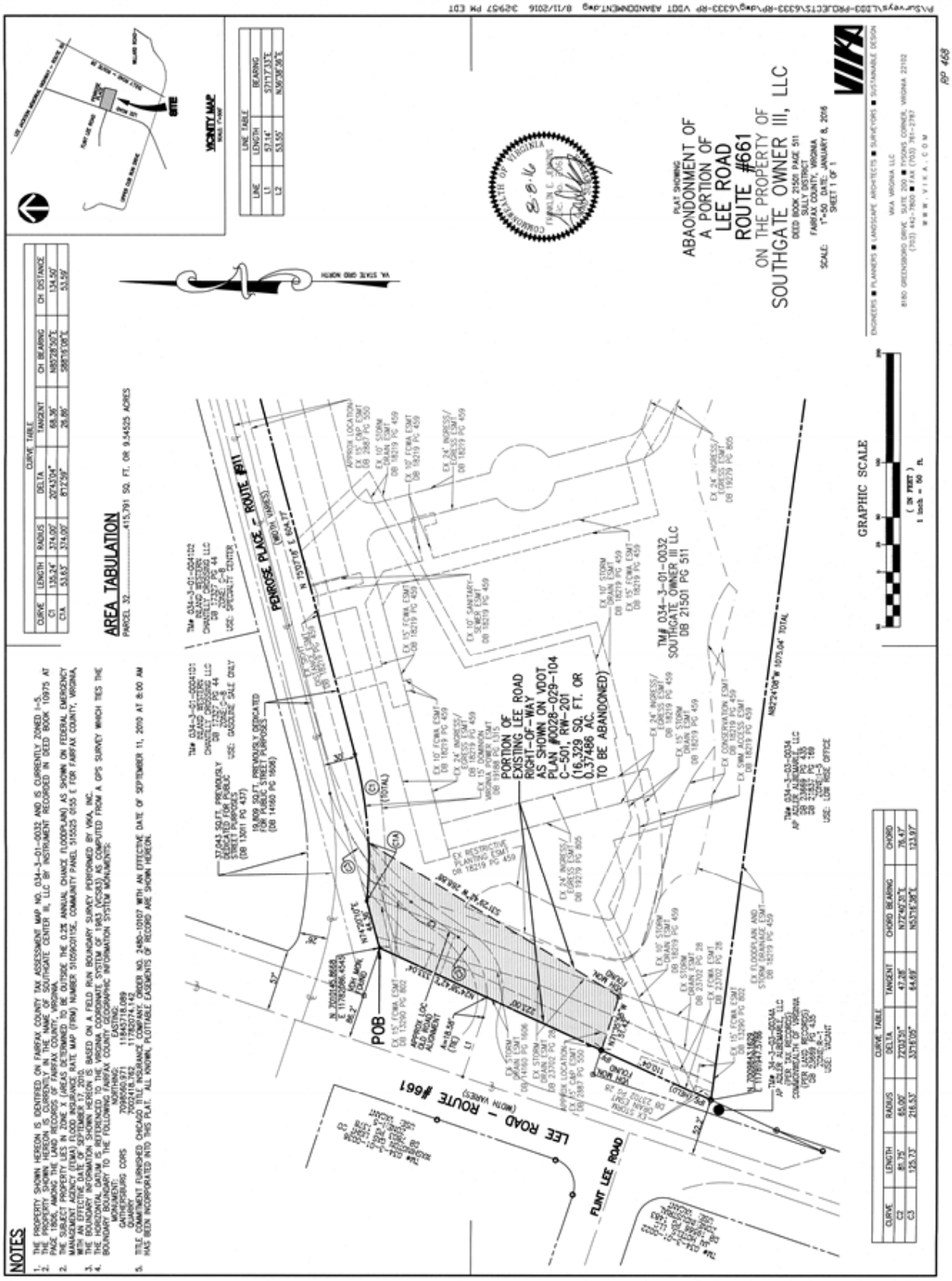
This abandonment is subject to any right, privilege, permit, license or easement in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either currently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

_____

By: Catherine A. Chianese
Clerk to the Board

§332-909


NOTES
1. THE PROPERTY SHOWN HEREON IS IDENTIFIED ON FAIRFAX COUNTY TAX ASSESSMENT MAP NO. 034-3-01-0032 AND IS CURRENTLY ZONED I-5.
2. THE PROPERTY SHOWN HEREON IS CURRENTLY IN THE NAME OF SOUTHGATE CENTER III, LLC BY INSTRUMENT RECORDED IN DEED BOOK 10975 AT PAGE 1804, AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.
3. THE SUBJECT PROPERTY LIES IN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) NUMBER 51059C0115E, COMMUNITY PANEL 515525 0155 E FOR FAIRFAX COUNTY, VIRGINIA, WITH AN EFFECTIVE DATE OF SEPTEMBER 17, 2010.
4. THE BOUNDARY INFORMATION SHOWN HEREON IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY VIKA, INC.
5. THE HORIZONTAL DATUM IS REFERENCED TO THE VIRGINIA COORDINATE SYSTEM OF 1983 (VCS83) AS COMPUTED FROM A GPS SURVEY WHICH TIES THE BOUNDARY BOUNDARY TO THE FOLLOWING FAIRFAX COUNTY GEOGRAPHIC INFORMATION SYSTEM MONUMENTS:
HORIZONTAL 11843178.089
GATHERSBURG CORS 7009060.972
QUARRY 11782074.142
6. TITLE COMMITMENT FURNISHED CHICAGO TITLE INSURANCE COMPANY, ORDER NO. 2480-10107 WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2010 AT 8:00 AM HAS BEEN INCORPORATED INTO THIS PLAT. ALL KNOWN PLOTTABLE EASEMENTS OF RECORD ARE SHOWN HEREON.
CURVE TABLE
CURVE | LENGTH | RADIUS | DELTA | TANGENT | CH BEARING | CH DISTANCE
C1 | 135.24' | 374.00' | 20°43'04" | 68.36' | N85°28'50"E | 134.50'
C1A | 53.63' | 374.00' | 8°12'56" | 26.86' | S89°51'08"E | 53.59'
AREA TABULATION
PARCEL 32 ..... 415,791 SQ. FT. OR 9.54525 ACRES
VA STATE GRID NORTH
VICINITY MAP
SITE
LINE TABLE
LINE | LENGTH | BEARING
L1 | 57.14' | S71°17'33"E
L2 | 53.55' | N50°08'00"E
FLAT SHOWING
ABAONDONMENT OF
A PORTION OF
LEE ROAD
ROUTE #661
ON THE PROPERTY OF
SOUTHGATE OWNER III, LLC
DEED BOOK 21501 PAGE 511
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"=50' DATE: JANUARY 8, 2016
SHEET 1 OF 1
VIKA
ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ SUSTAINABLE DESIGN
VIKA VIRGINIA LLC
8180 GREENSBORO DRIVE, SUITE 200 ■ TYSONS CORNER, VIRGINIA 22102
(703) 442-7800 ■ FAX (703) 741-2797
W W W . V I K A . C O M
GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.
TM# 034-3-01-0032
SOUTHGATE OWNER III LLC
DB 21501 PG 511
PORTION OF
EXISTING LEE ROAD
RIGHT-OF-WAY
AS SHOWN ON VDOT
PLAN #0028-029-104
C-501, RW-201
(16,329 SQ. FT. OR
0.37486 AC.
TO BE ABANDONED)
POB
POE
LEE ROAD - ROUTE #661
(WIDTH VARIES)
FLINT LEE ROAD
CURVE TABLE
CURVE | LENGTH | RADIUS | DELTA | TANGENT | CHORD BEARING | CHORD
C2 | 88.75' | 55.00' | 77°03'20" | 47.28' | N72°40'20"E | 78.47'
C3 | 125.73' | 218.53' | 33°16'05" | 64.69' | N33°16'36"E | 123.97'

ENGINEERS ✪ PLANNERS ✪ LANDSCAPE ARCHITECTS ✪ SURVEYORS ✪ 3D LASER SCANNING

JANUARY 11, 2016

DESCRIPTION OF
A PORTION OF
THE PROPERTY OF
SOUTHGATE OWNER III, LLC
DEED BOOK 21501 PAGE 511
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA

Being a portion of the property of Southgate Owner III, LLC as recorded in Deed Book 21501 at Page 511 among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

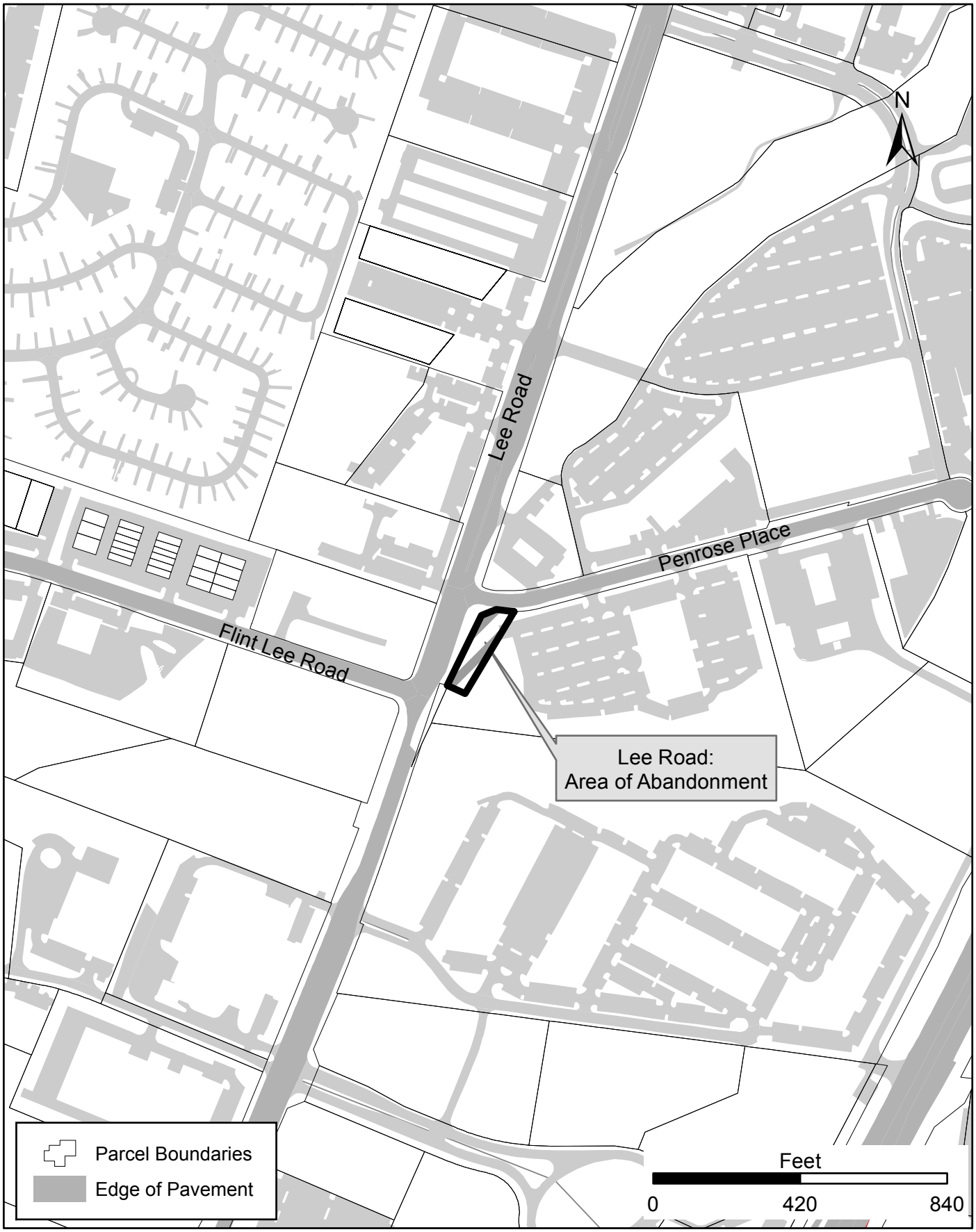
Beginning for the same at a point marking the intersection between the southerly right of way line of Penrose Place – Route 911 (variable width row) and the easterly right of way line of Lee Road – Route 661 (variable with row); thence leaving said easterly right of way line of Lee Road – Route 661 (variable with row) and running with said southerly right of way line of Penrose Place – Route 911 (variable width row) the following two (2) courses and distances

1. North 74°20'10" East, 44.36 feet to a point of curvature (non-tangent); thence
2. 53.63 feet along the arc of a curve to the left having a radius of 374.00 feet and a chord bearing and distance of South 88°16'08" East, 53.59 feet to a point; thence leaving the aforesaid southerly right of way line of Penrose Place – Route 911 (variable width row) and running so as to cross and include a portion of the aforesaid property of Southgate Owner III, LLC (DB 21501 Pg 511) the following two (2) courses and distances
3. South 31°29'42" West, 268.88 feet to a VDH Monument Found; thence
4. North 71°35'58" West, 51.42 feet to an Iron Pipe Found lying on the aforesaid easterly right of way line of Lee Road – Route 661 (variable with row); thence running with said easterly right of way line of Lee Road – Route 661 (variable with row)
5. North 24°38'42" East, 333.04 feet to the point of beginning containing 16,329 square feet or 0.37486 acres of land more or less and being more particularly shown on a plat entitled "Plat Showing Abandonment of a Portion of Lee Road Route #661, on the Property of Southgate Owner III, LLC" dated January 8, 2016 and prepared by VIKA Virginia, LLC.

X:\DATA\6000-6999\VV6333BB\DESCRIPTION\DESCRIPTION VDOT ABANDONMENT AREA.doc

VIKA Virginia, LLC
8180 Greensboro Drive, Suite 200 ✪ Tysons, Virginia 22102 ✪ 703.442.7800 Fax 703.761.2787
Tysons, VA ✪ Germantown, MD ✪ Washington, DC
www.vika.com

Vicinity Map - Tax Map 34-3



Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 5

Authorization of a Public Hearing on a Proposal to Vacate Part of Eskridge Road (Providence District)

ISSUE:
Authorization of a public hearing on a proposal to vacate a portion of Eskridge Road.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the vacation of the subject right-of-way.

TIMING:
The Board should take action on November 1, 2016, to provide sufficient time to advertise the public hearing for December 6, 2016, at 5:00 p.m.

BACKGROUND:
The applicant, Eskridge LLC, is requesting that a portion of Eskridge Road be vacated under §15.2-2270 of the Code of Virginia. The subject right-of-way is located on the west side of Eskridge Road, south of Lee Highway, opposite the Merrifield Town Center entrance. The subject right-of-way is a portion of the formerly planned cul-de-sac for Eskridge Road and was never accepted into the Virginia Department of Transportation's (VDOT) Secondary State Highway System.

The applicant has made the request per the requirements of the VDOT street acceptance process for the Eskridge Road extension, for which they are responsible. With the extension, there is no longer a need for the cul-de-sac in this location. As part of the street acceptance process, VDOT generally requires that excess right-of-way be released whenever possible.

The right-of-way will not revert to the applicant, but to the Four Seasons Tennis Club of Merrifield. The applicant and recipient are aware of this result, and the Four Seasons Tennis Club has committed to executing the necessary easements and reservations.

Traffic Circulation and Access
The vacation will have no long-term impact on pedestrian, transit, or vehicle circulation and access. With the extension of Eskridge Road, a turnaround will no longer be required in this location. Any need for right-of-way for a traffic signal at this location will be protected by a recorded reservation.

Easements
Public easement needs have been identified by the Department of Public Works and Environmental Services. A reservation of right-of-way for future signal hardware, if required for the intersection with the Merrifield Town Center entrance, has been identified by the Fairfax County Department of Transportation and the Department of Planning and Zoning. Dominion Virginia Power, Washington Gas, and Verizon have service lines within the candidate right-of-way. The Four Seasons Tennis Club, the recipient, has committed to provide easements and reservations in a form acceptable to all parties. No other easement needs were identified.

The proposal to vacate this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Statement of Justification
Attachment II: Notice of Intent
Attachment III: Ordinance of Vacation
Attachment IV: Vacation Plat
Attachment V: Metes and Bounds Description
Attachment VI: Vicinity Map

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Donald Stephens, FCDOT

O'Hara Law Firm, PLC

ATTORNEYS AT LAW

Sara Towery O'Hara
Admitted in Virginia
& District of Columbia
sohara@oharalaw.net

131 E. Broad Street
Suite 208
Falls Church, Virginia 22046
Telephone: (703) 538-4990
Facsimile: (703) 538-4992

Charles J. O'Hara
Admitted in Virginia
& District of Columbia
cohara@oharalaw.net

December 28, 2012

Department of Transportation
County of Fairfax
Centerpointe 1 Office Building
4050 Legato Road, 4th Floor
Fairfax, Virginia 22033-2867

Re: Vacation of a portion of Eskridge Road

Dear Sir or Madam:

My client, Eskridge (E&A), LLC, is requesting the vacation of a portion of Eskridge Road adjacent to property owned by The Four Seasons Tennis Club of Merrifield, Limited Partnership under Virginia Code Section 15.2-2271. Enclosed are the following items:

(1) Letter of Request and Justification (18 copies)
(2) $200.00 processing fee payable to the County of Fairfax
(3) Recordable plat (18 copies) showing the location of all utilities within the subject area (where feasible), as wellas overhead power lines, and County Assessment Map Reference Number.
(4) Metes and bounds legal description of the area to be vacated (18 copies)
(5) Notice of Public Hearing (original + 18 copies)
(6) Order of Vacation (original + 18 copies)
(7) Vicinity Map/Fairfax County Assessment Map (18 copies)
(8) Applicable portions of the accompanying site plan/development plan (18 copies)

Please contact me with any questions or comments.

Very truly yours,

O'HARA LAW FIRM, PLC

Sara T. O'Hara

Sara T. O'Hara

LETTER OF REQUEST AND JUSTIFICATION

December 28, 2012

Board of Supervisors of Fairfax County
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

The portion of Eskridge Road requested to be vacated is a part of the bulb of a cul-de-sac that was the end of the improved road when dedicated in 1995. Eskridge Road is now under a proposed County/VDOT roadway connection plan between Inova Hospital and the Dunn Loring Metro station so the cul-de-sac is no longer necessary.

ATTACHMENT II

NOTICE OF INTENT TO
ADOPT AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

ESKRIDGE ROAD

Providence District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on December 6, 2016, at 5:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204, to consider vacating a part of the plat of street dedication recorded in Deed Book 9338 at Page 301, on which is shown a bulb of Eskridge Road in the north east corner of Tax Map Number 49-3 ((1)) 90. The road is described and shown on the metes and bounds schedule and plat prepared by Dewberry Consultants LLC, dated November 9, 2015, and March 2008, respectively, both of which are on file in the Fairfax County Department of Transportation, 12055 Government Center Parkway, Suite 1034, Fairfax, Virginia, 22035, telephone number (703) 324-1135. All persons wishing to speak on this subject may call the Office of the Clerk to the Board, (703) 324-3151, to be placed on the Speaker's List, or may appear and be heard.

PROVIDENCE DISTRICT.

§ 15.2-2270(2)

ATTACHMENT III

ADOPTION OF AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

ESKRIDGE ROAD

Providence District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Governmental Center in Fairfax County, Virginia, on December 6, 2016, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. §15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia: that Part of the Plat of Street Dedication and the Granting of a 15' Storm Drainage Easement recorded in Deed Book 9338 at Page 301, on which is shown a bulb of Eskridge Road in the north east corner of Tax Map 49-3 ((1)) 90, and described and shown on the metes and bounds schedule and plat prepared by Dewberry Consultants LLC, dated November 9, 2015, and March 2008, respectively, and attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2270(2).

This vacation is subject to any right, privilege, permit, license, easement, in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either currently in use or of record, including the right to operate, maintain, replace, alter, extend, increase, or decrease in size any facilities in the vacated roadway, without any permission of the landowner.

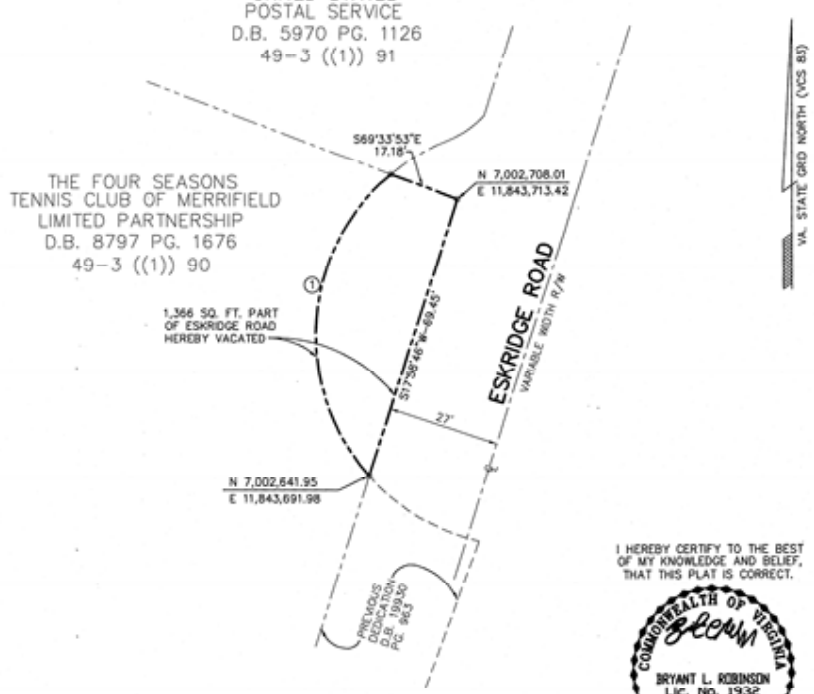
A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

§15.2-2270(2)

CURVE TABLE

NO.	RADIUS	DELTA	ARC	TANGENT	CHORD	BEARING
1	50.00'	92°32'07"	80.75'	52.26'	72.26'	N04°14'22"E



VICINITY MAP
SCALE: 1"=2,000'

NOTES:

1. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAP 49-3.
2. BOUNDARY INFORMATION SHOWN HEREON BASED ON EXISTING RECORDS.

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS PLAT IS CORRECT.

COMMONWEALTH OF VIRGINIA
BRYANT L. ROBINSON
LIC. NO. 1932
11-2-15
LAND SURVEYOR

PLAT SHOWING
VACATION OF PART OF
ESKRIDGE ROAD
D.B. 9338 PG. 301

PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=20' MARCH, 2008

Dewberry®
Dewberry Consultants LLC
8401 ARLINGTON BLVD.
FAIRFAX, VA 22031
PHONE: 703.849.0100
FAX: 703.849.0518

SHEET 1 OF 1

RPB-4477

X:\PROJECT\P98-001\SC002\DWG\ESKRIDGE ROAD\PLATS\STREET VACATION.DWG

DESCRIPTION OF
PART OF ESKRIDGE ROAD
(PROPOSED VACATION)
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

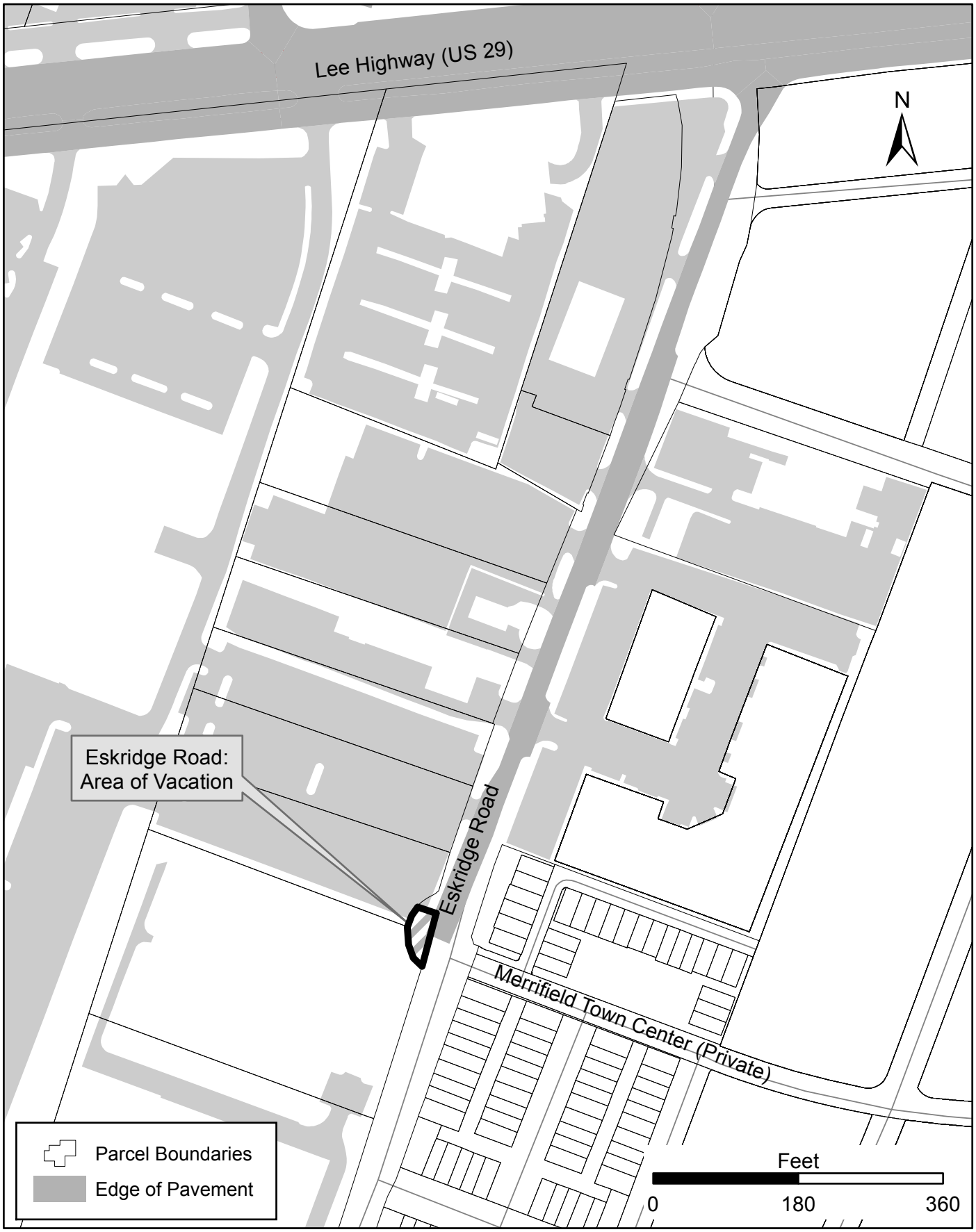
Beginning at a point on the westerly line of Eskridge Road, marking the common easterly corner to the United States Postal Service and The Four Seasons Tennis Club Of Merrifield Limited Partnership; thence through Eskridge Road S69°33'53"E, 17.18 feet and S17°58'46"W, 69.45 feet to a point marking an easterly corner to The Four Seasons Tennis Club Of Merrifield Limited Partnership; thence with the westerly line of Eskridge Road with a curve to the right whose radius is 50.00 feet and whose chord is N04°14'22"E, 72.26 feet, an arc distance of 80.75 feet to the point of beginning, containing 1,366 square feet of land.

All being more particularly described on a plat hereto attached and made a part hereof.

Given under my hand this 9th day of November 9, 2015

COMMONWEALTH OF VIRGINIA
BRYANT L. ROBINSON
Lic. No. 1932
11-9-15
LAND SURVEYOR

Vicinity Map - Tax Map 49-3



Board Agenda Item
November 1, 2016

ADMINISTRATIVE - 6

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

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

RECOMMENDATION:
The County Executive recommends that the Board endorse a traffic calming plan for Clifton Street consisting of the following:

- Two Speed Humps on Clifton Street (Mason 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 November 1, 2016.

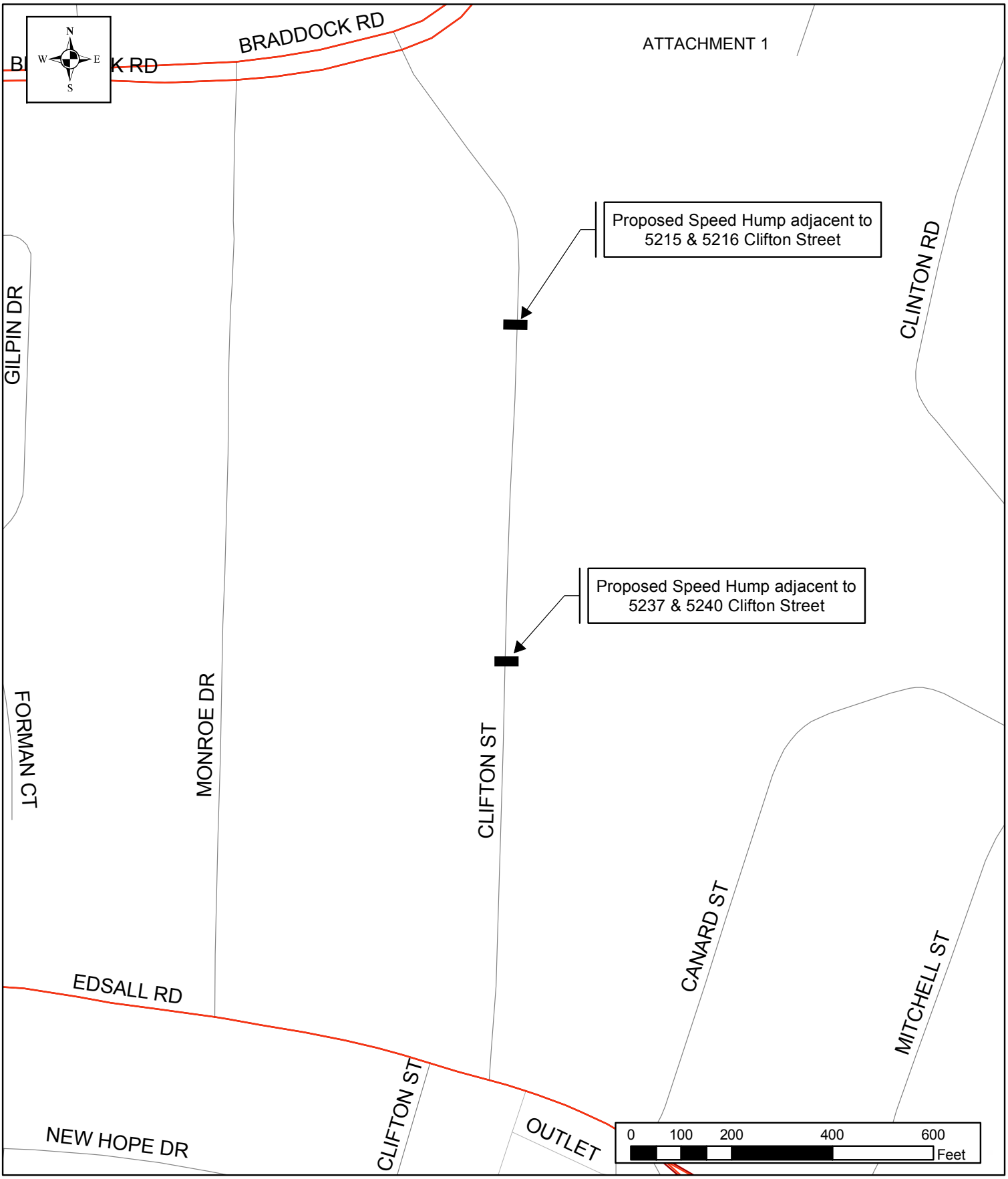
BACKGROUND:
As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners' or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, traffic circles or when applicable, multi-way stop signs (MWS) 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 September 12, 2016, FCDOT received verification from the local Supervisor's office confirming community support for the above referenced traffic calming plan.

Board Agenda Item
November 1, 2016

FISCAL IMPACT:
Funding in the amount of $14,000 for the traffic calming measure associated with the Clifton Street project is available in Fund 300-C30050, General Fund, under Job Number 2G25-076-000.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Clifton Street (Mason District)

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. 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
Behnaz Razavi, Transportation Planner, Traffic Engineering Section, FCDOT



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
CLIFTON STREET
Mason District

A Fairfax County, VA., Publication

Tax Map: 71-4 June 2016

Board Agenda Item
November 1, 2016

ADMINISTRATIVE – 7

Authorization to Advertise a Public Hearing on the Acquisition of Certain Land Rights Necessary for the Rehabilitation of the Difficult Run Force Main (Hunter Mill and Dranesville Districts)

ISSUE:
Board authorization to advertise a public hearing on the acquisition of certain land rights necessary for the construction of Project WW-000008-003, Difficult Run Force Main Rehabilitation, Fund 690-C69300, Sewer Construction Improvements.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for December 6, 2016, at 5:00 p.m.

TIMING:
Board action is requested on November 1, 2016, to provide sufficient time to advertise the proposed public hearing on the acquisition of certain land rights necessary to keep this project on schedule.

BACKGROUND:
This project consists of rehabilitating the 5.7-mile, 36-inch Difficult Run Force Main (DRFM). Rehabilitation of the DRFM is critical to the County's wastewater program, as it will allow millions of gallons of County wastewater per day to be treated at the Noman M. Cole, Jr. Pollution Control Plant (NCPCP) rather than at the DC Water Blue Plains Treatment Plant (Blue Plains), where the County is approaching its capacity limit. The DRFM will allow the County to immediately reduce the flow of wastewater to Blue Plains and will allow for cost-optimized treatment options between NCPCP and Blue Plains in the future. The DRFM and the Difficult Run Pump Station (DRPS), which it serves, were placed into service in 1981, but were taken out of service in 1995 due to problems with the DRFM, odor concerns, and the economics of keeping the DRPS in operation. Improvements to Difficult Run Force Main include lining, pipe replacement, point repairs, and the installation of access vaults for periodic cleaning and maintenance. The DRPS is currently being rehabilitated but cannot come back online (scheduled for late summer 2017) until rehabilitation is completed.

Land rights for these improvements are required on two (2) properties consisting of a 34,442 square-foot Maintenance Access Easement.

Negotiations are in progress with the affected property owners; however, because resolution of the acquisition is not imminent, it may be 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 WW-000008, Force Main Rehabilitation, Fund 69300, Sewer Construction Improvements. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to 2026). No additional funding is being requested from the Board.

CREATION OF NEW POSITIONS:
There are no new positions associated with this project.

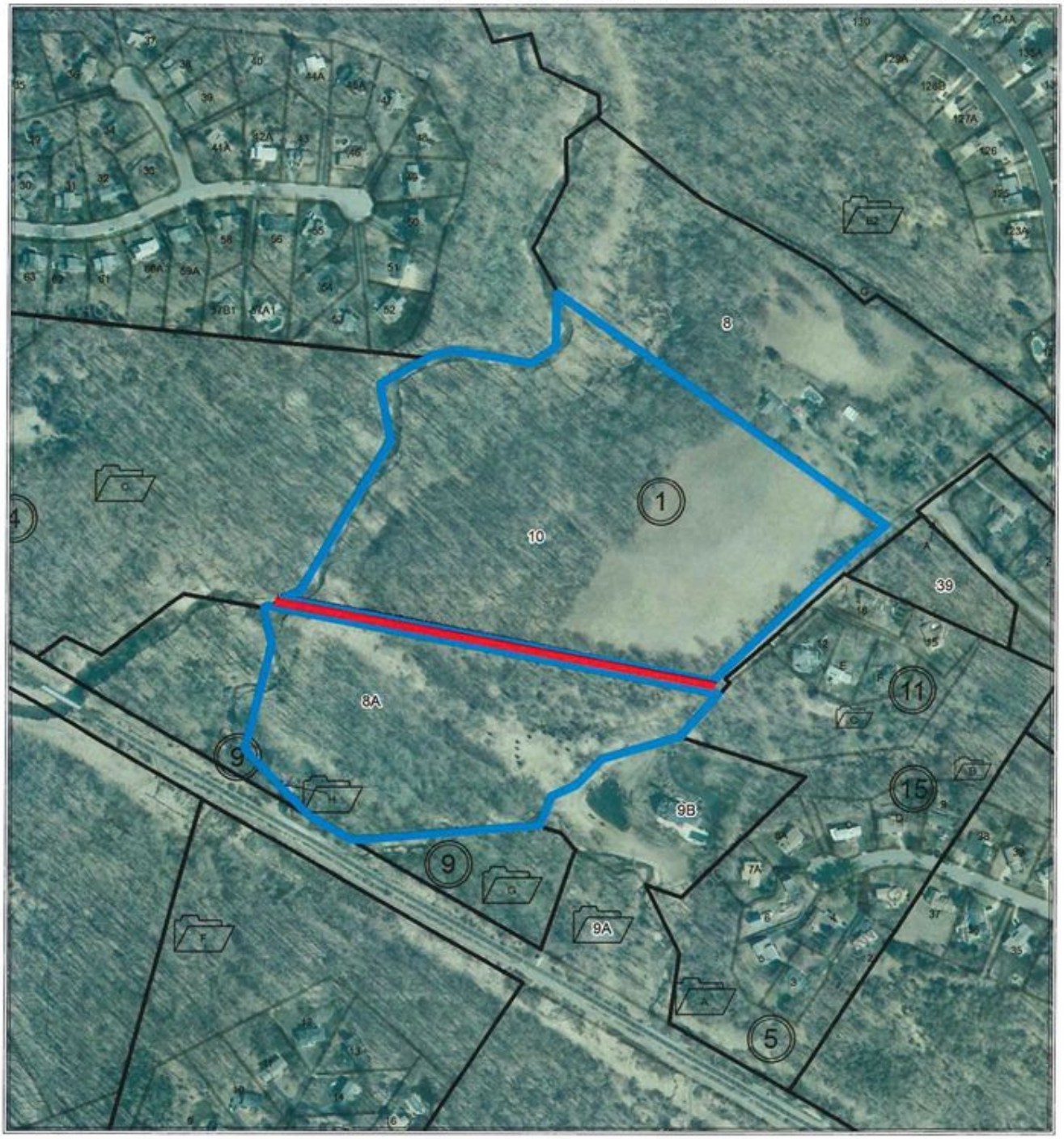
ENCLOSED DOCUMENTS:
Attachment A - Project Location Map
Attachment B - Listing of Affected Properties

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

DIFFICULT RUN FORCE MAIN

ATTACHMENT A

N



Tax Map: 27-2

Project WW-000008-003
Hunter Mill District

Affected Properties:

Proposed Maintenance Access Easement:

0 0.045 0.09 0.18 Miles

ATTACHMENT B

LISTING OF AFFECTED PROPERTIES
Project WW-000008-003
Difficult Run Force Main Rehabilitation
(Hunter Mill and Dranesville Districts)

PROPERTY OWNER(S)

1. McDiarmid Land Trust — 027-2-01-0008A, 027-2-01-0010

Address:
9942 Meadowlark Rd., Vienna, VA 22182

Board Agenda Item
November 1, 2016

ACTION - 1

Approval of a Memorandum of Understanding Between the Fairfax County Police Department, the United States Attorney for the District of Columbia and the Metropolitan Police Department of Washington, D.C.

ISSUE:
Board of Supervisors' approval of a Memorandum of Understanding between the Fairfax County Police Department, the United States Attorney for the District of Columbia, and the Metropolitan Police Department of Washington, D.C. authorizing Fairfax County Police Department to participate as members in the Presidential Inauguration Task Force (PITF).

RECOMMENDATION:
The County Executive recommends that the Board authorize the Chief of Police to sign the Memorandum of Understanding between the Police Department, the United States Attorney for the District of Columbia, and the Metropolitan Police Department of Washington, D.C.

TIMING:
Board of Supervisors' action is requested on November 1, 2016.

BACKGROUND:
The Presidential Inauguration Task Force (PITF) will be established as a joint operation between a number of federal, state and local law enforcement agencies, for the period from January 15, 2017 to January 21, 2017. Its mission will be to "achieve maximum coordination and cooperation in bringing to bear combined resources to effectively implement measures to promote the safety of the President of the United States, inaugural participants, the public, visitors and residents while allowing individuals and groups to exercise their legal rights."

As a member of the task force, the Fairfax County Police Department will provide resources, share information, and coordinate its law enforcement and investigative activities in keeping with the stated mission.

The Department will assign approximately 130 police officers to the task force; assignees will be federally deputized by the United States Marshals Service for a period to last through the entire tenure of their assignment or until the termination of the task force, whichever occurs first. Fairfax County will assume all

associated personnel costs for assigned officers, with reimbursement for costs to be made by the District of Columbia.

FISCAL IMPACT:
None

ENCLOSED:
Attachment 1: Memorandum of Understanding between the Fairfax County Police Department, the United States Attorney for the District of Columbia, and the Metropolitan Police Department of Washington, D.C.

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is executed by the United States Attorney's Office for the District of Columbia, the Metropolitan Police Department of Washington, D.C. (MPD) and the Fairfax County Police Department.

I. PURPOSE

The purpose of the MOU is to outline the mission of the Presidential Inauguration Task Force (PITF) in the Washington, D.C. area from January 15, 2017, to January 21, 2017. Additionally, this MOU will define relationships between the U.S. Marshals Service, MPD and the Fairfax County Police Department, as well as other participating agencies with regard to policy, guidance, utilization of resources, planning, training, public relations and media in order to maximize interagency cooperation.

II. MISSION

The mission of the PITF is to achieve maximum coordination and cooperation in bringing to bear combined resources to effectively implement measures to promote the safety of the President of the United States, inaugural participants, the public, visitors and residents while allowing individuals and groups to exercise their legal rights.

Additionally, all units that are participating agencies will coordinate their activities and be considered a member of the PITF, sharing information and coordinating investigative and law enforcement efforts which may result from any apprehensions originating from the PITF.

III. ORGANIZATIONAL STRUCTURE

A. Direction

The Fairfax County Police Department acknowledges that the PITF is a joint operation in which all agencies, including the MPD, the United States Attorney's Office for the District of Columbia, United States Marshals Service, United States Secret Service, United States Federal Bureau of Investigation, National Park Service, the Fairfax County Police Department and other agencies, act as partners in the operation of the PITF. The Command Center for the operations will be located at the MPD Headquarters and will be staffed by officers from the United States Marshals Service, MPD, U.S. Park Police, and the Federal Bureau of Investigation. These officers will serve as the Executive Council for this operation.

B. Supervision

The day-to-day operation and administrative control of the PITF will be the responsibility of a Tactical Team Commander selected from one of the participating agencies. The Tactical Team Commander will coordinate with supervisory personnel of the United States Secret Service as the sponsoring agency for Special Deputation (federal) and with MPD as the lead agency for the operation. The daily management of the PITF will be closely monitored by the MPD.

Responsibility for the conduct of the PITF members, both personally and professionally, shall remain with the respective agency directors subject to the provisions in Section IX (Liability).

C. Unilateral Law Enforcement Action

There shall be no unilateral action taken on the part of any participating non-federal or non-MPD law enforcement agency relating to PITF activities. All law enforcement action by participating non-federal and non-MPD law enforcement agencies will be coordinated and conducted in a cooperative manner under the direction of the Executive Council and the MPD.

IV. PROCEDURES

A. Personnel

Continued assignment of personnel to the PITF will be based upon performance and will be at the discretion of the respective agency. Each participating agency will be provided with reports as necessary regarding the program, direction, and accomplishment of the PITF.

B. Deputation

All local and state law enforcement personnel designated to the PITF will be subject to background inquiry and will be federally deputized, with the United States Marshals Service securing the required deputation authorization. These deputations will remain in effect throughout the tenure of each officer's assignment to the PITF or until termination of the PITF, whichever occurs first. Each individual deputized as a Special Deputy U.S. Marshal will have all necessary law enforcement authority as provided by 28 U.S.C. § 566(c) and (d); 28 U.S.C. § 564; 18 U.S.C. § 3053; 28 C.F.R. § 0.112, and the deputation authority of the Deputy Attorney General. The Special Deputy U.S. Marshals will be responsible for: 1) performing necessary law enforcement steps to keep the peace of the United States; 2) enforcing federal law (e.g., 18 U.S.C. §§ 112, 1116, and 878, as well as other provisions of that title); 3) protecting visiting foreign officials, official guests, and internationally protected persons; 4) taking necessary law enforcement steps to prevent violations of federal law, and; 5) enforcing District of Columbia law as a result of the deputation (see 23 D.C. Code § 581 and 28 U.S.C. § 564).

Individuals deputized as Special Deputy U.S. Marshals pursuant to this MOU who suffer a disability or die as a result of personal injury sustained while acting within the course and scope of their official duties and assignments pursuant to this MOU shall be treated as a federal employee as defined by Title 5 U.S.C. § 8101. Any such individuals who apply to the U.S. Department of Labor for federal workers' compensation under Section 3374 must submit a copy of this MOU with his or her application. All applicants will be processed by the U.S. Department of Labor on a case by case basis in accordance with applicable law and regulation.

C. Law Enforcement Activities

Since it is anticipated that almost all cases originating from any PITF arrests will be prosecuted at the state or local level, the law enforcement methods employed by all participating law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to a change of venue for prosecution.

D. Prosecution

The criteria for determining whether to prosecute a particular violation in federal or state court will focus upon achieving the greatest overall benefit to law enforcement and the community. Any question which arises pertaining to prosecutorial jurisdiction will be resolved through the Executive Council. The U.S. Attorney's Office for the District of Columbia has agreed to formally participate in the PITF and will adopt policies and seek sentences that meet the needs of justice.

V. ADMINISTRATIVE

A. Records and Reports

All records and reports generated by PITF members shall be routed through the Tactical Team Commander who shall be responsible for maintaining custody and proper dissemination of said records as he or she deems appropriate.

B. Staff Briefings

Periodic briefings on PITF law enforcement actions will be provided to the directors of the participating agencies or their designees. Statistics regarding accomplishments will also be provided to the participating agencies as available.

VI. MEDIA

All media releases pertaining to PITF law enforcement activity and/or arrests will be coordinated by all participants of this MOU. No unilateral press releases will be made by any participating agency without the prior approval of the Executive Council. No information pertaining to the PITF itself will be released to the media without mutual approval of all participants.

VII. EQUIPMENT

A. PITF Vehicles

Each participating agency, pending availability and individual agency policy, agrees and authorizes PITF members to use vehicles, when available, owned or leased by those participating agencies, in connection with PITF law enforcement operations. In turn, each participating agency agrees to be responsible for any negligent act or omission on the part of its agency or its employees, and for any liability resulting from the misuse of said vehicles, as well as any damage incurred to those vehicles as a result of any such negligent act or omission on the part of the participating agency or its employees, subject to the provisions of Section IX (Liability).

Participating agency vehicles assigned to the PITF are subject to funding availability, are provided at the discretion of the supervisor of the providing agency, and will be used only by PITF members. Vehicles provided by participating agencies will be used only during working hours and will not be used for transportation to and from work by task force members or used for any other purpose. Participating agencies will provide maintenance and upkeep of their vehicles consistent with each agency's policy. Vehicles provided as pool vehicles for PITF use will be parked at the end of each shift at a location determined by the Tactical Team Commander or his/her designee.

B. Other Equipment

Other equipment furnished by any agency for use by other agencies' participating personnel shall be returned to the originating agency upon termination of the PITF or this MOU.

VIII. FUNDING

The Fairfax County Police Department agrees to provide the full-time services of its respective personnel for the duration of this operation, and to assume all personnel costs for their PITF representatives, including salaries, overtime payments, and fringe benefits consistent with their respective agency policies and procedures. Reimbursement for the cost of such personnel will be made by the District of Columbia, with funds provided by the United States and from general revenue.

IX. LIABILITY

Unless specifically addressed by the terms of this MOU, the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees.

For the limited purpose of defending claims arising out of PITF activity, state or local law enforcement officers who have been specially deputized as U.S. Marshals and who are acting within the course and scope of their official duties and assignments pursuant to this MOU, may be considered an "employee" of the United States government as defined in 28 U.S.C. 2671. It is the position of the Department of Justice Civil Division Torts Branch that such individuals are federal employees for these purposes.

Under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (commonly known as the Westfall Act), 28 U.S.C. § 2679(b)(1), the Attorney General or his designee may certify that an individual defendant acted within the scope of employment at the time of the incident giving rise to the suit. Id., 28 U.S.C. § 2679(d)(2). The United States can then be substituted for the employee as the sole defendant with respect to any tort claims. 28 U.S.C. § 2679(d)(2). If the United States is substituted as defendant, the individual employee is thereby protected from suit.

If the Attorney General declines to certify that an employee was acting within the scope of employment, "the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment." 28 U.S.C. § 2679(d)(3).

Liability for any negligent or willful acts of PITF employees, undertaken outside the terms of this MOU will be the sole responsibility of the respective employee and agency involved.

Both state and federal officers enjoy qualified immunity from suit for constitutional torts insofar as their conduct does not violate "clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). Liability for violations of federal constitutional and statutory law rests with the individual federal agent or officer pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or pursuant to 42 U.S.C. § 1983 for state and local officers or cross-deputized federal officers. PITF officers may request representation by the U.S. Department of Justice for civil suits against them in their individual capacities for actions taken within the scope of employment. 28 C.F.R. § 50.15, 50.16. Legal representation by the United States may be requested but is determined by the Department of Justice on a case-by-case basis. There is no guarantee that the United States will provide legal representation to any federal, state or local law enforcement officer.

Except for civil actions brought pursuant to the Constitution and statutes of the United States, Congress has provided that the exclusive remedy for the negligent or wrongful act or omission of any employee of the United States government, acting within the scope of employment, shall be an action against the United States under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2679(b)(2).

An employee may be provided representation when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and the Attorney General or his designee determines that providing representation would otherwise be in the interest of the United States. 28 C.F.R. § 50.15(a). A PITF officer's written request for representation should be directed to the Attorney General and provided to the Civil Division of the U.S. Attorney's Office for the District of Columbia, which will then forward the representation request to the Civil Division of the United States Department of Justice together with a recommendation concerning scope of employment and Department representation. 28 C.F.R. § 50.15(a)(3).

Nothing in this MOU guarantees any reimbursement of representation obtained by private counsel unless such representation has been authorized by the U.S. Department of Justice.

If a PITF officer is found to be personally liable for a tort, he/she may request indemnification from the Department of Justice to satisfy an adverse judgment rendered against the employee in his/her individual capacity. 28 C.F.R. § 50.15(c)(4). The criteria for payment are substantially similar to those used to determine whether a federal employee is entitled to Department of Justice representation under 28 C.F.R. § 50.15(a).

Those PITF officers from participating agencies that are covered by the provisions of § 7302 of the National Intelligence Reform and Terrorism Prevention Act of 2004, PL 108-458, 118 Stat. 3538, as amended, and PL 110-250, 122 Stat. 2318 ("the Act"), also have the liability protection afforded by that Act.

X. DURATION

This MOU shall remain in effect until terminated as specified above, unless that date is modified as set forth in Section XI. Continuation of the MOU shall be subject to the availability of necessary funding. This agreement may be terminated at any time by any of the participating agencies. The Fairfax County Police Department may withdraw from this MOU at any time by providing a seven-day written notice of its intent to withdraw to the MPD. Upon the termination of the MOU, all equipment will be returned to the supplying agencies.

XI. MODIFICATIONS

The terms of this MOU may be modified at any time by written consent of all parties. Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

XII. LIMITATION

Nothing in this MOU is intended to, or shall be construed to create enforceable rights in third parties.

MURIEL BOWSER
MAYOR
DISTRICT OF COLUMBIA

CHANNING D. PHILLIPS
UNITED STATES ATTORNEY
DISTRICT OF COLUMBIA

COLONEL EDWIN C. ROESSLER, JR
CHIEF OF POLICE
FAIRFAX COUNTY POLICE DEPARTMENT
FAIRFAX, VIRGINIA

Board Agenda Item
November 1, 2016

ACTION – 2

Authorization to Sign a Standard Component Agreement (SCA) for Distribution of I-66 Inside the Beltway Toll Revenues Allocated by the Commonwealth Transportation Board to the Northern Virginia Transportation Commission NVTC (Providence and Braddock Districts)

ISSUE:
Board approval for the Director of the Department of Transportation to execute a SCA between Fairfax County and the NVTC. The SCA will govern the terms of the transfer of funds allocated by the NVTC, under the Transform 66: Inside the Beltway Project (2016) Memorandum of Agreement (MOA), and ensure that the requirements of the MOA and the SCA are met.

RECOMMENDATION:
The County Executive recommends that the Board authorize the Director of the Department of Transportation to sign the SCA, substantially in the form of Attachment 1, between the County and the Northern Virginia Transportation Commission (NVTC), for distribution of $3.3 million in I-66 toll revenues. These funds will be allocated to Fairfax County by NVTC to finance new commuter bus service on I-66 between Fairfax County Government Center Park and Ride lot and the State Department Complex in Foggy Bottom.

TIMING:
Board action is requested on November 1, 2016, so that the NVTC can begin distributing funding to Fairfax County in advance of the proposed start of service in summer 2017. Following the execution of the agreement by both parties, the County will receive reimbursement funding from the NVTC.

BACKGROUND:
In January 2016, the Commonwealth Transportation Board (CTB), the Virginia Department of Transportation (VDOT), and NVTC signed the aforementioned MOA to initialize a multimodal transportation program, Transform 66 the project seeks to fund and implement solutions to move more people in the I-66 corridor. This program will use toll revenues to support projects that are reasonably expected to benefit the toll payers after Inside the Beltway is converted to a high occupancy toll (HOT) facility. Tolls will be implemented in the peak direction during the morning and evening peak periods.

Under the MOA, NVTC is responsible for selecting and administering multimodal projects that allow more people to travel faster and more reliably through the I-66 Inside

the Beltway corridor. The principal objective of the Transform 66 Multimodal Project is to select components that meet Transform 66 Multimodal Project Improvement Goals identified in the MOA. The goals are to (1) move more people, (2) enhance transportation connectivity, (3) improve transit service, (4) reduce roadway congestion, and (5) increase travel options.

On March 15, 2016, the Board authorized the Director of the Department of Transportation to submit two project component grant applications to the NVTC to request funding for I-66 Express Bus Service, Inside the Beltway. One route will operate between the Stringfellow Road Park and Ride lot, the Pentagon, and Mark Center via I-66 and I-395. The other route will run between Fairfax County Government Center Park and Ride lot and the State Department Complex in Foggy Bottom.

NVTC received $42.7 million in funding requests for 19 components. It's anticipated that $10 million will be available initially for funding. On May 5 and 18, 2016 NVTC held two public meetings on the component applications in Arlington and Reston, respectively. NVTC accepted public comment until May 23, 2016. County staff participated in the Multimodal Working Group of the Transform 66 Project. After an extensive and deliberative evaluation process, the Multimodal Working Group recommended funding ten of the 19 components, totaling $9.8 million. Though both proposals submitted by Fairfax County staff scored relatively well, the Government Center to Foggy Bottom route was selected for funding.

On June 2, 2016, the NVTC approved the ten components recommended by the Multimodal Working Group. The project components will be funded through an advanced allocation of $5 million that stipulates that, in addition to meeting the improvement goals and component types identified in the MOA, funding for these initial components must be obligated no later than the first-day tolling commences (summer 2017). Subsequently, the CTB authorized an additional $5 million to fund the components approved by the Commission. The CTB approved the list of project components on July 28.

The MOA specifies that the NVTC may use toll revenues to support the financing of approved components. To accomplish this, the NVTC developed the SCA, in consultation with the respective localities and public transportation providers, to govern the terms of this transfer and ensure that the requirements of the MOA are met. The SCA must be approved by the County and the Commission before distributions may occur.

FISCAL IMPACT:
Annual estimated costs of $3,300,000 associated with the proposed Fairfax Connector route from the Fairfax County Government Center Park and Ride lot to the State Department Complex in Foggy Bottom will be reimbursed by NVTC as part of the Transform 66 Multimodal Project through State Aid contributions in Fund 40000, County

Transit Systems. Funding will be planned in the *FY 2017 Third Quarter Review,* so that it is available prior to the commencement of tolling in the summer of 2017 (per the MOA). Future funding for transit service in the corridor will come from toll revenues generated by Inside and Outside the Beltway express lane projects and will be included in subsequent budget processes. There is no General Fund impact.

ENCLOSED DOCUMENTS:
Attachment 1 – Standard Component Agreement for Transform 66: Inside the Beltway Project, Toll Revenue Funding of Components and Administration
Attachment 2 – Memorandum of Agreement Transform 66: Inside the Beltway Project
Attachment 3 – Map: Government Center to Foggy Bottom Route

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT
Emily Smith, Assistant County Attorney
Malcolm Watson, Coordination and Funding Division, FCDOT

Standard Component Agreement for Transform 66: Inside the Beltway Project, Toll Revenue Funding of Components and Administration

Between the Northern Virginia Transportation Commission and Fairfax County

NVTC Component Number: _____

This Standard Component Agreement for Transform 66: Inside the Beltway Project, Toll Revenue Funding of Components and Administration ("this Agreement") is made and executed in duplicate on this_____ day of _____, 20__, by and between the Northern Virginia Transportation Commission ("NVTC") and Fairfax County ("Recipient Entity").

WITNESSETH

WHEREAS, NVTC is a political subdivision of the Commonwealth of Virginia created by the General Assembly in accordance with the Transportation District Act of 1964, §§ 33.2-1900 et seq. of the Code of Virginia, 1950, as amended, and is authorized to enter into this Agreement by the provisions of § 33.2-1915 of the Code of Virginia,1950, as amended;

WHEREAS, NVTC entered into a Memorandum of Agreement Transform 66: Inside the Beltway Project ("MOA"), on January 5, 2016, with the Commonwealth Transportation Board ("CTB"), and the Virginia Department of Transportation ("VDOT"), as such may be amended from time to time, which MOA delegated to NVTC the authority to select and administer the implementation of multimodal transportation improvements to the roadways and associated transportation and transit facilities ("Components") in the vicinity of the portion of I-66 beginning at the intersection of I-66 and I-495 (the "Beltway") and ending at U.S. Route 29 in the Rosslyn area of Arlington County, Virginia (said portion of I-66 being referred to as the "Facility") which Components are designed to attain the Improvement Goals defined in the MOA, specifically, to (1) move more people; (2) enhance transportation connectivity; (3) improve transit service; (4) reduce roadway congestion; and (5) increase travel options all of which are reasonably expected to benefit the toll paying users of the Facility;

WHEREAS, the MOA provides for the transfer to and use by NVTC of a portion of the funds collected from the CTB's tolling of the Facility ("Toll Revenue") for the implementation of Components selected by NVTC and approved by the CTB, as well as

operating costs related to Components, and NVTC financing and debt service payments and any allowable costs related thereto;

WHEREAS, based on information provided by Recipient Entity in response to NVTC's call for Components, NVTC has determined the Component set forth and described on Appendix A to this Agreement satisfies the requirements of Section II.B.1 of the MOA, and the provisions of § 33.2-309 of the Code of Virginia, 1950, as amended, and the CTB has approved use of Toll Revenue to fund such Component;

WHEREAS, the Toll Revenue to be provided by NVTC described in Appendix B have been duly authorized and directed by Recipient Entity to finance the Component, and the Recipient Entity is authorized to enter into this Agreement and has authorized execution of it on its behalf;

WHEREAS, NVTC agrees that Recipient Entity will, itself or through its contractors or agents, design, construct, acquire and/or operate the Component or perform such other specific work for the Component and Recipient Entity agrees that it will perform or have performed, such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the Recipient Entity's administration, performance, and completion of the Component on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTC's governing body and Recipient Entity's governing body have each authorized that their respective designee(s) execute this Agreement on their respective behalf(s) as evinced by copies of each such entity's resolution or clerk's minutes which are appended hereto as Appendix E;

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. <u>Recipient Entity's Obligations</u>

Recipient Entity shall:

I. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement. Recipient Entity expressly agrees that, for non-debt financed Components, Recipient Entity must obligate the Toll

Revenue to the cost of the Component within two (2) fiscal years and to expend the Toll Revenue within five (5) fiscal years of the fiscal year in which the funds for the Component were allocated by the CTB unless an extension has been approved by NVTC and the CTB.

2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Component Description Sheets attached to Appendix A.

3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, capital asset acquisitions, or operations, and all allowable expenses for the Component, as is required by this Agreement and that may be necessary for completion of the Component.

4. Not use the NVTC Toll Revenues specified on Appendix B to pay any Component cost if the MOA or any applicable provision of law does not permit such Component cost to be paid with NVTC Toll Revenue.

5. Recognize that, if the Component, as approved, contains "multiple phases" (as such "multiple phases" are defined for the Component on Appendix A), for which NVTC will provide funding for such multiple phases (as set forth on Appendix B), NVTC may not provide Toll Revenue funding to Recipient Entity to advance the Component to the next phase until the current phase is completed. In any circumstance where Recipient Entity seeks to advance a Component to the next phase using NVTC Toll Revenue, Recipient Entity shall submit a written request to NVTC's Executive Director explaining the need for NVTC's funding of an advanced phase. NVTC's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTC's current and projected cash flow position and make a recommendation to NVTC whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Recipient Entity from providing its own funds to advance a future phase of the Component and from requesting reimbursement from NVTC for having advance funded a future phase of the Component.

However, Recipient Entity further recognizes that NVTC's reimbursement to Recipient Entity for having advance funded a Component phase will be dependent upon NVTC's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTC's Executive Director will periodically update NVTC's cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Component. Recipient Entity shall provide all information required by NVTC so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Component as described in Appendix B.

7. Provide to NVTC requests for payment consistent with Appendix B and the most recently approved NVTC cash flow estimates that include NVTC's standard payment requisition(s), containing detailed summaries of actual Component costs incurred with supporting documentation as determined by NVTC and that certify all such costs were incurred in the performance of work for the Component as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTC, Recipient Entity can expect to receive payment within twenty (20) days upon receipt by NVTC. Approved payments may be made by means of electronic transfer of funds from NVTC to or for the account of Recipient Entity.

8. Promptly notify NVTC's Executive Director of any additional Component costs resulting from unanticipated circumstances which costs exceed the amount allocated by the CTB for the Component, and provide to NVTC detailed estimates of additional costs associated with those circumstances. Recipient Entity understands that it will be within NVTC's sole discretion, subject to CTB approval, whether to seek and to provide any additional funding to the Component in such circumstances and that NVTC will do so only in accordance with NVTC's approved Component selection process and upon formal action and approval by NVTC. Recipient Entity shall timely provide to NVTC a complete and accurate update to Appendix B if NVTC and the CTB approve funding of any

additional Component costs for the Component under this Paragraph.

9. Release or return any unexpended funds to NVTC no later than 90 days after final payment has been made to the contractors.

10. Should Recipient Entity be required to provide matching funds in order to proceed or complete the funding necessary for the Component, Recipient Entity shall certify to NVTC that all such matching funds have been either authorized and/or appropriated by Recipient Entity's governing body or have been obtained through another, independent funding source;

11. Maintain complete and accurate financial records relative to the Component for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern Recipient Entity and provide copies of any such financial records to NVTC, free of charge, upon request.

12. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Component for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Recipient Entity; and provide to NVTC copies of all such drawings and plans free of charge, upon request.

13. Reimburse NVTC for all NVTC Toll Revenue (with interest earned at the rate earned by NVTC) that Recipient Entity misapplied or used in contravention of the MOA or any term or condition of this Agreement.

14. Name NVTC and its Bond Trustee, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents, or require that all Recipient Entity's contractors name NVTC and its Bond Trustee, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, employees and agents as additional insureds on any insurance policy issued for the work to be performed by or on behalf of Recipient Entity for the Component, and present NVTC with satisfactory evidence thereof before any

work on the Component commences or continues, so that they are protected from and against any losses actually suffered or incurred, except for losses to the extent caused by the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by Recipient Entity to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this Agreement, or any breach by Recipient Entity of its representations or warranties in this Agreement; (b) any actual or willful misconduct or negligence of Recipient Entity, its employees or agents in direct connection with the Components; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents proprietary information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by Recipient Entity in direct connection with the Component; (d) inverse condemnation, trespass, nuisance or similar taking of or harm to real property committed or caused by Recipient Entity, its employees or agents in direct connection with the Component; or (e) any assumed liabilities. Recipient Entity will contractually require its contractors, subcontractors, vendors and other third parties working or performing services related to any Component funded by NVTC Toll Revenue to indemnify NVTC and its Bond Trustee, the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees and agents from the same losses.

15. Recipient Entity covenants and agrees it will comply with all applicable requirements of state and federal laws relating to anti-discrimination, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, and shall contractually require the same of all contractors, subcontractors, vendors, and recipients of any funding. Recipient Entity recognizes the importance of the participation of minority, women-owned and small businesses through the federal and local Disadvantaged Business Enterprise programs and will abide by such programs in implementing the Component. Recipient Entity shall comply with all applicable federal requirements, including those applicable to highways that are part of the National Highway System.

16. Give notice to NVTC that Recipient Entity may use NVTC Toll Revenue to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTC's in-house legal counsel) in connection with the work performed under this Agreement so as to ensure that no conflict of interest may arise from any such representation.

17. Provide certification to NVTC, that upon final payment to all contractors for the Component, Recipient Entity will use the Component for its intended purposes for the duration of the Component's useful life. Under no circumstances will NVTC be considered responsible or obligated to operate and/or maintain the Component after its completion.

18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Recipient Entity.

19. Acknowledge that if the Component is being funded in whole or in part by NVTC Bond Proceeds, comply with the applicable tax covenants as may be attached as Appendix D.

20. Acknowledge that if Recipient Entity expects and/or intends that the Component is to be submitted for acceptance by the Commonwealth into its system that Recipient Entity agrees to comply with VDOT's "Standards, Requirements and Guidance" applicable to the Component.

21. Recognize that Recipient Entity is solely responsible for obtaining all permits, permissions and regulatory approval necessary to develop, construct, operate and/or maintain the Component, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.

22. Recognize that if Recipient Entity is funding the Component, in whole or in part, with federal and/or state funds, in addition to NVTC Toll Revenue and/or NVTC Bond Proceeds, that Recipient Entity will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration

Agreement and acknowledge that NVTC will not be a party or signatory to that agreement; nor will NVTC have any obligation to comply with the requirements of that agreement.

23. Provide a certification to NVTC no later than 90 days after final payment to the contractors that Recipient Entity adhered to all applicable laws and regulations and all requirements of this Agreement.

24. Assist NVTC in the preparation of the annual report to the CTB required by the MOA, by providing data, or other project information as requested by NVTC, including data to measure the degree to which the expected benefits were realized, or are being realized, as well as other reporting as required by the NVTC reporting guidance.

B. NVTC's Obligations

NVTC shall:

I. Provide to Recipient Entity the funding authorized by NVTC for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s), and operations, and all allowable expenses on a reimbursement basis as set forth in this Agreement and as specified in the Component Budget and Cash Flow contained in Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTC.

2. Assign a Program Coordinator for the Component. NVTC's Program Coordinator will be responsible for monitoring the Component on behalf of NVTC so as to ensure compliance with this Agreement and the MOA, and all NVTC's requirements and for overseeing, managing, reviewing, and processing, in consultation with NVTC's Executive Director and its Director of Finance and Administration (DFA), all payment requisitions submitted by Recipient Entity for the Component. NVTC's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Component Scope of Work as set forth on Appendix A or to the Component Budget and Cash Flow as set forth on Appendix B.

3. Route to NVTC's assigned Program Coordinator all Recipient Entity's payment requisitions, containing detailed summaries of actual Component costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTC for the Component. After submission to NVTC, NVTC's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Component in order to determine the submission's legal and documentary sufficiency. NVTC's Program Coordinator will then make a recommendation to the NVTC's DFA and Executive Director whether to authorize payment, refuse payment, or seek additional information from Recipient Entity. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTC's Program Coordinator will notify Recipient Entity in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTC have been corrected. Under no circumstances will NVTC authorize payment for any work performed by or on behalf of Recipient Entity that is not in conformity with the requirements of this Agreement or the MOA.

4. Route all Recipient Entity's supplemental requests for funding from NVTC under Paragraphs A.5 and A.8 of this Agreement to NVTC's Executive Director. NVTC's Executive Director will initially review those requests and all supporting documentation with NVTC's DFA. After such initial review, NVTC's Executive Director will make a recommendation to NVTC's Executive Committee for its independent consideration and review of whether CTB approval of, and an allocation for, supplemental funding should be sought. NVTC's Executive Committee will thereafter make a recommendation on any such request to NVTC for final determination by NVTC, and approval by the CTB.

5. Conduct periodic compliance reviews scheduled in advance for the Component so as to determine whether the work being performed remains within the scope of this Agreement, the MOA, and other applicable law. Such compliance reviews may entail review of

Recipient Entity's financial records for the Component and on -site inspections.

6. Acknowledge that if, as a result of NVTC's review of any payment requisition or of any NVTC compliance review, NVTC staff determines that Recipient Entity has misused or misapplied any NVTC Toll Revenue in derogation of this Agreement or in contravention of the MOA or applicable law, NVTC staff will promptly advise NVTC's Executive Director and will advise Recipient Entity's designated representative in writing. Recipient Entity will thereafter have thirty (30) days to respond in writing to NVTC's initial findings. NVTC's staff will review Recipient Entity's response and make a recommendation to the NVTC Executive Committee which will, in turn, make a recommendation to NVTC for a final determination. Pending final resolution of the matter, NVTC will withhold further funding of the Component. If NVTC makes a final determination that Recipient Entity has misused or misapplied funds in contravention of this Agreement, the MOA, or other applicable law, NVTC will cease further funding for the Component and will seek reimbursement from Recipient Entity of all funds previously remitted by NVTC (with interest earned at the rate earned by NVTC) which were misapplied or misused by Recipient Entity. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Recipient Entity to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.

8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Component for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties and, unless terminated in accordance with the express provisions hereof, shall continue until completion of the Component and

final payment of Toll Revenue hereunder, with the exception of those provisions which, by their express terms, survive termination.

2. Recipient Entity may terminate this Agreement, for cause, in the event of a material breach by NVTC of this Agreement. If so terminated, NVTC shall pay for all Component costs incurred through the date of termination and all reasonable costs incurred by Recipient Entity to terminate all Component related contracts. The Virginia General Assembly's failure to appropriate funds, or CTB's failure to allocate, or VDOT's failure to distribute to NVTC as described in paragraph F of this Agreement or shall not be considered material breaches of this Agreement by NVTC. Before initiating any proceedings to terminate under this Paragraph, Recipient Entity shall give NVTC sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTC an opportunity to investigate and cure any such alleged breach.

3. NVTC may terminate this Agreement, for cause, resulting from Recipient Entity's material breach of this Agreement. If so terminated, Recipient Entity shall refund to NVTC all funds NVTC provided to Recipient Entity for the Component (including interest earned at the rate earned by NVTC). NVTC will provide Recipient Entity with sixty (60) days written notice that NVTC is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Recipient Entity may request that NVTC excuse Recipient Entity from refunding all funds NVTC provided to Recipient Entity for the Component based upon Recipient Entity's substantial completion of the Component or severable portions thereof; and NVTC may, in its sole discretion, excuse Recipient Entity from refunding all or a portion of the funds NVTC provided to Recipient Entity for the Component. No such request to be excused from refunding will be allowed where Recipient Entity has either misused or misapplied NVTC funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, Recipient Entity will release or return to NVTC all unexpended NVTC Toll Revenue with interest earned at the rate earned by NVTC no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTC's Executive Director and Recipient Entity's Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTC and to Recipient Entity's governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTC's Entitlement to Refund of Value of Component Assets

Recipient Entity agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Component and funded by NVTC Toll Revenues under this Agreement ("Component Assets") for the designated transportation purposes of the Component under this Agreement and in accordance with applicable law throughout the useful life of each Component Asset. In the event that Recipient Entity fails to use any of the Component Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Recipient Entity shall refund to NVTC, with interest at the rate earned by NVTC, the amount of the value of each of the Component Assets, whether any such Component Asset may have depreciated or appreciated throughout its respective useful life, proportionate to the amount of the cost of the Component Asset funded by NVTC under this Agreement. If Recipient Entity refuses or fails to refund said monies to NVTC, NVTC may recover the proportionate value from Recipient Entity by pursuit of any remedies available to NVTC, including but not limited to NVTC's withholding of commensurate amounts from future distributions of NVTC Toll Revenue to Recipient Entity. In no event shall the Recipient Entity be obligated to refund the aforesaid value to both NVTC and the Commonwealth.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Component beyond those funds that have been duly authorized and appropriated by their respective governing bodies.

2. The parties acknowledge that all Toll Revenues provided by NVTC pursuant to the MOA are subject to appropriation by the Virginia General Assembly, allocation by the CTB and distribution by VDOT. The parties further acknowledge that NVTC's obligations under this Agreement are subject to such funds being appropriated by the General Assembly, allocated by the CTB and distributed by VDOT to NVTC.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

1) to: NVTC, to the attention of its Executive Director;
2300 Wilson Blvd., Suite 620
Arlington, VA 22201

2) to: Fairfax County Department of Transportation,
to the attention of Tom Biesiadny, Director
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be

construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Recipient Entity represents that it is not acting as a partner or agent of NVTC; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

The provisions of this Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Commission

By: _____

Date: _____

Fairfax County Department of Transportation

By: _____

Date: _____

Appendix A -Component Description and Performance Measures

Component Project Number: NVTC 059-01-120-17

Component Project Title: **Fairfax Connector Express Service from Government Center to State Department/Foggy Bottom**

Recipient Entity: **Fairfax County**

Toll Revenue Funds: **$ 3,336,836**

Component Description

This project includes the creation of a new weekday, peak-period Fairfax Connecter Express bus service route between the Fairfax County Government Center park-and-ride facility, and the State Department and the Foggy Bottom neighborhood in Washington, DC.

The project application will support the capital costs of purchasing four new buses and support operational assistance to provide two years of new weekday, peak-period Fairfax Connector Express bus service.

Component's opening year inbound AM Peak Period increase in person throughput as entered in Component Application: Approximately 36,199

Performance Measures and Reporting

Performance Measures

1. Report average weekday ridership

Collection Period

Report average weekday boardings collected for a two-week period in March or April. Chosen period should not include any holidays. The average is to be calculated from Tuesdays, Wednesdays, and Thursdays during the period.

Reporting

Report data to NVTC in a technical memorandum outlining the following:

1. Data collection methodology (ex. farebox recovery, automated passenger counters, manual counts)
2. Data collection dates
3. Results - data
4. Notes/explanations (as necessary)

Reports are due by June 30th of each year. Submit reports by email to Patricia Happ at NVTC at patriciahapp@nvtdc.org.

8/18/16

APPENDIX B - COMPONENT PROJECT BUDGET & CASH FLOW

Component Project Title:	Fairfax Connector Express Service from Government Center to State Department/Foggy Bottom		
Recipient Entity:	Fairfax County	Component Project Number:	059-01-120-17
Recipient Contact:		Revision Number:	
Name	Malcolm Watson	Revision Date:	
Email	Malcolm.Watson@fairfaxcounty.gov		
Phone	703-877-5631		

TABLE B-1 COMPONENT PROJECT BUDGET

Component Type	Total Component Budget	Funding Sources: Approved NVTC Toll Revenue Funds	Funding Sources: Other Funds (if applicable)	*Source of Other Funds*
Capital	$ 2,350,000	$ 2,350,000	$ -	
Operating	986,836	986,836	-	
TDM				
Other	-	-	-	
	-	-	-	
	-	-	-	
	-	-	-	
	-	-	-	
Total	$ 3,336,836	$ 3,336,836	$ -	

TABLE B-2 NVTC COMPONENT PROJECT FUNDS PROGRAMMED

Component Type	FY2017	FY2018	FY2019
Capital	$ 2,350,000	$ -	$ -
Operating		986,836	-
TDM	-	-	-
Other	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
Total	$ 2,350,000	$ 986,836	$ -

TABLE B-3 QUARTERLY COMPONENT PROJECT CASH FLOW *FOR NVTC TOLL REVENUE FUNDS ONLY*

Quarter	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022
1st, September 30th	$ 587,500		$ -	$ -	$ -	$ -
2nd, December 31st	$ 587,500		-	-	-	-
3rd, March 31st	$ 587,500		-	-	-	-
4th, June 30th	$ 587,500	986,836	-	-	-	-
Total	**$ 2,350,000**	**$ 986,836**	**$ -**	**$ -**	**$ -**	**$ -**

This attachment is certified and made an official attachment to the Standard Component Agreement document by the parties of this agreement.

Fairfax County	**Northern Virginia Transportation Commission**	
Signature	Signature	Signature
Director, Department of Transportation	NVTC Executive Director	NVTC Director of Finance and Administration
Title	Title	Title
Date	Date	Date
Tom Biesiadny		
Print name of person signing		

Version 4/22/16

APPENDIX C

REIMBURSEMENT REQUEST

NVTC Component Number: _____
NVTC Component Title: _____
Draw Request Number: _____

Date: _____, 20 __

Northern Virginia Transportation Commission
2300 Wilson Blvd., Suite 620
Arlington, Virginia 22201

This requisition is submitted in connection with the Standard Component Agreement for Funding and Administration dated _____, 20____ (the "Agreement") between the Northern Virginia Transportation Commission ("NVTC") and Fairfax County (the "Recipient Entity"). The Recipient Entity hereby requests $ _____ of NVTC Toll Revenue, to pay the costs of the Component set forth in the attached detailed Reimbursement Request form and in accordance with the Agreement.

The undersigned certifies (i) the amounts included within this requisition will be applied solely and exclusively for the payment or the reimbursement of the Recipient Entity's approved costs of the Component, (ii) the Recipient Entity is responsible for payment to vendors/contractors, (iii) the Recipient Entity is not in default with respect to any of its obligations under the Agreement, including without limitation (but only if applicable) the tax covenants set forth in Appendix D to the agreement, (iv) the representations and warranties made by the Recipient Entity in the Agreement are true and correct as of the date of this Requisition and (v) to the knowledge of the Recipient Entity, no condition exists under the Agreement that would allow NVTC to withhold the requested advance.

RECIPIENT ENTITY
By: _____
Name: _____
Title: Director, Department of Transportation

APPENDIX D - Reserved for TAX COVENANTS (for components funded with bond proceeds, assuming NVTC issues bonds).

APPENDIX E –Authorization of designee(s)

If applicable, replace this page with recipient governing body's authorization for their respective designee(s) to execute this agreement on their behalf(s) as evinced by entity's clerk's minutes.

MEMORANDUM OF AGREEMENT
TRANSFORM66: INSIDE THE BELTWAY PROJECT

This Memorandum of Agreement ("MOA") is entered into on JAN. 5, 2016, between the Commonwealth Transportation Board ("CTB"), and the Virginia Department of Transportation ("VDOT"), both acting by and through the Commissioner of Highways, and the Northern Virginia Transportation Commission ("NVTC") (collectively, the "Parties").

RECITALS

WHEREAS, the CTB, VDOT, and the Virginia Department of Rail and Public Transportation ("DRPT") have embarked upon a multimodal transportation program, Transform66, which seeks to fund and implement solutions to move more people in the Interstate 66 ("I-66") corridor between Haymarket, Virginia and Route 29 in the Rosslyn area of Arlington County, Virginia; and

WHEREAS, the Transform66 program is composed of two distinct projects: (1) the Transform66: Inside the Beltway Project, which involves multimodal transportation improvements in the I-66 corridor beginning at the intersection of I-66 and I-495 (the "Beltway") and ending at U.S. Route 29 in the Rosslyn area of Arlington County, Virginia (the "Transform66: Inside the Beltway Project" or the "Project"), and (2) the Transform66: Outside the Beltway Project, which involves multimodal transportation improvements in the I-66 corridor beginning at Haymarket, Virginia, and ending at the Beltway; and

WHEREAS, the goals of the Transform66: Inside the Beltway Project are to (1) move more people; (2) enhance transportation connectivity; (3) improve transit service; (4) reduce roadway congestion; and (5) increase travel options (collectively, the "Improvement Goals"), all

of which are reasonably expected to benefit the users of the portion of I-66 beginning at the Beltway and ending at U.S. Route 29 in the Rosslyn area of Arlington County, Virginia (the "Facility"); and

WHEREAS, the Project will facilitate implementation of recommendations from VDOT's June 2012 *Final Report of the I-66 Multimodal Study Inside the Beltway*, and the further refinements found in the *August 2013 Supplemental Report*, as well as recommendations from DRPT's 2009 Transportation Demand Management/Transit Report, and projects in the region's constrained long range plan, as such plan may be updated from time to time, including but not limited to multimodal transportation improvements to the roadways and associated transportation and transit facilities in the vicinity of the Facility ("Components") as described in the aforesaid VDOT and DRPT reports and depicted in the diagram attached hereto and incorporated herein as Exhibit 1 (such area together with the Facility, the "Corridor"); and

WHEREAS, the Transform66: Inside the Beltway Project is intended to achieve the Improvement Goals by (1) converting the existing Facility to a tolled facility with dynamic tolling during the peak periods; (2) allowing mass transit and commuter buses to ride free at all times (3) permitting HOV-2 vehicles to ride free at all times until the later of 2020 or until any increase to HOV-3 occupancy requirements for HOV lanes of I-66 outside the Beltway; (4) thereafter permitting HOV-3 vehicles to ride free at all times; (5) improving transit services; and (6) improving the Facility, including widening of I-66 eastbound from two lanes to three lanes between Exit 67 at the Dulles Connector Road ("Exit 67") and Exit 71, the Fairfax Drive/Glebe Road exit ("Exit 71"), subject to the conditions provided herein; and

WHEREAS, the multimodal transportation Components in the Transform66: Inside the Beltway Project must meet the criteria enunciated in this MOA; and

WHEREAS, VDOT, on behalf of the CTB, will control and manage tolling on the Facility, with the toll revenues being utilized and distributed according to this MOA, to support the tolling operations and tolling maintenance of the Facility, and to fund Components selected by NVTC and approved by the CTB for the Project designed specifically to attain the Improvement Goals; and

WHEREAS, subject to the conditions contained in this MOA, the CTB intends to finance the widening of the Facility between Exits 67 and 71 from toll revenues of the Facility; and

WHEREAS, the CTB desires to delegate to NVTC the authority to select and administer the implementation of Components designed specifically to attain the Improvement Goals to be financed from the portion of the toll revenues of the Facility transferred to NVTC as provided in this MOA;

WHEREAS, such delegation to NVTC shall not constitute approval by NVTC of the Commonwealth's actions to impose tolling along the Facility; and,

WHEREAS, the Parties wish to memorialize their agreement regarding the allocation and expenditure of certain toll revenue arising from travel on the Facility, the criteria for use of toll revenue to implement Components and the relationship between the Parties.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, and the mutual benefit to the Parties of attaining the Improvement Goals, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. **Nature of the Parties' Interest under This MOA**

This MOA provides for the transfer to and use by NVTC of specified funds collected from the CTB's tolling of the Facility, as allowed by law and according to the terms of this MOA, for the selection and administration of Components to attain the Improvement Goals. This MOA is

specifically subject to, and is governed by applicable state and federal laws concerning the allowable use of tolls, including but not limited to § 33.2-309 of the *Code of Virginia* (1950), as amended ("Virginia Code"), 23 U.S.C. §§ 129 and 166 and the terms of any agreement by and between the Federal Highway Administration ("FHWA") and VDOT that may be required in order to toll the Facility.

This MOA does not grant NVTC any authority over I-66 or any other roadways in the I-66 corridor. It also does not address toll revenues that may be derived from the tolling of I-66 outside the Beltway. It also does not obligate VDOT or the CTB to provide any specified amount of revenues beyond those toll revenues generated from the Facility, which have been appropriated by the General Assembly, allocated by the CTB in compliance with Virginia Code § 33.2-309 as provided in this MOA, and determined according to the terms of this MOA.

II. **Basic Agreement; Roles and Responsibilities**

A. VDOT and the CTB shall have the following roles and responsibilities:

1. **Design and Construction of Dynamic Tolling Operation on I-66 Inside the Beltway**. VDOT shall be responsible for the design and construction of all improvements and facilities to convert the existing Facility to a tolled Facility. Funding to accomplish this conversion will be advanced from the Toll Facilities Revolving Account pursuant to Virginia Code § 33.2-1529 and repaid out of toll revenues collected from this Facility.

2. **Toll Collection and Establishment.** Subject to the necessary approvals of the CTB and FHWA, and in accordance with law, VDOT and the CTB, as applicable, shall establish, charge, modify and collect tolls throughout the term of this MOA for vehicles using the Facility during peak hours in the peak direction, which shall

include dynamic pricing consistent with FHWA Value Pricing Pilot Program. The CTB reserves the right to make any changes to the tolling of the Facility that increase the hours or directions of tolling and any toll revenue generated from any change shall be governed by this MOA.

3. **HOV Requirements.** In accordance with the long range plan adopted by the National Capital Region Transportation Planning Board, VDOT and the CTB shall take the required actions necessary to change the Project HOV-2 designation to HOV-3 the later of 2020 or upon any increase to HOV-3 occupancy requirements for HOV lanes of I-66 outside the Beltway

4. **Use of Toll Revenues.** VDOT shall include in the annual budget presented to the CTB for approval in June of each year, an estimate of the toll revenues anticipated to be collected in the upcoming year and the proposed allocation of all such toll revenues. Allocation of these toll revenues shall be provided as follows with the intent that after the allocations provided for in (a), (b), (c), and (e), all remaining toll revenues shall be made available for Components selected by NVTC in accordance with (d):

(a) reasonable costs and expenses of tolling operation and tolling maintenance, including reasonable reserves for major maintenance of tolling operations of the Facility,

(b) repayments to the Toll Facilities Revolving Account for any allocations advanced from the Toll Facilities Revolving Account to design and construct the dynamic tolling operation of the Facility and the initial allocation of $5 million for the Project under the terms of the CTB

resolution providing said allocations, which resolution shall provide for a repayment schedule of not less than 25 years, and that annually commits not more than four percent of anticipated toll revenues to such repayment;

(c) NVTC financing payments and any cost of financing for Components selected by NVTC and approved by the CTB under the terms of this MOA; provided that annual financing payments, to include debt service reserves, and debt service does not exceed 40 percent of toll revenues remaining after the allocations described above in subparagraphs II.A.4(a) and (b);

(d) for Components selected by NVTC and approved by the CTB under the terms of this MOA, and any implementation costs related to Components as well as operating costs related to Components, provided not more than 20 percent of the toll revenues after the allocations described above in subparagraphs II.A.4(a) and (b) may be used for completed Component operating costs;

(e) costs and expenses incurred by VDOT for financing the widening from two to three lanes and related improvements to the eastbound lanes of the Facility between Exit 67 and Exit 71, if the conditions set forth in paragraph D are met; the term of such financing, subject to approval by the Treasury Board, is expected not to be less than 25 years; and such financing may encumber annually an amount not to exceed 40 percent of toll revenues remaining, after the allocations described above in subparagraphs II.A.4(a) and (b). Such allocations shall begin upon a determination that the criteria which establishes the need for the widening, pursuant to the evaluation in

paragraph D, has been met; however, an initial evaluation shall only be made at the later date of either (i) five years from the date of commencement of tolling of the Facility, or (ii) two years after any increase in occupancy requirements for high-occupancy vehicles from two people to three people (which shall occur the later of 2020 or upon any increase to HOV-3 requirements for HOV lanes of I-66 outside the Beltway).

5. **Approval of Components of the Project**. Provided NVTC complies with the criteria established herein for selection of Components, and subject to paragraph 4 above, the CTB shall allocate toll revenue funding for such Components.

6. **Suspension of Tolling**. VDOT shall, in its sole discretion, and in accordance with Virginia Code § 33.2-613(B) as amended, have the right to order immediate suspension of Facility tolling in the event I-66 is required for use as an emergency mass evacuation route. VDOT shall lift any such emergency toll suspension as soon as the need for emergency mass evacuation ceases. Neither the Commonwealth of Virginia, the CTB, nor VDOT shall have any liability to NVTC for any loss of toll revenues or any increase in costs and expenses attributable to any such toll suspension to facilitate emergency mass evacuation.

If I-66 is designated for immediate use as any alternate route for diversion of traffic from another highway or is temporarily closed to all lanes in one or both directions due to a significant incident or emergency, VDOT shall have the right to order the immediate suspension of tolling in the direction(s) of any diversion. Neither the Commonwealth of Virginia, the CTB, nor VDOT shall have any liability to NVTC

for the loss of any toll revenues or any increase in costs and expenses attributable to the hours the toll suspension is in effect.

7. **Duration of Tolling:** Nothing in this MOA shall obligate or be construed as obligating VDOT to continue or cease tolls after the end of this MOA's term except as provided in III.

8. **Financial Agreements.** To the extent permitted by this MOA and subject to the limits on use of toll revenue in II.A.4, VDOT and the CTB retain all rights to enter into any financial agreements encumbering toll revenues derived from the Facility for the purposes specified in this MOA.

9. **Operation and Maintenance of I-66**. Except as set forth in II.A.4(a), VDOT shall throughout the term of this MOA, maintain and operate, or cause others to maintain and operate the Facility from Highway Maintenance and Operating Fund revenues.

10. **Annual Budget Process.** In preparation for the annual budget process, VDOT shall estimate toll revenues and anticipated allocation of the estimated toll revenues for the upcoming six-year period presented in the Six Year Financial Plan and Six Year Improvement Program and provide said estimates to NVTC not later than January 30th of each year.

11. **Quarterly Payments.** VDOT shall provide quarterly payments of actual toll revenues to NVTC of those toll revenues allocated pursuant to subparagraphs II.A.4(c) and (d) of this MOA by the 15th day after the end of each quarter. The quarterly payment shall be equal to the lesser of 25 percent of the amount appropriated and allocated under II.A.4(c) and (d), or the toll revenues available to

make such payment. Neither VDOT nor DRPT shall deduct from such quarterly payments any administrative fee or other charges.

12. **Reports.** VDOT shall provide quarterly reports documenting the actual revenues and distributions of said toll revenues to NVTC.

B. NVTC shall have the following roles and responsibilities:

1. **Coordination and Development of Transportation Plan; Use of Toll Revenues; Compliance with Laws Limiting Use.** As part of the Six Year Improvement Program presented to the CTB for approval in June of each year, NVTC shall submit to the CTB, Components to be funded in whole or in part with Toll Revenues from the Facility, to be paid to NVTC as provided herein. Such Components shall be selected by NVTC in accordance with a process established by NVTC pursuant to this MOA. Such Components shall be separately identified with supporting documentation as set forth in Exhibit 2. The CTB shall approve the Components selected by NVTC, and allocate toll revenues for them, pursuant to paragraph II.A.4, provided the Components meet the criteria below and are selected in accordance with NVTC's selection process described in II.B.2. Each proposed Component must meet each of the following five criteria:

(a) Must benefit the toll-paying users of the Facility;

(b) Must have the capacity to attain one or more of the Improvement Goals;

(c) Must be one of the following multimodal transportation improvements serving the Corridor:

(i) New or enhanced local and commuter bus service, including capital and operating expenses (e.g., fuel, tires, maintenance, labor and insurance),

subject to the limitations in paragraph II(A)(4), and transit priority improvements;

(ii) Vanpool, and formal and informal carpooling programs and assistance;

(iii) Capital improvements for Washington Metropolitan Area Transit Authority rail and bus service, including capital and operating expenses, subject to the limitations in paragraph II.A.4, and improved access to Metrorail stations and Metrobus stops;

(iv) Park and ride lot(s) and access or improved access thereto;

(v) Roadway improvements to address impacts from the dynamic tolling of the Facility on roadways in the Corridor (including but not limited to Routes 7, 29, 50, and 309, and Washington Boulevard, Wilson Boulevard, and Westmoreland Street);

(vii) Roadway operational improvements in the Corridor;

(viii) Transportation Systems Management and Operations as defined in 23 U.S.C. § 101(a)(30) on December 1, 2015;

(ix) Projects identified in VDOT's June 2012 *Final Report of the I-66 Multimodal Study Inside the Beltway* and the *August 2013 Supplemental Report,* as well as recommendations from DRPT's 2009 Transportation Demand Management/Transit Report, and projects in the region's constrained long range plan, as such plan may be updated from time to time, and payments to a debt service reserve related to financing of such projects; and

(d) For non-debt financed Components, must demonstrate the ability to obligate the toll revenues to the cost of the Component within two fiscal years and to expend the toll revenues within five fiscal years of the fiscal year in which the funds are allocated by the CTB; and

(e) Must demonstrate that the Components will be in compliance with all applicable laws, rules and regulations and have received or will receive all required regulatory approvals.

Under no circumstances shall the aforesaid criteria be modified except by written amendment to this MOA agreed to in writing by the Parties.

NVTC shall have no right to use the Toll Revenues to pay any debt, obligation or liability unrelated to the Project, or for any purposes other than those specified in this MOA.

NVTC understands and agrees that in the selection and implementation of Components using the toll revenues, it is bound by the provisions of Virginia Code § 33.2-309 as well as all other state and federal laws and regulations that limit the use of toll revenues, and toll revenues from interstate highways specifically. Accordingly, NVTC agrees to provide VDOT access to all records relating to Components and the use of the toll revenues. Further, NVTC will provide all such records for inspection and audit by VDOT, DRPT and federal agencies, including but not limited to the United States Department of Transportation, the Federal Highway Administration, and the Federal Transit Administration, or their designees, upon reasonable notice at all times during the term of this MOA.

NVTC agrees to promptly furnish to VDOT and DRPT copies of all reports and notices it delivers to bondholders or any trustee relating to the use of the toll revenues.

2. Project Component Selection Process: Any such Component shall be selected by NVTC in accordance a process established by NVTC. Such process shall include the following three elements:

(a) a request to submit proposed Components issued by NVTC to all jurisdictions and other public transportation providers in Planning District 8;

(b) the evaluation, prioritization, and selection of proposed Components by NVTC, and the submission of selected Components by NVTC to the CTB; and

(c) a public hearing held by NVTC prior to NVTC's selection of Components for submission to the CTB.

The CTB shall approve the Components selected by NVTC and allocate toll revenues for them, pursuant to paragraph II.A.4, provided the Components meet the criteria in paragraph II.B.1. As part of the list of Components submitted to the CTB for approval and allocation of toll revenues, NVTC may submit for CTB approval additional Components that exceed the annual estimated toll revenues for that year. Provided those Components meet the criteria in paragraph II.B.1, the CTB shall approve such additional Components and, pursuant to paragraph II.A.4 and subject to any other approvals that may be necessary, approve the allocation of toll revenues for such Components up to the amount of actual toll revenues for that year that are sufficient to fund one or more of those additional Components.

3. Financing of Components of the Project. NVTC may use toll revenues appropriated by the General Assembly and allocated by the CTB to NVTC to support the financing of approved Components, however, the amount of annual debt service payments using toll revenues shall be limited as set forth in paragraph II.A.4(c).

NVTC is solely responsible for obtaining and repaying all debt and financing, at its own cost and risk, and without recourse to the Commonwealth of Virginia, the CTB, VDOT, and/or DRPT, for any Component for which toll revenues have been provided to NVTC under this MOA.

The Commonwealth of Virginia, the CTB, VDOT, and DRPT have no liability whatsoever for payment of the principal of or interest on any bonds or any other obligations issued or incurred by NVTC in connection with this MOA, or any interest accrued or any other sum secured by or accruing under any financing document entered into by NVTC as a result of this MOA. No financing document for the NVTC financing of any Component shall contain any provisions whereby a trustee would be entitled to seek any damages or other amounts from the Commonwealth of Virginia, CTB, or VDOT due to any breach of this MOA.

Each bond or promissory note evidencing Revenue bonds must include a conspicuous recital on its face stating: (a) payment of the principal and interest does not constitute a claim against VDOT's interest in I-66 or any part thereof; (b) payment is not an obligation of the Commonwealth of Virginia, VDOT, DRPT, the CTB, or any other agency, instrumentality or political subdivision of the Commonwealth of Virginia moral or otherwise; and (c) neither the full faith and

credit nor the taxing power of the Commonwealth of Virginia, VDOT, DRPT, the CTB, or any other agency, instrumentality, or political subdivision of the Commonwealth of Virginia and/or its member jurisdictions, is pledged to the payment of the principal and interest.

NVTC shall not enter into agreements with holders of any debt incurred by NVTC or its member jurisdictions that contain a pledge or claim on the toll revenues or NVTC's interest in the toll revenue under this MOA except such debt issued for the Project. If, despite such efforts, toll revenues are applied to satisfy any debt of NVTC that is not properly payable out of toll revenues in accordance with this MOA and state and federal law, NVTC shall reimburse in full any such toll revenues or accounts from any other available revenues other than the toll revenues.

4. **Monitoring:** NVTC shall provide an annual report to the CTB within 120 days of the end of NVTC's fiscal year. The report shall contain at a minimum the following three items:

(a) A description of the Components selected for funding in the past fiscal year and the benefits that were the basis for evaluation and selection of each such Component;

(b) Starting five years after the effective date of this MOA, a review of the Components funded in past fiscal years describing the degree to which the expected benefits were realized or are being realized; and,

(c) In the event that a funded Component is not providing substantially similar benefits to those that were the basis for evaluation and selection of the Component,

the report shall evaluate the viability of a plan to either (i) modify such Component or (ii) redeploy assets in such Component to other eligible Components that are expected to provide greater benefits.

5. **Accounting.** NVTC shall receive and manage, as a fiduciary, the toll revenue appropriated by the General Assembly, allocated by the CTB, and distributed to it by VDOT. NVTC shall maintain all funds and accounts containing said toll revenues from this MOA separate and apart from all other funds and accounts of NVTC. The revenues and expenses relating to the use of the toll revenues, and the Components undertaken with the toll revenues from this MOA, shall not be commingled with any other funds, accounts, venues, or expenses of NVTC. NVTC shall create and maintain for the term of this MOA segregated accounting and financial reporting for the Components financed by toll revenues provided by this MOA and reported as a separate fund in NVTC's financial statements, and such accounting shall constitute a proprietary "special revenue fund" as defined by the Governmental Accounting Standards Board. Expenditures will be recorded and reported for each Component.

All toll revenues provided to NVTC pursuant to the terms of this MOA shall be held by NVTC in accounts with a financial institution under an arrangement that, to the extent reasonably practicable, preclude such funds from being an asset subject to the claims of creditors of NVTC, other than a holder of bonds, or other claims related to the Components undertaken in accordance with this MOA.

6. **Quality Management**. NVTC shall be responsible for all quality assurance and quality control activities necessary to properly manage the funding of the

development, design, construction, purchases, acquisition, operation and maintenance of any Component it has undertaken pursuant to this MOA, and will develop and provide to VDOT and DRPT for information purposes its manuals, policies, and procedures to accomplish the same.

7. **Public Information.** During the term of this MOA, NVTC shall provide information to the public concerning the Components it has undertaken, including any public meetings and public hearing that may be required by law or regulation.

8. **Regulatory Approvals.** NVTC shall obtain, keep in effect, maintain, and comply with all regulatory approvals necessary for funding the development, operation, and maintenance of any Components funded under this MOA.

9. **Contracting Practices.** During the term of this MOA, NVTC covenants and agrees, that with respect to the Components it has undertaken, it will comply with all requirements of state and federal laws relating to anti-discrimination, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act, and shall contractually require the same of all contractors, subcontractors, vendors, and recipients of any funding. NVTC recognizes the importance of the participation of minority, women-owned and small businesses through the federal and local Disadvantaged Business Enterprise programs and will abide by such programs in implementing Components.

NVTC shall comply with all applicable federal requirements, including those applicable to highways that are part of the National Highway System.

10. **Insurance and Indemnity by Contractors.** NVTC shall include the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees

and agents, as additional insureds on NVTC's insurance policies so that they are protected from and against any losses actually suffered or incurred, except for losses to the extent caused by the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by NVTC to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this MOA, or any breach by NVTC of its representations or warranties in this MOA; (b) any actual or willful misconduct or negligence of NVTC, its employees or agents in direct connection with the Project or any related Components; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents propriety information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by NVTC in direct connection with the Project or; (d) inverse condemnation, trespass, nuisance or similar taking of or harm to real property committed or caused by NVTC, its employees or agents in direct connection with the Project; or (e) any assumed liabilities. NVTC shall contractually require its contractors, subcontractors, vendors, and others working or performing services related to any Component it has funded to indemnify the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees and agents from the same losses.

All insurance purchased by NVTC or its contractors pursuant to this section shall name the Commonwealth of Virginia, the CTB, VDOT, DRPT, and their officers, employees and agents as additional insureds.

This provision shall survive the expiration or earlier termination of this MOA.

In the event any third-party claim to which this section applies is asserted in writing against the Commonwealth, the CTB, VDOT, DRPT, or their officers, employees, and agents, VDOT will as promptly as practicable notify NVTC in writing of such claim, which shall include a copy and any related correspondence or documentation from the third party asserting the claim. However, any failure to give such prompt notice shall not constitute a waiver of any rights of VDOT unless such failure limits or precludes the availability of those rights.

C. **Initial Multimodal Transportation Improvements**. NVTC shall undertake a project selection process upon execution of this MOA, and submit to the CTB a list of Components for an advanced allocation of funding in the amount of $5 million (which shall be provided upon commencement of construction of the dynamic tolling of the Facility as provided in paragraph II.A.1, and shall be repaid as specified in paragraph II.A.4). Components shall be multimodal transportation improvements that meet the criteria set forth in paragraph II.B.1 and are capable of being obligated not later than at the time tolling begins on the Facility. In the event litigation is filed challenging the implementation of the Project, or a Component of the Project, prior to the initiation of tolling, or in the event any other action prohibits or restricts the ability to toll the Facility, then the CTB may withhold this funding until such time that the litigation or other event or action is resolved in a manner that allows the Project to be implemented. NVTC may choose to expend other funds after the execution of this MOA for Components identified through the selection process described in this MOA prior to the commencement of construction. Any such expenditures are at NVTC's risk but shall be reimbursable from the advanced allocation identified

in this paragraph provided the expenditures otherwise comply with the provisions of the MOA. NVTC may choose to expend up to an additional $5 million for additional Components consistent with this subsection. Any such expenditures are at NVTC's risk but shall be reimbursable from toll revenues.

D. **Widening and Related Improvements to I-66**. At the later date of either (i) five years from the date of commencement of tolling of the Facility, or (ii) two years after the date of increase in occupancy requirements for high-occupancy vehicles from two people to three people (which increase shall occur the later of 2020 or the increase of occupancy requirements of HOV lanes of I-66 outside the Beltway), an evaluation of the need to widen the eastbound lanes of the Facility from two lanes to three lanes between the Dulles Connector Road and Exit 71 will be undertaken.

1. If the evaluation conducted by VDOT, in consultation with NVTC, of the effectiveness of the tolling and the multimodal improvements on the performance of the Facility and of traffic operations on roadways in the Corridor demonstrates one of the following has occurred, or is occurring, then those funds as set forth in paragraph II.A.4(e) shall be allocated by the CTB for such Facility widening and VDOT shall then begin the process to widen the Facility:

(a) The eastbound lanes of the Facility between the Dulles Connector Road and Exit 71 are operating at an average speed of less than 50 miles per hour for more than 10 percent of the time between the hours of 5:00am and 10:00am on weekdays over a 180-day period as determined using commonly accepted engineering practices and performance monitoring. Starting with the commencement of tolling

on the Facility, the average operating speed of I-66 will be reported every 180-days (bi-annually) to NVTC.

(b) The average travel times on the roadways listed below experience an average 10 percent increase on the eastbound lanes compared to the baseline performance of the following facilities:

- Route 50 from I-495 to Route 120 (Glebe Road);
- Route 29 from I-495 to Route 120 (Glebe Road);
- Route 237 (Washington Boulevard) from Route 29 to Route 120 (Glebe Road); and
- Route 7 from I-66 to Route 50.

A baseline performance of the Facility and the above roadways will be established for weekdays in a 180-day period following the commencement of tolling of the Facility using commonly accepted engineering practices and performance monitoring. Data will be collected daily and reported quarterly starting with the commencement of tolling on the Facility.

2. If the evaluation provided for in II.D.1 demonstrates the need for widening, the design for the widening shall be limited to increasing the number of eastbound lanes of the Facility from two lanes to three lanes consistent with an approved environmental document subject to the National Environmental Policy Act, and other laws and regulations applicable to the widening, and shall apply the principals of Context Sensitive Solutions as described in FHWA's Publication FHWA-HEP-07-014 as follows:

- Minimize or eliminate impacts to the parks, stream corridors, and vegetation along the corridor and within the right-of-way;

- Minimize or eliminate impacts to the W&OD Trail and the Custis Trail;
- Reduce the cost of this component of the Project; and
- Minimize or eliminate the need for acquisition of additional right-of-way.

If during the initial evaluation the conditions referenced in subparagraphs D.1 through D.2 do not exist, then VDOT shall every two years until the earlier of (i) the end of the term of the MOA conduct a further evaluation, or (ii) such time that one of the conditions referenced in such subparagraphs is found to exist, at which time the allocation of toll revenues pursuant to paragraph II.A.4(e) shall be made and the widening of the Facility will be undertaken by VDOT.

III. **Term.** Unless this MOA is otherwise terminated in accordance with Section VI, the term of this MOA shall commence on the date last signed by the Parties ("the Effective Date") and shall expire on the 40th anniversary of the Effective Date. NVTC shall not enter into financing agreements or other financial obligations for approved Components that are dependent on toll revenue from the Project and which extend beyond the 40th anniversary of the Effective Date.

In event that this MOA is terminated in accordance with Section VI prior to the 40th Anniversary of the effective Date, and there are outstanding NVTC financing agreements for which toll revenues have been pledged for debt service payments or there are pay-go Components which are yet to be completed, and further provided the use of toll revenues for the financing agreement or pay-go Component is not a misuse of toll revenues under this MOA and the cause or basis of the termination, then, subject to CTB approval, toll revenues shall continue to be allocated in accordance with paragraph II.A.4(c) to pay debt service or to complete the Component. The CTB will not approve funding for pay-go Components for more than two fiscal years past the termination of the MOA in accordance with Section VI prior to the 40th Anniversary of the effective Date.

IV. **Entire Agreement.** This MOA constitutes the entire and exclusive agreement between the Parties relating to the specific matters covered. All prior written, and prior or contemporaneous verbal agreements, understandings, and representations are superseded, revoked, and rendered ineffective for any purpose.

V. **Amendment.** This MOA may be altered, amended or revoked only by an instrument in writing signed by all Parties or their permitted successor(s) or assignee(s).

VI. **Termination**. This MOA may be terminated (a) by a Party for non-compliance with this MOA which has not either been remedied, or a remedy commenced and diligently pursued thereafter, within 120 days after written notice from the other Party, and (b) by written agreement of the Parties. However, prior to any termination, the Parties shall meet and confer to make a good faith attempt to resolve any non-compliance issues as follows. Within 30 days of the notice, the Commissioner of Highways and the NVTC Executive Director shall meet to discuss resolution of the non-compliance issues. If a resolution cannot be reached within 30 days, the Secretary of Transportation and the Chairman of NVTC shall meet within 30 days to discuss resolution of the non-compliance issues. If a resolution cannot be agreed upon within 30 days, the termination shall be effective as set forth in the written notice and in accordance with this MOA.

VII. **Notices.** Notices shall be made in writing and shall not be effective for any purpose unless and until actually received by the addressee or unless served personally, by independent reputable overnight commercial courier, by facsimile transmission followed by a timely service of the original, or by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

If to NVTC:

Executive Director
Northern Virginia Transportation Commission

2300 Wilson Boulevard, Suite 620
Arlington, VA 22201
Fax:

If to VDOT:

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attn: Commissioner of Highways
Fax: (804) 786-2940

With a copy to:

Office of the Attorney General
Chief, Transportation Section
900 East Main Street
Richmond, Virginia 23219
Fax: (804) 692-1647

Any Party may, by notice as specified above, in writing designate an additional or a different entity or mailing address to which all such notices should be sent.

VIII. **Relationship of the Parties.** The relationship of NVTC to VDOT shall be one of an independent contractor, not an agent, partner, lessee, joint venture, or employee.

IX. **No Third Party Beneficiaries.** Nothing contained in this MOA is intended or shall be construed as creating or conferring any rights benefits or remedies upon or creating any obligations of the Parties toward any person or entity not a party to this MOA (except rights contained herein expressly for the benefit of bondholders and/or trustees).

X. **Governing Law and Venue.** This MOA shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

XI. **Assignment.** This MOA may be assigned only with the written approval of the other Party. In the event of an agreed assignment, there will be an amendment to this MOA to reflect the change in Parties.

XII. **Survival.** If any provisions in this MOA are rendered obsolete or ineffective, the Parties agree to negotiate in good faith appropriate amendments to, or replacement of such provisions, in order to restore and carry out the original purposes to the extent practicable. If any provision is rendered void or invalid, all remaining provisions shall survive.

XII. **Notice of Legal Proceedings.** The Parties agree to promptly notify each other if they become aware of any claim or legal proceeding that could impact the program, projects, and activities undertaken pursuant to this MOA.

XIII. **Construction of Agreement**. This MOA is intended by the Parties to be construed as a whole, and indivisible, and its meaning is to be ascertained from the entire instrument. All parts of the MOA are to be given effect with equal dignity, including but not limited to the recitals at the beginning of this MOA, and all such parts, including the recitals, are to be given full force and effect in construing this MOA. No provision of any recital shall be construed as being controlled by, or having less force and effect, than any other part of this MOA because the provision is set forth in a recital.

XIV. **No Personal Liability.** This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the Parties; nor shall it be construed as giving any rights or benefits to anyone other than the Parties.

XV. **No Waiver of Sovereign Immunity.** Nothing in this MOA shall be deemed a waiver of sovereign immunity.

XVI. **Appropriations.** All obligations of the CTB to allocate toll revenues are subject to appropriations by the Virginia General Assembly.

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In witness whereof, the Parties hereby cause this MOA to be executed, each by its duly authorized officers, as of the date below.

COMMONWEALTH TRANSPORTATION BOARD

The Honorable Aubrey L. Layne, Jr
Secretary of Transportation

Date: JAN 5, 2016

VIRGINIA DEPARTMENT OF TRANSPORTATION

Charles A. Kilpatrick
Commissioner of Highways

Date: 1/5/16

NORTHERN VIRGINIA TRANSPORTATION COMMISSION

Kelley Coyner
Executive Director

Date: 1/11/16

Exhibit 1
Facility Map

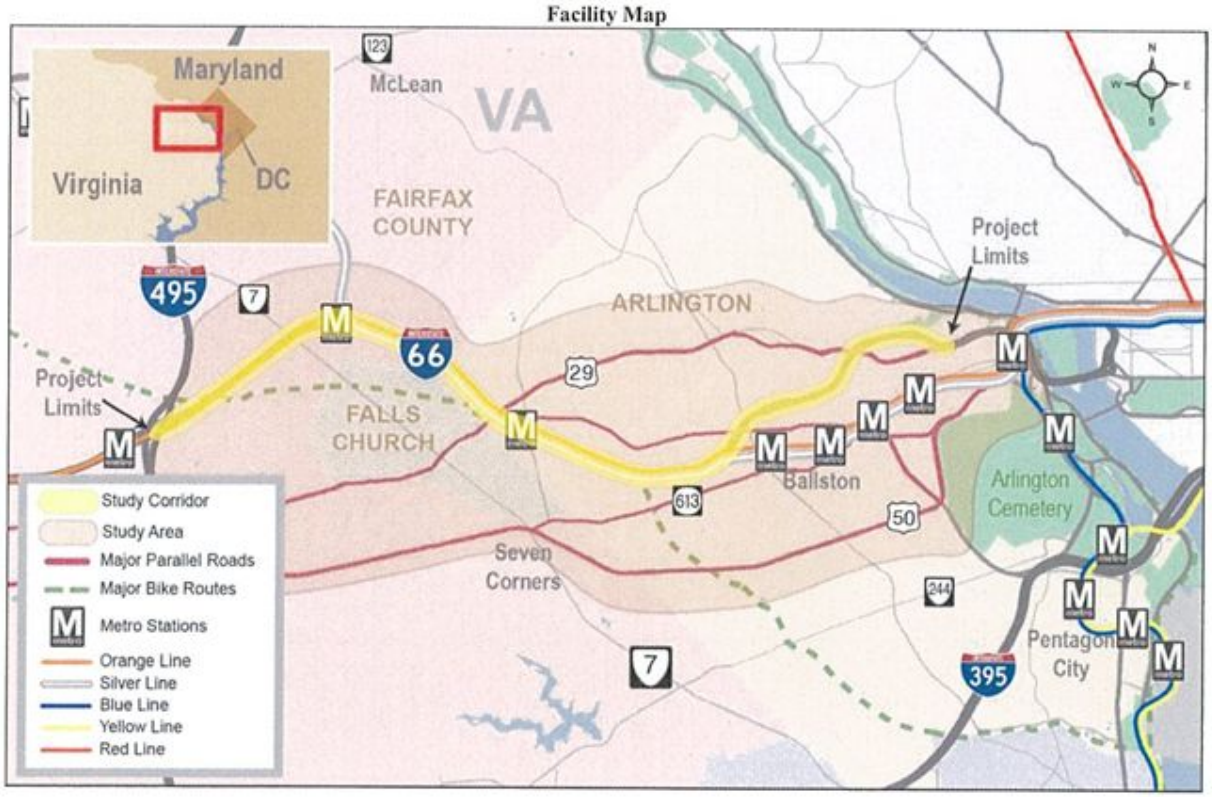
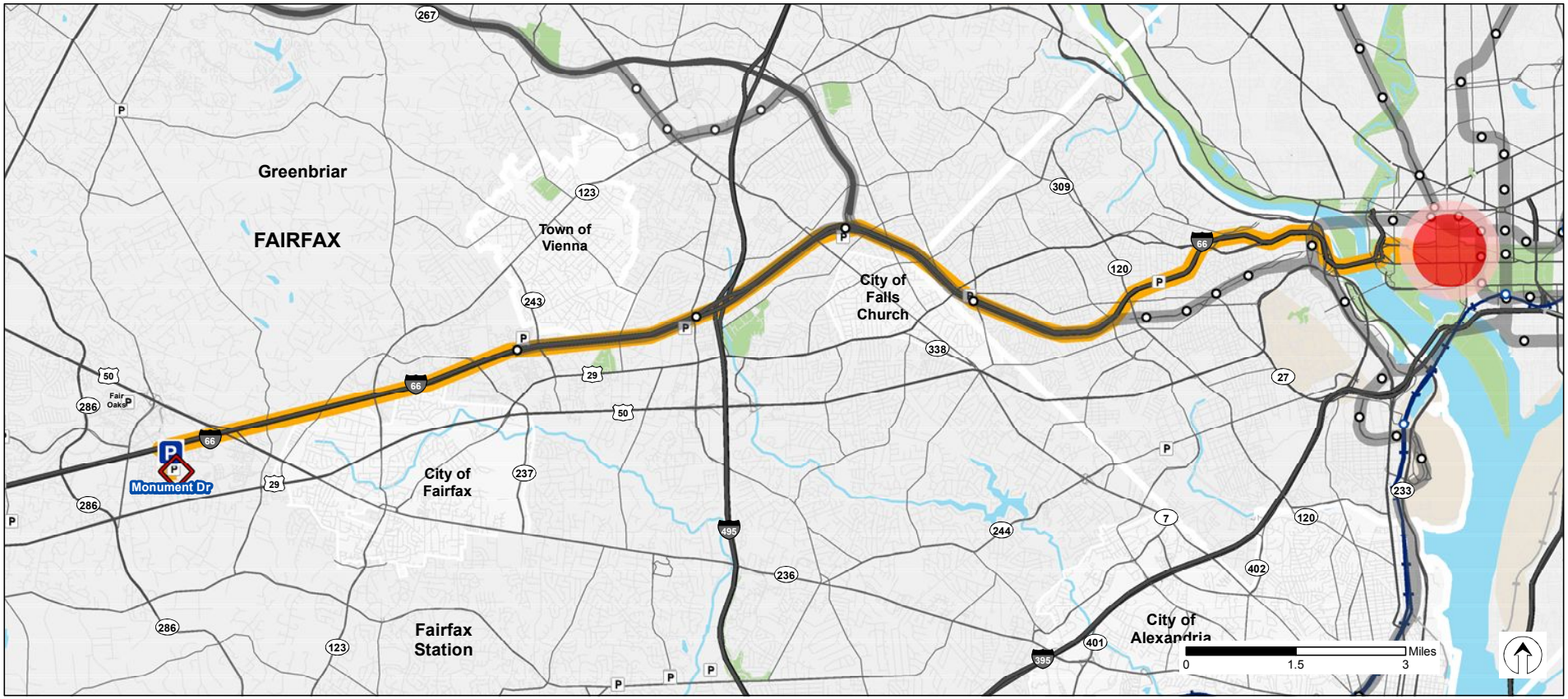


Exhibit 2

FY ___ Components Selected by NVTC for Transform66: Inside the Beltway Project

In accordance with the Memorandum of Agreement for Transform 66: Inside the Beltway Project, the following components were evaluated, prioritized and selected by NVTC after a call for projects issued to all jurisdictions and other public transportation providers in Planning District 8, and a public hearing held thereon, all in accordance with a process established by NVTC:

Component	Component Description	Sponsoring Jurisdiction/ Entity	Improvement Goals Served	Benefit toI-66 Users	Component Budget	Estimated Schedule
						Estimated Start: Estimated Completion:



Monument to DC

Headway in minutes					
Opening Year	2023	2025	2030	2035	2040
35	35	35	35	35	35

Legend

- Transit Route
- Bus Stop
- Destination Center
- Commuter Rail Station
- Commuter Rail Line
- Metrorail Station
- Metrorail Line
- Project Park-and-Ride
- Existing Park-and-Ride

Transit/TDM Preferred Alternative: Proposed Transit Service

Note: Specific routing shown represents assumed routing for modeling purposes. Actual routing to be determined by transit operator in coordination with DRPT and VDOT prior to route implementation.

Board Agenda Item
November 1, 2016

ACTION - 3

Approval of the Department of Neighborhood and Community Services' Gym Allocation Policy

ISSUE:
The current Gym Allocation Policy calls for periodic reviews. The Department of Neighborhood and Community Services (NCS) and the Fairfax County Athletic Council (FCAC) have completed a thorough review of the policy. The recommended revised policy better reflects the current state of community athletics in the County.

RECOMMENDATION:
The County Executive recommends that the Board approve the proposed Gym Allocation Policy.

TIMING:
Board action is requested on November 1, 2016, as the deadline for applications for spring gym use is December 1, and NCS will need to notify user groups of any policy changes prior to their submission of applications.

BACKGROUND:
The Gym Allocation Policy, which guides the fair and equitable distribution of gymnasiums and determines how NCS allocates gymnasiums to community user groups, calls for periodic review. That provision, plus changes in the local athletic community, necessitates revisions to the policy. The Gym Allocation Policy was originally adopted in 2008. In the fall of 2015, the FCAC began its review of the policy, working with the athletic community and staff from NCS and Fairfax County Public Schools (FCPS).

The FCAC unanimously approved recommending a revised Gym Allocation Policy to the director of NCS and the Board of Supervisors (Attachment 1). After developing a draft of the policy, the FCAC distributed the proposal for public comment. Opinions from the athletic community and the community-at-large were obtained through written comments and at public comment meetings held throughout the county. Those who attended the meetings were encouraged to submit written comments to ensure their views were accurately captured. The comments were passed on to the FCAC in their full, unedited state. Attachment 2 includes the comments, categorized and presented by topic, along with the NCS response thereto.

The changes that should be highlighted for the Board are as follows:

1. The new revised policy continues to give youth priority over adults.

2. In order to become a Certified Athletic Organization and receive priority scheduling, the following requirements were added:

a. Non-Profit Documentation - In determining Profit, Non-Profit, and Not-for-Profit status, organizations must provide an IRS non-profit number or written documentation supporting non-profit status as categorized by a federal or state regulatory agency.

b. Insurance - Proof of a minimum of $1,000,000 liability coverage; the policy must name FCPS, FCPA, and the Board of Supervisors as co-insureds.

c. Background Checks - A written certification from the organization attesting that it has a policy in place requiring appropriate and periodic background checks for all adults acting in any capacity on behalf of the youth organization (administrative staff, paid staff, coach, volunteer, trainers, etc.) in accordance with all applicable county, FCPA, and FCPS policies.

3. Currently, the policy allocates space by the total number of participants divided by an allocation factor, which determines the number of teams. The new policy will allocate space based on the number of teams, as determined by their rosters and submitted schedules.

4. Currently, the policy gives more space to youth travel/select basketball and volleyball clubs. The new policy mirrors the field policy by giving additional space based on age and not skill. The Athletic Council feels this change is necessary to ensure access to space for all youth sports participants and not just a select few.

5. Currently, the policy has a designated nightly stop time for youth scheduling. The new policy mirrors the field policy in not designating such a stop time. This allows for maximum flexibility in scheduling both youth and adult groups.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Gym Allocation Policy
Attachment 2 - Public Comments on Policy Proposals

STAFF:
Patricia D. Harrison, Deputy County Executive
Christopher A. Leonard, Director, Department of Neighborhood and Community Services (NCS)
Sarah Allen, Division Director, NCS
Karen B. Avvisato, Manager, Athletic and Community Use Services, NCS

Gym Allocation Policy:

Community Use of Fairfax County Public Gyms Policy and Procedures

(Revised NCS September 2016)

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I. Purpose

A. This document establishes the policies and procedures that govern allocation and use of Fairfax County athletic gyms, with the goal of fair and equitable distribution of community use hours among all users. Specifically, the policy outlines who is eligible to receive permitted use of Fairfax County public athletic gyms and the process used to allocate and schedule gyms, athletic leagues/organizations, individuals, groups and corporate applicants.

B. Two assumptions formed the basis for the development of the policy. First, the rules for scheduling enable the largest number of county residents to have access to public athletic gyms. Second, the gym scheduling process is designed to maximize use of available resources in a fair and equitable manner.

II. Scope of Authority

A. The Fairfax County Department of Neighborhood and Community Services (NCS) shall implement the policy, comply with these regulations, and provide equal access to these facilities in accordance with the requirements of the allocation policy.

B. The NCS director ("Director") has the authority to make changes to the allocation formula, season dates, primary/secondary sport designations, practice/game allocations, and fee charges as usage and gym availability change, and to interpret and determine appropriate procedures for implementation of the policy. Additionally, the Director has the authority to deny or terminate the use of a gym to any person or organization at any time, and/or to impose a penalty, to include but not limited to forfeiture of permits, for any user, group, or organization not complying with this policy and its rules and regulations. The inclusion in the scheduling process of gym amenities will be at the discretion of the Director, in consultation with Fairfax County Public Schools, and subject to any memoranda of understanding or community use agreements.

C. The Fairfax County Athletic Council (FCAC), acting as a Board of Supervisor appointed community representative, shall recommend policy, procedural, and planning guidance to NCS and Fairfax County Public Schools (FCPS), and review usage conflicts and make recommendations for resolution. At least once every five years, the FCAC shall review the policy and identify needs for updates and changes based upon the current usage environment.

D. All FCPS policies apply as appropriate to scheduling of the gyms. These policies can be found at the following links: http://www.fcps.edu/fts/comuse

III. Definitions

A. Acronyms:

1. NCS – Fairfax County Department of Neighborhood and Community Services
2. FCAC – Fairfax County Athletic Council
3. FCPS – Fairfax County Public Schools
4. BOS – Board of Supervisors

B. Adult Sports: Groups of players, 19 years of age or older, who participate in athletic competitions with other adults.

C. Amenities: Bleachers, playing surface, concessions, indoor restrooms, etc.

D. Applicant: Any sports organization, group of teams, or individual formally requesting community use of Fairfax County public athletic gyms.

E. Athletic League/Organization: A local youth or adult athletic group that maintains an organizational structure governing the management of the group. The group registers participants, schedules games, and has sufficient membership to schedule competitive play.

F. Building Director: Individuals that are trained and certified by NCS to act as a NCS representative monitoring the use of the gym and surrounding areas during community use time

G. Business Activity License: A business activity license is a permit issued by FCPS giving permission for any activity that uses FCPS property for the purpose of generating revenue, including but not limited to selling items such as concessions or merchandise, collecting fees for an event, requesting/soliciting donations and holding camps or clinics.

H. Certified Athletic League/Organization (CAO): An organization that has submitted the required organizational documentation to and verified by NCS. CAO status will be reviewed every two years.

I. Designated Contact: Single primary contact for each applicant sport that deals with gym applications and assignments for that sport; may be the same or separate individuals for each sport within a multi-sport organization.

J. Director: The director of the Fairfax County Department of Neighborhood and Community Services or other individual designated by the county executive.

K. Fairfax County Athletic Council: The FCAC acts as a community representative appointed by the Board of Supervisors and recommends policy, suggests procedures, and offers planning guidance to FCPS and NCS. It also reviews usage conflicts and makes recommendations for their resolution.

L. For Profit: A sports organization that makes a profit for individual personal gain that may include a fee for admission for games; assessing unusual or non-customary fees on the player, club, or team; or using semi-pro or paid players. Any organization that does not have non-profit status recognized by the IRS, for example a 501(c) status, may be recognized as a “for-profit” organization.

M. Group of Individuals: Individuals who informally have joined together to play or participate in a sport or activity, who are not associated with an organization and who do not meet the requirements of an athletic league/organization.

N. Gym Sports: All sports identified as occurring primarily indoors in gyms such as badminton, basketball, cheerleading, volleyball, and wrestling.

O. In Good Standing: An applicant (group, organization or individual) that has no outstanding bills from the county or is fulfilling obligations under a payment plan with the county; has no pending criminal or court injunctions against the league/organization or organization officials; and/or has no NCS rules violations within the past 12 months.

P. New Organization: A new sports group independently established for competitive play.

Q. New Sports: Organized sports not previously receiving community use allocation from NCS. A sport is considered “new” until receiving gym allocations from NCS for one year.

R. Non-profit: Any organization, group, or corporate sports team that has been categorized as non-profit by a federal or state regulatory agency.

S. Non-Resident: Any individual not residing in Fairfax County, Fairfax City, or the Towns of Clifton, Herndon, or Vienna.

T. Non-traditional sport: Any sport not currently recognized in the gym allocation policy.

U. Primary Season Sport: County official designated season for a particular sport.

V. Program Expansion: A sport is added within an organization and meets all the requirements for allocation of gyms.

W. Secondary Season: A season not designated as a primary season for a particular sport.

X. Tournament: Competitive play involving at least four teams that may require additional gyms beyond an organization’s allocation and/or is not part of the regular playing season.

Y. Use Agreements: FCPS (“Friends of the Gym”) have written community partnership programs designed to maintain and/or improve the quality of a gym, as described in the information found at the following link: http://www.fcps.edu/fts/comuse/friendofgym.pdf

Z. Youth Sports: Groups of players the members of which are 18 years of age or younger and participate in athletic competition with other youth.

AA. Waiver of Fees: Out-of-county fees may be waived when the team provides to the sponsoring county organization the equivalent of at least 50% of its use space in their "home" jurisdiction (not Fairfax County). For example, if an out-of-county team plays 10 games in a league sponsored by a Fairfax County organization, the out-of-county fees may be waived for that team if the team contributes to the Fairfax County organization at least 5 game slots in a comparable location in their "home" jurisdiction.

BB. Periodic (in reference to background checks): Organizations must perform background checks at least every two years.

IV. Limitations on Facility Use

A. Use of county gyms by organizations and individuals can only be permitted during those periods designated for community use and for those activities which NCS is responsible for scheduling. For users to be guaranteed access to gym space, they must have a permit. A copy of the permit must be on-hand at all times while the gym is in use.

B. Community use hours in FCPS gyms shall be defined as from 5 p.m. to 10:15 p.m. Monday through Friday, and 8 a.m. to 10:15 p.m. on Saturday and Sunday. Fairfax County Government holidays may be scheduled for community use from 5 p.m. to 10:15 p.m. provided that FCPS gyms are open.

C. The actual hours and dates of availability of individual gyms may be restricted by FCPS or NCS to reflect FCPS use or other restrictions. Use of gyms is not permitted on FCPS 12-month employee holidays and during the winter and spring vacation periods.

D. A request for a particular gym does not guarantee availability or assignment to a specific organization or individual.

E. Requests by for-profit organizations, and non-profit organizations fee-based camps, clinics, tryouts, fundraisers; and any activity with an admission fee are not scheduled by NCS, but must be scheduled by FCPS and may be subject to use agreements and fees imposed by FCPS. Such programs, including paid coaches and third-party trainers, are acceptable use of NCS-allocated space if the services are available only to registered members of the organization and not for an additional fee (e.g., camp registration).

F. Gyms taken out of service (e.g. for renovation or maintenance) by FCPS will not be permitted for use. NCS will be responsible for notifying historical users of impending projects prior to each scheduling season.

G. Assigned facilities shall only be used for the activities for which they were assigned by NCS.

V. Eligibility Requirements

A. An individual or group of individuals using the gym for personal nonprofit use or a non-profit sports organization in good standing is eligible to apply for seasonal use of gyms. The following conditions apply:

1. Adult Sports:
    a. At least 75% of participants in an adult organization must be Fairfax County residents.
    b. At least 67% of participants from a single team must be Fairfax County residents.
2. Youth Sports:
    a. At least 90% of participants in a youth organization must be Fairfax County residents.
    b. At least 75% of participants from a single team must be Fairfax County residents.
3. The residency requirement, but not the fee, will be waived for teams whose membership is 100% full-time employees of corporations or other businesses located in Fairfax County. Any such

business must submit a list of all roster names as written verification. This list must be on company letterhead and signed by a representative of the business who is not on the team as a player or manager.

4. Applicants commit to producing proofs of residency upon request by NCS staff.
5. All organizations are required to have liability insurance and must provide a written certification from the organization attesting that it has a policy in place requiring appropriate and periodic background checks for all adults acting in any capacity on behalf of the youth organization (administrative staff, paid staff, coach, volunteer, trainers, etc.) in accordance with all applicable county, FCPA, and FCPS policies.
6. Reciprocity: The Fairfax County residency requirement does not prohibit organizations from having non-county teams participate in their leagues; however, organizations will receive facility allocations from NCS based only on the Fairfax County teams. Non-county teams shall obtain facility allocations from their local jurisdictions and the organizations shall add those non-county facilities to their total league allocation.

B. Any applicant applying as a Certified Athletic League/Organization must meet all of the eligibility requirements listed above and submit the following organizational documentation. There will be a one-year probationary period before Certification will be awarded.

1. Copy of organization's bylaws.
2. A roster of elected or appointed officials (with term dates as applicable) and paid administrative staff with contact information to be updated annually.
3. Proof of insurance. There is a minimum requirement of $1,000,000 liability coverage and the policy must name Fairfax County School Board and the BOS as a co-insured and they must be specifically listed as additional insured party.
4. IRS non-profit number or other written documentation supporting non-profit status as categorized by a federal or state regulatory agency.
5. Copy of organization's written code of conduct for athletes, spectators, and coaches that stresses the importance of good character and specifies ethical obligations and sportsmanship expectations. All individuals associated with the organization must be informed of and have access to the code of conduct. The code of conduct should be presented to participants as soon as possible (e.g., at registration).
6. Copy of organization's policy delineating established progressive disciplinary procedures for addressing behavioral problems of athletes, coaches, officials and spectators who are in violation of the code of conduct. The discipline policy must include:
    a. Consequences that grow more severe as the number or severity of violations of the code of conduct increase. No violation should carry a penalty greater than a one-year suspension, except in extreme circumstances or when established by precedent.
    b. Clearly established processes and procedures for receiving and investigating code of conduct violations.
    c. Clearly defined processes for the resolution of any violation and steps, including an appeals process, to be taken if the violation cannot be resolved at the organization level. Appeals processes should include multiple pre-defined steps at the organization level.
    d. Clearly defined processes for informing participants of the discipline policy and making it available. The discipline policy should be presented to participants as soon as possible (e.g., at registration).
    e. Any additional information required by FCPS and/or NCS.

C. Individual teams or groups may not apply for space if they are allocated space from their parent organization receiving space from NCS. Winter applications for conditioning activities from teams that

are part of an organization are required to be submitted by the parent organizations and will only be considered on a space available basis.

VI. Application Requirements

A. Deadlines for filing applications. A separate application is required for each sport and tournament each season. Applications may be submitted at any time, but no applications will be processed prior to application due dates.

Table 1 – Deadline for Filing Applications

Application Due Date	Season
June 1	Fall gym use
September 1	Winter gym use
December 1	Spring gym use
March 1	Summer gym use

B. Expansion programs or new sports organizations submitting applications for gyms for their first season must submit the application 6 months prior to the application date.

C. Individual tournament applications must be submitted separately from applications for regular season play or practice. Applications may be submitted at any time, but will only be considered for the subsequent 12 month period from date of the application and are subject to available space.

VII. Order of Gym Allocation

FCPS gyms are allocated as follows:

A. School instructional activities and FCPS sports practices and events.

B. School support groups (PTA/PTO/Boosters).

C. Sport group applicants will receive practice and game allocations in the following order:

Allocation Order

1	CAO	Youth	Primary season	games	Non-profit
2	CAO	Youth	Primary season	practices	Non-profit
3	CAO	Youth	Secondary season	games	Non-profit
4	CAO	Youth	Secondary season	practices	Non-profit
5	Non-CAO	Youth	Primary season	games/practices	Non-certified athletic leagues and groups or individual team, not affiliated with an organization
6	Non-CAO	Youth	Secondary season	games/practices	
7	CAO	Adults	Primary season	games	Non-profit
8	CAO	Adults	Secondary season	games	

9	Non-CAO	Adults	Primary season	games	Non-certified athletic leagues and groups or individual team, not affiliated with an organization
10	Non-CAO	Adults	Secondary		

D. Sport group tournaments with a local sponsor, responsible for organizing, promoting, and running the event. (Youth tournaments will be scheduled prior to scheduling for adult tournaments).

E. First primary season of new sports programs, if application is not submitted 6 months prior to regular application deadline.

F. One-time use of FCPS gyms (e.g., family reunions, major organization annual events, but not tournaments). If any fees are charged or profit anticipated, this type of event should be scheduled by FCPS.

G. Sports groups late applications up until season starts

H. Adult practice slots.

I. Field Sports/Conditioning Groups. Permitted start dates may be delayed up to 45 days from NCS season start dates.

J. Organizations, groups, or individuals not meeting the Fairfax County residency requirements set forth herein.

K. Scheduling of for-profits and tournaments without a local sponsor will only be considered after non-profits and CAO-sponsored tournaments are scheduled, and only on a space-available basis. For-profits are scheduled directly by FCPS.

VIII. Allocation of Gym Time

A. Permitted entities and individuals may not redistribute space to another entity or individual. Violations may result in loss of permit. Gyms provided by NCS and FCPS are allocated for community use.

B. Some permitted entities receive additional community use time from the following sources, and that time will be included as part of the organization's allocation.

   1. Other gyms funded through tax dollars including other local governmental resources
   2. Other municipal facilities outside of Fairfax County

C. Allocation Criteria

   1. Space will be allocated equitably among primary sports in their primary season.
      a. Each applicant will receive a preliminary allocation based upon previous year's permit registration information using actual number of teams permitted.
      b. Each applicant will receive a final permit only after the requesting organization has submitted its current rosters, game and practice schedules, and application and non-county fees; these submissions have been reviewed; and the applicant has no outstanding fees or obligations.
   2. Allocation is based on the number of team rosters per organization which meet the minimum roster size as defined in Table 2 for each sport at each given age level.

Table 2 – Team Sizes*

Sport	Age Group	Team Size	Minimum Roster Size*
Badminton	All ages	4	5
Basketball	All ages	5	7
Cheerleading	All ages	8	10
Volleyball	All ages	6	8
Wrestling	All ages	Meets Only	Meets Only
Field Sports/Other Uses	All ages	10	13

**To be considered for a permit a team must meet the minimum roster size. This number uses the size of an official team multiplied by a factor of 1.3. Table numbers subject to annual review by NCS.*

3. The minimum number of teams by sport that are assigned to practice in a gym at the same time is designated by NCS, and may be adjusted either up or down as the available resources in relationship to the level of demand warrant.
4. Gyms received from other local government entities (Town of Vienna, City of Fairfax, etc.) and quasi-government entities will be counted in the allocation for those applicants.
5. The County will make every effort to continue allocating adopted gyms through the Friend-of-the-Gym agreements, but does not guarantee exclusive use or permanent assignment of those gyms.
6. Where possible, sports organizations shall be assigned gyms within their community
7. Practices and games are allocated by sport and age, as designated.
8. Allocation of games for sports in their primary season will take precedence over allocation of practices.

Table 3 – Primary Seasons*

Seasonal Scheduling Dates	Primary Season Sports
Spring: March 16 through June 15	Youth Basketball – Spring Travel, Youth Volleyball – House
Summer: June 16 through 2nd Saturday in August	Emerging sports and sports that are not identified in another season
Fall: Monday after Labor Day through November 15	Cheerleading, Badminton
Winter: November 16 through March 15	Youth Basketball – House, Youth Basketball – Winter Travel, Youth Volleyball – Club. Wrestling, Adult Basketball, Adult Volleyball

**Sports and seasons not accommodated by "Seasonal Scheduling Dates" may request an extended season; written requests will only be considered with written justification, and only on an individual basis for a specific timeframe.*

Table 4 – Primary Season Allocation*

Sport	Age Group	Practice Hours per team per week	Game Hours per team per week	Teams per Gym - Practice	Teams per Gym - Game
Youth Badminton	6 - 18 year olds	1 ¼	1	2	2
Youth Basketball	7 and under	1	1	2	2
Youth Basketball	8 & 9 year olds	1 ¼	1	2	2
Youth Basketball	10 & 11 year olds	1 ½	1 ¼	2	2
Youth Basketball	12 & 13 year olds	1 ½	1 ¼	1	2
Youth Basketball	14 - 18 year olds	1 ½	1 ¼	1	2
Youth Cheerleading	6 - 18 year olds	1 ½		2	
Youth Volleyball	8 and under	1 ¼	1	2	2
Youth Volleyball	9 - 12 year olds	1 ½	1 ¼	1	2
Youth Volleyball	13 - 18 year olds	1 ½	1 ¼	1	2
Youth Wrestling	7 - 18 year olds	Meets Only			
Adult - League	19 years and older		1 ½		2
Adult – Group of Individuals	19 years and older		1 ½		1
Field Sports/Conditioning	All ages		1		2

**Table numbers subject to annual review by NCS. Adult allocations are for gym sports only, all adult non-gym sports fall under Field Sports/Conditioning.*

9. The following process will be used when there are insufficient resources to meet the seasonal demands of primary sports.
    a. The resources will be allocated to sports in their primary season, in proportion according to each sport's percentage of the aggregate number of teams.
    b. Within each primary sport, space will be allocated to organizations in proportion according to their percentage of the aggregate number of teams for that sport.
10. Secondary Season Allocation Criteria (on a space available basis)
    a. For youth and 1 game period for adults
    b. Future adjustments to these allotments will be made based upon availability of resources and competing needs.

D. Organizations are required to return to NCS any allocated gyms and/or gym use hours that the organization does not use.

IX. Permit Requirements

A. Each applicant should anticipate a preliminary allocation based upon last year's registration information.

B. All applicants must submit the following documentation in order to receive a final permit.

1. A roster of individual players by team. Rosters must include team name, player name, player age (youth sports only), player address, including zip code and county of residency.
2. A designated contact individual per sport who is responsible for dealing with gym applications and assignments.
3. Copy of current season game and practice schedules.
4. Notification of any registration fees, equipment fees or other fees charged to participants or participating teams.
5. List of private gyms being used (including name of owner) and any other jurisdiction's gyms being used by the requesting organization.
6. Payment of any application or facility use fees.
7. Any additional information deemed necessary by NCS.

X. Tournaments

A. Application Requirements: Tournament applications must be submitted prior to the seasonal application deadlines outlined in Table 1.

B. Once a tournament has been scheduled, the tournament sponsor is required to submit:

1. List of team names
2. Game Schedule
3. Facility User Agreement/Tournament Checklist- (per facility, due 10 business days prior to the first games)
4. Team application fees

C. Order of Gym Scheduling: Tournaments will be scheduled in the following order:

1. Scheduling of league play will take precedence over tournaments
2. Tournaments with a local sponsor, responsible for organizing, promoting and running the event.
   a. Youth tournaments
   b. Adult tournaments
3. Tournaments without a local sponsor will be considered on a space available basis.

D. Tournament Applications and Scheduling

1. Tournament applications must be submitted prior to the seasonal application deadlines outlined in Table 1.
2. Tournament allocation requests are submitted separately from practice/game requests.
3. The applicant completing the Tournament Request Form must prioritize the tournaments, if requesting more than one tournament.
4. Applicants conducting tournaments must agree to pay for any damages to the facilities used.
5. A tournament checklist must be signed by the user group representative and returned to NCS for processing 10 business days prior to the first game of the tournament. FCPS will return the signed tournament checklist to NCS one week prior to the first game of the tournament. NCS will return a copy of the completed checklist to FCPS and the user group representative 72 hours prior to the first game.
6. Every attempt will be made to schedule the applicant's top priority tournament dates, but in the event of a schedule conflict, the tournaments will be equally divided among requested dates.

7. Gym allocations for tournaments are dependent upon available resources, and may be modified to provide required resources for primary season games.
8. Tournament applications must include information regarding the anticipated number of participants and spectators. Tournament requests may be denied if available facility capacity (including, but not limited to, parking and spectator space) cannot accommodate the event.
9. A permit for any sales during the tournament is required by the FCPS. Other permits may also be required per FCPS regulations.
10. The availability of on-site parking will be a factor used when determining whether to permit a tournament.
11. CAO sponsored tournaments are best scheduled around three or four day weekends to minimize the potential impact on regular season play.

XI. Rules and Regulations Governing Use of Gyms

A. Applicants agree to support and enforce the NCS rules, regulations and procedures set forth in this policy, and those of FCPS and other regulatory bodies as appropriate.

B. Permits are not transferable, and all users will ensure that no unauthorized third party is granted permission to use the gym or any portion thereof without NCS approval.

C. FCPS may cancel or postpone any non-school use of a school gym when such use is in conflict with a school event. The conflict must be one in which the two events cannot occur simultaneously due to space, parking, or other verified restrictions. NCS will notify the affected organizations as soon as the cancellation information is received and will attempt to locate alternate facilities.

D. Postponement, cancellation or discontinuation of use of any gyms or facilities by the applicant must be reported to NCS as follows:

   1. On weekdays – at least (twenty-four) 24 hours before the first event
   2. On weekends – at least (seventy-two) 72 hours before the first event

E. Failure to notify NCS by these deadlines, except in the event of inclement weather, may result in fines, custodial fees or loss of permitted space.

F. In no case shall anyone enter the facility by force, or other than through the designated doors until opened by the appointed FCPS official.

G. Food and drink are not permitted in the gyms with the exception of water in plastic containers.

H. A Building Director must be on duty during all NCS scheduled use of a school gym. FCPS reserves the right to require a paid NCS staff building director or facility supervisor.

I. All managers, coaches, or persons in charge of a group using the gyms will be responsible for the conduct of all participants, spectators and others connected with the activity, including visiting teams and opponents. NCS reserves the right to suspend or expel any organization, group of individuals or individual from use of county athletic facilities, if their use of the gyms causes or may cause damage to the facility or harms or threatens to harm any individual.

J. Groups are responsible for picking up all trash and placing the trash in the appropriate receptacles. The permit holder assumes personal liability for the cost of excessive cleanup, loss, breakage or removal of county property resulting from the permitted activity. Failure to comply will result in the permit holder being billed for any additional cost and may result in loss of allocation. The gym and surrounding school area shall be clean when permitted use is completed.

K. Preparation for a game or event is the responsibility of the user and is required to be coordinated with school personnel to include:

   1. Raising and lowering basketball goals and opening and closing bleachers are under the direction of school personnel and may require user assistance.

2. Setting up scoring tables, volleyball/badminton standards/nets and wrestling mats are the responsibility of the user.
3. Approved floor marking tape (non-residual rubber backed tape) can be used but must be removed at the end of the day's allocation.
4. All equipment, including mats, must be returned to its original location.

L. There will be no modification or physical changes to any gym or facility unless specific written permission is received from FCPS.

M. Users must agree to:

1. Ensure the safety of the players by termination of play if unsafe gym conditions exist.
2. Strictly observe allocated start and end times for their gym usage and restrict their use to assigned areas.
3. Comply with a "hands off" policy on school property located in the gym and surrounding areas, including equipment, bulletin boards, posters, mats, etc.
4. Any warming up or practice for a game must be done in the gym and in a manner that is not dangerous to spectators, individuals or the facility.
5. Ensure that prior approval from FCPS and any appropriate county government agency is received before signs, banners, and pennants are erected, and that they do not deface school or other public property.
6. Provide adequate chaperones for children and youth activities (in no event less than one adult per twenty-five (25) children or youths).
7. Groups having established their nonprofit status may sell merchandise (other than food) in school facilities only to support or benefit FCPS programs or the nonprofit organization. Only the school booster club or PTA is authorized to operate food concessions on school grounds, unless a specific written agreement has been completed by the PTA or booster club and the community organization and approved by the Community Use Section. In exchange for the waiver of concession rights, the PTA or booster club can receive no more than 15 percent of the concession sales for the event.
8. Change clothing in restrooms or locker rooms only.
9. Guarantee that activities shall be orderly and lawful and not of a nature to incite others to disorder.
10. Ensure that alcoholic beverages and tobacco products are not served or consumed in buildings or on grounds.
11. Park automobiles or other motor vehicles in the designated parking areas only.
12. Comply with safety regulations and policies of the Fairfax County School Board, the Fairfax County Fire Department, and other Fairfax County agencies.
13. Comply with all federal, state and local laws, regulations and licensing requirements.
14. Hold harmless and indemnify the Fairfax County School Board, the County of Fairfax, the Board of Supervisors of Fairfax County, Virginia, the and all of their officials, officers, employees or agents, with respect to any injury or property damage caused by user or user's employees or agents, including damage to FCPS property or other public property.

N. Field sports using gym space must adhere to the policies set forth in the FCPS "Outdoor Sports Using Indoor Facilities" policy.

O. Any group responsible for damaging, destroying or defacing school or other public property may be excluded from further use of the gym or facility and shall be held responsible for such damage. The group shall ensure reimbursement for the cost of damages occurring during use. Groups may forfeit

some of their assigned gyms in order to compensate other groups that may have been affected as a result of the damage.

XII. Denials and Terminations

A. The Director shall have the right to deny the use of a gym to any person or organization at any time, and/or impose a penalty for any user, group, or organization not complying with this policy and its rules and regulations. The Director administers and interprets the policy governing use of public gyms and determines the appropriate procedures needed for implementation. The Director has the right to deny the privilege of continued use of gyms to any user who does not comply with all the regulations.

B. NCS may deny an applicant scheduled use of gym space or terminate use if it determines that substantial evidence exists that one or more of the following has occurred:

1. Required documentation is not submitted.
2. Fees (including but not limited to application and non-county resident) are not paid within the specified time frame.
3. A history of facility damage, regulation violations, or inadequate supervision of attendees.
4. Discrimination because of race, religion, color, gender, national origin, age, disability, or any other basis prohibited by state or federal law.
5. Participants have demonstrated dangerous or violent behavior towards others or among themselves, and/or has literature/stated philosophy that promotes hatred and/or violence.
6. Progressive disciplinary measures to address spectator, coach, official, or athlete behavioral problems are not established and followed.
7. Violates regulations as identified in XI.M.7 regarding concessions, advertising and profit-making resulting from the use of gyms, charging admission fees for games in gyms, or scheduling use of public school gyms for semi-pro or paid players.
8. Assigned gyms are sublet or re-allocated without prior approval from NCS.
9. Failure to meet the residency requirements as identified in Section V.A.

XIII. Fees

A. The county will identify the following existing fee amounts each year within one week of approval of the county's annual budget.

1. An application fee will be applied per participant per season; per team, per tournament, and one time use.
2. A building director fee for any organization using school gyms when do not have their own designated volunteer building director. FCPS reserves the right to require a paid NCS staff building director or paid faculty supervisor. Any organization refusing to assign a volunteer building director or pay for a staff building director will forfeit its use of a gym.
3. A custodial fee for organizations using a gym during hours when a custodian is not regularly on duty will be charged for the cost of the custodian to be present in the facility. Additional custodial staff and clean up fees may be required for tournaments.
4. A non-resident fee established by the Board of Supervisors, or in-kind reciprocal use of facilities, will be charged for all adult and youth players, per sport, per season, per team.
5. Additional Fees: Additional fees may be assessed by FCPS for camps, clinics, tournaments, damages and/or cleanup.
6. Custodial fees may be subsidized for weekend usage according to current custodial fee subsidy guidelines administered and interpreted by the Director.

B. Fees due based upon a bill received from Fairfax County are due by the date specified on the bill.

C. All outstanding fee balances must be paid prior to receiving new seasonal permits.

D. Out-of-County Team(s), Scheduling, Fees and Reciprocity

Application and out-of-county fees may be waived when the team provides to the sponsoring county organization the equivalent of at least 50% of its use space in their "home" jurisdiction (not Fairfax County). For example, if an out-of-county team plays 10 games in a league sponsored by a Fairfax County organization, the application and out-of-county fees may be waived for that team if the team contributes to the Fairfax County organization at least 5 game slots in a comparable location in their "home" jurisdiction.

XIV. Allocation Review Process

A. Any applicant may file a request for an allocation review. To be eligible for an Allocation Review, applicants must meet at least one of the following criteria:

1. Application was denied.
2. Gym assignments were less than 90% of the minimum number of authorized hours in accordance with the policy for sports during their primary season.
3. Usage conflict that cannot be resolved by the affected parties.

B. To request an Allocation Review, applicants must submit a request in writing to the Director of NCS within 10 work days of the release of gym permits/schedules, or as conflict arises. The written allocation review request shall contain:

1. An explanation of the situation from the viewpoint of the organization,
2. Any new information that may clarify the issue and, if appropriate,
3. A suggested alternative solution to the decision.

C. All organizations/groups of individuals that may be affected by the decision may be asked to attend a review meeting.

1. All involved organizations/groups of individuals will be required to bring:
   a. Actual registrations
   b. Game and practice schedules
   c. Any other information deemed necessary by NCS.
2. The actual registration numbers (at the time of the scheduled meeting) or the estimated registration numbers reported on the applicant's initial application (whichever is lower) will be used to calculate the organization's appropriate allocation.

D. Members from the FCAC and NCS will form a review committee to provide recommendations for resolutions to the Director.

E. In the event a satisfactory resolution cannot be found, any organization or individual aggrieved by the decision of the Director may appeal such decision within ten (10) days, in writing, to the County Executive. The decision of the County Executive shall be final and binding.

Public Comments and FCAC Response to the Comments

Comments/Questions	***Response***
What is:	
CAO – Certified Athletic Organization	Requirements needed to meet in order to receive priority scheduling.
Million dollar insurance policy	That is the standard set by FCPS and the County Risk Managers.
Needs to list FCPS and Board of Supervisors contacts on policy	Not necessary, because it changes. Can be found online.
Examples of background checks	NCI Safe is a company that some organizations use to complete background checks.
	It is up to the organization to complete these checks. NCS will provide a letter or some type of document for clubs to submit signifying that they have completed checks.
There was some question as to what constituted a team	Meeting the roster requirements
Also some question on cheer – what number constitutes a team?	National standards of team roster size, with additional 30% buffer for substitutions.
Concern about out of county teams using Fairfax County space and not reciprocating with equal space in their county. It was suggested that we change their out of county fees - $30?	NCS verifies all rosters and reciprocal space.
Other issues:	
Unused space	All unused space must be turned into NCS.
Scheduling larger gyms by court (LB, Rob, Hay)	Larger gyms are divided and each court is counted separately.
Turning space back in	All unused space must be turned into NCS.
Extending adult time to 11:00 PM (FCPS issue)	FCPS issue, denied extending space because of custodial overtime.

What is the priority season for cheer?	Fall
Discussion in reference to the outdoor sports using indoor facilities policy	Facility cannot be properly maintained.
Indoor hockey – This is an actual sport and should be treated as such – Have used Fairfax HS for 32 years (was allowed to by DSA) FCPS said no, so group went to City of Fairfax to get grandfathered in. City of Fairfax wanted to be aligned with FCPS so decided against it.	FCPS facilities cannot be properly maintained.
How do you prioritize scheduling – Is historical data used?	Order of scheduling. No historical data is used in the order of scheduling.
What about concussion education? This is already required by the State, so not a part of County requirements.	Each sports organization should have their own concussion training for their parents and coaches.
How can basketball rosters be due on Oct. 1 when FCYBL says that tryouts aren't allowed to start until after Oct. 1?	NCS will work with groups to come up with feasible deadlines for rosters.
How can you avoid being allocated time that is too late for your younger kids?	Put the request for earlier start times on your application and work with your schedulers to be sure that they are aware.
What can be done about the fact that there isn't enough indoor space to go around?	There isn't much that FCPS can do about this, but it might be a good idea to focus in on the Park Authority. (i.e., push for a bond to build an indoor space.)
Travel teams practice two times a week, yet they are only allocated 1.5 hours?	It is up to the organizations how they divide up their allocated space between house and travel.
(An adult basketball group representative) was wondering if AFAR could be revised to show availability of gym space in real time. For example, would it be possible to have a site where, if one group wasn't going to use their space on a given day, they could post that it was available?	It was determined that there would be too many liability issues with having someone use a gym that wasn't the actual permit holder. Groups were reminded to turn the space back if they weren't going to use it and, if it was done in a timely fashion it is possible that it could be reallocated.
Are there any changes to the custodial fee policy for weekend usage of the gym by outdoor sports groups?	No changes are being made at this time to the custodial fee policy.

What should be done if there is a conflict regarding the use of space?	Call our on-call supervisor at 703-609-8870. They will have the schedule. If there is still a conflict they will have a monitor report to the scene.
Sometimes resolution with Arthur takes too long. Is there anything else that can be done?	It is strongly suggested that groups develop a relationship with the school administration and custodial staff at the facilities that are used regularly.
Can a group be rescheduled at another facility if they are blocked out of a gym due to an FCPS event?	Work with your scheduler to find additional space.
Groups stated that they are reluctant to give back space because space may be taken away on another day. For example, if they aren't using space on a Tuesday, they don't want to turn it back because they may need it if they are blocked out on a Thursday.	Groups must turn all unused space to NCS.
What happens when someone tries to cheat the system?	They will not get space and, the current permit will be taken away.
Can the summer fees be prorated since the season is shorter?	No, not at this time.
It was noted that use of the gyms is not always well monitored to avoid damage. New floors at Sunrise Valley were being marked up by tables used for the election.	NCS has limited staff to monitor facilities. It is important to communicate issues immediately so they can be addressed.
What is the wording for a 501c3 requirement?	It was verified that the nonprofit documentation needs to be for the Commonwealth of Virginia.
What can be done about cancellations of use coming from FCPS?	NCS is working with FCPS on this issue.

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November 1, 2016

ACTION - 4

Approval to Expend Office of Economic Adjustment Funding for the Richmond Highway Widening Project From Jeff Todd Way/Mount Vernon Memorial Highway to Telegraph Road to Address Access to the Woodlawn Plantation (Mount Vernon District)

ISSUE:
Board approval to expend up to $100,000 in Office of Economic Adjustment funding for the Richmond Highway (Route 1) Widening Project from Jeff Todd Way (Route 618)/ Mount Vernon Memorial Highway (Route 235) to Telegraph Road (Route 611) to address access to the Woodlawn Plantation, as requested by the National Trust for Historic Preservation (NTHP).

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the expenditure of Office of Economic Adjustment (OEA) funding for the Richmond Highway (Route 1) Widening Project from Jeff Todd Way (Route 618)/ Mount Vernon Memorial Highway (Route 235) to Telegraph Road (Route 611) in an amount up to $100,000 to fund design and construction of the right turn lane on southbound Richmond Highway (Route 1), to provide access to historically significant barn structure and relocated Otis Mason House on the east side of the NTHP property, formerly known as the Stables, providing the following:

- NTHP commits to donate all necessary right-of-way and easements for construction of the right turn lane, necessary utilities, storm water management and shared use path connection and temporary easements for grading and construction.

- NTHP issues a right-of-entry for the contractor, so that the project construction schedule is not impacted by the right-of-way acquisition process.

- In case the cost of the design and construction of the right turn lane, storm water drainage, any utilities relocation, and shared use path connection exceeds $100,000, NTHP compensates the project for the difference up to $75,000.

TIMING:
The Board should take action on November 1, 2016, to allow the contractor to proceed with the final design and construction of the right turn lane without jeopardizing project completion schedule.

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BACKGROUND:
In November 2011, the County successfully obtained an invitation to make a formal application for $180 million in Federal funding for transportation projects to improve patient access to the new Fort Belvoir Community Hospital, constructed as one of the recommendations of Base Realignment and Closure Commission (BRAC) in 2005. Ultimately, the County was selected to receive $180 million to widen Richmond Highway through Fort Belvoir from Telegraph Road to Mount Vernon Memorial Highway to improve patient access to medical care and to accommodate the increase in traffic resulting from construction of the hospital and other BRAC-related traffic growth. Consistent with the November 2012, Memorandum of Agreement, Appendix A, OEA transferred the grant directly to the Federal Highway Administration (FHWA) to administer the project.

The project is being constructed as a design-build project, administered by the Federal Highway Administration, Eastern Federal Lands Division (FHWA-EFLHD).

As part of the project, property is being acquired from the NTHP and several of NTHP's facilities are being relocated. These relocated facilities will form the core of NTHP's efforts to attract additional visitors to the Woodlawn Plantation. These efforts will include farming activities and a "farm to table" restaurant. These facilities and the health of the Woodlawn Plantation are important to tourism in the southern part of Fairfax County. The proposed right turn lane will facilitate easier access to the site for tour buses.

Project Cost and Schedule
FHWA-EFLHD has advised the County and the NTHP that at $100,000, the proposed right turn lane can be accommodated within the current project budget.

In addition, FHWA-EFLHD has indicated that the addition of this right turn lane will not significantly impact the completion schedule for this project.

FISCAL IMPACT:
There is no Fiscal Impact to the Fairfax County General Fund. FHWA has estimated the cost of the right turn lane to be less than $100,000 which can be accommodated within the existing project budget. The NTHP has committed to pay up to $75,000, in additional project costs above $100,000, if necessary.

ATTACHMENTS:
Attachment I: Letter from Paul W. Edmondson of the National Trust for Historic Preservation, dated October 4, 2016.

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
Karyn L. Moreland, Chief, Capital Projects Section, FCDOT

National Trust *for* Historic Preservation
Save the past. Enrich the future.

SENT VIA EMAIL TO TOM.BIESIADNY@FAIRFAXCOUNTY.GOV

October 4, 2016

Mr. Tom Biesiadny
Director
Department of Transportation
Fairfax County
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895

Re: Route 1 Realignment Project – Right-in Access to Woodlawn and Pope-Leighey House

Dear Mr. Biesiadny:

Thank you for meeting with the National Trust and Supervisor Storck this morning regarding our long-standing request to include a right-in access point to Woodlawn and Pope-Leighey House as a part of the realignment of Route 1 through our property.

For more than 60 years the National Trust has owned and operated Woodlawn as a historic site that is open to the public. Throughout that time, the National Trust has provided guided tours of both the Woodlawn Mansion and Frank Lloyd Wright's Pope-Leighey House along with providing a wide variety of educational activities to the public. In addition, the property is used for special events, weddings, art exhibitions, and needlework shows. We also provide programing and activities relating to the historical agricultural traditions of Woodlawn, through our partnership with the Arcadia Center for Sustainable Food and Agriculture, which includes a 5-acre demonstration farm along with other agricultural uses of the property.

With the variety of programs and activities taking place at Woodlawn, access to the property is important for its sustainability. Currently, the National Trust has three points of access to Route 1: one at Woodlawn Road, one service drive intersecting Route 1 on the north side, and a driveway providing direct access (both ingress and egress) to the Sharpe barn complex from northbound Route 1. The initial plans for the Route 1 realignment eliminated two of those access points (the service road and driveway). In response, the National Trust began addressing this issue with the Federal Highway Administration (FHWA) well before the 60% construction drawings for this project were drafted—requesting that we be permitted one "right-in" access (ingress only) from Route 1 in light of the diminished access planned by FHWA. Since 2014 the National Trust has continued working with FHWA, the Virginia Department of Transportation (VDOT), and Fairfax County to resolve this issue with the realignment project, providing concept plans, specifications, and drawings, and

The Watergate Office Building 2600 Virginia Avenue NW Suite 1100 Washington, DC 20037
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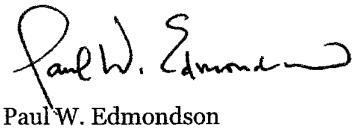
participating in a lengthy meeting with your staff and FHWA and VDOT representatives as long ago as July 2015. During this time both FHWA and VDOT have been accommodating in working with the National Trust to achieve a design for the right-in that complies with FHWA and VDOT's design and construction requirements and other applicable regulations. At this point, we have the support of those two agencies, and respectfully request concurrence by Fairfax County. As we indicated at our meeting today, this is not a last-minute request for some additional private amenity, but a longstanding request that the Route 1 re-alignment project—which has had a significant adverse impact on Woodlawn—include a single right-in turn to Woodlawn from Route 1 to help offset diminished public access caused by the realignment project.

To confirm the assurances we gave you today, in order to finalize the incorporation of the right-in into the project's construction this fall, the National Trust will dedicate any necessary land to VDOT for the right-in and provide partial funding related to the construction of the right-in. Consistent with the letter FHWA sent to your office on May 27, 2016 (enclosed), the National Trust agrees to consent to the dedication of land needed to construct the right-in (and any related right of way) as part of the overall construction of the Route 1 realignment project. In addition, although we believe that this simple change should be accommodated within the project budget (as have the many other adjustments made to the project plans since they were first developed) the National Trust, if necessary, will contribute up to $75,000 for any costs of the construction of the right-in that exceeds the $100,000 that FHWA and the Department of Defense/Office of Economic Adjustment agreed to make available in funding for the right-in.

The National Trust sincerely hopes that we may resolve this issue expeditiously, since construction on this portion of the project is due to start within weeks, not months. We look forward to working with all parties involved to complete the Route 1 realignment project. If you have any questions about this letter, or if there is any other information that you need at this point, please feel free to contact my associate Ross Bradford at rbradford@savingplaces.org.

Sincerely,



Paul W. Edmondson
Chief Legal Officer/General Counsel

Enclosure

cc: Sharon Bulova, Chairman, Fairfax County Board of Supervisors
Daniel G. Storck, Mount Vernon District Supervisor, Fairfax County Board of Supervisors

U.S. Department of Transportation
Federal Highway Administration

Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166-6511

SENT VIA ELECTRONIC CORRESPONDENCE

MAY 27 2016

In Reply Refer to: HFPP-15

Mr. Tom Biesiadny
Director
Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895

Subject: Route 1 Improvements at Fort Belvoir, Fairfax County, Virginia
Southbound Right Turn Lane to Access National Trust for Historic Preservation Property and Extension of the Existing Multiuse Trail along the Fairfax County Parkway to Route 1

Dear Mr. Biesiadny:

Over the past months we have had several discussions with you and your staff regarding two possible improvement additions to the subject project. Those additions are: A southbound, right turn only lane from Route 1 into the National Trust for Historic Preservation (NTHP) property; and the second improvement is the completion of a section of multiuse trail along the Fairfax County Parkway from Backlick Road to Route 1. Requests for adding a Route 1, southbound, right turn in only lane have been requested by the NTHP as well as by local representatives and staff. Requests to complete the "missing" multiuse trail link along the Fairfax County Parkway have also come from a local representative and their staff as well as county staff, a bicycle/pedestrian interest group and the public. This letter is to provide you with an update and recommendation to include these additions into the current construction project.

The NTHP requested installation of a Route 1 southbound, right turn in only lane to be installed with the original (current) roadway construction work for the following reasons:

1. Install the turn lane prior to fully opening the road in order to limit disruption to public traffic.
2. Not needing to remove recently installed mainline curb and storm drainage, should the turn lane work be initiated after the main line is constructed.
3. Storm water management and storm drain installation to accommodate the turn lane will be more efficiently installed during the mainline construction activities.
4. Economical unit prices for curb and gutter and pavement installation have already been established based on the current construction contract.
5. The NTHP will dedicate any land required for the turn lane.
6. Prior to the start of the current project NTHP had four direct access points (all with left and right turning movements allowed) onto and from Route 1. The current project removed all of these direct access points to Route 1.

7. The turn lane design and construction will be approved and comply with all Virginia Department of Transportation (VDOT) requirements.
8. All future improvements/development proposed by the NTHP, on their property, will be subject to all Fairfax County regulations and procedures.
9. The turn lane will not be opened for vehicular use until a plan of proposed improvements for which this turn lane is to provide access, has been approved by Fairfax County.
10. The NTHP has agreed to provide funding for a substantial portion of the increase in project cost in order to install the turn lane.
11. The NTHP has indicated a desire to possibly utilize (with applicable Fairfax County approvals) the Sharpe Stable Complex for adaptive, historic re-use to support appropriate/compatible commercial and educational uses. The intent is to have these uses generate economic resources to support preservation and interpretation of the numerous historic structures and landscapes on the NTHP property. The currently proposed access (per the original roadway improvement plans) to the Sharpe Stable Complex will not accommodate anticipated bus circulation through the area of the building complex. The proposed right in only turn lane will greatly increase flexibility to safely and efficiently address larger vehicle circulation on this site.

It is Federal Highway Administration's (FHWA) recommendation to include construction of the southbound, right turn in only lane in the current Route 1 construction contract.

We have been working with your staff and VDOT to develop a design for the multiuse trail extension along the Fairfax County Parkway between Backlick Road and Route 1. The obstacles encountered to develop an acceptable design, obtain a commitment from VDOT to maintain the completed trail and minimize impacts to the environment have been a challenge. We believe the team is close to having an acceptable design and, subject to its acceptability by all parties (Fairfax County, Department of Defense - Office of Economic Adjustment (OEA),VDOT and FHWA), recommend its addition to the current construction contract.

Mr. Eric Teitelman of your staff requested that FHWA provide information regarding the potential impact of the above recommended additions to the Route 1 Improvements at Fort Belvoir project schedule and completion of required federal compliance. It is our determination that adding the proposed turn lane and the multiuse trail extension will not adversely impact the date the project can be fully opened to public vehicular traffic. The Federal National Environmental Policy Act, National Historic Preservation Act and USDOT Section 4(f) compliance for these two additions will not cause delays to the project's current schedule for opening the Route 1 to public vehicular traffic. At the present time, the OEA, based on current preliminary plans and costs, accepts that these two improvements are within the original project intent and scope and therefore has no objection to the addition of these two improvements to the construction contract. FHWA will coordinate its federal compliance requirements with that required by the OEA.

Board Agenda Item
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INFORMATION – 1

Contract Award - Medical Services for Youth

The Department of Procurement and Material Management issued a Request for Proposal (RFP2000001870), on behalf of the Juvenile & Domestic Relations Court, for the provision of medical care services by a licensed, qualified physician for male and female residents/detainees of the Fairfax County Juvenile Detention Center and Shelter Care II. The physician will also review and approve standing orders of residents at the Boys Probation House, Foundations and Transitional Living Programs.

The County received two proposals in response to the RFP. The Selection Advisory Committee (SAC), appointed by the County Purchasing Agent, evaluated the proposals in accordance with the criteria established in the RFP. The SAC received additional clarifications from the offerors and conducted oral interviews. After reviewing all of the information, the SAC conducted negotiations and recommended contract award to highest ranking and most qualified offeror, Lishan Kassa, M.D., for the provision of these services.

Since 2012, the County has contracted with Lishan Kassa, M.D., to provide medical care services to residents of the Juvenile Detention Center and Shelter Care II. Dr. Kassa has over twelve years of experience providing medical care at correctional facilities. Dr. Kassa is also under a similar contract to provide medical care services for Fairfax County inmates in the custody of the Sheriff's Office.

The Department of Tax Administration has verified that the selected offeror does possess the appropriate Fairfax County Professional and Occupational License (BPOL).

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award this contract to Lishan Kassa, LLC. This contract will begin on November 1, 2016 and terminate on August 31, 2018, with the option to renew for three (3) one-year periods. The total estimated amount of this contract over five years is $125,000.

FISCAL IMPACT:
Funding for this contract is available in the Juvenile & Domestic Relations Court budget, as appropriated annually.

Board Agenda Item
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ENCLOSED DOCUMENTS:
Attachment 1 – List of Offerors

STAFF:
Patricia A. Harrison, Deputy County Executive
Cathy A. Muse, Director, Department of Procurement and Material Management
Lee Ann Pender, Acting Director, Department of Administration for Human Services
Robert A. Birmingham Jr., Director, Juvenile & Domestic Relations Court

ATTACHMENT 1

List of Offerors

Name	SWAM Status
Lillian B. Hunt, MD	Women-Owned Small
Lishan Kassa, LLC	Minority-Owned Small

Board Agenda Item
November 1, 2016

10:20 a.m.

Matters Presented by Board Members

Board Agenda Item
November 1, 2016

11:10 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. Settlement and State Corporation Commission (SCC) approval of transmission line rebuild in Virginia Electric and Power Company d/b/a Dominion Power (Dominion) easement burdening Huntley Meadows Park and environs

2. *Victor Vega v. Larry Collins, Fairfax County Board of Supervisors, Fairfax County Police Department, Fairfax County Department of Risk Management, and Colonel Edwin C. Roessler Jr.*, Case No. CL-2015-0017926 (Fx. Co. Cir. Ct.)

3. *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.)

4. *Magaly Hernandez v. Fairfax County, Virginia*, Case No. 1:16cv502 (E.D. Va.)

5. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Michael Katrivanos*, Case Nos. GV16-018345 and GV16-018346 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

6. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jose Orellana*, Case Nos. GV16-018734 and GV16-018756 (Fx. Co. Cir. Ct.) (Braddock District)

7. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Wallace K. Hsueh and Victoria S. Hsueh*, Case No. GV16-017406 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

8. In Re: January 13, 2016, Decision of the Board of Zoning Appeals of Fairfax County, Case No. CL-2016-0002178 (Fx. Co. Cir. Ct.) (Hunter Mill District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Westwood Buildings, LP and N.G. Group LLC*, Case No. CL 2016-0013760 (Fx. Co. Cir. Ct.) (Hunter Mill District)

10. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Gilbert L. Southworth Jr.*, Case No. GV16-007299 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Juan Bautista Torres, Angela del Rosario Plateros de Torres, and Noe Amilcar Torres*, Case No. CL-2016-0013761 (Fx. Co. Cir. Ct.) (Lee District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Thomas V. Lefler*, Case No. CL-2015-0015223 (Fx. Co. Cir. Ct.) (Lee District)

13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Maria Arrieta*, Case No. CL-2016-0000685 (Fx. Co. Cir. Ct.) (Mason District)

14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Richard Chiu*, Case No. CL-2013-0007284 (Fx. Co. Cir. Ct.) (Mason District)

15. *Board of Supervisors of Fairfax County and James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services v. David J. Laux and Tara K. Laux, a/k/a Tara K. Long*, Case No. CL-2014-0013597 (Fx. Co. Cir. Ct.) (Mason District)

16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Juan F. Hernandez and Maria Hernandez*, Case Nos. GV16-018343 and GV16-018344 (Fx. Co. Gen. Dist. Ct.) (Mason District)

17. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Pablo Garcia and Norka D. Garcia*, Case No. GV16-020364 (Fx. Co. Gen. Dist. Ct.) (Mason District)

18. *Board of Supervisors of Fairfax County, Virginia, James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services, and Fairfax County Park Authority v. James G. Lowe and Teresa L. Lowe*, Case No. CL-2016-0010771 (Fx. Co. Cir. Ct.) (Mount Vernon District)

19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Randa Hatem*, Case No. GV16-012591 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Abdelkrim Elmouhib*, Case No. CL-2009-0008424 (Fx. Co.Cir. Ct.) (Providence District)

21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lauretta Marshall*, Case No. CL-2016-0010299 (Fx. Co. Cir. Ct.) (Springfield District)

22. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Darrell Davis Poe*, Case No. GV16-020746 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

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Board Agenda Item
November 1, 2016

3:00 p.m.

Public Hearing to Receive Comment from Citizens on the Proposed Legislative Program to be Presented to the 2017 Virginia General Assembly

ENCLOSED DOCUMENTS:
Attachment I – Draft Fairfax County Legislative Program for the 2017 Virginia General Assembly
Attachment II – Draft Human Services Issue Paper

The proposed Legislative Program and Human Services Issue Paper were made available by close of business October 27, 2016, at www.fairfaxcounty.gov/government/board

STAFF:
Edward L. Long, Jr., County Executive
Claudia Arko, Legislative Director

Board Agenda Item
November 1, 2016

3:00 p.m.

Decision Only on PCA B-715 (L & F Bock Farm, LLC) to Amend the Proffers for RZ B-715, Previously Approved for Residential Use, to Permit Deletion of Land Area, Located on Approximately 4.38 Acres of Land Zoned PDH-5 (Mount Vernon District) (Concurrent with RZ 2015-MV-015 and SE 2015-MV-030)

and

Decision Only on RZ 2015-MV-015 (L & F Bock Farm, LLC) to Rezone from PDH-5 to R-8 to Permit Independent Living Facilities and Modification of the Minimum District Size Requirements with a Total Density of 29.22 Dwelling Units per Acre, Located on Approximately 4.38 Acres of Land (Mount Vernon District) (Concurrent with PCA B-715 and SE 2015-MV-030)

and

Decision Only on SE 2015-MV-030 (L & F Bock Farm, LLC) to Permit Independent Living Facilities, Located on Approximately 4.38 Acres of Land Zoned PDH-5 and Proposed as R-8 (Mount Vernon District) (Concurrent with RZ 2015-MV-015 and PCA B-715)

This property is located at approximately 0.1 mile SouthWest of the Intersection of Hinson Farm Road and Parkers Lane. Tax Map 102-1 ((1)) 3C (part).

Decision Only was deferred until November 1, 2016, by the Board of Supervisors at the October 18, 2016 meeting.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, July 13, 2016, the Planning Commission voted 10-0 (Commissioners Lawrence and Murphy were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA-B-715;
- Approval of RZ 2015-MV-015, subject to the proffers contained in Appendix 1 of the Staff Report;
- Approval of SE 2015-MV-030, subject to the proposed Development Conditions contained in Appendix 2 of the Staff Report; and

- Approval of the following waivers and modifications:
    - Modification of Section 3-806 of the Zoning Ordinance for a 5 acre minimum district size to permit 4.38 acres;
    - Modification of the age requirement listed in Paragraph 1 of Section 9-306 of the Zoning Ordinance from 62 years of age to 55 years of age;
    - Waiver of the direct access requirement to a collector street or a major thoroughfare in Paragraph 9 of Section 9-306 of the Zoning Ordinance;
    - Modification of the maximum building height listed in Paragraph 9 of Section 9-306 of the Zoning Ordinance from 50 feet to 55 feet;
    - Modification of the eastern minimum side yard requirement contained in Paragraph 10A of Section 9-306 from 50 feet to 41 feet;
    - Modification of the minimum front yard requirements contained in Paragraph 10B of Section 9-306 of the Zoning Ordinance from 30 feet to 25 feet;
    - Modification of the transitional screening and barrier requirements in Sections 13-303 and 13-304 of the Zoning Ordinance to permit landscaping and barriers as shown on the GDP/SE Plat; and
    - Modification of the required loading space requirement listed in Section11-203 of the Zoning Ordinance.

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)
Laura Arseneau, Planner, DPZ

Board Agenda Item
November 1, 2016

3:30 p.m.

Public Hearing on SE-2016-PR-014 (Caboose Brewing Company, LLC) to Permit an Eating Establishment with a Waiver of Minimum Lot Width Requirement, Located on Approximately 1.34 Acres of Land Zoned I-5 and HC (Providence District)

This property is located at 8301 Lee Highway, Fairfax, 22031. Tax Map 49-3 ((1)) 96B and 97.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing will be held on October 27, 2016. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

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)
Billy O'Donnell, Planner, DPZ

Board Agenda Item
November 1, 2016

3:30 p.m.

Public Hearing on RZ 2015-HM-013 (Wiehle Station Ventures, LLC) to Rezone from I-3 to PRM to Permit Mixed Use Development with an Overall Floor Area Ratio of 2.5 and Approval of the Conceptual Development Plan, Located on Approximately 3.34 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with SEA 94-H-049-02)

and

Public Hearing on SEA 94-H-049-02 (Wiehle Station Ventures, LLC) to Amend SE 94-H-049 Previously Approved for an Increase in FAR to Permit Deletion of Land Area, Located on Approximately 3.34 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with RZ 2015-HM-013)

This property is located at 11490 Commerce Park Drive, and 1913 Association Drive, Reston, 20191. Tax Map 17-4 ((12)) 11B and 11 D9 (part); 17-4 ((33)) C; and 17-4 ((33)) 110-535.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 29, 2016, the Planning Commission voted 8-0-2 (Commissioners Keys-Gamarra and Sargeant abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 94-H-049-02;
- Approval of RZ 2015-HM-013 and the associated Conceptual Development Plan (CDP), subject to the execution of proffers consistent with those now dated September 28, 2016;
- Approval of a waiver of Section 2-505 (2) of the Zoning Ordinance for the Use Limitations on corner lots;
- Approval of a modification of Paragraph 4 of Section 11-202 of the Zoning Ordinance to reduce the Off-Street Loading Required Minimum Site Distance from 40 feet to16 feet;
- Approval of a modification of Section 11-203 of the Zoning Ordinance to reduce the number of Required Loading Spaces from three to one for residential buildings and from four spaces to two spaces for the office buildings;

- Approval of a waiver of Section 13-203 of the Zoning Ordinance for Peripheral Parking Lot Landscaping;

- Approval of a modification of Sections 13-303 and 13-304 of the Zoning Ordinance of the Transitional Screening and Barrier Requirements to permit the landscaping as shown on the CDP/FDP/SEA; and

- Approval a parking reduction of up to18.8 percent, 78 fewer spaces, for the proposed residential use, pursuant to Paragraph 5.A of Section 11-102 of the Zoning Ordinance, subject to the conditions outlined in Appendix 17 of the staff report.

In a related action, the Planning Commission voted 8-0-2 (Commissioners Keys-Gamarra and Sargeant abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to approve FDP 2015-HM-013, subject to the proposed Final Development Plan conditions dated September 21, 2016, and the Board of Supervisors' approval of RZ 2015-HM-013 and the Conceptual Development Plan.

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)
Laura Arseneau, Planner, DPZ

Board Agenda Item
November 1, 2016

To be Deferred

3:30 p.m.

Public Hearing on PCA 84-P-114-04 (Arden Courts - Fair Oaks of Fairfax VA, LLC) to Amend the Proffers for RZ 84-P-114, Previously Approved for Housing for the Elderly, to Permit Medical Care and Assisted Living Facilities with Associated Modifications to Proffers and Site Design with No Change in the Overall Approved Floor Area Ratio of 0.25, Located on Approximately 8.98 Acres of Land Zoned R-5, WS, and HC (Springfield District) (Concurrent with SEA 84-P-129-04)

and

Public Hearing on SEA 84-P-129-04 (Arden Courts - Fair Oaks of Fairfax VA, LLC) to Amend SE 84-P-129, Previously Approved for Housing for the Elderly, Medical Care, and Assisted Living Facilities, to Permit Site Modifications and Modification of Development Conditions, Located on Approximately 8.98 Acres of Land Zoned R-5, WS, and HC (Springfield District) (Concurrent with PCA 84-P-114-04)

This property is located at 12469 Lee Jackson Memorial Highway, Fairfax, 22033. Tax Map 45-4 ((1)) 6 B.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, September 21, 2016, the Planning Commission voted 8-0 (Commissioner Keys-Gamarra was not present for the vote and Commissioners Hedetniemi, Lawrence, and Sargeant were absent from the meeting)

- Approval of PCA 84-P-114-04, subject to the execution of the proffers consistent with those dated August 19, 2016;

- Approval of SEA 84-P-129-04, subject to the Development Conditions dated September 6, 2016;

- Approval of a modification of the Transitional Screening and a waiver of the Barrier Requirements of Section 13-303 and 304 of the Zoning Ordinance in favor of the landscaping shown on the GDP/SEA Plat; and

Board Agenda Item
November 1, 2016

- Approval of a modification of an increase in fence height above seven feet pursuant to Section 10-104 (3)(H) of the Zoning Ordinance to permit an eight-foot high fence as shown on the GDP/SEA Plat.

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)
Carmen Bishop, Planner, DPZ

Board Agenda Item
November 1, 2016

To be Deferred

3:30 p.m.

Public Hearing on SE 2016-LE-005 (Ruth Villanueva DBA The Little Home Daycare) to Permit a Home Child Care Facility, Located on Approximately 1,760 Square Feet of Land Zoned PDH-4, NR (Lee District)

This property is located at 6007 Southward Way, Alexandria, 22315. Tax Map 91-3 ((11)) ((21)) 106.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 5, 2016, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2016-LE-005, subject to the proposed Development Conditions dated October 3, 2016.

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)
Kelly Posusney, Planner, DPZ

Board Agenda Item
November 1, 2016

3:30 p.m.

Public Hearing on RZ 2015-HM-005 (Pulte Home Corporation) to Rezone from I-4 to R-30 to Permit Residential Development with a Total Density of 27.8 Dwelling Units Per Acre with a Waiver of the Minimum District Size and Open Space Requirements, Located on Approximately 1.58 Acres of Land Zoned PDH-4, NR (Hunter Mill District)

This property is located South of Sunset Hills Road, North of Dulles Toll Road, and East of Michael Faraday Drive. Tax Map 18-3 ((6)) 5.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, October 5, 2016, the Planning Commission voted 4-2-1 (Commissioners Keys-Gamarra and Strandlie opposed; Commissioner Hart abstained; and Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2015-HM-005, subject to the execution of proffers consistent with those dated September 13, 2016;

- Approval of a waiver of the minimum district size of 3 acres, pursuant to Section 3-3006 of the Zoning Ordinance, to permit a district size of 1.58 acres;

- Approval of a modification of the minimum front yard requirement of 15 feet and 20° angle of bulk plane (ABP), pursuant to Section 3-3010 of the Zoning Ordinance, to permit 8 feet and 8° ABP;

- Approval of a modification to permit encroachments into the minimum front yard, pursuant to Paragraph 1.C of Section 2-412 of the Zoning Ordinance to be within 2 feet of the property line;

- Approval of a modification of the minimum open space requirement of 26 percent, pursuant to Section 3-3010 of the Zoning Ordinance, to permit 19 percent open space;

- Approval of a waiver of the loading requirement of 2 spaces, pursuant to Section 11-202 of the Zoning Ordinance;

- Approval of a modification of the design standards and guidelines for trash and recycling, pursuant to Sections 10-0303.2 and 10-0306 of the Public Facilities

Manual to permit the storage of containers within garages as shown on the Generalized Development Plan; and

- Approval of a deviation from the tree preservation target pursuant to Section 12-0508 of the Public Facilities Manual.

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)
Carmen Bishop, Planner, DPZ

Board Agenda Item
November 1, 2016

3:30 p.m.

Public Hearing on RZ 2016-DR-021 (The Board of Supervisors) to Rezone from R-1 to R-1, HD to Permit the Expansion of Langley Historic Overlay District with a Total Density of 1 Dwelling Units Per Acre, Located on Approximately 1.44 Acres of Land Zoned PDH-4, NR (Dranesville District) (Concurrent with PA 2016-II-M1)

This property is located on the East Side of Turkey Run Road, Approximetly 250 feet North of its Intersection with Georgetown Pike. Tax Map 22-3 ((1)) 50 and 51.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing will be held on October 26, 2016. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

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)
Carmen Bishop, Planner, DPZ

Board Agenda Item
November 1, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-II-M1, Proposed Expansion of the Langley Fork Historic Overlay District (Dranesville District)

ISSUE:
Plan Amendment (PA) 2016-II-M1 proposes to amend the Comprehensive Plan Map to include Tax Map Parcels 022-3 ((1)) 51 and 50, addressed as 1013 and 1011 Turkey Run Road, in the Langley Fork Historic Overlay District, a 1.44-acre area located in the McLean Planning District, M5-Potomac Palisades Community Planning Sector.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing will be held on October 26, 2016. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:
Planning Commission public hearing –October 26, 2016
Board of Supervisors' public hearing – November 1, 2016

BACKGROUND:
On April 5 and April 26, 2016, the Board of Supervisors authorized staff to proceed with the following:

- Research Tax Map Parcels # 022-3 ((1)) 50 and 51, relative to their appropriateness for inclusion in the Langley Fork Historic Overlay District, prepare the written report as required by the Zoning Ordinance, and ensure that the resultant report is coordinated with all appropriate Boards, Authorities, and Commissions.
- Evaluate an amendment to the Comprehensive Plan for the map and text changes that may result from this process.

- Initiate a Board's own rezoning to adjust the boundaries of the district, if such is recommended by the report.

The subject properties were listed in the County's Inventory of Historic Sites in December 2015.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim and Recommendation to be forwarded following the Planning Commission hearing and decision.

The Staff Report for 2016-II-M1 has been previously furnished and is available online at:
http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-ii-m1_and_rz2016-dr-021.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, PD, DPZ
Linda Cornish Blank, Planner IV, Policy and Plan Development Branch, PD, DPZ

Board Agenda Item
November 1, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-II-M2, Located on the West Side of Beverly Road and the North Side of Elm Street (Dranesville District)

ISSUE:
Plan Amendment (PA) 2016-II-M2 proposes to amend the Comprehensive Plan guidance for an approximately 7.6-acre area located on the west side of Beverly Road and the north side of Elm Street in the Subarea 29 of the McLean Community Business Center (CBC) in the McLean Planning District. The subject area is currently planned for residential use at a density of 20+ dwelling units per acre (du/ac) to reflect existing development on a portion of the subject area and office and ground floor retail uses at an intensity up to .50 floor area ratio (FAR) on the remaining portion. The Plan Map indicates the area is planned for residential use at a density of 16-20 du/ac, residential use at 20+du/ac, and retail and other uses. The amendment will consider redevelopment at an intensity up to 3.0 FAR for mixed-use development to include multifamily residential use and ground floor retail and office uses.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, October 6, 2016 the Planning Commission voted 9-0 (Commissioners Hedetniemi, Lawrence and Murphy were absent from the meeting) to recommend that the Board of Supervisors adopt the staff recommendation for Plan Amendment 2016-II-M2, as shown on pages 11-16 of the Staff Report dated September 22, 2016.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation to amend the Comprehensive Plan for mixed-use development to include multifamily residential and ground floor retail and office uses at an intensity up to 3.0 FAR on the subject property with conditions related to affordable housing, consolidation, building height, phasing, parking, open space, urban design, transportation and stormwater management, as shown on pages 11-16 of the Staff Report dated September 22, 2016. Attachment I contains the Planning Commission Verbatim and Recommendation.

TIMING:
Planning Commission public hearing – October 6, 2016
Board of Supervisors' public hearing – November 1, 2016

Board Agenda Item
November 1, 2016

BACKGROUND:
On July 12, 2016 the Board of Supervisors authorized the consideration of PA 2016-II-M2 for 1350, 1356, 1360, 1364 and 1368 Beverly Road, (Tax Map Parcels 30-2((1)) 27A, 27B, 27C, 30B and 30-2((10))(6) 9) to evaluate redevelopment at an intensity up to 3.0 FAR for mixed-use development, as previously mentioned. An impetus for PA 2016-II-M2 is the Proffer Reform Bill effective July 1, 2016 (VA Code Section 15.2-2303.4) that restrict proffers for new residential development. The provisions of the legislation do not apply to areas where certain criteria are met. The McLean CBC meets three of four required criteria, but does not meet the requirement that a density of at least 3.0 FAR be recommended by the Comprehensive Plan. As a result, the Proffer Reform Bill could severely limit the ability to implement the Plan recommendations for McLean such as sidewalks, landscaping and off-site infrastructure that the community has come to expect as part of development in the CBC. To address this concern, a subcommittee of the McLean Planning Committee (MPC) was formed to consider which subarea(s) or portions of subarea(s) might be considered appropriate for a development intensity of up to 3.0 FAR. On June 15, 2016 the subcommittee passed a resolution that proposed replanning the subject area of PA 2016-II-M2 for mixed-use development up to 3.0 FAR.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim Excerpt

The Staff Report for PA 2016-II-M2 has been previously furnished and is available online at: http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-ii-m2.pdf

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Meghan Van Dam, Chief, Policy and Plan Development Branch, PD, DPZ
Aaron Klibaner, Planner II, Policy and Plan Development Branch, PD, DPZ

PA 2016-II-M2 –MCLEAN COMMUNITY BUSINESS CENTER, SUBAREA 29, BEVERLY ROAD (Dranesville District)

After Close of Public Hearing

Vice Chairman de la Fe: Mr. Ulfelder. Public hearing is closed.

Commissioner Ulfelder: Thank you, Mr. Chairman. I would just note that last evening the McLean Citizens Association held their monthly board meeting and considered this – this – took up a resolution concerning this particular Amendment and voted to support the proposed Amendment. And, as Mr. Klibaner pointed out, the actual Amendment was originally proposed through a resolution by the McLean Planning Committee to the supervisor which then became the basis for the Board action and for the staff's development of this proposed new language to pick this particular area within the McLean CBC as a site which might be appropriate under certain circumstances and under certain conditions with for up to a 3.0 FAR. So this is an important Amendment and it's a timely Amendment at this point. And I think we should move forward with it. So, therefore, Mr. Chairman, Plan Amendment 2016-II-M2 would re-designate tax map parcels 30-2 ((1)) 27A, 27B, 27C, 30B and 30-2 ((10)) (6) 9 in the McLean Planning District, McLean Community Business Center, as a redevelopment area and add an option for mixed-used development to include multifamily residential, office and ground floor retail uses at an intensity of up to 3.0 FAR. By doing so, the McLean Community Business Center would become an exempt area under the recently enacted proffer legislation. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2016-II-M2, AS SHOWN ON PAGES 11 THROUGH 16 OF THE STAFF REPORT DATED SEPTEMBER 22ND, 2016.

Commissioner Hart and Strandlie: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart and Ms. Strandlie. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

//

(The motion carried by a vote of 9-0. Commissioners Hedetniemi, Lawrence and Murphy were absent from the meeting.)

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Board Agenda Item
November 1, 2016

4:00 p.m.

Public Hearing on a Proposed Amendment to Chapter 4 (Geotechnical Guidelines) of the Public Facilities Manual (PFM) Regarding Expansive Soils and Slope Stability

ISSUE:
Board of Supervisors' (Board) adoption of a proposed amendment to Chapter 4 (Geotechnical Guidelines) of the PFM. The proposed amendment is necessary to standardize the best practices used by experienced professional engineers to deal effectively with expansive soils and slope stability concerns.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, September 21, 2016, the Planning Commission voted 8-0-1 (Commissioner Strandlie abstained from the vote and Commissioners Hedetniemi, Lawrence, and Sargeant were absent from the meeting) to recommend to the Board of Supervisors the adoption of the proposed amendment to Chapter 4 of the PFM as set forth in the Staff Report dated July 26, 2016, and that the proposed amendment shall become effective at 12:01 a.m. on November 2, 2016. The verbatim of the Planning Commission public hearing can be found in Attachment 2.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed amendment as set forth in the Staff Report dated July 26, 2016.

The proposed amendment was prepared by Land Development Services (LDS) and coordinated with the County Attorney and the Geotechnical Review Board (GRB). The amendment was recommended for approval by the Engineering Standards Review Committee.

TIMING:
Board action is requested on November 1, 2016. On July 26, 2016, the Board authorized the advertisement of the public hearings. The Planning Commission held a public hearing on September 15, 2016. The amendment will become effective at 12:01 a.m. on November 2, 2016.

Board Agenda Item
November 1, 2016

BACKGROUND:
Chapter 4 of the PFM sets forth the guidelines for conducting subsurface explorations and preparing geotechnical reports. The planning, sampling, testing and analysis involved in the preparation of geotechnical reports is vested in a competent geotechnical engineer who has experience in this type of work and who is licensed by the State. For work in areas with problem soils, the GRB has been established to review geotechnical reports and associated plans referred to it by the LDS Director, and to provide recommendations to the Director on the sufficiency of the soils investigations, analyses, proposed designs and construction techniques.

Expansive soils, also known as “shrink-swell soils,” are problem soils found throughout the County. Foundations built on soils which are expansive will “heave” and can cause lifting of a building or other structure during periods of high moisture. Conversely, during periods of less moisture, expansive soils will “collapse” and can result in building settlement. Either way, property damage to building foundations and footings constructed in expansive soils can be severe. Expansive soils will also exert pressure on the vertical face of a foundation, basement, or retaining wall and the resulting instability can lead to various forms of foundation problems and slope failures. Slope instability is a concern when very soft, very loose, fissured or over consolidated soils are present. Of particular concern in the County are the clayey soils of the Potomac Formation that are often fissured and over consolidated.

At this time, staff recommends that the PFM’s provisions related to expansive soils and slope stability be updated to incorporate the best practices being recommended by the GRB and generally used by industry engineers. Codifying the proposed provisions is necessary to improve ease of use and achieve consistency during the regulatory review process.

FISCAL IMPACT:
None.

REGULATORY IMPACT:
For consistency and ease of use, the amendment proposes to standardize the best practices utilized by experienced professional engineers to deal effectively with expansive soils and slope stability concerns. Major elements of the amendment include:

- Procedures for laboratory testing of fissured and deltaic clays to evaluate the potential for slope failure are being codified.

- Slope analysis shall include a minimum factor of safety of 1.25 and all walls 8 feet in height and greater shall provide a preliminary global stability analysis.
- Best-practice designs for foundations and slabs in problem soils are proposed.

The principle objective of the proposed amendment is to safeguard people and properties from unsafe conditions inherent in slopes and expansive soils. In addition, standardizing geotechnical best practices is necessary to improve consistency and thereby reduce the time for submitting engineers to prepare, and the County to review, geotechnical reports submitted during the land development process. This amendment aligns with Goal #3 of the County's Economic Success Strategic Plan by improving the speed, consistency and predictability of the land development regulatory process.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff Report dated July 26, 2016, as revised on October 3, 2016
Attachment 2 – Planning Commission Verbatim Excerpt

STAFF:
Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services

ATTACHMENT 1

LAND DEVELOPMENT SERVICES

STAFF REPORT

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

Proposed Amendment to Chapter 4 (Geotechnical Guidelines) of the Public Facilities Manual Regarding Expansive Soils and Slope Stability

Authorization to Advertise:	July 26, 2016
Planning Commission Hearing:	September 15, 2016, at 8:15 p.m.
Board of Supervisors Hearing:	November 1, 2016, at 4:00 p.m.
Prepared by:	Site Code R&D Branch - BF 703-324-1780
Revised:	October 3, 2016

STAFF REPORT

A. Issue:

Proposed amendment to Chapter 4 (Geotechnical Guidelines) of the Public Facilities Manual (PFM)

B. Recommended Action:

Staff recommends that the Board of Supervisors (Board) adopt the proposed amendment to Chapter 4 (Geotechnical Guidelines) of the PFM.

C. Timing:

Board of Supervisors authorization to advertise public hearings – July 26, 2016

Planning Commission Public Hearing – September 15, 2016, at 8:15 p.m.

Board of Supervisors Public Hearing – November 1, 2016, at 4:00 p.m.

Effective Date – November 2, 2016, at 12:01 a.m.

D. Source:

Land Development Services (LDS)

E. Coordination:

The proposed amendment has been prepared by LDS and coordinated with the County Attorney and the Geotechnical Review Board (GRB). The amendment has been recommended for approval by the Engineering Standards Review Committee.

F. Background:

Chapter 4 of the Public Facilities Manual sets forth the guidelines for conducting subsurface explorations and preparing geotechnical reports. The planning, sampling, testing and analysis involved in the preparation of geotechnical reports is vested in a competent geotechnical engineer who has experience in this type of work and who is licensed by the State. For work in areas with problem soils, the GRB has been established to review geotechnical reports and associated plans referred to it by the LDS Director, and to provide recommendations to the Director on the sufficiency of the soils investigations, analyses, and proposed designs and construction techniques.

Expansive soils, also known as “shrink-swell soils,” are problem soils found throughout the County. Foundations built on soils which are expansive will “heave” and can cause lifting of a building or other structure during periods of high moisture. Conversely, during periods of less moisture, expansive soils will “collapse” and can result in building settlement. Either way, property damage to building foundations and footings

constructed in expansive soils can be severe. Expansive soils will also exert pressure on the vertical face of a foundation, basement, or retaining wall and the resulting instability can lead to various forms of foundation problems and slope failures. Slope instability is a concern when very soft, very loose, fissured or over consolidated soils are present. Of particular concern in the County are the clayey soils of the Potomac Formation that are often fissured and over consolidated. The proper identification and laboratory testing of these soils are critical for proper design and construction of structures such as foundations and retaining walls.

At this time, staff recommends that the PFM's provisions related to expansive soils and slope stability be updated to incorporate the best practices currently being recommended by the GRB and generally used by industry engineers. Codifying the proposed provisions is necessary to improve ease of use and achieve consistency during the regulatory review process.

G. Proposed Amendment:

The proposed amendment updates the geotechnical requirements set forth in § 4-0300 (Geotechnical Report) and § 4-0400 (Construction Plans) of the PFM related to expansive soils and slope stability. A summary of the amendment is below.

Slope Stability: Procedures for laboratory testing of fissured and deltaic clays to evaluate the potential for slope failure are being codified.

- A minimum number of three stress reversals at any particular normal stress is required.
- The strain rate used to shear the samples during each reversal is now explicitly described.
- Only pre-split *in-situ* or intact reconstituted samples may only be selected for testing. The sample types and strain rate must be identified in the geotechnical report.
- Two methodologies may now be used to estimate the shear-strength parameters with limitations on the maximum residual friction angle. For less complex situations, methodologies may be used as approved by the Director.

In addition, the amendment requires that the analyses of slopes include:

- An evaluation of potential adverse effects on adjoining properties using tests that include perched groundwater modeling to represent the long-term groundwater conditions.
- An upper and lower factor of safety for slope stability as follows: A lower minimum factor of safety of 1.25 can be used with sufficient laboratory and field data. Otherwise, a higher minimum factor of safety of 1.5 is required.
- The requirement that preliminary design criteria for walls retaining more than 8 feet of soil be included in the Geotechnical Report to determine whether

structural or earthwork measures are needed to achieve a sufficient factor of safety against slope failure.

Expansive Soils: Best-practice designs for foundations and floor slabs are proposed to:

- Clarify that spread footings be at least 4 feet below the nearest exterior finished grade or to the bottom of the expansive soil stratum, whichever occurs first. However, if the 4-foot buffer is insufficient, as determined by the Director, the proper buffer depth must be recommended by the geotechnical engineer.
- Add a requirement that ground-supported concrete floor slabs shall not bear directly on the expansive soils and requires at least a 2-foot separation between the slab and any expansive soil to minimize the possibility of heaving and shrinkage settlement.

A copy of the proposed PFM amendment is included as Attachment A.

H. Regulatory Impact:

For consistency and ease of use, the amendment proposes to standardize the best practices utilized by experienced professional engineers to deal effectively with expansive soils and slope stability concerns. Major elements of the amendment include:

- Procedures for laboratory testing of fissured and deltaic clays used to evaluate the potential for slope failure are being codified.
- Slope analysis shall include a minimum factor of safety of 1.25 and all walls 8 feet in height and greater shall provide a preliminary global stability analysis.
- Best-practice designs for foundations and slabs in problem soils are proposed.

The principle objective of the proposed amendment is to safeguard people and properties from unsafe conditions inherent in slopes and expansive soils. In addition, standardizing geotechnical best practices is recommended at this time to improve consistency and thereby reduce the time for submitting engineers to prepare, and the County to review, geotechnical reports submitted during the land development process. This amendment aligns with Goal #3 of the County's Economic Success Strategic Plan by improving the speed, consistency and predictability of the land development regulatory process.

I. Attached Document:

Attachment A – Proposed amendment to Chapter 4 (Geotechnical Guidelines) of the Public Facility Manual

Attachment A

Proposed Amendments to Chapter 4 (Geotechnical Guidelines) of The Fairfax County Public Facilities Manual

Amend § 4-0300 (Geotechnical Report), 4-0303 (General Guidelines), by revising Subsection 4-0303.7 (Laboratory Testing), where insertions are underlined and deletions are shown as strikeouts, to read as follows:

4-0303.7 Laboratory Testing. The nature and extent of laboratory testing deemed necessary is dependent upon the characteristics of the soil and the anticipated geotechnical problems requiring analysis.

4-0303.7A On granular soils, gradation tests on representative samples and water content determinations often are adequate.

4-0303.7B Testing of cohesive soils samples may include, but are not limited to, determination of water content, dry density and unconfined compressive strength.

4-0303.7C In stiff, fissured clays such as the Cretaceous Marumsco, ~~and/or~~ "Marumsco complexes, and soils previously mapped as marine clays,~~"~~ the results of unconfined compression tests alone cannot be used to assess the structural property of the soil *in-situ*. Atterberg limits and hydrometer analysis tests aid in classification and ~~also in predicting certain~~ in the prediction of physical properties.

4-0303.7D Consolidation tests should be performed on samples from relatively soft clayey soils (i.e., those mapped as Dulles, Elbert, Jackland, Kelly, Haymarket, Hattontown, Orange and their complexes) ~~which~~ that may underlie the foundations. Expansive pressure of the soft clayey~~s~~ soils should also be determined for foundation design.

4-0303.7E For the stiff fissured clays and deltaic clays ~~which~~ that have undergone relatively large strains in the past, the important properties for predicting long-term slope behavior are the residual effective friction angle and the residual cohesion intercept (the absolute minimum strength of clay material). Any cohesion of the fissured and deltaic clays should be ignored in the evaluation of the long-term stability of a slope. The~~se~~ shear strength parameters should be determined by appropriate laboratory tests (drained direct shear tests using sufficient stress reversals to obtain large strains as discussed in the COE laboratory testing procedure EM 1110-2-1906).

4-0303.7E(1) Many reversals are required to reach residual strengths, but must never be less than three reversals at any particular normal stress. The strain rate(s) selected to shear the samples must be based on either the consolidation data at the first normal stress or experience with similar soils. The strain rate used during each reversal may be varied (i.e., a slightly higher rate than specified in EM 1110-2-1906), but the rate during the last reversal at each normal stress shall not exceed 1.44 inches per day. The geotechnical engineer shall be aware of unintended

buildup of pore water pressure during testing and shall lower the strain rates accordingly. To obtain the strength envelope for the sample, the direct shear test must be repeated at two other normal stresses.

4-0303.7E(2) Some references suggest using a pre-split sample (Ref. Engineering Properties of Clay Shales Report No. 1, by W. Haley and B. N. MacIver). Shearing an intact, stiff to hard *in-situ* specimen may overestimate the results (see U.S. Geological Survey Professional Paper 1344: Relationship Between Geology and Engineering Characteristics of Soils and Weathered Rocks of Fairfax County and Vicinity, Virginia [1986]). Shearing such a specimen could also pose practical difficulties with some lab equipment (see EM 1110-2-1906); the test results from such samples should only be used with extreme caution. Only an intact reconstituted sample or a pre-split *in-situ* sample must be selected for the testing. The geotechnical report shall identify the type of sample and the strain rates used in the testing.

4-0303.7E(3) For less complex situations subject to approval of the Director, the required shear strength parameters may be estimated by comparison of other index properties (particularly the Atterberg limits and grain-size sieve analysis) with those of similar soils for which test results are reported in ~~the~~ published literature and on the basis of past experience. Correlations may be based on either U.S. Geological Survey Bulletin 1556: Engineering Geology and Design of Slopes for Cretaceous Potomac Deposits in Fairfax County, Virginia, and Vicinity (1984) or "Empirical Correlations - Drained Shear Strength for Slope Stability Analyses" by Stark & Hussain (ASCE *Journal of Geotechnical and Geoenvironmental Engineering* [2013]). Documentation shall be furnished when shear strength parameters are based on results other than laboratory tests. Such documentation must set forth the reasoning by which the parameters were ~~determined~~ estimated. The residual friction angle shall be limited to a maximum of 12° when obtained through correlations, however, the Director may allow an angle greater than 12° when shear testing data from an adjoining site suggest that such an angle may be acceptable.

Amend § 4-0300 (Geotechnical Report), 4-0303 (General Guidelines), by revising Subsection 4-0303.8 (Engineering Analysis and Recommendations), where insertions are underlined and deletions are shown as strikeouts, to read as follows:

4-0303.8 Engineering Analysis and Recommendations

4-0303.8A The report of the soil studies shall include sufficient analytical foundation and slope stability studies to allow a reviewer to follow the logic and assumptions on which the analysis was based and conclusions reached. Recommendations and advice concerning pavement design, foundation design, earthwork, site grading, drainage, slope stabilization and construction procedures must be included in the report. The report shall include a complete record of the field and laboratory findings, information concerning structures to be built (types and elevations of basements), the conclusions reached from the study and the recommendations for use by the designer and the owner. Probable total and differential settlement of foundations, special basement problems and retaining wall design must be discussed and recommendations set forth.

4-0303.8B Where Marumsco soils, ~~and/or "~~Marumsco complexes, and soils previously mapped as marine clays~~"~~ are found, an engineering analysis of the short- and long-term stability of the existing and planned slopes must be ~~made including~~ performed. The analyses shall include a careful evaluation of potential adverse effects on ~~nearby~~ adjoining properties. The stability ~~analysis~~ analyses shall be ~~made by acceptable~~ performed using methods ~~of analysis~~ acceptable to the Director. The long-term stability of ~~Marumsco~~ slopes containing these soils ~~and/or "marine clays"~~ shall be ~~based on~~ performed using the "residual" shear strength parameters ~~for the Marumsco soils and/or "marine clays."~~ as well as a conservative representation of the long-term groundwater conditions. Perched groundwater is common over these soils during wet seasons and must always be modeled in the long-term stability analysis as being at least 1 foot above the top of the formation. A model without perched groundwater may be allowed if the Director decides either that the model would result in unreasonable flooding or an extended-time set of groundwater level readings demonstrates that the assumed perched water level is unreasonable. For long-term stability, a minimum Factor of Safety (FS) of 1.25 is required when supported with sufficient field and laboratory characterization of the slope's soils. Otherwise, a minimum FS of 1.5 is required.

4-0303.8C In areas that are susceptible to high water table conditions (permanent, perched and/or seasonal), the engineer shall ~~provide~~ recommend sub-pavement drainage design~~,~~ and other measures to assure dry basements, ~~and to preclude wet~~ yards, etc.

4-0303.8D Design criteria for retaining walls or structures shall be ~~given~~ provided. A preliminary global stability analysis for walls over 8 feet tall shall be performed to determine whether structural or earthwork measures are needed in order to achieve a sufficient factor of safety against slope failure as defined in § 4-0303.8B.

4-0303.8E The report shall include a discussion on the problems ~~of~~ associated with expansive soils as defined in § 4-0501.3. Expansive c~~C~~lay soils containing montmorillonite, which generally have a high expansion potential, have been found in ~~a wide variety of~~ various locations in southern Fairfax County. ~~and could~~ Expansive properties may also exist in ~~the areas of~~ other problem soil~~s~~ types mapped in the central and northern parts of the County. It is suggested that the design recommendations be based on expansive properties of the clay unless it is shown other-wise by X-ray ~~defraction~~ diffraction studies or other appropriate laboratory tests.

Amend § 4-0400 (Construction Plans) by revising 4-0402 (Footing and Drainage Design), where insertions are underlined and deletions are shown as strikeouts, to read as follows:

4-0402 Footing and Drainage Design

4-0402.1 Where Cretaceous Age deltaic clays occur, roof drains shall be required and the downspouts from these drains shall be piped to a storm drainage system. However, the requirement may be waived or modified by the Director where soil conditions warrant.

4-0402.2 Foundations ~~footings~~ of structures must be placed at depths that will minimize the possibility of heaving or shrinkage ~~differential~~ settlement due to desiccation of underlying ~~clays~~

expansive soils. The emplacement depth shall be based on the soil characteristics of the site. Consideration must be given to stratification of underlying materials, natural moisture content, gradation of backfill soils, site grading and adjacent vegetation. Consideration should also be given to special cases of potential volume change of ~~clays~~ expansive soils underlying footings embedded in thin layers of natural or artificially compacted granular soils. Exterior ~~F~~foundations in Marumsco soils, ~~and/or "~~ Marumsco complexes, other soils previously mapped as marine clays~~"~~, and expansive soils (i.e., those mapped as Dulles, Elbert, Jackland, Kelly, Haymarket, Hattontown, Orange and their complexes) should be at least 4 feet ~~deep~~ below the nearest finished exterior grade, or to the bottom of the expansive soil stratum, whichever occurs first. Where the Director has determined that the geotechnical study has ~~proven the~~ demonstrated that a 4-foot vertical buffer is ~~feet to be~~ insufficient, the proper buffer depth must be recommended by the geotechnical engineer. ~~Foundations in areas of expansive clays developed in residual soils can usually be emplaced on firm underlying weathered rock materials.~~

4-0402.3 Surface and subsurface drainage shall be planned to minimize the amount of water entering Marumsco soils, ~~and/or "~~ Marumsco complexes, and other soils previously mapped as marine clays.~~"~~

4-0402.4 Perimeter drains shall be provided around all basement areas.

4-0402.5 Floor slabs that will be designed to be ground-supported shall not directly bear on expansive soils, even when the floor slab is at the basement level, to minimize the possibility of heaving or shrinkage settlement. Slabs underlain by Marumsco soils, Marumsco complexes, other soils previously mapped as marine clays, and expansive soils (e.g., Dulles, Elbert, etc.) shall bear on a vertical buffer of at least 2 feet of non-expansive soils, or below the bottom of the expansive soil stratum, whichever occurs first. Where the geotechnical study has demonstrated that a 2-foot vertical buffer is insufficient to reasonably reduce the impact of shrink-swell cycles of the expansive soil, the proper depth of the buffer shall be a part of the geotechnical engineer's recommendation.

PFM AMENDMENT – CHAPTER 4, EXPANSIVE SOILS AND SLOPE STABILITY (Countywide)

During Commission Matters

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. In just a moment I am going to have two motions. I am going to have a motion to reconsider and a – and a revote. We have to have a do-over of the recommendation that we did on the PFM Amendment last week after the – after we had gone home, I found out from staff the motion had the wrong date in it. So, this is the meeting following that so we do – we would do a motion to reconsider so we can vote again with the correct date. So, with that explanation, unless there is any questions, Mr. Chairman I MOVE THAT WE RECONSIDER THE RECOMMENDATION ON THE AMENDMENT TO THE PUBLIC FACILITIES MANUAL, CHAPTER 4, EXPANSIVE SOILS AND SLOPE STABILITY.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion? All those in favor of the motion to reconsider, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman.

Commissioner Strandlie: I was not here.

Chairman Murphy: Okay, Ms. Strandlie abstains.

Commissioner Hart: We need seven votes, so one, two, three – okay.

Chairman Murphy: No, we are okay.

Commissioner Hart: Mr. Chairman, I MOVE, WITH THAT EXPLANATION, THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENT TO CHAPTER 4 OF THE PUBLIC FACILITIES MANUAL, AS SET FORTH IN THE STAFF REPORT DATED JULY 26TH, 2016, AND I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE PROPOSED AMENDMENT SHALL BECOME EFFECTIVE AT 12:01 A.M. ON NOVEMBER 2, 2016.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of that motion? All those in favor of the motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Strandlie abstains.

//

(The motions carried by a vote of 8-0-1. Commissioner Strandlie abstained. Commissioners Hedetniemi, Lawrence and Sargeant were absent from the meeting.)

TMW

Board Agenda Item
November 1, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-CW-1CP, Countywide Policy Plan

This public hearing was deferred by the Board of Supervisors on October 18, 2016 until November 1, 2016 at 4:00 p.m.

ISSUE:
Plan Amendment (PA) 2016-CW-1CP proposes to amend the locational and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, September 29, 2016 the Planning Commission voted 10 – 0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the approval of the Planning Commission Schools Committee's recommendation for Plan Amendment 2016-CW-1CP found in the proposed text dated September 14, 2016.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:
Planning Commission public hearing – July 28, 2016
Planning Commission decision – September 29, 2016
Board of Supervisors' public hearing – October 18, 2016

BACKGROUND:
On March 1, 2016, the Fairfax County Board of Supervisors authorized Plan Amendment (PA) 2016-CW-1CP to direct staff to update location and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan. This Plan Amendment was authorized by the Board in response to Fairfax County's growth strategy, which encourages development in the County's activity centers. The probable lack of available sites in activity centers that can be developed at a low intensity for public schools requires the consideration of smaller sites developed at a higher intensity. Additionally, the lack of available sites for new

schools and education facilities may require the co-location of these facilities, and the repurposement of buildings planned for other uses to schools and education facilities. The existing Policy Plan language does not provide the needed flexibility for schools and education facilities in activity centers and urbanized areas of the County, necessitating an update of the policy plan. Staff coordinated with the Planning Commission Schools Committee and the appointed School Boards members over seven (7) meetings to develop the proposed Plan Amendment languge.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim Excerpt
Attachment II: Planning Commission Handout
Attachment III: Proposed Plan Text

Staff Report for PA 2016-CW-1CP, previously furnished and available online at:
http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/staff_report_2016-cw-1cp.pdf

STAFF:
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Director, Planning Division, DPZ
Chris Caperton, Branch Chief, Planning Division, DPZ
David Stinson, Planner II, Planning Division, DPZ

Attachment 1

Planning Commission Meeting
September 29, 2016
Verbatim Excerpt

PA 2016-CW-1CP – PUBLIC SCHOOLS POLICY PLAN AMENDMENT

Decision Only During Commission Matters
(Public Hearing held on July 28, 2016)

Commissioner Sargeant: Thank you, Mr. Chairman. Mr. Chairman, on March 1st, 2016, the Board of Supervisors authorized Policy Plan Amendment 2016-CW-1CP. The authorization directed staff, working with the Planning Commission's Schools Committee, Fairfax County Public Schools, and the Fairfax County School Board, to consider development of revised locational and character track criteria for public school facilities in the public facilities section of the Policy Plan element of the County's Comprehensive Plan. Through a series of seven public meetings, the Schools Committee, with input from staff, Fairfax County Public Schools, and the School Board, revised the Policy Plan text addressing the Board's authorization. This initiative is part of the County's effort to plan for future educational facilities. The policy language takes transit-oriented, higher-density development into consideration with the addition of vertical design guidelines for schools and other educational facilities. It provides for innovative and creative uses of space in new forms and structure. No, we are not abandoning the traditional school design that continue to serve as the hallmark and central core of so many of our communities. They will always have their place and value in our county. What we are doing, instead, is creating a new tool in the toolbox, an additional and contemporary design element for educational facilities that is in sync with the way many of our current and future citizens will go to school. One very positive outcome of this process is a very positive and collaborative working relationship between members of the School Board and Facilities Planning and the Planning Commission and County staff. This collaboration resulted in a positive update of the Schools Policy Plan and a foundation for teamwork as collectively – as we collectively tackle future issues in support of our school system. I'd like to thank several people for the effort and the tremendous achievement that we have. One is School Board Chairman, Sandy Evans, from the Mason District. And another friend, who is here tonight, is a Mount Vernon School District Board Member, Karen Corbett Sanders, who joins us for this final vote. She served as the School Board's liaison to the School Committee, along with Chairman Evans. They provided invaluable insight and guidance, not to mention the commitment of time to our committee meetings, as well as all the other meetings they attend. It was invaluable to have them here. The same can be said for Jeff Platenburg and Kevin Sneed, with School Systems Facilities Planning Department. They helped us better understand the guidelines for good schools and design and helped us understand the vision for designing future schools. My gratitude, as well, to Chris Caperton and David Stinson from County's planning staff for their guidance in keeping us focused on our mission for the Board of Supervisors. You not only found the right words and policy text, gentlemen, to describe a new vision for educational facilities. You kept us on the straight and narrow when it comes to our adherence to and support of the Comprehensive Plan and its policies. I'd like to ask a couple of questions, if I could, with that before I make my motion, Mr. Chairman. And I'd like to ask Mr. Stinson just a couple of questions, if I may. There was extensive discussion regarding before and after school child care facilities and programs. And, in addition to the fact that the policy document does not impinge – and should not – on the School Board's authority, the draft language regarding school-age child care does **not** preclude or prohibit or discourage their placement. Is that correct?

David Stinson, Planning Division, Department of Planning and Zoning: Yes, that is correct.

Commissioner Sargeant: And we had a review through the County Attorney's Office to ensure that our language was not impinging in that fashion in any way. Correct?

Mr. Stinson: Yes. That was the determination of the County Attorney's Office.

Commissioner Sargeant: And also, there was a contractual relationship too between the School Board and the Board of Supervisors when it comes to after school child care. Correct?

Mr. Stinson: Correct. Yes.

Commissioner Sargeant: And that does not – what we are doing here does not impinge on that relationship, contractually or anything else. Correct?

Mr. Stinson: Correct.

Commissioner Sargeant: I think we've managed to strike a positive and appropriate balance, Mr. Chairman. And with that, I'd like to go ahead and make my motion. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE APPROVAL OF THE SCHOOLS COMMITTEE'S RECOMMENDATION FOR PLAN AMENDMENT 2016-CW-1CP FOUND IN THE PROPOSED PLAN TEXT DATED SEPTEMBER 14TH, 2016. Thank you, Mr. Chairman.

Commissioners Migliaccio and Strandlie: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and…

Commissioner Sargeant: I think Ms. Strandlie is…

Chairman Murphy: Ms. Strandlie?

Commissioner Strandlie: And then I have a statement.

Chairman Murphy: Okay. Please. Is there a discussion of the motion?

Commissioner Sargeant: What? I think she was seconding and making a statement with her motion – with her second.

Commissioner Strandlie: Yes. I was seconding and then I was going to make a statement.

Chairman Murphy: Okay. Discussion? Go ahead.

Commissioner Strandlie: Thank you. Thank you, Commissioner Sargeant. This has been a very thorough review of the School's Policy Plan. We appreciate the direct involvement of the School Board members, Karen Corbett Sanders and School Board Chair, Sandy Evans. During the public hearing process, we heard from constituents. I think they were all from the Mason

District. The decision was deferred while the Schools Committee and the Commission considered resident comments. Many changes were incorporated in the document that we will vote on tonight. The committee spent a great deal of time crafting the wording of this revised policy. We worked with Ms. Corbett Sanders and Ms. Evans and the FCPS staff to provide design and program – programming flexibility for future school sites. And Ms. Corbett Sanders is here tonight and we thank you very much for – for taking time out tonight to be with us. The policy language related to Fairfax County's Office of Children and Family Services, who allay child care – SACC Program – also provide some flexibility for excitant circumstances, such as providing SACC services at the two campus – Upper Bailey's and Bailey's Elementary, located in the Mason District. However, we note that the SACC language in the proposed Policy Plan does not suggest, nor endorse altering SACC's in-school dedicated space requirements, as they exist today. And I want to thank everyone again, following Commissioner Sargeant's comments, and I think we have struck a good balance.

Commissioner Sargeant: Thank you.

Chairman Murphy: Is there further discussion of the motion? All those in favor of the motion, as articulated by Mr. Sargeant, say aye.

Commissioner Sargeant: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

//

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

JLC

MOTION
September 29, 2016
Commissioner Timothy Sargeant, At-Large
Plan Amendment 2016-CW-1CP

Background:

On March 1, 2016 the Board of Supervisors authorized Policy Plan amendment 2016-CW-1CP. The authorization directed staff, working with the Planning Commission Schools Committee, Fairfax County Public Schools and the Fairfax County School Board, to consider development of revised locational and character criteria for public school facilities in the Public Facilities section of the Policy Plan element of the County's Comprehensive Plan. Through a series of seven public meetings, the Schools Committee, with input from staff, Fairfax County Public Schools and the Fairfax County School Board, revised the Policy Plan text addressing the Board's authorization.

Motion to approve:

Therefore Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the approval of the Schools Committee's recommendation for Plan Amendment 2016-CW-1CP, found in the Proposed Plan Text dated September 14, 2016.

Thank you, Mr. Chairman

End of Motion

Proposed Plan Text Attachment III
September 14, 2016

Fairfax County Policy Plan, 2013 Edition, Public Facilities Element, as amended through 3-4-2014, pages 5 – 9:

"PUBLIC SCHOOLS

INTRODUCTION

Fairfax County Public Schools (FCPS) is the major provider of education in the county. FCPS ~~This system~~, which has been nationally recognized for excellence and is one of the largest school systems in the nation, has a wide range of educational facilities that accommodate instructional programs for county students from kindergarten through grade 12. In addition to accommodating educational programs, school facilities are used to meet the county's recreational and cultural needs ~~of the county~~ through programming by the Department of ~~Recreation~~ Neighborhood and Community Services. Generally, separate facilities are provided to serve up to three levels of education:

- Elementary _____ kindergarten to grade 5/6
- Middle ~~Intermediate~~ _____ grades 6/7 and 8
- Secondary _____ grades 7 through 12
- High _____ grades 9 through 12

Additionally, FCPS has an extensive adult education program, and many specialized educational programs. Special education programs serve mentally and physically handicapped students, ranging in age from 18 months ~~2~~ to 22 years. The Family and Early Childhood Education Program (FECEP), formerly known as Head Start, is a preschool program operated primarily in elementary schools for children ages 4 and 5.

The Constitution of Virginia delegates the supervision of public schools to the school board of each locality. Virginia school boards are not county agencies. The Virginia Supreme Court consistently has acknowledged that the power to select school sites and to determine the manner in which school properties shall be used is essential to the school board's supervisory role.

Pursuant to Virginia Code annotated Section 15.2-2232 when a proposed public school facility is not featured in the Comprehensive Plan, the School Board must submit the proposed facility to the Planning Commission for a determination of whether the general, or approximate location, character, and extent of the proposed facility is substantially in accord with the Comprehensive Plan. The text, objectives, and policies appearing in this portion of the Policy Plan are planning guidelines and are not intended to negate the School Board's constitutionally vested authority for school site selection, school design, or the most appropriate method to house and accommodate Fairfax County public school students. On the other hand, to the extent that the text, objectives, and policies of this section reflect land use rather than programmatic concerns, they will be implemented by the Planning Commission, as required by Virginia Code, Section 15.2-2232.

The fundamental element in capital facility planning for public schools is determining future memberships, a complex procedure which continues to be refined. The school system employs ~~a combination of two statistical~~ multiple methodologies~~, a modified cohort-survival model, and the cohort-component model,~~ for projecting student populations. ~~The cohort-survival model is based on expected birth and migration rates and the cohort-component model modifies survival ratio projections to account for special events that effect projections, such as students generated by new housing. The latter model employs housing student-generation yields using a computer-assisted geographic planning model, which aggregates estimates to attendance area~~

~~level. These estimates are then incorporated into the cohort-survival generated attendance area estimates. These models are only effective with current data. Therefore, thorough knowledge of housing starts and use of appropriate dwelling unit multipliers are essential. In addition to obtaining current housing start information, FCPS staff conduct both windshield surveys, to determine construction progress, and mail-out surveys, to determine current household composition. Enrollment is frequently projected to within a 1% level of accuracy.~~

Planning for schools is particularly difficult in areas with transient populations, such as Northern Virginia. This problem is compounded in Fairfax County by ~~rapid housing~~ development, and a multitude of variables which alter enrollment levels, such as transfers to and from private schools, in and out migration rates, and changing family compositions in existing housing stock.

FCPS strives for precise facility planning, in order to mitigate costs associated with over-estimates and yet ensure adequate physical space for students and programs. The need for ~~new~~ facilities and additions is determined by comparing available capacity in an area and the projected students for that area. Capacity is an estimate of the number of student spaces available within an educational facility which takes into account the following factors: educational specifications for elementary, ~~intermediate~~ middle and high schools; or elementary and secondary schools; program requirements; and appropriate student-teacher ratios. For example, program requirements can alter space allocations within a building if they utilize additional space, such as the addition of a room for computer training. Changes in student-teacher ratios can alter the number of classrooms required for a given number of students by modifying how they are organized into classes and scheduled into rooms.

Student membership forecasts, coupled with capacity estimates and facility standards, provide the framework for capital facility planning. Locational criteria assists in site planning, identification and selection.

The next 20 years will prove a significant challenge in maintaining and improving the county's high standards for educational facilities. In addition to keeping pace with technological advances and demographic fluctuations, FCPS must acquire school~~s~~ sites or buildings in an ever-tightening real estate market. Land and building acquisition ~~and~~, construction of schools or lease of buildings will compete with other community facilities for available land and funding resources. While providing for new facilities is expected to be a major focus for FCPS, it is becoming increasingly apparent that the rehabilitation of existing facilities will compete for limited facility funding. Therefore, every effort should be made to ensure that projects cost-effectively meet FCPS requirements.

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~~15.2-2232.~~
Location

Objective 6: **Acquire sites for ~~future building~~ schools or educational facilities through negotiation, dedication, or condemnation~~, which best provide efficiently located schools~~. This may include the siting of schools or facilities in high density areas or on parcels of limited size.**

Policy a. Place schools on parcels meeting the optimum number of general locational criteria. Sites should be evaluated by the following factors:

- Safe and convenient accessibility to pedestrian and road networks, and transit where available.
- Floor Area Ratio (F.A.R.) ~~Acreage~~ to accommodate expansion, when the school is originally sized below the maximum efficiency standard for that type of school.
- Compatibility with adjoining planned and existing development and with the Comprehensive Plan.
- Aesthetically pleasing physical qualities with appropriate engineering features (e.g. soils, topography).
- Proximity to other public facilities, such as ~~P~~police and ~~F~~fire and ~~R~~rescue services, public parks and libraries.
- ~~Proximity of schools to commercial areas should be avoided, if possible~~.

Policy b. Locate school sites, when situated in areas conducive to pedestrian traffic, to take advantage of maximum walking distances of one mile for elementary schools and one and a half miles for middle schools, ~~intermediate and~~ high schools, and secondary schools.

Policy c. Locate middle schools, ~~intermediate and~~ high schools, and secondary schools, and when possible, elementary schools, where they can be served by public water and sewer. When elementary schools must be located in non-sewered areas in order to serve their target student population, well and septic can be utilized if no other alternative is available.

Policy d. ~~Purchase~~ Acquire school sites, when land dedications cannot be obtained, as far in advance of construction as possible, to ensure availability of both the preferred location and the necessary site features. ~~Implement a land~~ Plan for acquisitions ~~plan~~ through the Capital Improvement Program.

Policy e. Encourage site dedications which provide sufficient F.A.R. ~~usable acreage~~ to meet locational criteria.

Policy f. Coordinate the acquisition and design of the site's active recreation areas with the Fairfax County Park Authority and other agencies. ~~as required to meet recreational standards and where feasible.~~ This will ensure maximum opportunities for co-location and efficient use of recreational and other facilities.

Policy g. ~~Encourage a~~As part of the development and redevelopment process, ~~commitments~~ encourage commitments for school ~~renewals and additions~~ renovations and additional capacity where permissible.

Objective 7: **Distribute administration and maintenance facilities to conveniently serve the areas they support where feasible.**

Policy a. Locate Area Administration buildings in the school areas they are intended to serve.

Policy b. Locate maintenance and operation facilities to afford greater convenience, efficiency and reduction of travel time.

Character and Extent

Objective 8: **Locate schools on sites which meet or exceed minimum state size ~~standards~~ guidelines where feasible.**

Policy a. Ensure that minimum site size conforms to the Fairfax County Zoning Ordinance F.A.R. requirements. This may ~~require~~ result in the acquisition of sites ~~acreage~~ that do not conform ~~in addition~~ to the state suggested ~~minimum requirements~~ guidelines.

Objective 9: **Design schools and educational facilities to allow for ~~maximum~~ optimal site utilization while providing optimum service to, and compatibility with, the local community.**

Policy a. Design schools to maximize a site's utility, while providing for safety and aesthetics. Provide for possible future expansion and allow for efficient flow of traffic. Provide adequate stacking space and circulation for school buses, student drop off, and offstreet parking, as required. The impact of school traffic on local road networks should, to the extent possible, be minimized.

Policy b. Design and construct schools with appreciation for, and attention to, environmentally sensitive lands.

Policy c. Locate ~~elementary, intermediate and high~~ schools in relation to residential or mixed-use areas, the road network, ~~and~~ traffic patterns and transit where available to optimize the resulting safety and convenience for students, residents, and commuters. When possible, elementary schools should be located in, or on the periphery of, residential or mixed-use areas to ensure proximity and convenience for students and the local community.

Policy d. Provide for compatibility between schools and adjacent properties with appropriate screening and fencing, in accordance with the Fairfax County Zoning Ordinance. When designing and constructing schools, preserve as much mature natural vegetation as possible.

Policy e. Design buildings for educational purposes so that intensity and character are compatible with surrounding planned and existing development.

Policy f. Consider Area Plan design guidelines, as appropriate, for schools and buildings for educational purposes.

Policy g. Consider co-location of different levels of education and other types of programs, with the option of shared facilities such as cafeteria, gymnasium,

auditorium, library, and administrative offices.

Policy h. Consider co-location of schools with other public uses such as a library or a recreational center.

Objective 10: Consider adaptive reuse of buildings for public schools and educational purposes.

Policy a. Consider properties such as office, commercial, or other buildings for conversion to education facilities.

Policy b. Consider commercial sites to offer programs such as Transitional High Schools, Family and Early Childhood Education Program (FECEP)/Head Start and distance learning. These sites could also provide services to the community.

Policy c. Consider alternative spaces for outdoor recreation, such as converted rooftops and underutilized surface parking lots. Coordinate with the Fairfax County Park Authority or other organizations for efficient use of recreational facilities for both school and community use.

~~Other~~

Objective 11~~10~~: Encourage ~~full utilization~~ optimization of existing schools and other facilities, whenever possible and reasonable, to support educational and community objectives.

Policy a. Build additions, when appropriate, to minimize the need for new facilities. Analyze carefully the costs and benefits associated with construction of an addition as compared to a new facility.

Policy b. Consider the expansion of existing school facilities identified on the Comprehensive Plan map~~,~~ as a feature shown of the Comprehensive Plan provided the proposed expansion has received prior approval by a public bond referendum, is included in the county's currently adopted Capital Improvement Program, and does not significantly impact ~~on~~ the character of the existing facility and its compatibility with the surrounding area.

Policy c. Provide temporary facilities as required to respond to short term student population accommodation needs.

Policy d. ~~Promote~~ Encourage ~~equity~~ parity between older and newer schools and facilities through ~~the Renewal Program~~ renovation. Apply the same educational specifications used as a guide in the construction of new school~~s~~ facilities for planning the ~~renewal~~ renovation of ~~old ones~~ existing facilities. Consider expected future utilization rates when proposing ~~renewal~~ renovation projects.

Policy e. Continue the practice of serving local communities~~,~~ for scout~~s~~ing, senior citizen programs, and other neighborhood based activities~~,~~ through the use of school facilities. Provide access to school grounds for community use of recreational facilities. ~~Cooperate in the use of schools space for the School Age Children~~

~~Child Care (SACC) program.~~

Policy f. Continue the practice of working in collaboration with the Fairfax County Office for Children and other organizations for the provision of space for before and after-school child care services.

Policy ~~f~~ g. Continue the practice of allowing the Park Authority and other organizations to utilize sites before school construction begins.

Policy ~~g~~ h. Provide space for other public service needs, when possible and reasonable, in underutilized schools.

Policy i. Consider co-location of multiple education facilities on school sites."

Board Agenda Item
November 1, 2016

To be Deferred

4:00 p.m.

Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) to Permit a Telecommunications Facility (Monopine), Located on Approximately 14.20 Acres of Land Zoned R-2 (Cluster) (Hunter Mill District)

This property is located at 2791 Fox Mill Road, Herndon, VA 20171. Tax Map 36-1 ((10)) G.

This public hearing was deferred by the Board at the October 18, 2016 Board meeting until November 1, 2016 at 4:00 p.m.

PLANNING COMMISSION RECOMMENDATION:
The Planning Commission public hearing was held on September 28, 2016, and the decision was defered to October 19, 2016. On October 19, 2016, the Planning Commission defered decision to November 16, 2016.

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)
Joe Gorney, Planner, DPZ