FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 1, 2014

AGENDA

8:30		Reception – Direct Support Professionals Appreciation Month Conference Center, Reception Area
9:30		Presentations
10:30		Presentation of the History Commission Annual Report
10:40		Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1		Authorization for the Fairfax County Fire and Rescue Department to Apply for and Accept Grant Funding from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) to Support the Hazardous Materials Response Team, Administered by the Virginia Department of Emergency Management (VDEM)
2		Authorization for the Fairfax County Fire and Rescue Department to Apply for and Accept Grant Funding from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) to Support the Virginia Communications Cache, Administered by the Virginia Department of Emergency Management (VDEM)
3		Authorization to Advertise a Public Hearing on the Approval of Financing for the Purchase of a New Ambulance by the Greater Springfield Volunteer Fire Department, Inc. (Springfield District)
4		Authorization to Advertise a Public Hearing on the Approval of Financing for the Purchase of a New Ambulance by the Bailey's Crossroads Volunteer Fire Department, Inc. (Mason District)
5		Authorization to Advertise a Public Hearing to Expand the Green Trails Community Parking District (Sully District)
6		Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the West Potomac Residential Permit Parking District, District 36 (Mount Vernon District)
7		Additional Time to Commence Construction for Special Exception SE 2011-PR-007, Page Annandale Road Associates, LLC (Providence District)

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 1, 2014

ADMINISTRATIVE ITEMS (Continued)

8 Additional Time to Commence Construction for Special Exception Amendment SEA 00-P-050, TCR Mid Atlantic Properties Inc. (Providence District)

9 Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia—Chapter 4 (Taxation and Finance), Article 22 (Court and Sheriff's Fees), to Add a New Section 4-22-6 in Order to Impose an Electronic Summons System Fee

10 Authorization to Advertise a Public Hearing on the Amended and Restated Real Estate Exchange Agreement Between the Board of Supervisors and Rocks Engineering Company and Nugget Joint Venture, L.C. (Collectively, "RECO") (Dranesville District)

ACTION ITEMS

1 Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the Federal Bureau of Investigation

2 Establishment of the Tysons Transportation Management Association (TMA) and Appointment of the Tysons Partnership to Operate the Tysons TMA (Dranesville, Hunter Mill, and Providence Districts)

3 Establishment of Parking Fees at Wiehle-Reston East Metrorail Garage

4 Approval of Changes to the Fairfax County Purchasing Resolution

5 Approval of the 2014 Zoning Ordinance Amendment Work Program

6 Board Approval of Fairfax County's Title VI Program for the Federal Transit Administration (FTA)

7 Establishment of a Revised Membership for the Mosaic District Community Development Authority Board (Providence District)

10:50 Matters Presented by Board Members

11:40 Closed Session

FAIRFAX COUNTY
BOARD OF SUPERVISORS
July 1, 2014

PUBLIC HEARINGS

3:30		Public Hearing on RZ 2012-DR-019 (Elm Street Residential, L.L.C.) (Dranesville District)
3:30		Public Hearing on PCA 2003-SU-035-02 (DD South Retail LC) (Sully District)
3:30		Public Hearing on SE 2013-SU-017 (DD South Retail LC) (Sully District)
3:30		Public Hearing on RZ 2013-HM-016 (Sekas Homes, LTD) (Hunter Mill District)
4:00	**To Be Cancelled**	Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Rt 123/Kelley Drive (Braddock District)
4:00		Public Hearing on Proposed Policy Plan Amendment 2013-CW-3CP Green Building Policy Plan Amendment
4:00		Public Hearing on Amendment to The Code of the County of Fairfax, Virginia - Chapter 82 (Motor Vehicles and Traffic), Article 5 (Stopping, Standing and Parking), Section 82 5-39
4:30		Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Section 82-1-6, Adoption of State Law

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
July 1, 2014

9:30 a.m.

PRESENTATIONS

SCHOOLS/SPORTS

- RESOLUTION – To recognize Jay Pearson, principal of Marshall High School, for being named Fairfax County Schools 2014 Principal of the Year. Requested by Supervisors Smyth and Hudgins.

RECOGNITIONS

- CERTIFICATE – To recognize John Cronan, Paul Davis and Dan Ross for their generous spirits and contribution to the community. Requested by Supervisor McKay.

- CERTIFICATE – To recognize Donn Grover for restoring the Lake Accotink 80-year-old carousel and its 26 hand-carved wooden horses. Requested by Supervisor McKay.

- CERTIFICATE – To recognize members of the Heritage Hill of Alexandria Townhouses Association for its beautification project of Telegraph Road. Requested by Supervisor McKay.

— more —

Board Agenda Item
July 1, 2014

DESIGNATIONS

- PROCLAMATION – To designate September 2014 as Direct Support Professionals Month in Fairfax County. Requested by Chairman Bulova.

- RESOLUTION – To commemorate the 50th anniversary of the Civil Rights Act of 1964. Requested by Supervisor Cook.

- RESOLUTION – To congratulate the Fairfax County Public Library for its 75th anniversary. Requested by Supervisor Hyland.

- CERTIFICATE – To congratulate the Fairfax County Economic Development Authority for its 50th anniversary. Requested by Chairman Bulova.

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

Board Agenda Item
July 1, 2014

10:30 a.m.

Presentation of the History Commission Annual Report

ENCLOSED DOCUMENTS:
None. Report delivered under separate cover.

PRESENTED BY:
Gretchen Bulova, Chairman, History Commission

Board Agenda Item
July 1, 2014

10:40 a.m.

Items Presented by the County Executive

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 1

Authorization for the Fairfax County Fire and Rescue Department to Apply for and Accept Grant Funding from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) to Support the Hazardous Materials Response Team, Administered by the Virginia Department of Emergency Management (VDEM)

ISSUE:
Board approval for the Fairfax County Fire and Rescue Department (FRD) to apply for and accept grant funding, if received, from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP), administered by the Virginia Department of Emergency Management (VDEM). Funding in the amount of $150,000 will allow the procurement of hazardous materials detection, decontamination, and documentation equipment to support the Fairfax County Hazardous Materials Response Team. No Local Cash Match is required. The program period is typically one year from the date of the award. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Fire and Rescue Department to apply for and accept funding, if received, from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) in the amount of $150,000. Funding will allow hazardous materials detection, decontamination, and documentation equipment to be purchased to support the Fairfax County Hazardous Materials Response Team.

TIMING:
Board approval is requested on July 1, 2014.

BACKGROUND:
The mission of the Department of Homeland Security (DHS) is to enhance the ability of state, local, and tribal governments to prepare, prevent, respond to, and recover from terrorist attacks and other disasters. The State Homeland Security Program (SHSP) is a primary funding mechanism for building and sustaining national preparedness capabilities.

This core assistance program provides states with funds to build capabilities at the local level through planning, organization, equipment, training, and exercise activities. SHSP

also supports the implementation of State Homeland Security strategies and key elements of the national preparedness architecture, including the National Preparedness Guidelines, the National Incident Management System, and the National Response Framework.

If awarded, FRD will procure hazardous materials detection, decontamination, and documentation equipment to support the Fairfax County Hazardous Materials Response Team. Detection equipment will provide the team with the capability to more efficiently identify and assess hazardous materials. Decontamination equipment will assist the team with safely removing hazardous materials from citizens. Documentation equipment will allow the team to document scenes for use in legal proceedings, and for training and evaluation.

FISCAL IMPACT:
If awarded, grant funds from the U.S. Department of Homeland Security State Homeland Security Grant in the amount of $150,000 will support the Hazardous Materials Response Team. No Local Cash Match is required. This grant does allow for the recovery of indirect costs; however, because the program is highly competitive, FRD did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards.

CREATION OF NEW POSITIONS:
No new positions will be created by this grant.

ENCLOSED DOCUMENTS:
Attachment 1 – Summary of Grant Proposal

STAFF:
David M. Rohrer, Deputy County Executive
Fire Chief Richard R. Bowers, Fire and Rescue Department
Assistant Chief John J. Caussin, Jr., Fire and Rescue Department
Assistant Chief John A. Burke, Fire and Rescue Department
Assistant Chief Garrett A. Dyer, Fire and Rescue Department
Cathy Rose, Grants Coordinator, Fire and Rescue Department

Attachment 1

STATE HOMELAND SECURITY GRANT PROGRAM – HAZMAT TEAM
SUMMARY OF GRANT PROPOSAL

Please note, the actual grant application is completed online; therefore, this summary has been provided detailing the specifics of the application.

Grant Title: Homeland Security Grant Program – Hazardous Materials Response Team

Funding Agency: Department of Homeland Security

Applicant: Fairfax County Fire and Rescue Department (FRD)

Partner: Virginia Department of Emergency Management – State Administrative Agency (VDEM)

Purpose of Grant: Support for Hazardous Materials Response Team

Funding Amount: $150,000

Proposed Use of Funds: $150,000 Support Funding Includes:
$115,000 Meters
$20,000 Decontamination Equipment
$15,000 Video Equipment

Target Population: The Hazardous Materials Response Team primarily responds within Fairfax County; however, it is designated as a VDEM Region VII asset and may be called upon to respond throughout this region. Localities within Region VII include - City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, Arlington County, Fairfax County, Loudoun County, Prince William County and Stafford County. Per 2010 Census data the combined population in the area is 2,359,584 and covers 1,618 square miles.

Performance Measures: By obtaining the identified equipment the team will have the tools to operate more effectively, efficiently and safely. Personnel on the team are required to perform regular training and demonstrate proficiency in meter operations to ensure the team is response ready at all times.

Grant Period: Typically the performance period is one year from date of award.

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 2

Authorization for the Fairfax County Fire and Rescue Department to Apply for and Accept Grant Funding from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) to Support the Virginia Communications Cache, Administered by the Virginia Department of Emergency Management (VDEM)

ISSUE:
Board approval for the Fairfax County Fire and Rescue Department (FRD) to apply for and accept grant funding, if received, from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP), administered by the Virginia Department of Emergency Management (VDEM). Funding in the amount of $189,000 will support the replacement of aging and obsolete equipment and the purchase of repair parts and miscellaneous supplies for the Virginia Communications Cache, as well as support training, exercise, planning, and instruction costs for the team to maintain certifications and capabilities. No Local Cash Match is required. The program period is typically one year from the date of the award. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Fire and Rescue Department to apply for and accept funding, if received, from the U.S. Department of Homeland Security for the 2014 State Homeland Security Grant (SHSGP) in the amount of $189,000. Funds will support sustainment of the Virginia Communications Cache and will be utilized to replace aging communications equipment, purchase repair parts and miscellaneous cache supplies, and replace an obsolete equipment trailer, as well as support training, exercise, planning, and instruction costs for the team to maintain certifications and capabilities

TIMING:
Board action is requested on July 1, 2014.

BACKGROUND:
The mission of the Department of Homeland Security (DHS) is to enhance the ability of state, local, and tribal governments to prepare, prevent, respond to, and recover from terrorist attacks and other disasters. The State Homeland Security Program (SHSP) is a primary funding mechanism for building and sustaining national preparedness capabilities.

This core assistance program provides states with funds to build capabilities at the local level through planning, organization, equipment, training, and exercise activities. SHSP also supports the implementation of State Homeland Security strategies and key elements of the national preparedness architecture, including the National Preparedness Guidelines, the National Incident Management System, and the National Response Framework. Interoperable Communications is one of the key target capabilities for the State Homeland Security Program and a key element of the national preparedness architecture. The Virginia Communications Cache concept is identified as a key component for strategic communications.

If awarded, funds will support sustainment of the Virginia Communications Cache. Funds will be utilized to replace aging communications equipment, purchase repair parts and miscellaneous cache supplies, and replace an obsolete equipment trailer. Funds will also support training, exercise, planning, and instruction costs for the team to maintain certifications and capabilities.

FISCAL IMPACT:
If awarded, grant funds from the U.S. Department of Homeland Security State Homeland Security Grant in the amount of $189,000 will support the Virginia Communications Cache. No Local Cash Match is required. This grant does allow for the recovery of indirect costs; however, because the program is highly competitive, FRD did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards.

CREATION OF NEW POSITIONS:
No new positions will be created by this grant.

ENCLOSED DOCUMENTS:
Attachment 1 – Summary of Grant Proposal

STAFF:
David M. Rohrer, Deputy County Executive
Fire Chief Richard R. Bowers, Fire and Rescue Department
Assistant Chief John J. Caussin, Jr., Fire and Rescue Department
Assistant Chief John A. Burke, Fire and Rescue Department
Assistant Chief Garrett A. Dyer, Fire and Rescue Department
Cathy Rose, Grants Coordinator, Fire and Rescue Department

STATE HOMELAND SECURITY GRANT PROGRAM – COMMUNICATIONS CACHE SUMMARY OF GRANT PROPOSAL

Please note, the actual grant application is completed online; therefore, this summary has been provided detailing the specifics of the application.

Grant Title: Homeland Security Grant Program – Virginia Communications Cache

Funding Agency: Department of Homeland Security

Applicant: Fairfax County Fire and Rescue Department (FRD)

Partner: Virginia Department of Emergency Management – State Administrative Agency (VDEM)

Purpose of Grant: Sustainment Funding for the Virginia Communications Cache

Funding Amount: $189,000

Proposed Use of Funds: $189,000 Sustainment Funding Includes:
$71,000 Training, Planning, Exercise
$20,000 COMU Instruction
$55,000 Replacement Trailer
$35,500 Replacement Communications Equipment
$2,500 Miscellaneous Educational/Office Supplies
$5,000 Repair Parts

Target Population: The Virginia Communications Cache's primary response area is VDEM Region VII which includes: City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, Arlington County, Fairfax County, Loudoun County, Prince William County and Stafford County. Per 2010 Census data the combined population in the area is 2,359,584 and covers 1,618 square miles.

Performance Measures: Program results are measured based on three criteria – team training and exercise participation, logistics management, and strategic planning. Five statewide teams must participate in four quarterly drills to ensure qualifications are maintained. Individual team training, held monthly, includes an evaluation and proficiency development component to ensure the team maintains appropriate deployment capabilities. Logistics success is achieved by demonstrating accurate inventory and asset accountability, and proper fiscal management through regular audits. Additionally, the team conducts annual strategic planning with other state teams to ensure the team is meeting the objectives of the statewide communication plan.

Grant Period: Typically the performance period is one year from date of award.

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing on the Approval of Financing for the Purchase of a New Ambulance by the Greater Springfield Volunteer Fire Department, Inc. (Springfield District)

ISSUE:
Authorization to advertise a public hearing to approve the financing of an amount of up to $251,496 for the purchase of a 2015 Horton Model 623-T Ambulance on an International 4300 chassis by the Greater Springfield Volunteer Fire Department, Inc. ("GSVFD"). In order to utilize favorable tax-exempt financing for this purchase, the United States Internal Revenue Code requires a governmental unit, such as the County, to approve of this purchase and financing arrangement.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing to approve this purchase and financing arrangement.

TIMING:
Board action is requested on July 1, 2014, to provide sufficient time to advertise the proposed public hearing on July 29, 2014, at 4:30 p.m.

BACKGROUND:
GSVFD seeks to purchase a new 2015 Horton Model 623-T Ambulance and to finance that purchase using tax-exempt bonds with a private bank. Such a purchase will reduce costs for GSVFD. In order for those bonds to be exempt from federal income taxes, such bonds must be approved by a governmental unit, and the volunteer fire department must be "a qualified volunteer fire department," which means it is organized to provide firefighting or emergency rescue services. GSVFD meets the statutory requirements to be a qualified department. Approval of this financing by the Board will not make the County responsible for repayment of this financing.

FISCAL IMPACT:
None to Fairfax County

ENCLOSED DOCUMENTS:
Attachment 1 – Draft Board Resolution
Attachment 2 – Greater Springfield Volunteer Fire Department, Inc. Public Hearing Advertisement

Board Agenda Item
July 1, 2014

STAFF:
David M. Rohrer, Deputy County Executive
Fire Chief Richard Bowers, Fire and Rescue Department
Jeffrey F. Katz, Volunteer Liaison, Fire and Rescue Department

ATTACHMENT 1

RESOLUTION OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, APPROVING THE FINANCING OF THE PURCHASE OF CERTAIN RESCUE APPARATUS BY THE GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT, INC.

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on Tuesday, July 29, 2014, at which a quorum was present and voting, the following resolution was adopted in public session, after giving notice by publication and after conducting a public hearing to approve the proposed financing of up to $251,496 for the purchase of an ambulance by the Greater Springfield Volunteer Fire Department, Inc.

WHEREAS, the Greater Springfield Volunteer Fire Department, Inc. ("GSVFD"), is located at 7011 Backlick Road in Fairfax County, Virginia; and

WHEREAS, GSVFD is organized and operates to provide firefighting and emergency medical services pursuant to written agreements to the Greater Springfield service area of Fairfax County, Virginia; and

WHEREAS, GSVFD has decided to purchase and place into service a new 2015 Horton Ambulance and to finance an amount of up to $251,496 for that purchase; and

WHEREAS, GSVFD seeks to finance the purchase of that Ambulance with a bank using private activity bonds that are accorded tax-exempt status under federal law; and

WHEREAS, on _____, 2014, GSVFD conducted a public hearing on the purchase and financing of that Ambulance; and

WHEREAS, Section 147(f) of the United States Internal Revenue Code require that such bonds be given public approval by a governmental unit, and GSVFD has requested the Board of Supervisors to approve this transaction; and

WHEREAS, approval by a governmental unit of the financing of this purchase using tax-exempt bonds will not make Fairfax County, Virginia, responsible for the repayment of such bonds; now therefore, be it

RESOLVED, that the Fairfax County Board of Supervisors, the governing body of a political subdivision of Virginia, hereby approves the proposed purchase and financing of the previously described Ambulance using tax-exempt bonds in an amount of up to $251,496; and now be it

FURTHER RESOLVED, that the Clerk to the Board shall provide a certified copy of this resolution to GSVFD.

GIVEN under my hand this 29th day of July 2014.

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

Notice of Public Hearing

Concerning Proposed Financing of up to $251,496.00

By Greater Springfield Volunteer Fire Department Inc.

For the lease purchase of one new Horton rescue vehicle

Please take Notice that Greater Springfield Volunteer Fire Department, Inc (the "VFD") will hold a public hearing at 7pm on Wednesday, July 2, 2014. The hearing will held in the community room of the Greater Springfield Volunteer Fire Department, 7011 Backlick Road, Springfield Virginia.

The purpose of the public hearing is to take public comments on a proposal for the VFD to finance up to $251,496.00 for the lease purchase of one new Horton rescue vehicle. The VFD expects that the financed property will be located at 7011 Backlick Road, Springfield, Virginia.

Anyone wishing to comment on the proposed financing, the location or nature of the project or any other aspect of the proposed undertaking may appear at the public hearing. Interested persons may also submit written comments on the subject of the hearing, or may obtain additional information on the subject of the hearing, from John Ryan, 7011 Backlick Road, Springfield VA, 703-403-2496

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on the Approval of Financing for the Purchase of a New Ambulance by the Bailey's Crossroads Volunteer Fire Department, Inc. (Mason District)

ISSUE:
Authorization to advertise a public hearing to approve the financing of an amount of up to $220,000 for the purchase of a 2014 Horton Ambulance by the Bailey's Crossroads Volunteer Fire Department, Inc. ("BXVFD"). In order to utilize favorable tax-exempt financing for this purchase, the United States Internal Revenue Code requires a governmental unit, such as the County, to approve of this purchase and financing arrangement.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing to approve this purchase and financing arrangement.

TIMING:
Board action is requested on July 1, 2014, to provide sufficient time to advertise the proposed public hearing on July 29, 2014, at 4:30 p.m.

BACKGROUND:
BXVFD seeks to purchase a new 2014 Horton Ambulance and to finance that purchase using tax-exempt bonds with a private bank. Such a purchase will reduce costs for BXVFD. In order for those bonds to be exempt from federal income taxes, such bonds must be approved by a governmental unit, and the volunteer fire department must be "a qualified volunteer fire department," which means it is organized to provide firefighting or emergency rescue services. BXVFD meets the statutory requirements to be a qualified department. Approval of this financing by the Board will not make the County responsible for repayment of this financing.

FISCAL IMPACT:
None to Fairfax County

ENCLOSED DOCUMENTS:
Attachment 1 – Draft Board Resolution
Attachment 2 – Bailey's Crossroads Volunteer Fire Department Public Hearing Advertisement

Board Agenda Item
July 1, 2014

STAFF:
David M. Rohrer, Deputy County Executive
Fire Chief Richard Bowers, Fire and Rescue Department
Jeffrey F. Katz, Volunteer Liaison, Fire and Rescue Department

ATTACHMENT 1

RESOLUTION OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, APPROVING THE FINANCING OF THE PURCHASE OF CERTAIN RESCUE APPARATUS BY THE BAILEY'S CROSSROADS VOLUNTEER FIRE DEPARTMENT, INC.

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the County Government Center at 12000 Government Center Parkway in Fairfax, Virginia, on Tuesday, July 29, 2014, at which a quorum was present and voting, the following resolution was adopted in public session, after giving notice by publication and after conducting a public hearing to approve the proposed financing of up to $220,000 for the purchase of an ambulance by the Bailey's Crossroads Volunteer Fire Department, Inc.

WHEREAS, the Bailey's Crossroads Volunteer Fire Department, Inc. ("BXVFD"), is located at 3601 Firehouse Lane in Fairfax County, Virginia; and

WHEREAS, BXVFD is organized and operates to provide firefighting and emergency medical services pursuant to written agreements to the Bailey's Crossroads service area of Fairfax County, Virginia; and

WHEREAS, BXVFD has decided to purchase and place into service a new 2014 Horton Ambulance and to finance an amount of up to $220,000 for that purchase; and

WHEREAS, BXVFD seeks to finance the purchase of that Ambulance with a bank using private activity bonds that are accorded tax-exempt status under federal law; and

WHEREAS, on June 18, 2014, BXVFD conducted a public hearing on the purchase and financing of that Ambulance; and

WHEREAS, Section 147(f) of the United States Internal Revenue Code require that such bonds be given public approval by a governmental unit, and BXVFD has requested the Board of Supervisors to approve this transaction; and

WHEREAS, approval by a governmental unit of the financing of this purchase using tax-exempt bonds will not make Fairfax County, Virginia, responsible for the repayment of such bonds; now therefore, be it

RESOLVED, that the Fairfax County Board of Supervisors, the governing body of a political subdivision of Virginia, hereby approves the proposed purchase and financing of the previously described Ambulance using tax-exempt bonds in an amount of up to $220,000; and now be it

FURTHER RESOLVED, that the Clerk to the Board shall provide a certified copy of this resolution to BXVFD.

GIVEN under my hand this 29th day of July 2014.

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

Attachment 2

Notice of Public Hearing
Concerning Proposed Financing of up to $220,000.00
By the Bailey's Crossroads Volunteer Fire Department Inc. of Virginia for the purchase of a new 2014 Horton Ambulance

PLEASE TAKE NOTICE that the Bailey's Crossroads Volunteer Fire Department, Inc. of Virginia (the "VFD") will hold a public hearing at 6:00 p.m. on Wednesday, June 18, 2014. The hearing will be held at the Mason District Governmental Center in the Small Conference Room at 6507 Columbia Pike, Annandale, VA 22003.

The purpose of the public hearing is to take public comment on a proposal for the VFD to finance up to $220,000.00 for the purchase of a new 2014 Horton Ambulance. The VFD expects that the financed property will be located at the Bailey's Crossroads Volunteer Fire Department, 3521 Moncure Avenue, Falls Church, VA 22041.

Anyone wishing to comment on the proposed financing, the location or nature of the project, or any other aspect of the proposed undertaking may appear at the public hearing. Interested persons may also submit written comments on the subject of the hearing or may obtain additional information on the subject of the hearing from Gerald Strider, President, Bailey's Crossroads Volunteer Fire Department, 3521 Moncure Avenue, Falls Church, VA 22041, (703) 820-1650.

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing to Expand the Green Trails Community Parking District (Sully District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix M of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Green Trails Community Parking District (CPD).

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for July 29, 2014, at 4:00 p.m. to consider adoption of a Fairfax County Code amendment to expand the Green Trails CPD in accordance with current CPD restrictions.

TIMING:
The Board of Supervisors should take action on July 1, 2014, to provide sufficient time for advertisement of the public hearing on July 29, 2014, at 4:00 p.m.

BACKGROUND:
Fairfax County Code Section 82-5B-2 authorizes the Board to expand a CPD for the purpose of prohibiting or restricting the parking of watercraft; boat trailers; motor homes; camping trailers and any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 on the streets in the CPD.

No such CPD shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power or (iii) restricted vehicles temporarily parked on a public street within any such CPD for a maximum of 48 hours for the purpose of

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

Pursuant to Fairfax County Code Section 82-5B-3, the Board may expand a CPD if: (1) the Board receives a petition requesting such an expansion and such petition contains the names, addresses, and signatures of petitioners who represent at least 60 percent of the addresses within the proposed CPD, and represent more than 50 percent of the eligible addresses on each block of the proposed CPD, (2) the proposed CPD includes an area in which 75 percent of each block within the proposed CPD is zoned, planned or developed as a residential area, and (3) the Board receives an application fee of $10 for each petitioning property address in the proposed CPD, and (4) the proposed CPD must contain the lesser of (i) a minimum of five block faces or (ii) any number of blocks that front a minimum of 2,000 linear feet of street as measured by the centerline of each street within the CPD.

Staff has verified that the requirements for a petition-based CPD have been satisfied.

The parking prohibition identified above for the CPD expansion is proposed to be in effect seven days per week, 24 hours per day.

FISCAL IMPACT:
The cost of sign installation is estimated at $150 to be paid out of Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:
Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)
Attachment II: Area Map of Proposed CPD Expansion

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

Attachment I

PROPOSED CODE AMENDMENT

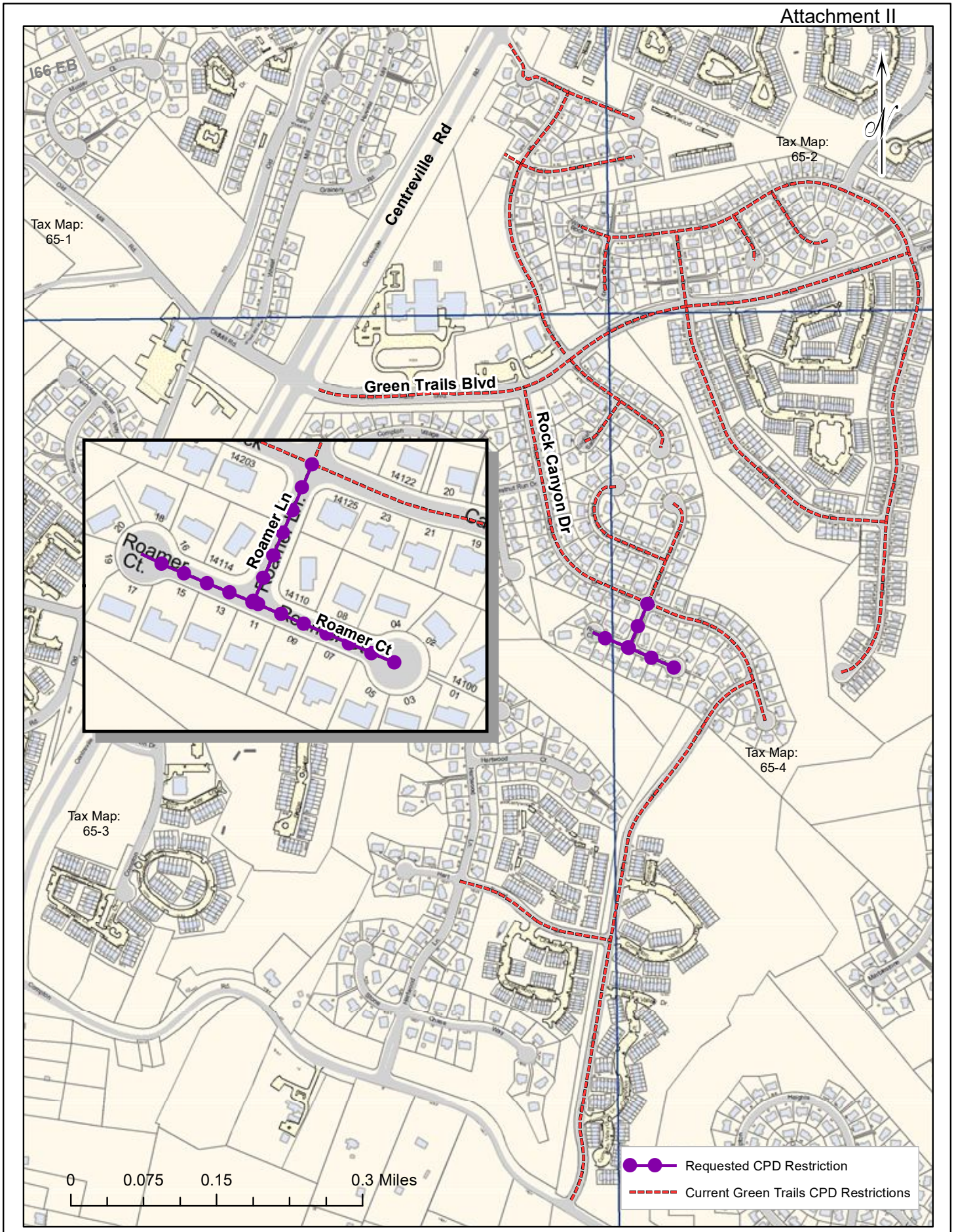
THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

Amend *The Code of the County of Fairfax*, *Virginia,* by adding the following street to Appendix M-5, Section (a)(2), Green Trails Community Parking District, in accordance with Article 5B of Chapter 82:

Roamer Lane (Route 8614)
From Rock Canyon Drive to Roamer Court.

Roamer Court (Route 8634)
From Roamer Lane east and west to the cul-de-sacs, inclusive.

Attachment II



Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the West Potomac Residential Permit Parking District, District 36 (Mount Vernon District)

ISSUE:
Board authorization to advertise a public hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to expand the West Potomac Residential Permit Parking District (RPPD), District 36.

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

TIMING:
The Board should take action on July 1, 2014, to advertise a public hearing for July 29, 2014, at 4:00 p.m.

BACKGROUND:
Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of $10 per address is required for the establishment or expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

Here, staff has verified that Dawn Drive from the western boundary of 2707 Dawn Drive east to the cul-de-sac at the end of Dawn Drive is within 1,000 feet of the property boundary of West Potomac High School, and all other requirements to expand the RPPD have been met.

FISCAL IMPACT:
The cost of sign installation is estimated at $1,200 to be paid out of Fairfax County Department of Transportation funds.

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

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

Attachment I

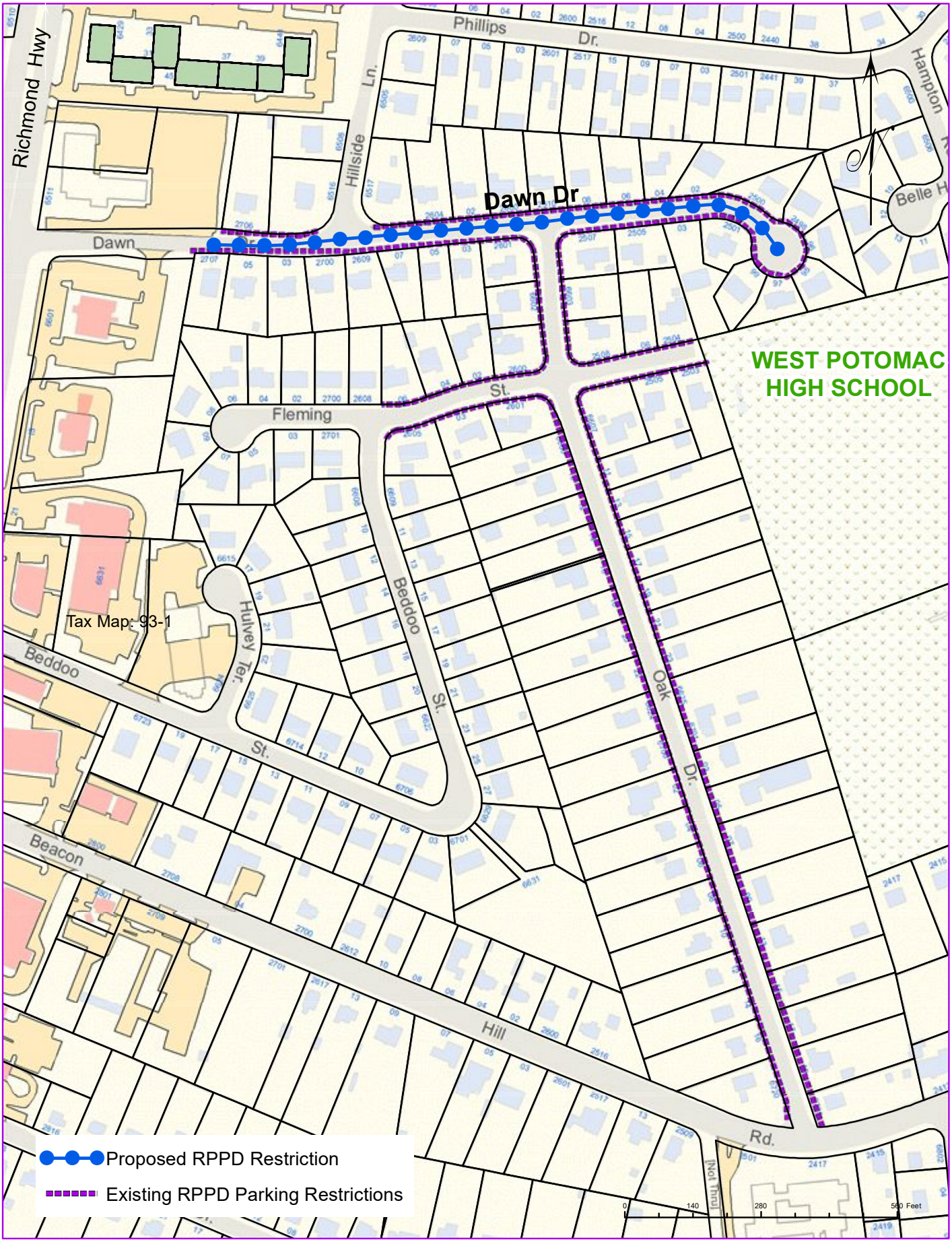
Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following street to Appendix G-36, Section (b), (2), West Potomac Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

Dawn Drive (Route 1432):

From the western boundary of 2707 Dawn Drive east to the cul-de-sac inclusive

Attachment II



Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 7

Additional Time to Commence Construction for Special Exception SE 2011-PR-007, Page Annandale Road Associates, LLC (Providence District)

ISSUE:
Board consideration of additional time to commence construction for SE 2011-PR-007, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve twelve (12) months additional time for SE 2011-PR-007 to July 10, 2015.

TIMING:
Routine.

BACKGROUND:
Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On January 10, 2012, the Board of Supervisors approved RZ 2011-PR-021, subject to proffers, and SE 2011-PR-007, subject to development conditions. The applications were filed in the name of Page Annandale Road Associates, LLC for the purpose of rezoning (RZ 2011-PR-021) 0.54 acres from the C-5 zoning district to the C-8 zoning district in order to permit the development (SE 2011-PR-007) of a 58,985 square foot vehicle sales, rental and ancillary service establishment on a 3.88 acre property located at the northeast quadrant of Arlington Boulevard (Route 50) and Annandale Road (Route 649), Tax Map 50-4 ((12)) 1, 1A, 2, and 3 and Tax Map 50-4 ((1)) 25, 26, 27, and 27A (see Locator Map in Attachment 1). A vehicle sales, rental and ancillary service establishment, a Category 5 Commercial and Industrial Use of Special Impact, is permitted by special exception pursuant to Section 4-804 of the Fairfax County Zoning Ordinance.
SE 2011-PR-007 was approved with a condition that the use be established or construction commenced and diligently prosecuted within thirty (30) months of the approval date unless the Board grants additional time. The development conditions for SE 2011-PR-007 are included as part of the Clerk to the Board's letter contained in Attachment 2.

On June 3, 2014, the Department of Planning and Zoning (DPZ) received a letter dated June 3, 2014 from Lynne J. Strobel, agent for the Applicant, requesting twelve (12) months of additional time. The approved Special Exception will not expire pending the Board's action on the request for additional time.

Ms. Strobel states the coordination of the construction phasing to allow for the continued operation of the existing business and the time needed for the Applicant to secure financing delayed the submission of a site plan. These issues have since been resolved, and a site plan was submitted to the Department of Public Works and Environmental Services (DPWES) on January 30, 2014. Site plan approval is expected by the end of the year, and it is anticipated that construction will commence soon after. The request for twelve (12) months of additional time is intended to allow time for site plan approval and subsequent construction.

Staff has reviewed Special Exception SE 2011-PR-007 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit a vehicle sales, rental and ancillary service establishment. Further, staff knows of no change in land use circumstances that would affect compliance of SE 2011-PR-007 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception. Finally, the conditions associated with the Board's approval of SE 2011-PR-007 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twelve (12) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Letter dated January 11, 2012, to Lynne J. Strobel
Attachment 3: Letter dated June 3, 2014, to Leslie B. Johnson

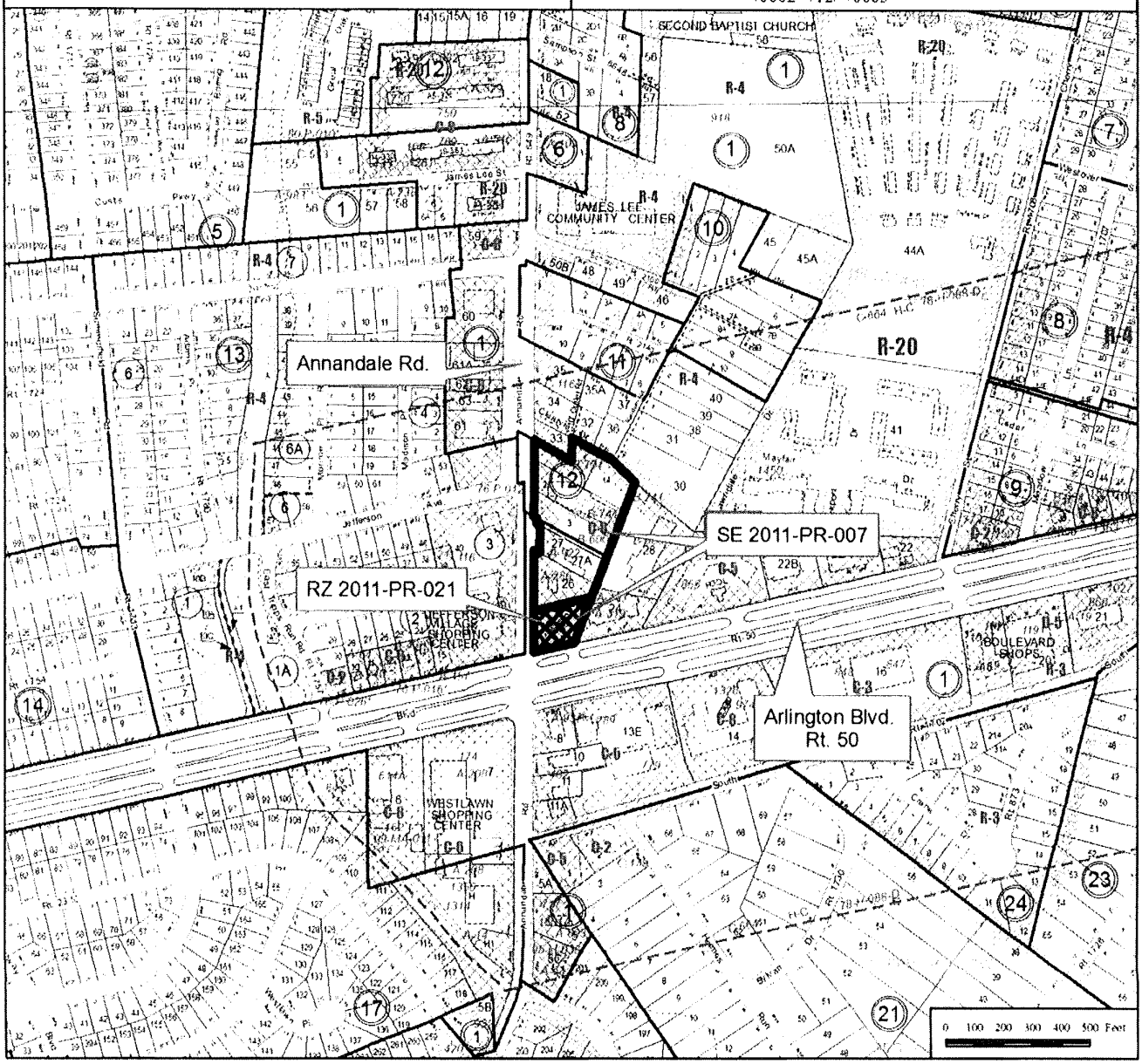
STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ
Kevin J. Guinaw, Chief, Special Projects/Applications/Management Branch, ZED, DPZ
Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, DPZ
Stephen Gardner, Staff Coordinator, ZED, DPZ

Rezoning Application
RZ 2011-PR-021

Applicant:	PAGE ANNANDALE ROAD ASSOCIATES, L.L.C.
Accepted:	07/14/2011
Proposed:	COMMERCIAL
Area:	23,523 SF OF LAND; DISTRICT - PROVIDENCE
Located:	NORTHEAST QUADRANT OF THE INTERSECTION OF ANNANDALE ROAD AND ARLINGTON BOULEVARD
Zoning:	FROM C- 5 TO C- 8
Overlay Dist:	HC
Map Ref Num:	050-4- /01/ /0025

Special Exception
SE 2011-PR-007

Applicant:	PAGE ANNANDALE ROAD ASSOCIATES, L.L.C.
Accepted:	07/14/2011
Proposed:	VEHICLE SALE, RENTAL AND ANCILLARY SERVICE ESTABLISHMENT
Area:	3.88 AC OF LAND; DISTRICT - PROVIDENCE
Zoning Dist Sect:	04-0804, 07-0607
Art 9 Group and Use:	5-25 6-07
Located:	6627 CLEARVIEW DRIVE; 2919, 2923, 2927, 2931, 2935 ANNANDALE ROAD; 6660ARLINGTON BOULEVARD
Zoning:	C- 8
Plan Area:	1 Overlay Dist: HC
Map Ref Num:	050-4- /01/ /0025 /01/ /0026 /01/ /0027 /01/ /0027A /12/ /0001 /12/ /0001A /12/ /0002 /12/ /0003



ATTACHMENT 2

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

January 11, 2012

Lynne Strobel
Walsh, Colucci, Lubeley, Emrich &
Walsh, P.C.
2200 Clarendon Blvd., 13th Floor
Arlington, VA 22201

RE: Special Exception Application SE 2011-PR-007
(Concurrent with Rezoning Application RZ 2011-PR-021)

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on January 10, 2012, the Board held a public hearing on Special Exception Application SE 2011-PR-007 in the name Page Annandale Road Associates, L.L.C. The subject property is located at 6627 Clearview Drive; 2919, 2923, 2927, 2931, 2935 Annandale Road and 6660 Arlington Boulevard, on approximately 3.88 acres of of land, zoned C-8 and HC in the Providence District [Tax Map 50-4 ((1)) 25, 26, 27 27A; 50-4 ((12)) 1, 1A, 2 and 3]. The Board's action permits a vehicle sale, rental and ancillary service establishment in a Highway Corridor Overlay District, pursuant to Sections 4-804 and 7-607 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved General Development Plan/Special Exception Plat entitled "Bill Page Annandale Road," prepared by Dewberry & Davis LLC, dated June 3, 2011 as revised through December 21, 2011, consisting of 13 sheets, and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

4. A copy of this Special Exception and the Non-Residential Use Permit (Non-RUP) shall be posted in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

5. If stormwater management/BMP waiver(s) are not granted by DPWES, the applicant shall provide stormwater management/BMP controls to the satisfaction of DPWES. If stormwater management/BMP facilities are not in substantial conformance with the GDP/SE Plat, the applicant may be required to submit a Special Exception Amendment.

6. All sidewalks and/or trails shown on the GDP/SE Plat that are outside of the public right-of-way shall be maintained by the applicant.

7. At the time of site plan approval, a public access easement shall be provided in a form approved by the County Attorney, for the purpose of providing access to the sidewalks along the Annandale Road and Arlington Boulevard frontages, in the approximate location shown on the GDP/SE Plat.

8. Hours of operation shall be limited to the following:
For Sales Department: Monday-Friday: 9:00 am to 9:00 pm, Saturday: 9:00 am to 8:00 pm, and Sunday: 11:00 am to 6:00 pm.
For Service Department: Monday-Friday: 7:30 am to 8:00 pm, Saturday and Sunday: 7:30 am to 6:00 pm.

9. All unloading of vehicles shall take place on the site. There shall be no unloading of vehicles from Annandale Road.

10. To the extent possible, the applicant shall incorporate native species into the landscape plan that is submitted in conjunction with the Site Plan, subject to review and approval by Urban Forest Management Division, Department of Public Works and Environmental Services.

11. Should loudspeakers be installed, their use shall be limited to the hours of 10:00 am to 6:00 pm.

12. The applicant shall provide site access and transportation improvements as shown on the GDP/SE Plat, as may be approved by VDOT. If access and improvements are not in substantial conformance with the GDP/SE Plat, the applicant may be required to submit a Special Exception Amendment.

13. Outdoor Storage. There shall be no outdoor storage or sales of materials on the Property, with the exception of vehicles for sale (which may only be parked in the Parking Structure or in the areas designated on the GDP/SE as "Display Parking Spaces"). There shall be no outdoor storage overnight of wrecked or inoperable vehicles on the property. Wrecked or inoperable

vehicles left on the Property after hours by customers or towing services shall be moved indoors when the Car Dealership reopens for business.

14. All signage on the property shall conform to Article 12 of the Zoning Ordinance. In addition, pursuant to Section 2-505 of the Zoning Ordinance, all freestanding signs shall be located so as not to restrict sight distance for drivers entering or exiting travel intersections, aisles, or driveways. With the exception of any required regulatory signage, no illuminated signs shall be placed on the northern-facing elevation of the parking structure.

15. Lighting. Parking lot and exterior lighting located on the Property shall be directed inward and/or downward and designed with shielded fixtures in order to minimize glare onto adjacent properties and in accordance with Article 14 of the Zoning Ordinance. Building mounted security lighting shall utilize full cut-off fixtures with shielding such that the lamp surface is not directly visible.

    A. Structured Parking Lighting. Lighting on the top level of the structured parking shall be comprised entirely of bollards and sconces.

    B. Outdoor Display Area Lighting. The outdoor display area of the car dealership shall not exceed a maintained lighting level of thirty (30) footcandles, as measured horizontally at grade.

    C. Northern Property Line Lighting. Lighting along the northern property line shall be comprised entirely of bollards and sconces. Regardless of that shown on the GDP/SE Plat, no light poles shall be placed in the landscape area along the northern property line.

16. Green Building Practices. The applicant shall utilize green building practices for the development, including but not limited to the following features:

    A. Green Building Professional. The development shall be designed by a design firm with at least one professional accredited by LEED (or equivalent program) on the team. Prior to building permit issuance, the accredited professional shall provide documentation to the Department of Public Works and Environmental Services demonstrating compliance with development condition #16.

    B. Sustainable sites. The applicant shall install bike racks for employees and customers, provide incentives for employees who walk or bike to work, provide preferred parking for carpools and low emission vehicles, provide showering and changing facilities for those employees who bike, walk, or jog to work, implement a light pollution reduction strategy utilizing motion

sensors and photocell/time clock, and install a "white" roofing membrane to increase reflectiveness.

C. Water efficiency. The applicant shall install motion sensor faucets and flush valves and install ultra-low-flow plumbing fixtures.

D. Energy and atmosphere. The applicant shall provide occupancy sensors in applicable areas, turn-off all computers & peripherals when not in use, install daylight sensors (automatic light controls tied into skylights), provide LED or fluorescent lamps in building light fixtures, provide Energy Star equipment and appliances, install large fans to facilitate air movement and cut down on use of air conditioning systems, recycle all waste oil, utilize vegetable oil (instead of caustic hydraulic fluid) for service lifts, increase roof and wall insulation to increase R-value of the building envelope and cut down on heat loss/gain, install high-speed doors at service areas to cut down on heat loss/ gain, and provide airlock at entry areas with walk-off mats.

E. Materials and resources. The applicant shall provide for the separation, collection and storage of recyclables for glass, paper, metal, plastic and cardboard waste, implement a battery/ light bulb recycling program, recycle all computer equipment (printers, cartridges, etc.), and use rapidly renewable, certified and recycled content products when available.

F. Indoor environmental quality. The applicant shall use only "green" cleaning products for janitorial services, install carbon dioxide monitors with demand control ventilation, prohibit smoking from inside the building and designate tobacco use areas 25' away from building entrances and air intakes, install of walk-off mats to reduce the pollutants coming into the building, utilize HVAC unit filters that are a minimum Merv 8, use products and paints with low or no VOC's, provide appropriate exhaust for areas where hazardous materials or services are provided, use low-emitting materials for adhesives, sealants, carpet, paints and coatings, specify non ozone-depleting refrigerants in HVAC systems, provide additional outside air ventilation opportunities to improve indoor air quality, prohibit the use of any materials which contain urea formaldehyde resins , and provide individual and multi-occupancy thermal comfort controls.

17. The applicant shall provide signage along the 5 foot wide trail on Annandale Road to alert pedestrians to the reduced trail width, subject to the issuance of sign permits by the Zoning Inspections Branch, Department of Planning and Zoning.

18. The transitional screening buffer yard along the northern property line shall not be reduced in width, plant type, or planting intensity from that shown on the GDP/SE Plat. The proposed landscaping on the site shall be subject to a

walk-through inspection and final review by Urban Forest Management, prior to the issuance of a Non-RUP.

19. Prior to the commencement of construction, the applicant shall provide contact information in writing to the owners of the properties that abut the northern property line. This contact information shall include the name and telephone number of the Bill Page Toyota General Manager, as well as the telephone number for the Fairfax County Department of Code Compliance.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. If the project is phased, development of the initial phase shall be considered to establish the use for the entire development as shown herein. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Approved a modification of the transitional screening and barrier requirements on the northern property line, in favor of that shown on Generalized Development Plan/Special Exception (GDP/SE) plat and as conditioned.

- Directed the Director of the Department of Public Works and Environmental Services to waive the tree preservation target area requirement.

- Approved the loading space modification to that shown on the GDP/SE plat.

Sincerely,

Catherine A. Chianese

Catherine A. Chianese
Clerk to the Board of Supervisors

Cc: Chairman Sharon Bulova
Supervisor Lynda Smyth, Providence District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation Planning Division
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
District Planning Commissioner
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

ATTACHMENT 3

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@thelandlawyers.com

WALSH COLUCCI
LUBELEY & WALSH PC

Revised
June 3, 2014

Via E-mail and U.S. Mail

Leslie B. Johnson
Zoning Administrator
Fairfax County Department of Planning & Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SE 2011-PR-007
Applicant: Page Annandale Road Associates, LLC
Fairfax County Tax Map Reference: 50-4 ((1)) 25, 26, 27 and 27A
50-4 ((12)) 1, 1A, 2 and 3

Dear Ms. Johnson:

Please accept this letter as a request for additional time to commence construction in accordance with Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The referenced application was approved by the Board of Supervisors at its hearing held on January 10, 2012. The Board of Supervisors granted SE 2011-PR-007 subject to development conditions, including a requirement that construction commence and be diligently prosecuted within 30 months after the date of approval. In accordance with this condition, SE 2011-PR-007 will expire on July 10, 2014 unless this requirement is met or additional time is granted to commence construction. Please accept this letter as a request for 12 months of additional time to commence construction of the improvements approved in conjunction with SE 2011-PR-007.

The approval granted on the Subject Property permits the construction of a vehicle sales, rental and ancillary service establishment to replace an existing establishment operating the same type of business. A number of issues arose during preparation of the site plan including phasing the proposed development in a manner that will allow a continued operation of the existing business. In addition, it was necessary to obtain financing for the development. The Applicant resolved these and other issues, and submitted a site plan to the Department of Public Works and Environmental Services on January 30, 2014. The site plan is referred to as 25528-SP-001-1, and first submission comments have been received. The Applicant's consultants are currently preparing a second submission and obtaining outside agency approval. Approval of the site plan is expected before the end of this year. The Applicant intends to post the required bonds and

commence construction as soon as possible depending on the weather at time of final site plan approval.

In accordance with Section 9-015 of the Zoning Ordinance, I would appreciate the acceptance of this letter as a request for 12 months of additional time to commence construction of the improvements approved with SE 2011-PR-007. The detailed coordination required to ensure that the existing business remains operational delayed site plan preparation and was unanticipated at the time of the original approval. Upon resolution of this issue and receipt of financing, the Applicant prepared and submitted a site plan which will be diligently pursued to approval. There had been no change in circumstances that would render the prior approval inconsistent with the Comprehensive Plan or the public interest.

Should you have any questions regarding this request, or require additional information, please do not hesitate to contact me. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Lynne J. Strobel

Lynne J. Strobel

LJS/kae
cc: Stephen Gardner
Raymond Page
China Arbuckle
Jeff Stuchel
Jon Penney

{A0610792.DOCX / 1 Johnson ltr2 re: additional time - 06.03.14 007173 000002}

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 8

Additional Time to Commence Construction for Special Exception Amendment
SEA 00-P-050, TCR Mid Atlantic Properties Inc. (Providence District)

ISSUE:
Board consideration of additional time to commence construction for SEA 00-P-050, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve six (6) months additional time for SEA 00-P-050 to November 1, 2014.

TIMING:
Routine.

BACKGROUND:
Under Sect. 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time specified by the Board of Supervisors, an approved special exception shall automatically expire without notice unless the Board approves additional time. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On November 1, 2011, the Board of Supervisors approved RZ/FDP 2006-PR-027, subject to proffers, and SEA 00-P-050, subject to development conditions. The applications were filed in the name TCR Mid Atlantic Properties, Inc. for the purpose of rezoning (RZ/FDP 2006-PR-027) 23.01 acres from the PDH-20 zoning district to the PDH-30 zoning district to permit the development of a 256 unit multi-family residential building on Land Bay B and to permit (SEA 00-P-050) commercial parking (maximum of 275 spaces) within a residential district, pursuant to Section 9-609 of the Fairfax County Zoning Ordinance. The Special Exception Amendment allowed for the relocation of existing surface parking spaces serving the adjoining office use, displaced by the proposed multi-family residential building, into a proposed garage. The property, designated as Fairfax Ridge Land Bay B, is located at the northwest quadrant of Waples Mill Road and Fairfax Ridge Road, Tax Map 56-2 ((1)) 18A (see Locator Map in Attachment 1). SEA 00-P-050 was approved with a condition that the use be established or construction commenced and diligently prosecuted within thirty (30) months of the approval date unless the Board grants additional time. The development conditions for SEA 00-P-050 are included as part of the Clerk to the Board's letter contained in

Board Agenda Item
July 1, 2014

Attachment 2.

On April 21, 2014, the Department of Planning and Zoning (DPZ) received a letter dated April 18, 2014, from Lynne J. Strobel, agent for the Applicant, requesting six (6) months of additional time (see Attachment 3). The approved Special Exception will not expire pending the Board's action on the request for additional time.

Ms. Strobel states the combined applications resulted in a number of complex development issues, including the coordination with an adjacent office park tower and existing condominium unit owners association, that has delayed the construction of the multi-family residential building and associated garage intended to house the designated commercial parking spaces. Ms. Strobel further states that a site plan depicting the improvements was approved by the Department of Public Works and Environmental Services (DPWES) on February 10, 2014, and construction is imminent. Although it is anticipated that construction will commence prior to the expiration of the Special Exception Amendment, this request for additional time is being submitted out of an abundance of caution.

Staff has reviewed Special Exception Amendment SEA 00-P-050 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit commercial parking within a residential district. Further, staff knows of no change in land use circumstances that would affect compliance of SEA 00-P-050 with the special exception standards applicable to this use, or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for the property has not changed since approval of the Special Exception Amendment. Finally, the conditions associated with the Board's approval of SEA 00-P-050 are still appropriate and remain in full force and effect. Staff believes that approval of the request for six (6) months additional time is in the public interest and recommends that it be approved.

FISCAL IMPACT:
None

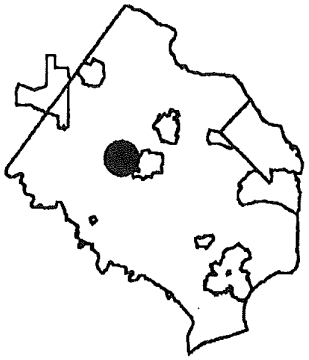
ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Letter dated November 2, 2011, to Lynne J. Strobel
Attachment 3: Letter dated April 18, 2014, to Leslie B. Johnson

Board Agenda Item
July 1, 2014

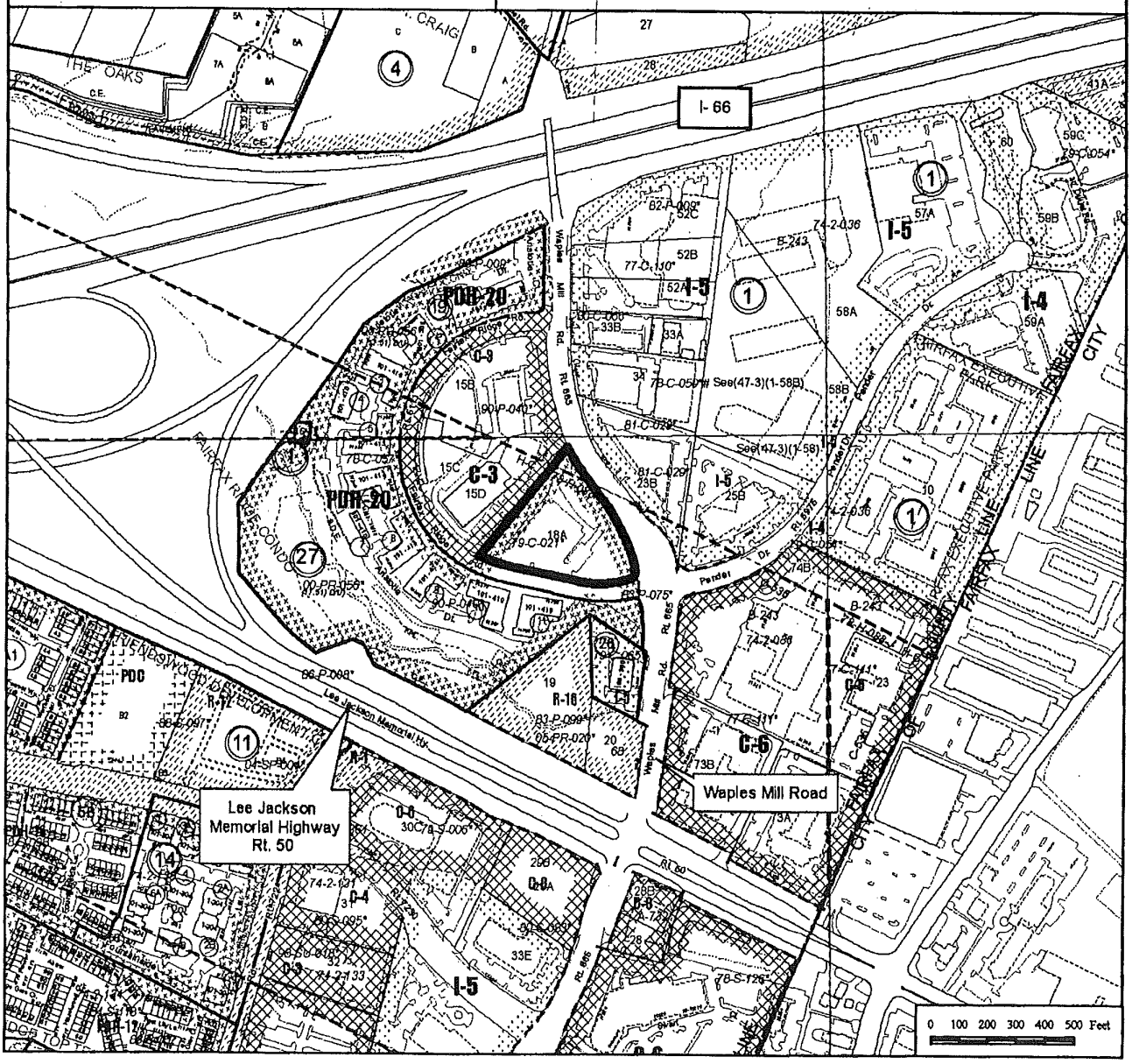
STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ
Kevin J. Guinaw, Chief, Special Projects/Applications/Management Branch, ZED, DPZ
Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, DPZ
Stephen Gardner, Staff Coordinator, ZED, DPZ

Special Exception Amendment

SEA 00-P-050



Applicant:	TCR MIDATLANTIC PROPERTIES, INC.
Accepted:	09/08/2006
Proposed:	TO AMEND SE 00-P-050 PREVIOUSLY APPROVED FOR PARKING IN AN R-DISTRICT TO PERMIT SITE MODIFICATIONS
Area:	3.19 AC OF LAND; DISTRICT - PROVIDENCE
Zoning Dist Sect:	09-0609
Art 9 Group and Use:	6-05
Located:	NORTHWEST QUADRANT OF THE INTERSECTION OF WAPLES MILL ROAD AND FAIRFAX RIDGE ROAD
Zoning:	PDH-30
Plan Area:	2,
Overlay Dist:	HC
Map Ref Num:	056-2- /01/ /0018A



ATTACHMENT 2

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

November 2, 2011

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, VA 22201

Re: Special Exception Amendment Application SEA 00-P-050
(Concurrent with Rezoning Application RZ 2006-PR-027)

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on November 1, 2011, the Board approved Special Exception Amendment Application SEA 00-P-050 in the name of TCR Mid Atlantic Properties, Incorporated. The subject property is located in the N.W. quadrant of the southern intersection of Waples Mill Road and Fairfax Ridge Road on approximately 3.19 acres of land zoned PDH-30 and HC in the Providence District [Tax Map 56-2 ((1)) 18A]. The Board's action amends Special Exception Application SE 00-P-050 previously approved for parking in an R-district to permit site modifications and modifications to development conditions pursuant to Sections 9-609 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions which supersede all previous development conditions; conditions carried forward unchanged from previous approvals are marked with an asterisk (*):

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land. *

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. *

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Fairfax Ridge Land Bays A & B" prepared by Land Design, and dated April 4, 2005, as revised through September 6, 2011, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance. *

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

4. Pursuant to Par. 6 of Sect. 6-106 of the Zoning Ordinance, the maximum area devote to this parking use shall not exceed that shown on the SEA Plat, and shall not exceed 275 parking spaces.

5. The parking area shall not be used as a commercial off-street parking lot as defined by the Zoning Ordinance, where a charge or fee is imposed for temporary, daily or overnight storage of motor vehicles. *

6. No signage (other than directional signage) associated with the parking use shall be placed on the application property.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Waived the loading space requirement for Land Bay A only.
- Modified transitional screening requirements and waiver of the barrier requirements along the I-66 right-of-way.
- Waived the service drive requirement along Route 50 and I-66.
- Waived on-site stormwater management requirements, in favor of the regional pond constructed on Land Bay A.
- Waived of the open space requirement, in favor of that shown on the Conceptual/Final Development Plan (CDP/FDP).

The Board also approved concurrent rezoning application RZ 2006-PR-027 subject to proffers dated October 31, 2011. Please note that on October 20, 2011, the Planning Commission approved Final Development Plan Application FDP 2006-PR-027.

Sincerely,

Catherine A. Chianese
Clerk to the Board of Supervisors

Cc: Chairman Sharon Bulova
Supervisor Lynda Smyth, Providence District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Barbara C. Berlin, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation Planning Division
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
District Planning Commissioner
Karyn Moreland, Chief Capital Projects Sections, Dept. of Transportation

ATTACHMENT 3

RECEIVED
Department of Planning & Zoning
APR 21 2014
Zoning Evaluation Division

WALSH COLUCCI
LUBELEY & WALSH PC

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@thelandlawyers.com

FAIRFAX COUNTY
RECEIVED
APR 21 2014
DIVISION OF
ZONING ADMINISTRATION

2014-0470

April 18, 2014

By Federal Express

Leslie Johnson, Zoning Administrator
Fairfax County Department of Planning & Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

RE: SEA 00-P-050
Applicant: TCR Mid-Atlantic Properties, Inc.
Fairfax County Tax Map Reference: 56-2 ((1)) 18A (the "Subject Property")

Dear Ms. Johnson,

Please accept this letter as a request for additional time to commence construction in accordance with Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance").

The referenced application was approved by the Board of Supervisors at its hearing held on November 1, 2011. The Board of Supervisors granted SEA 00-P-050 subject to development conditions, including a requirement that construction commence and be diligently prosecuted within 30 months after the date of approval. In accordance with this condition, SEA 00-P-050 will expire on May 1, 2014. Please accept this letter as a request for six (6) months of additional time to commence construction of the improvements approved in conjunction with the approval.

The approval granted on the Subject Property permits commercial parking in a residential district, and was approved concurrently with RZ/FDP 2006-PR-027. The combined applications resulted in a number of complex development issues, including coordination with the adjacent office park owner and an existing condominium unit owners association. The Applicant submitted a site plan to the Department of Public Works and Environmental Services that is referred to as 3993-SP-008-2. The site plan was approved on February 10, 2014, and

commencement of construction is imminent. While the Applicant anticipates that construction will commence prior to May 1, 2014, this request for additional time is submitted in an over-abundance of caution to ensure that the special exception amendment approval does not expire.

In accordance with Section 9-015 of the Zoning Ordinance, I would appreciate the acceptance of this letter as a request for six (6) months of additional time to commence construction of the improvements approved with SEA 00-P-050. The Applicant has diligently pursued and received site plan approval and construction is imminent. The detailed coordination required with adjacent property owners that delayed construction was unforeseen at the time of the original approval. Further, there has been no change in circumstances that would render the approval inconsistent with the Comprehensive Plan or the public interest.

Should you have any questions regarding this request or require additional information, please do not hesitate to give me a call. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

Lynne J. Strobel/ms

Lynne J. Strobel

LJS/ms
{A0604984.DOCX / 1 Leslie Johnson 4/18/14 000096 000048}

cc: Sean Caldwell
Amirali Nasserian

Board Agenda Item
July 1, 2014

ADMINISTRATIVE – 9

Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia—Chapter 4 (Taxation and Finance), Article 22 (Court and Sheriff's Fees), to Add a New Section 4-22-6 in Order to Impose an Electronic Summons System Fee

ISSUE:
Authorization to advertise a public hearing to consider amendment to *The Code of the County of Fairfax*, Chapter 4, Article 22, to add a new section 4-22-6.

RECOMMENDATIONS:
The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing on July 29, 2014, at 5:00 p.m., to consider adoption of this ordinance.

TIMING:
Board action is requested on July 1 to allow for advertisement of a public hearing and amendment of the ordinance before the proposed August 1, 2014, effective date.

BACKGROUND:
Chapter 325 of the 2014 Session of the Virginia Acts of Assembly adds a new provision to state law, Virginia Code § 17.1-279.1, which permits a locality's governing body to adopt an ordinance that will assess up to an additional $5.00 as part of the costs in each criminal or traffic case in the locality's district or circuit courts. The funds shall be held for disbursement to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system (eSummons or eCitation system). The Board of Supervisors endorsed the legislation while it was pending.

The Fairfax County Police Department (FCPD), along with law enforcement partners across the National Capital Region, promotes traffic safety and enforces violations of traffic code on a daily basis. FCPD issues 150,000 annual traffic citations. When motorists are stopped by police it adds an element of danger as both the motorists and officers are exposed to passing traffic.

With a new eSummons system, both the time that it will take an officer to issue a traffic citation as well as the passing traffic risk would be significantly reduced. This would lessen the chances of a road shoulder accident during the course of the officer's traffic

stop, and also provide the motorist with a faster and more efficient transaction. Nationwide statistics indicate that an average of one law enforcement officer is killed per month in a road shoulder collision, so the time our officers and motorists are stopped on the side of the road must be reduced.

An eSummons system will also significantly improve efficiency and accuracy in the process of issuing citations. With an operational eSummons system, the need to transfer voluminous paper between multiple County departments will be greatly reduced. Citation data would be automatically scanned and electronically entered at the point of activity, and personnel will no longer have to subsequently re-enter data from hand-written tickets. Once the citation is completed, the transaction data is sent electronically to the courts case management systems.

The court systems will automatically receive a digital copy of the eSummons in 24 hours or less. This will allow violators to prepay their fines promptly and aid the courts in managing their dockets and tracking their caseloads. The utilization of the eSummons system will also reduce data entry errors by enforcing business rules via technology. Improvements in the accuracy and completeness of the ticket information will greatly reduce the need for manual ticket information follow-ups between the courts and police.

Funding from the proposed ordinance will also support the purchase of new peripheral equipment such as handheld devices, portable printers, driver's license scanners, and barcode readers. Vehicle operators would still receive a paper copy of the summons printed locally by the officer.

FCPD and the Department of Information Technology (DIT) had previously identified the need for an eSummons project. This initiative is documented in the Advertised FY 2015 IT Plan (Project 2G70-067). In recent months the Police Department has identified a contemporary and integrated eSummons solution with a proven vendor that has multiple installations in many other localities. The current project approach is:

- Complete a Pilot eSummons system implementation in FY 2015
- 6-12 months after Pilot Go Live, report on the Pilot with recommendations about an FCPD department-wide eSummons implementation
- Negotiate FCPD department-wide eSummons implementation
- Implement eSummons across the FCPD.

The FCPD eSummons project will also include integration and interfaces with other stakeholder groups and systems including the Courts, Department of Public Safety Communications (DPSC)/CAD 9-1-1, the Police Records Management System, and DIT. There has been some previous eSummons system funding; however, no FY 2015 funding was requested in the IT Plan. The additional revenues from the new fee would directly support the full eSummons implementation for FCPD, and the timing fits very well with the project schedule. The full implementation of an eSummons solution will

cover 36 police motorcycles and approximately 950 vehicles. The funds can also be used for system maintenance in future years. FCPD, the Courts, DPSC and DIT support this new fee structure and the funding it provides for Fairfax County to fully implement and support an eSummons system.

FISCAL IMPACT:
Assuming the Electronic Summons System Fee is in place for a full year at the $5 fee per-ticket level, it is estimated that the fee will generate approximately $1.1 million annually. In the first year (FY 2015), this amount will likely be lower given startup will not occur until after July 1, 2014.

As the legislation specifies that all funds generated are to be used solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system, all funds received will be posted to IT Project 2G70-067-000, Electronic Summons and Court Scheduling. Appropriation of these funds will be made as part of regularly scheduled budget reviews.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Amendments to *The Code of the County of Fairfax*, Section 4-22-6.
Attachment 2 – 2014 Acts of the Virginia General Assembly, Chapter 325.

STAFF:
David M. Rohrer, Deputy County Executive
Wanda M. Gibson, Chief Technology Officer, Department of Information Technology
Gordon S. Jarratt, Director, Enterprise Systems Division, DIT
Colonel Edwin C. Roessler, Jr., Chief, Fairfax County Police Department
Lt. Col. Thomas Ryan, Deputy Chief of Administration, FCPD
Erin C. Ward, Senior Assistant County Attorney
Daniel Robinson, Assistant County Attorney

AN ORDINANCE AMENDING ARTICLE 22 OF CHAPTER 4 OF THE FAIRFAX COUNTY CODE, RELATING TO COURT FEES

Draft of June 4, 2014

AN ORDINANCE to amend the Fairfax County Code by adding a new Section 4-22-6 relating to Court Fees.

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

1. That Section 4-22-6 is adopted as follows:

CHAPTER 4 – Taxation and Finance.

Article 22. – Court and Sheriff's Fees.

Section 4-22-6. – Electronic Summons System Fee; imposition; amount; administration.

In addition to any other fee or cost prescribed by law, as part of the costs assessed in each criminal or traffic case in the Circuit Court or the District Courts of the County in which the defendant is convicted of a violation of any statute or ordinance, there is hereby imposed a fee of $5.00 as authorized by Virginia Code § 17.1-279.1. Such fee shall be assessed and collected by the clerk of each court as other fees are taxed in criminal or traffic cases, and each clerk shall remit those fees to the County Director of Finance to be held for appropriation by the Board in accordance with Virginia Code § 17.1-279.1.

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 the provisions of this ordinance shall take effecton August 1, 2014.

GIVEN under my hand this _____ day of _____, 2014

_____

Clerk to the Board of Supervisors

CHAPTER 325

An Act to amend and reenact § 17.1-275.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 17.1-279.1, relating to additional assessment for electronic summons system.

[H 477]

Approved March 27, 2014

Be it enacted by the General Assembly of Virginia:

1. That § 17.1-275.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 17.1-279.1 as follows:

§ 17.1-275.5. Amounts to be added; judgment in favor of the Commonwealth.

A. The clerk shall assess, in addition to the fees provided for by § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or 17.1-275.12, the following costs:

1. Any amount paid by the Commonwealth for legal representation of the defendant;
2. Any amount paid for trial transcripts;
3. Extradition costs;
4. Costs of psychiatric evaluation;
5. Costs taxed against the defendant as appellant under Rule 5A:30 of the Rules of the Supreme Court;
6. Any fee for a returned check or disallowed credit card charge assessed pursuant to subdivision A 28 of § 17.1-275;
7. Any jury costs;
8. Any assessment made pursuant to subdivision A 10 of § 17.1-275;
9. Any fees prescribed in §§ 18.2-268.8 and 46.2-341.26:8;
10. Any court costs related to an ignition interlock device;
11. Any fee for testing for HIV;
12. Any fee for processing an individual admitted to jail as prescribed in § 15.2-1613.1;
13. Any fee for courthouse security personnel as prescribed in § 53.1-120;
14. Any fee for a DNA sample as prescribed in § 19.2-310.2;
15. Reimbursement to the Commonwealth of medical fees as prescribed in § 19.2-165.1;
16. Any fee for a local criminal justice training academy as prescribed in § 9.1-106;
17. Any fee prescribed by §§ 16.1-69.48:1.01 and 17.1-275.11; ~~and~~
18. Any expenses charged pursuant to subsection B or F of § 19.2-187.1*; and*
19. *Any fee for an electronic summons system as prescribed in § 17.1-279.1.*

B. The total amount of assessments described in subsection A, including the fees provided for by § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or 17.1-275.12, shall be docketed by the clerk as a judgment against the defendant in favor of the Commonwealth in accordance with § 8.01-446.

§ 17.1-279.1. Additional assessment for electronic summons system.

Any county or city, through its governing body, may assess an additional sum not in excess of $5 as part of the costs in each criminal or traffic case in the district or circuit courts located within its boundaries in which the defendant is charged with a violation of any statute or ordinance. The imposition of such assessment shall be by ordinance of the governing body, which may provide for different sums in circuit courts and district courts. The assessment shall be collected by the clerk of the court in which the action is filed, remitted to the treasurer of the appropriate county or city, and held by such treasurer subject to disbursements by the governing body to a local law-enforcement agency solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

Board Agenda Item
July 1, 2014

ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing on the Amended and Restated Real Estate Exchange Agreement Between the Board of Supervisors and Rocks Engineering Company and Nugget Joint Venture, L.C. (Collectively, "RECO") (Dranesville District)

ISSUE:
Authorization to advertise a public hearing to consider supplemental and updated provisions to the Real Estate Exchange Agreement (the "Original Agreement") dated July 30, 2013, between the County and RECO for the purpose of joint rezoning property exchange and joint infrastructure development with RECO rezoning action (RZ 2009-HM-017) of the property for the Phase II Dulles Corridor Metrorail – Innovation Center Station Garage.

RECOMMENDATION:
The County Executive recommends the Board authorize advertisement of a public hearing on July 29, 2014, at 4:30 p.m., to consider approval of an Amended and Restated Real Estate Exchange Agreement ("Amended Agreement") revising the Original Agreement to incorporate additional provisions and documents necessary to effectuate the exchange of real property and joint infrastructure development that will be necessary for the Innovation Center Station Garage project.

TIMING:
Authorization for advertisement on July 1, 2014, will permit the public hearing to be held on July 29, 2014, in accordance with Va. Code Ann. ξ 15.2-1800 (2012).

BACKGROUND:
Phase II of the Dulles Corridor Metrorail project includes a new station near Route 28 and the Dulles Airport Access/Toll Road (the "Toll Road") intersection, Innovation Center Station. In connection with the construction of the new rail station, a parking garage containing approximately 2,100 spaces, a kiss and ride area, bus bays, and ancillary transit features (collectively, the "Garage") for the Metrorail Station is to be constructed to the south of the Toll Road. The Innovation Center Station Metrorail Garage is planned to be owned, operated, and maintained by the County. The County recognizes that this Garage is an important component of the proposed private development immediately adjacent to the Garage site. County staff believes that the real estate exchange with RECO to support the desired joint development will result in a more efficient and rectilinear garage that is well suited and integrated into the

proposed Transit Oriented Development (TOD) community, as opposed to the location proposed by the Metropolitan Washington Airports Authority (MWAA), directly adjacent to the Toll Road.

The Original Agreement approved by the Board on July 30, 2013, provided a path to achieve the joint integrated development plan through an exchange/acquisition of property between the County and RECO and a rezoning to Planned Residential Mixed-Use District (PRM) to allow the joint development to site the Garage in a better location, integrated with the TOD community. The Planning Commission unanimously recommended approval of the joint rezoning on May 15, 2014.

This Amended Agreement is being brought back to the Board for approval of the more detailed terms that have been negotiated to carry out the provisions of the Original Agreement. It will result in a net gain of parking spaces in the Garage and common infrastructure to benefit the public and the parties at a substantially reduced cost from the original Metropolitan Washington Airport Authority (MWAA) plan.

As part of the Original Agreement, the parties agreed to negotiate the following documents for approval by the Board, concurrent with Board action on the joint rezoning application:

- Joint Infrastructure Development Agreement for construction of necessary infrastructure benefiting both the County property and the RECO property.
- Reciprocal Easement Agreement for shared maintenance between the parties.
- Proffer Allocation Agreement for the equitable sharing of proffer related costs between the parties.

Other major terms of the Amended Agreement are as follows:

1. County ownership of the 5.54 acre County Garage site.
2. County payment of an approximately $7 million share of the total proffer and common infrastructure costs of approximately $17.6 million.
3. Garage facilitates integration in a joint TOD at the site, providing for 1.65 million square feet of mixed use, private development by RECO.
4. Integrated grid of streets conforming to Comprehensive Plan guidance.
5. A pad site for design and construction of the County Garage by the County.
6. Construction manager services to be performed by an affiliate of RECO to design and construct the common infrastructure, with an option for the County to take over the construction responsibilities, if deemed advisable, based on the common infrastructure budget and schedule considerations.
7. Critical milestone dates for RECO to meet to assure County's ability to meet the Silver Line Phase II opening date, with substantial liquidated damages included.

8. Revised total project estimate for the Garage of $57 million, $4 million less than the July 30, 2013, Garage estimate of $61 million.

The proposed Amended Agreement does not include construction of the County Garage which will be managed by the County Department of Public Works and Environmental Services following completion of the Garage pad site with all common infrastructure improvements.

The Original Agreement stipulated an approval of the terms set forth in the Amended Agreement concurrent with the approval of the rezoning of the property by May 20, 2014, unless mutually extended to a later date. The date was mutually agreed to extend to July 29, 2014.

FISCAL IMPACT:
The County share for the pre-construction soft costs under this Amended Agreement is $975,000. Funds are currently available in Project TF-000021, Innovation Center Parking Garage. The additional funds required to pay for the balance of the County's total common infrastructure approximate share of $7 million will be reallocated from existing C & I funds as part of the FY 2014 Carryover Budget Review and reimbursed by EDA Revenue Bonds anticipated to be sold in Winter 2016.

ENCLOSED DOCUMENTS:
Attachment I: Amended and Restated Real Estate Exchange Agreement without Exhibits - The full agreement can be found on:
http://www.fairfaxcounty.gov/news/2014/innovation-station-garage-real-estate-agreement.htm

STAFF:
Robert A. Stalzer, Deputy County Executive
Joe LaHait, Department of Management and Budget
Alan Weiss, County Attorney's Office
Fred Selden, Director, Department of Planning and Zoning
Tom Biesiadny, Director, Fairfax County Department of Transportation
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

AMENDED AND RESTATED REAL ESTATE EXCHANGE AGREEMENT

INNOVATION CENTER SOUTH AND
THE INNOVATION CENTER STATION GARAGE

by and between

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

and

NUGGET JOINT VENTURE, L.C.

TABLE OF CONTENTS

Page

1. Land Conveyance 3
2. Consideration 4
3. Closing 4
4. Title 5
5. Inspections 5
6. Infrastructure Development Agreement 6
7. Proffer Allocation Agreement 6
8. Reciprocal Easement Agreement 6
9. Covenant to Cooperate 6
10. Instruments of Conveyance - Closing 6
11. Post-Closing Requirement 8
12. Representations and Warranties 8
13. Costs; Apportionments 9
14. Maintenance; Repair 10
15. Brokers 10
16. Default; Failure of Conditions Precedent to Closing 10
17. Notices 11
18. Casualty; Condemnation 12
19. Miscellaneous Provisions 12

EXHIBITS

EXHIBIT A
EXHIBIT B-1
EXHIBIT B-2
EXHIBIT B-3
EXHIBIT C
EXHIBIT D
EXHIBIT E
EXHIBIT F
EXHIBIT G
EXHIBIT H
EXHIBIT I
EXHIBIT J
EXHIBIT K
EXHIBIT L

AMENDED AND RESTATED REAL ESTATE EXCHANGE AGREEMENT
Fairfax County Board of Supervisors
Innovation Center South and the Innovation Center Station Garage

Document / Exhibit List:

- **Amended and Restated Real Estate Exchange Agreement**

A. Exhibit A: Layout of Proposed Site
B. Exhibit B-1: Depiction of Rocks Swap Parcel
Exhibit B-2: Depiction of the County Swap Parcel
Exhibit B-3: Depiction of the Rocks Proffered Parcel
C. Exhibit C: Title Commitment
D Exhibit D: Title Commitment
E. Exhibit E: Infrastructure Development Agreement
Exhibit A: Depiction of Nugget Property
Exhibit B: Depiction of County Property
Exhibit C: Budget and Total Cost of Common Infrastructure with Percentages
Exhibit D: Construction Schedule
Exhibit E: Major Decisions
Exhibit F: Project Management Fee Payment
Exhibit G: Draw Request Requirements
Exhibit H: Reserved
Exhibit I: Reserved
Exhibit J: Required Insurances
Exhibit K: Form of Guaranty
Exhibit L: Final Completion
Exhibit M: Depiction of Common Infrastructure
Exhibit N: County Pad Site
Exhibit O: Scope of Work
F. Exhibit F: Proffer Allocation Agreement
Exhibit A: Depiction of Nugget Parcel
Exhibit B: Depiction of County Parcel
Exhibit C: Allocation Chart
Exhibit D: Notices
G. Exhibit G: Reserved
H. Exhibit H: Form of Swap Deed
Exhibit A: Legal Description
I. Exhibit I: Form of Rock Proffered Parcel Deed
Exhibit A: Legal Description
J. Exhibit J: Form of Bargain and Sale Deed without Warranty or English Covenants
Exhibit A: Legal Description
K. Exhibit K: Wetlands Permit
L. Exhibit L: Form of Wetlands Permit Transfer

AMENDED AND RESTATED REAL ESTATE EXCHANGE AGREEMENT

THIS AMENDED AND RESTATED REAL ESTATE EXCHANGE AGREEMENT ("Contract") is made this _____ day of _____, 2014, (the "Effective Date"), by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia in its proprietary capacity, and not in its governmental or regulatory capacity (hereinafter, "County") and **NUGGET JOINT VENTURE, L.C.**, a Virginia limited liability company, ("Nugget").

RECITALS:

R-1. Phase II of the Dulles Corridor Metrorail Project contemplates that a new metrorail station, to be named the Innovation Center Station (the "Metro Station"), shall be constructed and placed in the median road/airport access highway near the intersection of the Dulles International Airport Access Highway/Dulles Toll Road (the "Toll Road") and Route 28.

R-2. In connection with the construction of the Metro Station, a parking garage containing approximately up to 2108 spaces, kiss and ride spots, bus depots (which are to be located outside of the parking structure), and ancillary transit features for the Metro Station are to be constructed by the County to the south of the Toll Road (the foregoing shall be referred to as, collectively, the "Garage"), and the layout of the proposed site for the Garage is attached hereto as **Exhibit A**.

R-3. The County is the sole owner, in fee simple absolute, of certain land located in Fairfax County, Virginia, consisting of a 3.03 acres and having a tax assessment number as [0154-05-0005B] (the "Original County Parcel"). The Original County Parcel, along with other parcels, is more particularly shown on **Exhibit B-1** attached hereto.

R-4. Nugget is the sole owner, in fee simple absolute, of certain land located in Fairfax County, Virginia, consisting of a 11.65 acres and having a tax assessment number as 1052-01-0013 (the "Original Nugget Parcel"). The Original Nugget Parcel, along with other parcels, is more particularly shown on the attached **Exhibit B-1** attached hereto.

R-5. The Property is subject to those certain Proffers associated with RZ 2009-HM-017 approved by the Fairfax County Board of Supervisors ("Board"), in its governmental capacity, on [_____], 2014 (collectively, as amended and interpreted from time to time, the "Proffers").

R-6. In connection with the Proffers, Nugget has proffered to convey to the County that certain land consisting of approximately 2.6 acres (the "Rocks Proffered Parcel"). A general outline of the Rocks Proffered Parcel, along with other parcels, is more particularly shown on **Exhibit B-1.**

R-7. The County shall convey to Nugget a certain portion of the land currently owned by the County (the "County Swap Parcel"), all as part of the Land Conveyance (as hereinafter

defined). A general outline of the County Swap Parcel is shown on **Exhibit B-2** attached hereto.

R-8. As part of the Land Conveyance, subject to the terms and conditions provided herein, Nugget shall convey to the County a certain portion of the land currently owned by Nugget (the "Rocks Swap Parcel"), a general outline of the Rocks Swap Parcel, along with other parcels, is more particularly shown on **Exhibit B-3** attached hereto. The Rocks Proffered Parcel and the Rocks Swap Parcel shall be referred to as, collectively, the "Rocks Collateral Parcel".

R-9. The Original County Parcel (as adjusted by the County Swap Parcel), as combined with the Rocks Collateral Parcel shall be referred to as, collectively, the "New County Parcel."

R-10. Nugget intends to redevelop the New Rocks Parcel as contemplated by the Proffers, subject to further amendments from time to time.

R-11. The Nugget project, once complete as currently envisioned, may consist of approximately 8.646 acres with approximately 1.65 million square feet of commercial, residential and retail uses, and will be placed on the Original Nugget Parcel, as reduced by the Rocks Collateral Parcel (collectively, the "New Rocks Parcel").

R-12. Nugget has a Boundary Line Adjustment Agreement with Dulles Rockhill Partners, LP for certain real property (referred to as the "Dulles Option Parcel") and Nugget has acquired the Dulles Option Parcel.

R-13. The New County Parcel, together with the New Rocks Parcel, shall be referred to as, collectively, the "Property."

R-14. The County and Nugget entered into that certain Real Estate Exchange Agreement, dated July 30, 2013, which set forth the initial terms and conditions for the Land Conveyance ("Initial Agreement")

R-15. The Initial Agreement contemplated that the County and Nugget would enter into an amended and restated agreement to further define the rights and obligations between the parties with respect to the Property and to move forward with the Land Conveyance as set forth herein.

NOW, THEREFORE, in consideration of the Recitals, which are hereby incorporated into this Contract by reference, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Land Conveyance.

(a) The parties acknowledge and agree that in consummation of the Planned Residential Mixed-Use Plan ("PRM") for the Property, the application of which was filed with the Fairfax County Department of Planning and Zoning and at the time of approval of the PRM by the Board of Supervisors of Fairfax County, subject to the terms and conditions provided

herein and as shall be more fully set forth in Conveyance Documents (as hereinafter defined), the County shall cause the County Swap Parcel to be conveyed to Nugget, Nugget shall cause the Rocks Swap Parcel to be conveyed to the County and Nugget shall cause the Rocks Proffered Parcel to be dedicated to the County (collectively the "Land Conveyance"). The swap of the Rocks Swap Parcel and the County Swap Parcel shall include approximately equal areas of land and shall be defined as the "Land Swap".

(i) At Closing, the County shall convey title to the County Swap Parcel to Nugget which is good in fact, marketable and insurable by a title company licensed to do business in the Commonwealth of Virginia at regular rates ("Title Company"), by a bargain and sale deed without warranty or English Covenants, the form of which is attached hereto as **Exhibit J**, subject to matters of record as of the date hereof and any other easements, covenants, proffers, or other documents to be executed and recorded in connection with this Contract.

(ii) At Closing, Nugget shall convey title to the Rocks Swap Parcel to the County which is good in fact, marketable and insurable by a Title Company, by a special warranty deed with covenants of further assurances, subject to matters of record as of the date hereof and any other easements, covenants, proffers, or other documents to be executed and recorded in connection with this Contract.

(iii) At Closing, Nugget shall dedicate title to the Rocks Proffered Parcel to the County which is good in fact, marketable and insurable by a Title Company, by a special warranty deed with covenants of further assurances, subject to matters of record as of the date hereof and any other easements, covenants, proffers, or other documents to be executed and recorded in connection with this Contract. This dedication is subject to the reservation of density credit, to the maximum extent permissible under Section 2 308 of the Fairfax County Zoning Ordinance or other applicable law.

(b) The Conveyance Documents shall mean the deeds referenced in Section 1(a)(i), (a)(ii) and a(iii) above, boundary line adjustments as necessary between the properties and other real estate conveyance documents reasonably necessary to consummate the Land Conveyance (collectively, the "Conveyance Documents"). The County and Nugget shall not unreasonably withhold their approval to the form of the Conveyance Documents.

The parties acknowledge and agree that the final boundaries of the land that is conveyed and acquired pursuant to this Contract may vary from that described on **Exhibit B-1**, **Exhibit B-2 and Exhibit B-3**, and the parties agree to cooperate in establishing the final boundaries of such parcels and lot.

2. Consideration. The consideration for this Contract shall be the mutual conveyances of land and improvements and the mutual agreements of the parties herein.

3. Closing. The closing ("Closing") of this transaction will take place on the date that is fifteen (15) days after the later of the following items have been satisfied: (1) selection of the Constructing Party (as defined in the Infrastructure Development Agreement) under the Infrastructure Development Agreement, (2) site plan (or its equivalent, e.g., public improvement plan) approval for the Common Infrastructure (as defined in the Infrastructure Development

Agreement) has been obtained, (3) the Constructing Party has complied with the first sentence of Section 6.c. of the Infrastructure Development Agreement, and (4) approval of the subdivision or boundary line adjustment (along with subdivision plat, if required) for the Land Conveyance. Closing shall occur at the offices of Reed Smith LLP, 3110 Fairview Park Drive, Falls Church, Virginia or at another location acceptable to County and Nugget. The Closing shall be conducted by Shulman, Rogers, Gandal, Pordy & Ecker, P.A., with an address of 12505 Park Potomac Avenue, 6th Floor, Potomac, MD 20854 ("Settlement Agent" or "Escrow Agent").

4. Title.

(a) Nugget agrees that the title commitment, to be attached hereto as **Exhibit C**, indicates that the title to the County Swap Parcel is good in fact, marketable and insurable by a Title Company and that Nugget has no objections to said title commitment.

(b) County agrees that the title commitment, to be attached hereto as **Exhibit D**, indicates that the title to the Rocks Collateral Parcel is good in fact, marketable and insurable by a Title Company and that County has no objections to said title commitment.

5. Inspections.

(a) Between the Effective Date and the Closing, Nugget and its agents may have access to the County Swap Parcel, accompanied by County's designated representative, if requested, subject to the rights of occupants if any, in order to make such inspections and perform such tests as required by it. The parties further agree to reasonably cooperate in the exchange of non-proprietary investigations, plans, reports, studies, surveys and other documents related to the land and improvements subject to this Contract. Nugget has the County's permission to communicate with and engage current and former engineers, consultants and contractors for the land and improvements that are the subject of this Contract. All investigations, studies and surveys conducted by Nugget shall be at Nugget's sole cost and expense except as otherwise set forth in the Infrastructure Development Agreement. County shall have the right to approve any investigations, studies and surveys that may cause damage to County's land or improvements, such approval not to be unreasonably withheld, conditioned or delayed. Nugget shall repair and restore any damage to the County's land or improvements caused by Nugget's activities. The provisions of this section shall survive Closing or termination of this Contract and shall not be subject to any limitations on damages.

(b) Between the Effective Date and the Closing, County and its agents may have access to the Rocks Collateral Parcel, accompanied by Nugget's designated representative, if requested, subject to the rights of occupants if any, in order to make such inspections and perform such tests as required by it. The parties further agree to reasonably cooperate in the exchange of non-proprietary investigations, plans, reports, studies, surveys and other documents related to the land and improvements subject to this Contract. The County has Nugget's permission to communicate with and engage current and former engineers, consultants and contractors for the land and improvements that are the subject of this Contract. All investigations, studies and surveys conducted by County shall be at County's sole cost and expense except as otherwise set forth in the Infrastructure Development Agreement. Nugget shall have the right to approve any investigations, studies and surveys that may cause damage to

Nugget's land or improvements, such approval not to be unreasonably withheld, conditioned or delayed. The County shall repair and restore any damage to Nugget's land or improvements caused by the County's activities. The provisions of this section shall survive Closing or termination of this Contract and shall not be subject to any limitations on damages.

6. Infrastructure Development Agreement. Contemporaneously with execution of this Agreement, County and Nugget agree to execute and deliver to each other the "Infrastructure Development Agreement" in a form as attached hereto as **Exhibit E**, the summary purpose of which is to provide for the timing for the implementation of, and cost sharing for, certain "Common Infrastructure" as defined therein to serve the Property.

7. Proffer Allocation Agreement. At Closing, County and Nugget agree to execute the "Proffer Allocation Agreement" in a form attached hereto as **Exhibit F**, the summary purpose of which is to allocate the Proffers for the development of the Property. The Proffer Allocation Agreement shall be recorded at Closing among the land records of Fairfax County, Virginia.

8. Reciprocal Easement Agreement. At Closing, County and Nugget agree to execute a "Reciprocal Easement Agreement" for the Property. The Reciprocal Easement Agreement shall provide for the coordinated operation, use and maintenance of aspects of certain shared areas of Property (e.g., shared maintenance and cost sharing of the roads and bicycle lanes until accepted by VDOT, shared maintenance and cost sharing of public parks and plazas to be identified by the parties, cost sharing of maintenance of certain landscaping to be identified by the parties, cost sharing of maintenance of certain storm water management facilities, etc.), to establish certain arrangements regarding the operation of shared improvements, and to provide for certain other matters with respect to the parties respective parcels. County and Nugget shall agree to the form of the Reciprocal Easement Agreement prior to Closing in form customary for similar types of projects. The Reciprocal Easement Agreement shall be recorded at Closing among the land records of Fairfax County, Virginia.

9. Covenant to Cooperate. As part of the Land Conveyance, County hereby agrees to execute and join in applications and any other documents necessary to obtain Infrastructure Approvals (as that term is defined in the Infrastructure Development Agreement). Further, the parties agree that their representatives will conference on a monthly basis, or at such other interval as circumstances may reasonably warrant, to review the status of the Common Infrastructure.

10. Instruments of Conveyance - Closing.

(a) At Closing, County shall deliver to the Escrow Agent the following:

(i) a bargain and sale deed and boundary line adjustment (the "Deed"), in a form attached hereto as **Exhibit H**, which shall convey all County's rights, title and interest in and to the County Swap Parcel to Nugget ("County Swap Parcel Deed");

(ii) One (1) counterpart signature page of the Rocks Proffered Parcel Deed (as defined below);

(iii) four (4) counterpart signature pages of the settlement sheet executed by County (the "Settlement Sheet");

(iv) an affidavit, signed by County stating County's United States taxpayer identification number and that County is not (1) a foreign person as defined by the IRS Code, Paragraph 1445(0)(3), or (2) a non-resident payee under the laws of the Commonwealth of Virginia (the "County FIRPTA Affidavit");

(v) an affidavit and Form 1099-S from County containing all information required for compliance with IRS Code Paragraph 6405 in the form required by the Internal Revenue Service for filing thereunder signed by County (the "County Form 1099-S");

(vi) such other documents as are required under this Contract and those reasonably required by the Title Company to consummate the transactions contemplated herein, as customarily provided by County.

(b) At Closing, Nugget shall deliver to the Escrow Agent the following:

(i) One (1) counterpart signature page of the Deed, in a form attached hereto as **Exhibit H**, which shall convey all Nugget's rights, title and interest in and to the Rocks Swap Parcel to the County ("Rocks Swap Parcel Deed" and, together with the County Swap Parcel Deed, the "Swap Deed");

(ii) One (1) counterpart signature page of the Deed of Dedication, in a form attached hereto as **Exhibit I**, which shall dedicate all Nugget's rights, title and interest in and to the Rocks Proffered Parcel to the County ("Rocks Proffered Parcel Deed");

(iii) four (4) counterpart signature pages of the Settlement Sheet executed by Nugget;

(iv) an affidavit, signed by Nugget stating Nugget's United States taxpayer identification number and that Nugget is not (1) a foreign person as defined by the IRS Code, Paragraph 1445(0)(3), or (2) a non-resident payee under the laws of the Commonwealth of Virginia (the "Nugget FIRPTA Affidavit");

(v) an affidavit and Form 1099-S from Nugget containing all information required for compliance with IRS Code Paragraph 6405 in the form required by the Internal Revenue Service for filing thereunder signed by Nugget (the "Nugget Form 1099-S");

(vi) such other documents as are required under this Contract and those reasonably required by the Title Company to consummate the transactions contemplated herein.

(c) Upon receipt of the documents and items listed in Section 10 (a) and (b) the Escrow Agent is authorized to:

(i) Record the Rocks Swap Parcel Deed in the Land Records

(ii) Record the County's Swap Parcel Deed in the Land Records.

(iii) Record the Rocks Proffered Parcel Deed in the Land Records.

(iv) Record the Reciprocal Easement Agreement in the Land Records.

(v) Record the Proffer Allocation Agreement in the Land Records.

(vi) attach the counterpart signature pages delivered to the Escrow Agent pursuant to Section 10 (a) and (b) and deliver to Nugget and County two (2) fully executed originals of the Settlement Sheet; and

(vii) file with the appropriate governmental authorities the County FIRPTA Affidavit, the Nugget FIRPTA Affidavit, the County Form 1099-S and the Nugget Form 1099-S.

(d) Delivery to the Escrow Agent of the documents, as applicable, required of Nugget and/or County, as applicable, shall be deemed delivered to Nugget or County, as applicable, for purposes of this Contract.

11. Post-Closing Requirement. Within [thirty (30) days of Closing], Nugget shall transfer that certain DEQ VWP General Permit No. WP4-08-0334, COE State Program General Permit No. 12-SPGP-01 issued by Commonwealth of Virginia, Department of Environmental Quality (a copy of which is attached hereto as **Exhibit K**) from Nugget to the County and Nugget shall execute a Change in Ownership Agreement Form, in the form attached hereto as **Exhibit L** and all necessary documentation in connection with such change in ownership.

12. Representations and Warranties.

(a) NUGGET AND THE COUNTY EACH EXPRESSLY ACKNOWLEDGE THAT AT CLOSING HEREUNDER, THE RESPECTIVE PROPERTY IS BEING CONVEYED FROM ONE PARTY AND IS BEING ACCEPTED BY THE OTHER PARTY IN ITS "AS IS, WHERE IS" CONDITION, WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS AND WARRANTIES WHICH ARE EXPRESSLY SET FORTH IN THIS CONTRACT, THE DEED OF CONVEYANCE OR OTHER DOCUMENTS DELIVERED AT CLOSING.

(b) Each of Nugget and the County represent and warrant to the other that each of the following is true and correct with respect to itself on the Effective Date and shall be true and correct on, and restated as of, the date of the Closing:

(i) Each of Nugget and the County has the full and unrestricted power and authority to execute and deliver this Contract and all other documents required or contemplated by the terms of this Contract (the "Closing Documents") and to consummate the transactions contemplated herein. All requisite action has been taken by Nugget and the County to authorize the appropriate agents or representatives of Nugget and the County, as applicable, to execute and deliver the Closing Documents. Upon either party's request, Nugget and the County

shall within five (5) days deliver to the other applicable resolutions authorizing each of Nugget and the County to enter into and perform this Contract.

(ii) The execution and delivery of the Closing Documents by Nugget and the County and compliance with the provisions of such documents by either party will not violate the provisions of (1) Nugget's or the County's respective governing documents or any other such similar document or rule regarding each of Nugget and the County, or (2) any agreement to which either Nugget or the County are subject or by which Nugget or the County or the Property are bound.

(iii) To the best of each of Nugget's and the County's actual knowledge, the execution, delivery and performance of this Contract will not violate any provision of any applicable statute, regulation, rule, court order or judgment or other legal requirements applicable to each of Nugget and the County or the land to be conveyed by either Nugget or the County.

(iv) To the best of each of Nugget's and the County's actual knowledge, there are no lawsuits or legal proceedings pending or threatened regarding or resulting from encumbrances on, or the ownership, use, possession or development of, the land to be conveyed.

(v) To the best of each of Nugget's and the County's actual knowledge, there are no notices, suits or judgments pending relating to violations of any governmental regulations, ordinances or requirements affecting or which may affect the land to be conveyed by either party that have not been corrected. If either Nugget or the County receives such a written notice of violation, that party shall immediately take all actions reasonably required to comply with the terms thereof, and the land to be conveyed by either Nugget or the County will be free and clear of all such violations prior to Closing hereunder.

(vi) To the best of each of Nugget's and the County's actual knowledge, except for this Contract and the Boundary Line Adjustment Agreement with Dulles Rockhill Partners, LP, there are no contracts of sale, options to purchase, reversionary rights, rights of first refusal or similar rights of any kind which are or shall be binding upon the land to be conveyed by either Nugget or the County or any part thereof or which shall become binding upon either Nugget or the County at or subsequent to the time Closing.

Both Nugget and the County agree that it will notify the other party immediately of any state of facts that would constitute a material breach of or render inaccurate any of the foregoing representations and warranties immediately after becoming aware of such state of facts, and will reconfirm in writing at Closing hereunder each of such representations and warranties by execution of a certificate of reconfirmation of representations and warranties in all material respects. Each party shall be entitled to rely upon the representations and warranties of the other as set forth herein and such representations and warranties shall survive Closing hereunder and delivery of each of the deeds for a period of one (1) year from Closing and thereafter be merged into each of the deeds.

13. Costs; Apportionments.

(a) With respect to the County Swap Parcel, the County is exempt from Virginia grantor transfer taxes and Nugget shall pay all title commitment charges and all state grantee's transfer tax. Nugget and the County shall each pay one-half of the recording fees and title closing and escrow charges with respect to the County Swap Parcel;

(b) With respect to the Rocks Collateral Parcel, the County is exempt from Virginia grantee transfer taxes. Nugget shall pay all state grantor's transfer tax. The County shall pay all title commitment charges with respect the Rocks Collateral Parcel and Nugget and the County shall each pay one-half of the recording fees and title closing and escrow charges with respect to the Rocks Collateral Parcel; and

(c) Real estate taxes and any assessments are to be computed and apportioned, as of midnight of the day preceding the Closing.

14. Maintenance; Repair. Until Closing, the current owner of the lands shall maintain such land and improvements in their present condition, subject to acts of nature and reasonable wear and tear.

15. Brokers. Each party represents to the other that no brokers were involved in this Contract. This Section 15 shall survive delivery of the Deeds.

16. Default; Condition on Rezoning Approval.

(a) By Nugget. If Nugget fails to close as provided herein, or defaults in its obligations hereunder, or fails to perform any covenant provided herein, and such default or failure is not cured within fifteen (15) days after written notice of the same from County (except for a failure to settle for which there shall be no notice and cure right), then the County may pursue equitable relief hereunder but shall have no right to damages for Nugget's failure to close. Such limitation on damages for failure to close shall in no way limit County's entitlement to damages for any other injury, damage or loss, other than for, or resulting from, the failure to close, for which Nugget may be responsible pursuant to the terms of this Contract or applicable law.

(b) By County. If County fails to close as provided herein, or defaults in its obligations hereunder, or fails to perform any covenant provided herein, and such default or failure is not cured within fifteen (15) days after written notice of the same from Nugget (except for a failure to settle for which there shall be no notice and cure right), then Nugget may pursue equitable relief hereunder but shall have no right to damages for County's failure to close. Such limitation on damages for failure to close shall in no way limit Nugget's entitlement to damages for any other injury, damage or loss, other than for, or resulting from, the failure to close, for which County may be responsible pursuant to the terms of this Contract or applicable law

(c) Rezoning Approval. This Agreement is contingent on the final non-appealable approval of the rezoning known as RZ 2009-HM-017 by the Board. This contingency under this Section 16(c) shall automatically terminate thirty one days after the approval by the Board if no appeal is filed within thirty days after the approval. If an appeal is filed within such thirty days then this Agreement shall automatically terminate unless otherwise agreed by the parties hereto.

17. Notices. Any notices, requests and other communications under this Contract shall be in writing and shall be hand-delivered with receipt therefor, or shall be sent by facsimile with confirming telephone call, or shall be sent by messenger with receipt therefor, or by Federal Express, Express Mail or similar courier service, with guaranteed next-business-day delivery, with receipt therefor, addressed as follows:

If to County:

Board of Supervisors of Fairfax County, Virginia
12000 Government Center Parkway, Suite 552
Fairfax, Virginia 22035
Attention: County Executive

With a copy to:
Office of the County Attorney
Attention: County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035-0064

And with a copy to:
Department of Public Works and Environmental Services
Building Design and Construction Division
Attention: Carey Needham, Director
12000 Government Center Parkway, Suite 449
Fairfax, Virginia 22035

If to Nugget:

Nugget Joint Venture, L.C.
Attention: Nicholas P. H. Rocks
1960 Gallows Road, Suite 300
Vienna, Virginia 22182

And with a copy to:
Michael Rocks
c/o Rocks Co.
1960 Gallows Road, Suite 300
Vienna, Virginia 22182

And with a copy to:
Reed Smith LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042
Attention: James C. Brennan, Esq.

or in each case to such other address as either party may from time to time designate. Regarding the effective dates of notices under this Contract:

(a) If a notice is deemed effective in accordance with Section 17(b) on or before 5:00 PM local time of a given day, then such notice shall be deemed to have been given on that same day. If such notice is deemed effective in accordance with Section 17(b) after 5:00 PM local time of a given day, then such notice shall be deemed to have been given on the next occurring business day.

(b) Subject to Section 17(a) above, notice shall be deemed effective (i) if hand delivered with receipt therefor, upon receipting, (ii) if by facsimile with confirming telephone call, upon the later of the confirming phone call and the machine-generated confirmation of successful fax transmission, and (iii) if by messenger or courier service as described above, upon receipting.

18. Casualty; Condemnation. Risk of all loss, destruction or damage to the land that are subject to this Contract, from any and all causes whatsoever until consummation of the Closing shall be borne by the owner of the land. In the event that a substantial portion of any of the land to be conveyed hereunder is materially damaged casualty or is condemned or taken by eminent domain by any competent authority for any public or quasi-public use or purpose, or preliminary steps in such condemnation for eminent domain proceedings shall have been taken before the Closing, the owner shall give immediate written notice thereof to the other party (the "Condemnation Notice"). In such event, purchasing party, at its option, may terminate this Contract by written notice to the other party ten (10) days after receipt of the Condemnation Notice or Closing, whichever occurs first. In the event that the purchasing party fails to so terminate this Contract as aforesaid, then the Closing shall take place as provided herein without any adjustment to the consideration provided for in this Contract, and the owner shall assign to the purchasing party at Closing any insurance proceeds or condemnation awards attributable solely to the land subject to the loss or condemnation.

19. Miscellaneous Provisions.

(a) Binding Effect. This Contract shall, be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns. Neither party hereto' may assign its rights or delegate its obligations hereunder. Notwithstanding the foregoing, Nugget may assign this Contract and its rights and obligations hereunder with notice to County, but without obtaining County's prior written consent, so long as the assignment is to one of the following: (a) a corporation, partnership, limited liability company or other entity which controls, is controlled by, or under common control with Nugget, or (b) a partnership, limited liability company or other joint venture company between Nugget and/or one or more of the legal entities described in subparagraph (a).

(b) Waiver, Modification. Failure by either party to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof. This Contract shall not be modified, amended, or altered except by a written agreement signed by each of Nugget and County.

(c) Governing Law. This Contract shall be governed by and construed under the laws of the Commonwealth of Virginia.

(d) Headings. The section headings are herein used for convenience of reference only and shall not be deemed to vary the content of this Contract or the covenants, agreements, representations and warranties herein set forth or the scope of any section.

(e) Counterparts. If this Contract shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Contract.

(f) Partial Invalidity. If any provision of this Contract shall be determined to be void by any court of competent ' jurisdiction, then such determination shall not affect any other provision hereof,, all of which other provisions shall remain in full force, and effect; and it is the intention of all the parties hereto that if any provision of this Contract capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(g) Survival. Except as otherwise specifically provided herein, the provisions of this Contract shall not survive Closing hereunder.

(h) Time. With respect to all time periods contained in this Contract, it is expressly understood that time shall be of the essence.

(i) Holidays, etc. Whenever the last day for the performance of any act required by either party under this Contract shall fall upon a Saturday, Sunday, or legal holiday, the date for the performance of any such act shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

(j) Escrow Agent. Nugget hereby indemnifies and holds harmless the Escrow Agent from any and all claims, suits, damages, costs, losses and expenses for any matter resulting from or arising out of its obligations to Nugget hereunder, provided the same shall not arise from any negligence or willful misconduct on the part of Escrow Agent.

(k) Attorney's Fees. In the event there arises any disputes under this Contract and said disputes result in litigation between the parties the parties agree that in any litigation between the parties that the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorney's fees incurred by the prevailing party in any such litigation, including the value of legal services, if any, provided by the Office of the County Attorney of Fairfax County.

(l) Appropriations. To the extent so required by the law of the Commonwealth of Virginia, any and all of County's financial obligations under this Contract are subject to appropriations by the Fairfax County Board of Supervisors.

(m) Exhibits. Each of the exhibits attached to this Contract is hereby made a part of this Contract as fully as if set forth in the text of this Contract.

(n) **Waiver of Jury Trial. Each party hereby knowingly waives trial by jury in any action, proceeding, claim or counterclaim brought by either party in connection with any matter arising out of or in any way connected with this Contract.**

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Contract under seal as of the day and year first above written.

NUGGET:

NUGGET JOINT VENTURE, L.C., a Virginia limited liability company

By: **ALLEN & ROCKS, INC.**, its manager

By: _____
Name: _____
Title: _____

Signature Page of Real Estate Exchange Agreement

COUNTY:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, acting in its proprietary capacity and not its governmental or regulatory capacity.

_____
Date

By:_____
Name:
Its:

Signature Page of Real Estate Exchange Agreement

Board Agenda Item
July 1, 2014

ACTION - 1

Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the Federal Bureau of Investigation

ISSUE:
Board approval of a Memorandum of Understanding between the Fairfax County Police Department and the Department of Justice, Federal Bureau of Investigation (FBI) authorizing the full-time assignment of two detectives and the part-time assignment of one detective to the Metro Area Violent Crimes Task Force (MAVCTF).

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Memorandum of Understanding between the Police Department and the FBI MAVCTF.

TIMING:
Board action is requested on July 1, 2014.

BACKGROUND:
The purpose of the MAVCTF is to identify and target for prosecution criminal enterprise groups and individuals responsible for violent crime within the D.C. Metropolitan area and Northern Virginia, as well as to focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The task force maximizes inter-agency cooperation and formalizes relationships between the participating agencies for policy guidance, planning, training, media, and public relations. The capabilities of the member agencies are enhanced in a task force setting by utilizing their combined resources and expertise.

Under this MOU, the Department's Robbery Squad would assign two full-time detectives and one part-time detective to the task force. Reimbursement will be in the form of overtime paid, and may include the use of federal vehicles and equipment. Based on the size of Fairfax County as well as the number of cases that occur here, the Department believes that the provision of detectives will significantly enhance its ability to effectively combat violent crime in the county.

FISCAL IMPACT:
None

Board Agenda Item
July 1, 2014

ENCLOSED DOCUMENTS:
Attachment 1: Federal Bureau of Investigation / Fairfax County Police Department Metro Area Violent Crimes Task Force Memorandum of Understanding

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

FEDERAL BUREAU OF INVESTIGATION/FAIRFAX COUNTY POLICE DEPARTMENT METRO AREA VIOLENT CRIMES TASK FORCE MEMORANDUM OF UNDERSTANDING

PARTIES

1. This Memorandum of Understanding (MOU) is entered into by and between the Federal Bureau of Investigation (FBI) and the Fairfax County Police Department. Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

AUTHORITIES

2. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

PURPOSE

3. The purpose of this MOU is to delineate the responsibilities of Violent Crimes Task Force (****VCTF),** formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

4. The mission of the VCTF is to identify and target for prosecution criminal enterprise groups and individuals responsible for crimes of violence such as bank robbery, Hobbs Act offenses, extortion, transportation crimes, special jurisdiction matters, and other violent incident crimes, as well as to focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The VCTF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

FOR OFFICIAL USE ONLY
This document is the property of the FBI and is loaned to your agency.
Neither it nor its contents may be released without authorization by FBI Headquarters.

SUPERVISION AND CONTROL

A. Supervision

5. Overall management of the VCTF shall be the shared responsibility of the participating agency heads and/or their designees.

6. The Special Agent in Charge (SAC) of the Criminal Division shall designate one Supervisory Special Agent (VCTF Supervisor) to supervise the VCTF. The VCTF Supervisor may designate a Special Agent to serve as the Violent Crimes Task Force Coordinator (Task Force Coordinator). Either the VCTF Supervisor or the Task Force Coordinator shall oversee day-to-day operational and investigative matters pertaining to the VCTF.

7. Conduct undertaken outside the scope of an individual's VCTF duties and assignments under this MOU shall not fall within the oversight responsibility of the VCTF Supervisor or Task Force Coordinator. As stated in paragraph 74, below, neither the United States nor the FBI shall be responsible for such conduct.

8. VCTF personnel will be subject to the laws, regulations, policies, and personnel rules applicable to their respective agencies. FBI employees will continue to adhere to the Bureau's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical conduct for employees of the DOJ.

9. VCTF personnel will continue to report to their respective agency heads for non-investigative administrative matters not detailed in this MOU.

10. Continued assignment of personnel to the VCTF will be based on performance and at the discretion of appropriate management. The FBI SAC and VCTF Supervisor will also retain discretion to remove any individual from the VCTF.

B. Case Assignments

11. The FBI VCTF Supervisor will be responsible for opening, monitoring, directing, and closing VCTF investigations in accordance with existing FBI policy and the applicable United States Attorney General's Guidelines.

12. Assignments of cases to personnel will be based on, but not limited to, experience, training and performance, in addition to the discretion of the VCTF Supervisor.

13. For FBI administrative purposes, VCTF cases will be entered into the relevant FBI computer system.

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14. VCTF personnel will have equal responsibility for each case assigned. VCTF personnel will be responsible for complete investigation from predication to resolution.

C. **Resource Control**

15. The head of each participating agency shall determine the resources to be dedicated by that agency to the VCTF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

OPERATIONS

A. **Investigative Exclusivity**

16. It is agreed that matters designated to be handled by the VCTF will not knowingly be subject to non-VCTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the VCTF's existence and areas of concern.

17. It is agreed that there is to be no unilateral action taken on the part of the FBI or any participating agency relating to VCTF investigations or areas of concern as described in paragraph 3. All law enforcement actions will be coordinated and cooperatively carried out.

18. VCTF investigative leads outside of the geographic areas of responsibility for FBI Criminal Division will be communicated to other FBI offices for appropriate investigation.

B. **Confidential Human Sources**

19. The disclosure of FBI informants, or Confidential Human Sources (CHSs), to non-VCTF personnel will be limited to those situations where it is essential to the effective performance of the VCTF. These disclosures will be consistent with applicable FBI guidelines.

20. Non-FBI VCTF personnel may not make any further disclosure of the identity of an FBI CHS, including to other individuals assigned to the VCTF. No documents which identify, tend to identify, or may indirectly identify an FBI CHS may be released without prior FBI approval.

21. In those instances where a participating agency provides a CHS, the FBI may, at the discretion of the SAC, become solely responsible for the CHS's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.

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22. The United States Attorney General's Guidelines and FBI policy and procedure for operating FBI CHSs shall apply to all FBI CHSs opened and operated in furtherance of VCTF investigations. Documentation of, and any payments made to, FBI CHSs shall be in accordance with FBI policy and procedure.

23. Operation, documentation, and payment of any CHS opened and operated in furtherance of a VCTF investigation must be in accordance with the United States Attorney General's Guidelines, regardless of whether the handling agency is an FBI VCTF participating agency. Documentation of state, county, or local CHSs opened and operated in furtherance of VCTF investigations shall be maintained at an agreed upon location.

C. **Reports and Records**

24. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by VCTF personnel will be made available for inclusion in the respective investigative agencies' files as appropriate.

25. VCTF reports prepared in cases assigned to VCTF personnel will be maintained at an FBI approved location; original documents will be maintained by the FBI.

26. Records and reports generated in VCTF cases which are opened and assigned by the FBI SSA with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for VCTF.

27. VCTF investigative records maintained at the Washington Field Office of the FBI will be available to all VCTF personnel, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.

28. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the VCTF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval and chain of custody will be adhered to by VCTF personnel.

29. All VCTF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSA approval.

30. Classified information and/or documents containing information that identifies or tends to identify an FBI CHS shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.

31. The Parties acknowledge that this MOU may provide VCTF personnel with access to information about U.S. persons which is protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be

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handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by VCTF personnel requires a change in privacy compliance documents, those changes will be accomplished prior to access being granted.

INFORMATION SHARING

32. No information possessed by the FBI, to include information derived from informal communications between VCTF personnel and FBI employees not assigned to the VCTF, may be disseminated by VCTF personnel to non-VCTF personnel without the approval of the VCTF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, VCTF personnel will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.

33. Each Party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.

34. The FBI is providing access to information from its records with the understanding that in the event the recipient becomes aware of any inaccuracies in the data, the recipient will promptly notify the FBI so that corrective action can be taken. Similarly, if the FBI becomes aware that information it has received pursuant to this MOU is inaccurate, it will notify the contributing Party so that corrective action can be taken.

35. Each Party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing Party, and that information is only made available to the receiving Party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing Party.

36. Each Party will immediately report to the other Party each instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).

37. The Parties agree that either or both may audit the handling and maintenance of data in electronic and paper recordkeeping systems to ensure that appropriate security and privacy protections are in place.

PROSECUTIONS

38. VCTF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.

39. A determination will be made on a case-by-case basis whether the prosecution of VCTF cases will be at the state or federal level. This determination will be based on the

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evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the VCTF.

40. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a VCTF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

A. Investigative Methods/Evidence

41. For cases assigned to an FBI Special Agent or in which FBI CHSs are utilized, the parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

42. In all cases assigned to state, county, or local law enforcement participants, the parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the Domestic Investigations and Operations Guide to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.

43. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

B. Undercover Operations

44. All VCTF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations. All participating agencies may be requested to enter into an additional agreement if an employee of the participating agency is assigned duties which require the officer to act in an undercover capacity.

USE OF LESS-THAN-LETHAL-DEVICES[1]

[1] Pursuant to Section VIII of the DOJ Less-Than-Lethal Devices Policy dated May 16, 2011, all state/local officers participating in joint task force operations must be made aware of and adhere to the policy and its limits on DOJ officers.

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45. The parent agency of each individual assigned to the VCTF will ensure that while the individual is participating in FBI-led task force operations in the capacity of a task force officer, task force member, or task force participant, the individual will carry only less-lethal devices that the parent agency has issued to the individual, and that the individual has been trained in accordance with the agency's policies and procedures.

46. The parent agency of each individual assigned to the VCTF will ensure that the agency's policies and procedures for use of any less-lethal device that will be carried by the task force officer, task force member, or task force participant are consistent with the DOJ policy statement on the Use of Less-Than-Lethal Devices.

DEADLY FORCE AND SHOOTING INCIDENT POLICIES

47. VCTF personnel will follow their own agencies' policies concerning firearms discharge and use of deadly force.

DEPUTATIONS

48. Local and state law enforcement personnel designated to the VCTF, subject to a limited background inquiry, may be sworn as federally deputized Special Deputy United States Marshals, with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the VCTF or until the termination of the VCTF, whichever comes first.

49. Deputized VCTF personnel will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

VEHICLES

50. In furtherance of this MOU, employees of LEA may be permitted to drive FBI owned or leased vehicles for official VCTF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Government Vehicle Policy Directive (0430D) and the Government Vehicle Policy Implementation Guide (0430PG). The assignment of an FBI owned or leased vehicle to LEA VCTF personnel will require the execution of a separate Vehicle Use Agreement.

51. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to VCTF business.

52. The FBI and the United States will not be responsible for any tortious act or omission on the part of LEA and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by LEA VCTF personnel, except where liability may fall

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under the provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.

53. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by LEA task force personnel while engaged in any conduct other than their official duties and assignments under this MOU.

SALARY/OVERTIME COMPENSATION

54. The FBI and LEA remain responsible for all personnel costs for their VCTF representatives, including salaries, overtime payments and fringe benefits consistent with their respective agency, except as described in paragraph 56 below.

55. Subject to funding availability and legislative authorization, the FBI will reimburse to LEA the cost of overtime worked by non-federal VCTF personnel assigned full-time to VCTF, provided overtime expenses were incurred as a result of VCTF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and LEA for full-time employee(s) assigned to VCTF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable LEA overtime provisions and shall be subject to the prior approval of appropriate personnel.

PROPERTY AND EQUIPMENT

56. Property utilized by the VCTF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the VCTF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by VCTF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of VCTF, will be the financial responsibility of the agency supplying said property.

FUNDING

57. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

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FORFEITURES

58. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with VCTF operations.

59. Asset forfeitures will be conducted in accordance with federal law, and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to VCTF investigations may be equitably shared with the agencies participating in the VCTF.

DISPUTE RESOLUTION

60. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the VCTF's objectives.

61. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

MEDIA RELEASES

62. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

63. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

SELECTION TO VCTF AND SECURITY CLEARANCES

64. If an LEA candidate for the VCTF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.

65. If, for any reason, the FBI determines that an LEA candidate is not qualified or eligible to serve on the VCTF, the participating agency will be so advised and a request will be made for another candidate.

66. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.

67. Before receiving unescorted access to FBI space identified as an open storage facility, VCTF personnel will be required to obtain and maintain a "Top Secret" security

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clearance. VCTF personnel will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.

68. Upon departure from the VCTF, each individual whose assignment to the VCTF is completed will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement to which he or she previously agreed.

LIABILITY

69. The participating agencies acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the VCTF.

70. The participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the VCTF or otherwise relating to the VCTF. The participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the VCTF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the VCTF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

71. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b), and §§ 2671-2680: An individual assigned to the VCTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the individual will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any VCTF personnel.

72. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): An individual assigned to the VCTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU

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may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI Criminal Division, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any VCTF personnel.

73. Liability for any conduct by VCTF personnel undertaken outside of the scope of their assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

DURATION

74. The term of this MOU is for the duration of the VCTF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

75. Any participating agency may withdraw from the VCTF at any time by written notification to the SSA with designated oversight for investigative and personnel matters or program manager of the VCTF at least 30 days prior to withdrawal.

76. Upon termination of this MOU, all equipment provided to the VCTF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any VCTF participation.

MODIFICATIONS

77. This agreement may be modified at any time by written consent of all involved agencies.

78. 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.

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SIGNATORIES

Special Agent in Charge
Federal Bureau of Investigation

1/6/14
Date

Chief/Sheriff
Law Enforcement Agency

Date

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Board Agenda Item
July 1, 2014

ACTION - 2

Establishment of the Tysons Transportation Management Association (TMA) and Appointment of the Tysons Partnership to Operate the Tysons TMA (Dranesville, Hunter Mill, and Providence Districts)

ISSUE:
Board of Supervisors approval to establish a new Tysons Transportation Management Association (TMA), and appoint the Tysons Partnership as operator of the Tysons TMA. There currently is no TMA in Tysons. Developers in Tysons have proffered funds for a TMA in Tysons, and the Tysons Partnership provides a practical way to use the proffered funds for TMA activities.

RECOMMENDATION:
The County Executive recommends the Board of Supervisors approve the Tysons Transportation Management Association, and appoint the Tysons Partnership as operator of the Tysons TMA.

TIMING:
Board approval is requested on July 1, 2014, so the Department of Transportation can negotiate a formal agreement with the Tysons Partnership for the operation of the Tysons TMA. The agreement will be presented to the Board for consideration when it is complete.

DISCUSSION:
Since the establishment of the existing Tysons Transportation Fund, growth and transportation needs in Tysons have escalated. The main goal of establishing a TMA is to reduce single occupant vehicle (SOV) trips. The Tysons TMA is envisioned to serve all residents, businesses and land owners in Tysons. A successful TMA is critical to accommodating the future development in Tysons that was approved by the Board of Supervisors in the Tysons Comprehensive Plan Amendment in June 2010. As such, the Tysons Partnership has performed research on TMAs, and put together a strategic plan for the implementation of such an association. The TMA's strategic plan calls for distribution of information via website, mailings, events and meetings to achieve SOV trip reductions. Outreach to employers and employees will occur to encourage the use of commuting alternatives such as ride-shares, rail, bus, flex-time, and remote workplaces, among other Transportation Demand Management (TDM) strategies.

Additionally, the TMA will facilitate the implementation of the proffered Planned Tysons Corner (PTC) rezoning TDM programs in coordination with the development community. The Tysons Partnership's role in collaborating with the County, developers, land owners and residents of Tysons on a myriad of topics, including transportation, makes them the logical choice for administering this TMA.

FISCAL IMPACT:
Proffered TDM contributions for PTC rezonings that occur after June 2010 will be made to the County. These contributions will reside in the Tysons Road Fund until they are transferred to the Tysons TMA for qualifying uses. Since the partnership will employ the Tysons TMA administrator, there is no cost to the County for the establishment of a Tysons TMA or appointing the Tysons Partnership to operate the Tysons TMA. DOT staff will return to the Board in the future with a specific agreement between the County and the Tysons Partnership regarding the transfer, accounting, and expenditure of proffer funds used for the Tysons TMA, as well as the specific goals and responsibilities of the TMA.

CREATION OF POSITIONS:
No positions will be created or funded through the proposed fund areas at this time. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:
Attachment 1: Tysons Partnership Letter, dated May 5, 2014

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Acting Chief, Coordination and Funding Division (CFD), FCDOT
Ray Johnson, Senior Transportation Planner, CFD, FCDOT
Ken Kanownik, Transportation Planner, CFD, FCDOT
Michael Davis, Acting Chief, Site Analysis Section, FCDOT
Jeff Hermann, Senior Transportation Planner, Site Analysis Section, FCDOT

TYSONS Partnership | Building America's Next Great City

Attachment 1

TYSONS PARTNERSHIP

t: 1.703.939.4719
www.tysonspartnership.org

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AvalonBay Communities, Inc.
Mark G. Carrier
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Terrance J. Miller
Wells & Associates
Michael A. Caplin
Tysons Partnership

Tom Biesiadny, Director
Fairfax County Department of Transportation
4050 Legato Street, Suite 400
Fairfax VA 22033

May 5, 2014

Dear Mr. Biesiadny:

The Tysons Partnership Transportation Council works with partners, County government and the public to achieve a coordinated, effective transportation system in Tysons that supports economic prosperity and quality of life.

The Partnership will fortify its function as the Tysons-wide TMA with the hire of a TMA administrator. The TMA administrator scope of work will include:

- distribution of transportation information via website, mailings, events, and meetings;
- out-reach to employers and employees regarding commuting alternatives, such as ride-shares, rail, bus, flex-time, remote workplaces, and other TDM opportunities;
- implementation of TDM programs.

The Partnership will fund TMA operations with developer TMA seed fund proffers, and with revenue from the sale of TDM service packages. The TMA will grow its scope of services as it grows its revenue stream.

Developer TMA seed fund proffers are projected to be at least $65,000 per year. Efficient delivery of developer TMA seed fund proffer payments to the Partnership TMA will require assistance from FCDOT and the County.

Tysons Partnership looks forward to working with FCDOT to manage transportation demand in Tysons. Together, we will keep Tysons moving.

Respectfully,

Michael Caplin

Michael Caplin
Director

1600 Tysons Blvd., Suite 800, Tysons, VA 22102

Board Agenda Item
July 1, 2014

ACTION - 3

Establishment of Parking Fees at Wiehle-Reston East Metrorail Garage

ISSUE:
Upon adoption of the proposed amendments to *The Code of the County of Fairfax,* Chapter 82, Article 5, Section 82-5-39, the Board of Supervisors must act to set the fees for the Wiehle-Reston East Metrorail Garage.

RECOMMENDATIONS:
The County Executive recommends that the Board of Supervisors set the fees for the Wiehle-Reston East Metrorail Garage as follows: (1) Wiehle Daily Parking Rate—$4.85; (2) Wiehle Reserved Monthly Parking Rate—$65.00; and (3) Wiehle Bike Locker Room Fees—$75.00 per year.

TIMING:
Board action is requested on July 1, in anticipation of the opening of the Silver Line extension. However, given that the public hearing on the underlying ordinance amendments to *The Code of the County of Fairfax,* Chapter 82, Article 5, Section 82-5-39 is scheduled for July 1, 2014, at 4:00 p.m., it is requested that Board action on this matter be deferred until immediately following the conclusion of the public hearing.

BACKGROUND:
On July 30, 2013, the Board of Supervisors approved the following fees for the Wiehle-Reston East Metrorail Parking Garage: (1) Wiehle Daily Parking Rate—$4.75; (2) Wiehle Reserved Monthly Parking Rate—$65.00; and (3) Wiehle Bike Locker Room Fees—$75.00 per year. Effective July 1, 2014, however, the daily parking rate at existing Metrorail parking facilities in Fairfax County will increase to $4.85. To reflect this increased rate, and to comply with the procedure in the amendments to Section 82-5-39, the Board should act to set the the Wiehle Daily Parking Rate, Wiehle Reserved Parking Rate and Wiehle Bike Locker Room Fee as follows: (1) Wiehle Daily Parking Rate—$4.85; (2) Wiehle Reserved Monthly Parking Rate—$65.00; and (3) Wiehle Bike Locker Room Fees—$75.00 per year.

FISCAL IMPACT:
Annual parking revenues generated will be deposited to the Commercial and Industrial Tax Fund (40010) and will be used to offset annual debt service expenditures for

Wiehle-Reston East bonds issued in July 2011 and operating costs of the Wiehle-Reston East Garage.

ENCLOSED DOCUMENTS:
None.

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

Board Agenda Item
July 1, 2014

ACTION - 4

Approval of Changes to the Fairfax County Purchasing Resolution

ISSUE:
Board of Supervisors' approval of changes to the Fairfax County Purchasing Resolution.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the changes outlined below to the Fairfax County Purchasing Resolution, to become effective on July 1, 2014.

TIMING:
Routine.

BACKGROUND:
The Board of Supervisors adopted the current version of the Fairfax County Purchasing Resolution on July 9, 2013. During the 2014 session of the General Assembly, one bill was approved relating to procurement and/or contracts; however, this bill did not modify a mandatory section of the Virginia Public Procurement Act (VPPA). In 2014, legislative action in the area of contracts and procurement was limited. The General Assembly continued most bills until 2015 pending completion of a study of the VPPA that was initiated as a result of House Bill 2079 (2013). The purpose of the study is to allow the House Committee on General Laws and the Senate Committee on General Laws and Technology to identify weaknesses and other problems in the VPPA and recommend improvements.

This year, staff recommends seven administrative amendments to the Purchasing Resolution (below). These amendments are a combination of changes from the 2014 General Assembly session and non-mandatory changes that were approved in earlier years. The threshold increases described below were enacted by the General Assembly in 2011 and implemented at the state level in the same year. The Code of Virginia provides localities with the flexibility to adopt alternative procurement procedures and policies that conform with the competitive principles of the VPPA. This authority permitted the County to defer adoption of the higher formal procurement thresholds until all policy, training, and system controls were in place.

Board Agenda Item
July 1, 2014

Administrative Changes

1. Formal solicitation threshold: The General Assembly passed SB1107 in 2011, a non-mandatory bill that increased the small purchase threshold from $50,000 to $100,000 for goods and non-professional services. The same bill increased the small purchase threshold from $50,000 to $60,000 for professional services. Subsequent to this change, the County will have the same thresholds the state implemented in 2011.
2. Public posting requirement (emergency and sole source contracts): The public posting requirement for emergency and sole source contracts is increased to $100,000 in accordance with SB 1107.
3. Drug-free workplace contract provision: The threshold for requiring a drug-free workplace contract provision is increased from $50,000 to $100,000.
4. State Corporation Commission (SCC) authorization: The threshold for contractors to obtain a SCC authorization is increased from $50,000 to $100,000.
5. Design-Build Contracts: The requirement for post project review by the Design-Build/Construction Management Review Board is removed. The Review Board was eliminated by the General Assembly in 2011. All other references to the Review Board were previously removed from the Purchasing Resolution.
6. Construction Prequalification: A provision to limit the remedy available to a contractor denied prequalification is added to the Purchasing Resolution. The change states that relief of restoration of eligibility is the sole remedy, consistent with the VPPA.
7. Article 6, Supply Management: Text changes to clarify the consumable and fixed assets, as well as, surplus property duties of the Purchasing Agent for Fairfax County Government and Fairfax County Public Schools.

The text changes proposed in the Resolution are presented in “track changes” format and legislative references are provided in the right margin in Attachment I. These changes have been coordinated with the Department of Public Works and Environmental Services, the Department of Housing and Community Development, the Fairfax County Park Authority, the Department of Transportation, Fairfax County Public Schools, and the Office of the County Attorney.

FISCAL IMPACT:
None.

Board Agenda Item
July 1, 2014

ENCLOSED DOCUMENTS:
Attachment I - Revised Fairfax County Purchasing Resolution

STAFF:
Susan Datta, Chief Financial Officer
Cathy A. Muse, Director, Department of Purchasing and Supply Management

ATTACHMENT 1

Fairfax County

Purchasing Resolution

~~July 9, 2013~~July 1, 2014

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 1 2
GENERAL PROVISIONS 2
- **Section 1. Title.** 2
- **Section 2. Organization.** 2
- **Section 3. Exceptions.** 2
- **Section 4. Rules and Regulations.** 5
- **Section 5. Cooperative Procurement.** 5
- **Section 6. Definitions.** 6

Article 2 12
PURCHASING POLICIES 12
- **Section 1. General** 12
- **Section 2. Methods of Procurement.** 13
- **Section 3. Exceptions to the Requirement for Competitive Procurement.** 22
- **Section 4. General Purchasing Provisions.** 24
- **Section 5. Compliance with Conditions on Federal Grants or Contract.** 34
- **Section 6. Audit by the County.** 34
- **Section 7. HIPAA Compliance.** 34

Article 3 36
CONSTRUCTION CONTRACTING 36
- **Section 1. Authority** 36
- **Section 2. Rules and Regulations** 37
- **Section 3. Definitions** 38
- **Section 4. Purchasing Policies** 38
- **Section 5. Methods of Procurement** 40
- **Section 6. Prequalification, Bonds, Escrow Accounts** 42

Article 4 53
BIDDER/CONTRACTOR REMEDIES 53
- **Section 1. Ineligibility.** 53
- **Section 2. Appeal of Denial of Withdrawal of Bid.** 54
- **Section 3. Appeal of Determination of Nonresponsibility.** 55
- **Section 4. Protest of Award or Decision to Award.** 55
- **Section 5. Contractual Disputes.** 56
- **Section 6. Legal Action.** 57

Article 5 58
ETHICS IN COUNTY CONTRACTING 58
- **Section 1. General.** 58
- **Section 3. Disclosure of Subsequent Employment.** 59
- **Section 4. Gifts.** 59
- **Section 5. Kickbacks.** 59
- **Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.** 60
- **Section 7. Certification of Compliance; Penalty for False Statements.** 60
- **Section 8. Misrepresentations.** 60

Adopted by the Fairfax County Board of Supervisors on ~~July 9, 2013~~July 1, 2014

Section 9. Penalty for Violation. **61**
Section 10. Personal Conflicts of Interest **61**
Article 6 ..... **62**
SUPPLY MANAGEMENT **62**
Section 1. Item Identification. **62**
Section 2. County Consolidated Warehouse **62**
Section 3. Inventory Accountability **62**
Section 4. Consumable Inventory Management **63**
Section 5. Accountable Equipment Inventory Management **63**
Section 6. Excess and Surplus Property and Inventory. **63**
Section 7. Donations **64**

FAIRFAX COUNTY PURCHASING RESOLUTION

WHEREAS, a central purchasing system is authorized by §15.2-1543 of the Code of Virginia, and is thus a part of the Urban County Executive Form of Government adopted by Fairfax County in 1951; and

WHEREAS, the Board of County Supervisors is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved; and

WHEREAS, the Code of Virginia, §2.2-4300 through §2.2-4377 (as amended), enunciate the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party, which sections shall be known as the Virginia Public Procurement Act; and

WHEREAS, the Code of Virginia, §15.2-1236 (as amended) requires all purchases of and contracts for supplies, materials, equipment and contractual services shall be in accordance with Chapter 43 of Title 2.2 of the Code of Virginia; and

WHEREAS, the Code of Virginia, §2.2-4343 (as amended) allows implementation of the Virginia Public Procurement Act by ordinance, resolutions, or regulations consistent with this Act by a public body empowered by law to undertake the activities described by the Act: and

WHEREAS, the Code of Virginia, §15.2-1543, empowers the Board of Supervisors to employ a County Purchasing Agent and set his duties as prescribed by the Code of Virginia, §15.2-831, §15.2-1233 through §15.2-1240, and §15.2-1543;

THEREFORE BE IT RESOLVED that this resolution prescribes the basic policies for the conduct of all purchasing in Fairfax County (except as otherwise stipulated herein) to take effect immediately upon passage, as follows:

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 1

GENERAL PROVISIONS

Section 1. Title.

This resolution shall be known as the Fairfax County Purchasing Resolution.

Section 2. Organization.

A. The Department of Purchasing and Supply Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.

B. The Director of the Department of Purchasing and Supply Management shall be the County Purchasing Agent who shall have general supervision of the Department. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.

C. The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce.

Section 3. Exceptions.

A. The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:

1. **The Department of Public Works and Environmental Services, pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, shall be responsible for Fairfax County construction projects and related architectural, engineering and consultant services. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**

2. **The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

3. **The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.**

4. **The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the**

Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.

5. **The Department of Transportation, pursuant to §33.1-75.3 of the Code of Virginia, and this Resolution, may be responsible for the purpose of constructing or improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**

6. **The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.**

B. The Fairfax County Public Schools shall be responsible for the procurement of goods and services for individual schools using funds generated from school activities. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.

C. The Fairfax County Sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates, in accordance with §53.1-127.1, Code of Virginia.

D. The Department of Administration for Human Services shall be responsible for procurement of goods and services for direct use by a recipient of County administered public assistance programs as defined by Code of Virginia §63.2-100, or the fuel

assistance program, or community services board as defined in Code of Virginia §37.2-100 or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (Code of Virginia §2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (Code of Virginia §16.1-309.2 et seq.) provided such good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County.

Section 4. Rules and Regulations.

A. The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and supply management system.

B. The Agencies designated in Section 3 A – D shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the County Executive for County staff agencies or the administrative head of the respective public body involved.

Section 5. Cooperative Procurement.

The County or any entity identified in Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

Except for contracts for architectural and engineering services, as authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, any county, city, town, or school board may purchase from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government.

Section 6. Definitions.

a. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:

1) **Planning acquisitions.**
2) **Determining what supplies or services are to be acquired by the County, including developing statements of work.**
3) **Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.**
4) **Evaluating bids or proposals.**
5) **Awarding County contracts.**
6) **Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).**
7) **Terminating contracts.**
8) **Determining whether contract costs are reasonable, allocable, and allowable.**

b. Best Value, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

c. Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2 A).

d. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).

e. Construction shall mean building, altering, repairing, improving or demolishing any structure, building, road, drainage, or sanitary facility, and any draining, dredging, excavation, grading or similar work upon real property.

f. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

g. **Consultant Services shall mean any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.**

h. **Covered Employee means an individual who**

1) **Is an employee of the contractor or subcontractor, a consultant, partner, or a sole proprietor; and**
2) **Performs an acquisition function closely associated with inherently governmental functions.**

i. **Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.**

j. **DPSM shall mean the Department of Purchasing and Supply Management**

k. **Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential service.**

l. **Excess Property shall mean that property which exceeds the requirement of the department to which the property is assigned.**

m. **FCPS shall mean Fairfax County Public Schools.**

n. **Faith–Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.**

o. **Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.**

p. **Fixed Asset shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of $5,000.**

q. **Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.**

r. **Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.**

s. **Independent Contractor shall mean a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of accomplishing the result.**

t. **Ineligibility shall mean an action taken to suspend or debar an individual or firm from consideration for award of contracts. The suspension shall not be for a period exceeding three (3) months and the debarment shall not be for a period exceeding three (3) years.**

u. **Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.**

v. **Non-public Government Information means any information that a covered employee gains by reason of work under a County contract and that the covered employee knows, or reasonably should know, has not been made public. It includes information that--**

1) **Is exempt from disclosure under the Virginia Freedom of Information Act; or**
2) **Has not been disseminated to the general public and is not authorized by the agency to be made available to the public.**

w. **Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.**

x. **Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.**

y. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural, engineering and related consultant services for construction projects and the contracting for construction projects to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.

z. Pecuniary Interest Arising From the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.

aa. Personal Conflict of Interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the County when performing under the contract.

Among the sources of personal conflicts of interest are--

1) **Financial interests of the covered employee, of close family members, or of other members of the household;**
2) **Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and**
3) **Gifts, including travel.**

Financial interests may arise from--

1) **Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;**
2) **Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);**
3) **Services provided in exchange for honorariums or travel expense reimbursements;**
4) **Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);**
5) **Real estate investments;**
6) **Patents, copyrights, and other intellectual property interests; or**
7) **Business ownership and investment interests.**

bb. Potential Bidder or Offeror shall mean a person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

cc. **Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.**

dd. **Professional services shall mean any type of service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with this Resolution).**

ee. **Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution. Public body shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.**

ff. **Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.**

gg. **Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.**

hh. **Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.**

ii. **Responsive Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.**

jj. **Reverse Auctioning shall mean a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.**

kk. **SAC shall mean Selection Advisory Committee.**

ll. **Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.**

mm. **Employment Services Organization shall mean a work-oriented rehabilitative facility with a controlled working environment and individual goals which utilizes work experience and related services to assist individuals with disabilities to progress toward normal living and a productive vocational status.**

nn. **Surplus Property shall mean that property which exceeds the requirement of the entire County.**

Article 2

PURCHASING POLICIES

Section 1. General

A. **Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.**

B. **Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article.**

C. **Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article.**

D. **Upon written determination made in advance that competitive sealed bidding is either not practical or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for the determination and shall be included in the appropriate contract file.**

E. **Certification of sufficient funds; orders and contracts in violation of Code of Virginia, §15.2-1238: - Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance shall have certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. Whenever any department or agency of the County government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.**

F. **Not withstanding any other provision of law, the County may, as provided in the Code of Virginia, §2.2-4327, provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying**

institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction. No more than fifty percent of the funds of the county, calculated on the basis of the average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.

G. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.

H. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.

Section 2. Methods of Procurement.

A. Competitive Sealed Bidding.- is a method of contractor selection which includes the following elements:

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of county wide circulation, or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, bids may be solicited directly from potential vendors.

3. Public opening and posting of all bids received.

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value

analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.

B. Competitive Negotiation.- is a method of contractor selection which includes the following elements:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting in a designated public area or by publication in a newspaper of county wide circulation or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, proposals may be solicited directly from potential vendors.

3. Competitive Negotiation – Consultant Services

a. Selection Advisory Committee

1. When selecting a firm for consultant services where the compensation for such services is estimated to exceed ~~$50,000~~$100,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.

2. **When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than ~~$50,000~~$100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those consultant services firms that are**

to be retained by the County or an agency of the County.

3. Minutes of Selection Advisory Committee deliberations and records or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.

b. Public Announcement

1. When consultant services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for consultant services is estimated to be less than ~~$50,000~~$100,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

c. Selection, Negotiation and Approval Process.

1. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2. All proposed contracts for consultant services, where the compensation to be paid exceeds $100,000, the Director of DPSM or other Authorized Agency, after review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those consultant services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required by the County Executive or the Division Superintendent, FCPS.

3. All proposed contracts for consultant services, where the compensation to be paid is less than $100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4. For all cost-plus-a-fixed-fee consultant services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any consultant services contract under which such a certificate is required shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

4. Competitive Negotiation – Professional Services

a. Selection Advisory Committee.

1. When selecting a firm for professional services where the compensation for such professional services is estimated to exceed ~~$50,000~~$60,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.

2. When selecting a firm for professional services, where the compensation for such professional services is estimated to be less than ~~$50,000~~$60,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those professional services firms that are to be retained by the County or an agency of the County.

3. Minutes of Selection Advisory Committee deliberations and records

or votes taken shall be maintained for at least three years. Minutes shall detail pertinent reasons for committee recommendations and be available for review by the general public upon request.

b. Public Announcement and Qualifications for Professional Services.

1. When professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for such professional services is estimated to be less than ~~$50,000~~$60,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

2. For architectural or engineering services estimated to cost less than ~~$50,000~~$60,000, an annual advertisement requesting qualifications from interested architectural or engineering firms will meet the requirements of paragraph (1) above. The County shall make a finding that the firm to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record of performance, and experience of the firm.

c. Selection, Negotiation, and Approval Process

1. Selection of Professional Services: Where the cost is expected to exceed ~~$50,000~~$60,000, the County shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the County in addition to the review of the professional competence of the offeror. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the County shall select in the

order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. DPSM or other Authorized Agency, with the aid of the Selection Advisory Committee, shall negotiate a proposed contract with the highest qualified firm for the professional services required. The firm deemed to be the most qualified will be required to disclose its fee structure during negotiation. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the County may award contracts to more than one offeror.

2. Except for construction projects and related architectural, engineering, and consultant services, all proposed contracts for professional services, where the compensation to be paid exceeds $100,000, the Director of DPSM or other Authorized Agency, after review of the SAC recommendation will recommend to the County Executive, or the FCPS Division Superintendent those professional services to be retained by the County or an agency of the County. The proposed contracts shall be submitted to the Board of Supervisors and/or the School Board as an Information Item prior to final execution. Full and adequate explanation of the selection criteria and fee determination shall be presented with the contract in such form as required by the County Executive or the Division Superintendent, FCPS.

3. All proposed contracts for professional services, where the compensation to be paid is less than $100,000, shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

4. For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a

certificate is required shall contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

5. Multiphase professional services contracts satisfactory and advantageous to the County for environmental, location, design and inspection work regarding construction of infrastructure projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the County shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the County require awarding the contract.

6. A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA), ~~Subdivision 3a, of §2.2-4301~~§2.2-4302.2.4.

Comment [IP1]: Code restructuring effective July 1, 2014.

5. Competitive Negotiation – Non-Professional Services

a. Selection Advisory Committee

1. When selecting a firm for non-professional services where the compensation is estimated to exceed ~~$50,000~~$100,000, the Director of DPSM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPSM or other Authorized Agency, those non-professional services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPSM or other authorized agency.

2. **When selecting a firm for non-professional services, where the compensation is estimated to be less than ~~$50,000~~$100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department**

Head those non-professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

1. When non-professional services are requested to be purchased, the requirement will be announced in a uniform and consistent manner. Requirements where the compensation for non-professional services is estimated to be less than ~~$50,000~~$100,000 may be accomplished without public announcement, but will, whenever possible, utilize available lists and other known sources to make a selection from at least four candidates.

c. Selection, Negotiation and Approval Process.

1. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

2. All proposed contracts for non-professional services shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

C. Emergency.- In case of an emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the appropriate contract or purchase order file. In addition, a notice shall be posted on the Department of Purchasing and Supply Management web site or other appropriate web sites on the day the County awards or announces its decision to award the contract in excess of ~~$50,000~~$100,000, whichever occurs first.

1. **If an emergency occurs during regular County business hours, the head of the using agency shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.**

2. **If an emergency occurs at times other than regular County business hours, the using agency head may purchase the required goods or services directly. The agency head shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the emergency.**

3. **The County Purchasing Agent shall maintain a record of all emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.**

D. Informal Procurement.- Any Fairfax County contract when the estimated cost is less than ~~$50,000~~$100,000 in value, shall be deemed an informal procurement and shall not be subject to the rules governing competitive sealed bidding or competitive negotiation. However, the County Purchasing Agent shall, wherever possible, solicit at least four written competitive bids on all informal procurements estimated to exceed $10,000 in value; and solicit at least three oral or written quotes for purchase transactions estimated between $5,000 - $10,000. The rules and regulations adopted pursuant to Section 4 of Article 2 of this Resolution shall prescribe in detail the procedures to be observed in giving notice to prospective bidders, in tabulating and recording bids, in opening bids, in making purchases from the lowest responsive and responsible bidder, and in maintaining records of all informal procurements for public inspection.

E. Public Private Education Facilities and Infrastructure.- The "Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)" provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.

F. Reverse Auctioning.- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

G. Small Purchase.- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than $5,000, shall be deemed a small purchase and shall not be subject to the rules governing the formal competitive bidding process.

H. Sole Source.- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted on the Department of Purchasing and Supply Management web site or other appropriate web sites on the day the County awards or announces its decision to award the contract in excess of ~~$50,000~~$100,000, whichever occurs first.

Section 3. Exceptions to the Requirement for Competitive Procurement.

A. Auction: Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products or commodities from a public auction sale is in the best interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

B. Instructional Materials and Office Supplies: Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2. G.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School

Board solely for such purchases.

C. Insurance / Electric Utility Services: As provided in the Code of Virginia, subdivision 13 of §2.2-4345, the County may enter into contracts without competitive sealed bidding or competitive negotiation for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles.

D. Insurance: Upon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in ~~subdivision 3b of §2.2-4301~~ §2.2-4302.2.3 of the Virginia Public Procurement Act.

Comment [IP2]: Code restructuring effective July 1, 2014.

E. Litigation / Regulatory Proceedings: The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) legal services; (2) expert witnesses: and (3) other services associated with litigation or regulatory proceedings.

F. Public Assistance Programs: The County may procure goods or services without competition for direct use by a recipient of County administered public assistance programs as defined by §63.2-100 of the Code of Virginia, or the fuel assistance program, or community services board as defined in §37.2-100, or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.

G. Remedial Plan: The purchase of goods and services when such purchases are made under a remedial plan established by the County Executive pursuant to Code of Virginia §15.2-965.1.

H. Workshops: The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Visually Handicapped; or which are produced or performed by employment services organizations which offer transitional or supported employment services serving individuals with disabilities, provided that the goods or services can be

purchased within ten percent of their fair market value, will be of acceptable quality and can be produced in sufficient quantities and within the time required.

I. Retirement Board Investments, Actuarial Services, Disability Determination Services: The selection of services related to the management, purchase, or sale of authorized investments, actuarial services, and disability determination services shall be governed by the standard of care in Code of Virginia §51.1-124.30 and shall not be subject to the provisions of the Virginia Public Procurement Act.

J. Ballots and Elections Materials: Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall not apply to contracts for equipment, software, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election, except as stated in §24.2-602. The provisions of Code of Virginia §24.2-602 shall apply to such contracts.

K. Other Special Exemptions: Procurement for single or term contracts for goods and services not expected to exceed ~~$50,000~~$100,000 as identified by the Purchasing Agent.

Section 4. General Purchasing Provisions.

A. Competitive Solicitation Process.-

1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the County's vendor database and/or the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and competitive negotiation methods of procurement. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.

2. The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or informal procurement methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor shall render the entire proceedings void and shall require readvertising for bids.

3. All solicitations shall include the following provisions:

a. **Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.**

b. **Whenever there is reason to believe that a financial benefit of the sort described in paragraph a. has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.**

4. **Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named: it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.**

5. **Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.**

6. **Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 4, Section 1.**

7. **The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.**

8. Withdrawal of bids by a bidder.

a. A bidder for a contract other than for public construction may request withdrawal of their bid under the following circumstances:

1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.

2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

3. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

4. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.

5. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

6. If the County denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.

7. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of Article 2, Section 4, Paragraph D.

B. Contract Award Process.-

1. The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in his judgment the public interest is best served. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if none, to the resident Virginia tie bidder, or if none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services.

2. The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, the following criteria will be considered:

a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;

b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

d. The quality of performance of previous contracts or services;

e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;

f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

g. The quality, availability and adaptability of the goods or services to the particular use required;

h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

i. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and

j. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

3. All contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.

4. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the responsive bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.

5. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or $50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

6. Every contract in excess of ~~$50,000~~$100,000 shall contain the following: During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over $10,000, so that the provisions

will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

C. Non Discrimination.-

The County will not discriminate against a bidder or offeror because of race, color, religion, sex, national origin, age, disability, status as a service-disabled veteran or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity. In accordance with the policy of the County's Small and Minority Business Enterprise Program, every effort shall be made to actively and diligently promote the procurement of goods and services from small businesses and minority-owned and woman-owned businesses and service-disabled veteran businesses in all aspects of procurement to the maximum extent feasible. Every contract shall include the following provisions:

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.

d. The contractor will include the provisions of paragraphs a, b, and c above in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. Disclosure of Information.-

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act.

1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.

2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in 3. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section 4 D.3 shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

4. Nothing contained in this section shall be construed to require the County, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

E. Bonds.-

1. The County may, at the discretion of the County Purchasing Agent, require bid, payment or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.

No forfeiture under a bid bond shall exceed the lesser of:

a. the difference between the bid for which the bond was written and the next low bid, or

b. the face amount of the bid bond.

2. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

3. Actions on payment bonds:

a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is

regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

4. Alternative forms of security:

a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.

b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County equivalent to a corporate surety's bond.

F. Prequalification –

1. Any prequalification of prospective contractor by the County shall be pursuant to a prequalification process.

a. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

b. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective

contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met.

2. The County may deny prequalification to any contractor only if the County finds one of the following:

a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;

b. The contractor does not have appropriate experience to perform the project in question;

c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts;

d. The contractor has been in substantial noncompliance with the terms and conditions of prior contracts with the County without good cause. If the County has not contracted with a contractor in any prior contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

e. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

f. **The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and**

g. **The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.**

Section 5. Compliance with Conditions on Federal Grants or Contract.

Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the policy of full and open competition, the County Purchasing Agent may comply with the federal requirements only upon written determination by the County Executive and/or Board of Supervisors that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provisions of this section in conflict with the conditions of the grant or contract.

Section 6. Audit by the County.

All contracts and amendments entered into by negotiation, shall include a provision permitting the County or its agent to have access to and the right to examine any books, documents, papers, and records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts.

Section 7. HIPAA Compliance.

Fairfax County Government has designated certain health care components as covered by the Health Insurance Portability and Accountability Act of 1996. The successful vendor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board, upon award of contract. The successful vendor must adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Code of Virginia – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: http://www.fairfaxcounty.gov/hipaa.

Section 8. Immigration Reform and Control Act Compliance:

The County shall provide in every written contract that the contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Immigration Reform and Control Act of 1986.

Section 9. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in the Commonwealth:

A. **The County shall include in every contract exceeding ~~$50,000~~$100,000 a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.**

B. **Pursuant to competitive sealed bidding or competitive negotiation, the County shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.**

C. **Any bidder or offeror described in subsection B that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Purchasing Agent.**

D. **Any business entity described in subsection A that enters into a contract with the County pursuant to this section shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.**

E. **The County may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.** ◙

Article 3

CONSTRUCTION CONTRACTING

Section 1. Authority

The procurement of architectural, engineering and related consultant services for construction projects and the contracting for construction projects are excluded from the duties of the County Purchasing Agent for the organizations as specified below:

1. **The Department of Public Works and Environmental Services, pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, shall be responsible for Fairfax County construction projects and related architectural, engineering and consultant services. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.**

2. **The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.**

3. **The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the**

mandatory sections of the Code of Virginia and applicable sections of this Resolution.

4. The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.

5. The Department of Transportation, pursuant to §33.1-75.3 of the Code of Virginia, and this Resolution, may be responsible for the purpose of constructing or improving highways, including curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.

6. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.

Section 2. Rules and Regulations

The Agencies designated in Section 1 above shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the County Executive for County staff agencies or the administrative head of the respective public body involved.

Section 3. Definitions

a. **Construction shall mean building, altering, repairing, improving or demolishing any structure, building, road, drainage, or sanitary facility, and any draining, dredging, excavation, grading or similar work upon real property.**

b. **Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.**

c. **Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.**

d. **Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural and engineering design services to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.**

Section 4. Purchasing Policies

A. **Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for~~: a) the construction, alteration, repair, renovation or demolition of buildings or structures, when the contract is not expected to cost more than $1.5 million; b)~~ the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.**

Comment [IP3]: HB 2520 (ref. General Assembly 2011). Technical correction.

B. **No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of $50,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.**

C. **A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited**

to one year and may be renewable for four additional one-year terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed $5 million, (c) the project fee of any single project shall not exceed $1 million. Any unused amounts from the first contract term shall not be carried forward to the additional term(s). Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.

D. No County construction contract shall waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay, in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent such delay is caused by acts or omissions of the County, its agents or employees and due to causes within their control.

a. Subsection D shall not be construed to render void any provision of a County construction contract that:

i. Allows the County to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractor, agents or employees;

ii. Requires notice of any delay by the party claiming the delay;

iii. Provides for liquidated damages for delay; or

iv. Provides for arbitration or any other procedure designed to settle contract disputes.

b. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

c. A public body denying a contractor's claim for costs or damages due

to the alleged delaying of the contractor in the performance of work under any public construction contract shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the County shall be equal to the percentage of the contractor's total delay claim for which the County's denial is determined through litigation or arbitration to have been made in bad faith.

Section 5. Methods of Procurement

A. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Resolution and law.

B. Competitive Negotiation – Construction Management / Design Build Services

1. Determination

a. The County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4308. Prior to issuing a Request for Proposal for any design-build or construction management project, the Purchasing Agent or Other Authorized Agency will document that a) the design-build or construction management contract is more advantageous than a competitive sealed bid construction contract, b) there is a benefit to the County by using a design-build or construction management contract, and c) competitive sealed bidding is not practical or fiscally advantageous. The County may proceed with design-build or construction management contracts in accordance with procedures approved by the County Executive in accordance with this Resolution and the laws of the Commonwealth of Virginia.

2. Selection Advisory Committee

a. The Purchasing Agent or Other Authorized Agency shall appoint a Selection Advisory Committee which will include a licensed professional engineer or architect with professional competence appropriate to the proposed project. The licensed professional engineer or architect shall advise the County regarding the use of design-build or construction management project and will assist with the preparation of the Request

for Proposal consistent with this Resolution for competitive negotiation of non-professional services, and will assist in the evaluation of proposals. The licensed professional engineer or architect services may be provided under a professional services contract by a qualified person or firm.

b. Selection, Evaluation and Award of Construction Management or Design-Build Contracts.

1. Design Requirements. The Request for Proposal shall include and define the criteria of the construction project in the areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; special telecommunications; and may define such other requirements as the County determines appropriate for the particular construction project.

2. Selection, Evaluation and Award Factors. Proposal evaluation factors and other source selection criteria shall be included in the Request for Proposal for the specific design-build or construction management project.

3. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

4. All proposed contracts for construction management or design-build services shall be approved by the Director of DPSM or Other Authorized Agency. Full and detailed explanation of the selection criteria and fee determination shall be presented with the contract by the using agency.

~~5. Post Project Review. The County will provide post-project evaluation information, such as cost and time savings, effectiveness of the selection, evaluation and award of such contracts, and the benefit to Fairfax County, to the Design-Build/Construction Management Review Board.~~

~~6. Projects undertaken pursuant to Article 3, Section 4.A of this Resolution shall be exempt from approval of the Review Board.~~

Comment [IP4]: No longer required.

Section 6. Prequalification, Bonds, Escrow Accounts

Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

A. Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.

1. **The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph D.**

2. **In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.**

3. **At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.**

4. **A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. ~~The prospective contractor may not institute legal action until all statutory requirements have been met.~~ If upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.**

Comment [IP5]: A provision to limit the remedy available to a contractor denied prequalification is added to the Purchasing Resolution. The change states that relief of restoration of eligibility is the sole remedy, consistent with the VPPA Ref. Code of Virginia §2.2-4357.B.

B. The County may deny prequalification to any contractor only if the County finds one of the following:

1. **The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;**

2. **The contractor does not have appropriate experience to perform the construction project in question;**

3. **The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;**

4. **The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;**

5. **The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten**

years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;

6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

7. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.

8. The contractor fails to meet the eligibility criteria of the most recently adopted version of the Fairfax County Construction Safety Resolution.

a. If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

C. Withdrawal of bids by a bidder.

1. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the

preparation of the bid sought to be withdrawn.

2. **The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. No bid shall be withdrawn when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. The lowest remaining bid shall be deemed to be the low bid. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.**

3. **The County shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the County denies the withdrawal of a bid, it shall state in such notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the County shall return all work papers and copies thereof that have been submitted by the bidder.**

D. Progress Payments.

1. **In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with not more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.**

E. Bonds.-

1. **Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of $500,000 or transportation-related projects authorized under §33.1-12 that are in excess of $ 350,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.**

   For nontransportation-related construction contracts in excess of $100,000 but less than $500,000, where the bid bond requirements are waived, prospective

contractors shall be prequalified for each individual project in accordance with §2.2-4317 of the Code of Virginia.

No forfeiture under a bid bond shall exceed the lesser of:

a. the difference between the bid for which the bond was written and the next low bid, or

b. the face amount of the bid bond.

Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $500,000 for nontransportation-related projects or $350,000 for transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth.

The performance and payment bond requirements in E.1 above for transportation-related projects that are valued in excess of $250,000 but less than $350,000 may only be waived by the County if the bidder provides evidence, satisfactory to the County, that a surety company has declined an application from the contractor for a performance or payment bond.

2. Performance and payment bonds:

a. Upon the award of any (i) public construction contract exceeding $500,000 awarded to any prime contractor, (ii) construction contract exceeding $500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body, or (iii) transportation-related projects exceeding ~~$250,000~~ $350,000 that are partially or wholly funded by the Commonwealth, or (iv) construction contract exceeding $500,000 in which the performance of labor of the furnishing of materials will be paid with public funds, the contractor shall furnish to the County the following bonds:

Comment [IP6]: Technical correction. Reference HB 945 (2012) HB 1951 (2011)

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under §33.1-12, such bond shall be in a form and amount satisfactory to the public body.

2. A payment bond in the sum of the contract amount. The bond shall be

for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

b. Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.

c. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.

d. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below $500,000 for nontransportation-related projects or ~~$250,000~~ $350,000 for transportation-related projects authorized under §33.1-12 and partially or wholly funded by the Commonwealth.

Comment [IP7]: Technical correction. Reference HB 945 (2012)

e. Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

4. Actions on payment bonds:

a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a

payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

5. Alternative forms of security:

a. In lieu of a bid, payment or performance bond a bidder may furnish a certified check, cashier's check or cash escrow in the face amount required for the bond.

b. If approved by the County Attorney, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the County

equivalent to a corporate surety's bond.

F. Escrow Accounts.-

1. **The County, when contracting directly with contractors for public contracts of $200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.**

2. **The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit his rights to the use of the Escrow account procedure.**

3. **The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.**

4. **This subsection E. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.**

5. **Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.**

FAIRFAX COUNTY PURCHASING RESOLUTION

6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.

This subsection E. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.

Article 4

BIDDER/CONTRACTOR REMEDIES

Section 1. Ineligibility.

A. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.

2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

B. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;

3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:

a. failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project.;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

C. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

Section 2. Appeal of Denial of Withdrawal of Bid.

A. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

B. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4A, paragraph 8, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

Section 3. Appeal of Determination of Nonresponsibility.

A. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

B. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

Section 4. Protest of Award or Decision to Award.

A. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4.D, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4.D, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the

relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.

B. If, prior to award, it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

C. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.

D. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

Section 5. Contractual Disputes.

A. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

B. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's

intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

Section 6. Legal Action.

A. No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

Article 5

ETHICS IN COUNTY CONTRACTING

Section 1. General.

A. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), and Articles 2 (§18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

B. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of A2, A3 and A4 of §2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 2. Solicitation or Acceptance of Gifts.

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or

greater value is exchanged. The County may recover the value of anything conveyed in violation of this section.

Section 3. Disclosure of Subsequent Employment.

No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.

Section 4. Gifts.

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

Section 5. Kickbacks.

A. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.

B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.

C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.

D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

E. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement

or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.

Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

A. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.

B. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.

C. The provisions of this Section shall not apply in the case of emergency.

Section 7. Certification of Compliance; Penalty for False Statements.

A. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.

B. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.

Section 8. Misrepresentations.

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false,

fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

Section 9. Penalty for Violation.

The penalty for violations of any of the provisions under Article 5 of this Resolution is provided in the Code of Virginia, §2.2-4377.

Section 10. Personal Conflicts of Interest

It is County policy to require contractors to:

1) **Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and**
2) **Prohibit employees who have access to non-public County information from using such information for personal gain.**

Failure to comply may result in suspension or debarment or termination for cause. The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if he determines in writing that such mitigation is in the best interest of the County.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 6

SUPPLY MANAGEMENT

The Director of the Department of Purchasing and Supply Management is responsible for the management of all Fairfax County and Fairfax County Public Schools (FCPS) supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes physical accountability of consumable supplies and accountable equipment, as well as, validation of the inventory and accountable equipment values reported in Fairfax County's Comprehensive Annual Financial Report. DPSM shall prescribe the procedures to be used by departments in the acquisition, receipt, storage and management, and issuance of consumable supplies and accountable equipment inventory, and disposition of excess and surplus County property.

~~Section 1. Item Identification.~~

Comment [IP8]: Procedural matter, to be addressed in a procedural memorandum.

~~A. The Director of the Department of Purchasing and Supply Management will establish and maintain an identification system for consumable inventory, and one for accountable equipment. The system used for consumable inventory utilizes National Institute of Governmental Purchasing (NIGP) codes, which will be maintained in the unified business system (FOCUS). The system used for accountable equipment will utilize Property Identification (PID) numbers, which will be maintained in FOCUS.~~

Section 2. County Consolidated Warehouse

A. The Director of the Department of Purchasing and Supply Management is responsible for operation of the County Consolidated Warehouse which provides temporary storage and distribution of the supplies and equipment to all County departments. The Warehouse may be used as the storage point for goods on consignment from other departments. The Director of the Department of Purchasing and Supply Management is responsible for space management at the County Consolidated Warehouse.

Section 3. Inventory Accountability

~~County~~ D~~d~~epartments and Fairfax County Public Schools are required to establish and maintain accountability of consumable inventories and accountable equipment in their custody, and to conduct periodic physical inventories in accordance with schedules published by the Director of the Department of Purchasing and Supply Management.

Section 4. Consumable Inventory Management

A. **The Director of the Department of Purchasing and Supply Management shall exercise oversight responsibility over all ~~County~~ consumable inventory warehouses and stockrooms.**

B. **The Director of the Department of Purchasing and Supply Management shall administer Fairfax County's perpetual inventory management system through FOCUS, and shall approve the management of perpetual inventories through any system other than FOCUS.**

Section 5. Accountable Equipment Inventory Management

A. **The Director of the Department of Purchasing and Supply Management shall exercise oversight responsibility over all ~~County and Fairfax County Public Schools~~ accountable equipment.**

B. **The Director of the Department of Purchasing and Supply management is responsible for defining items to be capitalized as accountable equipment, and administering the Accountable Equipment Program in accordance with State and County codes, as well as industry standards and best practices.**

Section 6. Excess and Surplus Property and Inventory.

A. **The Director of the Department of Purchasing and Supply Management is responsible for redistribution of serviceable excess property and inventory, to include furniture, office equipment, repair parts, etc.**

B. **The Director of the Department of Purchasing and Supply Management is responsible for the disposal of surplus ~~County and FCPS~~ property and inventory as applicable by law. Disposals will be evaluated in an effort to maximize financial returns to the County and / or minimize environmental impact.**

C. **Confiscated or abandoned property in the hands of the police shall be disposed in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.**

D. **~~County and FCPS e~~Employees and members of their immediate family are not eligible to acquire ~~County and FCPS~~ property for personal use before such property has been declared surplus and has been made available to the general public. The County may, however, sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by the locality to be appropriate.**

Section 7. Donations

A. Accepting Donations:

1. Items $5,000 or more:
The Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services is responsible for approving the acceptance donated items or services with a fair market value of $5,000 or more, and ensuring accepted items are properly accounted for.

2. Items under $5,000:
Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under $5,000.

B. Making Donations:

1. Items $5,000 or more:
When the fair market value of an item exceeds $5,000, the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may offer surplus County or School property to charitable or non-profit organizations or public bodies for sale or donation, where appropriate. The Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services shall coordinate all requests to donate items with their respective Board.

2. Items under $5,000:
When the fair market value of a surplus item is less than $5,000, the Director of the Department of Purchasing and Supply Management or Assistant Superintendent of Financial Services may donate the item directly to charitable or nonprofit organizations as appropriate and allowed by law.

It is further resolved that this resolution shall be effective ~~July 9, 2013~~July 1, 2014.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

Board Agenda Item
July 1, 2014

ACTION – 5

Approval of the 2014 Zoning Ordinance Amendment Work Program

ISSUE:
Approval of the 2014 Zoning Ordinance Amendment Work Program.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the 2014 Zoning Ordinance Amendment Work Program, as recommended by the Development Process Committee.

TIMING:
Board action is requested on July 1, 2014.

BACKGROUND:
The Zoning Ordinance Amendment Work Program is approved by the Board on an annual basis, and contains requests for amendments to the Zoning Ordinance generated from the Board, the Planning Commission, the Board of Zoning Appeals, staff, citizens, and industry representatives. The Work Program is comprised of two lists: Priority 1 and Priority 2. The Priority 1 list includes those items to be addressed in the up-coming year and the Priority 2 list includes items to be retained for future Priority 1 consideration.

Enclosed as Attachments 1 and 2 are summary charts of the status of the 2013 Priority 1 list and those items proposed for the 2014 Priority 1 list, respectively. Attachment 3 sets forth the 2014 Priority 1 list with a description of each item, and Attachment 4 provides a description of the items on the 2014 Priority 2 list. Attachment 5 contains a list of new amendment requests that have been made since the adoption of the 2013 Work Program, and Attachment 6 is the Planning Commission's recommendation on the proposed 2014 Work Program.

With regard to the status of the 2013 Priority 1 list, there were a total of 32 items originally approved by the Board, and 1 was added during the course of the year. Four amendments have been adopted. The Residential Studios amendment was authorized for advertisement and is currently being reviewed by the Planning Commission Residential Studio Committee.

For the proposed 2014 Work Program, the Planning Commission's Policy and Procedures Committee reviewed the proposed 2014 Work Program on May 7, 2014. That evening, the Committee and subsequently the full Planning Commission endorsed the 2014 Work Program, as recommended by staff.

At its June 10, 2014 meeting, the Board's Development Process Committee reviewed the proposed 2014 Work Program and recommended approval by the full Board on July 1, 2014, with the removal of the proposed Group Assembly amendment. The attached Work Program has been amended to reflect this change. The Committee also requested staff to research the following uses to understand their operating characteristics and land use impacts and to discuss recommendations with the Committee regarding potential amendments to the Zoning Ordinance at a future meeting:

1. Adult Day Health Care Centers;

2. Alternative Financial Institutions.

As recommended by the Development Process Committee, the 2014 Priority 1 list contains 29 items: 22 are carryover amendments from the 2013 Priority 1 list and 7 are new amendment requests.

FISCAL IMPACT:
None. The 2014 Work Program can be addressed using existing staff and resources.

ENCLOSED DOCUMENTS:
Attachment 1 - Summary Chart of the Status of 2013 Priority 1 Work Program
Attachment 2 - Summary Chart of the Proposed 2014 Priority 1 Work Program
Attachment 3 – Proposed 2014 Priority 1 Zoning Ordinance Work Program
Attachment 4 – Proposed 2014 Priority 2 Zoning Ordinance Work Program
Attachment 5 – New Requests since July 9, 2013
Attachment 6 – Planning Commission Recommendation

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator
Michelle O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch, DPZ

2013 Priority 1 Zoning Ordinance Amendment Work Program Status

July 1, 2014

Adopted	Amendment Authorized	No Amendment Necessary	Amendment Being Researched	Target Date
Minor Revisions: - 9/24/13 Error in Building Location for Detached Accessory Structures BZA Approval of Error in Building Location of Less than 10% ARB Membership	Residential Studios (22)	State Code – 2013 Session	Accessory Structure Size (1)	11/14
State Code – Temporary Health Care Structures - 9/24/13	Public Entertainment Establishments 3/6/12 Bd. Ind. Deferred [Priority 2 – No. 49]		Agri-Recreation (2)	11/14
Stormwater Management – 1/28/14			Application Fees (3)	1/15
Home Child Care Facilities and Child Care Facilities for Occasional Care - 2/11/14			Building Height (5)	3/15
			Commercial Revitalization (6)	9/14
			Donation Drop Boxes (7)	9/14
			Food Trucks (8)	6/14
			Gross Floor Area – Cellar Space (9)	1/15
			Minor Revisions Permanent Availability of Parking (11a) Farmers' Markets (11b) Commercial Vehicles (11c)	2/15
			Moveable Copy/Electronic Signs (12)	3/15
			Noise (13)	9/14
			Office [Priority 2 – No. 57]	TBD
			Outdoor Lighting (14)	1/15
			Parking Reductions in Transit Oriented Areas (15)	9/14
			PDC and PRM Districts - FAR (16)	9/14
			PRC District Density (19)	TBD
			Public Benefit Associations [Priority 2 – No. 25]	TBD
			R-C District [Priority 2 – No. 8]	TBD
			Rear Yard Coverage (21)	10/14
			Riding Lessons as a Home Occupation (23)	10/14
			Site Plan Exemptions (24)	6/15
			Special Permit Submission Requirements (25)	11/14
			State Code – Development in Dam Break Inundation Zones (27)	6/15
			Stormwater Management Facility Private Maintenance (28)	1/15

( ) Denotes paragraph reference on 2014 Priority 1 Work Program – Attachment 3 or 2014 Priority 2 Work Program – Attachment 4
Highlights denote the items that have been added to the Priority 1 list subsequent to the Board's 7/9/13 endorsement of the 2013 Work Program.

Proposed 2014 Priority 1 Zoning Ordinance Amendment Work Program

July 1, 2014

Carry Over from 2013			New Priority 1	
Amendment Authorized	**Amendment Being Researched**	**Target Date**	**New Amendments**	**Target Date**
Residential Studios (22)	Accessory Structure Size (1)	11/14	Architectural Review Board (4)	10/14
	Agri-Recreation (2)	11/14	Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads (10)	9/14
	Application Fees (3)	1/15	P District Recreational Fee (17)	9/14
	Building Height (5)	3/15	P District Sight Distance Triangle Exemption (18)	9/14
	Commercial Revitalization (6)	9/14	PTC District Amendments – 2014 (20)	TBD
	Donation Drop Boxes (7)	9/14	State Code - 2014 Session (26)	TBD
	Food Trucks (8)	6/14	Telecommunication – DAS (29)	9/14
	Gross Floor Area – Cellar Space (9)	1/15		
	Minor Revisions Permanent Availability of Parking (11a) Farmers' Markets (11b) Commercial Vehicles (11c)	2/15		
	Moveable Copy/Electronic Signs (12)	3/15		
	Noise (13)	9/14		
	Outdoor Lighting (14)	1/15		
	Parking Reductions in Transit Oriented Areas (15)	9/14		
	PDC and PRM Districts - FAR (16)	9/14		
	PRC District Density (19)	TBD		
	Rear Yard Coverage (21)	10/14		
	Riding Lessons as a Home Occupation (23)	10/14		
	Site Plan Exemptions (24)	6/15		
	Special Permit Submission Requirements (25)	11/14		
	State Code – Development in Dam Break Inundation Zones (27)	6/15		
	Stormwater Management Facility Private Maintenance (28)	1/15		
Total Authorized: 1	**Total Outstanding: 21**		**New Amendments: 7**	

( ) Denotes paragraph reference on Draft 2014 Priority 1 Work Program

Total Amendments: 29

2014 PRIORITY 1
ZONING ORDINANCE AMENDMENT WORK PROGRAM

July 1, 2014

Below is an alphabetical list and brief description of all Priority 1 Zoning Ordinance Amendments. Any amendment that has been authorized has the scheduled hearing dates listed; otherwise, only projected authorization dates are provided. If annotated with an asterisk (*), the amendment is without a projected timeline. Highlighted items are new amendments on the Priority 1 list. All amendments listed may not be completed within the 12 month time frame covered by this Work Program, as other higher priority items may place greater demands on staff resources than originally anticipated. Finally, several amendments are annotated with the abbreviation (EAC), as they are directly aligned with the recommendations of the Fairfax County Economic Advisory Commission.

1. Accessory Structure Size (2013 Priority 1)
   Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA.

   November, 2014 Authorization to Advertise

2. Agri-Recreation (2013 Priority 1)
   Consider revising the definition of agriculture to permit agricultural based recreation events related to seasonal promotions.

   November, 2014 Authorization to Advertise

3. Application Fees (2013 Priority 1 and On-Going)
   Research on application fees is on-going for the next budget cycle scheduled for 2015.

   January, 2015 Authorization to Advertise

4. Architectural Review Board (2014)
   Consider making the History Commission member a voting member and expanding the types of projects that do not require ARB approval.

   October, 2014 Authorization to Advertise

5. Building Height (2013 Priority 1)
   Consider increasing the building height for single family detached dwellings in the R-C and R-E Districts when the impact of the increased height on adjacent properties would be mitigated.

   March, 2015 Authorization to Advertise

6. Commercial Revitalization (2013 Priority 1)
   In addition to the PDC and PRM Districts – FAR Amendment (See No. 16 below), review parking, open space requirements and urban design issues for Planned Development District regulations when located in Commercial Revitalization Districts (CRDs) and Commercial Revitalization Areas (CRAs) as well as review options for allowing certain special exception uses by right subject to use limitation within CRDs and CRAs including colleges and universities, hotels and Category 6 uses.

   This will be addressed partially with the PDC and PRM Districts – FAR Amendment (See No. 16 below).

7. Donation Drop Boxes (2013 Priority 1)
   Consider adding provisions that are specific to donation drop boxes.

   September, 2014 Authorization to Advertise

8. Food Trucks (2013 Priority 1)
   Consider adding provisions that are specific to food trucks.

   June, 2014 Authorization to Advertise

9. Gross Floor Area – Cellar Space (2013 Priority 1)
   Review the definition of gross floor area as to how it is calculated for underground space in areas located outside of the PTC District.

   January, 2015 Authorization to Advertise

10. Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads (2014)
    Consider allowing modifications or waivers for property abutting the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.

    This will be addressed partially with the PDC and PRM Districts – FAR Amendment (See No. 16 below).

11. Minor Revisions (2013 Priority 1)
    (a) Clarify the meaning of "permanent availability" in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot; (b) Revise the special permit standards for temporary farmers' markets related to street access; and (c) Review definition and accessory use provisions for commercial vehicles to determine whether existing provisions are adequate and compliment Chapter 82 of the County Code.

    February, 2015 Authorization to Advertise

12. Moveable Copy/Electronic Signs (2013 Priority 1)

    Consider allowing reasonable use of changeable messages and displays on electronic signs.

    March, 2015 Authorization to Advertise

13. Noise (EAC – 2013 Priority 1 and Priority 2)

    Consider revising the regulations in Sect. 108-4-4 of the Noise Ordinance regarding the method of noise measurement and consider the appropriateness of establishing day time and night time noise levels designed to protect the community. Due to a 2009 Virginia Supreme Court Decision, review the nuisance noise provisions of the Noise Ordinance. Consider the appropriateness of the weekend construction start times and regulating vehicle alarm noise, helicopter noise at helicopter landing sites and leaf blowers.

    September, 2014 Authorization to Advertise

14. Outdoor Lighting (EAC - 2013 Priority 1)

    Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and automatic teller machines to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs.

    January, 2015 Authorization to Advertise

15. Parking Reductions in Transit Oriented Areas (EAC - 2013 Priority 1)

    Consider applying parking maximums and a reduction of the minimum parking requirements due to transit oriented areas and/or transportation demand management provisions.

    Partly addressed with the PDC and PRM Districts – FAR Amendment (See No. 16 below).

16. PDC and PRM Districts – FAR (Environmental Improvement Program and EAC - 2013 Priority 1)

    Consider increasing the maximum allowable floor area ratio (FAR) as well as other provisions in the PDC and PRM Districts to facilitate the implementation of the Comprehensive Plan recommendations for Revitalization Districts and Areas, Community Business Centers and Transit Station Areas.

    September, 2014 Authorization to Advertise (Previously July, 2014)

17. Planned Development District Recreational Fee (2014)
    Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts.

    September, 2014 Authorization to Advertise

18. Planned Development District Sight Distance Triangle Exemption (2014)
    Consider modifying Section 2-505 of the Zoning Ordinance to provide for general applicability in the PDH, PDC, PRM and PTC Districts.

    This will be addressed with the PDC and PRM Districts – FAR Amendment (See No. 16 above).

19. Planned Residential Community (PRC) District Density (2013 Priority 1)*
    Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District.

    To be processed in conjunction with the Reston Plan update.

20. Planned Tysons Corner (PTC) Urban District Amendments (2014)*
    Consider modifications to the PTC District regulations in conjunction with the amendments to the Tysons Comprehensive Plan.

    To be processed in conjunction with the Tysons Plan update.

21. Rear Yard Coverage (2013 Priority 1)
    (a) Clarify how the 30% coverage limitation within the minimum required rear yard is calculated. (b) Consider allowing modifications of the maximum 30% minimum required rear yard lot coverage requirement to be approved by the BZA as a special permit.

    October, 2014 Authorization to Advertise

22. Residential Studios (EAC - 2013 Priority 1)
    Establish a new use and associated limitations for an affordable housing product that is generally designed for one person per unit.

    July, 2013 Authorized to Advertise; Currently in Planning Commission Committee

23. Riding Lessons as a Home Occupation (2013 Priority 1)
    Consider permitting small-scale riding lesson operations as home occupations, subject to specific limitations designed to minimize impact on surrounding properties, such as the prohibition of lights, limited hours of operation and numbers of students.

    October, 2014 Authorization to Advertise

24. Site Plan Exemptions (2013 Priority 1)
    For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements.

    June, 2015 Authorization to Advertise

25. Special Permit Submission Requirements (2013 Priority 1)
    In conjunction with a special permit for an accessory dwelling unit or home professional office, require the submission of a certified dimensioned floor plan for the special permit use and principal dwelling unit that shows all ingresses and egresses, including any window egresses required under the Building Code, gross floor area for both the principal dwelling and special permit use, use of each room, and any kitchen sinks, cabinets or appliances.

    November, 2014 Authorization to Advertise

26. State Code – 2014 Session (Continuing)*
    Possible revisions resulting from the 2014 General Assembly.

27. State Code – Development in Dam Break Inundation Zones (2013 Priority 1)
    Incorporate the new requirements for development in dam break inundation zones.

    June, 2015 Authorization to Advertise

28. Stormwater Management Facility Private Maintenance (2013 Priority 1)
    Revise the required site plan improvements section (Sect. 17-201) to add that privately maintained stormwater management facilities must be maintained to function in accordance with approved plans consistent with maintenance requirements on the plans and/or in the private maintenance agreement (DPWES).

    January, 2015 Authorization to Advertise

29. Telecommunication – Distributed Antenna System (DAS) (2014)
    Make minor modifications to Section 2-514 that address multiple carriers on proposed DAS facilities.

    September, 2014 Authorization to Advertise

PRIORITY 2 ZONING ORDINANCE AMENDMENT
2014 WORK PROGRAM

July 1, 2014

The Following Abbreviations are used:

Architectural Review Board (ARB)
Board of Zoning Appeals (BZA)
Business Process Redesign (BPR)
Department of Public Works and Environmental Services (DPWES)
Environmental Improvement Program (EIP)
Fairfax County Economic Advisory Commission (EAC)
Fairfax County Health Care Advisory Board (HCAB)
Planning Commission (PC)

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS	**SOURCE**
1. Comprehensive review of accessory uses and structures, to include consideration of issues such as:	Board/PC/BZA/ Staff/Industry
(a) The establishment of a maximum height limitation.	
(b) Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses.	
(c) Establishment of a side yard requirement for accessory structures in the PRC District.	
(d) Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same.	
(e) Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines.	Board
(f) Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts.	Board
(g) Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects.	Board
(h) Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height.	Citizen

ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS (Continued)	**SOURCE**
(i) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway.	Citizen
(j) Consider establishing a minimum distance a fence can be located from a pipestem driveway.	Citizen
(k) Consider permitting electric fences on lots less than 2 acres as a deer management tool.	Citizen
2. Consider revisions to the accessory service use provisions to include:	BZA/PC
(a) A clearer distinction between accessory service uses and accessory uses.	
(b) The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval.	
3. Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit.	Citizen
ADMINISTRATION	
4. Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property.	Staff/ General Assembly
5. Consider revising the cluster provisions to delete the bonus density option.	General Assembly
BOARDS, COMMISSIONS, COMMITTEES	
6. Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals.	Staff
7. Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval.	ARB

RESIDENTIAL ZONING DISTRICTS	**SOURCE**
8. Establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception and public uses in the Occoquan. [2013 Priority 1]	New Millennium Occoquan Task Force/EAC
COMMERCIAL ZONING DISTRICTS	
9. Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use	Staff
DEFINITIONS AND USE LIMITATIONS	
10. Review the following definitions: (a) Contractors' offices and shops (b) Junk yard (c) Riding and boarding stables (d) Private schools (e) Storage yard (f) Streets	Staff/BZA
11. Add the following definitions (a) Colleges and universities (b) Establishment for production, processing, etc. (c) Place of worship (d) Storage	Staff/BPR/BZA
12. Consider establishing Alternative Financial Institutions as a new use that includes payday and car title lenders and only allowing such use in certain commercial districts either as a by-right use with use limitations or as a special exception use.	Board
13. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards.	

DEFINITIONS AND USE LIMITATIONS (Continued)	**SOURCE**
14. Clarify the meaning of "transient" in the hotel/motel definition.	BZA
15. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff.	Board/DPWES
16. Consider revising the contractors' office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes.	BZA
17. Fast Food Restaurants – Clarify the square footage and percentage use limitations for by right fast food restaurants in the commercial retail districts.	Staff
18. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met.	Staff
GENERAL REGULATIONS	
19. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area.	Board
20. Qualifying Lot and Yard Regulations – Consider the following:	
(a) Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses.	BPR
(b) Review pipestem lot and yard requirements, to include possible addition of illustrations.	BPR
(c) Revise provisions of lots contiguous to pipestem driveways to remove the language "serving more than one pipestem lot."	Citizen
(d) Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards.	Staff
(e) Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located	Staff
(f) Addition of shape factor limitations to the R-C District.	Board
(g) Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding.	Board's Environmental Committee

GENERAL REGULATIONS (Continued)	**SOURCE**
(h) Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way.	Infill Study
(i) In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums.	Board
21. Qualifying Use and Structure Regulations - Consider the following:	
(a) Consider revising the maximum number of horses that may be maintained on a lot.	No. Va. Soil & Water Conservation Dist.
(b) Consider allowing chickens to be permitted on lots less than two acres in size in certain situations.	Citizen

HOUSING

22. Consider the following revisions to the ADU program:	
(a) Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent.	Staff
(b) Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units.	Staff
(c) Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less.	Staff
(d) For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance.	Staff
(e) Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions.	Staff
(f) Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities. *[Place holder until data and resources are available to complete the required survey of independent living facilities in ADUs]*	Staff
(g) Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff

HOUSING (Continued)	**SOURCE**
(h) Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff
ILLUSTRATIONS	
23. Add illustrations to clarify certain provisions such as the sight distance triangle and permitted encroachments into minimum required yards.	Staff
INDUSTRIAL ZONING DISTRICTS	
24. Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment.	Board
25. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations. [2013 Priority 1]	Staff
LANDSCAPING & SCREENING	
26. Comprehensive review of landscaping and screening provisions to include:	
(a) Appropriateness of modification provisions.	BPR/Staff/ Industry
(b) Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD) and public schools.	Staff/EIP
(c) Increase the parking lot landscaping requirements.	Tree Action Plan/EIP
(d) Include street tree preservation and planting requirements.	Tree Action Plan
(e) Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway.	Board
27. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices.	Tree Action Plan

NOISE ORDINANCE – CHAPTER 108 OF THE COUNTY CODE	**SOURCE**
28. Review of this Chapter to consider: *[These items have been incorporated in 2014 Priority 1 – No. 14]*	
(a) The addition of provisions to regulate helicopter noise at helicopter landing sites.	Board/EQAC
(b) The addition of leaf blower provisions.	Board/Citizens
NONCONFORMITIES – ARTICLE 15	
29. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies.	Staff/BPR
OPEN SPACE	
30. Review of the open space provisions to include: *[Place holder until new stormwater and LID regulations are in place.]*	Infill Study/EIP/ Staff
(a) Consider the establishment of minimum sizes/dimensions for required open space areas.	
(b) Exempt either all or part of stormwater management dry pond facilities from the open space calculations.	
(c) Provide open space credit for innovative BMPs but not for non-innovative BMPs	
(d) Allow open space credit only for usable open space.	
(e) Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.	
(f) Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.	
OVERLAY DISTRICTS	
31. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield	Board
32. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:	

OVERLAY DISTRICTS (Continued)	**SOURCE**
(a) Consider establishing an historic overlay district for the Lorton Correctional Facility (Laurel Hill).	Board
(b) Consider requiring all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit.	History Commission
(c) Establish an historic overlay district for Mason Neck.	Board
PARKING REQUIREMENTS	
33. Study parking requirements for:	Board/Staff
(a) Funeral homes	
(b) Places of worship	
(c) Child care centers and nursery schools	
34. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit. *[This item is partly included in 2014 Priority 1 – No. 16]*	Industry
35. Consider the following revisions to vehicle parking on lots with single family detached dwellings:	
(a) Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts.	Citizen
(b) Limit parking for all vehicles or trailers to the front yard and only on a paved surface.	Citizen
PLANNED DEVELOPMENT DISTRICTS	
36. Consider the following revisions to the Planned Development Districts *[A number of these items will be addressed as part of 2014 Priority 1 – No. 17]*	Infill Study/EIP/ EAC/PC/Staff
Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum lot size and open space requirements, the CDP/FDP submission requirements, and density credit for RPAs, streams and floodplains; Review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts and allowing the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals.	

PLANNED DEVELOPMENT DISTRICTS (Continued)	**SOURCE**
37. Consider allowing vehicle sales and rental establishments in the PDC and PRM Districts with use limitations and special exception approval.	Citizen/PC/EIP
PERFORMANCE STANDARDS	
38. Review the earthborn vibration performance standards.	Staff
SIGNS	
39. Review the sign provisions to include the consideration of:	
(a) Allowing auto parks to have the same freestanding signs as currently permitted for an office park.	Board
(b) Allowing, by special permit, off-site signs based on hardships due to topography or visibility.	Board
(c) Allowing office parks and industrial parks comprised of a single tenant to be deemed an office/industrial park by revising the definition and to expand or modify the sign provisions for office/industrial parks.	Board
(d) Update regulations pertaining to temporary political campaign signs.	Board
(e) Allowing the Board to modify the maximum allowable size and/or height of signs in residential districts due to changes in topography or other unique circumstances.	Staff
SPECIAL PERMITS	
40. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots.	BPR
41. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.	Staff
42. Allow BZA to modify special permit additional standards.	BPR
43. Group 1 Extraction and Excavation Uses - Consider expanding the number of property owners that are required to be notified for the renewal of a special permit for a quarry.	Board
44. Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval.	Staff/BPR

SPECIAL PERMITS (Continued)	**SOURCE**
45. Group 9 Uses Requiring Special Regulations – Consider the following:	
(a) Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure.	Board/PC
(b) Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations.	Board
(c) Consider increasing the minimum 55 year age requirement for accessory dwelling units.	BZA
SPECIAL EXCEPTIONS	
46. Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right.	BPR
47. Category 3 medical care facilities - Consider adding adult day health care centers to this list of special exception uses rather than deem it most similar to child care centers.	HCAB
48. Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses.	Staff
49. Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment. [2013 Priority 1]	Board
SUBMISSION REQUIREMENTS	
50. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts.	Plan/Board
51. Consider adding specificity to the submission requirements for Comprehensive Sign applications.	Staff
52. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.	General Assembly
53. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees.	Tree Action Plan/EIP

USES	SOURCE
54. Review regulations related to:	Staff/Board
(a) Adult Day Health Care [See also Priority 2 - No. 47]	
(b) Adult video stores	
(c) "Doggie" day care	
(d) Sports arenas, stadiums	Staff/Board
55. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions.	Staff
56. Consider adding regulations for Farm Wineries	Board
57. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use (similar to the Ignite proposal). [2013 Priority 1]	Staff

Attachment 5

NEW AMENDMENT REQUESTS SINCE JULY 9, 2013 ENDORSEMENT OF THE 2013 ZONING ORDINANCE WORK PROGRAM
July 1, 2014

The following 14 new amendment requests have been received:

1. Adult Day Health Care Center – Consider treating adult day health care centers as Category 3 medical care facilities rather than most similar to child care centers. (HCAB) **[Priority 2 – No. 47]**

2. Alternative Financial Institutions – Consider establishing a new use that includes payday and car title lenders and only allowing such use in certain commercial districts either as a by-right use with use limitations or as a special exception use. (Board) **[Priority 2 – No. 12]**

3. Architectural Review Board (ARB) – a) Consider making the History Commission member a voting member and expanding the types of projects that do not require ARB approval. (ARB) **[Priority 1 – No. 4]**; b) Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval. (ARB) **[Priority 2 – No. 7]**

4. Child Care Facilities for Occasional Care - Consider permitting child care facilities for occasional care provisions in regional and super-regional shopping centers as an accessory use, provided that such use is located within the main structure of a regional or super-regional shopping center. (Citizen) **[Adopted 2/11/14]**

5. Electric Vehicle Charging Stations – Consider permitting these facilities as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met. (Staff) **[Priority 2 – No. 18]**

6. Fences – a) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway. (Citizen) **[Priority 2 – No. 1(i)]**; b) Consider establishing a minimum distance a fence must be located from a pipestem driveway. (Citizen) **[Priority 2 – No. 1(j)]**; c) Consider permitting electric fences on lots less than two acres as a deer management strategy. (Citizen) **[Priority 2 – No. 1(k)]**

7. General Regulations – Consider revising provisions of lots contiguous to pipestem driveways to remove the language "serving more than one pipestem lot." (Citizen) **[Priority 2 – No. 20(c)]**

8. Landscaping & Screening Waiver for Dulles Airport Access and Toll Roads – Consider allowing modifications or waivers for property abutting the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road. (Industry) **[Priority 1 – No. 10]**

9. Planned Development District Recreational Fee – Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Planned Development Districts. (Staff) **[Priority 1 – No. 17]**

10. Planned Development District Sight Distance Triangle Exemption - Consider modifying Section 2-505 of the Zoning Ordinance to provide for general applicability in the PDH, PDC, PRM and PTC Districts. (Staff) **[Priority 1 – No. 18]**

11. PTC District Amendments (2014) - Consider modifications to the PTC District regulations in conjunction with the amendments to the Tysons Comprehensive Plan. (Staff) **[Priority 1 – No. 20]**

12. State Code – 2014 Session -Possible revisions resulting from the 2014 General Assembly. (Staff) **[Priority 1 – No. 26]**

13. Telecommunication - Distributed Antenna System (DAS) – Make minor modifications to Section 2-514 that address multiple carriers on proposed DAS facilities. (Staff) **[Priority 1 – No. 29]**

14. Vehicle Parking on Lots with Single Family Detached Dwellings - Consider limiting parking for vehicles or trailers to the front yard and only on a paved surface. (Citizen) **[Priority 2 – No. 35(b)]**

County of Fairfax, Virginia

MEMORANDUM

DATE: May 20, 2014

TO: Leslie Johnson, Director
Zoning Administration Division
Department of Planning & Zoning

FROM: Jill G. Cooper, Executive Director
Planning Commission Office

SUBJECT: Planning Commission Action Re: Proposed 2014 Zoning Ordinance Work Program

On Wednesday, May 7, 2014, the Planning Commission voted 12-0 to endorse the recommendation of its Policy and Procedures Committee that the proposed 2014 Zoning Ordinance Work Program be approved, as presented by staff in the memorandum dated May 1, 2014.

Attached for your information is the verbatim of the Commission's action on this item and I would be happy to answer any questions you may have.

Attachment (a/s)

cc: Lorrie Kirst, ZAD, DPZ

Fairfax County Planning Commission
12000 Government Center Parkway, Suite 330
Fairfax, VA 22035-0001
703-324-2865, TTY 703-324-7951, FAX 703-324-3948
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Planning Commission
Verbatim Excerpt
May 7, 2014

2014 ZONING ORDINANCE AMENDMENT WORK PROGRAM

During Commission Matters

Commissioner Lawrence: Tonight, the planning Commission's committee on POLICY and PROCEDURES met to consider the proposed Zoning Ordinance Work Program for 2014. The committee agreed with what staff has presented; therefore, Mr. Chairman, I have a motion to make. I MOVE THAT THE PLANNING COMMISSION SUPPORT AND FORWARD TO THE BOARD OF SUPERVISORS THE PROPOSED 2014 ZONING ORDINANCE AMENDMENT WORK PROGRAM, AS DELINEATED IN THE MEMORANDUM FROM THE ZONING ADMINISTRATOR, DATED MAY 1ST, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to accept and recommend to the Board of Supervisors a recommendation of the Policy and Procedures Committee, as articulated by Mr. Lawrence, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Thank you, Mr. Chairman.

//

(The motion carried by a vote of 12-0)

JN

Board Agenda Item
July 1, 2014

ACTION - 6

Board Approval of Fairfax County's Title VI Program for the Federal Transit Administration (FTA)

ISSUE:
All recipients of federal financial assistance (e.g., states, local governments, transit providers) are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the United States Department of Transportation's (USDOT) implementing regulations. In order to document their compliance with Title VI, all recipients of federal financial assistance must maintain a valid Title VI Program or Plan that demonstrates how the recipient is complying with Title VI requirements, including prohibiting discrimination on the basis of race, color, or national origin. Although not directly prohibited by Title VI, preventing discrimination on the basis of economic status is also part of a Title VI Program. [*See* Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, signed by President Clinton on February 11, 1994.]

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve Fairfax County's Title VI Program (Attachment I).

TIMING:
The Board of Supervisors is requested to act on this Title VI Program on July 1, 2014, so that Fairfax County can remain eligible for USDOT financial assistance, particularly from FTA.

BACKGROUND:
On October 1, 2012, FTA issued new guidance related to Title VI, FTA Circular 4702.1B. The updated circular requires substantially more coordination, analysis, and oversight of Title VI related matters than the previous circular. To meet the new requirements, the Board of Supervisors approved an Interim Title VI Program on January 28, 2014.

Topics addressed in the Interim Title VI Plan included:

- Title VI Public Notices and Assurances

- Title VI Public Complaint Process and Form
- Minority Inclusion on Non-Elected Councils or Committees
- Summary of Title VI Complaints, Investigations, and Lawsuits
- Land Acquisition for Purposes of Transit Facility Construction
- Listing of Subrecipients of Federal Transit Administration Funding
- Public Participation Plan
- Transit Service Standards
- Transit Service Policies

Subsequently, as part of the overall Title VI Program, the Fairfax County Department of Transportation (FCDOT) developed and submitted Major Service Change, Disparate Impact, and Disproportionate Burden Policies to the Board of Supervisors. These policies help ensure that the needs of minority and low-income communities are fully and fairly evaluated when changes to Fairfax Connector are being considered. The Board of Supervisors approved these policies on April 29, 2014.

The full Title VI Program now includes the items contained in the Interim Title VI Program and the following additional topics:

- Service Area Profile
- Language Access Plan
- Transit Service Monitoring
- Major Service Change, Disparate Impact, and Disproportionate Burden Policies

On June 17, 2014, as part of on-going Title VI compliance efforts, the Board of Supervisors considered a Fare Equity Analysis conducted by FCDOT. The Major Service Change, Disparate Impact, and Disproportionate Burden policies require approval of a Fare Equity Analysis for any proposed fare increase for Fairfax Connector services. Fairfax Connector fares are scheduled to increase on July 1, 2014, in concert with fare increases being implemented by the Washington Metropolitan Area Transit Authority.

The Major Service Change, Disparate Impact, and Disproportionate Burden policies also require a Service Equity Analysis be performed when Fairfax Connector service changes are deemed to be major changes. FCDOT is currently completing that analysis. It will be presented to the Board of Supervisors for consideration on July 29, 2014.

FISCAL IMPACT:
Remaining Title VI compliant will allow Fairfax County to be eligible to receive future FTA grant and other USDOT funding, including Transportation Infrastructure Finance

and Innovation Act (TIFIA) funding. The County has a pending TIFIA loan with USDOT in the amount of $403 million for the Silver Line. However, there is no direct financial impact of this action.

ENCLOSED DOCUMENTS:
Attachment I: Fairfax County Department of Transportation Title VI Program

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Patricia McCay, Assistant County Attorney
Kenneth Saunders, Director, Office of Human Rights and Equity Programs
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT
Randy White, Countywide Transit Services Coordinator, FCDOT
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Brent Riddle, Coordination and Funding Division, FCDOT

Attachment I

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

FAIRFAX COUNTY TITLE VI PROGRAM

Chapter 1: Requirements and Guidelines 1

1.1 Title VI Public Notice 1

1.2 Title VI Complaint Procedures and Form 3

1.3 Service Area Profile 7

1.4 Minority Representation on Relevant Non-Elected Commissions, Committees, and Boards 17

1.5 Summary of Title VI Complaints, Investigations, and Lawsuits 18

1.6 Land Acquisition for Purposes of Facility Construction 18

1.7 Sub-recipients of Federal Transit Administration Funding 18

1.8 Public Participation Plan 19

1.9 Language Access Plan 25

Chapter 2: Service Standards and Policies 62

2.1 Transit Service Standards 62

2.2 Transit Service Policies 64

2.3 Transit Service Monitoring 68

2.4 Major Service Change, Disparate Impact, and Disproportionate Burden Policies 74

2.5 Conclusions 78

Appendix: Linguistically Isolated Populations in Fairfax County by Language 79

CHAPTER 1: REQUIREMENTS AND GUIDELINES

1.1 Title VI Public Notice

The following language will be used to notify the public of their rights under Title VI:

Notifying the Public of Rights Under Title VI

Fairfax County Department of Transportation and Fairfax Connector

The Fairfax County Department of Transportation and Fairfax Connector operate programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the Fairfax County Office of Human Rights and Equity Programs within 180 days of the date of the alleged discrimination. The Office of Human Rights and Equity Programs is located at 12000 Government Center Parkway, Fairfax, Virginia 22035. This office can also be reached by calling 703-324-2953, TTY 711, or Fax: 703-324-3570.

For more information on the Fairfax County Department of Transportation and Fairfax Connector civil rights program and the procedures to file a complaint, please contact: 703-339-7200 (703-339-1608 TTY), email fairfaxconnector@fairfaxcounty.gov; or visit the department's administrative office at 4050 Legato Road, 4th Floor, Fairfax, Virginia 22033. Information on the procedures to file a complaint or to file a complaint contact: 703-324-2953 (TTY 711) or http://www.fairfaxcounty.gov/ohrep/epd/. Complaints can be mailed to: Fairfax County Office of Human Rights and Equity Programs, 12000 Government Center Parkway, Suite 318, Fairfax, Virginia 22035.

A complainant may file a complaint directly with the Federal Transit Administration by filing a complaint with the Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590.

If information is needed in another language, please contact: 703-339-7200.

The final line of the notice, informing the public of the availability of language assistance, has been translated on the notice into the following languages:

- Spanish
- Korean
- Vietnamese
- Chinese
- Amharic[1]
- Hindi[2]
- Arabic
- Urdu
- Farsi
- Tagalog

Thirty-six percent (36%) or over 360,000 people in Fairfax County speak a language other than English at home.[3] The languages above were selected based on the fact they 1) constitute the ten most prevalent non-English languages spoken in Fairfax County, and 2) they correlate with the ten highest numbers of individuals who speak English "less than very well." Together, speakers of the ten languages selected for use on the Notice comprise 80 percent of all of the speakers of languages other than English in Fairfax County.

Fairfax County Department of Transportation's (FCDOT) Title VI Notice references both FCDOT and Fairfax Connector to ensure that it is understood that Title VI applies both to the Fairfax Connector service and to other transit-related activities of FCDOT. The notice will be printed in each of the ten languages listed above and posted in the following places:

- FCDOT Administrative Offices at 4050 Legato Road, 4th Floor, Fairfax, Virginia 22033, at the front desk and reception area
- Fairfax Connector Webpage at: http://www.fairfaxcounty.gov/connector/
- All Fairfax Connector Stores:
    - Franconia-Springfield Metrorail Station, 6880 Frontier Drive, Springfield, Virginia 22150
    - Herndon-Monroe Park-and-Ride, 12530 Sunrise Valley Drive, Herndon, Virginia 20171
    - Reston Town Center Transit Station, 12051 Bluemont Way, Reston, Virginia 20190
    - Tysons West*Park Transit Station, 8300 Jones Branch Drive, McLean, Virginia 22102
- All Fairfax Connector buses (English and Spanish only)
- At all Fairfax Connector and transit-related FCDOT public meetings
- Each month, a link to the Title VI Notice on the Fairfax Connector website will be tweeted through Fairfax Connector's Twitter account: @ffxconnector
- On Fairfax Connector's Facebook "About" page at: https://www.facebook.com/fairfaxconnector/info

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[1] The U.S. Census lists only "African languages" for all African languages, but Amharic will be used as the largest African immigrant population in Fairfax County was born in Ethiopia, per American Community Survey, 2011, 5-year estimates.

[2] "Other Indic Languages" fell into the top ten languages with individuals speaking English "less than very well" while Hindi had the 12th highest number of speakers speaking English "less than very well." As many speakers of other Indic Languages may also speak or have knowledge of Hindi, Hindi was included on this list.

[3] American Community Survey, 2011, 5-year estimates.

1.2 Title VI Complaint Procedures and Form

Fairfax County Department of Transportation Title VI Complaint Procedures will be posted on Fairfax Connector's website and will be printed in a tri-fold brochure or flyer format that will be available in Fairfax Connector Stores, park-and ride facilities, on Fairfax Connector buses, at major Fairfax Connector transit hubs, and at FCDOT's Administrative Offices.

The following text has been produced as part of FCDOT's Title VI Complaint Procedures:

> Title VI of the Civil Rights Act of 1964 prohibits discrimination against an individual or group, intentional or unintentional, on the basis of to race, color, and national origin in any program or activity receiving federal assistance, including Fairfax Connector and Fairfax County Department of Transportation's transit operations and activities.
>
> Any person who believes she or he has been discriminated against on the basis of race, color, or national origin by Fairfax Connector or Fairfax County Department of Transportation may file a Title VI complaint by completing and submitting the "Fairfax Connector" complaint form available on Fairfax County's Office of Human Rights and Equity Programs (OHREP) website at the following URL:
>
> http://www.fairfaxcounty.gov/ohrep/epd/
>
> A complaint form can also be obtained by writing the Office of Human Rights and Equity Programs, Equity Programs Division, 12000 Government Center Parkway, Fairfax, Virginia 22035 or by calling 703-324-2953, TTY 711, Fax: 703-324-3570.
>
> Fairfax County investigates complaints received no more than 180 days after the alleged incident. Fairfax County can only process complaints that provide sufficient information to begin an investigation.
>
> Within 48 hours of receiving a complaint, the Fairfax County Office of Human Rights and Equity Programs staff will contact the complainant and elicit all pertinent information with regard to the alleged discriminatory act(s) from the individual via an intake form. The complainant is required to cooperate with the intake process. Within 48 hours of completing an intake form, OHREP staff will use the information in the form to determine whether or not the complainant may establish a prima facie, or a clear case of possible discrimination.
>
> If OHREP determines that there is a prima facie case of discrimination, an investigation will be initiated. Investigations may include, but shall not be limited to, on-site visits, interviews of witnesses and collection of documents. The accused party(ies) in the allegation(s) of discrimination will be interviewed and provided an opportunity to rebut the allegations and provide relevant information for investigation. Additionally, witnesses will be interviewed as deemed necessary. After an investigation is initiated all information obtained is confidential. Within seven work days of the initiation of an investigation all of the investigation documentation for the case must be completed. If additional time is necessary to prepare the documentation requested, the staff responsible for the investigation will request an extension from OHREP leadership.
>
> After the completion of the investigation a report will be produced, and OHREP staff will submit a final recommendation to the OHREP Executive Director. The OHREP Executive Director will review

the investigative file and make a final determination. OHREP will inform the complainant whether the allegations of discrimination were substantiated. Upon completion of the investigation and notification of the parties in the complaint, the file will be closed. All documentation, including audio tapes (if applicable), will be kept in the complaint file.

If OHREP determines that a prima facie case of discrimination has not occurred, no investigation will be initiated. However, OHREP's findings in the matter will be documented in a report. OHREP's findings fall under the purview of the Equity Programs Division and there is no right of appeal.

If probable cause is determined or misconduct by an employee is identified, OHREP will instruct FCDOT to consult with the Fairfax County Department of Human Resources regarding corrective or disciplinary actions. If in the course of the investigation, the investigator has reason to believe that a criminal act or violation of law may have occurred, OHREP will contact the Fairfax County Police Department for appropriate action.

Fairfax County utilizes the form presented below as its current Title VI complaint form for citizens. The form is available on Fairfax County's website in PDF format at: http://www.fairfaxcounty.gov/ohrep/epd/. The form can also be obtained at the following locations:

- Fairfax County Office of Human Rights and Equity Programs, 12000 Government Center Parkway, Fairfax, Virginia 22035
- Fairfax County Department of Transportation Administrative Offices at 4050 Legato Road, 4th Floor, Fairfax, Virginia 22033
- All Fairfax Connector Stores:
    - Franconia-Springfield Metrorail Station, 6880 Frontier Drive, Springfield, Virginia 22150
    - Herndon-Monroe Park-and-Ride, 12530 Sunrise Valley Drive, Herndon, Virginia 20171
    - Reston Town Center Transit Station, 12051 Bluemont Way, Reston, Virginia 20190
    - Tysons West*Park Transit Station, 8300 Jones Branch Drive, McLean, Virginia 22102

County of Fairfax, Virginia

Complaint Form for Allegations of Discrimination

Fairfax County has two complaint procedures providing for prompt resolution of complaints by individuals alleging discrimination prohibited by Federal, State and local law or policy in the provision of services, activities, programs, or benefits. This complaint form is to be utilized for filing complaints of discrimination on the basis of age, sex, sexual harassment, race, religion, creed, national origin, marital status, color, political affiliation or veteran's status.

An individual wishing to file a complaint based on disability will need to use the complaint form identified in the Fairfax County Government Complaint Procedure under the Americans with Disabilities Act. You may obtain a copy of the complaint form by contacting staff at the Office of Human Rights and Equity Programs.

To contact the Fairfax County Office of Human Rights and Equity Programs call 703-324-2953, TTY 711 on any Fairfax County workday between the hours of 8:00 a.m. and 4:30 p.m., or email EPDEmailComplaints@FairfaxCounty.gov.

INSTRUCTIONS: Complaints should be filed in writing within 60 workdays (180 calendar days for transit related complaints) from the day the alleged discriminatory act took place. The term "workday" shall mean any Monday through Friday that is not a county holiday. An investigation will follow the filing of the complaint.

This form should be used in conjunction with the Fairfax County Policy and Procedure for Individuals Alleging Discrimination in County Programs and Services.

Person Filing Complaint

Name:

E-mail:

Telephone No.:

Home:

Work:

Mobile:

Best time to call:

Address:

Street:

City: **State:** **Zip Code:**

Person and Department Alleged to have Discriminated:

Name: **Department:**

Street:

City: **State:** **Zip Code:**

Phone:

Basis(es) of Discrimination (check all that apply):

Race _____	**Veteran's Status**	**Political Affiliation**
Color _____ _____	**Retaliation**	**Age – Date of Birth:** _____
National Origin _____	**Sex or Gender**	**Other:** __ _____
Religion _____	**Sexual Harassment**	**Other:** _____
Creed _____	**Marital Status**	**Other:** _____

Date(s) Discrimination Occurred: _____

Summary of Complaint: (attach additional pages if necessary)

_____
_____
_____
_____
_____
_____
_____
_____
_____

Action Requested:

_____
_____
_____
_____
_____
_____

I affirm that I have read the above complaint and that it is true to the best of my knowledge, information or belief.

_____ _____/_____/_____
Signature of Complainant **Date**

This form will be made available in an alternative format upon request. Direct your request to the Equity Programs Division of the Office of Human Rights and Equity Programs, 12000 Government Center Parkway, Suite 318, Fairfax, VA 22035; 703-324-2953, TTY 711 or 703-324-3305 (Fax).

1.3 Service Area Profile

Demographic and Service Profile Maps and Charts

The maps in Figures 1 and 2 below display the concentration and distribution of minority and low-income populations residing in Fairfax County, along with the distribution of Fairfax Connector service and Washington Metropolitan Area Transit Authority's (WMATA) Metrobus service. Metrobus generally provides "regional" public transportation service that serves multiple jurisdictions while Fairfax Connector is focused on primarily providing local public transportation service. Together, Metrobus and Fairfax Connector services cover most of the areas of the County where concentrations of minority and low-income residents reside.

Figure 1 shows the distribution of minority populations in Fairfax County in relation to Fairfax Connector and Metrobus service. The minority population is calculated from the 2010 U.S. Decennial Census at the Census Tract level, as the total population minus the non-Hispanic white population. Overall 45.6 percent of the county's population is minority. Census Tracts that fall within the two highest classes in Figure 1 represent areas where the share of minority population is greater than in the County as a whole.

Fairfax County's Department of Planning and Zoning defines low-income households as households where the income is less than 50 percent of the Metropolitan Statistical Area (MSA) median household income, adjusted for family size. In keeping with that definition, FCDOT utilized the HUD Fair Market Rents (FMR) income limits to determine the area median income; for the Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area (which includes Fairfax County), the median household income is $107,300. Therefore, low-income, defined as 50 percent of median household income for a family of four (a typical measure), is $53,650.

Using the definition above, Figure 2 shows how low-income (and very low income) households are distributed within Fairfax County in relation to Fairfax Connector and Metrobus routes and Metrorail stations. Income data was pulled from the U.S. Census Bureau's American Community Survey, Five Year Estimates, 2008-2012, Table B19001 (Household income in the past 12 months, using 2012 inflation-adjusted dollars), at the Census Tract level.

Figure 1 Minority Populations in Fairfax County (by Census Tract)

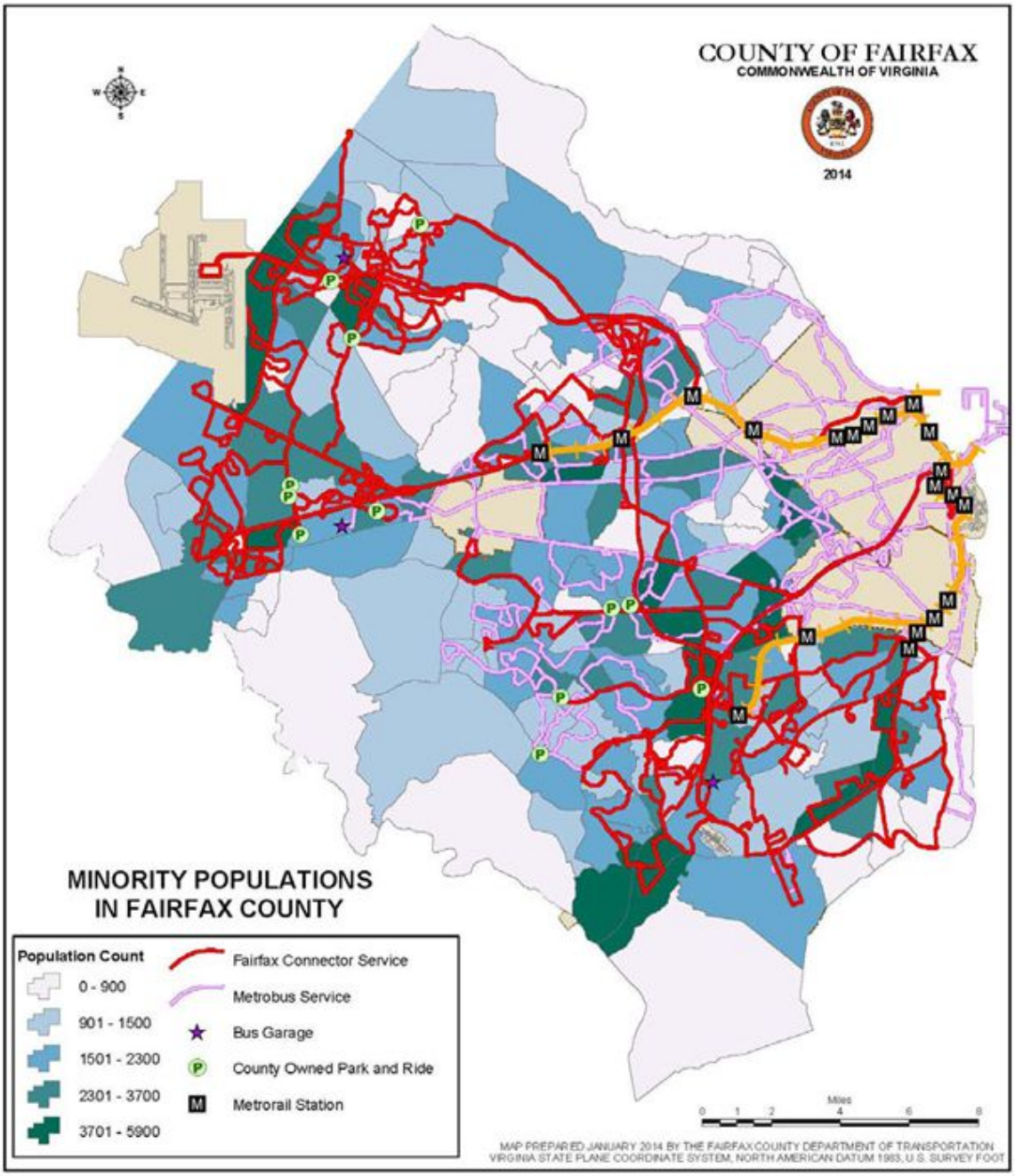
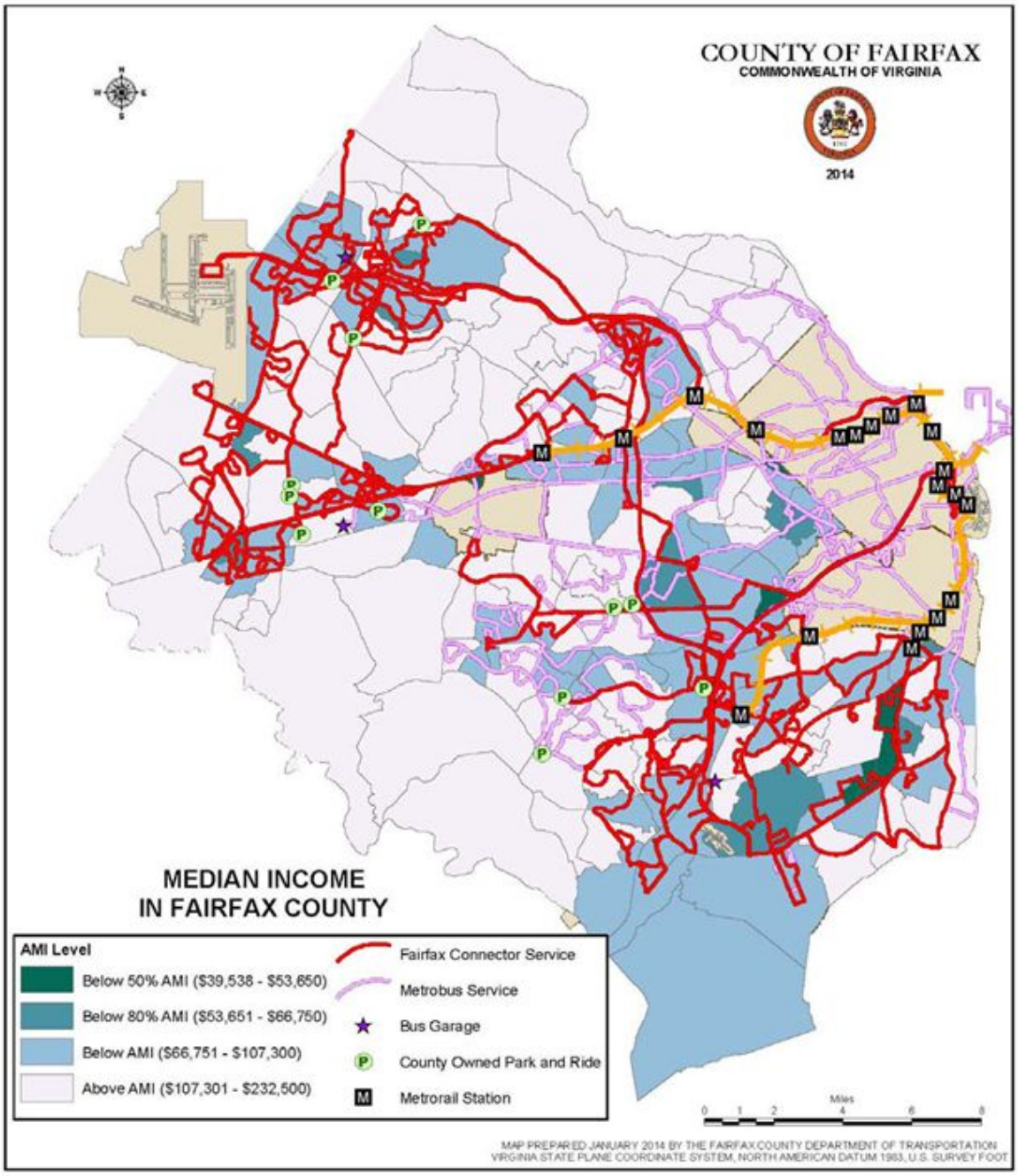


Figure 2 "Very Low Income" and "Low Income" Populations in Fairfax County (by Census Tract)



Demographic Ridership and Travel Patterns

The *2009 Fairfax County Transit Development Plan*[4] included an on-board customer survey that was administered in 2008 to a random sample of Fairfax Connector bus riders. The survey consisted of 22 questions. Survey results were collected from 6,635 respondents and the results were weighted to represent actual ridership. The survey results reflect the general transportation profile of Fairfax Connector riders as a whole, as well as specific trends within the service area.

A majority, 67 percent, of survey respondents identified as a minority ethnicity/race (i.e., Black, Hispanic, Asian, and Native American). Just 49 percent of all residents living within a quarter-mile of Fairfax Connector service are minorities, showing that minority individuals are more likely than non-minorities to be users of the Fairfax Connector system.[5] The travel behavior patterns documented in the 2008 ridership survey for all riders are likely reflective of those of the system's minority riders, given the fact that minority riders comprise two-thirds of total ridership.

On the routes that the County classifies as South County routes, 73 percent of respondents were minority compared with 61 percent of the respondents from North County routes. Due to the large geography encompassed in the Fairfax Connector service area and the demographic differences in North County and South County riders, survey data is presented as a percent of total riders, percent of North County riders, and the percent of South County riders.

Table 1 Race / Ethnicity of Fairfax Connector Riders

Race / Ethnicity[6]		Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
White		35	41	29
Minority		67	61	73
	Black / African American	31	20	39
	Hispanic	20	18	22
	Asian	14	20	9
	Native American	2	2	3

The survey was available in both English and Spanish. Thirteen percent of all surveys were taken in Spanish; 15 percent of surveys distributed on South County routes were taken in Spanish and 11 percent of surveys distributed on North County routes were taken in Spanish.

[4] 2009 Fairfax County Transit Development Plan, available online at: http://www.fairfaxcounty.gov/fcdot/tdp.htm, as of February 28, 2014.

[5] This figure was calculated using U.S. Census Bureau, American Community Survey, 2008-2012, 5-year estimate data.

[6] Multiple responses accepted. For example, a respondent could respond by identifying as both white and Hispanic. The categories listed in Table 1 represent the top mentions from the survey responses.

Table 2 Survey Questionnaire Administered in English and Spanish

Questionnaire Type	Percent of Total Surveys Administered	Percent of North County Surveys Administered	Percent of South County Surveys Administered
English	87	89	85
Spanish	13	11	15

The median household income of survey respondents was $36,770, which is below the low-income threshold ($53,650) for Fairfax County. The median household income reported among riders of North County routes is $52,570, but it is only $29,350 for riders of South County routes. When asked about frequency of bus ridership, riders with an annual household income of $30,000 or less were more likely than those with a higher income to take the bus seven days per week and more likely to not have a vehicle available to them to make the trip.

Table 3 Fairfax Connector Riders Household Income

Income	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
$10,000 or less	20	16	23
$10,001 to $20,000	12	10	14
$20,001 to $30,000	11	7	14
$30,001 to $40,000	11	9	12
$40,001 to $50,000	6	6	7
$50,001 to $60,000	7	8	6
$60,001 to $70,000	5	6	4
$70,001 to $80,000	4	5	4
$80,001 to $100,000	7	9	5
$100,001 to $125,000	7	9	5
$125,001 to $150,000	4	5	3
More than $150,000	7	10	4

Sixty-three percent of all riders did not have access to a vehicle to make a trip on the day that they were surveyed (Table 4), and 40 percent of Fairfax Connector riders do not have a usable vehicle available in their household (Table 5). Thirteen percent of riders would not be able to make their desired trip if the Fairfax Connector bus were not available (Table 6). This pattern is more pronounced in the South County as 69 percent of riders responded that they did not have a vehicle available in comparison to the 57 percent of North County riders who responded that they did not have a vehicle available. Similarly, 43 percent of South County respondents noted that they live in zero vehicle households versus 37 percent of North County respondents.

Table 4 Availability of Usable Vehicle to Make the Trip Today

Availability of Usable Vehicle to Make the Trip Today	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Yes	37	43	31
No	63	57	69

Table 5 Fairfax Connector Riders Availability of Vehicles

Number of Usable Cars, SUVs, Vans or Trucks in Household	Percent of Total	Percent of North County	Percent of South County
None	40	37	43
One	29	28	30
Two	23	26	20
Three or More	8	9	7

Table 6 Use of Other Modes if Fairfax Connector Were Not Available

Alternative Modes if Bus Not Available[7]	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Drive	**27**	**36**	**20**
Get a ride/Carpool	**20**	**16**	**23**
Taxi	**14**	**11**	**17**
Net: Public Transportation[8]	**12**	**11**	**13**
Would go elsewhere by bus	*9*	*9*	*9*
Metrorail	*1*	*1*	*2*
Shuttle (not specific)	*1*	*1*	*1*
Walk	**10**	**9**	**11**
Bike	**2**	**2**	**2**
Would not go at all	**13**	**14**	**12**

Table 7 Reasons for Using Fairfax Connector

Reasons for Using the Bus[9]	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Net: No Alternative[10]	**40**	**35**	**44**
Have no alternative – no car	*25*	*23*	*27*
Have no alternative – no driver's license	*16*	*14*	*19*
Economical/Cheaper than gas	**35**	**36**	**35**
Prefer not to drive	**15**	**18**	**12**
Faster than driving	**6**	**7**	**5**
Parking is unavailable/expensive	**5**	**5**	**4**
Car/ride not available today	**5**	**5**	**5**
Better for environment	**1**	**1**	**<1**

[7] Percentages do not equal 100 percent due to rounding.
[8] Numbers in italics total to the net number above them.
[9] Percentages do not equal 100 percent due to rounding.
[10] Numbers in italics total the net number above them. Percentages may not equal 100 percent due to rounding.

Eight-five percent of survey respondents are frequent Fairfax Connector riders and make a particular bus trip on a weekly basis. Sixty-one percent said they make a particular trip by bus at least five times per week. There is little difference between the North County Riders and South County Riders with regard to how frequently they make a particular trip.

Table 8 Frequency of Particular Trip by Bus

Frequency of Particular Trip by Bus[11]		Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Net: Weekly		**85**	**86**	**85**
	7 days per week	*13*	*11*	*15*
	6 days per week	*9*	*7*	*12*
	5 days per week	*39*	*43*	*36*
	3-4 days per week	*12*	*13*	*10*
	1-2 Days per week	*12*	*12*	*12*
Net: Less often		**9**	**9**	**9**
	1-2 days per month	*6*	*6*	*6*
	Less than one day per month	*3*	*3*	*3*
First time making this trip		**6**	**5**	**6**

Sixty-one percent of respondents who provided both a starting location AND a destination in their survey response use the Fairfax Connector service for commuting. The onboard survey found that most riders surveyed were traveling from either home or work, 54 percent and 28 percent respectively (Table 9). The origin trip purpose was consistent between North County and South County riders. The survey found that most trip destinations were also either home or work, 37 percent for both trip purposes (Table 10). Similar to the trip origin, the trip destination is also very similar between the North County and South County riders with little discernable difference within the county.

Table 9 Fairfax Connector Riders Trip Purpose

Starting Place[12]	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Home	54	55	54
Work	28	29	27
Shopping	5	3	6
Social/Recreation/Sightseeing	4	5	4
Personal Business	4	4	4
School (students only)	2	1	2
Job-related business	1	2	1

[11] Numbers in italics total to the net number above them.
[12] Percentages do not equal 100 because multiple responses were accepted.

Table 10 One-Way Trip Destinations

Destination of One-Way Trip	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Home	37	38	37
Work	37	38	35
Shopping	8	6	9
Personal Business	7	7	7
Social/Recreation/Sightseeing	5	5	5
Job-related business	2	3	1
School (students only)	1	1	2
Church	1	<1	1

Sixty-six percent of respondents rode at least two buses and/or train lines when making their one way trip. Twenty-one percent took three or more buses and/or train lines on their one-way trip. Only 29 percent of North County riders were able to complete their entire trip on a single bus trip while 39 percent of South County riders were able to complete their entire trip on a single bus trip.

Table 11 Number of Buses/Trains Used on One-Way Trip

Number of Buses/Trains Used on One-Way Trip	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
This bus only	34	29	39
Two	45	46	44
Three	16	19	13
Four	5	6	4

Forty-eight percent of respondents used cash, while 41 percent paid with a SmarTrip® card (Table 12). Use of SmarTrip® cards is more prevalent among North County riders, 48 percent, and less likely among South County riders, where only 35 percent of riders use SmarTrip®.

Table 12 Means of Payment for Bus Ride

Means of Payment for Bus Ride[13]	Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Cash	48	43	51
SmarTrip	41	48	35
Rail-to-bus Transfer	3	2	4
Weekly Pass	2	1	3
Regional Bus Transfer	2	2	2
Senior/Disabled Fare	1	1	1
Day Pass	1	1	1
Monthly Pass	1	<1	1
Ten trip Ticket	<1		<1
Other	1	1	1

[13] Percentages do not equal 100 due to rounding.

Nearly half of all riders accessed Fairfax Connector service by foot, and sixty-three percent of riders arrived at their final destinations by walking (Table 13). Walking is a more prevalent access mode among South County riders, 55 percent, than North County riders, where 42 percent reached their Fairfax Connector bus by driving. It is more common among North County riders to either drive and park or be dropped off as an access mode than among South County riders, 12 percent and 6 percent respectively (Table 13). Upon egress, walking is also a more common mode of transportation for South County riders, 67 percent, than for North County riders, 58 percent (Table 14).

Table 13 Fairfax Connector Mode of Access

Mode of Access[14]		Percent of Total Riders	Percent of North County Riders	Percent of South County Riders
Walked		**49**	**42**	**55**
Net: Public Transportation		40	43	37
	Transferred from Metrorail	*25*	*28*	*23*
	Transferred from another bus	*14*	*15*	*13*
	Transferred from MARC	*<1*	*<1*	*<1*
	Transferred from VRE	*<1*	*<1*	*1*
	Transferred from Amtrak	*<1*	*<1*	*<1*
Net: Car		**9**	**13**	**6**
	Drove and parked	*5*	*8*	*2*
	Dropped off by someone	*4*	*4*	*4*
	Rode with someone who parked	*1*	*1*	*1*
Bicycle		**1**	**1**	**<1**
Wheelchair		**<1**	**<1**	**<1**
Taxi		**<1**	**<1**	**<1**
Other		**<1**	**1**	**<1**

[14] Numbers in italics total to the net number above them. Percentages do not equal 100 due to rounding.

Table 14 Fairfax Connector Mode of Egress

Mode of Egress[15]	Percent of Total	Percent of North County	Percent of South County
Walk	**63**	**58**	**67**
Net: Public Transportation	**30**	**30**	**29**
Transfer to Metrorail	*19*	*20*	*17*
Transfer to another bus	*11*	*11*	*12*
Shuttle (not specific)	*<1*	*<1*	*<1*
Transfer to MARC	*<1*	*<1*	*<1*
Transfer to VRE	*<1*	*<1*	*1*
Transfer to Amtrak	*<1*	*<1*	*<1*
Net: Car	**9**	**13**	**4**
Drive a vehicle that was parked	*5*	*9*	*2*
Picked up by someone	*3*	*4*	*2*
Ride with someone who parked	*1*	*<1*	*1*
Bicycle	**1**	**1**	**1**
Taxi	**1**	**1**	**1**
Wheelchair	**<1**	**<1**	**<1**
Other	**1**	**<1**	**1**

The rider survey results show that a majority of Fairfax Connector riders are likely to be one of the following: minority, low-income, or transit dependent. Overlap among these characteristics may also exist. While most riders are English speaking, there is also a significant Spanish speaking portion of the system's overall ridership. It is apparent that most riders use Fairfax Connector for work trips and that many trips require at least one transfer, either from another Fairfax Connector bus or from another regional transit service provider. The survey results also demonstrate characteristics of typical transit trips on Fairfax Connector routes which helps the County to better understand their customers' travel needs. Fairfax Connector began administering a new customer survey in 2013 and will review the results of this survey closely to identify changes in system demographics and travel behavior patterns.

[15] Numbers in italics total to the net number above them. Percentages do not equal 100 due to rounding.

1.4 Minority Representation on Relevant Non-Elected Commissions, Committees, and Boards

Fairfax County currently has four non-elected committees, commissions, and boards that provide input on transit service: the Transportation Advisory Commission (TAC), the Commission on Aging (COA), the Fairfax Area Disability Services Board, and the Mobility and Transportation Committee. The table below displays the current composition of these groups by race/ethnicity.

Table 15 Minority Representation on Relevant Non-Elected Commissions, Committees, and Boards

Body	Race/Ethnicity				
	Caucasian	**Latino**	**African American**	**Asian American**	**Native American**
Fairfax County Population (2010 Census)	***63%***	***16%***	***9%***	***18%***	***0.2%***
Transportation Advisory Commission	100%	0%	0%	0%	0%
Fairfax Area Commission on Aging	82%	0%	9%	9%	0%
Fairfax Area Disability Services Board	93%	0%	0%	0%	7%
Mobility & Transportation Committee (Disability Services and Long Term Care)	75%	0%	10%	15%	0%

The *Transportation Advisory Commission* (TAC) advises the Board of Supervisors on major transportation issues, including, but not limited to transit service. The TAC meets once a month and provides the board with information and comments regarding transportation improvements in the County. Meetings are open to the public. The TAC is comprised of 11 members who each serve two-year terms. The TAC includes one member from each magisterial district (9); one at-large; and one Disability Services representative. All members are appointed by the Board of Supervisors. The TAC agenda is posted to its web page prior to every meeting. Minutes from every meeting also are posted on the TAC web page.

FCDOT staff will work with the Board of Supervisors to ensure that they are aware of non-Caucasian individuals who may have an interest in serving on the TAC and the importance of having a TAC that is representative of Fairfax County's diverse population. Staff also will work proactively with community-based organizations, Fairfax County departments including the Office of Human Rights and Equity Programs (OHREP) and the Department of Neighborhood and Community Services (NCS), to identify minority individuals who have an interest in transit service and make the names of those individuals available to the Board for possible appointment to the TAC.

The *Fairfax Area Commission on Aging* works to increase awareness of problems affecting Fairfax's aging population and organizes activities to improve the well-being of the County's senior population. The Commission on Aging includes 12 members who each serve two-year terms. The Commission members include one representative from each magisterial district (9); one at-large representative; one representative from the City of Fairfax; and one representative from the City of Falls Church. The Commission is made up of more than 50 percent older persons, including minority individuals; representative of older persons; representative of health care provider organizations, supportive services provider organizations; persons with leadership experience in the private and voluntary sectors, local elected officials, and the general public. The Commission meets twice a month and all meetings are open to the public. Meetings are advertised on Fairfax County's website calendar, on the Fairfax Area

Commission of Aging's County webpage, and in the Golden Gazette, a free monthly newspaper covering news for seniors in the Fairfax area.

The *Fairfax Area Disability Services Board* provides the Fairfax County government with input, assistance, and advice on the service needs of persons with physical and sensory disabilities. The Fairfax Area Disability Services Board has 15 members who each serve three-year terms. Members can serve for up to three terms. The members of the Fairfax Area Disability Service Board include appointees from each magisterial district (9); one at-large member; two at-large / Fairfax County Business Community representatives; one City of Fairfax local official; one City of Falls Church local official; and one at-large / Fairfax County local official. An alternate may be appointed from each of the cities, for a total of 17. 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; a local official (person elected or appointed to or employed by a board commission or agency from the jurisdiction making the appointment to the disability services board) from each participating jurisdiction; and at least two representatives from the business community. The Board meets once a month and meetings are open to the public. Meetings are advertised on Fairfax County's disability services email listserv and on Fairfax County's website calendar. Information about the boards' meetings is also available through a toll-free number.

The *Mobility and Transportation Committee* aims to create a multi-modal transportation system in Fairfax County that affords personal independence, choice, and full participation by all individuals regardless of age, disability, or economic status in a safe, accessible, affordable, reliable, timely, and sustainable manner. The Committee promotes funding for transit studies, advocates for improved transportation access, and encourages government and community based organizations to utilize best practices in mobility management. The Mobility and Transportation Committee co-chairs are members the Disability Services Board and the Long Term Care Coordinating Council, but membership is open to all residents. There is no limit on the number of committee members; currently, there are 20 members comprised of volunteers from the public. Committee members serve for as long as they wish to participate on the committee. Meetings are open to the public and are advertised on Fairfax County's website calendar.

1.5 Summary of Title VI Complaints, Investigations, and Lawsuits

Fairfax County did not have any Title VI investigations or lawsuits or receive any Title VI complaints involving Fairfax Connector service or other Fairfax County Department of Transportation transit-related activities between 2010 and 2013.

1.6 Land Acquisition for Purposes of Facility Construction

Fairfax County has not constructed any facilities cited by Circular 4702.1B, Chapter III, Section 13, including any vehicle storage facilities, maintenance facilities, operations centers, or other similar facilities, which required land acquisition and the displacement of persons from their residences and businesses during the reporting period of 2010-2013.

1.7 Sub-recipients of Federal Transit Administration Funding

Fairfax County does not have any sub-recipients of FTA funds.

1.8 Public Participation Plan

Introduction and Goals

FCDOT is committed to providing accessible and relevant information to, and public involvement opportunities to obtain input on transit service and planning from, *all* members of the public. The purpose of FCDOT's Public Participation Plan is to provide a set of public participation strategies that facilitate greater involvement by minority (as defined by race, color, or national origin), Limited English Proficiency (LEP), and low-income populations in the transit planning and decision-making process.

Three goals were developed to guide FCDOT's Public Participation Plan:

1) Ensure that minority, LEP, and low-income individuals are provided with *meaningful* and *accessible* opportunities to provide input into Fairfax County's transit decision-making process.
2) Build relationships that facilitate open and frequent communication with key stakeholder groups representing and working with minority, LEP, and low-income communities.
3) Obtain information and feedback that Fairfax Connector can use to inform the provision of transit service that meets the specific transportation needs of minority, LEP, and low-income populations.

These goals reflect FCDOT's intent to provide relevant information, background, and opportunities for input on all projects in a manner that is accessible to Title VI protected populations and low-income populations throughout Fairfax County. Moving forward, FCDOT intends to strengthen relationships with minority, LEP, and low-income populations, relevant community groups, and other stakeholders to create a culture that promotes continuous feedback and a high-level of trust with these populations.

Project Examples

Service Change Notifications Public Outreach Process

FCDOT conducts outreach to inform and seek input from Fairfax Connector riders about service changes that will impact their routes and communities. Service change outreach efforts are targeted around the geographic areas that are directly impacted by the planned service changes, although meetings are advertised throughout the system. Typically, Fairfax County conducts outreach to impacted riders and communities by posting notices of the planned changes and opportunities for public comment on the changes at public meetings, on buses, at bus shelters, and by directly distributing print notices of meetings to riders. Information is also posted to Fairfax Connector's website and social media accounts. Translation services are available upon request at all public meetings. Fairfax County translates print notices into Spanish and other languages as needed upon reviewing the demographics of the impacted riders and neighborhoods. By providing information directly to passengers with translation into the appropriate languages, FCDOT seeks to ensure that all riders and impacted community members are aware of and have the opportunity to provide comment on service changes that impact their lives. The following are two examples of public outreach related to typical service change notifications:

- In April 2011 Fairfax County closed the Reston East Park-and-Ride lot to facilitate the construction of the Wiehle-Reston East Metrorail Station parking garage, opened the Sunset Hills Interim Park-and-Ride lot, and created a new Fairfax Connector route, Route 555. Staff developed an outreach plan consisting of public meetings and public notices to inform the public about these changes. The public meetings were held at transit accessible locations located near the affected areas. Notices about the changes were posted on buses, bus shelters, and on the Fairfax Connector's website, and were handed out directly to passengers. Translation

services were available upon request at these public meetings, but no translation services were requested.

- In September 2011 Fairfax Connector modified service in South Fairfax County, due to the impact of the Base Realignment and Closure (BRAC) process on Fort Belvoir. A significant Hispanic population lives in the neighborhoods served by two of the impacted routes, Route 310 and Route 171. Flyers informing the public of the service change and their opportunity to comment on the proposed changes were printed in both English and Spanish and were posted on buses and at bus shelters. This information also was available on Fairfax Connector's website. Three public meetings were held in transit accessible locations along the routes being impacted. Translation services were offered at the public meetings, but none were requested. During the week of the service change, staff went out to key transfer and boarding locations and provided printed information in both English and Spanish directly to riders to ensure that they were aware of the route and schedule modifications.

Silver Line Outreach Campaign

For more significant service changes, FCDOT engages in a larger, more robust public outreach process. The most recent example involved the launch of major service changes for the Fairfax Connector, in conjunction with the launch of the Washington Metropolitan Area Transit Authority (WMATA) Silver Line project. WMATA's Silver Line project is a 23.1 mile Metrorail extension that will connect the Fairfax County communities of Tysons, Reston, Herndon, and Dulles International Airport to the regional rail system. In 2014, WMATA will be opening the first phase of Silver Line service, including four stations in Tysons Corner and one in Reston. Fairfax Connector has planned a major service change that will modify more than *40 percent* of the Connector's existing service in response to the opening of the Silver Line Phase I.

FCDOT's Silver Line Bus Service Plan was developed to increase transit ridership and encourage the use of the Metrorail Silver Line by providing bus service to the new Silver Line stations in Tysons Corner and Reston. The Silver Line Bus Service Plan is derived from recommendations from Fairfax County's Transit Development Plan (TDP), and categorized by two distinct efforts: the realignment, enhancement, and addition of feeder routes in the Herndon, Reston, Tysons, McLean, and Vienna areas; and the implementation of a circulator bus system within Tysons.

Two rounds of public outreach were employed to support the development of Silver Line Bus Service Plan. The first round of public outreach included six two-hour public meetings (each followed by an online chat) within the Dulles corridor between January 31, 2013, and February 11, 2013. At each meeting, a preliminary bus service plan was presented and feedback was received.

To advertise the first round of meetings, FCDOT completed the following:

- Issued a press release to local media outlets approximately two weeks before the first meeting.
- Included the press release information in a flyer and posted it on the FCDOT website, as well as in key locations in the Dulles corridor and posted on Fairfax Connector buses.
- Placed public meeting information on the County's public meeting calendar.
- Posted public meeting information on social media (Facebook, Twitter).
- Placed a bus hanger (in English and Spanish) on all the buses in the service area, alerting existing riders to the meetings and to the potential for service changes to their route.

After the first round of public meetings, staff compiled approximately 380 comments from the public and revised the service plan. FCDOT staff then initiated a second round of public outreach to gather final comments on the revised plan. Round two of the public outreach process included six two-hour public meetings and online chats. FCDOT received an additional 200 comments during the second round of public meetings. To support the second round of meetings, FCDOT staff completed the following:

- Emailed participants of the first round of meetings, for whom FCDOT had email addresses, to invite them to participate in the second round of meetings.
- Issued a press release to local media outlets approximately two weeks before the first meeting.
- Included the press release information in a flyer and posted it on the FCDOT website, as well as in key locations in the Dulles corridor and posted on Fairfax Connector buses.
- Placed public meeting information on the County's public meeting calendar.
- Posted public meeting information on social media (Facebook, Twitter).

During the course of Silver Line public outreach and planning, FCDOT determined that a larger information campaign that targets Title VI communities also would be needed when the new services begin operating. FCDOT now is preparing to implement a large-scale outreach campaign to provide information on the Silver Line opening and the related Fairfax Connector service changes, targeted to residents in impacted neighborhoods. In partnership with WMATA, FCDOT is conducting public meetings and other efforts to educate the public about the Silver Line opening. FCDOT's Silver Line outreach campaign targets impacted populations at a hyper-local level that WMATA does not have the capacity to reach. This includes meetings with community groups, holding or attending events in the impacted areas, and using electronic and traditional media to provide information about the Silver Line and changes to Fairfax Connector service. The Silver Line outreach campaign aims to specifically engage residents from underserved and disenfranchised populations: minorities, LEP individuals, persons with disabilities, older adults, and individuals and families living within lower income brackets.

In developing the Silver Line outreach campaign, FCDOT worked closely with NCS to develop a strategic outreach plan to reach the targeted communities more effectively. The resulting plan uses a grassroots approach to place Fairfax County staff within easy reach of these populations, with a variety of strategies, including meeting people where they are: community centers, retirement homes, and transit centers, with translators and in formats that allow for one-on-one interaction. The strategies recommended for input into the Silver Line outreach effort have been incorporated into this public participation plan.

The Silver Line outreach campaign also incorporates assistance from other parts of Fairfax County government. FCDOT is developing a map book for a "train the trainer" program to provide to community centers, libraries, and other government facilities. This will allow staff to provide information on the Silver Line changes in an environment that residents find familiar and trustworthy. The train the trainer program will include information about existing routes, where changes will be occurring, and what new service riders can use.

Development of Public Participation Plan Strategies

During the development of the Silver Line Outreach Campaign, FCDOT contacted staff in the County Executive's office, NCS, FCPD, and the Hunter Mill magisterial district to obtain information and form

critical partnerships to allow FCDOT to better involve minority, low-income, and LEP populations. As a result, several best practice strategies were developed, including:

- *Meet people where they are, rather than asking people to come to Fairfax Connector meetings to provide input or obtain information.* For Silver Line outreach, CDOT received a list of the relevant locations, including community centers, senior centers, medical centers, houses of worship, and County-owned and other multifamily residential complexes.
- *Engage with community-based organizations to reach their members and understand the best ways to reach their members and constituents.* FCDOT received a list of organizations relevant to the Silver Line Outreach Campaign.
- *Speak at monthly meetings for local human services agencies.* Human services agency staff can help with distributing information on transit service changes and opportunities for providing input. Human services agency staff also can share their insight into the transportation challenges of the populations they serve with FCDOT staff.
- *Utilize Fairfax County Public Schools (FCPS) communication channels and resources to reach parents.* Sending information home with students at schools in neighborhoods impacted by the Silver Line service changes was recommended. FCPS parent liaisons can provide a direct link to provide transit-related information to families in Title VI and other traditionally underserved populations.
- *Focus on providing translated print materials in Spanish, Korean, Vietnamese, Mandarin Chinese, and Cantonese Chinese, Amharic, Hindi, Arabic, Urdu, Farsi and Tagalog, as appropriate.* These are the primary languages for which translation is needed within Fairfax County.
- *Buy PSA time on Spanish-language media channels, including Univision, Telemundo, and Spanish-language radio stations.* Spanish-language PSAs have proven effective in distributing information to Fairfax County's Hispanic community.
- *Be available for one-on-one interactions.* For the Silver Line outreach, FCDOT will provide interpreters for FCDOT staff members during outreach activities.
- *Create targeted how-to videos to familiarize seniors with how to use transit.*
- *Provide SmarTrip® cards as an incentive to increase participation.*
- *Create train-the-trainer programs and materials for community center staff*. Provide resources including schedules, brochures, and route maps to community center staff so that they can provide transit information to the general public.

Several strategies for holding effective public meetings that are inclusive for all populations also were documented:

- *Be available and conduct public outreach at all times of day, including weekends.* This enables individuals working different types of schedules, including individuals with shift-work jobs that take place outside of traditional business hours and on the weekend, to participate in meetings.
- *Provide child care for larger meetings.* FCDOT can leverage volunteer coordinators at community centers, as these child care volunteers are already background-checked.
- *Have snacks at meetings.* Providing food increases participation.
- *Conduct meetings within walking distance of residential hubs.* Holding meetings in easily accessible locations increases attendance.

FCDOT now is in the process of formalizing a partnership with NCS and other human services agencies and organizations which have direct access to minority, LEP, and low-income populations. These groups

can assist with selecting outreach methods, venues, and partners for transit-related public participation activities in the future.

Public Outreach Strategies

FCDOT referred to existing project best practices, federal guidance, national best practices reviews, including FTA Circular 4703.1 Environmental Justice Policy Guidance for Federal Transit Administration Recipients and National Cooperative Highway Research Program Report 710: *Practical Approaches for Involving Traditionally Underserved Populations in Transportation Decisionmaking*, to aid in the selection of strategies for this Public Participation Plan. FCDOT currently creates individual public participation plans for each planning process or initiative, tailored to the type of plan or service under consideration and the scope of changes or geographic impact of the project. Strategies identified in this plan will be utilized *selectively* by FCDOT on a case-by-case basis and incorporated into project-level public participation plans. At the outset of a planning process, service change, fare change, or other transit initiative, FCDOT project managers will review the strategies contained within this plan and select those that are appropriate to the individual project based on the type of project, the demographics of the individuals that would be impacted by the project, and the resources available.

Understanding Our Community – At the outset of any transit initiative requiring outreach, FCDOT will identify the local area(s) impacted and develop an understanding of the populations living in the area(s). Demographic data, past experience, as well as feedback from local community-based organizations, houses of worship, human services agencies, and staff from the magisterial district office(s) will provide both a quantitative and qualitative understanding of the local area(s). Based on this information, FCDOT will develop a targeted approach to ensuring inclusive public participation by all members of the local community, including identifying the need for translation services and the types of public outreach that are likely to be effective with the populations present in the local community.

Inclusive Public Meetings – FCDOT uses public meetings to generate feedback about proposed service changes and other projects. FCDOT notifies the public 30 days prior to the meeting through a variety of print and non-print advertising methods. Meetings will be held in transit accessible locations, and in a variety of location types (e.g., schools, community centers, senior centers, apartment complexes, shopping malls, and libraries). Meetings will be held at locations within walking distance of residential areas when possible. FCDOT will hold meetings at traditional and non-traditional times, including during the morning, daytime, and on the weekend. Childcare services and refreshments will be available as project resources allow. Translation services will be available at all meetings upon request, and translation services may be provided without request at meetings in areas with high concentrations of LEP populations. When appropriate, the format of the meetings will be open-house style, to allow attendees to speak individually and provide oral feedback to FCDOT staff.

Pop-Up Events – "Pop-Up" events include setting up information booths at places where Fairfax Connector riders and other residents are present in formats that allow for one-on-one interaction. Pop-up events may be held in locations such as transit centers and major transfer points, community centers, schools, senior centers, medical centers, houses of worship, and County-owned and other multifamily residential complexes. When project resources allow, SmarTrip® cards or other small giveaway materials may be provided to increase public participation. At these pop-up events, FCDOT may be accompanied by translators and members of local community-based organizations to facilitate relationship building and communication with the local community. Individuals will have the opportunity to provide oral feedback directly to FCDOT to increase feedback from minority, low-income, and LEP populations.

Internal Partnerships – FCDOT will work with other Fairfax County departments, including OHREP, NCS, FCPD, and FCPS, to leverage relationships with community and faith-based organizations, translation resources, and to work with them at their events to distribute information about Fairfax Connector services and transit projects, plans, and initiatives. FCDOT also will work with internal partners to create *"train-the-trainer"* programs that familiarize other front-line Fairfax County staff with Fairfax Connector service and current transit projects and plans to allow staff to provide transit information to the general public.

Community Events – FCDOT staff will seek to meet people where they are by attending community events and festivals (e.g., *Celebrate Fairfax*, Pan-American Festival) where minority, low-income, and LEP populations may be present to distribute transit information and solicit feedback.

Partnerships with Community Based Organizations, Faith Based Institutions – OHREP provided FCDOT with a list of over 100 community-based organizations, while NCS also provided a list of community-based organizations, houses of worship, and local schools for the Silver Line Outreach Campaign. Building relationships with these types of organizational partners is vital for disseminating information and soliciting feedback from diverse communities. FCDOT will work with these organizations to distribute materials, co-sponsor meetings, or attend meetings to reach their constituents, clients, and members. FCDOT will continuously build on these relationships to develop sustainable partnerships.

Focus Groups – Focus groups with leaders of relevant community and faith-based organizations, and/or their members or constituents, will be employed at times and locations convenient to attendees to solicit feedback in a small group and informal setting from minority, LEP, and low-income populations.

Print Materials – FCDOT will develop flyers, brochures, and other print materials to inform the public of meetings and other opportunities to comment on projects and to convey vital system information. Print materials will always be distributed to community areas affected by proposed project or service changes, and translated into other languages as needed per the local demographics and the Language Access Plan. Where possible, printed materials will incorporate pictures and use minimal text to facilitate their use by LEP and low-literacy individuals. FCDOT will place advertisements to promote public meetings and alert riders of service changes on buses and bus shelters, and at park-and-ride lots and Fairfax Connector Stores. FCDOT will also provide these notices to other partners for distribution through their channels, including community-based organizations, local human services agencies, and houses of worship.

Online Materials - FCDOT will use existing online resources, including its website, social media accounts (Twitter and Facebook), and County-managed listservs (ConnectorInfo, 2050TransitStudy, and TransportationFunding) to disseminate information about capital projects. FCDOT also will develop informative videos and other interactive visualization techniques which are important for reaching LEP and low literacy communities; these will be incorporated in large-scale projects for distribution online and use at public meetings.

Phone Line – FCDOT has an existing call center service that is available 24-hours a day, as well as access to a language line service. This call center phone number will be included on all project related materials.

Use of Ethnic Media – FCDOT will advertise public meetings in local ethnic media outlets, which may include radio stations, TV stations, and newspapers. These outlets reach Fairfax County's diverse populations and can help to target specific minority communities.

Advisory Committee Meetings – Fairfax County has four advisory boards that provide advice on transit-related matters: the Transportation Advisory Commission, the Commission on Aging, the Fairfax Area Disability Services Board, and the Mobility and Transportation Committee, a joint committee of the Fairfax Area Disability Services Board and the Fairfax Area Long Term Care Coordinating Council. These advisory boards are comprised of members of the community who can provide vital information regarding the best outreach strategies for reaching targeted populations.

Outcomes Evaluation Process

The Fairfax County Department of Transportation is committed to reviewing its Public Participation Plan and the effectiveness of the strategies contained herein. This Public Participation Plan is a living document that FCDOT will refer to and update on an ongoing basis.

Following the completion of a planning process or initiative that includes public involvement, FCDOT will review the overall effectiveness of the public outreach by addressing the following questions:

- Was there participation by Title VI protected populations throughout this public participation process? What was the level of participation by Title VI protected populations relative to the proportion of the populations that would be potentially impacted by the proposed plan, project, service change, or fare change?
- How many external events, meetings, and opportunities for one-on-one interaction were provided? Did these outreach activities target specific Title VI populations that would be impacted by the proposed transit plan project, service change, or fare change?
- Were materials translated into the appropriate language(s), printed, and distributed at places where minority, LEP, and low-income populations would have access to them?
- In the judgment of the project team, were the appropriate strategies employed to engender inclusive public participation? Which strategies worked the best, and which ones did not work as well as expected?

These questions will be addressed by all involved team members and documented in a brief memo on "lessons learned" following each public participation campaign's conclusion. This performance documentation will allow FCDOT staff to continuously improve efforts to promote inclusive public participation.

1.9 Language Access Plan

Introduction

Effective communication is the cornerstone of a meaningful Public Participation Plan. With that premise in mind, FCDOT developed this Language Access Plan (LAP) to ensure effective communication and outreach to all of the citizens of Fairfax County. FCDOT's LAP helps determine what types of language assistance to provide, how Limited English Proficiency (LEP) persons will be informed about the availability of language assistance, processes for evaluating and updating the plan, and the types of training provided to all FCDOT transit employees and contractors to ensure awareness of the importance of timely and reasonable language assistance. To create this plan, FCDOT identified LEP populations in its service areas, as well as a range of language assistance options and costs.

FCDOT's LAP was prepared in compliance with Federal Transit Agency (FTA) Circular C 4702.1B, *Title VI Requirements for Federal Transit Administration Recipients,* and other federal regulations and guidance related to language assistance. This plan includes:

- The results of the *Four Factor Analysis* process described in the Circular.
- A description of the LEP populations served by FCDOT.
- A detailed set of strategies that FCDOT will employ to provide language assistance services by language.
- A description of how FCDOT will notify LEP persons about the availability of language assistance.

This LAP also describes how FCDOT will monitor, evaluate, and update the plan. The FCDOT staff who are responsible for Title VI compliance are also responsible for all LAP related tasks, including: ensuring that all staff are trained on how to provide timely and reasonable language assistance to LEP populations; ongoing monitoring of the implementation of the language assistance strategies and materials that comprise the LAP; evaluating the efficacy of the strategies and materials; and for updating the plan as needed.

Four Factor Analysis

The Department of Justice (DOJ) developed the Four Factor Analysis to provide a clear framework through which recipients of federal funding can determine the extent of their obligation to provide LEP services. Federal funding recipients are required to take reasonable actions to ensure access to their programs and activities, and the Four Factor Analysis helps to develop in an individualized determination of the extent of the needs of LEP populations and how they are best and feasibly served.

FTA's Title VI Circular, FTA C 4702.1B, instructs FTA funding recipients to use the Four Factor Analysis and refer to DOJ's LEP guidance, as needed. In accordance with these guidelines, FDCOT conducted a Four Factor Analysis to help ensure meaningful access to programs and activities, and to determine the specific language services that are appropriate to provide. Broadly speaking, this analysis helps to determine how well Fairfax County communicates with the LEP communities it serves and how it can communicate with them in the future through language access planning. This analysis examines the following four factors, as described in FTA C 4702.1B:

> **Factor 1: The number or proportion of Limited English Proficiency persons eligible to be served or likely to be encountered by the recipient.** This population is program specific. In addition to the number or proportion of LEP persons served, the analysis, at a minimum, identifies:
> (a) How LEP persons interact with the recipient's agency;
> (b) LEP communities and assesses the number or proportion of LEP persons from each language group to determine the appropriate language services for each language group;
> (c) The literacy skills of LEP populations in their native languages, in order to determine whether translation of documents will be effective; and
> (d) Whether LEP persons are underserved by the recipient due to language barriers.
>
> **Factor 2: The frequency with which Limited English Proficiency persons come into contact with the program.** Recipients should survey key program areas and assess major points of contact with the public, such as:
> (a) Use of bus and rail service;

(b) Purchase of passes and tickets through vending machines, outlets, websites, and over the phone;
(c) Participation in public meetings;
(d) Customer service interactions;
(e) Ridership surveys; and
(f) Operator surveys.

Factor 3: The nature and importance of the program, activity, or service provided by the program to people's lives. The provision of public transportation is a vital service, especially for people without access to personal vehicles. For example, a county's regional planning activities potentially impact every person within the county. Development of a coordinated plan to meet the specific transportation needs of seniors and people with disabilities also will often meet the needs of LEP persons. A person who is LEP may have a disability that prevents him/her from using fixed route service, thus making him/her eligible for ADA complementary paratransit. *Transit providers, States, and MPOs must assess their programs, activities and services to ensure they are providing meaningful access to LEP persons*. Facilitated meetings with LEP persons are one method to inform the recipient on what the local LEP population considers to be an essential service, as well as the most effective means to provide language assistance.

Factor 4: The resources available to the recipient for Limited English Proficiency outreach, as well as the costs associated with that outreach. Resource and cost issues can often be reduced by technological advances, reasonable business practices, and the sharing of language assistance materials and services among and between recipients, advocacy groups, LEP populations and Federal agencies. Large entities and those entities serving a significant number of LEP persons should ensure that their resource limitations are well substantiated before using this factor as a reason to limit language assistance.

The methodology and findings for each factor are presented in the following section. The results of each factor build upon the previous factor to help Fairfax County 1) understand the various LEP populations residing in the County; 2) how often and what ways LEP communities interact with Fairfax Connector services; 3) how important those services are to the various LEP communities; and 4) the resources and projected costs for communicating effectively with the County's LEP communities.

Factor 1: The number or proportion of Limited English Proficiency persons eligible to be served or likely to be encountered by the recipient.

Methodology

FCDOT used a quantitative methodology to identify the number of LEP persons eligible to be served, or likely to be encountered. Data sources included:

- *American Community Survey*: The American Community Survey (ACS) is a national survey conducted annually by the U.S. Census Bureau that provides current evaluations of social and economic conditions at the Census Tract level. This analysis used data from Fairfax County Census Tracts with detailed attention paid to Census Tracts along Fairfax Connector routes.
- *Fairfax County Public Schools Home Language Survey*: Fairfax County Public Schools (FCPS) operates 196 schools and learning centers within the Fairfax Connector's service area. FCPS identifies limited English proficient students and households through the Home Language

Survey (HLS), which is distributed every year to all registered students to identify language minority students,[16] parents, and/or guardians. The data set used for this Factor 1 Analysis provides information about LEP students by ethnicity, LEP students by language, and the language of correspondence selected by parents or guardians in homes where languages other than English are spoken.

- *Fairfax Connector Bus Rider Survey*: FCDOT surveyed riders on 37 routes in south Fairfax County in 2013. The survey included questions about native language, ability to speak English, race, ethnicity, and income. Fairfax Connector routes in north and west Fairfax County will be surveyed in late 2014, and as a result information from the survey to-date provides only a partial understanding of linguistic isolation among Fairfax Connector riders.

The use of multiple data sources enabled FCDOT to develop a deep understanding of the LEP communities residing in Fairfax County.

Results

How Limited English Proficiency persons interact with FCDOT

Although Fairfax County is home to a number of linguistically isolated populations (see page 79, Maps of Linguistically Isolated Populations in Fairfax County by Language), linguistic isolation does not, by itself, indicate whether or not a particular community will interact with FCDOT or Fairfax Connector services. LEP persons interact with FCDOT by riding the bus, interacting with bus operators, looking online for service information, visiting a Fairfax Connector store, participating in a FCDOT public meeting, or calling FCDOT for service information or to submit a complaint.

The concentrations of Census tracts in Fairfax County with high percentages of households without cars, or only one car (see Figures 3 & 4 below), is a better indicator of potential interaction with FCDOT. Fortunately, the concentrations of Census tracts in Fairfax County with high percentages of households without cars, or only one car correspond roughly with census tracts that have high percentages of linguistically isolated communities. While this data does not directly provide a perspective on car ownership among LEP persons, there is likely overlap among these populations and they may experience a greater need for public transportation services vis-à-vis the general public.

[16] Fairfax County Public Schools define “language minority” students as those who live in a home where there is any use of a language other than English. This definition comes from the US Department of Education, Office of Civil Rights.

Figure 3 Households with No Vehicles in Fairfax County

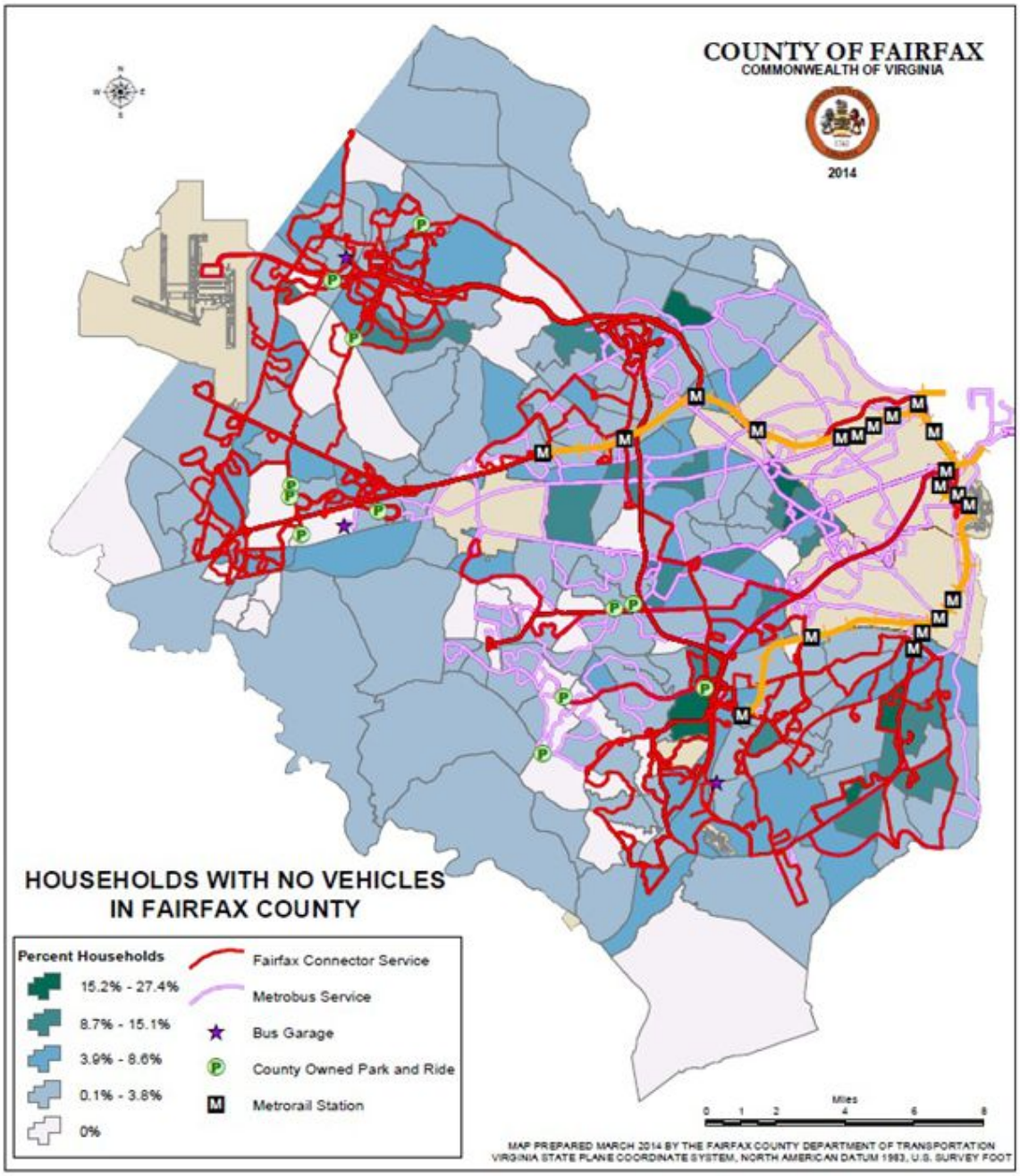
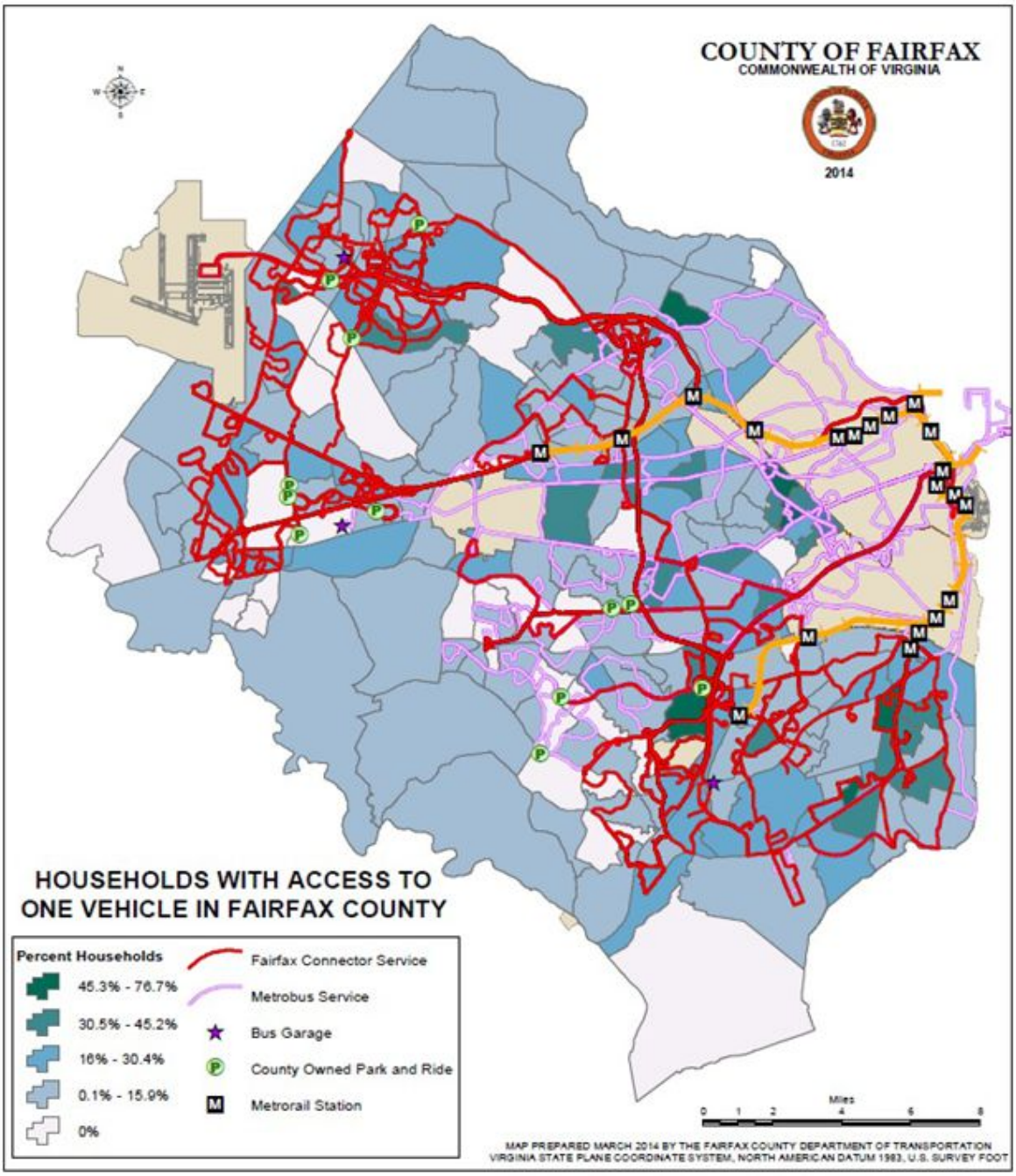


Figure 4 Households with Access to One Vehicle in Fairfax County



Limited English Proficiency Population Identification

American Community Survey

FTA defines LEP persons as persons for whom English is not their primary language and who have limited ability to read, write, speak, or understand English. Fairfax residents who reported in the ACS that they speak English less than very well were used to tabulate the LEP population for the Fairfax Connector service area. FCDOT developed maps (see page 79, Maps of Linguistically Isolated Populations in Fairfax County by Language) using ACS data to demonstrate the extent of LEP individuals eligible to be served by Fairfax Connector, including the presence, population density, and distribution of linguistically isolated[17] populations within Fairfax County. The following tables provide detail on the linguistically isolated populations of Fairfax County.

Table 16 details the top ten languages spoken by linguistically isolated households in Fairfax County. Table 17 shows linguistic isolation by language, the County's overall LEP population, and the population five years and older who reported speaking English less than very well (14.9 percent). Both indicate a large linguistically isolated Spanish-speaking population in Fairfax County, followed by Korean, Vietnamese, and Chinese language-speaking populations.

Table 16 Linguistically Isolated Populations in Fairfax County – Top 10 Languages

Language	Speak English "Less Than Very Well"
Spanish or Spanish Creole	63,100
Korean	19,355
Vietnamese	13,946
Chinese	10,274
Hindi and other Indic languages[18]	5,927
African Languages	5,050
Arabic	3,725
Urdu	3,629
Farsi	3,606
Tagalog	2,967

[17] The U.S. Census classifies households as "linguistically isolated" when no person 14 years old and over speaks only English and no person 14 years old and over who speaks a language other than English speaks English "very well." Individuals in these households may face significant language barriers because they may not be able to rely on an adult relative who speaks English well to provide translation assistance.

[18] There are 4,060 speakers of "other Indic languages" and 1,742 speakers of Hindi that speak English less than very well. Hindi is the 12th largest language group for residents who speak English "less than very well,", but it is among the top ten non-English languages overall (including those that speak English well) spoken at home in Fairfax County. Speakers of other Indic languages may also speak Hindi, so Hindi and other Indic languages will be combined in analyses of linguistically isolated populations in Fairfax County.

Table 17 Linguistic Isolation in Fairfax County by Language Group, Population 5 Years and Older

Language Spoken at Home[19]	Population 5 years and over by Specified Language Group	Percent of Total County Population by Specified Language Group	Speak English less than "very well" by Specified Language Group	Percent of Specified Language Group Speakers that Speaks English Less than "Very Well"
Spanish	138,397	13.7%	64,092	46.3%
Asian or Pacific Island	117,911	11.7%	53,678	45.5%
Indo-European	83,654	8.3%	22,160	26.5%
Other Languages	36,237	3.6%	10,759	29.7%
Total Language Other than English	**376,199**	**37.2%**	**150,689**	**40.1%**

Fairfax County Public Schools

FCDOT examined FCPS's LEP enrollment to determine language concentrations.[20] All of the data in this section was provided by FCPS's Office of Language Acquisition and Title I Instructional Services Department, and thus the definitions for ethnicities and limited English proficient populations are not analogous to Census data also analyzed for this Language Access Plan.[21]

FCPS's enrollment for 2013-2014 is 184,825. Table 18 shows the enrollment of LEP students by ethnicity and the total LEP student enrollment of 49,259. LEP enrollment captures only those students who have a limited ability to speak English; it does not include all students who live in a home where a language is spoken other than English. Nearly half (47 percent) of all FCPS students live in a home where a language other than English is spoken (Figure 5).

Table 18 Limited English Proficiency in Fairfax County Public Schools by Ethnicity 2013-2014 School Year

Ethnicity	Limited English Proficient Students
Hispanic	25,971
Asian	12,167
White	6,073
Black	4,269
Two or more ethnicities	732
American Indian	47
Total	**49,259**

[19] The US Census Bureau collapses 382 language categories into four major groups: Spanish, Other Indo-European Languages, Asian and Pacific Island Languages, and All Other Languages.

[20] This data was provided during an interview with FCPS staff as a part of the Factors 2 and 3 research process. The context for the data presented is provided in Factors 2 and 3.

[21] A student's level of proficiency is determined through testing, per the regulatory requirements of the U.S. Department of Education. FCPS uses the World Class Instructional Design and Assessment (WIDA) standards for assessing level of "English Language Development." Students that test at levels 1-5 on the WIDA standards are determined to be limited English proficient. FCPS uses internally developed definitions of ethnic groups to categorize LEP population data.

Figure 5 FCPS Students Home Language Spoken

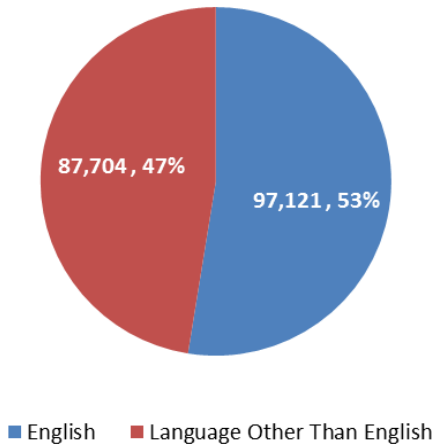


Table 19 shows the most frequently spoken languages at home other than English amongst FCPS students. All students who have parents or guardians that speak a language other than English at home are required to register for school at central intake offices that assess language needs as well as other family social service needs. FCPS translates its website and all resource materials into the top eight languages.

Table 19 Languages Frequently Spoken at Home Other than English
2013-2014 School Year

Rank	Language	Number of Students
1	Spanish	37,555
2	Korean	5,959
3	Arabic	5,896
4	Vietnamese	5,287
5	Chinese/Mandarin	3,918
6	Urdu	3,489
7	Amharic	2,314
8	Farsi/Persian	2,015
9	Telugu	1,663
10	Hindi	1,637
11	Tagalog	1,420
12	Bengali/Bangla	1,105
13	Twi	1,062
14	French	1,040
15	Russian	935

One of the questions asked at school registration is: “In which language would the family like to receive correspondence from FCPS?” This is one indicator of the level of English proficiency of the student’s

parents or guardians. Table 20 presents the top 10 non-English language correspondence languages for FCPS.

Table 20 Student Household Correspondence Language
2013-2014 School Year

Rank	Correspondence Language	Number
1	Spanish	26,975
2	Korean	2,616
3	Vietnamese	1,891
4	Arabic	1,470
5	Urdu	689
6	Chinese/Mandarin	687
7	Farsi/Persian	406
8	Amharic	217
9	Bengali/Bangala	123
10	Somali	107

Fall 2013 Bus Rider Survey

Of the respondents to the partial Fairfax County bus rider survey conducted in fall 2013, 18 percent spoke English less than "very well." Forty and one half (40.5) percent spoke Spanish as their native language; the three next most popular languages, Amharic, Arabic, and Tagalog comprised 16.4 percent.

The survey also asked riders to identify their native language. Just over 1,000 people (27.9 percent of total respondents) indicated that their native language was not English. While 42 percent of the non-native-English respondents chose Spanish as their native language, 13.4 percent chose Amharic or Arabic.

Table 21 Answers to "How well do you speak English?"

Answer	Number	Percent of Total
"Very Well"	2,980	82.0%
"Well"	453	12.5%
"Not Very Well"	199	5.5%

Table 22 Answers to "What is your native language?" (Top 10)

Language	Number	Percent of Total Responses	Percent of Specified Language Group That Speaks English Less than Very Well
English	2,619	72.1%	
Spanish or Spanish Creole	454	12.5%	58.1%
Amharic	81	2.2%	51.8%
Arabic	64	1.8%	59.4%
Tagalog	63	1.7%	42.9%
Hindi	45	1.2%	35.6%
Twi	32	0.9%	21.9%
Mandarin	30	0.8%	46.7%
French	27	0.7%	59.3%
Korean	26	0.7%	69.2%

Literacy Skills and Language Barriers

Fairfax Connector bus operators and supervisors find that elderly customers make up a large portion of Fairfax Connector's LEP customers. In particular, the operators and supervisors identified cultural and language issues in serving elderly Asian populations living in affordable and public housing on a handful of bus routes. They also reported that some senior citizens become very frustrated by an inability to communicate with bus operators.[22]

Summary

A comparison of the ACS data with the FCPS data shows that both sources identify the same top languages spoken by LEP persons in the Fairfax Connector service area. Those languages, which differ in order by the data source,[23] are as follows:

- Spanish
- Korean
- Vietnamese
- Chinese
- Hindi and other Indic languages
- African Languages (Amharic, Twi)
- Arabic
- Urdu
- Farsi
- Tagalog

The Fall 2013 bus ridership survey of the south county Fairfax Connector routes found some similarity with ACS and FCPS data, but with a heavier emphasis on Spanish, Amharic and Arabic-speaking respondents, and less on Korean, Vietnamese, and Chinese. This is likely because the Asian immigrant populations are located in higher concentrations in the western and northern parts of Fairfax County.

[22] Fairfax Connector Bus Operators and Supervisors Focus Group, January 23, 2014.

[23] Spanish is the most popular language spoken other than English according to all data sources reviewed.

The Factor 1 analysis utilized three sources of data recommended by FTA to describe the LEP population within the Fairfax Connector service area: The American Community Survey data, Fairfax County Public Schools data, and the bus rider survey. This analysis ensures that FCDOT's LEP program is effective and meaningful access to services is available for LEP persons.

Factor 2: The frequency with which Limited English Proficiency persons come into contact with the program; and

Factor 3: The nature and importance of the program, activity, or service provided by the program to people's lives.

Methodology

Both quantitative and qualitative methods were used in determining Factors 2 and 3. Interviews or focus groups with seven County government educational, social service and healthcare service providers that serve LEP populations across Fairfax County were held in early 2014. These focus groups and interviews focused on where LEP populations reside in Fairfax County, the languages spoken by LEP populations across Fairfax County, and how they use public transportation.

The Fairfax Connector bus rider survey, which includes questions on the respondent's native language and their English proficiency, was not used for Factors 2 and 3 because it only covers the southern half of Fairfax County. Future LAPs will incorporate the results of the bus ridership survey but will likely continue to incorporate the qualitative information that was collected for this plan. However, given the lack of ridership survey data available at this time this plan was prepared, the interview and focus group methodology was the best way to understand both how often LEP persons use Fairfax Connector and other public transportation services in Fairfax County and what services and routes they use most frequently (Factor 2), as well as the nature and importance of public transportation service to their lives (Factor 3).

Table 23 lists the Fairfax County departments that participated in the interviews and focus groups. The focus group with Fairfax Connector Bus Operators and Supervisors provided detailed information about language groups encountered and specific routes where operators most frequently encounter limited English proficient persons. Operators and supervisors also provided ideas for tools and information they would like to have better serve LEP persons in the field.

Table 23 Focus Groups and Interviews Conducted

Interview Date	Fairfax County Department	Individual(s) Participants
January 23, 2014	Fairfax Connector Bus Operators and Supervisors Focus Group	Approximately 30 bus operators and supervisors, who work from all three of the Fairfax Connector Bus Garages
February 5, 2014	Neighborhood and Community Services – Region 3	Chris Scales, Region 3 Manager
February 5, 2014	Office of Human Rights and Equity Programs	Ken Saunders, Director Nicole Rawlings, Human Rights Specialist
February 10, 2014	Fairfax County Public Schools – Office of Language Acquisition and Title I	Teddi Predaris, Director, Office of Language Acquisition and Title I
March 6, 2014	Neighborhood and Community Services – Region 1	Lloyd Tucker, Region 1 Manager
March 13, 2014	Neighborhood and Community Services – Region 4	Evan Braff, Region 4 Manger Tilly Blanding, Community Developer Evelyn Swieter, Social Work Supervisor
March 13, 2014	The Fairfax Connector Store	Richard Whaley, Project Manager

Results

This section includes the detailed interview summaries for each of the individual interviews conducted for the analysis of Factors 2 and 3.

Fairfax Connector Bus Operators and Supervisors Focus Group

On January 23, 2014, a focus group was held with Fairfax Connector bus operators and supervisors. Operators discussed the frequency with which they come into contact with LEP populations and the operators' current strategies for addressing the concerns of these customers. Operators identified specific routes with high LEP populations and identified the languages they encounter on a regular basis as Spanish, Vietnamese, African languages, Korean, Tagalog, Farsi, French, and Russian.

Operators often encounter the same LEP persons daily and believe a large portion of these LEP customers are highly dependent on Fairfax Connector services to meet their basic transportation needs, as they appear to lack access to other transportation options. Operators and supervisors find elderly customers make up a large portion of Fairfax Connector's LEP customers, many of whom also are not literate in their native languages. In particular, the operators and supervisors identified cultural and language issues in serving elderly Asian populations living in affordable and public housing (particularly the Lake Anne and Hunters Woods Fellowship Houses). Operators agreed that many of the people who speak Farsi also speak English, and that in general younger non-native English speakers have a greater ability to communicate in English than older individuals. Some operators felt that the younger Spanish-speaking population generally spoke English well enough to navigate the system, while others felt that more recently arrived immigrants, regardless of age, had limited ability to speak English. Operators and supervisors highlighted the importance of cultural competency when interacting with LEP individuals, and supported using universal symbols instead of written text on informational materials.

Operators believe Fairfax Connector's current materials do not support their on-board needs, and offered a variety of suggestions to improve Fairfax Connector's informational materials including

pamphlets for each route with local area maps, schedules in different languages, tear sheets with language line assistance numbers, laminated maps on buses, and devices at stations that can create origin-destination maps in any language. Operators also expressed an interest in Spanish classes and on-board books with key transportation words in the languages they encounter most often. Today, when an operator encounters an individual who cannot speak English while operating a bus, they attempt to assist them in several ways. If the person seeking assistance is Spanish speaking, they often ask another Spanish speaker on the bus that has a greater ability to speak English to assist them. One operator mentioned that he uses an iPhone translation app if he is picking up at a location where this is possible (i.e., he has time to do this when the bus is not in motion).

Operators felt that they would not be able to use a language line while operating the bus and favored the use of translated written material (most importantly, schedules) that they can provide to the individual. They felt that using as little text as possible, and using universal symbols wherever possible would be beneficial. Many operators expressed a strong desire to have maps of the local areas served by their routes that show both English and the foreign language needed by route, so that they could assist individuals by showing them on the map where they were and where they wanted to go, which would obviate the need for an interpretation service. Many LEP persons bring the destination they need to go written in English, and ask the bus operator to help them get to their final destination. Operators also suggested that the use of media (public service announcements on foreign language radio and television stations) would be an effective tool to distribute information on Fairfax Connector services to LEP populations. Operators expressed strong support for increased use of technology to provide language assistance. For example, the use of multi-lingual fare vending and other informational kiosks at major transfer points was an idea raised by one of the operators that engendered a lot of support among focus group attendees.

The operators and supervisors identified a subset of Fairfax Connector routes where individual language groups are prevalent. It is important to note that the need for language assistance services appears to be most acute on just a subset of routes, and not across the entire system. The following tables list the Fairfax Connector routes where language access needs were identified by bus operators and supervisors and the general areas of the County where they encounter LEP individuals riding Fairfax Connector. It is important to note that these routes and areas are not an exhaustive list of where language assistance needs may exist, but is based on operators' and supervisors' experiences providing service in Fairfax County.

Table 24 Language Needs by Fairfax Connector Routes, as identified by Bus Operators and Supervisors

Language	Routes
Spanish	171, 401, 402, 950, RIBS 1, 2, and 3
Vietnamese	401, 402
Korean	RIBS 5
African Languages	927, 950
Arabic	505
Amharic	927, 955, 950, 981, all RIBS routes

Table 25 Geographic Distribution of Foreign Language Speaking Populations in Fairfax County, as identified by Bus Operators and Supervisors

Language	Area
Spanish	Annandale, Huntington (South County)
Arabic	Reston
Asian Languages (Korean, Vietnamese, Tagalog)	Herndon, Reston

Neighborhood and Community Services Region 3

NCS Region 3 provides coordinated social services planning for the Reston and Herndon areas in north Fairfax County. NCS Region 3 has translators on staff who are fluent in several foreign languages, and they work with a variety of LEP communities in Reston and Herndon. The following language groups are present in Region 3 of Fairfax County:

- Spanish - located throughout the area, including Southgate Apartments (an 250-unit subsidized apartment complex)
- Arabic - Cedar Ridge and Island Walk communities
- Farsi - Stonegate community
- Vietnamese – West Glade Apartments
- Urdu
- Somali - West Glade Apartments
- Chinese – Herndon Senior Center, Fellowship House

Many of the LEP individuals in this area of Fairfax County use public transportation, principally Fairfax Connector, as their primary mode of transportation. NCS Region 3 staff emphasized how important it is for Fairfax Connector to maintain routes to human services centers as well as public transportation to schools. They cited an instance where they were working to increase parent engagement at McNair Elementary, but the lack of public transportation from a neighborhood to the school impeded their efforts. NCS Region 3 staff believe that limiting the number of transfers, reducing travel times, and more directly linking human services agency locations (since clients often go between sites in a single day) will improve the transportation experience of their clients.

While many of these LEP populations lack access to private vehicles, in some instances cultural issues or other considerations inhibit their use of the Connector system. For example, women in some of these language and cultural groups must seek their husband's permission to use Fairfax Connector. A gap in understanding how to ride Fairfax Connector also exists, as it is not intuitive for many LEP persons. Travel training and materials that explain how to use the system in foreign languages would help increase ridership. NCS Region 3 staff suggested creating a video in multiple languages that provided a "how-to" ride Fairfax Connector that could play in the waiting rooms of social service providers across the County, as well as Channel 16 (Fairfax County's government channel). They also suggested that the translation of schedules into Spanish and other languages would be helpful. Creating a multi-lingual smartphone application and placing information in human services agency waiting rooms and other community locations such as libraries, community centers, and schools would also assist LEP persons frequenting these facilities.

NCS Region 3 staff recommends that FCDOT begin to build a relationship with these communities through retail outreach. NCS Region 3 staff often reaches people by going door-to-door and talking with individual families, going to houses of worship, sending flyers home with school children, and reaching these populations in groups or community venues where they have a high degree of trust already established. NCS Region 3 staff report that many of the LEP populations are wary of strangers and the government (particularly the police) and want to stay out of government buildings. Consequently, they offer the following recommendations:

- Working with individual advocates and leaders within these communities is an effective way to build trust between an institution and a LEP population.
- Having face-to-face contact with these populations is important for building relationships.
- Understanding cultures is key; in some cultures (speakers of Arabic, Urdu, and Farsi) it is important to approach the family together, to reach both husband and wife and to meet with families on-site in their residential communities.
- Working with parent liaisons through Fairfax County Public Schools is also an effective way to build a relationship with LEP populations.

NCS Region 3 staff provided the following best practices for use in prompting LEP populations' participation in activities with FCDOT:

- Schedule meetings and events with regard to work schedules (e.g., many people work on weekends and evenings but have time during the day).
- Be flexible with the timing of events and hold the same event at several different times of day to accommodate different work schedules.
- Provide food that is culturally sensitive (i.e., conforming with cultural dietary restrictions).
- Provide professionally translated printed material to ensure accuracy.
- Provide incentives and entertainment.
- Work with or hold events at centers that are frequented by LEP populations (in this part of the County this includes organizations such as Cornerstones and Herndon Health Works).
- Work with schools (e.g., parent liaisons, PTAs) to promote and arrange events or activities.
- Meet them where they are instead of asking them to come to a meeting; many of the individuals in LEP communities are working multiple jobs and have limited time available.

Finally, NCS Region 3 staff noted that the clients they work with are not aware of the changes that are coming with Silver Line service and will be reluctant to engage in the future if they do not understand "what is in it for me" or believe that decisions have already been made and their input will not matter. They recommend that FCDOT seek to set realistic expectations when seeking public input, otherwise they will lose trust in the organization. Building and maintaining trust with these communities is key to successful long-term engagement.

Office of Human Rights and Equity Programs (OHREP)

OHREP encounters limited English proficient populations fairly frequently, particularly native speakers of Spanish, Chinese, Vietnamese, and Arabic. OHREP has materials translated into all of these languages, as well as Amharic and Somali, although Somali is rarely used. Twenty to thirty percent of the individuals who call OHREP are Spanish speakers.

In OHREP's experience, LEP populations are located in concentrations across Fairfax County:

- Culmore/Route 7: Spanish, Arabic, Amharic
- South County (Lorton, Mt. Vernon, US-1): Spanish
- Herndon: Spanish
- Annandale: Korean

OHREP staff identified a number of resources, organizations, and centers that Fairfax County can partner with to effectively conduct outreach to LEP populations:

- Fairfax County Family Resource Centers:
    - Culmore Family Resource Center
    - Springfield Family Resource Center
    - Kingsley Commons (frequented by Amharic speakers)
- Ethiopian Community Development Council
- Korean Americans Voters Alliance (KAVA)
- Chinese Resource Fair (summer months) and local Chinese New Year celebrations
- Culmore Partnership – A group of around 20 community organizations in the Route 7 corridor that meets monthly/OHREP has spoken at their monthly meetings in the past and they accommodate outside speakers.
- Dar Al-Hijrah Mosque (VA-7) - The mosque has a resource center that connects individuals with public assistance and benefits, and transit service to the mosque has been a concern.
- Bailey's Crossroads Elementary Mother's Group – A grassroots group that operates a resource center out of a trailer, serving Spanish, Amharic, and Arabic speaking families.
- Asian Community Service Center
- County senior centers and classes
- Communications Fair (Deaf Community) - This is a very large-scale and well attended event

In OHREP's experience, reaching out to community groups and individual leaders (some cultural groups have an unofficial 'spokesperson' that can facilitate contact between the group and the County government agency), and understanding their issues and individual barriers to participation in a public process or communication with public agencies is critical to beginning a relationship. OHREP has three members of their staff that speak Spanish and they hold several events in Latino neighborhoods across the County to maintain a grassroots-level relationship with these communities. At Chinese New Year's events OHREP has not brought a translator, as much of the Chinese community is able to speak English. In general, OHREP staff observed that the Asian communities are often fairly self-contained and rely upon their intra-community network for support rather than seeking out assistance from government sources.

OHREP staff recommended having written materials translated into Spanish and several Asian languages (Chinese, Korean, and Vietnamese) by a professional translator. For additional languages, OHREP often has documents translated, but they only print them upon request to reduce costs and respond on an as-needed basis. In recent years, OHREP has experienced an increased need for Arabic and Amharic translated materials. OHREP generally does not do media buys, but they have worked with the newspaper El Tiempo Latino and found that to be an effective way of getting information out to the Latino community.

Fairfax County Public Schools (FCPS) - Office of Language Acquisition and Title I

This section is a summary of the interview conducted with Teddi Predaris, FCPS. The FCPS data and information Ms. Predaris provided were used in the development of Factors 1 and 2. As a result, several data points and tables presented in Factor 1 are also presented in this Factor 2 interview summary.

FCPS serves 183,269 students in grades kindergarten through 12th, of which 47 percent (87,704) live in a household where a language is spoken in addition to, or in lieu of, English. The percentage of students living in households where a language is spoken other than English has increased rapidly in recent decades. Twenty-five years ago, only ten percent of students lived in homes where a language was spoken other than English; FCPS refers to these students as language minority students. At that time English as a second language services were provided at just a few centers across the County, but today they are available in every school. Federal law requires that FCPS assess all students for their level of English proficiency. FCPS has determined that out of the 87,704 students who live in households where languages other than English are spoken, approximately 37,000 children are truly limited in their ability to speak English. However, it is important to note that many, if not most, of the 87,704 children who live in households where a language other than English is spoken may live with parents or guardians that are LEP.

The table below lists the top 15 non-English languages, in order of prevalence, spoken by families of FCPS students.

Table 26 Top 15 Languages Other than English Spoken at Home by FCPS Students 2013-2014 School Year

Rank	Language	Number of Students
1	Spanish	37,555
2	Korean	5,959
3	Arabic	5,896
4	Vietnamese	5,287
5	Chinese/Mandarin	3,918
6	Urdu	3,489
7	Amharic	2,314
8	Farsi/Persian	2,015
9	Telugu	1,663
10	Hindi	1,637
11	Tagalog	1,420
12	Bengali/Bangla	1,105
13	Twi	1,062
14	French	1,040
15	Russian	935

Among these top 15 language groups, there have been some changes in recent years in their rank among all languages spoken other than English, as some groups are growing while others are not. Spanish has by far the largest number of speakers other than English in the County, and Spanish speaking families live in all sectors of the County. Many Korean immigrants settle in Fairfax County specifically so that their children can attend FCPS, as they are aware of the school system's excellent

reputation. The number of Arabic speaking students is growing, and Arabic recently became the third most frequently spoken language by FCPS households, overtaking Vietnamese. Most of the Arabic speaking families are newly arrived immigrants that are coming straight to Fairfax County from abroad, unlike other immigrant groups that may be secondary immigrants that have lived in the United States for a longer period of time. The Vietnamese speaking population is an older immigrant group in Fairfax County, and many of the native Vietnamese speakers in the county are older individuals without school-aged children. Students in Vietnamese speaking households in FCPS are often second or third generation immigrants who also speak English as a native language. Amharic is also a growing language group and moved into the top seven languages spoken in the households of FCPS students for the first time last year. In total, there are 160 unique languages spoken by families of FCPS students.

In terms of translation, FCPS previously translated all key written materials into the top seven languages, but as of this school year they are now translating materials into the top eight languages. Sometimes materials are only translated into the top five languages due to the expense of translations. FCPS also considers the level of English proficiency among households where a language other than English is spoken when making decisions regarding translation. For example, many Hindi and other South Asian language speakers also speak English well, since English is frequently the language of instruction in India. All students who have parents or guardians that speak a language other than English at home are required to register for school at central intake offices that assess language needs, as well as other family social service needs. One of the questions asked at school registration is the language in which the family would like to receive correspondence from FCPS. This is a significant indicator of the level of English proficiency of the student's parents or guardians. The following table presents the top 10 non-English language correspondence languages for FCPS.

Table 27 FCPS Student Household Correspondence Language
2013-2014 School Year

Rank	Correspondence Language	Number
1	Spanish	26,975
2	Korean	2,616
3	Vietnamese	1,891
4	Arabic	1,470
5	Urdu	689
6	Chinese/Mandarin	687
7	Farsi/Persian	406
8	Amharic	217
9	Bengali/Bangala	123
10	Somali	107

The correspondence language needs differ from the top languages spoken other than English in FCPS student households. While Spanish, Korean, Vietnamese, and Arabic remain in the top four and each have more than 1,000 speakers requesting correspondence in their native language, the other top correspondence languages differ from the top 15 languages overall in their magnitude and rank. This indicates that while certain language groups are larger, they may have a higher proficiency in English, and, therefore, not be in need of translated materials.

Many immigrant communities will cluster together in specific areas of Fairfax County. For example, concentrations of Spanish speaking families cluster around schools in the U.S. Route 1 corridor, in Springfield in neighborhoods along Old Keene Mill, in the Route 7 corridor, in Centreville, and in the Herndon/Reston area. Within the Latino community, immigrants from individual countries often cluster together. Among Korean speakers, the older population is concentrated in the Annandale area, while the younger population and more recently arrived immigrants tend to reside in Centreville. The Arabic speaking population is concentrated in the Herndon/Reston area. The Chinese speaking population resides in central Fairfax County, but there are also Chinese speaking households in western Fairfax County. In general, the growth in the non-English speaking student households is in western Fairfax County. As housing prices rise and redevelopment of formerly affordable areas takes place in the parts of the County that are closer to the center of the region, many recently arrived immigrant groups are locating in areas that are more affordable along the western and southern perimeters of the County.

FCPS provides many services to language minority families and is interested in partnering with FCDOT to disseminate information on public transportation services. Many of the parents of language minority students rely upon Fairfax Connector, Metrobus, and other forms of public transportation as their primary mode of transportation. Qualitatively, FCPS believes that a higher proportion of language minority students live in households that rely upon public transportation than the general population. FCPS always ensures that adult education activities are located in areas that are accessible by public transportation, as adult education students frequently rely upon public transportation.

FCPS suggested the following avenues for collaboration with FCDOT:

- **Website Links**: There are entire components of the FCPS website that are translated into foreign languages. FCPS can place links to translated Fairfax Connector materials on the foreign-language areas of their website.
- **FCPS Language Services Department**: This department is staffed by contracted and salaried staff. Language services staff provide translation for parents at meetings with schools and translate materials into a wide variety of languages. Language Services owns 500 interpretation headsets which they use at all major events. The availability of language interpretation is advertised for each event in the languages that will be available. During meetings, language interpreters sit near the speakers and translate what is being said simultaneously into a microphone. All language services staff are professional translators that have passed industry tests, and they are individually rated at different levels of translation ability.
- **Parent Engagement**: The Parent Engagement office oversees the interaction with families across FCPS, and the office has indicated a desire to work with FDCOT. The office holds a number of special events where they provide information on a wide array of County services including periodic English as a Second Language (ESOL) family nights and other events where they meet parents across the community.
- **Parent Liaisons**: Parent liaisons are parents that relay information from FCPS to other parents at the school level. Parent liaisons are often fluent in one of the major languages other than English spoken at their school, and they receive training from FCPS on how to provide information to non-English speaking parents. FCPS meets with the parent liaisons on a monthly basis and has invited FCDOT to present information on Fairfax Connector at one of the monthly meetings to provide information on transit service directly to the parent liaisons. Some parent liaisons also serve as contracted interpreters for FCPS.
- **FCPS Television**: On the local access FCPS television channel, a foreign language show called “In Other Words” is produced in the top five languages other than English (Spanish, Korean, Arabic,

Vietnamese, and Mandarin Chinese). Information about Fairfax Connector may be incorporated into an edition of "In Other Words."

- **Community Liaisons and Non-Native English Speaking Families Registration:** Students who live in households where a language is spoken other than English are registered at three central locations in Fairfax County: South County Government Center, Lake Anne Government Center, and the FCPS Central Office. At the time of registration, FCPS Community Liaisons work with each family individually to determine what other services and public assistance needs the family may have. Community Liaisons connect families with information regarding medical services, food assistance, and affordable housing, and could readily provide information on Fairfax Connector. Community Liaisons work with 7,500 families each school year that are newly arrived in Fairfax County and who do not speak English as their native language.

FCPS welcomes future opportunities to partner with FCDOT to disseminate information on transit services and plans.

Neighborhood and Community Services – Region 1

NCS Region 1 is the first-stop social services intake office for the southern part of Fairfax County, serving the U.S. Route 1 Corridor and the Springfield area. The office is located in the South County Government Center on U.S. Route 1. The languages encountered by NCS Region 1 include:

- Spanish
- Urdu
- Twi
- Amharic
- Somali
- Arabic
- Farsi
- Korean
- Vietnamese

The majority of non-native English speakers encountered by NCS Region 1 are Spanish speakers who have a limited ability to speak English. Significant concentrations of Spanish speakers reside in the following areas: throughout the U.S. Route 1 corridor, Springfield (Old Keene Mill Road), Franconia (Franconia Road), central Springfield (near Twain Middle School, Lee High School, and Springfield Mall), west Springfield (along Old Keene Mill near Lynbrook Elementary School and Crestwood Elementary School), and along Backlick Road.

A concentration of West African immigrants lives along U.S. Route 1 in the Gum Springs area, from Woodley Hills to South Kings Highway and to Groveton. Much of this population speaks Twi as their native language, but also is able to speak English due to learning English as children in their native countries and/or receiving higher levels of education in the United States. NCS Region 1 created a group called the *West African Collaborative* to create a stronger connection with this community. The *West African Collaborative* is comprised of leaders in the local immigrant community. While many West African immigrants speak English, NCS Region 1 has found that they have a greater trust of and respond better to information that is provided in Twi; many undocumented African immigrants live in Fairfax County, and these individuals are fearful of government agencies.

In the Lorton area there is a growing Vietnamese population, as well as a concentration of South Asian (particularly Urdu speaking) and Middle Eastern (e.g., Arabic and Farsi speakers) immigrants. NCS Region 1 has built a relationship with the local South Asian community and they also have collaborated with a local mosque as well as the Islamic Saudi Academy (a private school) to develop good relationships with the Middle Eastern immigrant populations in the area. As a government agency, NCS Region 1 has found it difficult to convince Farsi speaking populations to trust them enough to engage for services. Even though many Farsi speakers also speak English, they have a very low level of trust in government. Having information available in Farsi has helped lower the apprehension of some individuals in this language group, and they are beginning to participate in local government-sponsored activities. In general, many people in non-native English speaking groups prefer to receive information from religious and other community leaders that they trust, rather than from Fairfax County directly.

NCS Region 1 has also found that the LEP individuals within foreign-language speaking groups tend to be older adults, and that the younger the individual is the more likely they are to have some level of English proficiency. They have found that individuals over the age of 50 tend to bring a relative to translate for them when seeking County services. This occurs most often with older South Asian, African, and Spanish-speaking individuals.

With regard to public transportation services, NCS Region 1 staff have observed that the riders in the South County are primarily African American native English speakers, African immigrants, and Spanish-speaking immigrants. These populations rely on Fairfax Connector and other public transportation services as their primary mode of transportation to commute to work, obtain services, and run errands. Many people visiting the Fairfax County Government Center for WIC, Social Security, Disability, and other public benefits arrive by bus. South Asian and Middle Eastern immigrants tend to get around via private vehicles, often carpooling. NCS Region 1 staff believe that more LEP persons would use Fairfax Connector services if they were comfortable with them and understood how to ride the bus. Often these populations will not use a service unless it is explained in their language in printed materials or by a trusted leader or advocate in the community. They also recommend using universal symbols as much as possible, as there are many LEP persons who are illiterate in their own languages, particularly among older Spanish speakers.

Neighborhood and Community Services – Region 4

NCS Region 4 covers a very large, highly suburban area in western Fairfax County (Centreville, Burke, Chantilly, Fairfax Station, the City of Fairfax, Clifton, and West Springfield), and there are not any readily identifiable high-density areas of poverty within the area they serve. However, there are a number of low-income subsidized multi-family housing complexes that serve many LEP persons who are also low-income and often transit-dependent, and NCS Region 4 works with many of the County and non-profit partners that manage these complexes. The specific neighborhoods, organizations, and complexes they serve or work with include:

- Three multifamily complexes managed by the non-profit FACETS: Robinson Square (near George Mason University), Reagan Oaks (many Urdu speaking families reside here), and Barrios Circle (Centreville).
- Meadows of Chantilly: 499 mobile homes in Chantilly whose residents are predominately Latino. NCS Region 4 operates many programs in this neighborhood, including English as Second Language classes.

- Chantilly Mews: 50 subsidized townhomes located in Chantilly. There is a computer center at the nearby Ox Hill Baptist Church that serves residents of this community.
- Yorkville: A subsidized multi-family housing complex located off Draper Lane in Fairfax. Residents include speakers of Somali, Amharic and other Ethiopian languages, and immigrants from the Middle East. Many of the residents of Yorkville who speak English as a second language can speak it fairly well.
- Lamb Center: A non-profit center operated by a religious institution that serves the homeless and low-income individuals living in the Fairfax area. The Lamb Center has a computer center and other services.
- Western Fairfax Christian Ministries: A religious charity that operates a food bank and a thrift store.
- Centreville Immigration Forum: A local non-profit that assists day laborers and other immigrants with services and community integration, including providing English as a Second Language classes. They operate a day labor center on Route 29 in a shopping center.
- Korean Central Presbyterian Church: Located in Centreville, which has a concentration of recently arrived Korean immigrants and Korean American families, the church has 7,000-8,000 members, including many older, LEP persons who need transportation assistance. The younger, Korean American population are native English speakers.
- Forest Glen: Senior housing on Route 29, many older LEP persons.

NCS Region 4 uses a "pink card" printed in the top seven languages other than English spoken by LEP persons in Fairfax County that provides relevant information on accessing NCS services for LEP persons.

Fairfax Connector Store

Fairfax Connector Stores sell fare media and provide information on regional transit options. FCDOT operates four Fairfax Connector stores in Reston, Tysons Corner, Herndon, and Springfield. Fairfax Connector store staff have experience assisting LEP persons from a variety of backgrounds, and Connector Store staff provided information on what types of information LEP persons are requesting when they visit Connector Stores, as well as the most frequently encountered language groups at the Connector Stores.

Table 28 Frequently Encountered Language Groups by Fairfax Connector Stores

Fairfax Connector Store	Language Groups
Reston	Spanish
Herndon	Spanish, Hindi, Urdu, Farsi, Arabic
Tysons	Spanish, Hindi, Urdu, Farsi, Arabic, Vietnamese, Korean, Chinese
Springfield	Spanish

In general, Fairfax Connector store staff have found that older adults (regardless of language group or country of origin) are the most likely to have a limited ability to speak English among the non-native English speaking persons served by the store. At all Fairfax Connector stores there is a need for materials in Spanish. While the younger Spanish-speaking population is generally capable of communicating in English and understanding some English language material, the older Spanish-speaking population needs more language assistance services. At the Tysons Corner Connector Store, staff often encounter older adults who are Asian, South Asian, and Middle Eastern immigrants who cannot speak English well.

Many of the LEP individuals who are seeking information and assistance at a Fairfax Connector Store are frequent customers, indicating that they need public transportation services. Anecdotally, Fairfax Connector Store staff have developed some understanding of the role that public transportation plays in the lives of LEP and other non-native English speaking persons that use their services. Latino customers use Fairfax Connector to meet their daily transportation needs, including not just the commute to work, but also for transportation to shopping and other services. They believe that many of the older Asian immigrants may have access to a vehicle or a family member that can drive, but use public transportation as they may not wish to drive to access shopping and medical appointments. Many of the South Asian and Middle Eastern immigrants that use the Tysons Corner Connector Store are commuters who may have access to a private vehicle.

The Fairfax Connector Stores do have several Spanish-speaking staff, and they are typically utilized to communicate with Spanish speakers that require language assistance. However, for language groups other than Spanish, staff today use hand gestures, pointing on maps and other visual aids, and try to listen carefully to LEP persons to understand and meet their needs. Occasionally, Fairfax Connector store staff request assistance from nearby bus operators or supervisors who speak languages other than English.

Fairfax Connector Store staff already make use of the schedules and rider information available in Spanish. Staff felt that having better local area maps and visual aids would be useful in communicating with LEP persons. Most of the questions that are asked of Connector Store staff are how to travel to a destination, and the ability to use visual aids to answer the question would allow Fairfax Connector Store staff to communicate with LEP persons from many different language groups. When asking how to travel somewhere, LEP persons will sometimes provide the name of a destination written in English by another person, provide a general area (e.g., Route 7) that they want to go, but not be able to communicate the specific destination or address. Sometimes, LEP persons are looking for assistance in confirming which buses they should take. As a result, access to a language line would be beneficial as would any type of multi-lingual trip planning tool for Fairfax Connector Store staff.

Connector Store staff said that they do not typically see many African immigrants in Fairfax Connector Stores, and he could not speak to their language access needs. They also noted that at a few of the stores they see international tourists, and any language assistance resources provided could serve these individuals as well.

Overall Findings

Translation and interpretation needs are concentrated among a few languages and specific routes/areas of Fairfax County.

With the exception of Spanish, the need for language assistance is fairly confined to certain Fairfax Connector routes and areas of Fairfax County. As a result, translation and interpretation needs should be targeted to meeting the specific language access needs identified, rather than attempting to translate every material or schedule into all of the top languages.

Specific language group needs by area of Fairfax County identified include:

- Spanish – Springfield, U.S. Route 1, Annandale, Herndon/Reston, Route 7
- Urdu – Herndon/Reston, Lorton, Old Keene Mill
- Chinese – Herndon/Reston (concentrated at senior centers)

- Korean –Centreville, Herndon/Reston (concentrated at senior centers)
- Vietnamese – Backlick Road, Lorton
- Arabic – Herndon/Reston, Route 7 (Bailey's Crossroads)
- Twi – U.S. Route 1, Lorton
- Amharic – Route 7,Backlick Road, Lorton, Herndon/Reston

Fairfax Connector and other public transportation services are the primary form of transportation for many recently arrived immigrants, particularly those speaking Spanish and African languages (e.g., Amharic, Twi).
LEP persons in these immigrant groups are highly reliant on Fairfax Connector to meet their daily transportation needs. Bus operators reported seeing many of the same LEP persons every day and did not believe that these individuals had access to other forms of transportation. NCS staff also stated that LEP persons in these immigrant groups rely on bus service to travel from one social services agency to another and to access their children's schools and other community resource centers.

Language assistance needs are greater among older individuals.
Most, although not all, of those who participated in the bus operator and supervisor focus group and Neighborhood and Community Service staff interviews believed that it was primarily older individuals (over age 50 or 55) that experience the greatest need for language assistance. While recently arrived immigrants of any age typically need language assistance, most interviewees reported that the older individuals from any language group were more likely to be LEP. Participants reported that older LEP individuals are also more likely to be illiterate in their native language.

Fairfax Connector needs materials translated into several Asian Languages for specific routes used by older individuals.
Bus operators and supervisors reported that they did not encounter a large number of East Asian (Korean, Mandarin Chinese, and Vietnamese) individuals with limited English proficiency in most areas of the County, with the exception of several routes in the Herndon/Reston area that serve affordable senior housing. Bus operators and supervisors reported that with these populations there is often both a language and cultural barrier and that some older individuals become very frustrated when they cannot communicate with bus operators.

A need exists for greater travel training education among LEP populations across the County.
Several of those interviewed expressed a belief that many LEP persons did not understand how to ride Fairfax Connector (how to determine the fare, pay the fare, read a route map or schedule, or reach their final destination). It was suggested that some LEP populations (particularly South Asian and Middle Eastern immigrants) may be more likely to use Fairfax Connector, if they have information on how to use the system in their native language. Several of the individuals who participated in the interviews suggested the use of video (in multiple languages) or in-person travel trainers to familiarize these populations with the use of Fairfax Connector.

Fairfax Connector operators and supervisors have difficulty dealing with LEP persons they encounter today.
Individual operators and supervisors have developed strategies for serving LEP customers that vary widely. If the person seeking assistance is Spanish speaking, they often ask another Spanish speaker on the bus that has a greater ability to speak English to assist. One operator mentioned that he uses an iPhone translation app, if he is picking up at a location where this is possible. Operators and supervisors reported significant challenges in assisting and communicating with passengers that are older and speak

East Asian languages. They also experience challenges serving passengers that speak one of the less prevalent foreign languages and individuals who are illiterate in their native language.

Factor 4: The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

In determining Factor 4, FCDOT analyzed the quantitative and qualitative results from Factors 1, 2, and 3 to assess the needs for language access services, as well as Fairfax County's financial and structural capacity to provide those services. With regard to the latter, FCDOT looked specifically at leveraging existing services and staff capacity, filling gaps, expanding services, and other measures necessary to ensure meaningful communication with LEP populations.

As part of these efforts, FCDOT examined the following strategies:

- Leveraging internal staff capacity for translation of certain documents.
- Developing community partnerships to provide translation services at events.
- Modifying Fairfax Connector bus rider surveys to collect data to better serve LEP populations.
- Creating highly visual area maps for bus operators to use with low-literacy and LEP passengers.
- Expanding an existing "travel training" program that can be modified for LEP populations.
- Expanding Fairfax County's existing language line contract to include FCDOT, which would allow LEP populations to speak to a telephone operator in their native language with FCDOT office staff about Fairfax Connector services. The language line will give FCDOT access to real-time translation over the telephone for more than 200 languages. FCDOT staff, including bus supervisors, call center staff, and Connector Store staff will be able to access the language line as needed.

As part of a larger effort to address Title VI populations, Fairfax County also will soon hire a new Civil Rights staff position. This staff person, slated to be hired in Summer 2014, will be tasked with overseeing and ensuring FCDOT's continued Title VI compliance, including the LAP, which will require inter-departmental communication and data collection related to the plan's performance measures. This staffer also will be responsible for creating an annual report that evaluates the effectiveness of the plan's outreach and services and suggest updates to the plan.

FCDOT is committed to providing language access resources that address the needs of the community and facilitate meaningful access to the County's public transportation services. However, the activities presented in the LAP reflect the considerations of needs balanced with the available budget for providing language assistance. The costs associated with these services are documented in the plan and will be covered by FCDOT.

Language Access Plan

FCDOT synthesized the results of Factors 1-4 to create a meaningful LAP that provides critical services to LEP populations in the Fairfax Connector service area. To ensure that LEP populations are notified of these services, each activity includes a marketing component as well as a measurement metric to be used when evaluating and updating the plan.

FCDOT **currently provides** the following language assistance services:

- **Interpretation**: FCDOT has access to FCDOT and other Fairfax County staff that can provide interpretation services for Spanish, Mandarin Chinese, and Vietnamese. For example, through the Silver Line Pilot Program (described in the Project Examples), Fairfax County Police Department's (FCPD) Language Support Services Unit was leveraged and can continue to be utilized to provide interpretation services at relevant Silver Line outreach events.
- **Website Translation**: Fairfax County, including FCDOT's web page, currently uses Google Translate to provide translation of its website into approximately 80 different languages.
- **Fares, Policies, and General Information:** This guide to Fairfax Connector is currently available in English and Spanish.
- **Service Information Flyers**: FCDOT typically translates 10 of the 20 to 30 flyers it produces annually into Spanish. Service information flyers are selected for translation based on the needs of the riders impacted by the individual service change.

As part of the Language Access Plan, FCDOT **will provide** the following additional language assistance services:

FCDOT will begin to translate vital documents, conduct LAP employee trainings, provide additional language assistance and language assistance notification, and establish a process for monitoring and updating the plan. A more detailed analysis – including cost, marketing, and timelines – can be found in the tables that follow the narrative below.

Materials and Notices Translations, Interpretation

FCDOT will provide the following materials and notices translation, advertisements, and interpretation services to a list of community organizations and agencies identified by the FCDOT Title VI outreach coordinator.

- ***Activity 1:*** Print and distribute bus schedules in Spanish.
- ***Activity 2:*** Provide highly visual area sector maps to bus operators/supervisors for helping passengers; this will be of particular utility in aiding low literacy and LEP populations.
- ***Activity 3:*** Expand the number of languages in which the Fares and Policies Brochure are printed from Spanish to the 10 languages identified in the LAP Factor 1 summary. [24]
- ***Activity 4:*** Print and distribute the Silver Line bus route changes brochure in Spanish.
- ***Activity 5:*** Post Title VI Notice and Complaint forms in FCDOT offices in the 10 languages identified in LAP Factor 1 summary
- ***Activity 6:*** Print and post Title VI Notice bus cards in Spanish in every vehicle in the Fairfax Connector fleet.
- ***Activity 7:*** Service information flyers: FCDOT produces about 25 flyers each year, which will be translated into the appropriate languages for the area impacted.
- ***Activity 8***: FCDOT will advertise in local ethnic newspapers and on radio stations (as applicable) in advance of service changes (approximately four times per year), supplemented with online ads on newspaper sites and targeted Facebook ads.
- ***Activity 9***: FCDOT will set up a Language Line phone number for the 10 languages identified in the LAP.

[24] These languages, by order of prevalence in Fairfax County, include: Spanish, Korean, Vietnamese, Chinese, Hindi and other Indic languages, African Languages (Amharic, Twi), Arabic, Urdu, Farsi, and Tagalog.

- ***Activity 10:*** Language assistance "tear sheets" that provide instructions on how to access language assistance services will be provided on buses.
- ***Activity 11:*** Continue to provide interpretation upon request at all public meetings, and use internal interpretation resources currently available (e.g., existing FCDOT staff resources).

Training and Events

FCDOT will provide language access training for staff and travel training, and community outreach to LEP communities:

- ***Activity 1*****:** Travel Training events for community based organizations and service providers (based on existing trainings, but modified with culturally appropriate materials and activities).
- ***Activity 2*****:** Pop-Up Events and Community Meetings with community partners and others who serve LEP populations in Fairfax County.
- ***Activity 3:*** Title VI staff training for planners, operators and supervisors.

Monitoring, Evaluating and Updating

Monitoring of the LAP implementation will occur through the ongoing compilation of performance and usage data, which will be assessed to evaluate how efficiently and effectively FCDOT is using its language assistance resources to reach LEP populations. Updating of the LAP will occur at the end of each fiscal year, when staff will review the data collected and the use of resources and outreach efforts by language through the monitoring and evaluation process. This information will be used to determine how many people FCDOT assisted or reached by each individual method. Staff responsible for the implementation of Title VI will work with FCDOT division chiefs to determine whether resources need to be shifted to reach individual LEP groups and the LEP population as a whole more effectively.

Activity 1: **Quarterly Data Collection (overseen by Title VI staff)**

- LEP materials downloaded from website, by document, by language
- LEP materials distributed by staff, by document, by language
- Calls to Language Line, by request type, by language
- Views of service change ads on Facebook, by language

Activity 2: **Annual Data Collection (overseen by Title VI staff)**

- Requests for interpretation, by event type, by language
- Feedback from bus operators and supervisors (materials, language requests, changes in encounters with LEP groups)
- LEP rider survey data (when survey data has been collected)
- Pop-Up Events and Community Meetings (number, type, attendance and languages represented)
- Title VI FCDOT Staff Trainings (number held, attendance)

Activity 3: Create an annual LAP report that summarizes the monthly and annual data monitored, changes in type of interactions by language, and results of bus operator focus groups and rider surveys. The report should also list FCDOT's language assistance strengths and weaknesses, new LEP outreach opportunities, and recommended updates to the LAP.

FCDOT Title VI staff will be responsible for providing clear guidelines for the data collection and performance monitoring that is needed to inform the plan's updating process, and will be in regular

contact with the relevant FCDOT staff to ensure that the collection process is going smoothly. Staff will also be responsible for organizing annual meetings or focus groups with bus operators and supervisors, as well as a yearly rider survey for high LEP population routes, to determine LEP needs. Staff will be responsible for aggregating LEP monitoring data received on a monthly basis and producing an annual LAP evaluation report.

Additional Opportunities for Increasing Language Assistance

Throughout the development of the Four Factor Analysis, a number of opportunities for FCDOT to increase interaction and level of assistance to LEP populations in conjunction with partner agencies were identified. While not a part of FCDOT's adopted LAP strategies, these opportunities are largely low- to no-cost and will be incorporated into language assistance activities over the next three years.

Perhaps most significant among these identified opportunities is beginning to work with **Fairfax County Public Schools**. Nearly half of all FCPS students (47%) live in a household where a language other than English is spoken, and FCPS enthusiastically welcomes the opportunity to partner with FCDOT to disseminate information on transit services and plans to the families that they serve. FCDOT could work with FCPS to accomplish the following:

- Translated vital materials (translated copies of bus schedules and Fares, Policies, and General Information Guide) can be provided to FCPS Community Liaisons to provide to LEP families as a part of the packet of community services information that is provided at school registration. Community Liaisons work with 7,500 families each school year that are newly arrived in Fairfax County and who do not speak English as their native language.
- FCDOT can request that FCPS place links to translated vital materials (translated copies of bus schedules and Fares, Policies, and General Information Guide) on the foreign-language areas of their website.
- The FCPS Office of Parent Engagement can include FCDOT as an exhibitor at the special events they hold that serve families of language minority children, including English as a Second Language (ESOL) family nights. FCPS Office of Parent Engagement has requested a meeting with FCDOT to discuss potential areas of future collaboration.
- FCDOT can provide information on how to use Fairfax Connector to FCPS for inclusion in their foreign-language television program, "In Other Words."
- FCPS has invited FCDOT to attend a monthly meeting of Parent Liaisons. FCDOT may wish to do this to familiarize the Parent Liaisons, who are foreign-language speaking parents that assist LEP parents in a variety of ways, with the new translated materials and language access strategies that FCDOT is implementing through the Language Access Plan.
- FCDOT can explore the potential of utilizing the resources available in the FCPS Language Services Department through an interagency memorandum of understanding.

FCDOT also has an opportunity to continue to maintain contact and collaboration with the **Neighborhood and Community Services** regional offices. NCS Region 3 assisted in the development of the Silver Line-related service changes outreach activities, ensuring that they successfully reached Title VI protected populations. NCS Region 4 has invited FCDOT to meet with their council of non-profit community organization executive directors to discuss transit service needs and current transit service studies. FCDOT may wish to provide translated vital documents to the NCS regional offices, as they serve many immigrant and LEP persons.

Finally, FCDOT should consider language assistance needs when budgeting for public involvement activities for planning studies. FCDOT has an obligation to provide meaningful language assistance across all agency activities. While interpretation is currently provided upon request, increasing the participation of LEP persons in public involvement may require providing interpretation as needed and implementing strategies identified in the Public Participation Plan that will increase the participation of LEP persons.

Table 29 FCDOT Language Access Plan Strategies

	Activities	Date	Marketing/Distribution	Measurement Tool
Hire and Train FCDOT Civil Rights Coordinator August 2014				
Materials and Notices Translations, Interpretation	***Activity 1:*** Print and distribute bus schedules in Spanish	July 2014	• FCDOT website • FCDOT social media • FCDOT buses • Connector Stores • Connector buses	• Number downloaded • Number distributed
	Activity 2: Provide highly visual area maps to bus operators/supervisors for helping passengers; this will be of particular utility in aiding low literacy and LEP populations.	August 2014	• Connector buses • Major transit nodes	• Bus rider survey (when survey has been done) • Feedback from bus operators and supervisors
	Activity 3: Expand the number of languages in which the Fares and Policies Brochure are printed from Spanish to the 10 languages identified in the LAP Factor 1 summary.	August 2014	• FCDOT website • FCDOT social media • FCDOT offices • Connector Stores	• Number downloaded, by language • Number distributed, by language
	Activity 4: Print and distribute the Silver Line bus route changes brochure in Spanish and English	July 2014	• FCDOT website • FCDOT social media • FCDOT offices	• Number downloaded • Number distributed
	Activity 5: Post Title VI Notice and Complaint forms in the 10 languages identified in LAP Factor 1 summary.	July 2014	• FCDOT website • FCDOT social media • FCDOT offices • Connector Stores	• Number downloaded, by language • Number posted, by language
	Activity 6: Print and post Title VI Notice bus cards in Spanish and English for every vehicle in the Fairfax Connector fleet. Cards also provide contact information for the 9 other Title VI languages.	August 2014	• Connector buses • Connector Stores • FCDOT offices	• Feedback from bus operators and supervisors • Number posted
	Activity 7: Service Information Flyers: FCDOT produces about 25 flyers each year, which will be translated the appropriate languages for the area impacted.	As needed	• FCDOT website • FCDOT social media • Targeted Facebook ads	• Number downloaded, by language • Number of Facebook views or clicks, by language
	Activity 8: FCDOT will advertise in local ethnic newspapers and on radio stations (as applicable) in advance of service changes (approximately four times per year), supplemented with online ads on newspaper sites and targeted Facebook ads.	As needed	• FCDOT website • FCDOT social media • Targeted Facebook ads as needed	• Number downloaded, by language • Number of Facebook views or clicks, by language • Number of ads, by language, by media
	Activity 9: FCDOT sets up a Language Line phone number for the 10	July 2014	• FCDOT website	• Calls by request type, by language

	Activities	Date	Marketing/Distribution	Measurement Tool
	languages identified in the LAP – this service will be based in the Fairfax County Office of Human Rights and Equity.			
	Activity 10: Language assistance "tear sheets" that provide instructions on how to access language assistance services will be provided on buses.	August 2014	• FCDOT website • FCDOT social media	• Number downloaded, by language • Number distributed by language • Bus rider survey • Feedback from bus operators and supervisors
	Activity 11: Continue to provide interpretation upon request at all public meetings, and use internal interpretation resources currently available (e.g., existing FCDOT staff resources).	July 2014	• Advertise availability of interpretation with meeting notices	• Number of requests for interpretation, per year, by language • Number of requests fulfilled, per year, by language
Training and Events	***Activity 1*:** Travel Training events for Community Based Organizations and service providers	4-6 events per year	• FCDOT website • FCDOT social media • Targeted Facebook ads as needed	• Events by type, by language • Event attendance, by language
	***Activity 2*:** Pop-Up Events and Community Meetings.	4-6 events per year	• FCDOT website • FCDOT social media • Targeted Facebook ads as needed	• Events by type, by language • Event attendance, by language
	Activity 3: Title VI FCDOT Staff Training for planners, operators and supervisors	Annually	N/A	• Staff training attendance • Number of trainings held
Monitor, Evaluate, Update	***Activity 1:*** Monthly Data Collection • LEP materials downloaded from website, by document, by language • LEP materials distributed by staff, by document, by language • Calls to Language Line, by request type, by language • Views of service change ads on Facebook, by language	Quarterly	N/A	
	Activity 2: Annual Data Collection • Requests for Interpretation, by event type, by language • Interpreters at public events, by event type, by language (include interpreters provided by partners) • Feedback from bus operators and supervisor (Materials, language requests, changes in encounters with LEP groups) • Rider Survey on selected high-LEP population routes	Annually	N/A	

	Activities	Date	Marketing/Distribution	Measurement Tool
	• Travel Training events for Community Based Organizations and service providers • Pop-Up Events and Community Meetings • Title VI FCDOT Staff Training			
	Activity 3: Annual LAP report that summarizes the data monitored, changes in type of interactions by language, and results of bus operator focus groups and rider surveys. The report should also list FCDOT's LAP strengths and weaknesses, new LEP outreach opportunities, and recommended updates to the LAP.	July 2015 (repeat annually)		

Table 30 FCDOT Language Access Plan Costs and Assumptions – FY2015 Estimate

Activities	Cost *(estimated per fiscal year)*	Assumption
	Materials and Notices Translations, Interpretation	
***Activity 1:* Print and distribute Spanish-language bus schedules**	• Translation: $5,100 • Printing: $4,713	*Bus Schedules (Source: FCDOT/Voiance)* • Spanish Translation: $68/schedule, 75 routes (Voiance) • Formatting: $100 (2 hours) • Printing 100,000 Spanish Schedules: $4,713
***Activity 2:* Provide highly visual regional sector maps to bus operators/supervisors for use in the field.**	• Already being printed by FCDOT	This cost was included in the FY2014 budget.
***Activity 3:* Print and distribute Fares and Policies Brochure in the 10 languages identified in LAP.**	• Translation: $3,229 • Printing: $3,500	*Fares & Policies Brochure (Source: FCDOT/Voiance)* • Existing Spanish Translation: $250 • Translation per language (non-Spanish): $331 • Printing: $350 per language
***Activity 4:* Print and distribute the Silver Line bus route changes brochure in Spanish**	• Translation: $46 • Printing: $247	*Service Information Flyer (Source: FCDOT)* • Spanish Translation: $46 • FCDOT Internal Formatting/Printing: $247/flyer
***Activity 5:* Post Title VI Notice and Complaint forms in Fairfax County DOT offices in the 10 languages identified in LAP**	• Translation: $721	*Vital Materials Translation (Source: FCDOT)* • Spanish Translation: $46 • Other languages (9): $75
***Activity 6:* Print and post Title VI Notice bus cards in Spanish for every vehicle in the Fairfax Connector fleet**	• Translation: $46 • Printing: $600	*Title VI Notice Bus Cards (Source: FCDOT/Voiance)* • Spanish Translation: $46 • Printing: $600

Activities	Cost *(estimated per fiscal year)*	Assumption
***Activity 7:* Service Information Flyers: FCDOT produces about 25 flyers each year, which will be translated the appropriate languages for the area impacted**	• Translation: $11,115 • Printing: $13,765	*Service Information Flyer (Source: FCDOT)* • Translation for Spanish, Chinese, Vietnamese (In-house, FCDOT): $25/hour • Translation per language (Not Spanish): $75 • Assumption: 25 flyers translated into Spanish • Assumption: 5 flyers each in Chinese, Korean, Amharic and Vietnamese ($400) • FCDOT Internal Formatting/Printing: $247 per flyer/per language
***Activity 8:* FCDOT will advertise in local ethnic newspapers and on radio stations (as applicable) in advance of service changes (approximately four times per year), supplemented with online ads on newspaper sites and targeted Facebook ads.**	Newspaper ¼ page Print Ad, 4x/year • Ad: $10,960 • Translation: $271 Newspaper Web Ad (1x/year) • Ad: $250 Radio (30 second ad, 1x/year) • Ad: $525 Targeted Facebook Ads (2x/year, per language) • Ad: $200 • Translation: $346	*Newspaper ¼ page Print Ad, 4x/year* • Washington Chinese: $1,200 (plus $50 translation fee) • Washington Hispanic: $4,560 • Zethiopia (Amharic): $1,000 • Korea Daily: $4,200 • Doi Nay (Vietnamese): To be determined *Newspaper Web Ad (1x/year)* • Washington Chinese: $200 ($50 translation fee) *Radio (30 second ad, 1x/year)* • El Zol (Spanish Language): $250 • 1120 AM (Amharic): $50 (plus $200 translation fee) • 1310 AM (Korean): $25 *Targeted Facebook Ads (2x/year, per language)* • $20/day, per language (5 languages) *Vital Materials Translation (Source: FCDOT)* • Spanish Translation: $46 • Other languages: $75

Activities	Cost *(estimated per fiscal year)*	Assumption

***Activity 9*: FCDOT sets up a Language Line phone number for 10 languages identified in the LAP.**	• Estimate: $5,000	*Language Line (Source: FCDOT, Fairfax County OHREP, Languageline.com)*
		• Spanish is $.90/minute, other languages $1.10/minute. Over 200 languages included
		• Fairfax County OHREP uses Language Line; their FY13 costs were $1,355; each language line call costs $95-$177.
		• Language Line offers immediate, over the phone translation services in the following three situations:
		  ○ A LEP individual visits the office in person. The office staffer calls language line. A language line representative answers the phone, and connects the staffer and the LEP individual with as live interpreter for the conversation.
		  ○ A LEP individual calls the office, indicating their native language. The office staffer calls language line to get a live interpreter for the conversation.
		  ○ A staffer places a call to an LEP person, first calling Language Line to have a live interpreter on hand when the LEP person picks up the phone.

***Activity 10*: Language Assistance TearSheets on buses (8 languages already available – need to translate two more)**	• Translation: $150 • Printing: $250	*Service Information Flyer (Source: FCDOT)* • Translations per non-Spanish languages: $75 • FCDOT Internal Formatting/Printing: $25 per flyer/language

Activities	Cost *(estimated per fiscal year)*	Assumption
	Training and Events	
***Activity 1:* Travel Training events for community based organizations and service providers.**	5 events/Year • Staffing: $6,000 • Materials: $2,145 • MATT bus: $1,500	• Staffing - $1,200 per event for four contracted event staff (3 hours including set-up and break down) • Staples/Home Depot Materials – $230 (one time cost), $383 (each event) • Planning - 15 hours staff planning time per event, one staff per event • MATT Bus: $100/hour, minimum 3 hours • Travel Trainer: 6 hours • Materials: Introduction to Transit (Book) • Staff Planning Time: 15 hour, 4 hours per event per staff member
***Activity 2*: Pop-Up Events and Community Meetings**	5 Events/Year • Staffing: $6,000 • Materials – $1,915	• Staffing - $1,200 per event for four contracted event staff (3 hours including set-up and break down) • Staples/Home Depot Materials –$400 (each event) • Staff Planning Time: 15 hours, 4 hours per event per staff member
***Activity 3:* Title VI FCDOT Staff Training**	Title VI Officer	The Title VI Officer will be responsible for conducting all FCDOT staff training on a semi-annual basis for all new employees.
Evaluation		
***Activity 1:* Monthly Data Collection**	Title VI Officer	The Title VI Officer will be responsible for all relevant data collection activities for the LAP.
***Activity 2:* Annual Data Collection**	Title VI Officer	The Title VI Officer will be responsible for all relevant data collection activities for the LAP.
***Activity 3:* Annual LAP Report, Updates to Language Access Plan**	Title VI Officer	The Title VI Officer will be responsible for compiling the annual LAP report and incorporating updates to the language access plan.
Contingency	• $5,113	The contingency will cover any additional costs incurred over the fiscal year that were not encompassed in this estimate.
Total Estimated Annual Cost	**$83,000**	

CHAPTER 2: SERVICE STANDARDS AND POLICIES

The Fairfax County Department of Transportation has developed transit service standards and policies to guide the equitable provision of service and amenities for Fairfax Connector. Chapter Two examines the factors FCDOT utilizes to analyze and monitor transit service standards: vehicle loads, service frequency (based on type of route), on-time performance, and service availability. Chapter Two also delineates the transit service policies, which were originally adopted in the 2004 Bus Stop Improvement Study. These policies cover the distribution of transit amenities, bus stop placement and spacing, the installation of shelters, benches, signage, and lighting, and vehicle assignments. Chapter Two concludes with a description of FCDOT's efforts to monitor service standards and the implementation of transit service policies, including the Major Service Change, Disparate Impact, and Disproportionate Burden Policies.

2.1 Transit Service Standards

Vehicle Loads

Analyzing vehicle loads helps to determine crowding levels on buses. The average vehicle load is the maximum number of people on board (seated and standing) averaged over the peak one-hour in the peak direction. The vehicle load factor is measured as the ratio of average vehicle load to seated capacity (load/seat ratio) during weekday a.m. peak, midday, and p.m. peak periods. Table 31 below presents the maximum acceptable vehicle loads based on a 1.25 load factors established by Fairfax Connector.

Table 31 Maximum Acceptable Vehicle Loads for 1.25 Maximum Load Factor

Vehicle Type	Seated Capacity	Optimal Standing Capacity	Maximum Achievable Capacity	Maximum Load Factor
40 foot bus	39	9	48	1.23
35 foot bus	30	7	37	1.23
30 foot bus	28	7	35	1.25

Service Frequency

Service frequency standards (headways and span of service) are determined based on the type of route. The Fairfax Connector service uses the following classification of routes:

Commuter/Express: Fixed route bus service provided solely in the peak/rush hour periods Monday-Friday, in the peak direction of travel, where the service predominately picks up passengers from either a neighborhood or collection point (park-and-ride lot or transit hub), and provides closed-door service for at least five miles along the route on a highway or major arterial. At least one Metrorail station or transit hub is served.

Local: Fixed route bus service usually provided Monday through Sunday, where the service is provided along local streets and roadways, where there is not only passenger activity at the start and end point of the route, but also boardings and alightings at stops along the route. Service typically runs all day or during off-peak times.

Feeder: Fixed route bus service typically provided Monday through Friday, where the service predominately picks up passengers from a neighborhood and/or collection point (park-and-ride lot,

transit hub, etc.), and service is provided to/from a Metrorail station or transit hub. Service may be provided all day or solely in the peak periods. 'Reverse-commute' type service may also be included in this category.

Cross County: Fixed route bus service typically provided Monday through Sunday, where the service is provided along mostly local streets and roadways, where the route is at least 15 miles long and serves at least two activity centers (transit hubs, major generators, etc.), where there is not only passenger activity at the start and end point of the route, but also between stops along the route. Service typically runs all day.

Circulator: Fixed route bus service provided at higher frequencies (i.e. less than 15 minutes) all day. Service is designed to facilitate movement to and from a Metrorail station or transit hub. At least one Metrorail station or transit hub is served.[25]

Based on these types of routes, the following service frequency guidelines have been established:

Span of service

a) Commuter/express – when possible, service should be provided Monday through Friday during morning and evening peak periods – early enough to connect to the first Metrorail train inbound to the District, and to the last train operated at frequent (six minute or otherwise) headways outbound from the District in the afternoon
b) Cross-County routes– service should begin, when possible, within the first hour of Metrorail service to last train outbound
c) All other routes – service should begin, when possible, within the first hour of Metrorail service to within two hours of the last train[26]
d) For other ridership generators/attractors – service should be as appropriate to serve demand

Headways[27]

a) During peak periods on weekdays (5:30 AM – 9:00 AM and 3:30 PM – 7:00 PM)
    a. Demand headways – not less than the rail headway and not more than twice the rail headway
    b. Policy headways – to the extent possible, not more than 30 minutes
b) During all other periods on weekdays and all day on Saturdays, Sundays, and holidays
    a. Demand headways – not less than twice the rail headway and not more than three times the rail headway
    b. Policy headways – to the extent possible, not more than 60 minutes
c) To the extent possible, clock-face headways will be operated[28]

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[25] Based on the Circulator definition for this analysis, Fairfax Connector does not currently have circulator routes in the Fairfax Connector system, but will have new circulator routes introduced following the Silver Line related service changes.

[26] When referencing the last Metrorail train, the Monday-Thursday Metrorail schedule will be utilized, as Metrorail operates extended service on Friday and Saturday. The Sunday Metrorail schedule will apply on that day of the week.

[27] A demand headway is determined by applying a loading standard to observed maximum loads to determine the number of trips per hour required to accommodate the observed loads without exceeding the loading standard. A policy headway is set by standard or policy and is applied when there is insufficient demand to justify demand headway(s).

On-Time Performance

For this analysis, on-time performance is defined as vehicle arrivals no more than one minute early or no more than five minutes late measured at the first and last time point on a route.

Service Availability

Service availability indicates whether a person resides within 1/4 mile of a bus route, either Fairfax Connector, Metrobus, or both. This is measured as an aggregate of how many people in the County have bus service available to them.

2.2 Transit Service Policies

Distribution of Amenities / Site Selection Methodology

Selection and distribution of new installations of amenities (e.g., bus shelters, benches, loading pads and trash receptacles) is based on the criteria as established in the bus stop guidelines adopted in 2004.

Site selection also plays a major role in the distribution of bus stops and pedestrian improvements. As part of the 2004 Bus Stop Improvements Study new scoring and improvement factors were established. The scoring standard is comprised of various factors (e.g., safety, potential ridership, and cost). Locations were scored as either high or low priority, and, in an effort to address sites with immediate needs, all locations scoring in the high priority category have been selected for first consideration for improvements.

Figure 6 Bus Stop Improvement Site Selection Prioritization Scoring
(Source: 2004 Bus Stop Improvement Study)

Configuration				Estimated and Potential Ridership	Additional Non-Transit Related Benefits	Cost for Improvements	Overall Score
Safety While Walking	Safety While Standing	Vehicular Safety	Combined Safety Score				
1 = Most Safe			1 = Most Safe	1 = Low existing and potential usage	1 = No clear benefit to the community	1 = High Cost – Over $100,000	1 = Low priority
5 = Least Safe			5 = Least Safe	5 = High existing and potential usage	5 = Clear benefit to the community	5 – Low Cost – Less than $1,000	5 = Action Recom-mended

Bus Stop Guidelines

The bus stop guidelines include bus stop spacing, bus stop facilities (shelters, benches, loading pad, signs, service information, lighting, bus bays).

Bus Stop Spacing

- *High density* (750-foot spacing) – primarily commercial with high concentration of employment, or with a population density of more than five people per acre.
- *Moderate density* (1,000-foot spacing) – population density of two to five people per acre.

[28] Fairfax Connector has been challenged to maintain clock-face headways due to fluctuating travel times and traffic patterns at different times of the day, but still tries to adhere to this principle as much as possible.

- *Low density* (spacing based on activity centers rather than distance) – population density of less than 2 people per acre.

Fairfax Connector generally follows these bus stop spacing guidelines; however, bus stop spacing is at times predicated on whether or not there is existing infrastructure that can be safely accessed by the general public (i.e., no obstructions, the presence of sidewalks or lighting, whether other accessibility requirements are met) as well as the operational ability of the bus to safely operate and serve a specific or pre-selected stop location.

Bus Stop Facilities

Guidelines for the provision of bus stop facilities are provided below. Bus Stop facilities include: shelters, benches, loading pads, bus stops signs, parking signs, customer information signs, lighting, and bus bays. Bus bench installation generally follows the 2004 guidelines; however, it has become clear that the demand for bus shelters far exceeds the demand for benches alone. Regardless, the provision of benches still is included as part of the improvement program and benches are added when a site location meets the criteria.

- **Shelters may be installed if any one of the conditions below is met:** [29]
    a. Stop is at transit center OR at park-and-ride lot
    b. Stop is at major activity center (boardings ≥100 per day) AND sufficient right-of-way for shelter is available
    c. Stop is on arterial street/major collector road (boardings ≥100 per day) AND sufficient right-of-way for shelter is available
    d. Stop is on arterial street/major collector road (boardings <100 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is available
    e. Stop is on minor collector road (boardings ≥100 per day) AND sufficient right-of-way for shelter is available
    f. Stop is on minor collector road (boardings <100 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is available
    g. Stop is on residential street (boardings ≥50 per day) AND sufficient right-of-way for shelter is available
    h. Stop is on residential street (boardings <50 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is available
    i. Stop is on residential street (boardings <50 per day) AND stop is in residential area AND no shelter exists on route within 1.0 mile AND sufficient right-of-way for shelter is available
    j. Stop is on rural road (boardings ≥25 per day) AND sufficient right-of-way for shelter is available
    k. Stop is on rural road (boardings <25 per day) AND stop is in rural area AND no shelter exists on route within 1.0 mile AND sufficient right-of-way for shelter is available

[29] Since the Bus Stop Guidelines were developed in 2004, a new bus shelter advertising program was initiated. These shelter locations are selected by the advertising contractor in areas where high potential for shelter advertising sales and revenue exists. However, the shelter guidelines above must still be met for a stop to be considered for a shelter.

- **Benches may be installed if any one of the conditions below is met:**
    a. Stop is at major activity center (boardings ≥100 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    b. Stop is on arterial street/major collector road (boardings ≥100 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    c. Stop is on arterial street/major collector road (boardings ≥100 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    d. Stop is on arterial street/major collector road (boardings <100 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    e. Stop is on minor collector road (boardings ≥100 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    f. Stop is on minor collector road (boardings <100 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    g. Stop is on residential street (boardings ≥50 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    h. Stop is on residential street (boardings <50 per day) AND stop is in high-density area AND no shelter exists on route within 0.5 mile AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    i. Stop is on residential street (boardings <50 per day) AND stop is in residential area AND no shelter exists on route within 1.0 mile AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    j. Stop is on rural road (boardings ≥25 per day) AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available
    k. Stop is on rural road (boardings <25 per day) AND stop is in rural area AND no shelter exists on route within 1.0 mile AND sufficient right-of-way for shelter is not available AND sufficient right-of-way for bench is available

- **Loading pad**
    a. Extending full length of bus(es) at transit center / park-and-ride lot
    b. Current bus loading pad specifications are 5'x8'[30]

- **Bus stop sign**
    a. Bus stop signs are installed at all locations with two design variations: local and regional (for stops jointly served by WMATA's Metrobus)

- **"No Stopping, Standing or Parking" signs**
    a. The Fairfax County code designates all bus stops are "NO Parking" Zones. The code[31] was amended in 2012 extending the length of the zone from a base of 30' to 70' feet, 60' feet on approach and 10' on departure in the bus stop area (Near-side, Mid-block and Far-side stops)

[30] The Fairfax Connector does not operate vehicles that deploy lifts at the rear doors, so FCDOT only designs bus loading pads to serve the front door ramp and kneeling systems.
[31] Fairfax County Code, Chap. 82-5-40 as amended.

- **Customer information displays (schedule, system map)**
    a. Fairfax County utilizes a variety of Customer Information display systems:
        i. Bus route Ride Information Guides (2-4 sided mounted display units) which contain schedule and individual system maps are installed at all transit stations (bus/rail) and park-and-ride lots where Fairfax Connector bus service operates and have designated service bays
    b. Bus System maps are installed in bus shelters at most transit stations that are primarily served by Fairfax Connector routes (Bus/Rail), and park-and-ride lots where Fairfax Connector bus service operates and has designated service bays

- **Lighting**
    a. Generally Fairfax Connector bus stops do not have specific lighting installed other than what currently exists along the roadway in accordance with Illuminating Engineering Society standards

- **Bus bay – to be considered if at least one of the conditions below is met:**
    a. The speed limit at the location is 45 miles per hour or higher
    b. The sight distance at the location is limited by horizontal or vertical curves
    c. The location is at the bottom of a steep grade
    d. Bus dwells due to passenger activity generally exceed 10 seconds
    e. When feasible, bus bays are located far side at signalized intersections to take advantage of traffic stream interruptions

Vehicle Assignment

Fairfax Connector's routes are assigned vehicles from three bus garages: Herndon, West Ox, and Huntington, based on the size of the bus and the capacity needed on the routes served. Buses are replaced at the end of their useful life in accordance with Fairfax Connector's fleet replacement plan. The Fairfax Connector has a comprehensive preventive maintenance and component replacement program which ensures a high level of vehicle reliability. The oldest vehicles in the Fairfax Connector fleet date to 2002 with 94 percent of the fleet having a manufacture date of 2007 or later. The Fairfax Connector fleet averages 4.8 years of age. All vehicles in the Fairfax Connector fleet are low-floor with the exception of the 17 vehicles manufactured in 2002. Fairfax Connector's current policy is to purchase only low-floor vehicles.

Table 32 Fairfax Connector Fleet Profile – June 2014

Year	Make	Size	Number	Low Floor?
2002	Orion	35'	7	No
2002	Orion	30'	10	No
2007	New Flyer	35'	16	Yes
2007	New Flyer	40'	52	Yes
2008	Orion	30'	26	Yes
2009	New Flyer	40'	45	Yes
2011	New Flyer	40'	68	Yes
2012	New Flyer	40'	20	Yes
2013	New Flyer	35'	15	Yes
2013	New Flyer	40'	19	Yes

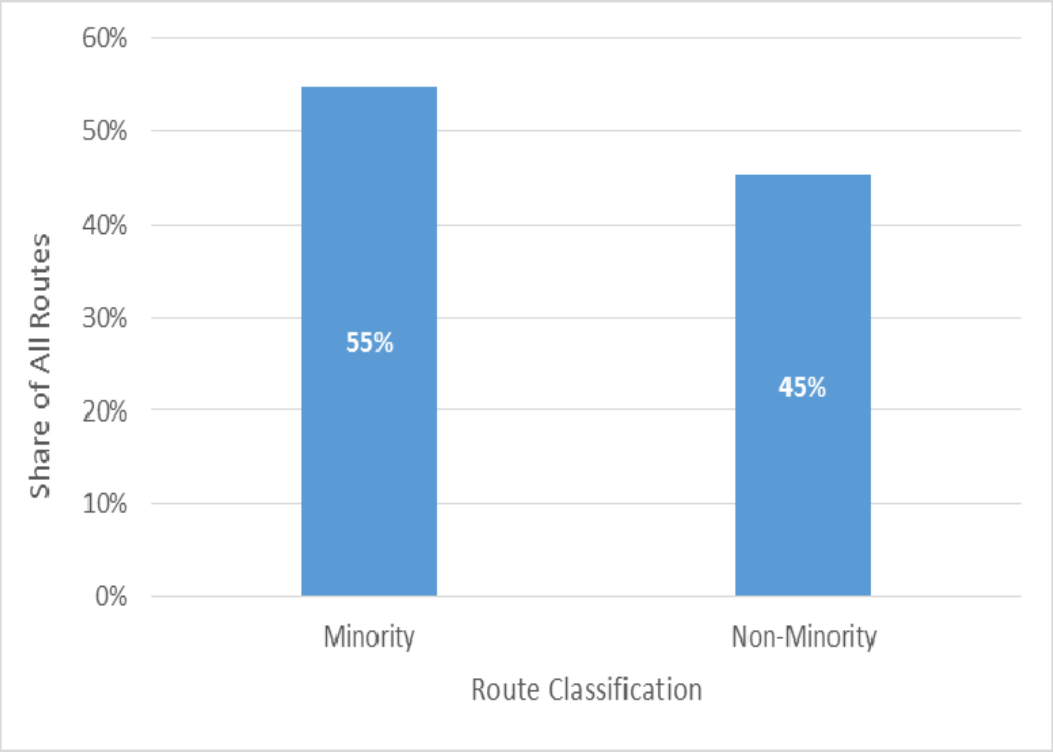
2.3 Transit Service Monitoring

Definition of Minority Routes

This section evaluates the performance of Fairfax Connector according to the service standards and policies set forth in Fairfax County's Title VI Program to ensure both transit service and transit amenities are equitably distributed across the service area, regardless of whether a route primarily serves minority or non-minority neighborhoods. The FTA defines a minority bus route as one where one third or more of the route's revenue miles fall within a minority Census Block. Forty-five and six tenths (45.6) percent of Fairfax County's population is minority, which means any Census Block where 45.6 percent or more of the population is minority is considered a minority Census Block.

An initial GIS analysis identified minority routes by the percentage of each route's revenue miles that intersect minority Census Blocks. The FTA's definition of minority routes was applied to all routes except those that run along a highway or are limited stop to the route destination. Using this definition, 28 routes were classified as minority routes. Additionally, express and limited stop routes were reviewed individually and as a result of this second process an additional 12 routes were classified as minority routes. Ultimately 40 routes, or 55 percent of Fairfax Connector's 73 routes are considered minority routes and 33 routes, or 45 percent are considered non-minority. The final classification distribution is depicted in Figure 7.

Figure 7 Distribution of Minority Routes



The FTA requires FCDOT to evaluate its defined standards and policies to ensure service equity between minority and non-minority routes. The following are the standards and policies that FCDOT has measured for each of its routes:

Standards

- Vehicle load
- Vehicle headway
- On-time performance
- Service accessibility

Policies

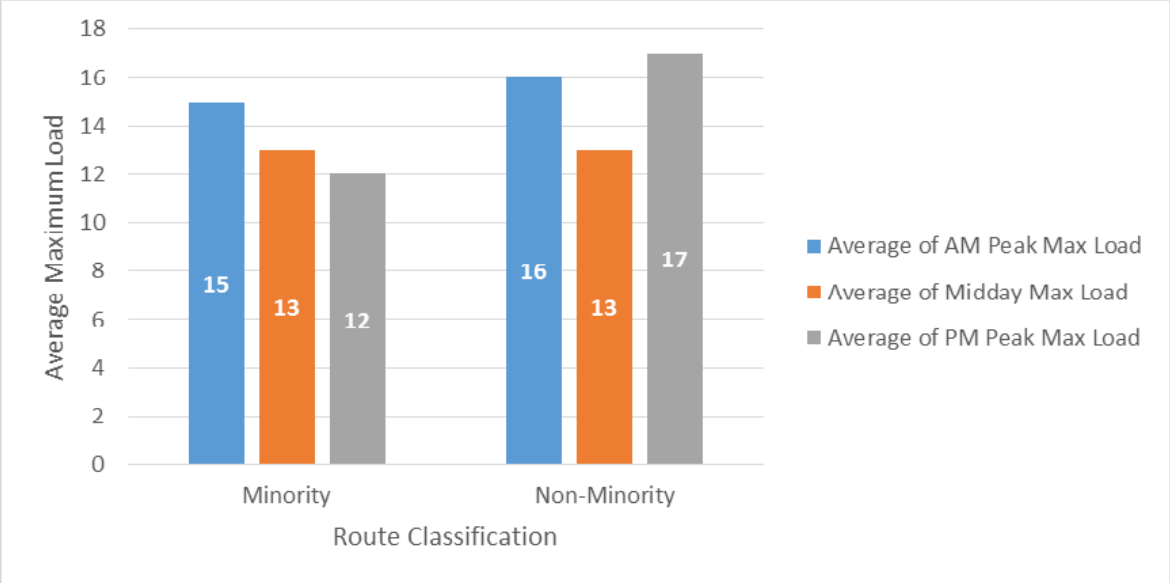
- Vehicle assignment
- Distribution of transit amenities

Evaluation of Transit Service Standards

Vehicle Load

The vehicle load metric is used to determine if a bus is overcrowded. A vehicle load is the average maximum number of people seated and standing during the peak one-hour in the peak direction. Vehicle passenger load is measured by the average load and the ratio of average load to seated capacity (load/seat ratio) during weekday am peak, midday, and pm peak periods. Data for this measure was taken from ridechecks conducted in Fall 2013, when available; when 2013 data was not available, 2008 ridecheck data was used in its place. Figure 8 shows that non-minority routes are slightly more crowded than minority routes for all time periods evaluated, however the average maximum loads for both route classifications are well below the number of seats available on the bus.

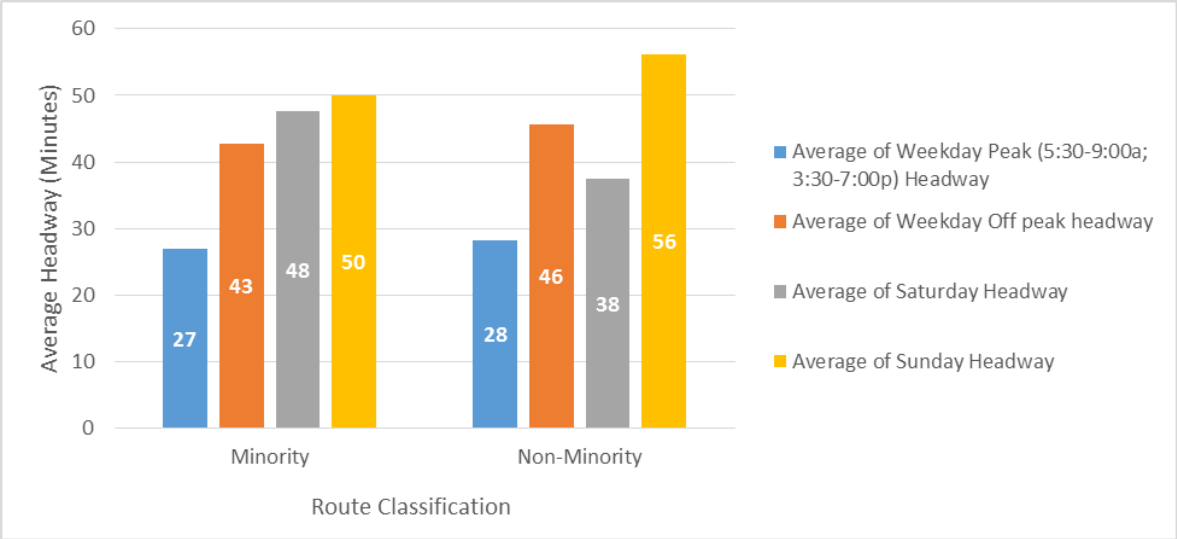
Figure 8 Weekday Average Maximum Loads



Service Headways

Headway by time of day for both weekday and weekend service is a measure of the level of service of a bus route. Figure 9 illustrates the variation in service headways by day of week and time of day for minority and non-minority routes. Route-level headway information was summarized by the time period and averaged across all minority and non-minority routes. During the weekday peak period, minority routes are served by headways that are more frequent than non-minority routes. The average weekday off-peak headway for minority routes is also more frequent than non-minority routes. Saturday service headways are more frequent for non-minority routes when compared to minority routes. Finally, Sunday service has more frequent headways for minority routes as compared to non-minority routes. Overall, there is not a significant difference in service frequency between minority and non-minority routes.

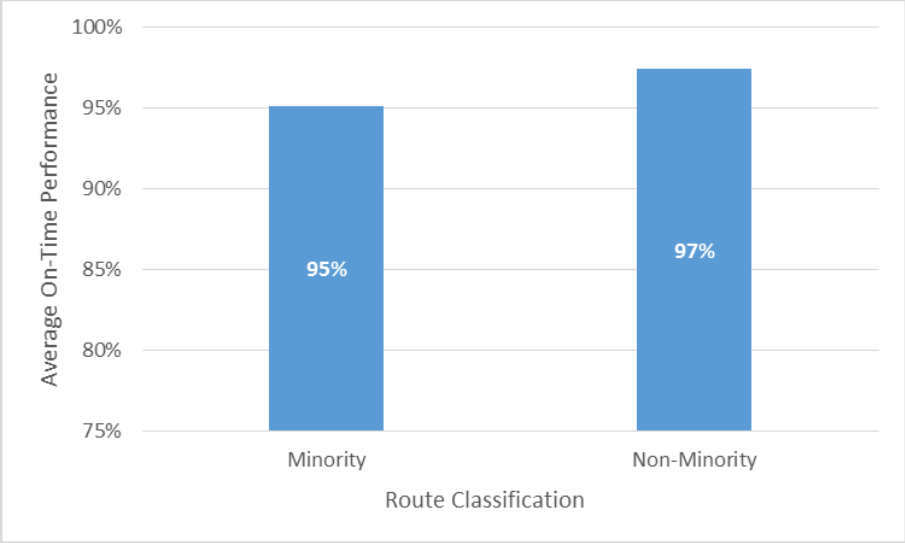
Figure 9 Service Headways



<u>On-Time Performance</u>

The on-time performance of a route is an indicator of service reliability. Fairfax Connector's on-time performance data is derived from dispatch radio logs by bus garage as reported throughout the day for each bus route. Bus supervisors monitor trip delays for each route and Fairfax Connector staff summarize the percentage of trips observed that arrive on-time each month. On-time performance was evaluated for all routes over four sample months in 2013: April, May, September and October. Figure 10 shows that non-minority routes experience slightly better on-time performance than minority routes.

Figure 10 On-Time Performance



Service Availability

Service availability measures the percentage of the population within the County that is served by either Fairfax County Connector, Metrobus, or by the combination of both Connector and Metrobus. As shown in Table 33, 60 percent of the minority population in the County lives within walking distance (one quarter of a mile) of a Connector bus route, 45 percent within walking distance of a Metrobus routes. A combined 80 percent of minorities live within walking distance of either a Connector or Metrobus route. Fairfax County does not require an absolute share of the minority population that must be served by bus transit, however the County standard is that the share of non-minority population with access to transit cannot be higher than the share of minority population with access to transit. Table 33 also shows the percentage of non-minority population that lives within walking distance of transit. Overall the percentage of minorities within walking distance to transit services is higher than the percentage of the non-minority population.

Table 33 Population Service Availability

	Minority Served	Minority County	Minority Percent	Non-Minority Served	Non-Minority County	Non-Minority Percent
Connector	293,981	489,942	60%	277,928	588,177	47%
Metrobus	219,206	489,942	45%	209,778	588,177	36%
All Bus Transit	390,941	489,942	80%	381,195	588,177	65%

Transit Service Policies

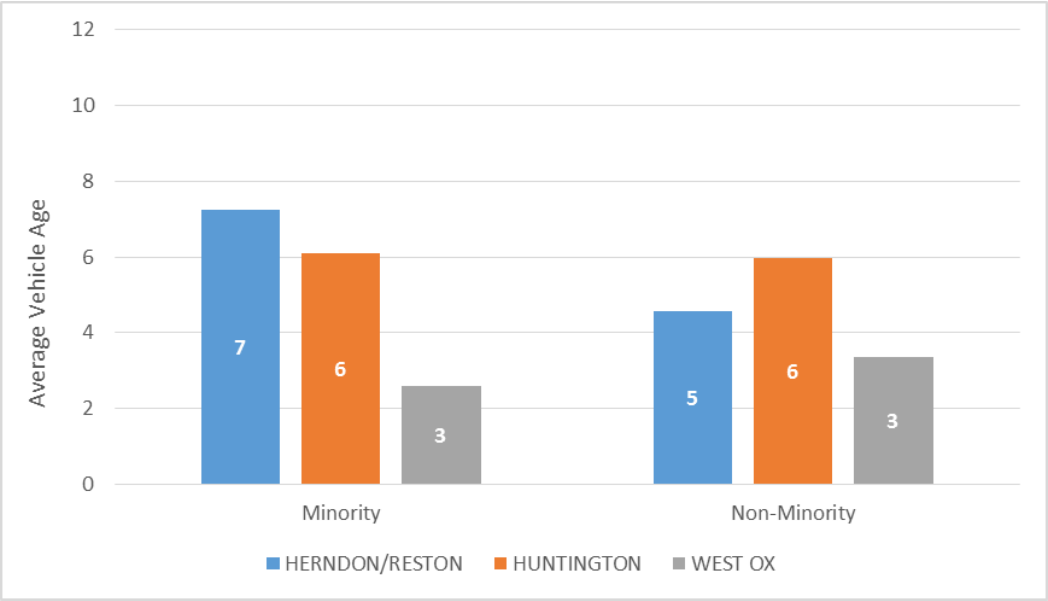
Vehicle Assignment: Fairfax Connector generally assigns vehicles to routes from three operating divisions as follows: North County service area (Reston-Herndon Division), Central service area (West Ox Division), and South County service area (Huntington Division). Specific bus types and sizes from each operating division are assigned to routes based on the capacity needed for each route and road or service area geometry. For example, Fairfax Connector only uses 30-foot buses on RIBS routes in Reston. Additionally, there are limitations that dictate where certain vehicles can be housed. For example, the Huntington division does not have the capability to dispense Diesel Exhaust Fluid (DEF). DEF works as part of the engine manufacturer's emission treatment systems and is required in vehicles with diesel engines manufactured in 2010 and newer to meet Environmental Protection Agency (EPA) emission standards. The Huntington division fuel and wash lane construction project is currently underway and will provide for DEF storage and distribution. Completion of this project in Fall 2014 will allow assignment of 2010 and newer buses to the Huntington division.

Figure 11 shows the average age of vehicles used for minority and non-minority routes. Fleet assignment is estimated based on the average age of vehicle by size and cross-referenced by the vehicle assignment for each route; therefore the average age presented in Figure 11 is an estimate based on the fleet assignment and is not an actual reflection of the age of the exact vehicle assigned to each route.

Buses serving non-minority routes from the Herndon/Reston division are on average two years newer than buses serving minority routes. Note: In 2015, all 2002 high floor buses located at the Reston-Herndon division will be replaced with new buses, further reducing the average fleet age and that of the buses assigned to minority routes from this division.

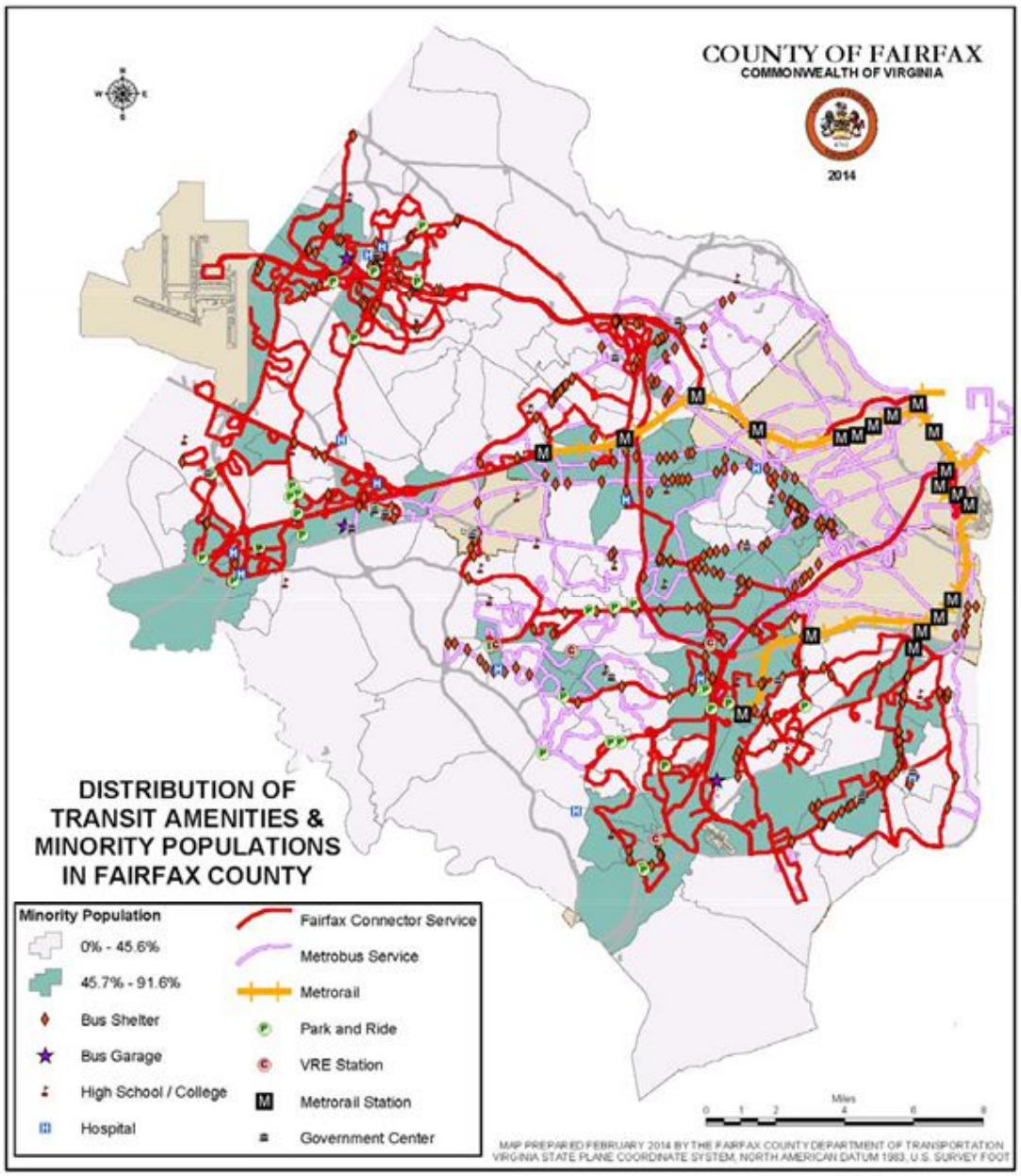
There is no difference in average vehicle age for buses serving minority and non-minority routes from the Huntington and West Ox divisions. Buses housed at the West Ox division are on average three years newer than buses at the Huntington division due to the current limitations of the Huntington garage noted above.

Figure 11 Average Age of Vehicles



Transit Amenities: The map in Figure 12 shows the location of Fairfax Connector's amenities, including park-and-ride facilities, connections to Metrorail and Virginia Railway Express (VRE) stations, and bus shelters and bus garages, relative to locations of minority and non-minority populations. The map also illustrates where community facilities such as hospitals and schools are relative to Fairfax Connector bus routes and Metrobus routes, as a way of indicating ease of access by bus to these critical destinations.

Figure 12 Distribution of Transit Amenities



The map in Figure 12 clearly illustrates that transit amenities are equitably dispersed throughout the Fairfax Connector service area. Areas with high concentrations of minority populations generally have comfortable and safe access to a variety of transit options, including Fairfax Connector, Metrobus, Metrorail, and VRE, which provide convenient access to schools, hospitals, and government and employment centers.

2.4 Major Service Change, Disparate Impact, and Disproportionate Burden Policies

In accordance with the requirements of FTA Circular 4702.1B, *Title VI Requirements for Federal Transit Administration Recipients*, FCDOT must establish policies for what constitutes a major service change, disparate impact, and disproportionate burden for use in future service equity and fare equity analyses.

The use of these policies to evaluate proposed service and fare changes prior to implementation is designed to determine whether those changes will have a discriminatory impact based on race, color, or national origin.

A major service change is a numerical threshold in change of service that determines when changes are large enough in scale for the individual transit system to require a subsequent service equity analysis.

FTA C 4702.1B defines disparate impact and disproportionate burden as follows:

> "The transit provider shall develop a policy for measuring **disparate impacts**[32]. The policy shall establish a threshold for determining when adverse effects of service changes are borne disproportionately by minority populations. The disparate impact threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by minority populations compared to impacts borne by non-minority populations. The disparate impact threshold must be applied uniformly, regardless of mode, and cannot be altered until the next Title VI Program submission." (FTA C 4702.1B, Chap. IV-13)
>
> "The transit provider shall develop a policy for measuring **disproportionate burdens**[33] on low-income populations. The policy shall establish a threshold for determining when adverse effects of service changes are borne disproportionately by low-income populations. The disproportionate burden threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by low-income populations as compared to impacts borne by non-low-income populations. The disproportionate burden threshold must be applied uniformly, regardless of mode." (FTA C 4702.1B, Chap. IV-17)

Title VI Policies

The major service change, disparate impact, and disproportionate burden policies of Fairfax County Department of Transportation are as follows:

<u>Major Service Change</u>

A major service change is defined as either an increase or a decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.

Major Service Change Key Definitions
Daily Revenue Service Hours: The number of hours a bus operates while carrying paying passengers.
Revenue Service Miles: The number of mile a bus operates while carrying paying passengers.

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[32] Emphasis added.
[33] Ibid.

Disparate Impact

A disparate impact occurs when the difference between the system-wide percentage of minority riders and the percentage of minority riders affected by a proposed service change or fare change is 10 percent or greater.

Disproportionate Burden

A disproportionate burden occurs when the difference between the system-wide percentage of low-income riders and the percentage of low-income riders affected by a proposed service change or fare change is 10 percent or greater.

Major Service Change, Disparate Impact, and Disproportionate Burden Policy Development

The major service change, disparate impact, and disproportionate burden policies were drafted collaboratively by FCDOT staff. A variety of informational items and data were used in the determination of these draft policies:

- Policies in place at peer transit agencies in the Washington, D.C. metropolitan area and across the United States.
- Data availability and ease of application to determine when a major service change is proposed.
- Census data analysis on the demographic and socio-economic composition of the population living within a quarter mile of a Fairfax Connector route.
- Ridership survey data collected in 2008.

The major service change policy reflects the availability of daily revenue service miles and hours and consideration of the types of service that is offered by Fairfax Connector. Revenue service hours and revenue service miles were both included in the major service change policy due to the different types of service offered by the Fairfax Connector; some Fairfax Connector routes run for short periods of time over long distances, while other routes run for many hours in revenue service but operate over a small geographic area.

The disparate impact policy was developed using a comparative analysis of the proportion of the population that is minority at the route-level for the entire Fairfax Connector system. This was done through an analysis of 2010 Decennial Census data in geographic information system (GIS) software that extracted the raw minority population and the total population living within a quarter mile of each Fairfax Connector route. This data for each route, and the system as a whole, was then examined to determine a threshold level that would likely result in meeting FTA's Title VI Circular's intent of establishing policies that are simultaneously not so high that they would never identify impacts and not so low that they would always identify an impact.

The disproportionate burden policy was developed through a comparative analysis of the proportion of households that are low-income in the Census tracts that are served by Fairfax Connector. The definition for low-income households used for this analysis was all households below 50 percent of the area median income, or all households with an income of $53,650 or less. This is the same definition used by the Fairfax County Department of Housing and Community Development.

Census tracts with a median household income at or below 50 percent of the area median income were identified as low-income census tracts. The proportion of households located within one quarter mile of

each Fairfax Connector route for low-income Census tracts that intersect with each Fairfax Connector route was determined through the use of geographic information system software. The data for each route and the system as a whole was then examined to determine a threshold level that would likely result in meeting FTA's Title VI Circular's intent of establishing policies that are simultaneously not so high that they would never identify impacts and not so low that they would always identify an impact.

Major Service Change, Disparate Impact, and Disproportionate Burden Public Comment

A public comment period on the definition of a major service change and the thresholds for disparate impact and disproportionate burden was held from February 28 to March 30, 2014. The proposed policies were posted to the Fairfax Connector website including a detailed description of the policies and how they will be used and a PowerPoint presentation on the policies. The public comment period was advertised on the Fairfax Connector website, social media (weekly posts were made to the Fairfax Connector's Facebook page and Twitter feed during the comment period), and through the ConnectorInfo email listserv. Fairfax Connector also held two focus groups for invited community-based organizations co-hosted with the Office of Human Rights and Equity Programs to solicit feedback directly from community stakeholders serving minority, low-income, and limited English proficient populations. Members of the public were invited to provide public comment to FCDOT by U.S. Mail as well as by electronic mail. A single comment was received during the public comment period.

Focus Groups

One of the focus groups was held in the at the South County Government Center on Richmond Highway (U.S. Route 1) and a second focus group was held in the Southgate Community Center in Reston (Table 34). Each focus group began with a 30 minute presentation that provided an overview of Fairfax County DOT's Title VI Program development process and explained the proposed disparate impact and disproportionate burden and major service change policies and how they would be applied. The second half-hour of each focus group time was spent in a facilitated discussion with participants on their views on the proposed policies.

Table 34 Title VI Focus Group Locations

Focus Group	Location	Date and Time
South County	South County Government Center Conference Room 221 A/B 8350 Richmond Highway Alexandria, VA 22309	Friday, March 14, 2014, 10:30-11:30am
North County	Southgate Community Center 12125 Pinecrest Road Reston, VA 20191	Thursday, March 20, 2014, 10:30-11:30am

The Office of Human Rights and Equity Programs invited 18 organizations to the South County focus group and 20 organizations to North County focus group. The following organizations sent representatives to attend the focus groups:

Table 35 Title VI Focus Group Attendees

South County Focus Group Attendees	North County Focus Group Attendees
Lorton Action Community Center	Cornerstones, Inc.
United Community Ministries	Asian Community Service Center

While just four organizations participated in the focus groups, those that did participate provided substantive feedback and gained an understanding of how FCDOT developed and will apply the disparate impact and disproportionate burden policies.

South County Focus Group Discussion Summary

Participants at the South County focus group felt that the disparate impact and disproportionate burden thresholds should be structured so that major service changes to the Fairfax Connector routes serving U.S. Route 1 will be captured. There is very low car ownership in the neighborhoods that surround the U.S. Route 1 corridor, and this area of Fairfax County has a relatively high proportion of low-income households. There was also a desire that while low-income persons are not a protected class of individuals under Title VI, that FCDOT pay particular attention to the needs of all low-income persons, including low-income Caucasian persons. Both organizations reported that the clients they serve often have difficulty paying for their bus fare, but that they rely on public transportation as their primary form of transportation. Focus group attendees also discussed other general transportation needs on U.S. Route 1 and were interested in maintaining contact with FCDOT in regard to future service changes and safety improvements to the corridor.

North County Focus Group Discussion Summary

At the North County focus group, the participants asked questions about how the income data used in the determination of disproportionate burden was obtained and about the threshold for defining low-income. The participants expressed a belief that an increase in fares due to service changes constitutes an adverse impact that needs to be captured in this analysis; specifically, they were concerned about the planned Fairfax Connector service changes that will be a part of the opening of Metrorail's Silver Line which will shift some trips from bus to rail, a more expensive mode. Cornerstones, in particular, serves many low-income individuals, and they were concerned about the impact this would have on the lives of their clients. Focus group attendees also discussed the particular transportation concerns and needs of the communities that they serve or represent as well as issues related to language access and public participation.

Public Comments

The following public comment on the proposed Title VI policies was submitted via email to FCDOT:

> "As integrated as Fairfax is why do we include language about impact to minorities. The language for a cost increase or route change should only address low-income, because that is the real issue for fair (*sic*) changes and route changes anymore. We are wasting time and resources addressing how these changes affect minorities anymore.
>
> Best regards
> Citizen for effective and fair government"

FTA C 4702.1B requires that FCDOT identify disparate impacts on minority communities and determine ways to avoid, minimize, or mitigate the impact if a disparate impact is found. FCDOT can only

implement a proposed change that results in a disparate impact, if substantial legitimate justification exists and there are no alternatives meeting the same legitimate objectives. FCDOT is committed to adequately addressing any adverse impacts that result in a disproportionate burden to low-income communities.

Adverse Effect Definition

FTA C 4702.1B also requires that "adverse effects" of major service changes be defined and utilized in the analysis of any proposed major service changes. However, these definitions are not included in the required public review for the major service change, disparate impact, and disproportionate burden policies. For FCDOT an adverse effect occurs in the following cases:

- *New or Additional Service* – Should only be considered a potential adverse effect if other service was eliminated to release resources to implement it.
- *Headway Changes* – Should only be considered a potential adverse effect if the headway(s) increase by at least 20 percent.
- *Alignment Changes* – Should only be considered a potential adverse effect if at least 15 percent of the alignment eliminated or modified.
- *Span of Service Changes* – Should only be considered an adverse effect if span of service decreases by 10 percent.
- *Eliminated Service* – Should always be considered to have an adverse impact.

FCDOT shall consider the degree of the adverse effects, and analyze those effects, when planning major service changes. Where warranted and if feasible, FCDOT may take steps minimize the impacts of any adverse effects.

Conclusions

Fairfax County Department of Transportation has taken the opportunity of the development of this Title VI Program to closely examine programs and policies in place to serve the minority, LEP, and low-income communities in the County. As a result of this effort, Fairfax County has a new awareness of these communities, where they reside, what languages they speak, and what strategies it can use to communicate effectively with them. Indeed, the County has developed and adopted new policies to provide more accessible and relevant information to, and public involvement opportunities to obtain input on transit services and planning from, *all* members of the public. The County has also adopted new Major Service Change, Disparate Impact, and Disproportionate Burden policies that will govern future transit service change decisions. Within the next few months, FCDOT will hire a new civil rights position that will be dedicated to Title VI Program oversight, compliance, and coordination within FCDOT and with other County agencies. Throughout the life of this Title VI Program, FCDOT will continue to refine its data collection procedures, public outreach efforts, and work to create enduring partnerships with Community Based Organizations that represent minority, LEP, and low-income communities. This Title VI Program will provide the foundation for future decisions with regard to the provision of transit services, planning processes, and public involvement.

APPENDIX: MAPS OF LINGUISTICALLY ISOLATED POPULATIONS IN FAIRFAX COUNTY BY LANGUAGE

Map Note: All of the maps were prepared using U.S. Census Bureau, American Community Survey, 2008-2012, five-year estimates, data. Linguistically isolated populations were identified as those who speak English less than "very well." Data was analyzed at the tract level of Census geography.

These maps indicate that current transit routes traverse areas with relatively high concentrations of linguistically isolated Chinese, Korean, Spanish, and Vietnamese speakers. In general, census tracts with linguistically isolated households are clustered around transit, including not only Fairfax Connector but also service provided by WMATA.

Figure 1 Concentration of Linguistically Isolated Households (Percent of Total) in Fairfax County

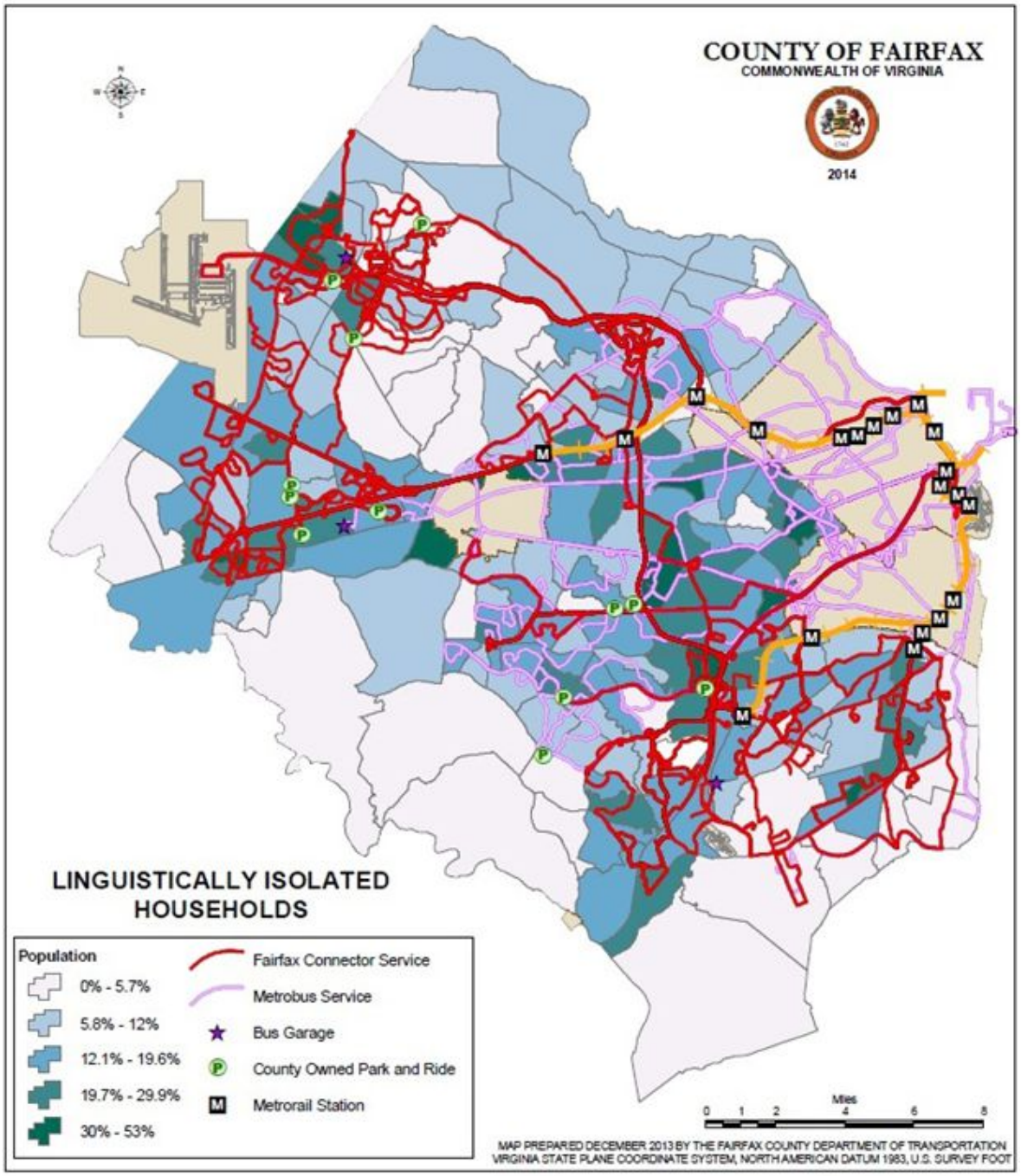


Figure 2 Linguistically Isolated Households in Fairfax County – Arabic

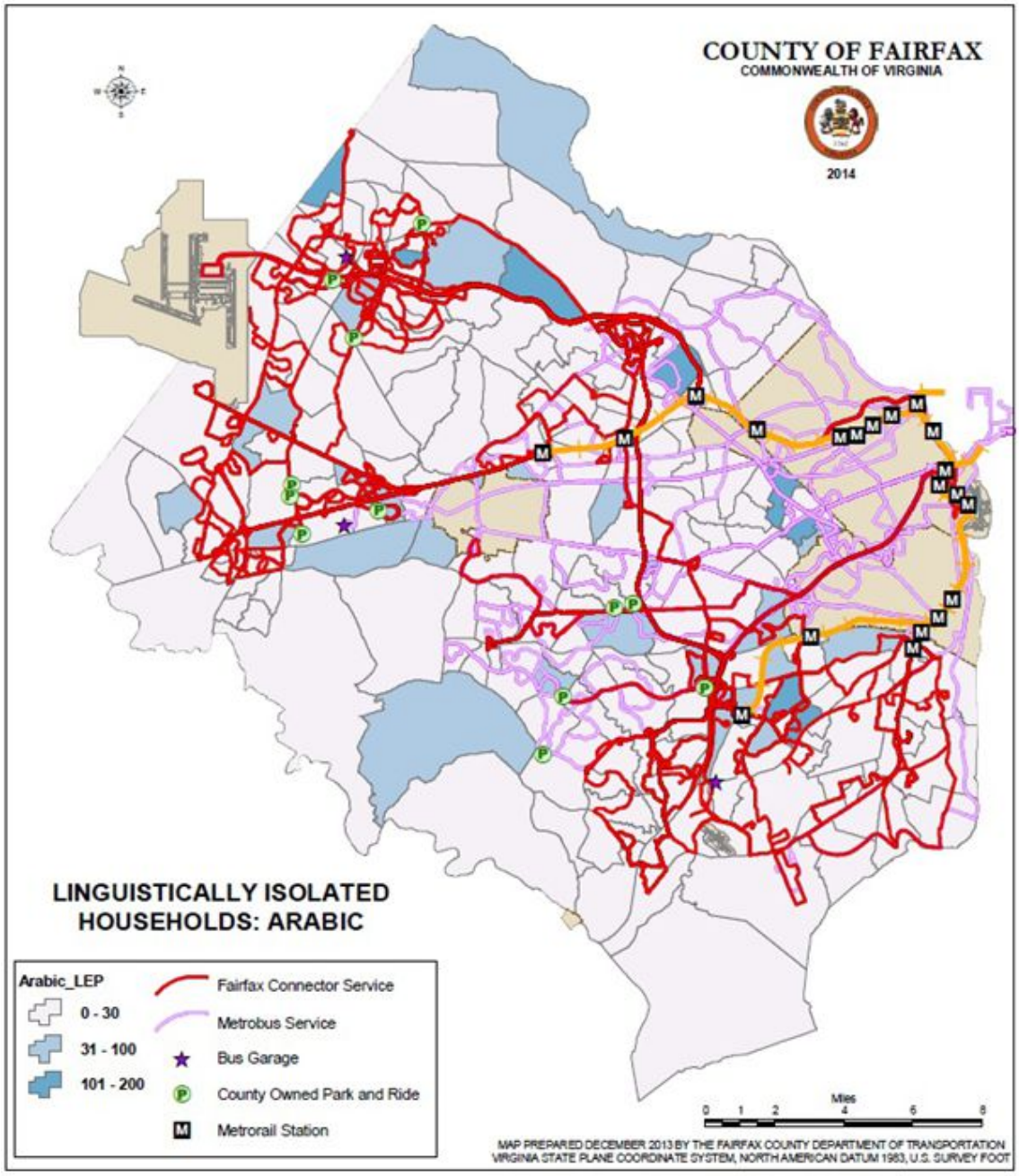


Figure 3 Linguistically Isolated Households in Fairfax County – African Languages

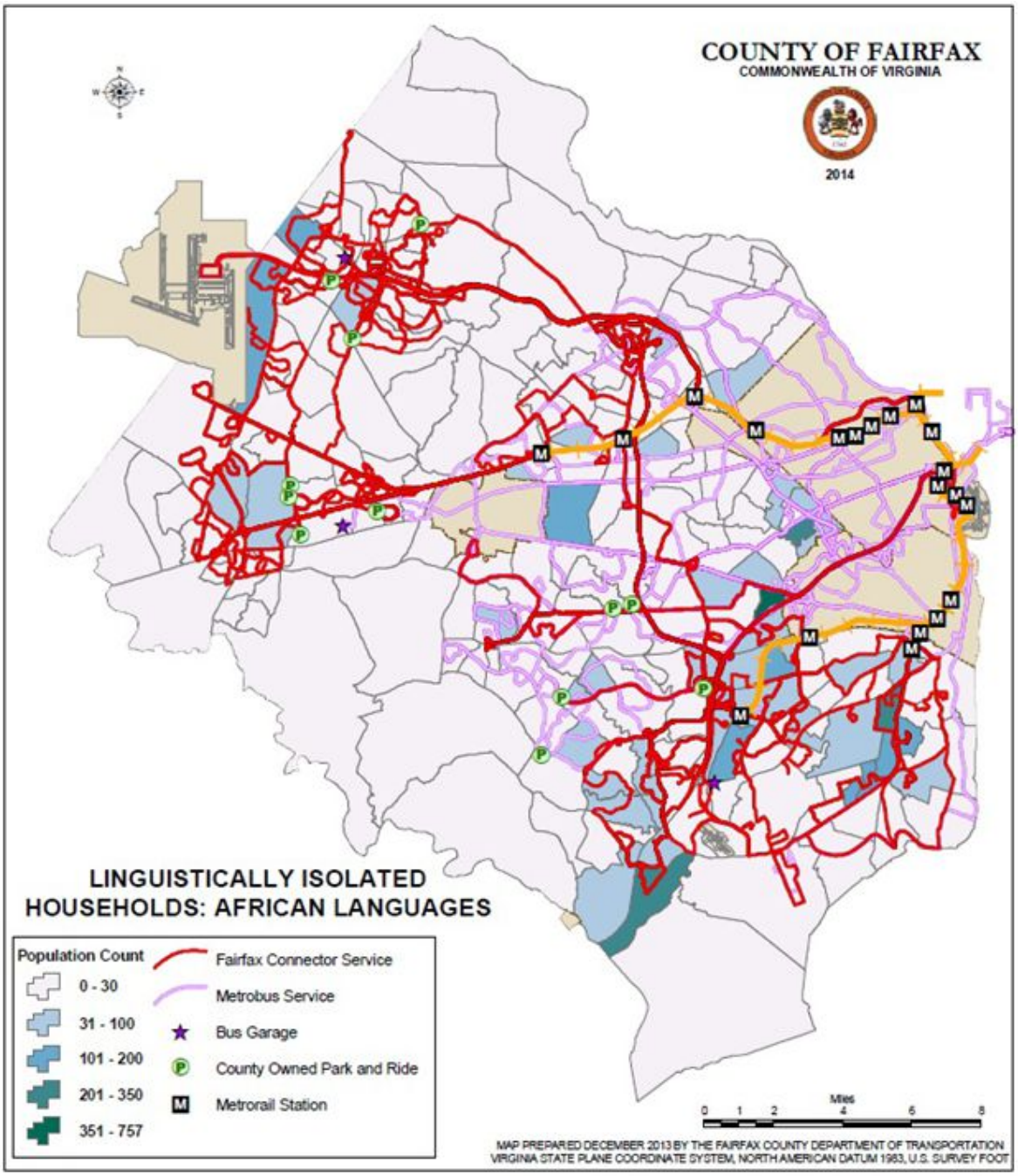


Figure 4 Linguistically Isolated Households in Fairfax County – Mandarin Chinese

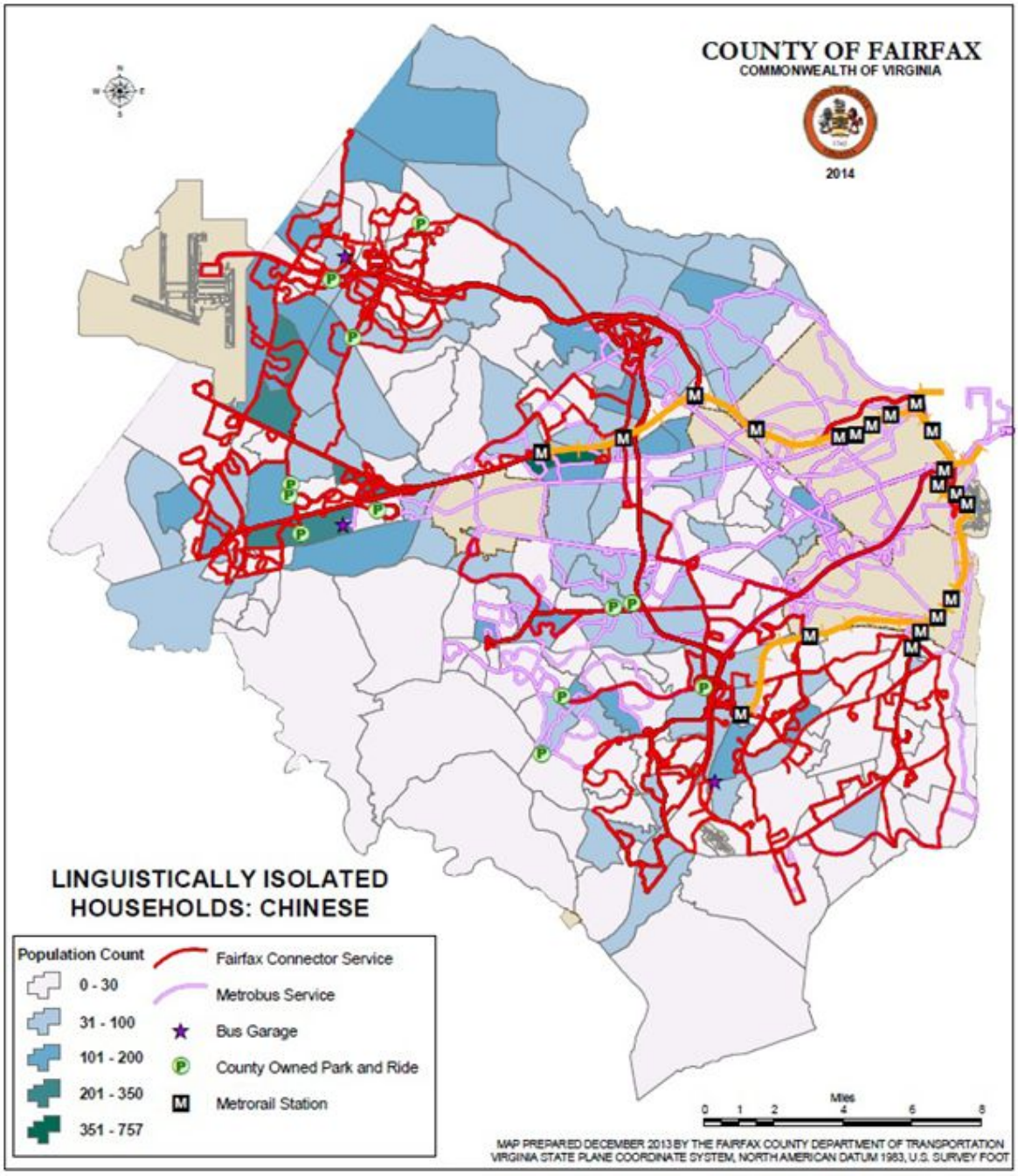


Figure 5 Linguistically Isolated Households in Fairfax County – Farsi (Persian)

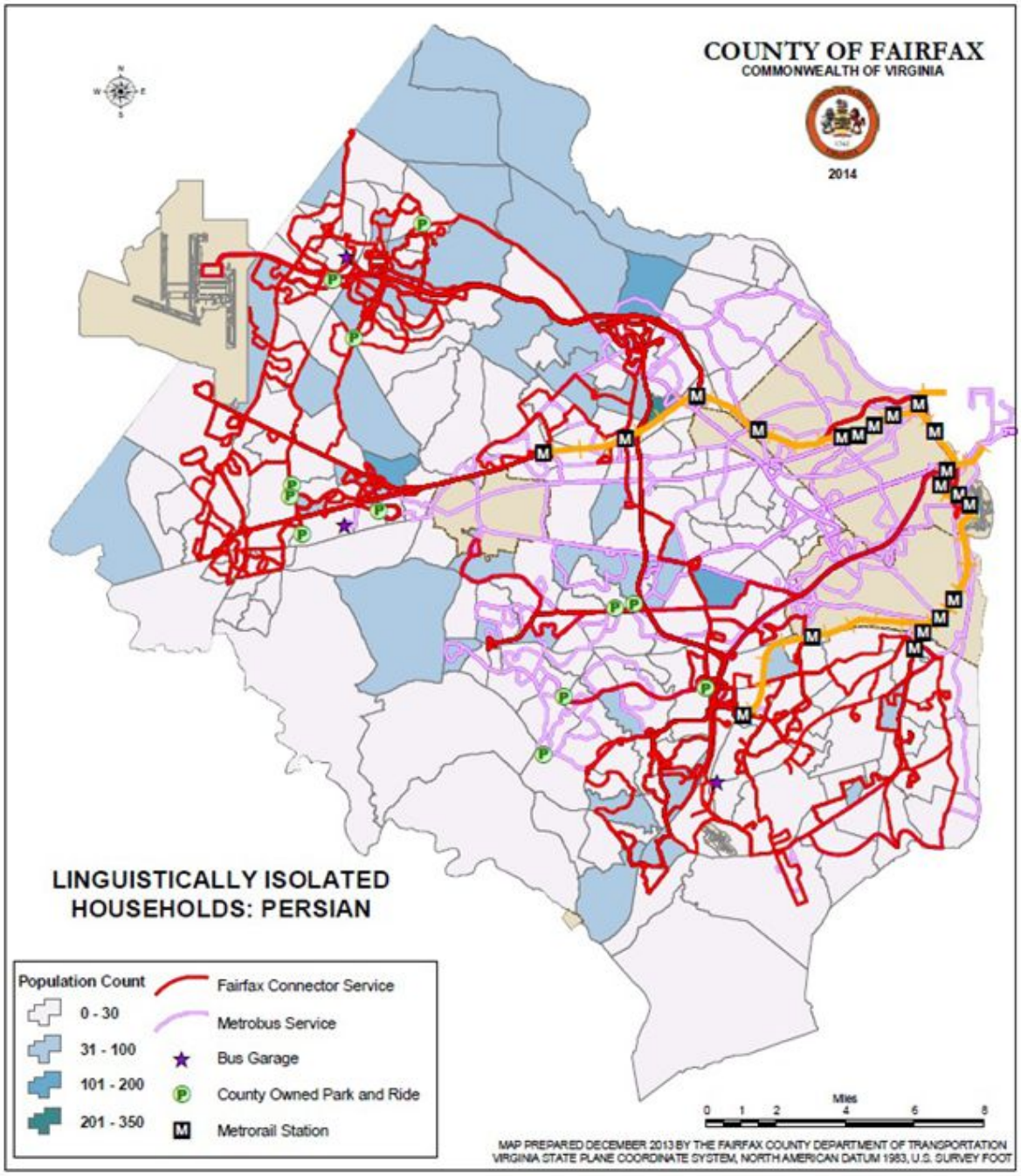


Figure 6 Linguistically Isolated Households in Fairfax County – Korean

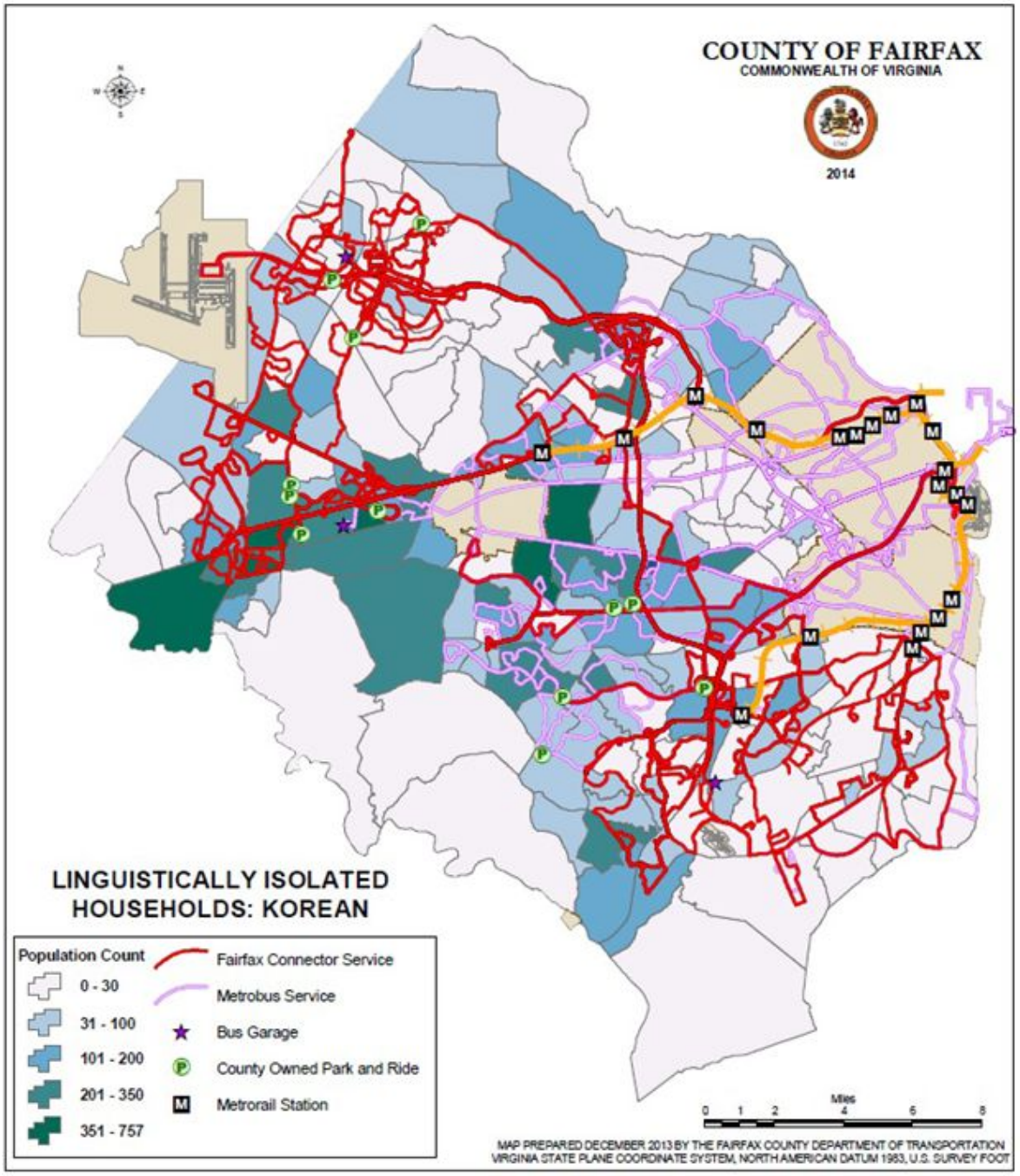


Figure 7 Linguistically Isolated Households in Fairfax County – Hindi

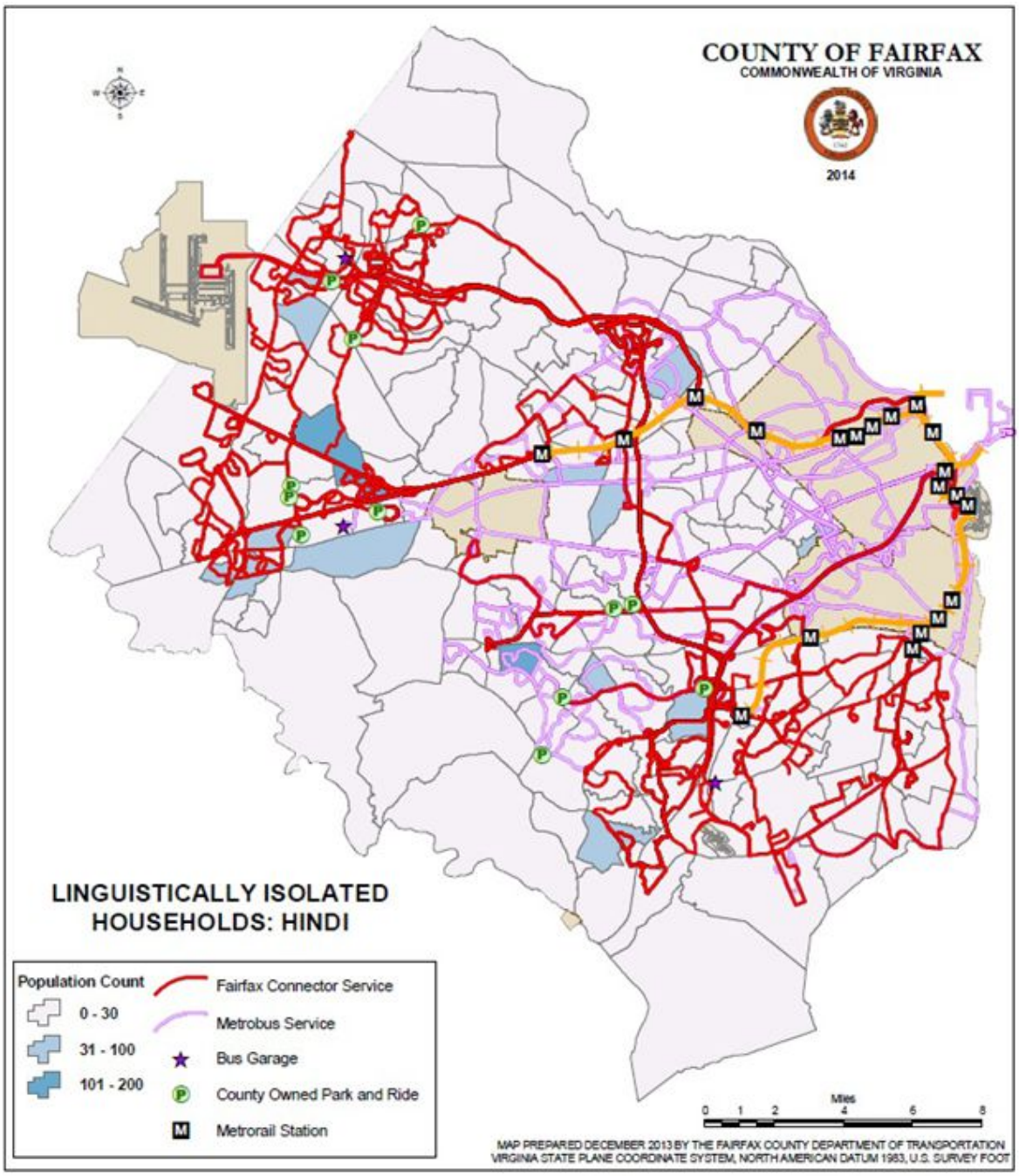
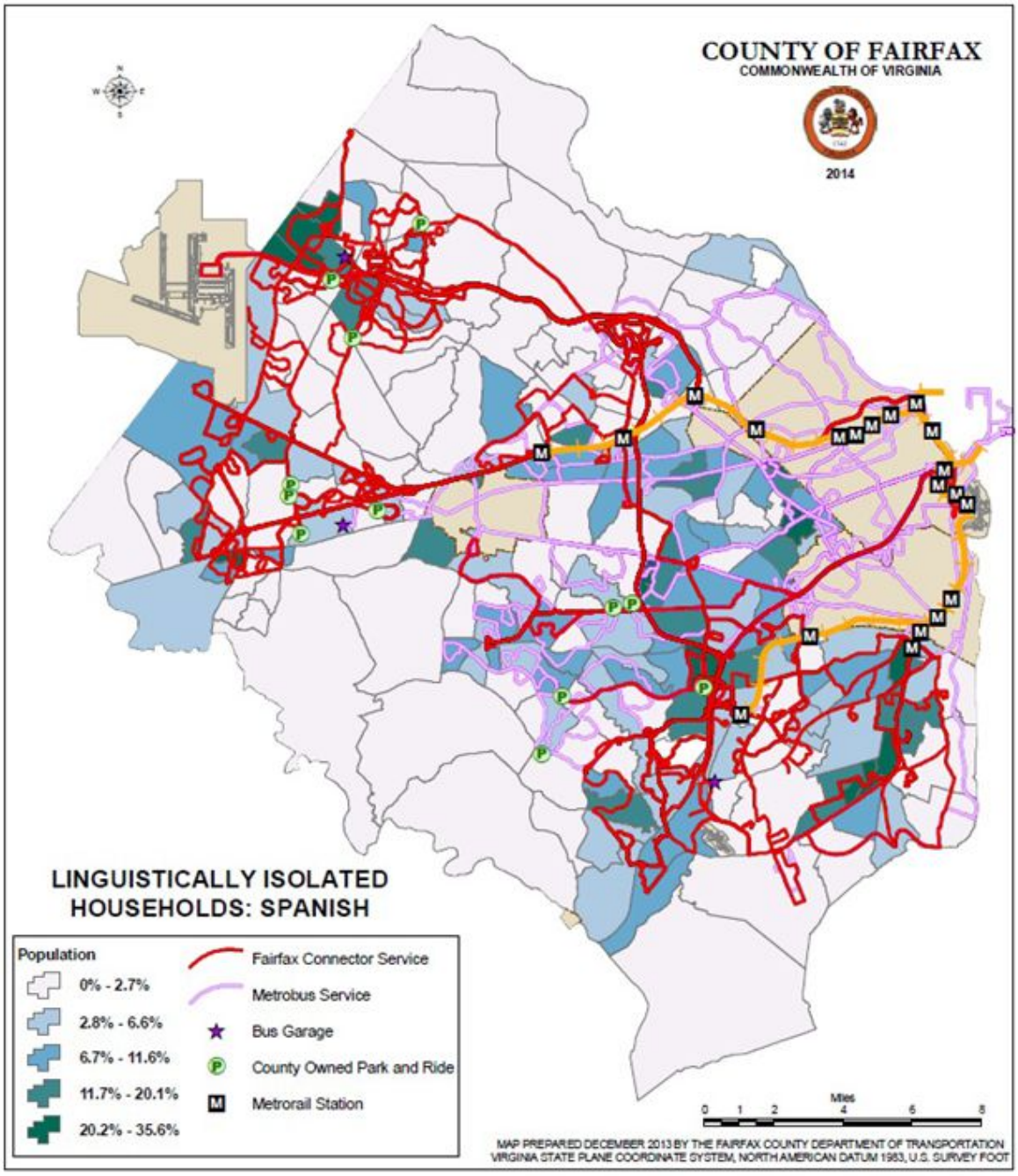


Figure 8 Linguistically Isolated Households (Percent of Total) in Fairfax County – Spanish[34]



[34] After English, Spanish is by far the predominant language spoken in Fairfax County. In some Census tracts, Spanish speakers constitute a significant percentage of the population.

Figure 9 Linguistically Isolated Households in Fairfax County – Spanish

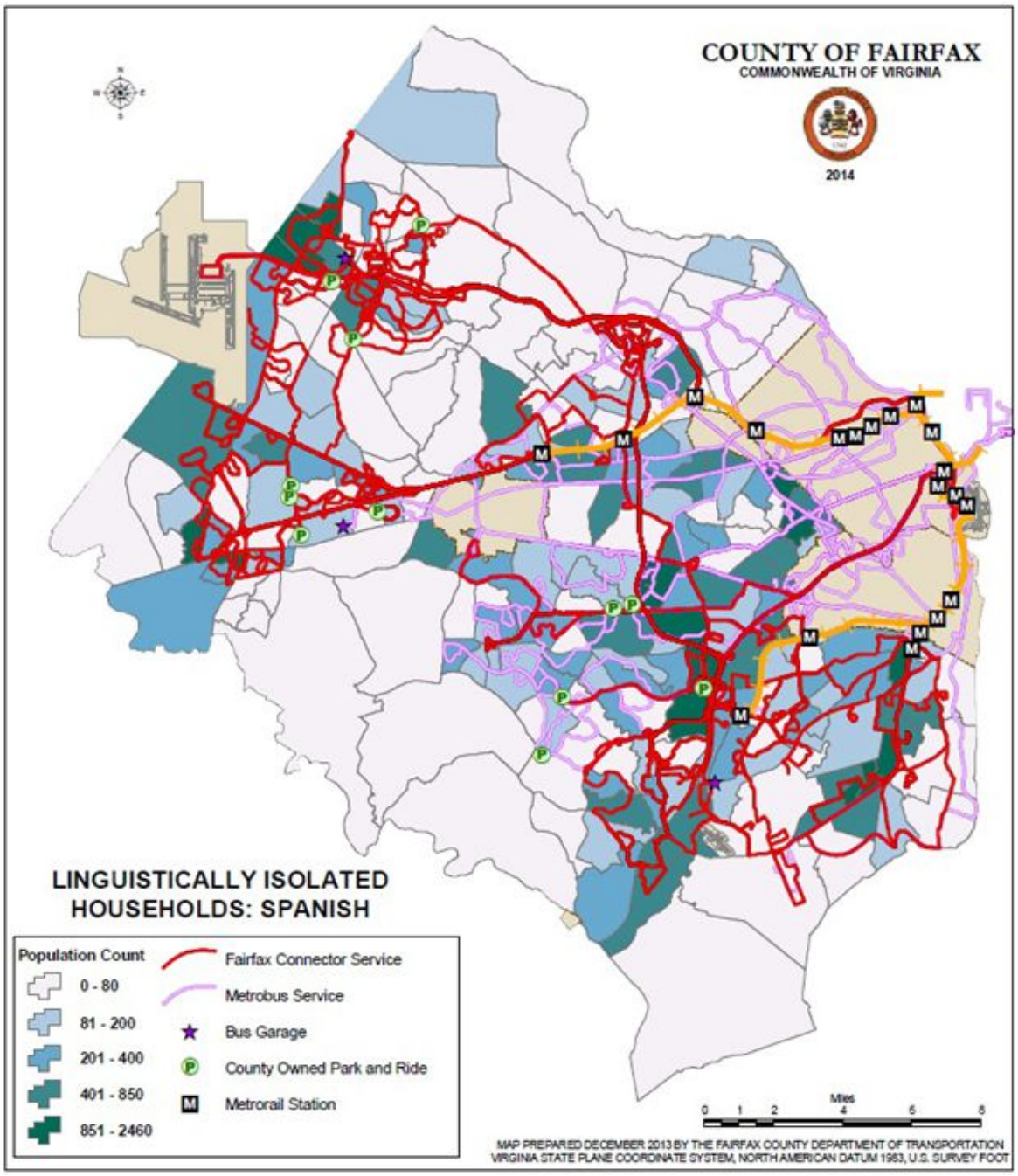


Figure 10 Linguistically Isolated Households in Fairfax County – Tagalog

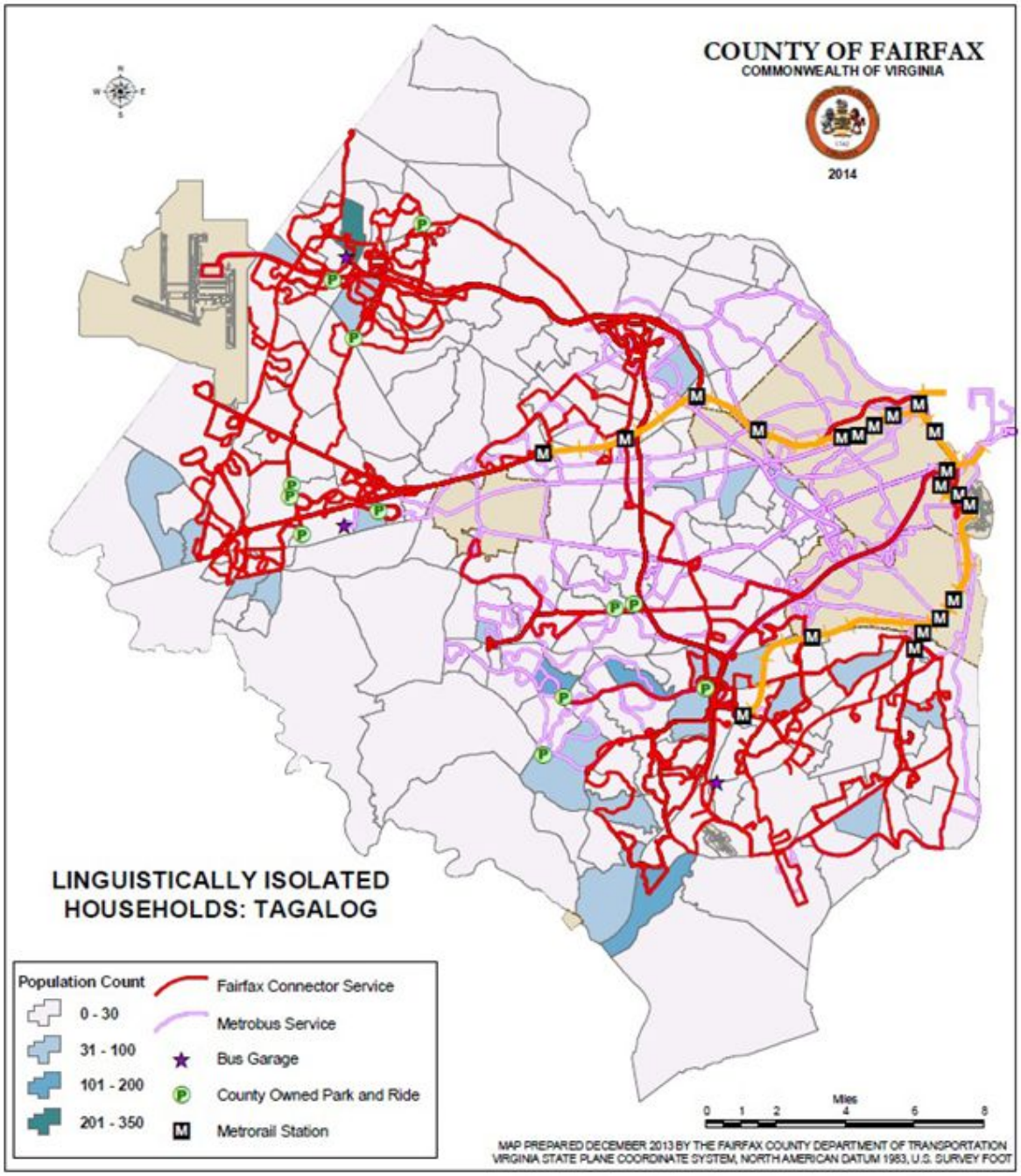


Figure 11 Linguistically Isolated Households in Fairfax County – Vietnamese

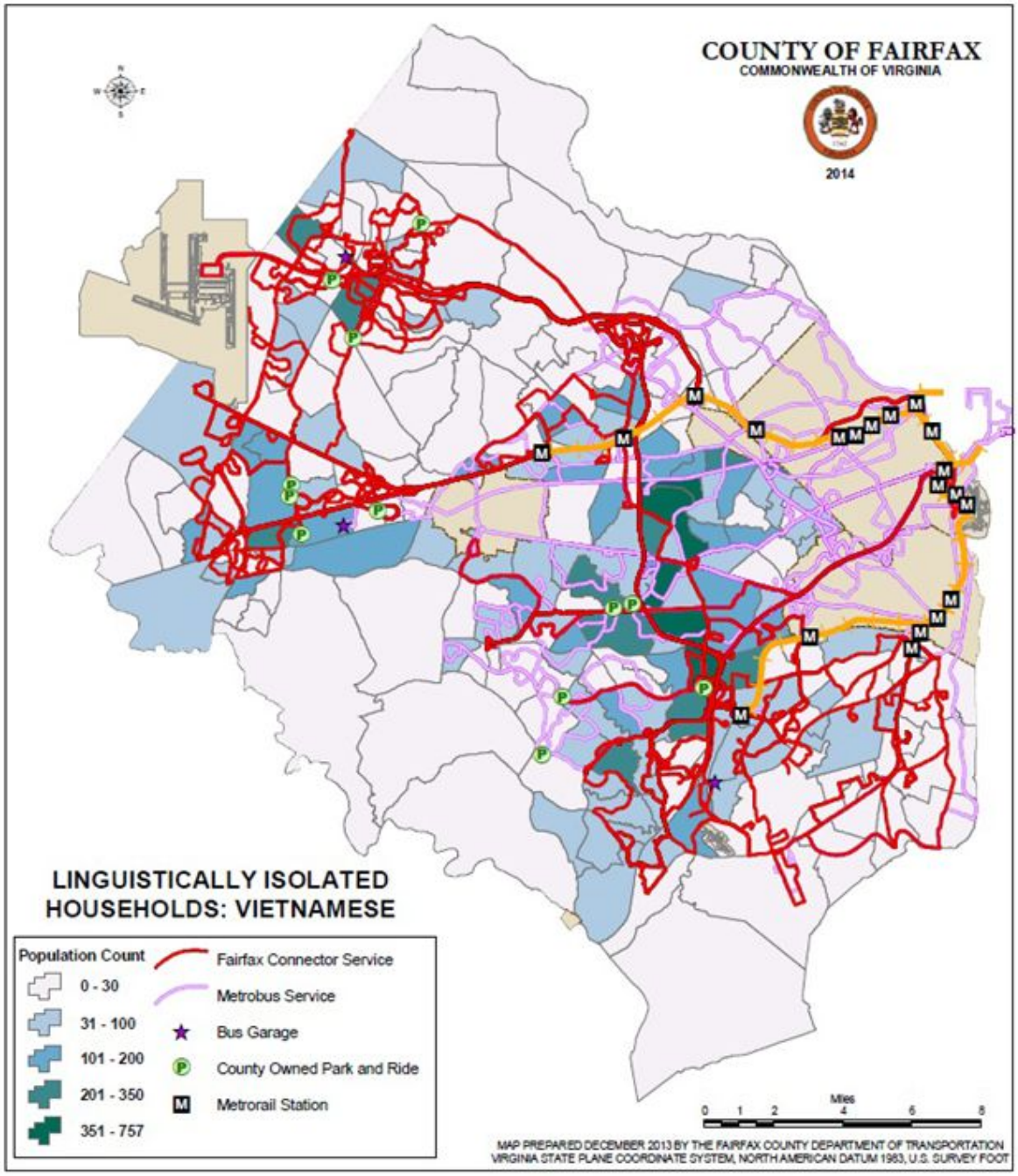
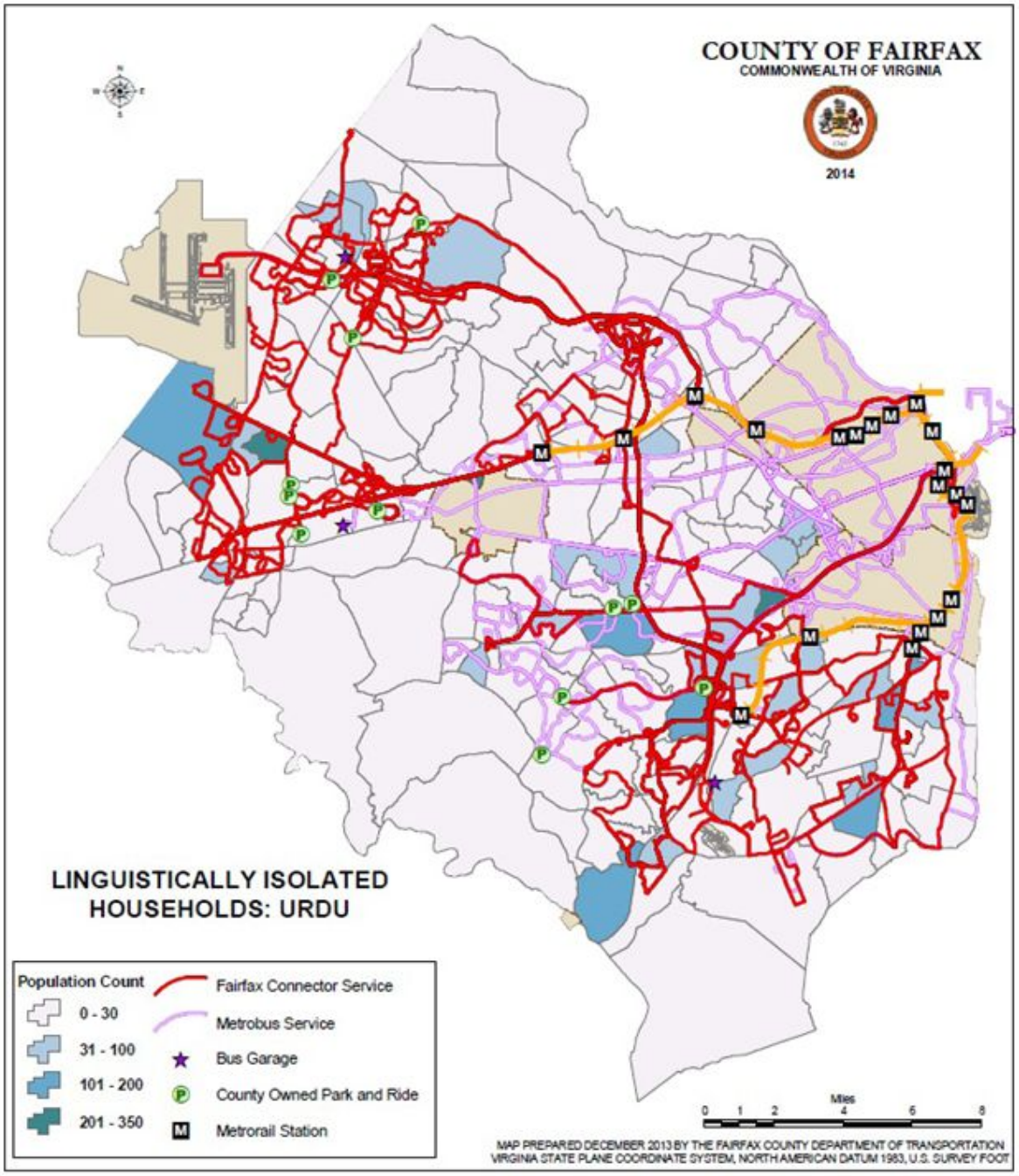


Figure 12 Linguistically Isolated Households in Fairfax County – Urdu



Board Agenda Item
July 1, 2014

ACTION - 7

Establishment of a Revised Membership for the Mosaic District Community Development Authority Board (Providence District)

ISSUE:
Board adoption of a revised membership for the Mosaic District Community Development Authority Board.

RECOMMENDATION:
The County Executive recommends that the Board approve the revised membership of the Mosaic District Community Development Authority.

TIMING:
Routine.

BACKGROUND:
On April 27, 2009, the Board created the Mosaic District Community Development Authority (CDA), pursuant to the provisions of title 15.2, Chapter 51 of the Code of Virginia 1950, as amended. The provisions of the petition that established the CDA, state that the CDA Board shall be comprised of five (5) members appointed by the Board of Supervisors pursuant to Virginia Code Section 15.2-5113, serving four year staggered terms.

The CDA Board was originally constituted as follows:

- The Providence District Supervisor
- An additional Supervisor appointed by the Board
- Director, Office of Community Revitalization
- A citizen representative
- A representative of the developer

Due to a decision by the Supreme Court of Virginia related to conflicts of interest, in 2013, the Board reconstituted the CDA Board to replace the Providence District Supervisor with the County Debt Coordinator. As a result of recent action by the General Assembly, it is now recommended that the CDA Board be constituted as follows:

- The Providence District Supervisor
- An additional District Supervisor
- Director, Office of Community Revitalization
- County Debt Coordinator
- A representative of the developer

Board Agenda Item
July 1, 2014

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
None

STAFF:
Barbara A. Byron, Director, Office of Community Revitalization

Board Agenda Item
July 1, 2014

10:50 a.m.

Matters Presented by Board Members

Board Agenda Item
July 1, 2014

11:40 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. *Sheila E. Frace, Trustee v. John F. Ribble, III*, Case No. CL-2013-0017108); *Leslie B. Johnson v. Sheila E. Frace, Trustee*, Case No. CL-2014-0000128 (Fx. Co. Cir. Ct.) (Dranesville District)

2. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Ted J. Fares*, Case No. CL-2013-0019056 (Fx. Co. Cir. Ct.) (Mason District)

3. *Eileen M. McLane, Fairfax County Zoning Administrator v. James G. Miller, Trustee of the James G. Miller Living Trust, and Atlantic Construction Fabrics, Inc.*, Case No. CL-2009-0002430 (Fx. Co. Cir. Ct.) (Sully District)

4. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Lowell Fine and Ethel V. Fine*, Case No. CL-2011-0003529 (Fx. Co. Cir. Ct.) (Lee District)

5. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Helen M. Parker-Smith*, Case No. CL-2014-0001775 (Fx. Co. Cir. Ct.) (Providence District)

6. *Eileen M. McLane, Fairfax County Zoning Administrator v. 7610 Lee Highway, LLC*, Case No. CL-2008-0003570 (Fx. Co. Cir. Ct.) (Providence District)

7. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rama Sanyasi Rao Prayaga and Niraja Dorbala Prayaga*, Case No. CL-2012-0019078 (Fx. Co. Cir. Ct.) (Dranesville District)

8. *Leslie B. Johnson, Fairfax County Zoning Administrator v. John B. Gardiner and Patricia S. Compton*, Case No. CL-2011-0010554 (Fx. Co. Cir. Ct.) (Braddock District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator and Michael R. Congleton, Property Maintenance Code Official for Fairfax County v. Nathalie Kay Jacobsen*, Case No. CL-2013-0008288 (Fx. Co. Cir. Ct.) (Lee District)

10. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Fernando A. Ovalle*, Case No. CL-2013-0005407 (Fx. Co. Cir. Ct.) (Lee District)

11. *Leslie B.Johnson, Fairfax County Zoning Administrator v. Thinh V. Luong and Thuy T. Trinh*, CL-2010-0008779 (Fx. Co. Cir. Ct.) (Mason District)

12. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Tina M. Howard***,** Case No. CL-2011-0017608 (Fx. Co. Cir. Ct.) (Providence District)

13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Trang P. Mai*, Case No. CL-2014-0001385 (Fx. Co. Cir. Ct.) (Mason District)

14. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Nasreen Chowdhury and Anwaruz Zaman*, Case No. CL-2013-0017123 (Fx. Co. Cir. Ct.) (Springfield District)

15. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Grand Shopping Center, LLC, and Amkim, Inc.*, Case No. CL-2013-0017032 (Fx. Co. Cir. Ct.) (Mason District)

16. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Grand Shopping Center, LLC, and BRJ Kim, Inc.*, Case No. CL-2013-0017062 (Fx. Co. Cir. Ct.) (Mason District)

17. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Mohammad T. Farzad*, Case No. CL-2014-0005184 (Fx. Co. Cir. Ct.) (Providence District)

18. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Rajendra Bernard Edwards*, Case No. CL-2012-0008576 (Fx. Co. Cir. Ct.) (Hunter Mill District/Town of Vienna)

19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jean W. Lupton*, CL-2014-0007204 (Fx. Co. Cir. Ct.) (Lee District)

20. *Leslie B. Johnson, Fairfax County Zoning Administrator and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Westwood Buildings Limited Partnership, Istanbuli Mediterranean Grill, Inc., D/B/A Mint Café, Anis Rhanime, and Moe Rafaie*, CL-2014-0007202 (Fx. Co. Cir. Ct.) (Hunter Mill District)

21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Terry R. Rychlik and Rebecca L. Smith*, Case No. CL-2014-0007481 (Fx. Co. Cir. Ct.) (Mason District)

22. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Roger T. Wood*, Case No. CL-2014-0007886 (Fx. Co. Cir. Ct.) (Mason District)

23. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Joseph F. Campagna and Juliana Campagna*, Case No. CL-2014-0007888 (Fx. Co. Cir. Ct.) (Hunter Mill District)

24. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Karl A. Eickmeyer*, Case Nos. GV14009285- GV14009288 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

25. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Frederick L. Yontz and Kay L. Yontz*, Case No. GV14-004905 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Barbara Jean Oksanen*, Case No. GV14-007896 (Fx. Co. Gen. Dist. Ct.) (Mason District)

27. *Leslie B. Johnson, Fairfax County Zoning Administrator v. John M. Casey and Barbara Casey*, Case No. GV14-008517 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

28. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Rafaela Leon*, Case No. GV14-005098 (Fx. Co. Gen. Dist. Ct.) (Providence District)

29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Robert A. Meskunas, Trustee, Meskunas Family Trust Dated September 16, 2002, and Margaret A. Meskunas, Trustee, Meskunas Family Trust Dated September 16, 2002*, Case Nos. GV14-011324 and GV14-011325 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

30. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Luz A. Uzmanor and Nelson Naitive, a/k/a Nelson Nativi*, GV14-011326 (Fx. Co. Gen. Dist. Ct.) (Lee District)

31. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Brian A. Robertson*, GV14-011446 and GV14-011447 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

32. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Catherine S. Green*, Case No. GV14-0011794 (Fx. Co. Gen. Dist. Ct.) (Sully District)

33. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Judy V. Marshall*, Case No. GV14-012084 (Fx. Co. Gen. Dist. Ct.) (Providence District)

34. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Barbara A. Rojas*, Case No. GV14-012406 (Fx. Co. Gen. Dist. Ct.) (Lee District)

35. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ming Yang, Xin Yu, and Fan Yang*, Case No. GV14-012591 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

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Board Agenda Item
July 1, 2014

3:30 p.m.

Public Hearing on RZ 2012-DR-019 (Elm Street Residential, L.L.C.) to Rezone from C-3, CRD, HC and SC to PRM, CRD, HC and SC to Permit Mixed Use Development with an Overall Floor Area Ratio of 1.95, Located on Approximately 4.43 Acres of Land (Dranesville District)

This property is located at 6862 Elm Street, McLean, 22101. Tax Map 30-2 ((1)) 61.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, June 25, 2014, the Planning Commission voted 9-0-2 (Commissioners de la Fe and Flanagan abstained from the vote and Commissioner Sargeant was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approve RZ 2012-DR-019 and the associated Conceptual Development Plan, subject to the proffers dated June 25, 2014;
- Modification of the minimum required parking for nonresidential uses to reduce the number of parking spaces by 20%;
- Modification of the minimum loading space requirement to allow for 5 loading spaces instead of 10; and
- Waiver of Section 6-303.8 of the PFM to allow an on-site, underground stormwater detention facility in a residential development, subject to the conditions dated May 19, 2014, contained in Appendix 16 of the staff report.

In a related action, on Wednesday, June 25, 2014, the Planning Commission voted 9-0-2 (Commissioners de la Fe and Flanagan abstained from the vote and Commissioner Sargeant was absent from the meeting) to approve FDP 2012-DR-019, dated June 24 2014, to include the new S3 sheet, subject to the Development Conditions dated June 5, 2014, and the Board of Supervisors' approval of RZ 2012-DR-019 and the associated Conceptual Development Plan.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4452837.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nick Rogers, Planner, DPZ

Attachment 1

Planning Commission Meeting
June 25, 2014
Verbatim Excerpt

RZ/FDP 2012-DR-019 – ELM STREET RESIDENTIAL, LLC AND JGB/ELM STREET OFFICE, LLC

Decision Only During Commission Matters
(Public Hearing held on June 18, 2014)

Commissioner Ulfelder: Thank you, Mr. Chairman. We deferred – we held a hearing last week and deferred final action on this – RZ/FDP 2012-DR-019, Elm Street Residential, LLC and JBG/Elm Street Office, LLC. We received a set of revised proffers this evening. There has actually been a lot of work – been going on since the hearing right up to this evening to address some of the issues that were raised during the public hearing, as well as to fill in the blanks that were in the proffers last week. And I think, at this point – I think what would be most helpful is if Mr. Rogers and, perhaps with help from Mr. Winterhalter – could explain or walk through what some of the changes are that in the revised proffers that address some of the issues that were raised.

Chairman Murphy: Who's going to do it?

Nicholas Rogers, Zoning Evaluation Division, Department of Planning and Zoning: Why don't I give us a start? Nick Rogers, with the Department of Planning and Zoning – as Commissioner Ulfelder noted, we have been working with the applicant at a pretty furious pace over the past week. And I'm going to give us a good start to fill in and there may be some things that Mr. Winterhalter may want to articulate a little more. Towards the back of your proffers here – particularly Proffers 46 and 47 – the applicant has filled in a couple of those blanks that you saw in your June 13th proffers – affirming up, with some specific dollar amounts, the contributions to off-site sidewalk upgrades, related to the McLean Open Space Design Standards. Those were in response to community feedback from both the McLean Planning Committee and also the McLean Citizens Association. The cost of those estimates equals approximately $375,000 in total. The applicant has also added some public access language. There was – throughout our review, we were all under the consensus that the number of high-quality open spaces that you saw in your – in your presentation last week were going to be open to the public, encouraging public ingress and egress throughout the site. Based on some additional staff oversight and community feedback, we felt that it was important for the applicant to acknowledge that in the proffers and so Proffer 16 has been updated to acknowledge that commitment. You'll also see a – the applicant firming – and reaffirming their commitment to the McLean Project for the Arts. The applicant has included a phased proffer over the course of three years that would result in an overall contribution of $150,000. The applicant has firmed up some numbers, also, related to – contributions related to undergrounding of utilities in the McLean CBC totaling $250,000. There was some discussion at the Planning Commission last week about electric vehicle charging stations. The applicant has included some proffer language in that regard and there have some – been a few other editorial revisions to the proffers. Mr. Chair.

Chairman Murphy: Okay.
Commissioner Ulfelder: Yes. I think that the – I'm going to move that we go forward tonight with this and I have a somewhat complicated motion that's going to – because we're also going to be adding or revising one of the sheets in the CDP/FDP.

Chairman Murphy: Okay, before we do that – Mr. Winterhalter, do you want to come down just for the record and reaffirm your support and agreement with the proffers–

Commissioners Ulfelder: Yes, I was going to do that

Chairman Murphy: -changes.

Brian Winterhalter, Esquire, Agents Applicant, Cooley, LLP: Thank you, Mr. Chairman. I will support and reaffirm the commitment to the proffers, as they are dated today – June 25th, 2014. We've been working very hard with Mr. Rogers and others in the community and Commissioner Ulfelder on these proffers. And we're very pleased to be here with numbers filled in in the blanks and making the commitments that we are for off-site sidewalk trail improvements, undergrounding, and supporting the arts and other things in the McLean community. Thanks.

Chairman Murphy: I know you're a prominent land use attorney, but would you mind identifying yourself for the record so we could put your name with it?

Mr. Winterhalter: I would be happy to – Brian Winterhalter with Cooley. Thank you.

Chairman Murphy: Thank you very much. Mr. Ulfelder.

Commissioner Ulfelder: Yes. And do we have the sheet – the sheet we can put up? I understand there have been revisions made today to Sheet S3 of the CDP/FDP that further clarify the applicant's proffered commitments to off-site construction on two additional property frontages. So could you just point out the areas that are being – additional – that would be – and it's part of this new S3.

Mr. Rogers: I'll point those two areas right now, Commissioner Ulfelder. The first one I'll – the first one we'll point out is along the – I believe it's the Ashview frontage?

Mr. Winterhalter: Yes.

Mr. Rogers: Yes – which will be along this area here and which is along Beverly Road – and also here on Fleetwood Road as well. The applicant has also included this inset image here that my pen is pointing to, just providing a graphic representation to the off-site sidewalk commitments being provided to the adjacent Pornaris property, as well. Once again, as Commissioner Ulfelder noted – and as we noted in our presentation last week – these were proffered commitments that were in your June 13th proffers that continue to be enumerated in the June 25th proffers that are in

front of you now. The applicant is simply adding a graphical tool in aiding with the implementation of those proffers.
Commissioner Ulfelder: With the motion tonight, I'm going to direct – directing the applicant to include these additions to the last sheet of the CDP/FDP. And therefore, I'm going to move that the – first of all, I guess the applicant has to confirm, for the record, their agreement to the proposed FDP conditions dated June 5th, 2014.

Mr. Winterhalter: On behalf of the applicant, we agree with those conditions. Thank you.

Commissioner Ulfelder: So, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2012-DR-019 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE PROFFERS DATED JUNE 25TH, 2014. That's the first motion.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2012-DR-019, with the agreements of the proffers as enumerated tonight, say aye.

Commissioners: Aye.

Commissioner Flanagan: Abstain.

Chairman Murphy: Opposed? Motion carries. Mr. Flanagan abstains.

Commissioner de la Fe: And I abstain, not present for the public hearing.

Chairman Murphy: Mr. de la Fe abstains, not present for the public hearing. Okay, Mr. Ulfelder.

Commissioner Ulfelder: Yes, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2012-DR-019, TO BE RE-DATED JUNE 24TH, 2014, TO INCLUDE THE NEW sheet – the S3 SHEET – SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 5TH, 2014, with the date of the FDP to be updated to June 24th, 2014, AND THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2012-DR-019 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence.

Commissioner Ulfelder: Everybody understand the motion?

Commissioner Lawrence: Could you repeat that please?

Chairman Murphy: Don't ask me. All those in favor of the motion as beautifully articulated by Mr. Ulfelder on FDP 2012-DR-019, subject to approval – subject to the approval of the rezoning by the Board of Supervisors, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: Abstain, not present.

Commissioners de la Fe: Abstain.

Chairman Murphy: And same abstentions. Okay?

Commissioner Ulfelder: One more. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE MODIFICATIONS AND WAIVERS DATED JUNE 25TH, 2014, WHICH SHALL BE MADE PART OF THE RECORD OF THIS CASE.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries, same abstentions.

Commissioner Flanagan: Same abstention.

Commissioner Ulfelder: A couple of comments. One, I'm happy that we have a number for the undergrounding. It's not quite the number I think may be appropriate and I'm hopeful that the applicant will continue to work with folks before the Board of Supervisors public hearing to take a hard look at the – at that particular proffer and that particular amount. And I think that's important to the community. It's been – and it's important, I think, to the future success of the McLean CBC so I would urge them to do that. I want to say thank you to a lot of people who've worked very hard. Mr. Rogers, Aaron Klibaner, Jeff Herman, Megan Van Dam, and others in the staff, as well as Bailey Hopple Brian Winterhalter – I think this has been a long tough road, but I think we're at a good place and I think it's going to make a huge difference for McLean as McLean tries to move forward with redevelopment, hopefully in concert with the nearby Tysons

Corner. So I want to thank everyone for all their hard work, in particularly this last week – really putting the shoulder to the wheel to try to get to the point where we are tonight.

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(Each motion carried by a vote of 9-0-2. Commissioners de la Fe and Flanagan abstained. Commissioner Sargeant was absent from the meeting.)

JLC

Board Agenda Item
July 1, 2014

3:30 p.m.

Public Hearing on PCA 2003-SU-035-02 (DD South Retail LC) to Amend the Proffers, Conceptual Development Plan for PCA 2003-SU-035 Previously Approved for Mixed Use Development to Permit Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.09, Located on Approximately 6.36 Acres of Land Zoned PDC, HD and WS (Sully District)

and

Public Hearing on SE 2013-SU-017 (DD South Retail LC) to Permit Fast-food Restaurant with Drive-through, Located on Approximately 1.7 Acres of Land Zoned PDC, HD and WS (Sully District)

This property is located between Air & Space Museum Parkway and Historic Sully Way, East of Route 28. Tax Map 34-2 ((1)) 1B. (Concurrent with SE 2013-SU-017).

and

This property is located between Air & Space Museum Parkway and Historic Sully Way, E. of Route 28. Tax Map 34-2 ((1)) 1B pt. (Concurrent with PCA 2003-SU-035-02 and FDPA 2003-SU-035-02).

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, June 25, 2014, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2003-SU-035-02, subject to the proffers dated June 18, 2014.

- Approval of SE 2013-SU-017, subject to the Development Conditions dated June 10, 2014;

- Approval of a waiver of the barrier requirement between the financial institution and the child care center, pursuant to Paragraph 1 of Section 13-305 of the Zoning Ordinance;

- Approval of a waiver of Paragraph 7.A. of Section 6-206 of the Zoning Ordinance, to permit a service station to be located within a commercial center consisting of fewer than three commercial establishments, such commercial establishments to be other than automobile oriented; and

- Approval of a waiver of Paragraph 6 of Section 11-203 of the Zoning Ordinance, which requires one loading space for the financial institution.

In a related action, on Wednesday June 25, 2014, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to approve FDPA 2003-SU-035-02, subject to the Development Conditions dated June 10, 2014.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4453382.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Joe Gorney, Planner, DPZ

Attachment 1

Planning Commission Meeting
June 25, 2014
Verbatim Excerpt

PCA/FDPA 2003-SU-035-02 AND SE 2013-SU-017 – DD SOUTH RETAIL, LC

After Close of the Public Hearing

Chairman Murphy: If not, the public hearing is closed; recognize Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Murphy. First, I want to-

Chairman Murphy: We thought we'd never hear from you again.

Commissioner Litzenberger: -staff – Joe Gorney and Mr. McDermott answered all my questions about a month ago. First, I want to thank all my fellow commissioners for your very constructive suggestions. I got one-and-half pages of hand-written notes, which I will go over with Supervisor Frey tomorrow, and we'll see where it goes from there. Also, I want to commend Mr. Joe Gorney because we worked him to death to the point where he had to take a mandatory vacation. That's where he is tonight. And I'm sorry he missed this exchange so –

Kristen Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning: He's probably watching.

Commissioner Litzenberger: Lastly, I really want to thank Mr. McDermott and the applicant – Peterson Companies. They met seven different times with over 200 folks in the community, both of Land Use Committees and Homeowners Associations and with the Sully Foundation out there. And they were very appreciative of all the time and effort both staff and the applicant put into letting them have their – all their concerns addressed. So that, Mr. Chairman, I shall move on here. Are you ready Earl? I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 2003-SU-035-02, SUBJECT TO THE PROFFERS DATED JUNE 18TH, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION APPROVE FDPA 2003-SU-035-02, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 10TH, 2014.

Commissioner Flanagan: Second.
Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2013-SU-017, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 10TH, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE FOLLOWING WAIVERS:

- WAIVER OF THE BARRIER REQUIREMENT BETWEEN THE FINANCIAL INSTITUTION AND THE CHILD CARE CENTER, PURSUANT TO PARAGRAPH 1 OF SECTION 13-0 – correction, 13-305 OF THE ZONING ORDINANCE;

- A WAIVER OF PARAGRAPH 7.A. OF SECTION 6-2006 [sic] OF THE ZONING ORDINANCE, TO PERMIT A SERVICE STATION TO BE LOCATED WITHIN A COMMERCIAL CENTER CONSISTING OF FEWER THAN THREE COMMERCIAL ESTABLISHMENTS, SUCH COMMERCIAL ESTABLISHMENTS TO BE OTHER THAN AUTOMOBILE ORIENTED; AND LASTLY

- A WAIVER OF PARAGRAPH 6 OF SECTION 11-203 OF THE ZONING ORDINANCE, WHICH REQUIRES ONE LOADING SPACE FOR THE FINANCIAL INSTITUTION.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion?

Commissioner de la Fe: Mr. Chairman, I don't think it matters because we all know what he meant. But it's not 6–2006. It's 206.

Commissioner Litzenberger: Section 6-206.

Commissioner de la Fe: You added a thousand in there for each of them.

Commissioner Litzenberger: Okay.

Chairman Murphy: All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Thank you, Mr. Chairman. And thank you, fellow commissioners.

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(Each motion carried by a vote of 11-0. Commissioner Sargeant was absent from the meeting.)

JLC

Board Agenda Item
July 1, 2014

3:30 p.m.

Public Hearing on RZ 2013-HM-016 (Sekas Homes, LTD) to Rezone from R-1 to R-2 to Permit Residential Development with an Overall Density of 1.71 du/ac, Located on Approximately 5.26 Acres of Land (Hunter Mill District)

This property is located on the West side of Lawyers Road, opposite of the intersection with Myterra Way. Tax Map 25-4 ((1)) 17

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, June 25, 2014, the Planning Commission voted 10-0-1 (Commissioner Litzenberger abstained from the vote and Commissioner Sargeant was absent from the meeting) to recommendation the following actions to the Board of Supervisors:

- Approve RZ 2013-HM-016, subject to the execution of proffers consistent with those dated June 19, 2014;

- Modification of fence height in front yards, in accordance with Paragraph 3F of Section 10-104, to allow a 7-foot high noise barrier along Lawyers Road, as shown on the GDP; and

- Direct the Director of DPWES to modify the sidewalk requirement along Lawyers Road (per Section 8-102 of the PFM) in favor of a 10-foot paved trail, as shown on the GDP.

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4452108.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Attachment 1

Planning Commission Meeting
June 25, 2014
Verbatim Excerpt

RZ 2013-HM-016 – SEKAS HOMES, LTD.

Decision Only During Commission Matters
(Public Hearing held on June 12, 2014)

Commissioner de la Fe: The first one – let me see – I'm not Mount Vernon – relates – is RZ 2013-HM-016, in the name of Sekas Homes. We had the public hearing two weeks ago and I deferred decision, primarily because the Hunter Mill Land Use Committee had not had a chance to give a final recommendation on the application, even though they had heard it a number of times and all of the issues seem to have been resolved. But at the meeting prior to the public hearing, unfortunately – the Land Use Committee did not have a quorum, so they could not take formal action. So we did defer it and they have heard – and again – the case and – at their last meeting on the 17th, they recommended unanimously that it be approved. We also had a number of relatively small changes that had to be made relating to stormwater and to issues that were raised here at the Planning Commission. The proffers have been changed. You received those, I believe, by email and there is – so I am ready to move that. As you recall, there were no real major issues on this so, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2013-HM-016, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JUNE 19, 2014.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2013-HM-016, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Abstain. Not present for the hearing.

Chairman Murphy: Mr. Litzenberger abstains, not present for the public hearing.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE REQUESTED MODIFICATIONS, AS LISTED IN THE STAFF REPORT.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Discussion? All those in favor of that motion, say aye.
Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Thank you very much. And thank you very much to the applicant, the Land Use Committee, and staff for all of their work.

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(Each motion carried by a vote of 10-0-1. Commissioner Litzenberger abstained. Commissioner Sargeant was absent from the meeting.)

JLC

Board Agenda Item
July 1, 2014

Public Hearing to be Cancelled

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Rt 123/Kelley Drive (Braddock District)

ISSUE:
Public Hearing on the acquisition of certain land rights necessary for the construction of Project 2G40-066-000 (R12301C), Rt 123/Kelley Drive, Fund 400-C40011, County & Regional Transportation Projects.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:
On June 3, 2014, the Board authorized advertisement of a public hearing to be held on July 1, 2014, at 4:00 p.m.

BACKGROUND:
In conjunction with road improvements made as part of the related project 2G40-015-000 (R12301A) At-Grade Interim Improvements, Route 123 @ Braddock Road, this project consists of the installation of storm drainage pipes, sanitary sewer lateral relocation, utility relocation, and reconstruction of existing asphalt driveways along the northern side of Kelley Drive in order to improve existing storm drainage issues.

Land rights for these improvements are required on three properties, two of which have been acquired by the Land Acquisition Division. The construction of this project requires the acquisition of storm drainage easements, and grading agreement and temporary construction easements on the remaining tax map parcel (Lot 15 and Lot 16 remainder). Negotiations are in progress with the affected property owner; however, resolution of this acquisition is not imminent.

In order to commence construction of this project on schedule, it may be necessary for the Board to utilize quick-take eminent domain powers. These powers are conferred upon the Board by statute, namely, Va. Code Ann. §§ 15.2-1903 through 15.2-1905

(2012). 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 2G40-066-000 (R12301C), Rt 123/Kelley Drive, Fund 400-C40011, County & Regional Transportation Projects. This project is included in the Adopted FY2015 - FY2019 Capital Improvement Program (with future Fiscal Years to FY2024). No additional funding is being requested from the Board for the land acquisition phase.

ENCLOSED DOCUMENTS:
Attachment A – Project Location Map
Attachment B – Resolution with Fact Sheet on the affected parcel with plat showing interests to be acquired (Attachments 1 through 1A).

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

ATTACHMENT A

ROUTE 123/KELLEY DR
Project 2G40-066-000
Braddock District

Tax Map: 68-1

Scale: Not to Scale

Affected Properties:

Proposed Improvements:

ATTACHMENT B

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, July 1, 2014, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project 2G40-066-00, Rt 123/Kelley Dr had been approved; and

WHEREAS, a public hearing pursuant to advertisement of notice was held on this matter, as required by law; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, in order to keep this project on schedule, it is necessary that the required property interests be acquired not later than July 7, 2014.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 1A by gift, purchase, exchange, or eminent domain; and be it further

RESOLVED, that following the public hearing, this Board hereby declares it necessary to acquire the said property and property interests and that this Board intends to enter and take the said property interests for the purpose of the installation of storm drainage pipes, sanitary sewer lateral relocation, utility relocation, and reconstruction of existing asphalt driveways along the northern side of Kelley Drive in order to improve existing storm drainage issues as shown and described

in the plans of Project 2G40-066-000, Rt 123/Kelley Dr on file in the Land Acquisition Division of the Department of Public Works and Environmental Services, 12000 Government Center Parkway, Suite 449, Fairfax, Virginia; and be it further

RESOLVED, that this Board does hereby exercise those powers granted to it by the *Code of Virginia* and does hereby authorize and direct the Director, Land Acquisition Division, on or subsequent to July 7, 2014, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the *Code of Virginia* as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcel relating to the certificate; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificate by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTY
Project 2G40-066-000 – Rt 123/Kelley Dr
(Braddock District)

PROPERTY OWNER(S)	TAX MAP NUMBER
1. John L. Allen, Sr. Gloria E. Allen Address: 10704 Kelley Drive Fairfax, VA 22030	068-1-03-0015 (Lot 15 and Lot 16 Remainder)

A Copy – Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

1. AFFECTED PROPERTY

Tax Map Number: 068-1-03-0015 (Lot 15 and Lot 16 Remainder)
Street Address: 10704 Kelley Drive, Fairfax, Virginia 22030

2. OWNER(S): John L. Allen, Sr.
Gloria E. Allen

3. INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Storm Drainage Easements – 1885 sq. ft.
Grading Agreement and Temporary Construction Easements – 1967 sq. ft.

4. VALUE

Estimated value of interests and damages:

FIFTEEN THOUSAND EIGHT HUNDRED DOLLARS ($15,800.00)

Board Agenda Item
July 1, 2014

4:00 p.m.

Public Hearing on Proposed Policy Plan Amendment 2013-CW-3CP Green Building Policy Plan Amendment

ISSUE:
Plan Amendment 2013-CW-3CP is an update to the existing Green Building policy in the Policy Plan of the Comprehensive Plan. The amendment proposes to update the policy reflecting available green building rating systems, green building performance tied to high levels of intensity and density, energy and water performance monitoring, public-private partnerships, and support for electric fuel vehicles, as well as to make minor clarifications to the existing policy guidance.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, June 12, 2014, the Planning Commission voted 11-0 (Commissioner Litzenberger was absent from the meeting) to recommend to the Board of Supervisors approval of Plan Amendment 2013-CW-3CP, as shown on pages 8 through 11 of the staff report dated April 23, 2014.

RECOMMENDATION:
The County Executive recommends that the Board adopt the Planning Commission recommendation. The recommendation supports revising the existing Green Building policy in the Policy Plan.

TIMING:
Planning Commission public hearing – May 7, 2014
Planning Commission decision – June 12, 2014
Board of Supervisors' public hearing – July 1, 2014

BACKGROUND:
This Plan amendment is an update to the existing Green Building policy in the Policy Plan volume of the Comprehensive Plan. When the existing policy was adopted in December 2007, the Board of Supervisors directed the Planning Commission to review, and recommend revisions to green building policies as may be determined by the Commission to be appropriate, two years after the adoption of the policy. That review began in November 2009. This Plan amendment was authorized as part of Fairfax

Forward in July 2013. The scope of the items reviewed and researched in the drafting of this recommended Plan amendment have been guided by the Planning Commission Environment Committee's questions and concerns. Staff has provided research and analysis, as well as determining areas of the policy requiring clarification, based on staff experience with the implementation of the adopted policy. With extensive issue identification, research, collection of public comment, and staff analysis and response to those comments, this proposed Plan amendment has undergone significant review by the Planning Commission's Environment Committee.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I – Planning Commission Verbatim
Attachment II – Staff Report for Proposed Plan Amendment 2013-CW-3CP

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Pamela G. Nee, Chief, Environment and Development Review Branch, PD, DPZ
Maya Dhavale, Senior Environmental Planner, PD, DPZ
Noel H. Kaplan, Senior Environmental Planner, PD, DPZ

Planning Commission Meeting
June 12, 2014
Verbatim Excerpt

PA 2013-CW-3CP – COMPREHENSIVE PLAN AMENDMENT (THE GREEN BUILDING POLICY PLAN AMENDMENT)

Decision Only During Commission Matters
(Public Hearing held on May 7, 2014)

Commissioner Hart: Thank you Mr. Chairman. I have a decision only. On May 7, 2014, the Commission held a public hearing on proposed amendments to the Green Building component of the Policy Plan volume of the Comprehensive Plan. Fairfax County's Green Building policy was originally adopted in 2007, admittedly with some uncertainty as to how this might be implemented. Our recommendation was coupled with a follow-on motion to recommend to the Board of Supervisors that we revisit the topic in two years, after we had a little more experience applying the new policy to development applications. For a variety of reasons, that two-year review, beginning in November 2009, has taken longer than the initial policy did. But in that time we have, I believe, reached a general consensus between the committee, industry, citizen stakeholders, and staff as to what changes would improve the policy, which applies now to almost any land use application. Extraordinary outreach was done by staff, involving dozens of meetings and presentations, and workshops with the Commission. Many topics were carefully vetted and many potential objections addressed. I want to thank staff, particularly Maya Dhavale, Noel Kaplan, and Pam Nee – all three, of whom, are here tonight – for their diligent and patient handling of this enormous project. I cannot compliment them enough for their professional assistance with this important project. Every word and punctuation mark was carefully analyzed and vetted. I also want to thank all the DPWES staff, EQAC members, citizens, land use professionals, and community groups who participated in this dialogue over the last four-and-a-half years. A first strawman with proposed changes was completed in 2011 and comments from stakeholders solicited and analyzed with a detailed matrix. In 2012 the Commission finalized a second strawman for draft changes – which was forwarded to the Board of Supervisors – which in July 2013 authorized advertising of the amendment as a part of Fairfax Forward. Additional outreach was conducted by staff and the Environment Committee on several questions, culminating in a public hearing for which we had a grand total of one speaker and one letter. This unexpectedly smooth conclusion to the process was remarkable, given the potential for controversy when we started. Staff is to be commended for the thorough analysis and inclusive approach, which guided us to this point, and helped reassure citizens and industry that we are headed in the right direction. We deferred decision twice to allow some additional consideration of the topics raised by the citizens as well as members of the Commission. The citizen topics were ultimately deemed more pertinent to the Commission's ongoing review of the MITRE II report and do not affect tonight's amendment. Some more recent suggestions by two of my colleagues relating to landfill diversion and additional emphasis on construction demolition debris recycling were reviewed by staff. Ultimately, after consultation with staff, my recommendation is that no changes be made to the advertised text in that regard. We have construction – excuse me, construction demolition debris recycling already clearly addressed in

the 2007 text. We were not proposing any changes to that language until very recently. We had countless committee meetings – discussions with staff and industry and citizens – on many topics, but did not over the last few years suggest any substantive changes to the existing language on construction demolition debris. Neither in the two strawmen, both of which were circulated for comments, or in the advertising did we include any proposed changes to the existing text on that topic. While additional text changes relating to construction demolition debris, landfill diversion, and other topics under the Green Building umbrella may well deserve further consideration, I believe any changes to the policy in that regard should be fully and explicitly vetted through the Commission, including an outreach process inviting citizens and industry to comment rather than in the aftermath of a public hearing on one controversial application. The existing text, moreover, is fully supportive of recycling efforts and consistent with a robust case-by-case negotiation on these issues. We also need not amend the Policy Plan now on that topic to continue recycling discussions with applicants where applicable. I believe staff also concurs that the existing text is sufficient – that nothing in the adopted plan is inconsistent with a pro-recycling approach and that a case-by-case discussion allows flexibility to all parties. This amendment process emphasized transparency and deliberate consensus, but the landfill diversion topic was never front and center and I believe surfaced only after the recent public hearing on the ESI landfill. I recognize also that Fairfax County may not be finished with adjustments to the Green Building policy as technology and certification particulars continue to evolve and our experience grows. The Commission also can revisit this topic – at the direction of the Board – if necessary, now or later. The proposed amendment, as advertised, has staff's favorable recommendation, with which I concur. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PLAN AMENDMENT 2013-CW-3CP, AS SHOWN ON PAGES 8 THROUGH 11 OF THE STAFF REPORT DATED APRIL 23, 2014.

Commissioners Hall, Hedetniemi, and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence, Ms. Hedetniemi, Ms. Hall. Is there a discussion of the motion? And Mr. Sargeant. Or did you want –

Commissioner Sargeant: Mr. Chairman, no I – for discussion.

Chairman Murphy: Okay, he just wants discussion. Go ahead.

Commissioner Sargeant: Thank you, Mr. Chairman. First of all, my compliments to Commissioner Hart and to staff for an incredibly thorough and detailed and extended review of this Green Building Policy Amendment. I certainly think it's very thorough in its outreach and I think the comments Mr. Hart provided, with regard to recycling, are appropriate. And indeed, this was not the complete focus of our efforts in this particular case. I certainly agree with that. I think what we have learned through recent applications is that times are changing. And by that, I mean we are seeing consideration of what to do next when it comes to construction and demolition debris – what's going to happen in the future. And one of the things that is likely to happen in the future is a greater emphasis on recycling of construction and demolition debris. So

that is why the initiative was put forward to provide additional and more specific language – is it possible? Having said that, I do think it's a thorough report would certainly consider some of the options that had been forwarded by staff as suggestions for additional language.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment 2013-CW-3CP, the Green Building Policy Plan Amendment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. And thank Mr. Hart – not an easy task, but that's why he's around. I mean, you know – and I want to echo his sentiments to Maya, Noel, and Pam for a job well done.

//

(The motion carried by a vote of 11-0. Commissioner Litzenberger were absent from the meeting.)

JLC

PROPOSED COMPREHENSIVE PLAN AMENDMENT

ITEM: 2013-CW-3CP
April 23, 2014

GENERAL LOCATION: Countywide

SUPERVISOR DISTRICT: All

PLANNING AREA: All

PLANNING DISTRICT: All

SUB-DISTRICT DESIGNATION: All

PARCEL LOCATION: All

Green Building Policy Plan Amendment
For additional information about this amendment call (703) 324-1100.

PLANNING COMMISSION PUBLIC HEARING:
Wednesday, May 7, 2014 @ 8:15 P.M.

BOARD OF SUPERVISORS PUBLIC HEARING:
Tuesday, July 1, 2014 @ 4:00 P.M.

PLANNING STAFF DOES RECOMMEND THIS ITEM FOR PLAN AMENDMENT

Reasonable accommodation is available upon 7 days advance notice. For additional information about accommodation call (703) 324-1100.

MAP NOT APPLICABLE

STAFF REPORT FOR POLICY PLAN AMENDMENT PA 2013-CW-3CP

EXECUTIVE SUMMARY

This Plan amendment is an update to the existing Green Building policy in the Policy Plan volume of the Comprehensive Plan. When the existing policy was adopted in December 2007, the Board of Supervisors directed the Planning Commission to review, and recommend revisions to green building policies as may be determined by the Commission to be appropriate, two years after the adoption of the policy. That review began in November 2009. This Plan amendment was authorized as part of Fairfax Forward in July 2013.

The scope of the items reviewed and researched in the drafting of this recommended Plan amendment have been guided by the Planning Commission Environment Committee's questions and concerns. Staff has provided research and analysis, as well as determining areas of the policy requiring clarification, based on staff experience with the implementation of the adopted policy. With extensive issue identification, research, collection of public comment, and staff analysis and response to those comments, this proposed Plan amendment has undergone significant review by the Planning Commission's Environment Committee.

The current Green Building policy applies to any development or redevelopment subject to a zoning proposal, and encourages commitments to the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED®) rating system or a comparable green building rating system. It also encourages commitments to ENERGY STAR® qualification for homes and creates an expectation for such commitments when zoning proposals seek development at the high end of the plan density range. The policy encourages green building certification throughout the county, but creates an expectation for green building commitments (LEED certification or equivalent) for zoning proposals for nonresidential development and for multifamily residential development of four or more stories in the Tysons Corner Urban Center, Suburban Centers, Community Business Centers and Transit Station Areas when the zoning proposals seek one of the following: development in accordance with Plan options, development involving a change in use from what would be allowed under existing zoning, development at the Overlay Level, or development at the high end of the planned density/intensity range.

The Planning Commission's Environment Committee discussed and recommended several modifications to the policy, including:

- Updating the policy to reflect advances in available green building rating systems, including a more holistic focus on green building design for residential development and not just ENERGY STAR qualification;
- Clarifying the emphasis of the policy to be on individual buildings rather than site/neighborhood design;
- Adding support for reuse of and greening/retrofitting of existing buildings;
- Adding support for solid waste and recycling management practices;
- Adding language to encourage the use of natural lighting;
- Creating a definition of "equivalent" for alternate rating systems other than those noted in the policy (e.g. LEED);

- Removing a limitation on the application of a green building expectation for multifamily residential proposals relating to number of stories;
- Adding support for energy and water usage data and performance monitoring;
- Adding support for periodic regional and local evaluations of outcomes achieved though green building efforts;
- Adding support for higher levels of green building performance when proposed developments have relatively high levels of intensity or density (both residential and non-residential);
- Adding Industrial Areas to the areas of the county with an expectation for a green building commitment;
- Adding green building guidance for development that is being pursued through public-private partnerships on land that is leased or provided by the county; and
- Adding support for infrastructure for electric vehicle charging.

The included draft Plan amendment, endorsed by the Planning Commission, details these changes. Staff recommends that the Policy Plan of the Comprehensive Plan be revised to reflect these modifications.

BACKGROUND

History of the Review and Process

At the time of the initial Green Building Policy adoption in December 2007, the Planning Commission was directed to review the policy after two years to assess the efficacy of the policy as well as to determine if any revisions were necessary, given that the green building field is rapidly evolving.

The review began in November 2009. Staff and the Planning Commission's Environment Committee began a series of discussions to identify issues associated with the use and implementation of the policy. These issues reflected staff's experience with using the policy for two years (at the time), as well as changes to the rating systems and technological evolutions in the green building field. A list of stakeholders comprised of members of the development community, the environmental community, civic and community associations, as well as county staff was prepared, and all stakeholders were notified of the Environment Committee meetings and subsequent public meetings.

The Environment Committee and staff discussed these issues from November 2009 through June 2011. To support this review, Department of Planning and Zoning (DPZ) staff researched items of interest and other county staff from the Department of Public Works and Environmental Services (DPWES) provided expertise on various issues. During this process, the Planning Commission's Environment Committee expressed the expectation that these discussions would lead to an amendment of the current Green Building Policy Plan language.

A first draft of a Strawman of the potential policy guidance was prepared in July 2011, with two public meetings, in July and September 2011, held to invite stakeholder input. After the

stakeholder input was received, staff prepared a comment response document, which was then reviewed with the Environment Committee in a series of meetings from November 2011 through October 2012. This response document, detailing the several dozen comments received and the staff responses to each, is available here: http://www.fairfaxcounty.gov/planning/pdf/greenbuildingcommentmatrix.pdf. This document was reviewed and each comment and its response were discussed during the Planning Commission Environment Committee's review.

At the conclusion of those meetings, a second Strawman was prepared in December 2012, detailing potential changes to the policy language that reflected the stakeholder input and Environment Committee discussion and recommendations. At various times in the process, the Board of Supervisors Environmental Committee and the Environmental Quality Advisory Council (EQAC) were updated on the progress of the review. The second draft Strawman was completed in December 2012.

Following the formal authorization of a Plan Amendment by the Board of Supervisors in July 2013 as part of the Fairfax Forward process, the Planning Commission Environment Committee met to work through remaining outstanding issues. One topic of continued discussion was policy b., which identifies the geographic areas where zoning proposals may be subject to this policy. This issue was resolved by a recommendation to retain the existing approach. The second outstanding issue was policy f., which details public-private partnerships. It remained consistent in intent with the Strawman language but substituted the word "applicants" for the phrase "private companies" for clarity. With changes for clarity, as noted in the Analysis section, the recommended Policy Plan language in this staff report reflects the committee's recommendations known as the second draft Strawman with the minor change determined during the last meeting in November 2013.

The Current Green Building Policy

The current policy was adopted in December 2007 to both strengthen Comprehensive Plan guidance in regards to air quality issues, and to add support for green building practices in the Comprehensive Plan. It was based on the best research, rating systems, and green building technologies available during the time of the Plan amendment process.

The currently adopted policy:

- Applies to development and redevelopment;
- Encourages commitments to the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) rating system OR the equivalent;
- Encourages commitments to ENERGY STAR qualification for homes and creates an expectation for such commitments when zoning proposals seek development at the high end of the plan density range; and
- Creates an expectation for green building commitments (LEED certification or equivalent) for zoning proposals for nonresidential development and for multifamily residential development of four or more stories in Tysons, Suburban Centers, Community Business Centers and Transit Station Areas when the zoning proposals seek one of the following:

- Development in accordance with Plan options
- Development involving a change in use from what would be allowed under existing zoning
- Development at the Overlay Level
- Development at the high end of the planned density/intensity range.

MITRE Report Recommendations

As part of a proffer for RZ 2009-PR-011, the MITRE Corporation produced a report on energy efficient building technologies, specifically in regards to Tysons Corner. The report was transmitted to the Board of Supervisors and Planning Commission in May 2013, in the period between when the second draft Strawman had already been completed and when the amendment was authorized through the Fairfax Forward process. The recommendations in the MITRE report were referred by the Board of Supervisors to the Planning Commission, and the Planning Commission's Environment Committee began its review of this report in February 2014. Generally, some of the MITRE recommendations are consistent with both the current adopted policy and the recommended Plan guidance, specifically the recommendation to use LEED as a design and performance guideline, and support for the ENERGY STAR rating system. However, the MITRE recommendations do differ in some ways in regards to the recommendations for energy monitoring and use of the Designed to Earn ENERGY STAR (DEES) rating system. After the February 2014 presentation to the Planning Commission's Environment Committee it was determined by the committee that the MITRE recommendations would be reviewed in a process separate to this amendment, and following that review, if needed, a follow-up Plan amendment could incorporate any recommended changes.

ANALYSIS

Issues Identified for Review and Analysis

Many issues were considered as part of the Planning Commission Environment Committee's review. Some were minor clarifications or additions, such as examples of supported green building technologies. The Planning Commission's Environment Committee discussed and recommended several modifications to the policy, including:

- Updating the policy to reflect advances in available green building rating systems;
- Defining "equivalent" for alternate rating systems other than those noted in the policy (e.g. LEED);
- Adding support for energy and water usage data and performance monitoring;
- Adding support for higher levels of green building performance when proposed developments have relatively high levels of intensity or density (both residential and non-residential;
- Adding Industrial Areas to the areas of the county with an expectation for a green building commitment;
- Adding green building guidance for development in public-private partnerships; and
- Adding support for infrastructure for electric vehicles.

Greater Availability of Green Building Rating Systems

Since the adoption of the 2007 Green Building policy, there have been many advances in the available rating systems, technologies, and strategies available in green building. The policy specifically references LEED, for both residential and non-residential development, and ENERGY STAR, for residential construction. As the rating system market has substantially changed, there are new options, particularly for residential development. Rather than specifically name the rating systems that have developed, characteristics of acceptable rating systems are defined. These characteristics for residential development reflect the availability of rating systems incorporating more comprehensive green building elements that are no longer solely based on energy. For non-residential development, the issue of equivalency (discussed in a following section), is defined more clearly so as to provide more possibilities, dependent on the specifics of the proposed development.

Definition of "Equivalent"

The current policy discusses a goal of LEED certification or equivalent. However the policy does not explicitly determine what an equivalent to LEED may be. In the time after the adoption of the policy, staff was asked to make equivalency determinations on other green building rating systems. During these determinations, it was realized there was uncertainty in the development community about what might be accepted, and there was concern that there may be inconsistent equivalency determinations. The LEED system has been selected based on the strength of the third-party, independently verified assessments of the comprehensive green building components of a building. Therefore, to be equivalent, a program should have these characteristics. The program should also be nationally or regionally known. The policy guidance recommended in this staff report clearly states what is to be considered equivalent to the LEED program.

Green Building Performance Tied to High Levels of Intensity/Density

In its discussions, the Planning Commission's Environment Committee considered whether it would be appropriate for both residential and non-residential projects proposing exceptional intensity or density to provide higher than basic levels of green building certification. Commitments to higher levels of performance in other aspects of the development (e.g. stormwater) are often offered during the zoning process for proposals with exceptional intensity or density. Per the committee's recommendation, this Plan amendment would establish an expectation for a higher level of commitment than a basic green building certification for both residential and non-residential development proposals with exceptional intensity or density.

Industrial Areas

The adopted Green Building policy uses the Concept for Future Development, as detailed in the Comprehensive Plan, to determine the geographic areas of expectation for a commitment to a green building certification (policy b.). This list did not include the category of "Industrial Areas" at the time of adoption as it did not seem likely that development in these areas would be

of an appropriate type and use such that the policy would be applicable. In the years following the policy's adoption, uses that were identical to uses in other areas of the county (e.g. hotels) were being developed in Industrial Areas. To ensure consistency in the consideration of zoning applications, the recommended policy guidance in this staff report adds Industrial Areas to the list in policy b. where there is an expectation for a commitment to a green building certification.

Energy and Water Usage Data / Performance Monitoring

The committee discussed the question of whether a green building, once built, continues to be green throughout its lifespan – specifically, is the energy and water usage of the building lower than that of a traditionally-constructed building? To determine this, data would need to be obtained and analyzed. While recognized as a valid line of inquiry, both staff and the committee had several concerns with how such research might be conducted and implemented, and what the results might show and how they might be used. Specific questions about determining the audience for these data (the building owner/operator, the county, the public) and responsibility for collecting, managing, analyzing, retaining/storing and accessing the data were identified but not able to be answered. More fundamental concerns such as whether the data from different buildings should be compared and, most importantly, how to establish the value of these efforts to the county and the building owners were also raised.

The Planning Commission's Environment Committee determined that while the answers to many of these questions is not yet clear, there is value to collecting the data provided they are aggregated, anonymously collected, and used solely for informational purposes. The intent should be evaluative, not punitive, with the goal of determining if energy efficiency objectives are being served through implementation of green building policy, in as much as it is possible to determine from the data being collected. There is an acknowledgment that a data point of a single building is very useful for that specific building, but that it does not definitely speak for the efficacy of a rating system as a whole or for the green building potential for other buildings either under that rating system or another. The recommended policy guidance in this Plan amendment gives support both for the general concept of performance monitoring, as well as for evaluations of outcomes of green buildings so long as these evaluations protect the privacy of the building operators and owners.

Public-Private Partnerships

Fairfax County has had a Sustainable Development Policy for Capital Projects, available here: http://www.fairfaxcounty.gov/dpwes/construction/sdpolicy.pdf, since 2007. This policy creates an expectation that county projects over 10,000 square feet obtain LEED Silver certification. Smaller projects are recommended to obtain basic LEED certification.

The current Comprehensive Plan policy has no guidance on public-private partnerships. For clarity, the policy guidance recommended in this staff report encourages applicants involved in a public-private partnership to meet or exceed the guidelines established in the Sustainable Development policy.

Electric Vehicle Charging

The Planning Commission's Environment Committee has separately been considering the issue of electric vehicle charging infrastructure. While the committee's discussions on the electric vehicle charging issue are ongoing, and while there may or may not be additional Comprehensive Plan guidance recommended as a result of this review, there has been support by the committee for the inclusion within this amendment of Plan language that would broadly encourage provisions of, or readiness for, charging stations and related infrastructure for electric vehicles, particularly for those residential uses where other charging opportunities are not available

RECOMMENDATIONS

The following recommendations were incorporated into the draft Plan amendment that was endorsed by the Planning Commission for consideration through the public hearing process. They are supported by staff and have been incorporated into the proposed amendment:

- Clarifying that the emphasis of the policy has always been on individual buildings, not site/neighborhood design;
- Adding support for reuse of and for greening/retrofitting existing buildings;
- Adding language to encourage energy and water usage data collection and performance monitoring, as well as participation in regional and local evaluations of outcomes;
- Adding language to encourage the use of natural lighting;
- Adding support for solid waste and recycling management practices;
- Defining "equivalent" in reference to green building rating systems;
- Removing a limitation on a green building expectation for multifamily residential proposals relating to number of stories, as rating system eligibility requirements have changed;
- Adding support for higher levels of green building performance when proposed developments have relatively high levels of intensity or density (both residential and non-residential);
- Updating the range of residential green building rating systems available for use, recognizing the more comprehensive systems now available, and revising the related policy to focus more holistically on green building design and not just ENERGY STAR Qualification;
- Adding Industrial Areas to the areas of the county with an expectation for a green building commitment;
- Clarifying expectations for public-private partnerships; and
- Adding support for infrastructure for electric vehicle charging.

RECOMMENDED POLICY PLAN AMENDMENT

Staff recommends that the Environment Section of the *Policy Plan* be revised as follows:

MODIFY:

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment Section as amended through February 12, 2013, pages 19-21, as follows:

RESOURCE CONSERVATION AND GREEN BUILDING PRACTICES

The energy shortage in the United States in the 1970s highlighted the finite nature of our natural resources. Since the 1970s, efforts have been pursued at the federal level to enhance energy efficiency and the efficient use of water resources. While such efforts are best addressed at the federal level, local efforts to conserve these resources should be encouraged. Recent events and trends have highlighted the increasing need for energy and resource conservation and efficiency, greenhouse gas reduction and green building practices. Many jurisdictions are now engaging in community energy planning and other strategies to best use available resources.

The "green building" concept provides a holistic approach to the reduction of adverse environmental impacts associated with buildings and their associated facilities and landscapes.

Objective 13: Design and construct buildings and associated landscapes to use energy and water resources efficiently and to minimize short- and long-term negative impacts on the environment and building occupants.

Policy a. In consideration of ~~Consistent with~~ other Policy Plan objectives, encourage the application of energy conservation, water conservation and other green building practices in the design and construction of new development and redevelopment projects. These practices may ~~can~~ include, but are not limited to:

- Environmentally-sensitive siting and construction of development;
- Application of low impact development practices, including minimization of impervious cover (See Policy k under Objective 2 of this section of the Policy Plan);~~.~~
- Optimization of energy performance of structures/energy-efficient design;~~.~~
- Use of renewable energy resources;~~.~~
- Use of energy efficient appliances, heating/cooling systems, lighting and/or other products;~~.~~
- Application of best practices for water conservation, ~~techniques~~ such as water efficient landscaping and innovative wastewater technologies, that can serve to reduce the use of potable water and/or reduce stormwater runoff volumes;~~.~~
- Reuse of existing building materials for redevelopment projects;~~.~~
- Recycling/salvage of non-hazardous construction, demolition, and land clearing debris;~~.~~
- Use of recycled and rapidly renewable building materials;~~.~~
- Use of building materials and products that originate from nearby sources;~~.~~
- Reduction of potential indoor air quality problems through measures such as increased ventilation, indoor air testing and use of low-emitting adhesives, sealants, paints/coatings, carpeting and other building materials;~~.~~

- Reuse, preservation and conservation of existing buildings, including historic structures;
- Retrofitting of other green building practices within existing structures to be preserved, conserved and reused;
- Energy and water usage data collection and performance monitoring;
- Solid waste and recycling management practices; and
- Natural lighting for occupants.

Encourage commitments to implementation of green building practices through certification under established green building rating systems for individual buildings (e.g., the U.S. Green Building Council's Leadership in Energy and Environmental Design for New Construction [LEED-NC®] or the U.S. Green Building Council's Leadership in Energy and Environmental Design for Core and Shell [LEED-CS®] program or other ~~comparable~~ equivalent programs with third party certification). An equivalent program is one that is independent, third-party verified, and has regional or national recognition or one that otherwise includes multiple green building concepts and overall levels of green building performance that are at least similar in scope to the applicable LEED rating system. Encourage commitments to the attainment of the ENERGY STAR® rating where ~~applicable and to ENERGY STAR qualification for homes.~~ available. Encourage certification of new homes through an established residential green building rating system that incorporates multiple green building concepts and has a level of energy performance that is comparable to or exceeds ENERGY STAR qualification for homes. Encourage the inclusion of professionals with green building accreditation on development teams. Encourage commitments to the provision of information to owners of buildings with green building/energy efficiency measures that identifies both the benefits of these measures and their associated maintenance needs.

Policy b. Within the Tysons Corner Urban Center, Suburban Centers, Community Business Centers, Industrial Areas and Transit Station Areas as identified on the Concept Map for Future Development, unless otherwise recommended in the applicable area plan, ~~E~~ensure that zoning proposals for nonresidential development ~~and~~ or zoning proposals for multifamily residential development ~~of four or more stories within the Tysons Corner Urban Center, Suburban Centers, Community Business Centers and Transit Station Areas as identified on the Concept Map for Future Development~~ incorporate green building practices sufficient to attain certification through the LEED-NC or LEED-CS program or ~~its~~ an equivalent program specifically incorporating multiple green building concepts, where applicable, where these zoning proposals seek at least one of the following:

- Development in accordance with Comprehensive Plan Options;
- Development involving a change in use from what would be allowed as a permitted use under existing zoning;
- Development at the Overlay Level; or
- Development at the high end of planned density/intensity ranges. For nonresidential development, consider the upper 40% of the range between by-right development potential and the maximum Plan intensity to constitute the high end of the range.

Where developments with exceptional intensity or density are proposed (e.g. at 90 percent or more of the maximum planned density or intensity), ensure that higher than basic levels of green building certification are attained.

Policy c. Ensure that zoning proposals for residential development that are not otherwise addressed in Policy b above will incorporate green building practices sufficient to attain certification under an established residential green building rating system that incorporates multiple green building concepts and that includes an ~~qualify for the~~ ENERGY STAR Qualified Homes designation or a comparable level of energy performance. ~~,where~~ Where such zoning proposals seek development at or above the mid-~~the high end~~ point of the Plan density range, ~~and where broader commitments to green building practices are not being applied~~ ensure that county expectations regarding the incorporation of green building practices are exceeded in two or more of the following measurable categories: energy efficiency; water conservation; reusable and recycled building materials; pedestrian orientation and alternative transportation strategies; healthier indoor air quality; open space and habitat conservation and restoration; and greenhouse gas emission reduction. As intensity or density increases, the expectations for achievement in the area of green building practices would commensurately increase.

Policy d. Promote implementation of green building practices by encouraging commitments to monetary contributions in support of the county's environmental initiatives, with such contributions to be refunded upon demonstration of attainment of certification under the applicable LEED rating system or equivalent rating system.

Policy e. Encourage energy conservation through the provision of measures which support non-motorized transportation, such as the provision of showers and lockers for employees and the provision of secure short-term and long-term bicycle parking facilities for employment, retail, institutional, and multifamily residential uses.

Policy f. Encourage applicants involved in public-private partnerships where land is leased or provided by the county to meet or exceed county guidelines for green building certification for capital projects.

Policy g. Encourage provision of or readiness for charging stations and related infrastructure for electric vehicles within new development and redevelopment proposals, particularly for residential where other opportunities are not available.-

Policy h. Encourage and participate in periodic regional and local evaluations of the outcomes achieved through the application of sustainable land use principles and technology, in coordination with the energy and resources providers and industry. Such evaluations should be based on pooled, anonymous-source data, and should provide information helpful in decisions regarding the costs and benefits of green practices, including evaluations focused on innovative approaches and technology.

Board Agenda Item
July 1, 2014

4:00 p.m.

Public Hearing on Amendment to *The Code of the County of Fairfax, Virginia*—Chapter 82 (Motor Vehicles and Traffic), Article 5 (Stopping, Standing and Parking), Section 82-5-39

ISSUE:
Public hearing on proposed amendments to Chapter 82, Article 5, Section 82-5-39 of *The Code of the County of Fairfax, Virginia*. The proposed amendments will regulate parking at Metrorail Parking Areas that are owned or controlled by Fairfax County.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors adopt the proposed amendments to Chapter 82, Article 5, Section 82-5-39 of *The Code of the County of Fairfax, Virginia*.

TIMING:
On June 2, 2014, the Board authorized advertisement of a public hearing to be held on July 1, 2014, at 4:00 PM.

BACKGROUND:
As part of the Silver Line Metrorail extension in the Dulles Corridor, the County has established a parking facility at the Wiehle-Reston East Station, and will develop and own additional parking facilities for Metrorail patrons. State law provides that the governing body of any county may, by ordinance, provide for the regulation of parking on county-owned or leased property. Chapter 82, Article 5, Section 82-5-39 of *The Code of the County of Fairfax, Virginia* currently regulates parking in areas owned/operated by Washington Metropolitan Area Transit Authority (WMATA). Staff recommends that the Board amend and readopt Section 82-5-39 to include those parking areas in the Metrorail system that are or will be owned or controlled by the County. The regulations imposed by Section 82-5-39 will include, among other things, complying with posted signs, establishing parking fees, and prohibiting parking in a marked fire lane.

FISCAL IMPACT:
None

Board Agenda Item
July 1, 2014

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Amendments to *The Code of the County of Fairfax*, Section 82-5-39 (July 1, 2014, Draft)
Attachment 2 – Virginia Code § 46.2-1221

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

AN ORDINANCE AMENDING CHAPTER 82, ARTICLE 5 OF THE FAIRFAX COUNTY CODE, RELATING TO REGULATION OF PARKING FACILITIES AT METRORAIL STATIONS

…

Draft of July 1, 2014

[Changes since the June 3, 2014, draft are noted in brackets]

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Section 82-5-39

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

1. **Section 82-5-39 is amended and re-adopted to read as follows:**

Section 82-5-39. Regulation of Metrorail parking area(s);~~parking in areas owned/operated by Washington Metropolitan Area Transit Authority (WMATA);~~ authority; penalties for violation.

(a) For purposes of this Section a "Metrorail Parking Area" shall mean: (i) any parking lot, garage or other facility owned or controlled by the Washington Metropolitan Area Transit Authority (WMATA) for the parking of motor vehicles, mopeds or bicycles by WMATA patrons or employees within Fairfax County; and (ii) any parking lot, garage or other facility owned or controlled by the County for the parking of motor vehicles, mopeds or bicycles by WMATA patrons. A Metrorail Parking Area owned or controlled by WMATA and operated by the County or a Metrorail Parking Area owned or controlled by the County and operated by WMATA shall not be deemed to be controlled by the operator unless a contract between them shall make specific reference to this provision of this ordinance and shall provide otherwise.

(b) WMATA shall set the parking fee*[s]* for Metrorail Parking Areas owned or controlled by WMATA. The parking fee*[s]* for Metrorail Parking Areas owned or controlled by the County shall be set by the Board of Supervisors, on the recommendation of the County Executive. The County shall consider the parking fee*[s]* charged by WMATA in setting the parking fee*[s]* for the County-owned or -controlled Metrorail Parking Area(s).

(c) It shall be unlawful, while in or on a Metrorail Parking Area(s) to*:* ~~parking lot, garage or other facility owned, operated or controlled by WMATA and designated by WMATA for the parking of motor vehicles, mopeds or bicycles by either patrons or employees within Fairfax County to~~:

(1) Stop, park or stand in any place contrary to: (i) the direction of any sign posted by WMATA or the County or (ii) the direction of a Metro Transit police officer or Fairfax County police officer.

(2) Obstruct egress or ingress or otherwise render dangerous the use of a Metrorail Parking Area ~~the parking lot, garage or other facility designated by WMATA as a parking facility~~, except in the event of an accident, emergency or mechanical breakdown, or at the direction of a Metro Transit police officer or Fairfax County police officer. If such vehicle is not promptly removed, such removal may be ordered by a police officer at the expense of the owner of said vehicle.~~; if~~ If it becomes necessary to tow a vehicle from WMATA property in Fairfax County, Metro Transit Police will request from Fairfax County Police the services of the nearest available towing company on the Fairfax County Police list of authorized towing companies. Metro Transit Police

will advise Fairfax County Police Communications Center of all vehicles which are impounded. Towing vehicles from County property shall be conducted in accordance with Section 82-5-32.

(3) Stop, park or stand in any area designated by sign as a fire zone or fire lane ~~designated and signed by WMATA or Fairfax County~~.

(4) Park upon any portion of a parking lot, garage or other facility designated or used as a sidewalk, walkway, landscaped area or lawn.

(5) Load or unload passengers, except at places designated by ~~WMATA~~ signs for the loading and unloading of passengers.

(6) Stop, stand or park a vehicle other than a ~~WMATA~~ public passenger vehicle within thirty (30) feet of a bus stop when such bus stop has been designated and signed by WMATA ~~of Fairfax~~ or the County.

(7) Fail or refuse to pay the established fee for the privilege of parking at a Metrorail Parking Area ~~parking lot, garage or other parking facility~~.

(8) [reserved] ~~Fail or refuse to pay the established fee in the parking meter or parking fee collection box designated for the parking space or to utilize the parking space beyond the parking period purchased by the fee deposited in accordance with the provisions of this Section. "Established fee" is defined for purposes of this Section as payment of the cost of the service for the parking (of any vehicle) in any parking facility owned, operated or controlled by WMATA or its designated agent and at the time and place directed by WMATA or its designated agent.~~

(9) Cause to be operated bicycles, skateboards, minibikes, mopeds, trail bikes or any other wheeled vehicle in or on the parking lot, garage or other facility, except when the wheeled vehicle is being parked in accordance with public parking ordinances.

(10) Fail or refuse to leave any parking lot, garage or other facility after being ordered to do so by the attendant or other designated agent of WMATA or a Fairfax County police officer.

(d) Any person violating the provisions of this Section shall be punished by a fine established in accordance with Section 82-1-32.

(e) Unless otherwise provided herein, all provisions of the statutes of the Commonwealth of Virginia, and ordinances of the County of Fairfax, relating to public parking, including but not limited to public streets, public alleyways, fire lanes, fire zones, public sidewalks, public parking facilities, and/or public buildings are applicable to the Metrorail Parking Area(s). ~~parking facilities, parking lots, parking garages and other facilities designed by WMATA as parking facilities for the parking of all motor vehicles, mopeds or bicycles, and owned, operated or controlled by WMATA. (13-84-82; 17-87-82; 15-00-82.)~~

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That this Ordinance is effective upon adoption.

GIVEN under my hand this day of _____ 2014.

_____

Clerk to the Board of Supervisors

West's Annotated Code of Virginia
Title 46.2. Motor Vehicles (Refs & Annos)
Subtitle III. Operation
Chapter 12. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking (Refs & Annos)
Article 3. Trespassing Vehicles, Parking, and Towing (Refs & Annos)

VA Code Ann. § 46.2-1221

§ 46.2-1221. Authority of county to regulate parking on county-owned or leased property or on county highways; parking meters; presumption as to violation of ordinances

Currentness

The governing body of any county may, by ordinance, provide for the regulation of parking on county-owned or leased property and may prohibit parking within fifteen feet of any fire hydrant or in any way obstructing a fire hydrant.

In any prosecution charging a violation of the ordinance or regulation, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the ordinance or regulation, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

Credits
Acts 1989. c. 727; Acts 1991, c. 219; Acts 1994, c. 218; Acts 1995, c. 66.

VA Code Ann. § 46.2-1221, VA ST § 46.2-1221
Current through End of the 2013 Reg. Sess. and the End of 2013 Sp. S. I and includes 2014 Reg. Sess. cc. 1, 2, 8, 23, 29, 47 and 59.

End of Document

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Board Agenda Item
July 1, 2014

4:30 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic, Section 82-1-6, Adoption of State Law

ISSUE:
Public hearing to amend Chapter 82, Motor Vehicles and Traffic. These amendments adopt actions of the 2014 General Assembly into Chapter 82 of the *Code of the County of Fairfax, Virginia*.

RECOMMENDATION:
The County Executive recommends that the Board adopt the proposed amendments to Chapter 82.

TIMING:
Board of Supervisors authorized the advertisement of a public hearing on the proposed amendments on June 3, 2014; Board of Supervisors' public hearing scheduled for July 1, 2014, at 4:30 p.m. If approved, these amendments will become effective immediately.

BACKGROUND:
As a housekeeping measure to update Chapter 82, portions of Section 82-1-6 (Adoption of State Law) have been amended to reflect changes made to the *Code of Virginia* by the 2014 General Assembly. A summary of all changes is provided in Attachment 2.

The 2013 General Assembly amended Va. Code Ann. § 46.2-915.2 by removing the enabling authority for counties to require safety equipment be worn by moped operators and added language directly in the code requiring such equipment be worn. Accordingly, Va. Code Ann. § 46.2-915.2 is proposed to be incorporated into Fairfax County Code Sections 82-1-6 and 82-6-38.2 (Use of certain safety equipment while operating a moped) is proposed for repeal (Attachment 3).

FISCAL IMPACT:
None.

Board Agenda Item
July 1, 2014

ENCLOSED DOCUMENTS:
Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic
Attachment 2 - Summary of 2014 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic
Attachment 3 – Proposed Repeal of Section 82-6-38.2 (Use of certain safety equipment while operating a moped.)

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Karen L. Gibbons, Senior Assistant County Attorney

ATTACHMENT 1

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

Section 82-1-6. Adoption of State Law

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2013~~ 2014, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2013~~ 2014~~, except where noted~~.

18.2-266	18.2-269	46.2-203.1
18.2-266.1	18.2-270	46.2-218
18.2-267	18.2-270.01	46.2-300
18.2-268.1	18.2-270.1	46.2-301
18.2-268.2	18.2-271	46.2-301.1
18.2-268.3	18.2-271.1	46.2-302
18.2-268.4	18.2-272	46.2-329
18.2-268.5	46.2-100	46.2-334.001
18.2-268.6	46.2-102	46.2-341.20:5
18.2-268.7	46.2-104	46.2-341.21
18.2-268.8	46.2-108	46.2-346
18.2-268.9	46.2-109	46.2-349
18.2-268.10	46.2-110	46.2-357
18.2-268.11	46.2-111	46.2-371
18.2-268.12	46.2-112	46.2-373

46.2-376
46.2-379
46.2-380
46.2-391.2
46.2-391.3
46.2-392
46.2-393
46.2-398
46.2-602.3
46.2-613
46.2-616
46.2-617
46.2-618
46.2-704
46.2-715
46.2-716
46.2-724
46.2-730
46.2-800
46.2-801
46.2-802
46.2-803
46.2-804
46.2-805
46.2-806
46.2-807
46.2-808
46.2-808.1
46.2-810
46.2-811
46.2-812
46.2-814
46.2-816
46.2-817
46.2-818
46.2-819.4
46.2-820
46.2-821
46.2-822
46.2-823
46.2-824
46.2-825
46.2-826
46.2-827
46.2-828
46.2-828.2*
46.2-829
46.2-830
46.2-831
46.2-832
46.2-833
46.2-833.1
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46.2-835
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46.2-839
46.2-841
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46.2-865.1
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46.2-868.1
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46.2-1092
46.2-1093
46.2-1102
46.2-1105
46.2-1110
46.2-1111
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46.2-1218
46.2-1219.2
46.2-1234
46.2-1240
46.2-1242
46.2-1250
46.2-1309
46.2-1508.2
46.2-1552
46.2-1561
46.2-2812
46.2-2910*

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the County. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18-2.272 of the *Code of Virginia* which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

~~* To become effective on January 1, 2014, per 2013 Acts of General Assembly Chapter 312.~~

ATTACHMENT 2

SUMMARY OF 2014 GENERAL ASSEMBLY
AMENDMENTS AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 18.2 and Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Section 18.2-268.7 amended. Certificates of analysis admitted into evidence; electronic signature. Allows the Department of Forensic Science to electronically scan a blood withdrawal certificate into the Department's Laboratory Information Management System and to electronically transmit it and the certificate of analysis to the clerk of court. The bill also allows a certificate of analysis for drugs or alcohol use to be signed electronically.

§ 18.2-270, 18.2-270.1, 18.2-271.1, and 46.2-391.2 amended. DUI; probation; license suspension, etc**.** Removes the provision that, unless otherwise modified by the court, a defendant who has been convicted of a fourth or subsequent DUI in 10 years shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years. The bill also amends the provision that allows for administrative suspension of driving privileges for refusal to submit to a test to determine blood alcohol content to provide that the suspension can occur for refusal to submit to a blood test as well as a breath test. In addition, the bill corrects two incorrect cross-references, corrects an omission regarding administrative suspension of licenses for failure to order ignition interlock, and clarifies that VASAP is required for all convictions under § 18.2-266.

Sections 46.2-100, 46.2-715, 46.2-730, 46.2-910, 46.2-1011, 46.2-1012, 46.2-1014, 46.2-1057, 46.2-1067, 46.2-1068, 46.2-1092, and 46.2-1157 amended. New vehicle classification; autocycle. Defines a new class of vehicle, known as an autocycle, and provides for examination of drivers, registration fees, safety, inspection, and other requirements pursuant to creating this new class of vehicle. The bill contains technical amendments.

Section 46.2-839 amended. Minimum clearance for passing bicycles, etc. Increases from two to three feet the minimum clearance between a passing vehicle and a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

FROM 2013 VIRGINIA GENERAL ASSEMBLY

Section 46.2-915.2 amended. Safety equipment for mopeds. Removes enabling authority for counties to require safety equipment for moped operators (i.e., face shield,

safety glasses, goggles, and protective helmets) and replaces with language requiring the wearing of such safety equipment by operators. Amendment requires the repeal of Fairfax County Code Section 82-6-38.2 (Use of certain safety equipment while operating a moped).

Section 82-6-38.2. Use of certain safety equipment while operating a moped.

Repealed.

~~Any person operating a moped on a public street or highway (i) shall wear an eye protective device, as described below, at all times while operating such vehicle or (ii) shall have the moped equipped with safety glass or a windshield. An eye protective device means a face shield, safety glasses, or goggles of a type approved by the Superintendent. In addition, any person operating a moped and any passengers thereon shall wear protective helmets of a type approved by the Superintendent. The terms "Superintendent" and "moped" have the meanings set forth in *Code of Virginia*, § 46.2-100. Any person who knowingly violates this section shall be guilty of a traffic infraction and be subject to a fine of not more than fifty dollars.~~

~~A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a moped or motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action. (18-95-82, § 1.)~~