

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

AGENDA

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|-------|---|
| 9:30 | Presentations |
| 10:00 | Presentation of the 2015 Transportation Advisory Commission (TAC) Achievement Award |
| 10:00 | Presentation of the Environmental Quality Advisory Council (EQAC) Annual Report |
| 10:10 | Board Appointments |
| 10:20 | Board Adoption of the 2017 Legislative Program for the Virginia General Assembly, Approval of the County's 115th Congress Federal Legislative Strategy and Principles |
| 10:30 | Items Presented by the County Executive |

**ADMINISTRATIVE
ITEMS**

- | | |
|---|---|
| 1 | Resolution for Endorsement of Elizabeth Lane and Old Hickory Road to be Considered for Cut-Through Measures as Part of the Residential Traffic Administration Program (Braddock District) |
| 2 | Authorization to Advertise a Public Hearing to Establish the Hilltop Community Parking District (Providence District) |
| 3 | Rescind Approval of "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Providence District) |
| 4 | Approval of Traffic Calming Measures, "\$200 Additional Fine for Speeding" Signs and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Mason, Providence and Dranesville Districts) |
| 5 | Street into the Secondary System (Springfield District) |
| 6 | Designation of Plans Examiner Status under the Expedited Land Development Review Program |
| 7 | Approval of a Portion of a Street Name Change from Greensboro Station Place to Silver Hill Drive and to Change SAIC Drive to Greensboro Station Place (Providence District) |
| 8 | Extension of Review Period for 2232 Application (Lee District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**ADMINISTRATIVE
ITEMS
(Continued)**

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| 9 | Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Craft Beverage Production Establishments |
| 10 | Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Riding and Boarding Stables |
| 11 | Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Article 6 – Planned Tysons Corner Urban (PTC) District Regulations Regarding the Maximum Floor Area for High Trip Generating Uses |
| 12 | Authorization to Advertise a Public Hearing to Lease County-Owned Property to T-Mobile Northeast LLC (Lee District) |
| 13 | Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 109.1-1-2, 109.1-5-3, 109.1-5-5, and 109.1-5-6 Relating to the County's Solid Waste Ordinance, Chapter 109.1 |
| 14 | Authorization to Advertise Public Hearings on Proposed Amendment to the Code of the County of Fairfax, Chapter 122 (Tree Conservation Ordinance) Regarding the Posting of Signs on Private Property When an Infill Lot Grading Plan Is Submitted to the County for Review |
| 15 | Authorization for the Department of Family Services to Apply for and Accept Grant Funding from the Department of Health and Human Services for Supplemental Funding Associated with the Early Head Start Child Care Partnership and Expansion Grant |
| 16 | Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia - Chapter 82 (Motor Vehicles and Traffic), Article 2 (Signs, Signals and Markers), to Add a New Section 82-2-8 Relating to the Authorization for the Fairfax County School Board to Install and Operate a Video Monitoring System to Enforce the Law Against Passing Stopped School Buses |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

ACTION ITEMS

- 1 Endorsement of the Chief Administrative Officers Task Force's Recommendation Regarding the Preliminary FY 2018 Virginia Railway Express Capital and Operating Budget
- 2 Lease Agreement for Commuter Parking at Springfield Town Center (Lee District)
- 3 Lease Agreement for Commuter Parking at Springfield United Methodist Church (Lee District)
- 4 Approval of Standard Project Agreement with the Northern Virginia Transportation Authority for the Fairfax County Parkway Widening Project from Ox Road (Route 123) to Lee Highway (Route 29) (Springfield, Braddock Districts)
- 5 Approval of Standard Project Agreement with the Northern Virginia Transportation Authority for the Route 7 Widening Project from Colvin Forest Drive to Jarrett Valley Drive (Dranesville District)
- 6 Approval of Rescission of Memorandum of Agreement Between the Board of Supervisors of Fairfax County, Virginia, and the Vienna Volunteer Fire Department
- 7 Approval of Comments on the Commonwealth of Virginia's Atlantic Gateway Project (Mason, Lee, and Mount Vernon Districts)
- 8 Sale of General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds
- 9 Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated
- 10 Authorization for the Department of Transportation to Apply for Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program Funds; and for the Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies Grant Program
- 11 Approval of a Memorandum of Understanding Between the City of Falls Church, Fairfax County and the Fairfax-Falls Church Community Services Board Establishing Collaboration Between the City of Falls Church and Law Enforcement Agencies at the Merrifield Crisis Response Center for People Experiencing a Psychological Crisis

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**ACTION ITEMS
(Continued)**

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|----|---|
| 12 | Approval of a Standard Project Agreement with the Northern Virginia Transportation Authority for the Route 28 Widening Project (Prince William County Line to Route 29) (Sully District) |
| 13 | Authorization to Enter into License Agreement with Towers Crescent, LLC to Expand Capital Bikeshare in Fairfax County (Providence District) |
| 14 | Authorization for the Director of the Department of Transportation to Execute Future Bikeshare Station License Agreements and Renewals for Capital Bikeshare |
| 15 | Approval of a Letter to the Washington Metropolitan Area Transit Authority (WMATA) Regarding Proposed Early Metrorail Closing and WMATA FY 2018 Budget Options |
| 16 | Authorization to Enter into Three Party Agreement with the Washington Metropolitan Area Transit Authority (WMATA) and Motivate, Inc. for Operation of Capital Bikeshare on WMATA Property (Providence District) |
| 17 | Establishment of a Police Civilian Review Panel, as Recommended by the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission |

**INFORMATION
ITEMS**

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|-------|---|
| 1 | Fairfax-Falls Church Community Services Board Fee Schedule |
| 2 | Recognition and Awards for the County LiveWell Program |
| 3 | Contract Award – Consulting Services for Route 1 Bus Rapid Transit System |
| 4 | Presentation of the Fiscal Year 2016 Comprehensive Annual Financial Report (CAFR) |
| 10:40 | Matters Presented by Board Members |
| 11:30 | Closed Session |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

PUBLIC HEARINGS

- | | |
|------|---|
| 3:00 | Public Hearing on RZ 2015-HM-011 (CESC Commerce Executive Park, LLC) (Hunter Mill District) |
| 3:00 | Public Hearing on SEA 94-H-049 (CESC Commerce Executive Park, LLC) (Hunter Mill District) |
| 3:00 | Public Hearing on SE 2016-SU-006 (Naseem Gul Bhatti) (Sully District) |
| 3:00 | Public Hearing on RZ 2016-DR-001 (NVR, INC) (Dranesville District) |
| 3:00 | Public Hearing on PCA 1999-HM-037 (NVR, INC) (Dranesville District) |
| 3:00 | Public Hearing on SEA 97-H-070-03 (NVR, INC) (Dranesville District) |
| 3:00 | Public Hearing on SE 2016-LE-002 (PMG Mid Atlantic, LLC) (Lee District) |
| 3:00 | Public Hearing on RZ 2016-LE-006 (PMG Mid Atlantic, LLC) (Lee District) |
| 3:00 | Public Hearing on PCA 2009-SU-020-02 (Pender Professional Center, LLC) (Sully District) |
| 3:30 | Public Hearing on SEA 82-L-062-02 (6620 Backlick Road, LLC) (Lee District) |
| 3:30 | Public Hearing on RZ 2014-MA-014 (NOVUS Property Holdings, LLC) (Mason District) |
| 3:30 | Public Hearing on RZ 2016-BR-013 (MHI-Heritage, LLC & Bristow Shopping CTR LTD) (Braddock District) |
| 3:30 | Public Hearing on SE 2016-DR-009 (Seneca Corner Associates, LLC) (Dranesville District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**PUBLIC HEARINGS
(Continued)**

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|------|--|
| 4:00 | Public Hearing on Proposed Plan Amendment 2015-I-J1, Located South of Arlington Boulevard and West of Graham Road (Mason District) |
| 4:00 | Public Hearing on Proposed Plan Amendment 2016-II-F1, Located South of Arlington Boulevard Between Bear Branch and Barkley Drive (Providence District) |
| 4:00 | Public Hearing on Proposed Plan Amendment 2016-CW-2CP, Planned Industrial Uses |
| 4:00 | Public Hearing on Proposed Plan Amendment 2016-IV-MV1, Located East of Richmond Highway, North of Dart Drive (Mount Vernon District) |
| 4:30 | Public Hearing on Proposed Plan Amendments 2013-III- FC1(B) and 2016-III-FC1, Fairfax Center Area (Braddock, Providence, Springfield, and Sully Districts) |
| 4:30 | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of Kirby Road Sidewalk (Dranesville District) |
| 4:30 | Public Hearing on Proposed Plan Amendment 2016-II-T2, Jermantown Road Bridge Located Over Interstate 66 (Providence District) |
| 4:30 | Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries |
| 5:00 | Public Hearing on SE 2016-LE-005 (Ruth Villanueva DBA The Little Home Daycare) (Lee District) |
| 5:00 | Public Hearing on a Proposal to Abandon Part of Lee Road (Sully District) |
| 5:00 | Public Hearing on a Proposal to Vacate Part of Eskridge Road (Providence District) |
| 5:00 | Public Hearing on Revisions to the Fairfax County Code, Chapter 84.1, Public Transportation, Regarding Taxicab Regulation |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**PUBLIC HEARINGS
(Continued)**

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|------|--|---|
| 5:00 | | Public Hearing on the Acquisition of Certain Land Rights Necessary for the Rehabilitation of the Difficult Run Force Main (Hunter Mill and Dranesville Districts) |
| 5:30 | | Public Hearing on SE 2016-MV-010 (Marc Anthony Mussoline) (Mount Vernon District) |
| 5:30 | To be Indefinitely Deferred | Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) (Hunter Mill District) |
| 5:30 | | Public Hearing on RZ 2015-HM-013 (Wiehle Station Ventures, LLC) (Hunter Mill District) |
| 5:30 | | Public Hearing on SEA 94-H-049-02 (Wiehle Station Ventures, LLC) (Hunter Mill District) |
| 6:00 | | Public Comment |



Fairfax County, Virginia

BOARD OF SUPERVISORS

AGENDA

**Tuesday
December 6, 2016**

9:30 a.m.

RECOGNITION

Recognition of Fairfax County employers selected as “Best Workplaces for Commuters” by the Fairfax County Department of Transportation and the National Center for Transit Research at the University of South Florida.

PRESENTATIONS

- RESOLUTION – To congratulate the McLean High School Marching Band for winning the 2016 USBands Virginia State Championship. Requested by Supervisor Foust.
- RESOLUTION – To recognize the Woman’s Club of McLean Annual Holiday Homes Tour for its 50th anniversary. Requested by Supervisor Foust.
- RESOLUTION – To recognize the 30th anniversary of the Early Intervention Law. Requested by Chairman Bulova.
- CERTIFICATE – To recognize the International Association of Firefighters Local 2068 for its success during the 2016 Fill the Boot Campaign. Requested by Chairman Bulova.

— more —

Board Agenda Item
December 6, 2016

- PROCLAMATION – To designate January 15-21, 2017, as Teen Cancer Awareness Week in Fairfax County. Requested by Supervisor Smith.

STAFF:

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

Board Agenda Item
December 6, 2016

10:00 a.m.

Presentation of the 2015 Transportation Advisory Commission (TAC) Achievement Award

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
Jeffrey M. Parnes, Chairman of the Transportation Advisory Commission

Board Agenda Item
December 6, 2016

10:00 a.m.

Presentation of the Environmental Quality Advisory Council (EQAC) Annual Report

ENCLOSED DOCUMENTS:

None. The Environmental Quality Advisory Council Annual Report is available online at:
www.fairfaxcounty.gov/eqac/report

PRESENTED BY:

Stella Koch, Chairman, Environmental Quality Advisory Council

Board Agenda Item
December 6, 2016

10:10 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard December 6, 2016
(An updated list will be distributed at the Board meeting.)

STAFF:

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

December 6, 2016

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

APPOINTMENTS TO BE HEARD DECEMBER 6, 2016
(ENCOMPASSING VACANCIES PROJECTED THROUGH DECEMBER 31, 2016)
(Unless otherwise noted, members are eligible for reappointment)

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Heather Scott; appointed 4/16 by Cook) Term exp. 9/17 <i>Resigned</i> | Braddock District Representative | | Cook | Braddock |
| VACANT (Formerly held by Margaret Osborne; appointed 12/14 by McKay) Term exp. 9/16 <i>Resigned</i> | Lee District Representative | | McKay | Lee |
| VACANT (Formerly held by Virginia L. Peters; appointed 10/14 by Hyland) Term exp. 9/16 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |

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

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| AIRPORTS ADVISORY COMMITTEE (3 years) |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|---|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Brian Elson; appointed 7/13-1/15 by Hyland) Term exp. 1/18 <i>Resigned</i> | Mount Vernon District Business Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Robert A. Peter; appointed 2/09-1/13 by Smyth) Term exp. 1/16 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|-----------------------|--------------------------|------------------------|
| Grant Nelson (Appointed 10/95-5/01 by Hanley; 6/04-9/07 by Connolly; 6/10-7/13 by Bulova) Term exp. 6/16 | At-Large #2 Representative | | By Any Supervisor | At-Large |
| Linda Rubinstein (Appointed 4/05-10/13 by Hudgins) Term exp. 10/16 | At-Large #6 Representative | | By Any Supervisor | At-Large |

ANIMAL SERVICES ADVISORY COMMISSION (2 years)

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

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

ARCHITECTURAL REVIEW BOARD (3 years)

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| VACANT (John Boland; appointed 2/91-9/95 by Dix; 7/01 by Mendelsohn; 9/04- 9/07 by DuBois; 9/10-9/13 by Foust) Term exp. 9/16 <i>Resigned</i> | Attorney Representative | | By Any Supervisor | At-Large |
| Joseph Plumpe (Appointed 9/07-9/13 by Frey) Term exp. 9/16 | Landscape Architect Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by John Manganello; appointed 7/15 by Hudgins) Term exp. 9/18 <i>Resigned</i> | Related Professional Group #4 Representative | | By Any Supervisor | At-Large |

ATHLETIC COUNCIL (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| Terry Adams (Appointed 11/11-7/13 by Gross) Term exp. 6/15 | Mason District Alternate Representative | | Gross | Mason |
| VACANT (Formerly held by Jonathan Willmott; Appointed 5/07-4/15 by Hyland) Term exp. 3/17 <i>Resigned</i> | Mount Vernon District Principal Representative | | Storck | Mount Vernon |

AUDIT COMMITTEE (2 years)

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Judith Fogel; appointed 6/12-5/15 by Gross) Term exp. 6/16 <i>Resigned</i> | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Brett Kenney; appointed 10/13-9/15 by Hyland) Term exp. 6/16 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Susan Kim Harris; appointed 5/09-2/11 by Hudgins) Term exp. 2/15 <i>Resigned</i> | Alternate #4 Representative | | By Any Supervisor | At-Large |

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| <p align="center">BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS (BOE) (2 years)</p> |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-----------------------------------|-----------------------------------|--------------------------|------------------------|
| Thomas Parr (Appointed 12/04 by Connolly; 12/10-1/15 by Bulova) Term exp. 12/16 | At-Large #1 Representative | Thomas Parr (Bulova) | By Any Supervisor | At-Large |
| Arthur S. Nachman (Appointed 6/14- 11/14 by Foust) Term exp. 12/16 | Professional #2 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Ryan Davis; appointed 2/05-12/05 by McConnell; 2/08- 1/16 by Herrity) Term exp. 12/17 <i>Resigned</i> | Professional #3 Representative | | By Any Supervisor | At-Large |
| Noelle M. Holmes (Appointed 5/06- 12/08 by Connolly; 12/10-11/14 by L. Smyth) Term exp. 12/16 | Professional #4 Representative | | By Any Supervisor | At-Large |
| M. Yvonne Demory (Appointed 1/07- 11/14 by Hudgins) Term exp. 12/16 | Professional #5 Representative | | By Any Supervisor | At-Large |
| Sandy Pompelli (Appointed 1/15 by Bulova) Term exp. 12/16 | Professional #6 Representative | Sandy Pompelli (Bulova) | By Any Supervisor | At-Large |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------|-----------------------|--------------------------|------------------------|
| Jason M. Chung (Appointed 2/11-9/14 by Frey) Term exp. 9/16 <i>Not eligible for reappointment</i> | At-Large #2 Representative | | By Any Supervisor | At-Large |
| Jill Patrick (Appointed 9/09-9/14 by Gross) Term exp. 9/15 <i>Not eligible for reappointment</i> | At-Large #3 Representative | | By Any Supervisor | At-Large |

CHESAPEAKE BAY PRESERVATION ORDINANCE
EXCEPTION REVIEW COMMITTEE (4 years)

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

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| CHILD CARE ADVISORY COUNCIL (2 years) |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|-----------------------|--------------------------|------------------------|
| Courtney Park (Appointed 2/10-10/14 by Hudgins) Term exp. 9/16 | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Hugh Mc Cannon; appointed 12/09-9/14 by Herrity) Term exp. 9/16 <i>Resigned</i> | Springfield District Representative | | Herrity | Springfield |

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| CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years) |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Alan Potter; appointed 3/14 by Smyth) Term exp. 5/16 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |
| Karrie K. Delaney (Appointed 10/10- 5/14 by Frey) Term exp. 5/16 | Sully District Representative | | K. Smith | Sully |

CIVIL SERVICE COMMISSION (2 years)

[NOTE: The Commission shall include at least 3 members who are male, 3 members who are female, and 3 members who are from a member of a minority group.]

Current Membership: Males - 9 Females – 3 Minorities: 5

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|-----------------------|--------------------------|------------------------|
| Ronald Copeland (Appointed 9/04-11/14 by Hudgins) Term exp. 12/16 | At-Large #2 Representative | | By Any Supervisor | At-Large |

COMMISSION FOR WOMEN (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Binh Nguyen; appointed 4/13-10/15 by Foust) Term exp. 10/18 <i>Resigned</i> | Dranesville District Representative | | Foust | Dranesville |
| VACANT (Formerly held by Maria Jarmila Vorel; appointed 10/13 by Hyland) Term exp. 10/16 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Miriam Erickson; appointed 10/11- 10/14 by L. Smyth) Term exp. 10/17 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |

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| <p align="center">COMMISSION ON AGING (2 years)</p> |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Eleanor Fusaro; appointed 1/14-5/14 by Hudgins) Term exp. 5/16 <i>Resigned</i> | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| VACANT (Formerly held by Denton Urban Kent; Appointed 9/14 by Gross) Term exp. 5/16 <i>Resigned</i> | Mason District Representative | | Gross | Mason |

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| <p align="center">COMMISSION ON ORGAN AND TISSUE DONATION AND TRANSPLANTATION (4 years)</p> |
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| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Benjamin Gibson; appointed 4/11 by McKay) Term exp. 1/15 <i>Resigned</i> | Lee District Representative | | McKay | Lee |
| VACANT (Formerly held by William Stephens; appointed 9/02-1/03 by McConnell; 1/07-1/11 by Herrity) Term exp. 1/15 <i>Resigned</i> | Springfield District Representative | | Herrity | Springfield |

COMMUNITY ACTION ADVISORY BOARD (CAAB)
(3 years)

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

CONSUMER PROTECTION COMMISSION
(3 years)

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

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| CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years) |
|---|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|---|--------------------------|------------------------|
| VACANT (Formerly held by Howard Foard; appointed 11/12-10/15 by Hudgins) Term exp. 8/18 <i>Resigned</i> | At-Large Representative | Michael Skvortsov (Hudgins) | By Any Supervisor | At-Large |
| VACANT (Formerly held by Joseph A. Jay, appointed 11/06 by McConnell; 9/09-9/12 by Herrity) Term exp. 8/15 <i>Resigned</i> | Springfield District Representative | | Herrity | Springfield |

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|---|
| ECONOMIC ADVISORY COMMISSION (3 years) |
|---|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|----------------------------|-----------------------|--------------------------|------------------------|
| Jennifer W. Siciliano (Appointed 2/13 by Foust) Term exp. 12/16 | At-Large Representative | | By Any Supervisor | At-Large |

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|--|
| ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years) |
|--|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|-----------------------|--------------------------|------------------------|
| Paul Pitera (Appointed 3/15 by Cook) Term exp. 11/16 | Braddock District Representative | Paul Pitera | Cook | Braddock |

FAIRFAX AREA DISABILITY SERVICES BOARD**(3 years- limited to 2 full consecutive terms per MOU, after initial term)**

[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Alexandria Dixon; appointed 9/14 by L. Smyth) Term exp. 11/16 <i>Resigned</i> | At-Large #1 Business Representative | | By Any Supervisor | At-Large |
| Jacqueline Browne (Appointed 9/08-12/11 by Gross) Term exp. 11/14 | Mason District Representative | | Gross | Mason |
| Harriet M. Epstein (Appointed 5/10-12/13 by L. Smyth) Term exp. 11/16 | Providence District Representative | | L. Smyth | Providence |

FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD**(3 years – limited to 3 full terms)**

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Jeffrey M. Wisoff; appointed 6/13-6/14 by Smyth) Term exp. 6/17 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Phil Tobey; appointed 6/11-5/14 by Hudgins) Term exp. 6/17 <i>Resigned</i> | Consumer #2 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Ananth Thyagarajan; Appointed 7/15 by Bulova) Term exp. 6/18 <i>Resigned</i> | Provider #1 Representative | | By Any Supervisor | At-Large |

HISTORY COMMISSION (3 years)

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

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|---------------------------------|-----------------------|--------------------------|------------------------|
| Barbara Naef (Appointed 6/04- 11/13 by Hudgins) Term exp. 12/16 <i>Hunter Mill District Resident</i> | Archaeologist Representative | | By Any Supervisor | At-Large |
| Phyllis Walker Ford (Appointed 1/09- 12/13 by McKay) Term exp. 12/16 <i>Lee District Resident</i> | At-Large #3 Representative | | By Any Supervisor | At-Large |

Continued on next page

HISTORY COMMISSION (3 years)
 continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------|-----------------------|--------------------------|------------------------|
| Elise Ruff Murray (Appointed 11/83- 11/89 by Pennino; 11/92-11/01 by Hanley; 12/04-11/13 by Hudgins) Term exp. 12/16 <i>Hunter Mill District Resident</i> | Citizen #3 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Rachel Rifkind; appointed 12/13 by Gross) Term exp. 9/16 <i>Resigned Mason District</i> | Citizen #7 Representative | | By Any Supervisor | At-Large |
| Naomi D. Zeavin (Appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resident</i> | Historian #1 Representative | | By Any Supervisor | At-Large |
| Anne G. Stuntz (Appointed 3/12- 11/13 by Hudgins) Term exp. 12/16 <i>Hunter Mill Resident</i> | Historian #2 Representative | | By Any Supervisor | At-Large |

| HUMAN SERVICES COUNCIL (4 years) | | | | |
|--|---|----------------|-------------------|-----------------|
| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
| Sergio R. Rimola (Appointed 6/15 by Foust) Term exp. 7/16 | Dranesville District #2 Representative | | Foust | Dranesville |
| VACANT (Formerly held by Stephanie Mensh; appointed 1/06-7/14 Term exp. 7/18 <i>Resigned</i> | Mason District #1 Representative | | Gross | Mason |
| VACANT (Formerly held by Mark K. Deal; appointed 11/11-7/13 by Gross) Term exp. 7/17 <i>Resigned</i> | Mason District #2 Representative | | Gross | Mason |
| VACANT (Formerly held by Jack Dobbyn; appointed 2/13 by Hyland) Term exp. 7/16 <i>Resigned</i> | Mount Vernon District #1 Representative | | Storck | Mount Vernon |

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--|-----------------------|--------------------------|------------------------|
| Nikhil Suresh Shenoy (Appointed 6/16 by Foust) Term exp. 12/16 | Dranesville District Representative | | Foust | Dranesville |
| John P. Skudlarek (Appointed 1/04- 11/13 by Hyland) Term exp. 12/16 | Mount Vernon District Representative | | Storck | Mount Vernon |
| Dennis Carlton (Appointed 2/16 by K. Smith) Term exp. 12/16 | Sully District Representative | | K. Smith | Sully |

CONFIRMATION NEEDED:

- Mr. John George as the Northern Virginia Technology Council Representative

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

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---------------------------------------|-----------------------|--------------------------|------------------------|
| VACANT (Formerly held by Brian Murray; appointed 3/08-1/14 by McKay) Term exp. 1/16 <i>Resigned</i> | Lee District Representative | | McKay | Lee |
| Michael J. Beattie (Appointed 7/11- 1/14 by Smyth) Term exp. 1/16 | Providence District Representative | | L. Smyth | Providence |

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|---|
| OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years) |
|---|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|--------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by William Uehling; appointed 3/10-7/12 by Bulova) Term exp. 6/15 <i>Resigned</i> | Braddock District Representative | | Cook | Braddock |
| VACANT (Formerly held by Amy K. Reif; appointed 8/09-6/12 by Foust) Term exp. 6/15 <i>Resigned</i> | Dranesville District Representative | | Foust | Dranesville |
| VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 <i>Resigned</i> | Hunter Mill District Representative | | Hudgins | Hunter Mill |
| VACANT (Formerly held by Richard Nilsen; appointed 3/10-6/10 by McKay) Term exp. 6/13 <i>Resigned</i> | Lee District Representative | | McKay | Lee |
| VACANT (Formerly held by Jeffrey Levy; Appointed 7/02-6/13 by Hyland) Term exp. 6/16 <i>Resigned</i> | Mount Vernon District Representative | | Storck | Mount Vernon |
| VACANT (Formerly held by Tina Montgomery; appointed 9/10-6/11 by Smyth) Term exp. 6/14 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |

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|--------------------------------------|
| PLANNING COMMISSION (4 years) |
|--------------------------------------|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---|-----------------------|--------------------------|------------------------|
| Janyce Hedetniemi (Appointed 1/13 by Bulova) Term exp. 12/16 | At-Large #1 Chairman's Representative | | Bulova | At-Large Chairman's |
| John Ulfelder (Appointed 12/13 by Foust) Term exp. 12/16 | Dranesville District Representative | | Foust | Dranesville |
| Kenneth A. Lawrence (Appointed 1/04- 11/12 by L. Smyth) Term exp. 12/16 | Providence District Representative | | L. Smyth | Providence |

| |
|--|
| POLICE OFFICERS RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years) |
|--|

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

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

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

ROAD VIEWERS BOARD (1 year)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|--|--------------------------|------------------------|
| VACANT (Formerly held by Joseph Bunnell; appointed 9/05-12/06 by McConnell; 2/08- 11/13 by Herrity) Term exp. 12/14 <i>Resigned</i> | At-Large #1 Representative | | By Any Supervisor | At-Large |
| John W. Ewing (Appointed 2/01- 11/02 by Hanley; 1/04-12/08 by Connolly; 12/09-1/16 by Bulova) Term exp. 12/16 | At-Large #2 Representative | | By Any Supervisor | At-Large |
| Marcus Wadsworth (Appointed 6/09-1/16 by McKay) Term exp. 12/16 | At-Large #3 Representative | Marcus Wadsworth (McKay) | By Any Supervisor | At-Large |
| VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by Smyth) Term exp. 12/12 <i>Resigned</i> | At-Large #4 Representative | | By Any Supervisor | At-Large |

Continued on next page

ROAD VIEWERS BOARD (1 year)
 continued

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|--|-------------------------------|----------------|----------------------|-----------------|
| Micah D. Himmel (Appointed 12/11-4/16 by L. Smyth) Term exp. 12/16 | At-Large #5 Representative | | By Any Supervisor | At-Large |

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|--|------------------------|-------------------|-----------------|
| VACANT (Formerly held by Katy Fike; appointed 10/00-11/14 by Hyland) Term exp. 12/17 <i>Resigned</i> | Mount Vernon District Representative | Patrick Fogarty | Storck | Mount Vernon |

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|-------------------------------------|----------------|----------------------|-----------------|
| VACANT (Formerly held by Cleveland Williams; appointed 12/11-3/13 by Hudgins) Term exp. 3/15 <i>Resigned</i> | Fairfax County #7 Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Linda Diamond; appointed 3/07-4/13 by Hudgins) Term exp. 3/15 <i>Resigned</i> | Fairfax County #8 Representative | | By Any Supervisor | At-Large |

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|---|
| TENANT LANDLORD COMMISSION (3 years) |
|---|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|---------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by Smyth) Term exp. 1/14 <i>Deceased</i> | Condo Owner Representative | | By Any Supervisor | At-Large |
| VACANT (Formerly held by Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 <i>Resigned</i> | Tenant Member #3 Representative | | By Any Supervisor | At-Large |

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|----------------------------------|
| TREE COMMISSION (3 years) |
|----------------------------------|

| <u>Incumbent History</u> | <u>Requirement</u> | <u>Nominee</u> | <u>Supervisor</u> | <u>District</u> |
|---|------------------------------------|----------------|-------------------|-----------------|
| VACANT (Formerly held by Scott J. Pearson; appointed 3/11-10/13 by Gross) Term exp. 10/16 <i>Resigned</i> | Mason District Representative | | Gross | Mason |
| VACANT (Formerly held by Charles Ayers (Appointed 12/13-10/14 by L. Smyth) Term exp. 10/17 <i>Resigned</i> | Providence District Representative | | L. Smyth | Providence |

| |
|---------------------------------|
| WETLANDS BOARD (5 years) |
|---------------------------------|

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

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|---|
| YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year) |
|---|

CONFIRMATIONS NEEDED:

- Mr. E. J. Thomas as the Treasurer and Vienna Youth Incorporated Representative
- Mr. Stew Clark as the Commissioner and Braddock Road Youth Club Representative
- Mr. Dave Vennergrund as the Chairman
- Mr. James Bosley as the Member At-Large Representative and Lee Mount Vernon Sports Club Representative
- Mr. Herb Marshall as the Member At-Large and Fort Belvoir Youth Services Representative
- Mr. Grady Bryant as the Member Emeritus
- Mr. Frank DeLatour as the Parliamentarian and the Annandale Boys and Girls Club Alternate Representative
- Mr. Charles Chandler as the Scheduler
- Mr. Curtis Boxley as the Alexandria City Recreation Representative
- Mr. Marvin Elliott as the Alexandria City Recreation Alternate Representative

Continued on next page

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)

continued

CONFIRMATIONS NEEDED:

- Mr. Lezone Kenney as the Annandale Boys and Girls Club Representative
- Mr. Charles Shaw as the Arlington County Recreation Representative
- Mr. Alex Eisenberg as the Arlington County Alternate Representative
- Mr. Greg Williams as the Baileys Community Center Representative
- Mr. Steve Bergstrom as the Braddock Road Youth Club Alternate Representative
- Ms. Kathy Krug as the Burke Basketball Representative
- Mr. Bobby Seigle as the Burke Basketball Alternate Representative
- Ms. Shubha Johnson as the Chantilly Youth Association Representative
- Ms. Bridget Costigan as the Chantilly Youth Association Alternate Representative
- Mr. George Ragan as the Fairfax Police Youth Club Representative
- Mr. Jimmy Ruby as the Falls Church Parks and Recreation Representative
- Mr. Sean Casey as the Fort Hunt Youth Athletic Association Representative
- Mr. Adrian Gresham as the Gainesville Basketball Association Representative
- Mr. John Brennan as the Great Falls Basketball Representative
- Ms. Laura Bean as the Great Falls Basketball Alternate Representative
- Ms. Martha Coleman as the Gum Springs Community Center Representative
- Mr. Eric Cooksey as the Herndon Optimist Club
- Mr. Donald Lee as the James Lee Community Center Representative
- Mr. Tim Strike as the James Lee Community Center Alternate Representative
- Mr. Kim Thompson, Sr. as the Lee District Basketball Representative
- Mr. Dennis McMinn as the Lee District Basketball Alternate Representative
- Mr. Gerry Megas as the Secretary and McLean Youth Incorporated Alternate Representative

Continued on next page

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)
continued**CONFIRMATIONS NEEDED:**

- Mr. Jeff Goettman as the McLean Youth Incorporated Representative
- Mr. Andy Kim as the Mercer Representative
- Mr. Jason Murphy as the Mercer Alternate Representative
- Mr. Dillon Lee as the Mount Vernon Youth Association Representative
- Mr. Stacey Johnson as the Mount Vernon Youth Association Alternate Representative
- Mr. John Schmid as the Reston Youth Basketball League Representative
- Mr. James Byrne as the Reston Youth Basketball League Alternate Representative
- Mr. Dave Scanlon as the Southwestern Youth Association Representative
- Mr. Leo Resquin as the Southwestern Youth Association Alternate Representative
- Mr. Dan Allen as the Springfield Youth Club Representative
- Mr. Spencer Kimball as the Springfield Youth Club Alternate Representative
- Mr. Scott Choate as the Turnpike Basketball Club Representative
- Mr. Mike Mastrotà as the Turnpike Basketball Club Alternate Representative

Board Agenda Item
December 6, 2016

10:20 a.m.

Board Adoption of the 2017 Legislative Program for the Virginia General Assembly,
Approval of the County's 115th Congress Federal Legislative Strategy and Principles

ISSUE:

Board adoption of a legislative program for the 2017 Session of the Virginia General Assembly and Board approval of federal legislative strategy and principles for the 115th Congress.

TIMING:

Immediate. On November 1, 2016, the Board of Supervisors held a public hearing on the 2017 Legislative Program. This program will be presented at the Board's work session with the members of the Fairfax County Delegation to the Virginia General Assembly on December 13. The General Assembly will convene January 11, 2017, and is scheduled to adjourn on February 25, 2017.

Board action is also requested at this time in order to formally adopt the County's federal strategy for action during the 115th Congress. County staff will also apply for federal grants based on the criteria adopted by the Board.

BACKGROUND:

The draft State legislative program has been developed over the past several months by the Legislative Committee of the Board. The program contains the Committee's recommended legislative positions for the County at the 2017 Session of the Virginia General Assembly; an issue paper on human services needs is included as an addendum to this program. After adoption by the Board, final versions of these documents will be available at www.fairfaxcounty.gov/government/board. In preparing this package, the Committee has considered the County's legislative needs and opportunities and has endeavored to maintain a program of priority requests. The Legislative Committee will continue to meet, generally on a weekly basis, throughout the Session to monitor legislation and recommend positions for adoption at regular Board meetings.

Draft federal strategy and principles were also developed as part of the Legislative Committee process. Discussion took place at the October 25 and November 22 meetings. Staff recommendations presented to the Committee focused on areas determined to be of strategic importance to the County, including the federal budget,

Board Agenda Item
December 6, 2016

funding for transportation, federal agency relocation and consolidation, and the social safety net. Specifics on budget items, as well as federal funding opportunities, will be reported periodically to the Board. The federal strategies and principles contain the Legislative Committee's recommended positions for the County during the 115th Congressional session.

ENCLOSED DOCUMENTS:

Available online at - www.fairfaxcounty.gov/government/board under "Reports," by December 5, 2016:

Attachment 1- Draft Fairfax County Legislative Program for the 2017 Virginia General Assembly

Attachment 2 – 2017 Draft Human Services Issue Paper

Attachment 3 – Draft 115th Congress Federal Legislative Strategy and Principles

STAFF:

Edward L. Long, Jr., County Executive

Claudia Arko, Legislative Director

Tom Biesiadny, Director, Department of Transportation

Board Agenda Item
December 6, 2016

10:30 a.m.

Items Presented by the County Executive

ADMINISTRATIVE - 1

Resolution for Endorsement of Elizabeth Lane and Old Hickory Road to be Considered for Cut-Through Measures as Part of the Residential Traffic Administration Program (Braddock District)

ISSUE:

Board endorsement of the following street to be considered for cut-through measures as part of the Residential Traffic Administration Program (RTAP):

- Elizabeth Lane and Old Hickory Road (between Guinea Road and Little River Turnpike)

RECOMMENDATION:

The County Executive recommends that the Board endorse a resolution to include a section of Elizabeth Lane and Old Hickory Road into the RTAP for cut-through traffic.

TIMING:

Board action is requested on December 6, 2016.

BACKGROUND:

As part of the RTAP, roads are reviewed for the cut-through traffic program when requested by a Board member on behalf of a homeowners' or civic association. Cut-through mitigation normally employs the use of access restrictions (turn prohibitions, etc.) and/or physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the volume of traffic on a residential street. Multi-way stops may also be employed for regulatory control of traffic. Candidate streets considered for inclusion into the RTAP for cut-through must meet certain eligibility requirements, as follows:

- The street is classified as a local residential or collector roadway
- The roadway is used by at least 150 cut-through vehicles in one hour and in one direction
- At least 40% of the total traffic is cut-through
- A viable alternate route is identified

Board Agenda Item
December 6, 2016

An engineering review completed by staff has documented the attainment of all preliminary qualifying criteria for Elizabeth Lane and Old Hickory Road.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution
Attachment II: Documentation of Cut-Through Traffic Study Requirements
Attachment III: Primary Use Area and Viable Alternate Route Map

STAFF:

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

RESOLUTION

**FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
CUT-THROUGH MEASURES
ELIZABETH LANE AND OLD HICKORY ROAD
BRADDOCK DISTRICT**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, December 6, 2016, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents in the vicinity of Old Hickory Road and Elizabeth Lane have petitioned the Braddock District Supervisor's Office of Fairfax County to consider remedial measures to reduce the volume of cut-through traffic on Elizabeth Lane and Old Hickory Road between Guinea Road and Little River Turnpike, Braddock District; and

WHEREAS, an engineering study by Fairfax County Department of Transportation for Elizabeth Lane and Old Hickory Road indicates that all basic cut-through criteria are met pertaining to functional classification of the roadway, identification of their primary use area, identification of actual cut-through volume, and proof of community support; and

NOW THEREFORE BE IT RESOLVED, that the Virginia Department of Transportation is hereby requested to review and address the feasibility of implementing cut-through measures on Elizabeth Lane and Old Hickory Road in Fairfax County as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 6th day of December, 2016.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

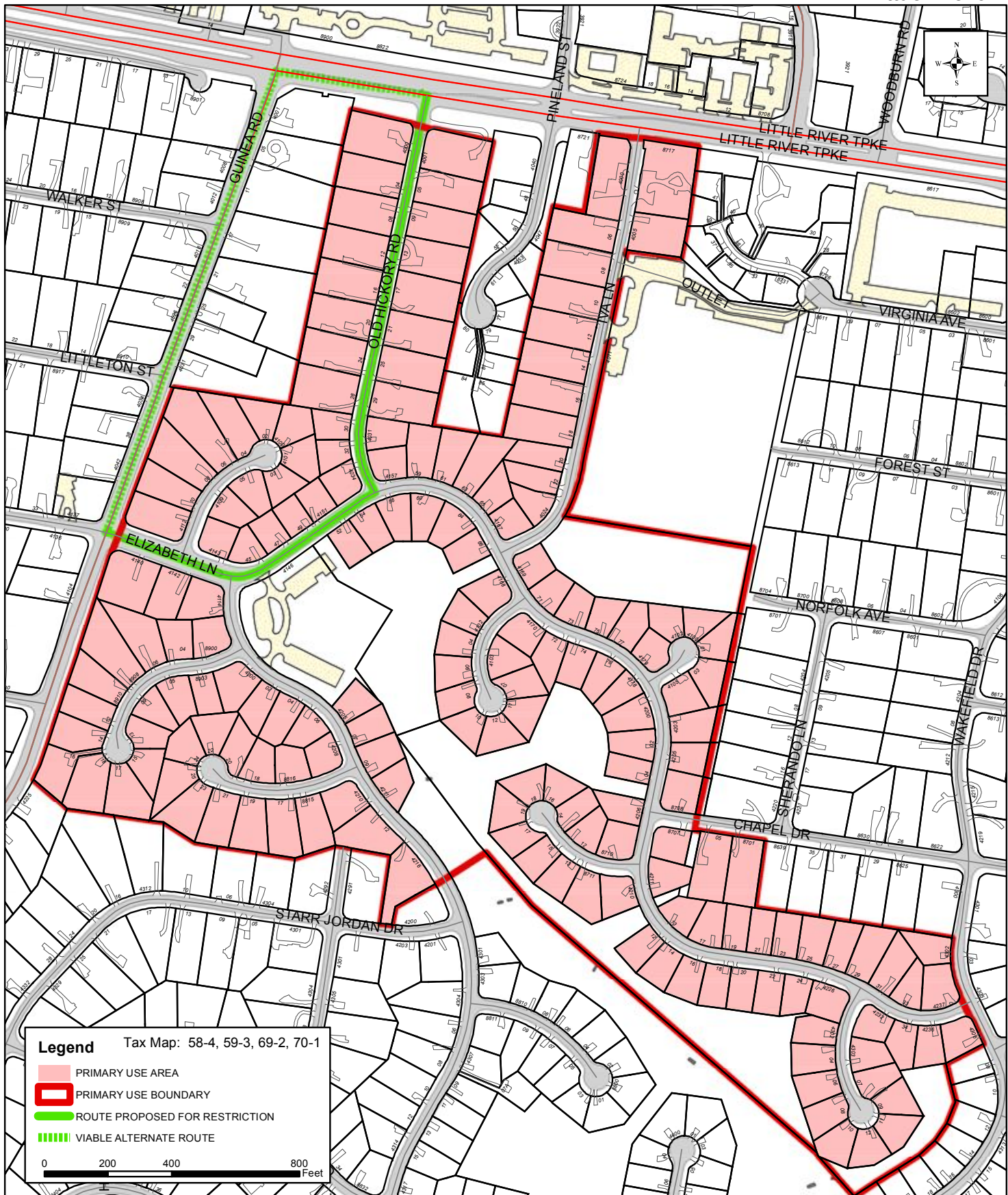
Cut Through Traffic Analysis

Street Elizabeth Lane / Old Hickory Road
 Route 2235 / 2578
 District Braddock
 Fairfax County
 Tax Map 58-4, 59-3, 69-2, 70-1
 Functional Classification Local
 Comp Plan Residential
 Primary Use Area Elizabeth Lane / Old Hickory Road

of dwelling units in study area 184

| | Count Data | | Internally Generated (ITE Rates -- Single Family Detached) | | | | | Cut-Through Trips | |
|---|------------|------------|--|------------|------------------|----------------|-------|-------------------|------------|
| | Volume | Dir. Split | Rate | Dir. Split | Distributed Rate | Dwelling Units | Trips | Volume | % of Total |
| 9/20/16, 8-9 AM | | | | | | | | | |
| Entering | | | | | | | | | |
| Elizabeth Lane @ Guinea Road (Eastbound) | 255 | 66% | 0.77 | 26% | 0.13 | 184 | 24 | 231 | 90% |
| Old Hickory Road @ Little River Tpke (Southbound) | 6 | 2% | 0.77 | 26% | 0.00 | 184 | 1 | 5 | 90% |
| Iva Lane @ Little River Tpke (Southbound) | 18 | 5% | 0.77 | 26% | 0.01 | 184 | 2 | 16 | 90% |
| Chapel Road (Westbound) | 76 | 20% | 0.77 | 26% | 0.04 | 184 | 7 | 69 | 90% |
| Elizabeth Lane @ Wakefield Drive (Westbound) | 7 | 2% | 0.77 | 26% | 0.00 | 184 | 1 | 6 | 90% |
| Ann Fitz Hugh Drive (Northbound) | 23 | 6% | 0.77 | 26% | 0.01 | 184 | 2 | 21 | 90% |
| Total | 385 | | | | | | | 348 | |
| Exiting | | | | | | | | | |
| Elizabeth Lane @ Guinea Road (Westbound) | 47 | 8% | 0.77 | 74% | 0.04 | 184 | 8 | 39 | 83% |
| Old Hickory Road @ Little River Tnpk (Northbound) | 397 | 64% | 0.77 | 74% | 0.37 | 184 | 67 | 330 | 83% |
| Iva Lane @ Little River Tpke (Northbound) | 64 | 10% | 0.77 | 74% | 0.06 | 184 | 11 | 53 | 83% |
| Chapel Road (Eastbound) | 56 | 9% | 0.77 | 74% | 0.05 | 184 | 10 | 46 | 83% |
| Elizabeth Lane @ Wakefield Drive (Eastbound) | 35 | 6% | 0.77 | 74% | 0.03 | 184 | 6 | 29 | 83% |
| Ann Fitz Hugh Drive (Southbound) | 19 | 3% | 0.77 | 74% | 0.02 | 184 | 3 | 16 | 83% |
| Total | 618 | | | | | | | 513 | |
| 9/20/16, 5-6 PM | | | | | | | | | |
| Entering | | | | | | | | | |
| Elizabeth Lane @ Guinea Road (Eastbound) | 68 | 38% | 1.02 | 64% | 0.25 | 184 | 46 | 22 | 32% |
| Old Hickory Road @ Little River Tpke (Southbound) | 2 | 1% | 1.02 | 64% | 0.01 | 184 | 1 | 1 | 32% |
| Iva Lane @ Little River Tpke (Southbound) | 24 | 14% | 1.02 | 64% | 0.09 | 184 | 16 | 8 | 32% |
| Chapel Road (Westbound) | 62 | 35% | 1.02 | 64% | 0.23 | 184 | 42 | 20 | 32% |
| Elizabeth Lane @ Wakefield Drive (Westbound) | 8 | 5% | 1.02 | 64% | 0.03 | 184 | 5 | 3 | 32% |
| Ann Fitz Hugh Drive (Northbound) | 13 | 7% | 1.02 | 64% | 0.05 | 184 | 9 | 4 | 32% |
| Total | 177 | | | | | | | 7 | |
| Exiting | | | | | | | | | |
| Elizabeth Lane @ Guinea Road (Westbound) | 66 | 38% | 1.02 | 36% | 0.14 | 184 | 26 | 40 | 61% |
| Old Hickory Road @ Little River Tnpk (Northbound) | 11 | 6% | 1.02 | 36% | 0.02 | 184 | 4 | 7 | 61% |
| Iva Lane @ Little River Tpke (Northbound) | 19 | 11% | 1.02 | 36% | 0.04 | 184 | 7 | 12 | 61% |
| Chapel Road (Eastbound) | 34 | 20% | 1.02 | 36% | 0.07 | 184 | 13 | 21 | 61% |
| Elizabeth Lane @ Wakefield Drive (Eastbound) | 24 | 14% | 1.02 | 36% | 0.05 | 184 | 9 | 15 | 61% |
| Ann Fitz Hugh Drive (Southbound) | 20 | 11% | 1.02 | 36% | 0.04 | 184 | 8 | 12 | 61% |
| Total | 174 | | | | | | | 27 | |

Note: Numbers may not total due to rounding



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PRIMARY USE AREA MAP
ELIZABETH LANE & OLD HICKORY ROAD
Braddock District



Board Agenda Item
December 6, 2016

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing to Establish the Hilltop Community Parking District (Providence District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for January 24, 2017, at 4:00 p.m. to consider adoption of a Fairfax County Code amendment to establish the Hilltop CPD.

TIMING:

The Board of Supervisors should take action on December 6, 2016, to provide sufficient time for advertisement of the public hearing on January 24, 2017, at 4:00 p.m.

BACKGROUND:

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

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

Board Agenda Item
December 6, 2016

parked on a public street within any such CPD for use by federal, state, or local public agencies to provide services.

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

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

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

FISCAL IMPACT:

The cost of sign installation is estimated at \$1,000 to be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the *Fairfax County Code*, Appendix M (CPD Restrictions)

Attachment II: Area Map of Proposed Hilltop CPD

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Charisse Padilla, Transportation Planner, FCDOT

PROPOSED CODE AMENDMENT
THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

M-89 Hilltop Community Parking District

(a) *District Designation.*

- (1) The restricted parking area is designated as the Hilltop Community Parking District.
- (2) Blocks included in the Hilltop Community Parking District are described below:

Grovemore Lane (Route 6662)

From Hilltop Road to the cul-de-sac end.

Hilltop Road (Route 744)

From western property line of parcel 49-1((27))-A to the eastern property line of parcel 49-1((18))-A2, north side only.

(b) *District Provisions.*

- (1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82.
- (2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 is prohibited at all times on the above-described streets within the Hilltop Community Parking District.
- (3) No such Community Parking District shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power or (iii) restricted vehicles temporarily parked on a public street within any such District for a maximum of 48 hours for

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

- (c) *Signs.* Signs delineating the Hilltop Community Parking District shall indicate community specific identification and/or directional information in addition to the following:

NO PARKING
Watercraft
Trailers, Motor Homes
Vehicles ≥ 3 Axles
Vehicles GVWR $\geq 12,000$ lbs.
Vehicles ≥ 16 Passengers

FAIRFAX COUNTY CODE §82-5B



Board Agenda Item
December 6, 2016

ADMINISTRATIVE - 3

Rescind Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Providence District)

ISSUE:

Rescind Board endorsement of “Watch for Children” signs, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board rescind their endorsement for the installation of “Watch for Children” signs on the following road:

- Fairview Park Drive (Providence District)

TIMING:

Board action is requested on December 6, 2016.

BACKGROUND:

The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On October 18, 2016, FCDOT requested the Board of Supervisors’ approval for the installation of “Watch for Children” signs on Fairview Park Drive (Attachment I). During the process of placing the order for the sign installation; FCDOT staff determined that the wrong road was identified as the candidate road. A separate item on the Board’s December 6, 2016, agenda seeks approval for “Watch for Children” signage on New Providence Drive.

FISCAL IMPACT:

None.

Board Agenda Item
December 6, 2016

ENCLOSED DOCUMENTS:

Attachment I: Board of Supervisors Administrative Item, October 18, 2016

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

ADMINISTRATIVE -

Approval of “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Providence and Springfield Districts).

ISSUE:

Board endorsement of “Watch for Children” signs, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval for “Watch for Children” signs on the following streets:

- Fairview Park Drive (Providence District)
- Oak Valley Drive (Providence District)
- Williams Avenue (Providence District)
- Spring Lake Drive (Springfield District)

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

TIMING:

Board action is requested on October 18, 2016.

BACKGROUND:

The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On July 28, 2016 (Fairview Park Drive, Providence District) and on July 27, 2016 (Oak Valley Drive, Providence District) and on July 27, 2016 (Williams Avenue, Providence District), and on September 12, 2016 (Spring Lake Drive, Springfield District) FCDOT received written verification from the respective local Supervisor’s office confirming community support for the referenced “Watch for Children” signs.

FISCAL IMPACT:

Funding in the amount of \$1,200 for the "Watch for Children" signs associated with the Fairview Park Drive, Oak Valley Drive and Williams Avenue (Providence District) and Spring Lake Drive (Springfield District) projects is available in Fund100-C10001, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric M. Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

Behnaz Razavi, Transportation Planner, Traffic Engineering Section, FCDOT

Board Agenda Item
December 6, 2016

ADMINISTRATIVE - 4

Approval of Traffic Calming Measures, "\$200 Additional Fine for Speeding" Signs and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Mason, Providence and Dranesville Districts)

ISSUE:

Board endorsement of Traffic Calming measures, \$200 Additional Fine for Speeding" signs and "Watch for Children" signs as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plan for Carol Lane and Trammell Road consisting of the following:

- One Speed Hump on Carol Lane (Mason District)
- Three Speed Humps and a Multi-Way Stop on Trammell Road (Mason District)

The County Executive further recommends that the Board approve a resolution for the installation of "\$200 Additional Fine for Speeding" signs on the following road:

- Fairview Park Drive from Lee Highway to Arlington Boulevard (Providence District)

The County Executive further recommends approval for "Watch for Children" signs on the following roads:

- Calder Road (Dranesville District)
- Kurtz Road (Dranesville District)
- New Providence Drive (Providence District)

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

TIMING:

Board action is requested on December 6, 2016.

Board Agenda Item
December 6, 2016

BACKGROUND:

As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of a homeowners' or civic association. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, traffic circles, or multi-way stop signs (MWS), to reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria. Staff worked with the local Supervisor's office and communities to determine the viability of the requested traffic calming measures to reduce the speed of traffic. Once the plan for the road under review is approved and adopted by staff that plan is then submitted for approval to residents of the ballot area in the adjacent community. On October 21, 2016, (Carol Lane) and on October 7, 2016, (Trammel Road), FCDOT received verification from the local Supervisor's office confirming community support for the above referenced traffic calming plan.

Section 46.2-878.2 of the *Code of Virginia* permits a maximum fine of \$200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. These residential roadways must have a posted speed limit of 35 mph or less. In addition, to determine that a speeding problem exists, staff performs an engineering review to ascertain that additional speed and volume criteria are met. Fairview Park Drive from Lee Highway to Arlington Boulevard (Attachment IV) met the RTAP requirements for the posting of the "\$200 Additional Fine for Speeding Signs". On October 24, 2016, (Providence District) FCDOT received written verification from the appropriate local supervisor confirming community support.

The RTAP allows for installation of "Watch for Children" signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On July 28, 2016, (New Providence Drive) and on October 6, 2016, (Calder Road and Kurtz Road) FCDOT received written verification from the respective local Supervisor's office confirming community support for the referenced "Watch for Children" signs.

FISCAL IMPACT:

Funding in the amount of \$25,000 for the traffic calming measure associated with the

Carol Lane and Trammell Road projects is available in Fund 300-C30050, General Fund, under Job Number 2G25-076-000. For the "\$200 Additional Fine for Speeding" signs, an estimated cost of \$1,200 is to be paid out of the VDOT secondary road

Board Agenda Item
December 6, 2016

construction budget. Funding in the amount of \$1,800 for the “Watch for Children” signs associated with the New Providence Drive, Calder Road and Kurtz Road (Providence and Dranesville Districts) projects is available in Fund100-C10001, General Fund, under Job Number 40TTCP.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Carol Lane

Attachment II: Traffic Calming Plan for Trammell Road

Attachment III: \$200 Additional Fine for Speeding Board Resolution (Providence District)

Attachment IV: Area Map of Proposed “\$200 Additional Fine for Speeding” Signs – Fairview Park Drive (Providence District)

STAFF:

Robert A. Stalzer, Deputy County Executive

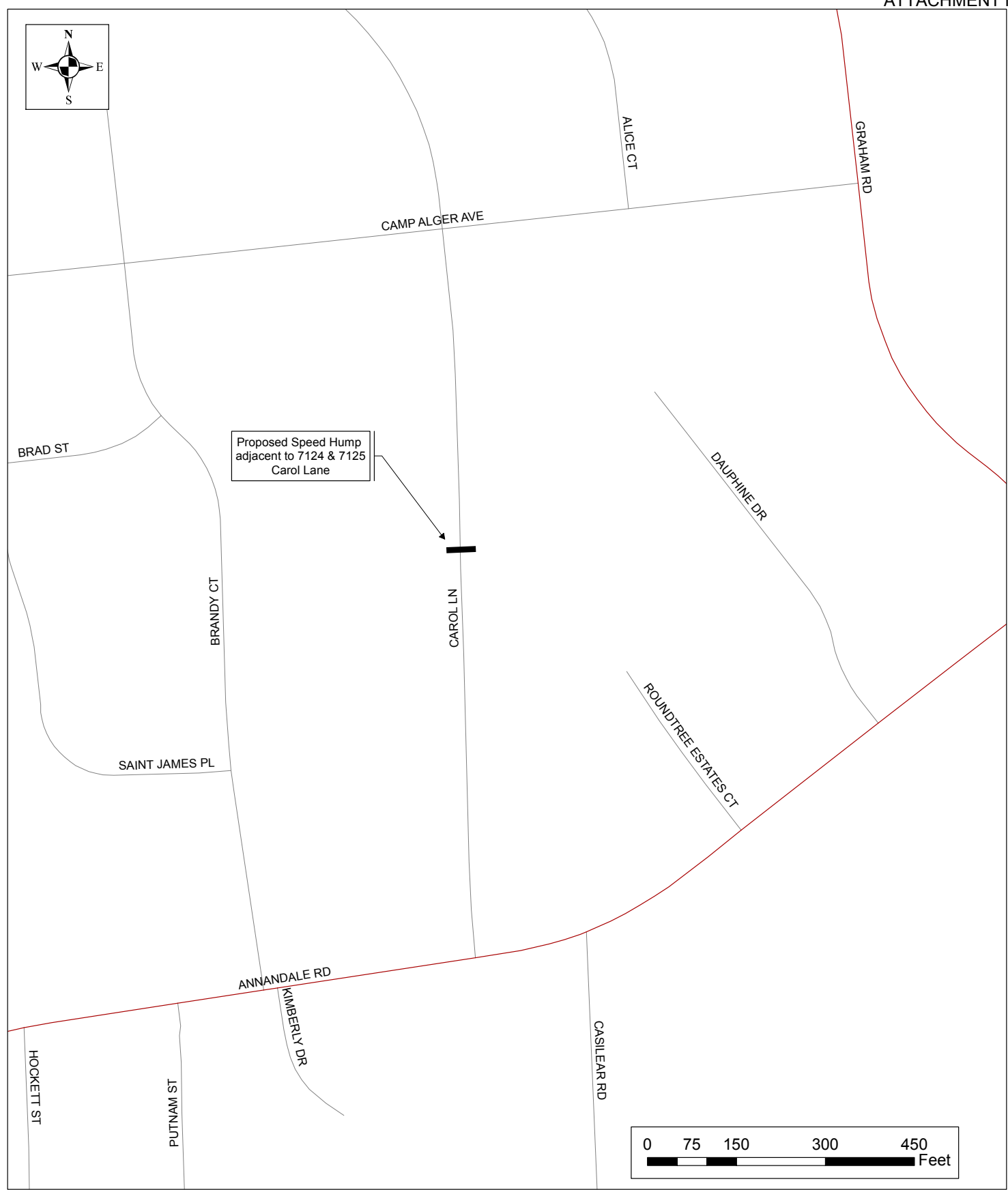
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

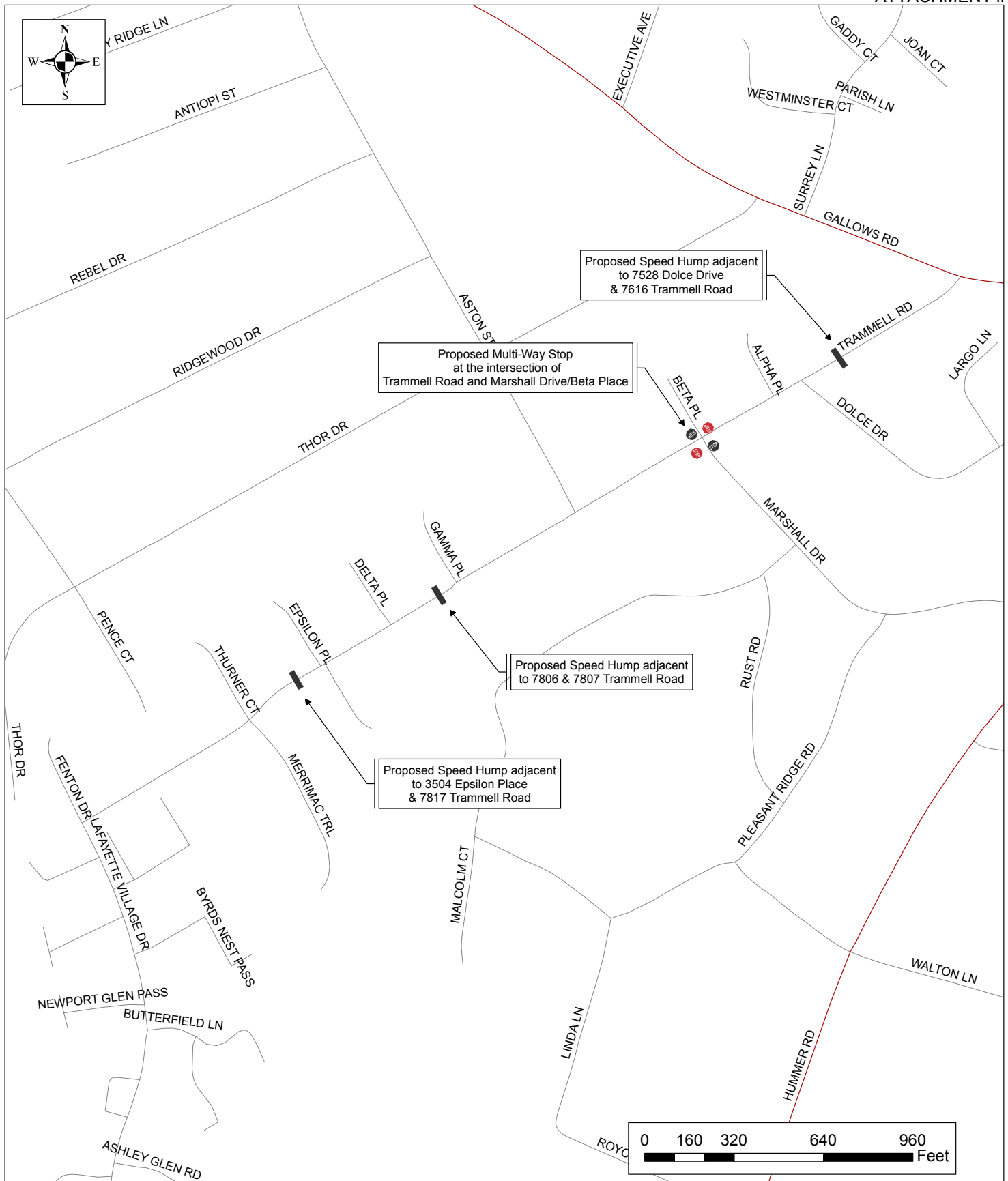
Steven K. Knudsen, Transportation Planner, Traffic Engineering Section, FCDOT

Paolo Belita, Transportation Planner, Traffic Engineering Section, FCDOT



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED TRAFFIC CALMING PLAN
CAROL LANE
Mason District





Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED TRAFFIC CALMING PLAN
TRAMMELL ROAD
Mason District

Tax Map 59-2, 59-4, 60-1, 60-3



October 2016

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
\$200 ADDITIONAL FINE FOR SPEEDING SIGNS
FAIRVIEW PARK DRIVE PROVIDENCE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, December 6, 2016 at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Section 46.2-878.2 of the *Code of Virginia* enables the Board of Supervisors to request by resolution signs alerting motorists of enhanced penalties for speeding on residential roads; and

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Fairview Park Drive from Lee Highway to Arlington Boulevard. Such road also being identified as a Major Collector Road; and

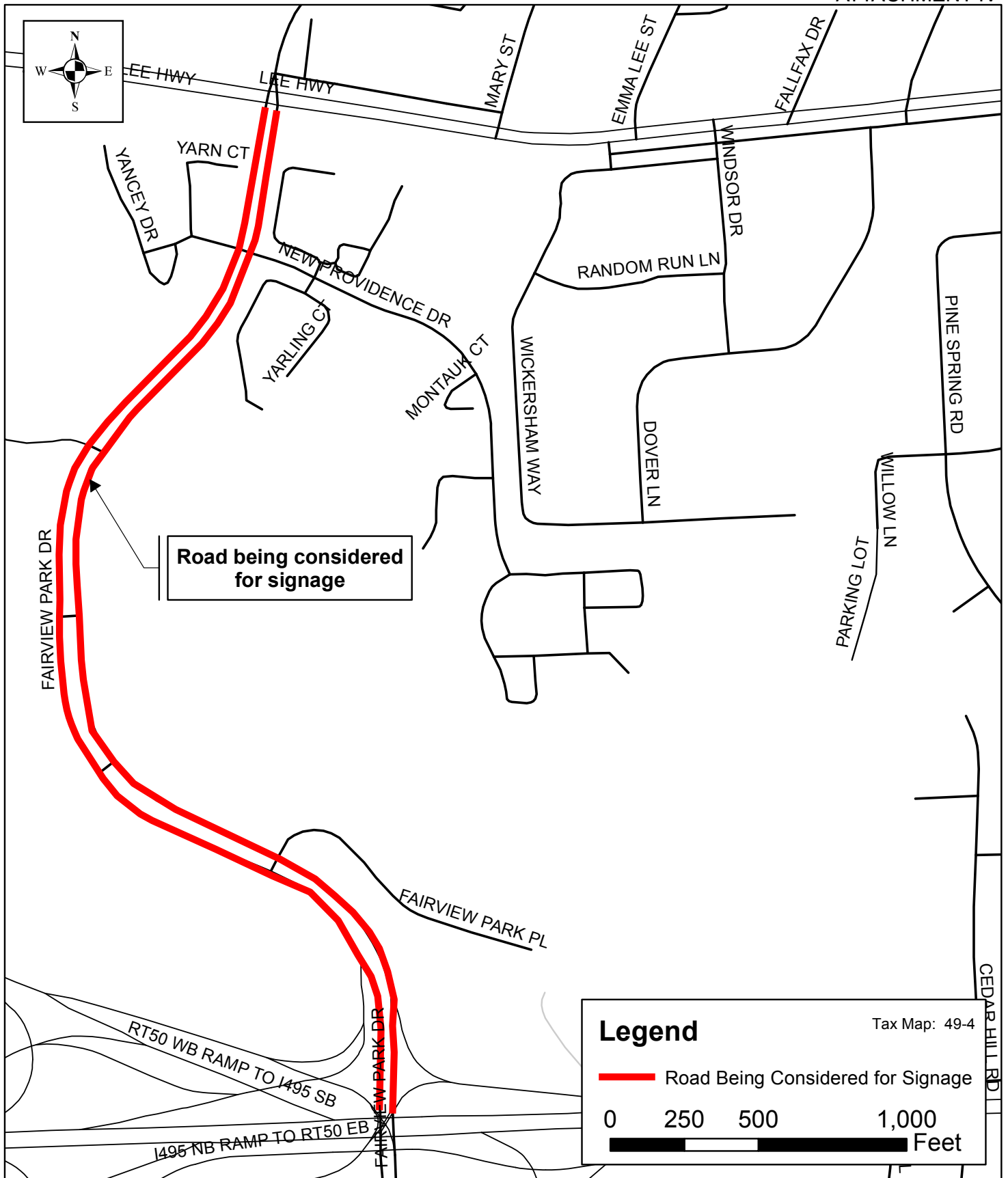
WHEREAS, community support has been verified for the installation of "\$200 Additional Fine for Speeding" signs on Fairview Park Drive from Lee Highway to Arlington Boulevard.

NOW, THEREFORE BE IT RESOLVED that "\$200 Additional Fine for Speeding" signs are endorsed for Fairview Park Drive from Lee Highway to Arlington Boulevard.

AND FURTHER, the Virginia Department of Transportation is requested to allow the installation of the "\$200 Additional Fine for Speeding", and to maintain same, with the cost of each sign to be funded from the Virginia Department of Transportation's secondary road construction budget.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED \$200 FINE FOR SPEEDING
FAIRVIEW PARK DRIVE
Providence District



Board Agenda Item
December 6, 2016

ADMINISTRATIVE – 5

Street into the Secondary System (Springfield District)

ISSUE:

Board approval of street to be accepted into the State Secondary System.

RECOMMENDATION:

The County Executive recommends that the street listed below be added to the State Secondary System.

| <u>Subdivision</u> | <u>District</u> | <u>Street</u> |
|-------------------------------|-----------------|-------------------|
| Burke Lake Meadow Section 1-B | Springfield | Burke Woods Drive |

TIMING:

Routine.

BACKGROUND:

Inspection has been made of this street, and it is recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Form

STAFF:

Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

| FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system. | | VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM. | |
|--|--|---|---------------------|
| | | PLAN NUMBER: 6374-SD-03 | |
| | | SUBDIVISION PLAT NAME: Burke Lake Meadow Section 1-B | |
| | | COUNTY MAGISTERIAL DISTRICT: Springfield | |
| ENGINEERING MANAGER: Imad A. Salous, P.E. BY: <u>Nellie Almon</u> | | FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>08/24/2016</u> | |
| STREET NAME | LOCATION | | LENGTH MILE |
| | FROM | TO | |
| Burke Woods Drive | CL Lake Meadow Drive (Route 8635) - 295' SW CL Lake Meadow Court (Route 8636) | 354' NW to End of Cul-de-Sac | 0.07 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| NOTES: | | | TOTALS: 0.07 |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

ADMINISTRATIVE – 6

Designation of Plans Examiner Status under the Expedited Land Development Review Program

ISSUE:

Board of Supervisors' action to designate individuals as Plans Examiners to participate in the Expedited Land Development Review Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (the Board) take the following action:

- Designate the following individuals identified with their registration numbers, as Plans Examiners:

| | |
|-------------------|-----|
| Kyle Bollinger | 318 |
| Benjamin A. Flood | 319 |

TIMING:

Routine.

BACKGROUND:

On August 7, 1989, the Board adopted Chapter 117 (Expedited Land Development Review) of The Code of the County of Fairfax, Virginia (the Code), establishing a Plans Examiner Program under the auspices of an Advisory Plans Examiner Board (APEB). The purpose of the Plans Examiner Program is to expedite the review of site and subdivision plans submitted by certain specially qualified applicants, i.e., Plans Examiners, to the Land Development Services, Department of Public Works and Environmental Services.

The Code requires that the Board designate an individual's status under the Expedited Land Development Review Program.

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December 6, 2016

Plans Examiner Status: Candidates for status as Plans Examiners must meet the education and experience requirements contained in Chapter 117. After review of their applications and credentials, the APEB has found that the candidates listed above satisfy these requirements. This finding was documented in a letter dated October 13, 2016, from the Chairman of the APEB, James H. Scanlon, P.E., L.S., to Chairman Bulova.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I – Letter dated October 13, 2016, from the Chairman of the APEB to the Chairman of the Board of Supervisors.

STAFF:
Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services

Attachment 1



Engineers & Surveyors Institute

"A public/private partnership"

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EXECUTIVE DIRECTOR
Jeffrey L. Blackford, P.E.

October 13, 2016

Hon. Sharon Bulova, Chairman
Fairfax County Board of Supervisors
12000 Government Center Parkway
Fairfax, VA 22035

Dear Chairman Bulova:

The following named individuals, were approved by the Advisory Plans Examiner Board for recommendation as Designated Plans Examiners:

| Name | Reg. No |
|-------------------|---------|
| Kyle Bollinger | #318 |
| Benjamin A. Flood | #319 |

They have been found to meet the qualifications outlined in Chapter 117-1-2 of the Code of Fairfax County and are in accordance with the criteria adopted by the Fairfax County Board of Supervisors on February 11, 1991.

Sincerely,

James H. Scanlon, PE -LS
Chairman
Fairfax County Advisory Plans Examiner Board

Received

OCT 24 2016

Land Use & Planning Service
City of Fairfax Office

ADMINISTRATIVE - 7

Approval of a Portion of a Street Name Change from Greensboro Station Place to Silver Hill Drive and to Change SAIC Drive to Greensboro Station Place (Providence District)

ISSUE:

Board of Supervisors approval of a street name change in the Official County Digital Property Map and the Master Addressing Repository from Greensboro Station Place to Silver Hill Drive and SAIC Drive to Greensboro Station Place on Tax Map #29-3.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the street name change from Greensboro Station Place to Silver Hill Drive and to change SAIC Drive to Greensboro Station Place effective 30 days following Board approval, in accordance with Section 102-1-9 of The Code of the County of Fairfax, Virginia.

TIMING:

Routine.

BACKGROUND:

The Facilitation and Addressing Center has received a request from the property owners to change the street name from Greensboro Station Place to Silver Hill Drive and to change SAIC Drive to Greensboro Station Place. There is one property on this stretch of roadway that is addressed on SAIC Drive. The owner has agreed to this change and the signatures are attached.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I - Request for change of address
Attachment II - Vicinity Map

STAFF:

Robert A. Stalzer, Deputy County Executive
William D. Hicks, P.E., Director, Land Development Services



**WALSH COLUCCI
LUBELEY & WALSH PC**

Elizabeth D. Baker
Senior Land Use Planner
(703) 528-4700 x4714
ebaker@thelandlawyers.com

September 27, 2016

Ms. Alysia Gaskins
Fairfax County
Department of Public Works and Environmental Services
Street Addressing
12055 Government Center Parkway
Suite 250
Fairfax, Virginia 22035

Re: **Petition for Street Name Changes – Segment of Greensboro Station Place and SAIC Drive**
County Tax Reference Numbers: 29-3 ((15)) 4D2, 29-3 ((15)) 4H, 29-3 ((15)) 8, and 29-3
((15)) 7H

Dear Ms. Gaskins,

TMG Solutions Plaza Land, L.P. ("Meridian") and Tysons Westpark, L.C., ("Dittmar"), the owners of the properties referenced above, propose the renaming of certain streets in and adjacent to their properties located in Tysons near the Greensboro Metro Station.

Existing Conditions

Greensboro Station Place is currently a private driveway located on property owned by Meridian. It runs parallel to Route 7, turns to the northeast along an existing parking garage and then turn to the southeast and ends close to the cul-de-sac of Solutions Drive.

SAIC Drive is also a private driveway located on the Meridian property. It connects where Greensboro Station Place ended near the cul-de-sac and runs southeast in front of a building currently addressed 1710 SAIC Drive and then turns southwest until it reaches Greensboro Station Place adjacent to Route 7.

Proposed Changes

Silver Hill Drive. The Meridian property is part of a larger redevelopment project known as The Boro. The Dittmar property is part of redevelopment project referred to as Westpark Plaza. With these two approved rezonings, a new grid of streets was approved for the area. A new public street is planned to run along the common boundary of the Meridian and Dittmar properties (Parcels 29-3 ((15)) 4D2, 4H, and 8). The street design was recently submitted as Public Improvement Plan #0826-PI-001-2. Once the reconstruction is complete, this portion of Greensboro Station Place will serve as a local public street as opposed to a private driveway. This segment will provide access and on-street parking for both the

ATTORNEYS AT LAW

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Dittmar and Meridian properties and ultimately will be extended to connect with Greensboro Drive. We request that new street replacing this segment of Greensboro Station Drive be renamed to Silver Hill Drive. We anticipate that the change will help provide clear directions to visitors and other vehicles accessing the Meridian and Dittmar properties and help delineate the public or private nature of the different roads and driveways that traverse the properties.

SAIC Drive. Meridian requests that SAIC Drive be renamed Greensboro Station Place. In this way Greensboro Station Place will form a continuous private driveway and will permit for more organized orientation and addressing.

I have enclosed an exhibit which highlights the streets and proposed changes.

Meridian and Dittmar understand that they will pay for the cost of new street name signs associated with these changes. Meridian and Dittmar do not anticipate any address reassignment resulting from the change to Silver Hill Drive, but acknowledges that future address assignments will be based on County addressing conventions. Meridian does anticipate an address reassignment associated with 1710 SAIC Drive and asks that it be assigned a new address of 1785 Greensboro Station Place.

We appreciate your consideration and attention to this matter. Please call me should you have any questions.

Very truly yours,

WALSH COLUCCI LUBELEY & WALSH, P.C.



Elizabeth D. Baker
Senior Land Use Planner

cc: Tom Boylan
Mike Wing
Martin D. Walsh

Enclosure

A0727434.DOC / 1 Street Addressing re Silver Hill Dr & SAIC Dr 000721 000036

**Street Renaming/Readdressing
Owners Authorization and Consent**

Existing Street Name: SAIC Drive
New Street Name: Greensboro Station Place

Existing Address: 1710 SAIC Drive
New Address: 1785 Greensboro Station Place

Tax Map 29-3 ((15)) 4F1
Property Owner: TMG Solutions Plaza 3, L.L.C.

Borders Tax Map 29-3 ((15)) 4G
Property Owner: TMG Solutions Plaza 2, L.L.C.

Borders Tax Map 29-3 ((15)) 4E2
Property Owner: TMG Solutions Plaza 1, L.L.C.

We are title owners of property as indicated above and as such we authorize/agree with the request for renaming and readdressing the street as requested in a letter addressed to Alysia Gaskins of Fairfax County from Elizabeth D. Baker of Walsh Colucci Lubeley & Walsh, P.C. dated September 27, 2016.

TITLE OWNER OF TAX MAP 29-3 ((15)) 4E2

TMG SOLUTIONS PLAZA 1, L.L.C.,
a Delaware limited liability company

By: TMG Solutions Plaza REIT 1, L.L.C.,
a Delaware limited liability company, its Manager

By: Meridian Realty Partners TE I, L.P.,
a Delaware limited partnership, Its Manager

By: Meridian Realty Partners I GP, L.L.C.,
a Delaware limited liability company, its General Partner



By: Gary E. Block
Its: Managing Director



By: G. David Cheek
Its: President

(SIGNATURES CONTINUE ON NEXT PAGE)

TITLE OWNER OF TAX MAP 29-3 ((15)) 4F1

TMG SOLUTIONS PLAZA 3, L.L.C.,
a Delaware limited liability company

By: TMG Solutions Plaza REIT 3, L.L.C.,
a Delaware limited liability company, its Manager

By: Meridian Realty Partners TE I, L.P.,
a Delaware limited partnership, Its Manager

By: Meridian Realty Partners I GP, L.L.C.,
a Delaware limited liability company, its General Partner



By: Gary E. Block
Its: Managing Director



By: G. David Cheek
Its: President

(SIGNATURES CONTINUE ON NEXT PAGE)

TITLE OWNER OF TAX MAP 29-3 ((15)) 4G

TMG SOLUTIONS PLAZA 2, L.L.C.,
a Delaware limited liability company

By: TMG Solutions Plaza REIT 2, L.L.C.,
a Delaware limited liability company, its Manager

By: Meridian Realty Partners TE I, L.P.,
a Delaware limited partnership, Its Manager

By: Meridian Realty Partners I GP, L.L.C.,
a Delaware limited liability company, its General Partner



By: Gary E. Block
Its: Managing Director



By: G. David Cheek
Its: President

(SIGNATURES END)

**Street Renaming/Readdressing
Owners Authorization and Consent**

Existing Street Name: Portion of Greensboro Station Place
New Street Name: Silver Hill Drive

Tax Map 29-3 ((15)) 4D2
Property Owner: TMG Solutions Plaza Land LP

Tax Map 29-3 ((15)) 4H
Property Owner: The Boro I Developer LP

Tax Map 29-3 ((15)) 8
Property Owner: Tysons Westpark LC

We are title owners of property as indicated above and as such we authorize/agree with the request for renaming and readdressing the street as requested in a letter addressed to Alysia Gaskins of Fairfax County from Elizabeth D. Baker of Walsh Colucci Lubeley & Walsh, P.C. dated September 27, 2016.

TITLE OWNER OF TAX MAP 29-3 ((15)) 4D2

TMG SOLUTIONS PLAZA LAND, L.P.,
a Delaware limited partnership

By: Meridian Realty Partners I GP, L.L.C.,
a Delaware limited liability company,
as its general partner



By: Gary E. Block
Its: Managing Director



By: G. David Cheek
Its: President

(SIGNATURES CONTINUE ON NEXT PAGE)

TITLE OWNER OF TAX MAP 29-3 ((15)) 4H

THE BORO I DEVELOPER, L.P.,
a Delaware limited partnership

By: Meridian Realty Partners I GP, L.L.C.,
a Delaware limited liability company,
as its general partner



By: Gary E. Block
Its: Managing Director



By: G. David Cheek
Its: President

(SIGNATURES CONTINUE ON NEXT PAGE)

TITLE OWNER OF TAX MAP 29-3 ((15)) 8

TYSONS WESTPARK, L.C.



By: Robert A. Clohan, III

Its: Manager




By: Anthony J. Offutt


Its: Manager

[SIGNATURES END]

Attachment II Greensboro Station / The Boro Street Renaming

 Changing name from Greensboro Station Place to Silver Hill Drive

 Greensboro Station Place Name Remains

 Changing name from SAIC Drive to Greensboro Station Place

 Future Broad Street

 Future Dead End



ADMINISTRATIVE – 8

Extension of Review Period for 2232 Application (Lee District)

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following application: 2232-L15-19

TIMING:

Board action is required on December 6, 2016, to extend the review period of the application noted above before its expiration date.

BACKGROUND:

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

The review period for the following application should be extended:

| | |
|-------------|---|
| 2232-L15-19 | Verizon Wireless 7410 Spring Village Drive Springfield, VA Lee District Accepted September 12, 2016 Extend to February 9, 2017 |
|-------------|---|

Board Agenda Item
December 6, 2016

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred R. Selden, Director, Department of Planning and Zoning, DPZ

Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ

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

ADMINISTRATIVE - 9

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance
Amendment Re: Craft Beverage Production Establishments

ISSUE:

The proposed amendment seeks to define and establish Craft Beverage Production Establishments as a distinct land use in select commercial, planned development, and industrial zoning districts, subject to proposed use limitations. The amendment also proposes to add food and beverage manufacturing, production and processing establishments as a by right use in I-4 District, where this use is currently only permitted by special exception.

RECOMMENDATION:

The County Executive recommends the authorization of the proposed amendment by adopting the resolution set forth in Attachment 1.

TIMING:

Board action is requested on December 6, 2016, to provide sufficient time to advertise the proposed Planning Commission public hearing on January 12, 2017, at 8:15 p.m., and the proposed Board of Supervisors public hearing on February 28, 2017, at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a January 12, 2016 request from the Board of Supervisors (Board) directing staff to research and prepare a Zoning Ordinance amendment regarding food and beverage manufacturing, production and processing establishments in response to the growing craft beverage industry in Virginia, and increased interest in such businesses seeking opportunities in Fairfax County. Breweries, distilleries, wineries, and other similar production facilities are not specifically defined in the Zoning Ordinance. By way of interpretation, breweries of any size have been deemed to be most similar to food and beverage manufacturing, production and processing establishments for the purposes of regulation under the Zoning Ordinance. Food and beverage manufacturing, production and processing establishments are currently permitted by right in the I-5 and I-6 Districts, and by special exception in the I-4 District. As a result, these businesses are currently only permitted to operate in the highest intensity industrial districts in the County.

Given the relatively small-scale nature of their operation, as well as the unique accessory components that are often associated with these uses, such as tasting rooms, craft producers are likely to have different land use impacts than other types of food and beverage manufacturers. Therefore, as proposed, the amendment would define a new principal land use of Craft Beverage Production Establishments, which would be permitted in select industrial, commercial, and planned development districts with proposed use limitations. Production limits stated in the proposed definition would serve as the method to distinguish between craft beverage producers and larger-scale producers, such that a manufacturer of beer, wine, cider, mead, or distilled spirits that exceeds the production limits stated in the definition would be considered a food and beverage manufacturing, production and processing establishment and would be regulated accordingly. The amendment also proposes to add food and beverage manufacturing, production and processing establishments as a by right use in the I-4 District.

As proposed by staff, craft beverage production establishments would be a permitted use, subject to use limitations, in the C-5 through C-9 Districts; within the Planned Development Commercial District (PDC), Planned Residential Community District (PRC), Planned Residential Mixed Use District (PRM), and Planned Tysons Corner Urban District (PTC); and within the I-3 through I-6 Districts. The amendment also seeks to establish use limitations for craft beverage production establishments, which would differ between the industrial districts and the commercial and planned development districts. The intent of these distinctions is to potentially allow craft beverage producers with a principal production component in the industrial districts, and producers with a principal tasting room component with accessory production in the commercial and planned development districts. As proposed, the use limitations would place lower production limits on establishments located in the commercial and planned development districts, provide provisions regarding tasting rooms, provide limits on food preparation in the industrial districts, allow for an accessory retail component in industrial districts, specify the parking requirements for the use, and prohibit the outdoor storage of materials used in the production process.

A more detailed discussion is set forth in the Staff Report, enclosed as Attachment 2.

REGULATORY IMPACT:

The proposed amendment would allow for craft beverage producers to be regulated as a distinct use under the Zoning Ordinance. By regulating craft beverage production establishments as a distinct use rather than as food and beverage manufacturing, production and processing establishments as currently regulated, the amendment would allow small-scale craft producers that meet specified use limitations to locate in additional zoning districts beyond the I-4, I-5, and I-6 Districts. The use limitations proposed with the amendment would address the unique characteristics and accessory

Board Agenda Item
December 6, 2016

components that are often associated with these craft beverage producers. The amendment will not impact existing craft beverage production establishments, which may continue operations, provided they are operating lawfully and not expanded or enlarged.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution
Attachment 2 – Staff Report

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Megan Duca, Senior Assistant to the Zoning Administrator, DPZ

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on December 6, 2016, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, in the last several years, the craft beverage industry has experienced growth within Virginia and nationwide; and

WHEREAS, to date, craft beverage producers do not fall squarely within any existing land use classification and have been designated for purposes of zoning to be most similar to food and beverage manufacturing, production and processing establishments, regulated accordingly, and thereby allowed by right in the I-5 and I-6 Districts and with approval of a special exception in the I-4 District; and

WHEREAS, such uses operate in a manner that is unique and different than food and beverage manufacturing, production and processing establishments, thereby warranting their own distinct, principal land use designation; and

WHEREAS, when operating at a certain scale and where potential adverse impacts on adjacent properties are mitigated, such uses may be compatible in certain additional zoning districts where food and beverage manufacturing, production and processing establishments are not and should not be permitted; and

WHEREAS, considering the above, it may be appropriate to designate these uses as *craft beverage production establishments*, and identify the appropriate zoning districts in which this unique land use may be established, as well as subject the same to certain use limitations that mitigate any adverse impacts on the surrounding communities; and

WHEREAS, in addition, food and beverage manufacturing, production and processing establishments are consistent with the intent of the I-4 District and, therefore, it may be appropriate to allow such use as a by right use in that district, thereby not requiring approval of a special exception; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Articles 4, 5, 6, 9, and 20 – Craft Beverage Production Establishments

PUBLIC HEARING DATES

Planning Commission

January 12, 2017 at 8:15 p.m.

Board of Supervisors

February 28, 2017 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

December 6, 2016

MBD



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a January 12, 2016 request from the Board of Supervisors (Board) directing staff to research and prepare a Zoning Ordinance amendment that adds food and beverage manufacturing, production and processing establishments as a by right use in the I-3 (Light Intensity Industrial) and I-4 (Medium Intensity Industrial) Zoning Districts in response to the growing craft beverage industry in Virginia and increased interest in such businesses seeking opportunities in Fairfax County. Since that time, Zoning Administration staff has researched the topic of craft beverage production and has prepared this Zoning Ordinance amendment to address the interest of various types of craft beverage producers, collectively identified as “craft beverage production establishments.” The purpose of this amendment is to define and establish *craft beverage production establishments* as a distinct land use permitted in select industrial, commercial, and planned development districts with proposed use limitations. The amendment also proposes to add food and beverage manufacturing, production and processing establishments as a by right use in the I-4 District. The general framework for this amendment was presented to the Board’s Development Process Committee on September 13, 2016.

Background

The craft beverage industry, which includes various types of small-scale producers, has seen considerable growth in recent years both nationwide and within Virginia. Although craft breweries are currently the most prevalent type of these craft producers within the region, staff has also included craft cider and mead producers, distilleries (often referred to as “microdistilleries”) and commercial wineries (often referred to as “microwineries”) as additional types of craft beverage producers to be considered with this amendment. As part of the research for this amendment, staff reviewed the licensing information available from the Virginia Department of Alcoholic Beverage Control (ABC) to gain information regarding the existing alcohol production facilities within the County. The Virginia ABC issues various licenses to alcohol production facilities based on the type and production level of the establishment. The ABC licenses that are most relevant to this amendment are “brewery,” “winery,” and “distillery” licenses. It is important to distinguish that these brewery and winery licenses do not include “farm breweries” or “farm wineries,” which are licensed separately as production facilities operating on agricultural zoned land, and are not the subject of this amendment. According to the ABC’s license database, there are currently seven establishments with active brewery licenses within the County. Three of these are operating as eating establishments with accessory brewing. Of the four breweries that are not associated with an eating establishment, one is operating at the lowest-level production license from the ABC (a maximum of 500 barrels annually), and three are operating at the mid-level license (501 – 10,000 barrels annually). There are currently no active licenses in the County for a brewery producing at the highest license level (more than 10,000 barrels annually). Despite the relatively low number of existing breweries within the County, staff has received inquiries from small-scale breweries considering locations within the County. Regarding distilleries, there are currently only two active distillery licenses within the County, both of which are for the lowest production level from the ABC for a distillery (5,000 gallons or less annually). There are no active commercial winery licenses within the County according to the ABC’s data, which would include commercial wineries as well

as cider and mead producers.

As part of this amendment, staff also reviewed the regulatory approaches to craft beverage production of various surrounding jurisdictions. This review revealed that at the time of staff's research, Prince William County, the City of Manassas, Loudoun County, and the Town of Herndon define craft beverage production facilities as a specific use in their zoning ordinance in some form. Prince William County's zoning ordinance contains three distinct uses related to alcohol production facilities: limited/craft brewery, brewery and bottling facility, and distillery. While a craft brewery producing up to 10,000 barrels of beer, mead, cider, or similar beverages annually is permitted in certain commercial districts, the brewery and bottling facility and distillery uses are limited to industrial districts. In the City of Manassas, breweries and distilleries are defined together as one use and are permitted by right or by special use permit within certain commercial, planned, and industrial districts, depending on the quantities produced. Loudoun County recently amended their zoning ordinance in June of 2016 to add craft beverage manufacturing as a new use. This amendment allows breweries producing up to 15,000 barrels of beer per year and distilleries producing up to 36,000 gallons of distilled spirits per year as a by right, minor special exception, or special exception use in certain commercial, planned development, and industrial zoning districts to be generally consistent with how restaurant and manufacturing uses are regulated. Finally, the Town of Herndon amended their zoning ordinance in August of 2016 to add small scale alcohol production facilities as a new use category, which includes production breweries, distilleries, wineries, and cideries, as well as brewpubs. This use is permitted by right in certain commercial and planned districts subject to production limitations and other standards, and by special exception in their office and light industrial district. Staff's research on the proposed amendment also indicates that numerous localities throughout the country have similarly amended their zoning ordinances to specifically address craft beverage producers in some manner. Based on staff's research, the majority of the surveyed jurisdictions that do not currently define craft beverage production facilities explicitly in their zoning ordinance in some form regulate them as manufacturing uses, which are typically only permitted to be located in certain industrial zoning districts.

Current Zoning Ordinance Provisions

Breweries, distilleries, wineries, and other similar production facilities are not specifically defined in the Zoning Ordinance. By way of interpretation, breweries of any size have been deemed to be most similar to food and beverage manufacturing, production and processing establishments for the purposes of regulation under the Zoning Ordinance. Food and beverage manufacturing, production and processing establishments are currently permitted by right in the General Industrial (I-5) and Heavy Industrial (I-6) Districts, and by special exception in the Medium Intensity Industrial (I-4) District. Retail sales associated with this use is limited to a maximum of 10% of the gross floor area of the establishment. Staff's experience in responding to inquiries from prospective breweries indicates that many small-scale breweries desire to have a "tasting room" component, where customers can consume the products produced on-site. Staff has been making determinations on a case-by-case basis for prospective breweries, and it has become the interpretation of the Zoning Administrator that a tasting room is an acceptable accessory component of a food and beverage manufacturing use, assuming it does not comprise the majority of the floor area of the building in which it is to be located. It is noted that the proposed amendment will not impact existing craft beverage production establishments, which may continue operations, provided they are operating

lawfully and not expanded or enlarged.

Proposed Amendment

The Board specifically requested that staff consider adding food and beverage manufacturing, production and processing as a by right use in the I-3 and I-4 Districts to potentially allow craft beverage producers to locate in the lower intensity industrial districts. However, staff's review and analysis of the proposed amendment involves the creation of a new, distinct land use to specifically allow low-volume craft beverage production facilities in these districts. Given the relatively small-scale nature of their operation, as well as the unique accessory components that are often associated with these uses, such as tasting rooms, staff believes that craft producers are likely to have different land use impacts than large-scale food and beverage manufacturers and, therefore, should be regulated as a distinct use. As a result, staff has drafted the framework presented in this Zoning Ordinance amendment, to include the newly defined land use of craft beverage production establishments, the zoning districts in which the use is permitted, and applicable use limitations.

New Definition

Staff's proposal establishes a new land use designation, referred to as "craft beverage production establishments." As proposed, craft beverage production establishments are defined as:

"A facility, licensed in accordance with Title 4.1 of the Code of Virginia, as amended, in which beer, wine, cider, mead, distilled spirits, or other similar beverages are brewed, fermented, or distilled in quantities not to exceed 15,000 barrels of beer, or 36,000 gallons of distilled spirits, wine, cider, or mead annually. Establishments exceeding the above production quantities shall be deemed a food and beverage manufacturing, production and processing establishment."

The majority of inquiries that staff has received to date have been for breweries; however, staff's research indicates there may be future inquiries from other types of craft beverage producers, which staff believes will have similar land use impacts. The use as proposed, therefore, includes several types of craft beverage producers, including breweries, cider and mead producers, wineries, and distilleries. It should be noted that an eating establishment with accessory brewing would continue to be regulated as such and would not be affected by this amendment.

The production limits stated in the proposed definition are intended to serve as the method to distinguish between craft beverage producers and larger-scale food and beverage manufacturing uses. The production limits are based on a combination of the Virginia ABC's license levels, staff's industry research and correspondence, and staff's review of regulations adopted by other jurisdictions. The proposed production limit for beer is consistent with the definition of "microbrewery" adopted by the Brewers Association, which is the trade association representing small and independent craft brewers in the United States, and is generally consistent with other jurisdictions that staff researched. Because cider and mead producers are licensed by the Virginia ABC as wineries, staff has included these producers under the same production limits as those for a commercial winery. The production limit for distilled spirits, wine, cider and mead stated in the proposed definition is primarily based on the Virginia ABC's mid-level license for distilleries. A

manufacturer of beer, wine, cider, mead, or distilled spirits that exceeds the production limits stated in the proposed definition for “craft beverage production establishments” would be considered a food and beverage manufacturing, production and processing establishment and would be regulated accordingly.

Permitted Districts

As proposed by staff, craft beverage production establishments would be permitted by right in select commercial, planned development, and industrial districts, subject to use limitations. In terms of industrial districts, craft beverage production establishments would be permitted by right in the I-3, I-4, I-5 and I-6 Districts, subject to use limitations. Given that breweries of any size are currently permitted by right in the I-5 and I-6 districts as a food and beverage manufacturing use, staff believes it is appropriate to continue to allow the new use to operate within those districts. In addition, staff believes that the relatively small-scale manufacturing nature of this use also makes it an appropriate use in the I-3 and I-4 districts. Although the I-3 and I-4 districts do not currently allow food and beverage manufacturing establishments by right, they do allow for certain other types of manufacturing and processing establishments. Given the operational characteristics of the breweries operating in the County to date, staff believes that craft beverage production establishments would be consistent with the intent of these districts.

The amendment is also proposing to allow craft beverage production establishments that produce in quantities even further below those stated in the proposed definition, and where the tasting room comprises the majority of the use, to locate outside of the industrial districts in certain commercial and planned development districts. In this scenario, the limited manufacturing aspect of the business operation would be ancillary to, and would primarily serve, the principal use of a tasting room. On this basis, and given the much lower production limits, it is not anticipated that larger scale manufacturing of alcohol and its subsequent distribution would likely be possible at commercially zoned locations. As such, the amendment proposes these limited craft beverage production establishments as a by right use, subject to use limitations discussed below, in the Neighborhood Retail Commercial (C-5) District, Community Retail Commercial (C-6) District, Regional Retail Commercial (C-7) District, Highway Commercial (C-8) District and Super Regional Retail Commercial (C-9) District, as well as the Planned Development Commercial District (PDC), Planned Residential Community District (PRC), Planned Residential Mixed Use District (PRM), and Planned Tysons Corner Urban District (PTC) when authorized by an approved final development plan.

As stated in the proposed definition, a craft beverage production establishment that exceeds the production quantities specified in the proposed definition would be considered a food and beverage manufacturing, production and processing establishment, which is currently only permitted by right in the I-5 and I-6 Districts and by special exception in the I-4 District. Staff believes it is appropriate for this use to also be permitted by right in the I-4 District given the intent of the district and the other types of uses that are permitted. However, staff does not believe that potentially large-scale food and beverage manufacturing is an appropriate use in the I-3 District. Therefore, as part of this amendment, staff is also proposing to include food and beverage manufacturing, production and processing establishments as a by right use in the I-4 District.

Use Limitations

As proposed by staff, craft beverage production establishments would be subject to several use limitations, some of which differ between commercial, planned development, and industrial districts. The intent of these distinctions is to potentially allow craft beverage producers with a principal production component in the industrial districts, and producers with a principal tasting room component with accessory production in the commercial and planned development districts. The primary purpose of the proposed use limitations is to provide for compatibility among land uses and mitigate potential impacts of the use on adjacent properties. A discussion of each use limitation follows.

Production Limits

“Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.”

The definition of craft beverage production establishments sets the alcohol production limits for the use. However, as discussed above, staff is proposing to allow the use not just in industrial districts but also in certain commercial districts and within the commercial areas of certain planned districts when the tasting room becomes the principal use and the manufacturing aspect of the business is accessory. The above referenced use limitation only applies to the commercial and planned development districts, and seeks to further limit production in these districts from that stated in the proposed definition of craft beverage production establishments. With these production limitations, partnered with the tasting room component, staff believes the land use impacts will be less industrial in nature such that the use would be appropriate outside of the industrial districts and compatible with other uses typically found in commercial and planned development districts. The production quantities stated in this limitation generally correspond with the lowest level of Virginia ABC licenses, with the exception of the brewery limits. The lowest ABC brewery license would limit breweries to 500 barrels of production or less; however, staff recognizes that this is a very limited level of production and believes that 5,000 barrels is a more appropriate number.

Staff believes the production limits proposed in this use limitation are appropriate for establishments located in commercial and planned development districts, and that production beyond this amount could result in a land use that is more industrial in nature and not appropriate in commercial and planned development districts. However, as an option, the amendment is advertised to allow the Board to consider an alternative use limitation in the planned development districts that would allow the Board to modify the above referenced production limits in conjunction with the approval of a development plan.

Tasting Rooms

Based on staff’s research and discussions with existing and potential brewery operators, the tasting room is an essential component of craft breweries. As such, the proposed use limitations would allow for tasting rooms for the purpose of serving the products produced on-site to customers. The

proposed use limitations for the amount of area dedicated to a tasting room differ between the industrial and commercial districts.

Regarding tasting rooms in Industrial Districts:

“A tasting room, consisting of up to 30% of the total gross floor area of the establishment, for the consumption of products produced on-site may be permitted as an accessory use. Any food served shall be as an accompaniment to those products produced on-site, and shall be limited to pre-packaged food items or food items that require limited preparation and/or reheating.”

Staff believes that in industrial districts, a tasting room up to 30% of the gross floor area of the overall establishment is appropriate. Food service in the tasting room in industrial districts would be limited to that which does not require a commercial kitchen to prepare. It is noted that a craft beverage production establishment in the industrial districts would not be required to have a tasting room.

For tasting rooms in Commercial and Planned Development Districts:

“Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.”

The proposed use limitations for craft beverage production establishments in the commercial and planned development districts would require that a tasting room be the primary component of the establishment and, therefore, that the associated production area and activities be accessory to the tasting room. The intent is that some distribution and on-site sales for off-site consumption, such as growler sales, would also be permitted, provided that it remains accessory. Food service could also be provided within the tasting room as an accessory component of the establishment, similar to how an eating establishment is permitted to have brewing as an accessory component. It should be noted that in accordance with Par. 4 of Sect. 4-505 of the Zoning Ordinance, no separate business establishment in the C-5 District would be permitted to occupy more than 6,000 square feet of gross floor area.

Staff believes that this use limitation as proposed, in addition to the previously discussed use limitation regarding production limits, is necessary to ensure that distribution is limited and, in turn, ensure that the establishment remains compatible with other uses within commercial and planned development districts. However, as an option, the amendment is advertised to allow the Board to consider an alternative use limitation for planned development districts that would require the establishment to have an on-site tasting room, but not specifically require that the production activities and the area devoted to such activities be accessory to the tasting room. Staff does not recommend the adoption of this alternative option for the reason specified above.

Associated Retail Activity

“Retail sales may be permitted as an accessory use, provided the associated retail sales area

shall be limited to ten (10) percent of the gross floor area of the establishment.”

Staff’s experience in responding to brewery inquiries indicates that there is often a retail component associated with this use, such as the sale of glassware or licensed apparel. Under the current regulations, breweries in the I-5 and I-6 Districts are permitted to have a retail sales area consisting of up to ten percent of the gross floor area of the establishment. Staff believes this limitation is appropriate for craft beverage production establishments and, therefore, has proposed this as an additional use limitation in the industrial districts. Staff does not believe this use limitation is necessary in the commercial and planned development districts; therefore, it is not included as a use limitation in those districts.

Parking Requirements

Regarding parking in Industrial Districts:

“Parking for the portion of the establishment devoted to production activities shall be provided in accordance with the parking requirements for a manufacturing establishment pursuant to Sect. 11-105 of the Zoning Ordinance. Parking for a tasting room shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.”

For parking in Commercial and Planned Development Districts:

“Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.”

In the industrial districts, the area dedicated to the production activities would be parked at the manufacturing rate contained in the Zoning Ordinance. Parking for any tasting room would be based on the eating establishment rate. This is consistent with staff’s current practice when responding to brewery inquiries. In the commercial and planned development districts where the tasting room will comprise the majority of the use, the eating establishment parking rate would be applied given the small-scale production activities that would occur.

Outdoor Storage Provisions

“Storage of materials used in the production process shall only be permitted within a completely enclosed structure.”

Outdoor storage limitations appear to be one of the more prevalent use limitations considered by localities for these craft beverage production uses. The rationale for such restrictions is often related to public health, as production waste associated with this use could produce odors and attract vermin. As a result, staff has proposed a use limitation that would ensure that any storage of materials used in the production process is done within an enclosed structure. This would not preclude the establishments from storing unused or spent materials within an accessory structure on the property, such as a grain silo, provided that the structure meets all Zoning Ordinance requirements.

Conclusion

The proposed amendment seeks to establish craft beverage production establishments as a distinct land use permitted in select commercial, planned development, and industrial districts, subject to proposed use limitations. The amendment also seeks to allow food and beverage manufacturing, production and processing establishments as a by right use in the I-4 District. Staff believes that the inclusion of the craft beverage production establishments use as a by right use in select districts is appropriate given the nature of this use, and that the proposed production limits contained in the definition and use limitations will mitigate any potential land use impacts. Further, staff also believes that food and beverage manufacturing, production and processing establishments are an appropriate by right use in the I-4 District. Therefore, staff recommends approval of the proposed amendment, to include **OPTION 1** in all cases where different options are presented, with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2016, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by
2 adding a new CRAFT BEVERAGE PRODUCTION ESTABLISHMENT definition in its
3 proper alphabetical sequence to read as follows:
4

5 CRAFT BEVERAGE PRODUCTION ESTABLISHMENT: A facility, licensed in
6 accordance with Title 4.1 of the Code of Virginia, as amended, in which beer, wine,
7 cider, mead, distilled spirits, or other similar beverages are brewed, fermented, or
8 distilled in quantities not to exceed 15,000 barrels of beer, or 36,000 gallons of distilled
9 spirits, wine, cider, or mead annually. Establishments exceeding the above production
10 quantities shall be deemed a food and beverage manufacturing, production and
11 processing establishment.
12

13 Amend Article 4, Commercial District Regulations, Part 5, C-5 Neighborhood Retail
14 Commercial District, as follows:
15

- 16 - Amend Sect. 4-502, Permitted Uses, by placing Craft Beverage Production
17 Establishments in its appropriate alphabetical sequence as a new Par. 7, and renumbering
18 all subsequent paragraphs accordingly, as follows:
19

20 7. Craft beverage production establishments, limited by the provisions of Sect. 505 below.
21

- 22 - Amend Sect. 4-505, Use Limitations, by adding a new Par. 11 to read as follows:
23

24 11. Craft beverage production establishments shall be permitted by right in accordance with
25 the following:
26

- 27 A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons
28 of distilled spirits, wine, cider, or mead annually.
29
30 B. Production activities and the area devoted to such activities shall be accessory to an
31 on-site tasting room.
32

C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 4, Commercial District Regulations, Part 6, C-6 Community Retail Commercial District, as follows:

- **Amend Sect. 4-602, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 7, and renumbering all subsequent paragraphs accordingly, as follows:**

7. Craft beverage production establishments, limited by the provisions of Sect. 605 below.

- **Amend Sect. 4-605, Use Limitations, by adding a new Par. 13 to read as follows:**

13. Craft beverage production establishments shall be permitted by right in accordance with the following:

A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.

B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.

C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 4, Commercial District Regulations, Part 7, C-7 Regional Retail Commercial District, as follows:

- **Amend Sect. 4-702, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 10, and renumbering all subsequent paragraphs accordingly, as follows:**

10. Craft beverage production establishments, limited by the provisions of Sect. 705 below.

- **Amend Sect. 4-705, Use Limitations, by adding a new Par. 15 to read as follows:**

15. Craft beverage production establishments shall be permitted by right in accordance with the following:

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.
- B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.
- C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
- D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 4, Commercial District Regulations, Part 8, C-8 Highway Commercial District, as follows:

- **Amend Sect. 4-802, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 11, and renumbering all subsequent paragraphs accordingly, as follows:**

11. Craft beverage production establishments, limited by the provisions of Sect. 805 below.

- **Amend Sect. 4-805, Use Limitations, by adding a new Par. 17 to read as follows:**

17. Craft beverage production establishments shall be permitted by right in accordance with the following:

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.
- B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.
- C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
- D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 4, Commercial District Regulations, Part 9, C-9 Super-Regional Retail Commercial District, as follows:

- **Amend Sect. 4-902, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 5, and renumbering all subsequent paragraphs accordingly, as follows:**

1 5. Craft beverage production establishments, limited by the provisions of Sect. 905 below.

- 2
3 - **Amend Sect. 4-905, Use Limitations, by adding a new Par. 15 to read as follows:**

4
5 15. Craft beverage production establishments shall be permitted by right in accordance with
6 the following:

- 7
8 A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons
9 of distilled spirits, wine, cider, or mead annually.
10
11 B. Production activities and the area devoted to such activities shall be accessory to an
12 on-site tasting room.
13
14 C. Parking shall be provided in accordance with the requirements for an eating
15 establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
16
17 D. Storage of materials used in the production process shall only be permitted within a
18 completely enclosed structure.

19
20 **Amend Article 5, Industrial District Regulations, Part 3, I-3 Light Intensity Industrial District,**
21 **as follows:**

- 22
23 - **Amend Sect. 5-302, Permitted Uses, by placing Craft Beverage Production**
24 **Establishments in its appropriate alphabetical sequence as a new Par. 4, and renumbering**
25 **all subsequent paragraphs accordingly, as follows:**

26
27 4. Craft beverage production establishments, limited by the provisions of Sect. 305 below.

- 28
29 - **Amend Sect. 5-305, Use Limitations, by adding a new Par. 8 to read as follows:**

30
31 8. Craft beverage production establishments shall be permitted by right in accordance with
32 the following:

- 33
34 A. A tasting room, consisting of up to 30% of the total gross floor area of the
35 establishment, for the consumption of products produced on-site may be permitted
36 as an accessory use. Any food served shall be as an accompaniment to those
37 products produced on-site, and shall be limited to pre-packaged food items or food
38 items that require limited preparation and/or reheating.
39
40 B. Parking for the portion of the establishment devoted to production activities shall
41 be provided in accordance with the parking requirements for a manufacturing
42 establishment pursuant to Sect. 11-105 of the Zoning Ordinance. Parking for a
43 tasting room shall be provided in accordance with the requirements for an eating
44 establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
45

C. Retail sales may be permitted as an accessory use, provided the associated retail sales area shall be limited to ten (10) percent of the gross floor area of the establishment.

D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 5, Industrial District Regulations, Part 4, I-4 Medium Intensity Industrial District, as follows:

- Amend Sect. 5-402, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 5, and renumbering all subsequent paragraphs accordingly, as follows:

5. Craft beverage production establishments, limited by the provisions of Sect. 405 below.

- Amend Sect. 5-404, Special Exception Uses, by removing Par. 5F, Food and beverage manufacturing, production and processing establishments, and renumbering all subsequent paragraphs accordingly, as follows:

5. Category 5 – Commercial and Industrial Uses of Special Impact, limited to:

~~F. Food and beverage manufacturing, production and processing establishments~~

- Amend Sect. 5-405, Use Limitations, by adding a new Par. 9 to read as follows:

9. Craft beverage production establishments shall be permitted by right in accordance with the following:

A. A tasting room, consisting of up to 30% of the total gross floor area of the establishment, for the consumption of products produced on-site may be permitted as an accessory use. Any food served shall be as an accompaniment to those products produced on-site, and shall be limited to pre-packaged food items or food items that require limited preparation and/or reheating.

B. Parking for the portion of the establishment devoted to production activities shall be provided in accordance with the parking requirements for a manufacturing establishment pursuant to Sect. 11-105 of the Zoning Ordinance. Parking for a tasting room shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

C. Retail sales may be permitted as an accessory use, provided the associated retail sales area shall be limited to ten (10) percent of the gross floor area of the establishment.

- 1 D. Storage of materials used in the production process shall only be permitted within a
 2 completely enclosed structure.

3
 4 **Amend Article 5, Industrial District Regulations, Part 5, I-5 General Industrial District, as**
 5 **follows:**

- 6
 7 - **Amend Sect. 5-502, Permitted Uses, by placing Craft Beverage Production**
 8 **Establishments in its appropriate alphabetical sequence as a new Par. 5, and renumbering**
 9 **all subsequent paragraphs accordingly, as follows:**

10
 11 5. Craft beverage production establishments, limited by the provisions of Sect. 505 below.

- 12
 13 - **Amend Sect. 5-505, Use Limitations, by adding a new Par. 10 to read as follows:**

14
 15 10. Craft beverage production establishments shall be permitted by right in accordance with
 16 the following:

- 17
 18 A. A tasting room, consisting of up to 30% of the total gross floor area of the
 19 establishment, for the consumption of products produced on-site may be permitted
 20 as an accessory use. Any food served shall be as an accompaniment to those
 21 products produced on-site, and shall be limited to pre-packaged food items or food
 22 items that require limited preparation and/or reheating.

- 23
 24 B. Parking for the portion of the establishment devoted to production activities shall
 25 be provided in accordance with the parking requirements for a manufacturing
 26 establishment pursuant to Sect. 11-105 of the Zoning Ordinance. Parking for a
 27 tasting room shall be provided in accordance with the requirements for an eating
 28 establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

- 29
 30 C. Retail sales may be permitted as an accessory use, provided the associated retail
 31 sales area shall be limited to ten (10) percent of the gross floor area of the
 32 establishment.

- 33
 34 D. Storage of materials used in the production process shall only be permitted within a
 35 completely enclosed structure.

36
 37 **Amend Article 5, Industrial District Regulations, Part 6, I-6 Heavy Industrial District, as**
 38 **follows:**

- 39
 40 - **Amend Sect. 5-602, Permitted Uses, by placing Craft Beverage Production**
 41 **Establishments in its appropriate alphabetical sequence as a new Par. 6, and renumbering**
 42 **all subsequent paragraphs accordingly, as follows:**

43
 44 6. Craft beverage production establishments, limited by the provisions of Sect. 605 below.
 45

1 - **Amend Sect. 5-605, Use Limitations, by adding a new Par. 9 to read as follows:**

2
3 9. Craft beverage production establishments shall be permitted by right in accordance with
4 the following:

- 5
6 A. A tasting room, consisting of up to 30% of the total gross floor area of the
7 establishment, for the consumption of products produced on-site may be permitted
8 as an accessory use. Any food served shall be as an accompaniment to those
9 products produced on-site, and shall be limited to pre-packaged food items or food
10 items that require limited preparation and/or reheating.
11
12 B. Parking for the portion of the establishment devoted to production activities shall
13 be provided in accordance with the parking requirements for a manufacturing
14 establishment pursuant to Sect. 11-105 of the Zoning Ordinance. Parking for a
15 tasting room shall be provided in accordance with the requirements for an eating
16 establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
17
18 C. Retail sales may be permitted as an accessory use, provided the associated retail
19 sales area shall be limited to ten (10) percent of the gross floor area of the
20 establishment.
21
22 D. Storage of materials used in the production process shall only be permitted within a
23 completely enclosed structure.
24

25 **Amend Article 6, Planned Development District Regulations, Part 2, PDC Planned**
26 **Development Commercial District, as follows:**

27
28 - **Amend Sect. 6-203, Secondary Uses Permitted, by placing Craft Beverage Production**
29 **Establishments in its appropriate alphabetical sequence as a new Par. 7, and renumbering**
30 **all subsequent paragraphs accordingly, as follows:**

31
32 7. Craft beverage production establishments, limited by the provisions of Sect. 206 below.
33

34 - **Amend Sect. 6-206, Use Limitations, by adding a new Par. 17 to read as follows:**

35
36 17. Craft beverage production establishments shall be permitted only in accordance with the
37 following:
38

39 **OPTION 1**

- 40 A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons
41 of distilled spirits, wine, cider, or mead annually.
42

43 **OR**
44
45

OPTION 2

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually, unless modified by the Board in conjunction with the approval of a development plan.

(STAFF RECOMMENDS OPTION 1)**OPTION 1**

- B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.

OR**OPTION 2**

- B. The establishment shall include an on-site tasting room.

(STAFF RECOMMENDS OPTION 1)

- C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

- D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 6, Planned Development District Regulations, Part 3, PRC Planned Residential Community District, as follows:

- **Amend Sect. 6-302, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. B(4) in those locations approved for a Neighborhood Convenience Center, C(6) in those locations approved for a Village Center, and E(5) in those locations approved for a Convention/Conference Center, and renumbering all subsequent paragraphs accordingly, as follows:**

B(4), C(6), and E(5). Craft beverage production establishments.

- **Amend Sect. 6-305, Use Limitations, by adding a new Par. 15 to read as follows:**

15. Craft beverage production establishments shall be permitted only in accordance with the following:

OPTION 1

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.

1 **OR**

2 **OPTION 2**

- 3
4 A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons
5 of distilled spirits, wine, cider, or mead annually, unless modified by the Board in
6 conjunction with the approval of a development plan.

7
8 **(STAFF RECOMMENDS OPTION 1)**

9
10 **OPTION 1**

- 11 B. Production activities and the area devoted to such activities shall be accessory to an
12 on-site tasting room.

13
14 **OR**

15
16 **OPTION 2**

- 17 B. The establishment shall include an on-site tasting room.

18
19 **(STAFF RECOMMENDS OPTION 1)**

- 20
21 C. Parking shall be provided in accordance with the requirements for an eating
22 establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
23
24 D. Storage of materials used in the production process shall only be permitted within a
25 completely enclosed structure.

26
27 **Amend Article 6, Planned Development District Regulations, Part 4, PRM Planned Residential**
28 **Mixed Use District, as follows:**

- 29
30 - **Amend Sect. 6-403, Secondary Uses Permitted, by placing Craft Beverage Production**
31 **Establishments in its appropriate alphabetical sequence as a new Par. 7, and renumbering**
32 **all subsequent paragraphs accordingly, as follows:**

33
34 7. Craft beverage production establishments, limited by the provisions of Sect. 406 below.

- 35
36 - **Amend Sect. 6-406, Use Limitations, by adding a new Par. 14 to read as follows:**

37
38 14. Craft beverage production establishments shall be permitted only in accordance with the
39 following:

40
41 **OPTION 1**

- 42 A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons
43 of distilled spirits, wine, cider, or mead annually.

44
45 **OR**

OPTION 2

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually, unless modified by the Board in conjunction with the approval of a development plan.

(STAFF RECOMMENDS OPTION 1)**OPTION 1**

- B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.

OR**OPTION 2**

- B. The establishment shall include an on-site tasting room.

(STAFF RECOMMENDS OPTION 1)

- C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.

- D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 6, Planned Development District Regulations, Part 5, PTC Planned Tysons Corner Urban District, as follows:

- **Amend Sect. 6-502, Permitted Uses, by placing Craft Beverage Production Establishments in its appropriate alphabetical sequence as a new Par. 9, and renumbering all subsequent paragraphs accordingly, as follows:**

9. Craft beverage production establishments.

- **Amend Sect. 6-505, Use Limitations, by adding a new Par. 20 to read as follows:**

20. Craft beverage production establishments shall be permitted only in accordance with the following:

OPTION 1

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually.

OR

OPTION 2

- A. Production shall be limited to no more than 5,000 barrels of beer, or 5,000 gallons of distilled spirits, wine, cider, or mead annually, unless modified by the Board in conjunction with the approval of a development plan.

(STAFF RECOMMENDS OPTION 1)**OPTION 1**

- B. Production activities and the area devoted to such activities shall be accessory to an on-site tasting room.

OR**OPTION 2**

- B. The establishment shall include an on-site tasting room.

(STAFF RECOMMENDS OPTION 1)

- C. Parking shall be provided in accordance with the requirements for an eating establishment pursuant to Sect. 11-104 of the Zoning Ordinance.
- D. Storage of materials used in the production process shall only be permitted within a completely enclosed structure.

Amend Article 9, Special Exceptions, Part 5, Category 5 Commercial and Industrial Uses of Special Impact, as follows:

- **Amend Sect. 9-501, Category 5 Special Exception Uses by deleting Food and beverage manufacturing, production and processing establishments, to read as follows:**

~~28. Food and beverage manufacturing, production and processing establishments.~~

- **Amend Par. 1 of Sect. 9-502, Districts in Which Category 5 Uses May Be Located, by deleting the reference to use 28 (Food and beverage manufacturing, production and processing establishments) in the I-5 and I-6 Districts.**
- **Amend Par. 2 of Sect. 9-502, Districts in Which Category 5 Uses May Be Located, by deleting the reference to use 28 (Food and beverage manufacturing, production and processing establishments) in the I-4 District.**

ADMINISTRATIVE - 10

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment
Re: Riding and Boarding Stables

ISSUE:

The proposed Zoning Ordinance amendment is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a request from the Board of Supervisors (Board) to consider allowing small-scale horseback riding lessons as a home occupation subject to specific limitations designed to minimize the impact of the riding lessons on surrounding properties.

RECOMMENDATION:

The County Executive recommends the authorization of the proposed amendment by adopting the resolution set forth in Attachment 1.

TIMING:

Board action is requested on December 6, 2016, to provide sufficient time to advertise the proposed Planning Commission public hearing on January 12, 2017, at 8:15 p.m., and the proposed Board public hearing on February 14, 2017, at 4:00 p.m.

BACKGROUND:

The proposed Zoning Ordinance amendment is in response to a Board request for staff to consider permitting an increase in the number of horses that can be boarded on property by right, as well as allowing small-scale riding lesson operations to be approved as a home occupation, subject to use limitations. The Board request was the result of the findings made by the 2012 Equestrian Task Force report in which it was noted that certain zoning regulations can act as obstacles which limit equestrian opportunities for private horse owners as well as commercial equestrian related providers. Staff met with representatives of the equestrian community to further understand the issues. In response, staff developed a proposed amendment that would increase the number of horses that can be boarded by right on a property and would also allow limited horseback riding lessons as a home occupation. The proposal was presented to representatives of the equestrian community for their comment, and they were supportive of the proposal with a few suggested modifications. Specifically, the amendment:

Board Agenda Item
December 6, 2016

- (1) Modifies the existing riding/boarding stable definition to add clarity to the existing provisions and to increase the maximum number of horses or ponies that can be boarded by right on a property from 3 horses on any lot, to up to 5 horses on lots containing a minimum of 2 acres and less than 5 acres, and up to 8 horses on lots containing 5 or more acres. The maximum number of horses that may kept, boarded or maintained does not include the horses owned by the resident of the property.
- (2) Revises Sect. 10-304, Home Occupation Use Limitations, to require that all outdoor lighting must be in accordance with the Zoning Ordinance outdoor lighting provisions; and, except for schools of special education and horseback riding lessons, there shall be no customers or clients.
- (3) Allows horseback riding lessons as a home occupation use requiring Zoning Administrator approval provided that on lots containing a minimum of 2 acres but less than 5 acres, no more than 2 students are permitted at any given time and up to 8 students in any one day; and on lots containing 5 or more acres, a maximum of 4 students are permitted at any given time and up to 8 students in any one day.
- (4) Requires horseback riding home occupations to be subject to the same use limitations contained in Sect. 10-304 as other home occupation uses, except as noted in Par. 5 below.
- (5) Adds a new Par. 12 to Sect. 10-304 which adds use limitations that are specific to horseback riding lesson home occupations. Par. 12 may include, but is not limited to, the following: (a) the resident of the property shall be the applicant and shall not be required to conduct the horseback riding lessons and/or care for the horses; (b) allows one nonresident person to assist with the horseback riding lessons and/or care for the horses; (c) limits the hours of horseback riding lessons, the attendance of any nonresident person described in 5(b) above, and the use of lighted outdoor riding rings or riding areas for riding lessons; (d) requires that all horses used in the horseback riding lessons be kept on the property and no horses can be transported or ridden onto the property for the lessons; (e) requires the submission of a Conservation Plan approved by the Northern Virginia Soil and Water Conservation District for the property and all activity on the property must conform to such Plan; and (f) riding lessons, other than as permitted by Sections 10-302 and 10-304, shall require special permit approval in those districts where permitted.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

The proposed amendment would enhance equestrian opportunities in Fairfax County by increasing the number of horses that can be boarded by right on a property and allowing small scale horseback riding lessons as a home occupation. Currently all horseback riding lessons and the boarding of four or more horses require special permit approval from the Board of Zoning Appeals and such applications require a public hearing, submission of a plat and an \$8,180 application fee. This amendment establishes an administrative process for horseback riding lesson home occupations with a \$50 application fee. The streamlined approval process would facilitate the establishment of small scale equestrian operations.

FISCAL IMPACT:

It is anticipated that there will be an increase in the number of home occupation permit applications as the proposed amendment would add horseback riding lessons as a permitted home occupation. The home occupation application requests would be processed through available resources.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution
Attachment 2 – Staff Report

STAFF:

Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
St.Clair Williams, Senior Assistant to the Zoning Administrator, DPZ

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on December 6, 2016, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, under the current Zoning Ordinance, the boarding of more than three horses and/or the conducting of any horseback riding lessons is considered a riding and boarding stable, which requires special permit approval in the R-A through R-1 Districts;

WHEREAS, the special permit approval process for riding and boarding stables may be considered overly expensive and burdensome to those wishing to maintain small scale equestrian activities in the County;

WHEREAS, the Zoning Ordinance currently prohibits riding and boarding stables as a home occupation;

WHEREAS, it may be appropriate to increase the number of horses that can be boarded by right without special permit approval;

WHEREAS, it may be appropriate to allow the Zoning Administrator to approve a horseback riding lessons home occupation subject to use limitations that minimize the impact of such activity on adjacent properties; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Riding/Boarding Stables

PUBLIC HEARING DATES

Planning Commission

January 12, 2017 at 8:15 p.m.

Board of Supervisors

February 14, 2017 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

December 6, 2016

SDW



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed Zoning Ordinance amendment is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a request from the Board of Supervisors (Board) to consider allowing small scale horseback riding lessons as a home occupation subject to specific limitations designed to minimize the impact of the lessons on surrounding properties. The proposed amendment would allow the Zoning Administrator to approve a home occupation for limited horseback riding lessons and would increase the number of horses that can be boarded by right.

CURRENT ZONING ORDINANCE PROVISIONS

Riding/boarding stables are defined in Article 20 of the Zoning Ordinance as follows:

STABLE, RIDING/BOARDING: A structure and/or use of land where four (4) or more horses or ponies are kept, maintained and/or boarded for profit, or in connection with which saddle horses or ponies are rented to the general public, made available to members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings shall be considered uses accessory to the use of the premises of a stable.

Riding/boarding stables are permitted in the PDH and PDC Districts when shown on an approved development plan and require the approval of a Group 6 Special Permit from the Board of Zoning Appeals (BZA) in the R-A, R-P, R-C, R-E and R-1 Districts. All special permits for riding/boarding stables are subject to the additional standards contained in Sect. 8-809, which include a minimum lot size requirement of 2 acres and minimum specified distances for stable structures, riding rings and/or associated parking and loading spaces from property lines. The application filing fee for a Group 6 Riding/Boarding Stable Special Permit is \$8,180.

A riding school is specifically excluded from the School of Special Education definition and therefore, the teaching of horseback riding lessons, regardless of the number of students, is a riding/boarding stable requiring special permit approval in the R-A through R-1 Districts. As noted above, the boarding of 4 or more horses for profit is a riding and boarding stable and such boarding requires special permit approval. Furthermore, the boarding of up to 3 horses for profit is not a riding/board stable and, such boarding, is subject to the limitations for the keeping of animals in Sect. 2-512. Under Sect. 2-512, the keeping of horses (which includes ponies, mules, burros and donkeys) is allowed as an accessory use on any lot containing at least 2 acres. The number of horses permitted as an accessory use cannot exceed the ratio of 3 horses per acre.

The Zoning Ordinance allows certain home based businesses to be permitted as a home occupation, subject to certain use limitations. Home occupations require Zoning Administrator approval and have an application fee of \$50. The emphasis of the home occupation use limitations is to maintain the residential character of the area and to minimize impacts from the home based business on surrounding residences. A school of special education with a class size not exceeding 4 pupils at any given time and not more than 8 pupils in any one day is a specifically permitted home occupation. Examples of school of special education home occupations may include piano lessons, dance lessons, fitness training and tutoring. In addition, certain uses are specifically prohibited as a home occupation, including riding or boarding stables.

BACKGROUND

The Board of Supervisors commissioned the establishment of an Equestrian Task Force to address equestrian concerns within the County, identify opportunities for horses and their riders, and provide recommendations for ways the Board could support, provide and promote equestrian opportunities within Fairfax County. The Task Force published a report on March 31, 2012, which included recommendations to the Board. The report noted that certain zoning regulations can act as obstacles in providing equestrian opportunities for private horse owners as well as commercial equestrian-related providers.

The special permit requirement for the teaching of riding lessons and the boarding of more than 3 horses can be viewed as being overly burdensome to those wishing to engage in small scale equestrian activities that are more residential than commercial in character. The special permit process, including an \$8,180 special permit application fee, the special permit plat submission requirement, and the BZA public hearing, require time and money and may be cost prohibitive for those boarding a small number of horses or providing horseback riding lessons to a limited number of students. In addition, the special permit standard that requires minimum distances between stable structures and parking areas from property lines may make it difficult, if not impossible, for certain riding/boarding stable special permits to be approved. While evidence is anecdotal, the equestrian community has seen a long term decline in the number of riding programs available in Fairfax County, as property owners and horse trainers are concerned about the consequences of potential zoning violations associated with the boarding of more than 3 horses or with offering any riding lessons.

Staff has reached out to horse owners and horse related civic groups within the County for feedback. Some of the concerns expressed by the equestrian community are that there are not enough facilities for riding lessons within Fairfax County. Due to the lack of equestrian facilities, the waiting lists for the limited facilities are very long, and as a result, many County residents travel outside of the County for equestrian activities. The same feedback was received regarding the limited number of boarding stables within the County. Many of the equestrian community indicated that they would prefer to stay within the County for riding and boarding activities, but do not have that option given the current zoning restrictions.

In response, staff developed a proposed amendment that would increase the number of horses that can be boarded by right on a property and would also allow limited horseback riding lessons as a home occupation. The proposal was presented to representatives of the equestrian community for their comment, and they were supportive of the proposal with a few suggested modifications.

PROPOSED AMENDMENT

The proposed amendment would increase the number of horses that can be boarded by right and allow limited riding lessons as a home occupation.

Increase the Number of Horses that can be Boarded by Right

The riding/boarding stable definition would be modified to increase the number of horses or ponies, not including those belonging to the resident of the property, which can be boarded on a property without requiring special permit approval. Currently the maximum number of horses that

can be boarded on property as a permitted accessory use is 3. Initially staff had recommended increasing the number of horses that can be boarded by right to 5 regardless of the lot size where the boarding activity took place. However, it was subsequently determined that it may be appropriate to allow the boarding of a greater number of horses on larger size lots, as the impact of such boarding activities would be mitigated by the larger acreage. The representatives of the equestrian community supported this recommendation. Therefore, the proposed amendment would revise the riding/boarding stable definition to allow a maximum of 5 horses or ponies to be boarded by-right on lots containing a minimum of 2 acres but less than 5 acres, and a maximum of 8 horses to be boarded by-right on lots containing 5 or more acres. The maximum number of horses permitted on a lot by right would still be subject to the provisions contained in Sect. 2-512. The boarding of more than 8 horses on lots containing 5 acres or more and the boarding of more than 5 horses on lots containing at least 2 acres and up to 5 acres would still require special permit approval for a riding/boarding stable.

A number of other clarifying changes are also proposed to the riding/boarding stable definition. The current definition requires that the horses or ponies be kept, maintained or boarded for profit. Several appeals of Notices of Violations for riding/boarding stables have centered on the words “for profit”. Owners of small scale riding programs maintain that profits are not typically achieved, and that is the basis for many appeal applications. Further, members of the equestrian community have stated that given the high costs of horse ownership, horse owners may wish to offer riding lessons or to board horses to offset their expenses, rather than for profit. Staff has consistently interpreted the term “for profit” to be inclusive of any exchange of money or services received for the boarding or keeping of horses. As such, staff is proposing to remove the “for profit” language from the riding/boarding stable definition. Therefore, the boarding of horses, in excess of the numbers set forth in the definition would be deemed a riding and boarding stable regardless if any money is exchanged for such services. For example, a horse that is owned by a non-resident caretaker and is being kept on the property without any payment to the property owner would count as a horse that is being boarded.

Allow Limited Riding Lessons as a Home Occupation

The amendment revises Part 3 of Article 10 to specifically allow horseback riding lessons as a permitted home occupation use.

In determining the appropriate maximum number of students that would be allowed to receive riding lessons as a home occupation at any given time, staff first considered the student limitations for other school of special education home occupations. Such schools are limited to no more than 4 students at any given time and no more than 8 pupils in any given day. Given that riding lessons are typically provided outdoors and therefore could cause adverse impacts on adjacent residences, staff believed that it might be appropriate to allow fewer riding students at any given time than for other types of schools of special education home occupations which are typically conducted indoors. Initially, staff considered limiting riding lessons to only properties of 5 or more acres. It was believed that lots of at least 5 acres were required in order to minimize impacts of the riding lessons on adjacent properties and to provide sufficient space for both the equestrian lesson and the applicant’s residence and associated septic drain field. However, after meeting with members of the Fairfax County equestrian community, staff now believes that under limited circumstances, smaller lots could accommodate riding lessons. Furthermore, it may be appropriate to allow more riding students at one time on lots that are 5 acres or more than on lots less than 5 acres. This would

provide opportunities for riding lessons in parts of the County where minimum lot sizes of 2 acres are more common and would also alleviate the costs of owning a horse. In order to minimize the impact of these small operations on adjacent residences, the following student limitations are proposed:

- On lots containing a minimum of 2 acres but less than 5 acres, no more than 2 students at any given time and up to 8 students in any one day.
- On lots containing 5 acres or more, a maximum of 4 students at any given time and up to 8 students in any one day.

The riding lesson home occupation would be subject to the same use limitations that are applicable to all other home occupations that are contained in Sect. 10-304, including, but not limited to:

- Except for articles produced on the premises, no stock in trade shall be stored, displayed or sold on the premises.
- There shall be no exterior evidence that the property is used on any way other than for a dwelling.
- No sign shall be permitted.

In addition to the use limitations that are applicable to all home occupation uses, the proposed home occupation use limitations that would be specific to riding lessons would include:

- The primary residence of the home occupation permit applicant must be located on the same lot where the horseback riding lessons are being given; however, the applicant shall not be required to conduct the horseback riding lessons and/or care for the horses.

The current home occupation use limitations contained in Sect. 10-304 require that all home occupations be conducted by the home occupation permit applicant within the dwelling which is the primary residence of the applicant or in an associated accessory building. However, in discussions with the equestrian community, it was realized that there are many property owners and/or residents that own or board horses on their property, but are not responsible for the care of the horses and/or not conducting the riding lessons themselves. In such cases, the actual horseback riding lessons and/or care of the horses may be provided by a non-resident employee. Staff believes the requirement that the property owner or resident conduct the riding lessons may be an obstacle for some property owners or residents and require them to obtain special permit approval to use their horses for providing riding lessons.

- Hours of horseback riding lessons are limited to 7:00 a.m. and 7:00 p.m. and one nonresident person, whether paid or not for their services, may assist with the horseback riding lessons and/or care for the horses, provided that the hours of such attendance shall be limited to 7:00 a.m. to 7:00 p.m. .

Although there are no hours of operation for other home occupations, staff believes that it would be appropriate to limit the riding lesson hours as such activities usually takes place outdoors during daylight hours and could have adverse impacts on adjacent properties. Given that it is healthier for both the horse and rider for riding activities to not occur during the heat of the day during hot weather, the proposed amendment would permit the hours of horseback riding lessons to occur

between 7:00 a.m. and 7:00 p.m. Additionally, Sect. 10-304 allows a home occupation to include one non-resident employee between the hours 8:00 a.m. and 5:00 p.m., Monday through Friday. The non-resident employee hours are the same as normal business hours and are intended to reduce the impacts associated with having non-resident employees participate in the home occupation. However, riding lessons can be operationally different than other home occupations as riding lessons are typically given on the weekends and in the mornings and evenings. Therefore, the proposed amendment would allow one nonresident employee to assist with the care of the horses and/or riding lessons. In addition, the nonresident employee can only be in attendance on the property between 7:00 a.m. and 7:00 p.m. The proposed hours of nonresident employee attendance are consistent with the hours of horseback riding lessons.

- All horses used in the horseback riding lessons must be kept on the property and no horses can be transported or ridden onto the property for lessons.

The transporting of horses to and from the property for lessons could have adverse traffic, noise and visual impacts on adjacent properties. In order to minimize these impacts, all horses used in the riding lessons must be kept on the property and no horses used for the lessons can be transported or ridden onto the property.

- If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for such areas is limited to 7:00 a.m. to 7:00 p.m.

Lighted outdoor riding rings or riding areas are subject to the outdoor lighting provisions contained in Part 9 of Article 14 of the Zoning Ordinance. Under the outdoor lighting provisions, outdoor riding rings are outdoor recreation/sports facilities, and facilities that are greater than 10,000 sq. ft. in size and/or contain light poles greater than 20 feet in height require the submission of a sports illumination plan. When such facility is not part of a rezoning, special permit, special exception or development plan submission, or is not included on a site plan, the submission of a sports illumination plan to Land Development Services is required. In addition, the use of an outdoor recreation/sports facility is prohibited between 11:00 p.m. and 7:00 a.m.

Given that one of the proposed home occupation use limitations would limit the hours of riding lessons to between 7:00 a.m. and 7:00 p.m., and the current outdoor lighting provisions allow outdoor riding rings that are greater than 10,000 sq. ft. and/or have light poles that are greater than 20 feet in height to use outdoor lighting until 11:00 p.m., an inconsistency would occur. Therefore, the proposed amendment would limit the use of lighting for outdoor riding rings and areas to be the same as the proposed hours of horseback riding lessons.

- A conservation plan approved by the Northern Virginia Soil and Water Conservation District would be required for the property and all activity on the property must conform to such plan.

Staff believes that it is important to ensure that any property where riding lessons are being provided is properly managed to keep pollutants out of streams, prevent pasture erosion, and to mitigate waste produced by horses. Therefore, staff has proposed that all home occupations for riding lessons must obtain approval of a conservation plan by the Northern Virginia Soil and Water Conservation District prior to the issuance of a home occupation permit. A conservation plan is

prepared based on the desires of the applicant and would address water quality, animal waste management, integrated pest management and site planning issues.

If any of the above use limitations cannot be met, approval of a special permit for a riding/boarding stable would be required.

CONCLUSION

The proposed amendment is intended to alleviate obstacles which may limit the establishment of equestrian opportunities within the County while minimizing impacts on adjacent properties. The proposed amendment would increase the number of horses that can be boarded on residential property by-right, and provides a process for residents to obtain home occupation permits for providing horseback riding lessons, subject to use limitations designed to minimize the impact on surrounding properties. As such, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2016 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by modifying the STABLE, RIDING/BOARDING definition to read as follows:

STABLE, RIDING/BOARDING: A structure and/or use of land where ~~four (4)~~ six (6) or more horses or ponies, on lots containing a minimum of two (2) acres and less than five (5) acres, and nine (9) or more horses or ponies, on lots containing five (5) acres or more, not including those belonging to the resident of the property, are kept, maintained and/or boarded for profit, or in connection with which saddle horses or ponies are rented, and/or where riding lessons are made available to the general public, made available to and/or members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings riding facilities shall ~~may~~ be considered uses accessory to the use of the premises of a riding/boarding stable.

Amend Article 10, Accessory Use, Accessory Service Uses and Home Occupations, Part 3, Home Occupations, as follows:

- Amend Sect. 10-302, Permitted Home Occupations, by adding a new Par. 8 to read as follows:

Home occupations include, but are not necessarily limited to, the following:

8. Horseback riding lessons, in accordance with the following limitations:

A. On lots containing a minimum of two (2) acres but less than five (5) acres, no more than two (2) students at any given time and up to eight (8) students in any one day.

B. On lots containing five (5) acres or more, a maximum of four (4) students at any given time and up to eight (8) students in any one day.

- Amend Sect. 10-303, Home Occupations Not Permitted, by revising Par. 6 to read as follows:

Permitted home occupations shall not in any event be deemed to include the following:

~~6. Riding or boarding stables or~~ Kennels.

- 1 - **Amend Sect. 10-304, Use Limitations, by revising Paragraphs 10 and 11 and adding a**
 2 **new Par. 12 to read as follows:**

3
 4 In addition to the use limitations applicable in the zoning district in which located, all home
 5 occupations shall be subject to the following use limitations:

6
 7 10. No sign shall be permitted, and all outdoor lighting shall be in accordance with Part 9 of
 8 Article 14.

9
 10 11. Except for schools of special education and horseback riding lessons as permitted in
 11 Sect. 302 above, there shall be no customers or clients.

12
 13 12. In addition to Paragraphs 1 through 11 above, horseback riding lessons shall be subject to
 14 the following:

15
 16 A. Notwithstanding Par.1 above, the primary residence of the home occupation permit
 17 applicant shall be located on the same lot where the horseback riding lessons are given;
 18 however the applicant shall not be required to conduct the horseback riding lessons
 19 and/or care for the horses that are kept, boarded or maintained on the property.

20
 21 B. The hours of horseback riding lessons shall be limited to 7:00 AM to 7:00 PM and
 22 notwithstanding Par. 6 above, one (1) nonresident person, whether paid or not for their
 23 services, may assist with the horseback riding lessons and/or care for the horses,
 24 provided that the hours of such attendance shall be limited to 7:00 AM to 7:00 PM.

25
 26 C. All horses used in the horseback riding lessons shall be kept on the property and no
 27 horses shall be transported or ridden onto the property for the lessons.

28
 29 D. If there is a lighted outdoor riding ring or riding area, the use of outdoor lighting for
 30 such areas shall be limited to 7:00 AM to 7:00 PM.

31
 32 E. A Conservation Plan approved by the Northern Virginia Soil and Water Conservation
 33 District shall be prepared for the property and all activity on the property shall conform
 34 to such Plan.

35
 36 Riding lessons, other than as permitted above, shall be deemed a riding/boarding stable and
 37 shall require special permit approval in those districts where permitted.

- 38
 39
 40 **Amend Article 8, Special Permits, Part 6, Outdoor Recreation Uses, Sect. 8-601, Group 6**
 41 **Special Permit Uses, by revising Par. 6 to read as follows:**

- 42
 43 6. ~~Riding and boarding~~ Riding/boarding stables, except those permitted in accordance with
 44 Part 3 of Article 10.

ADMINISTRATIVE – 11

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance
Amendment Re: Article 6 – Planned Tysons Corner Urban (PTC) District Regulations
Regarding the Maximum Floor Area for High Trip Generating Uses

ISSUE:

The proposed Zoning Ordinance amendment is prompted by concurrently proposed changes to the Comprehensive Plan for Tysons that will modify the maximum intensity recommendations for uses located in a Transit-Oriented Development (TOD) within one quarter mile of a Metrorail Station entrance. The changes specifically relate to the maximum floor area ratio (FAR) for “other high trip generating uses” or “HTGUs” in the PTC District.

RECOMMENDATION:

The County Executive recommends the authorization of the proposed amendment by adoption of the resolution set forth in Attachment 1.

TIMING:

Board action is requested on December 6, 2016, to provide sufficient time to advertise the proposed Planning Commission public hearing on February 8, 2017, at 8:15 p.m., and the proposed Board public hearing on March 14, 2017, at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the Priority 1 Zoning Ordinance Amendment Work Program as a place-holder for any changes to the PTC District that may be prompted by concurrently-proposed changes to the Comprehensive Plan for Tysons. Whereas such Tysons Plan changes will address, among other things, the maximum intensity recommendations for uses located in a Transit-Oriented Development (TOD) within one quarter mile of a Metrorail Station entrance, it is necessary to amend the Zoning Ordinance in order to implement the proposed Tysons Plan changes. Specifically, the current Zoning Ordinance provisions limit office uses and HTGUs within such geographic areas to a maximum FAR of 2.5 and residential and all other uses in these areas are not subject to a specified FAR maximum. Based on staff experience reviewing PTC District rezoning applications for the Tysons area, the proposed amendment will remove the 2.5 FAR limit for HTGUs (leaving only office use subject to this limit) and will permit such uses without a specified FAR limitation.

Board Agenda Item
December 6, 2016

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

The proposed amendment will allow the Board to approve HTGUs in a PTC District development without a specific limitation on the maximum FAR.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Resolution

Attachment 2 – Staff Report

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred Selden, Director, Department of Planning and Zoning (DPZ)

Leslie B. Johnson, Zoning Administrator, DPZ

Donna Pesto, Deputy Zoning Administrator for Ordinance Administration Branch, DPZ

Barbara Byron, Director, Office of Community Revitalization

Tracy Strunk, Deputy Director, Office of Community Revitalization

Tom Biesiadny, Director, Fairfax County Department of Transportation

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on December 6, 2016, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, the Comprehensive Plan for Tysons was developed in 2010 and, since such time, there has been considerable development approved/constructed in accordance with rezoning applications to the Planned Development Tysons Corner Urban District (PTC); and

WHEREAS, with several years of experience in the review of these rezoning applications, the Board directed staff to assess the need for updates to the Comprehensive Plan for Tysons, as appropriate; and

WHEREAS, such review of the Comprehensive Plan for Tysons has indicated a need for updates that will, in turn, necessitate changes to the Zoning Ordinance in order to implement the changes to the Comprehensive Plan for Tysons, with particular regard to the method of regulating the maximum floor area ratio for “high trip generating uses” in the PTC District; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

**Article 6 – Planned Tysons Corner Urban (PTC) District Regulations Regarding the
Maximum Floor Area Ratio for High Trip Generating Uses**

PUBLIC HEARING DATES

Planning Commission

February 8, 2017 at 8:15 p.m.

Board of Supervisors

March 4, 2017 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

December 6, 2016

TDS



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed Zoning Ordinance Amendment is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program (#19). Item #19 was a place-holder for any changes to the Planned Tysons Corner Urban District (PTC) determined to be necessary to implement corresponding changes made to the Comprehensive Plan for Tysons. A plan amendment for Tysons was authorized by the Board of Supervisors (Board) on March 15, 2013, directing staff to update the Tysons Plan based on experience, studies, and planning activities that have been completed since the original Comprehensive Plan for Tysons was adopted in 2010. This process led to a plan amendment proposal that, if approved, will necessitate changes to the PTC District to revise the maximum permitted floor area ratio (FAR) as it relates to “other high trip generating uses” (as described below). Staff notes that this proposal to amend the Zoning Ordinance was presented conceptually to the Planning Commission’s Tysons Committee during its review of the amendment to the Comprehensive Plan for Tysons on March 16, 2016.

Current Provisions

In Tysons, the Comprehensive Plan and the PTC District of the Zoning Ordinance do not place a maximum FAR limit on total development intensity within ¼ mile of the metro stations. Rather, both documents specifically limit only the intensity of office uses and “*those uses that generate more AM and PM peak hour vehicle trips than hotel use, based on the peak hour vehicle trip generation rates specified in the most current version of the Institute of Traffic Engineers (ITE) Trip Generation Report, and as determined by the Fairfax County Department of Transportation (FCDOT) through either the evaluation of a trip generation analysis or in conjunction with the Transportation Impact Analysis (TIA) pursuant to Va. Code § 15.2222.1*”. The latter category of uses is most often referred to, in short, as “other high trip generating uses” or “HTGUs”. Office uses and HTGUs are currently limited to a maximum FAR of 2.5 within ¼ mile of the metro stations (unless additional floor area is approved by the Board through a special exception). The FAR limit was imposed with the 2010 adoption of the PTC District primarily to address traffic impacts, but also to ensure that applicants in early stages of plan implementation did not over-entitle office uses on any given property.

Background

Staff is currently proposing changes to the Comprehensive Plan for Tysons through a Comprehensive Plan Amendment being considered concurrently with this proposed Zoning Ordinance Amendment. During the plan amendment review process, a concern was raised that HTGUs are not a specifically identified use in the Zoning Ordinance. Staff notes that the PTC District permits a wide variety of uses by-right. While some uses have higher trip generation rates than others when considered in isolation, the trip generation rates of any permitted use can be impacted by the actual amount and mix of uses, and synergy among those uses. When the PTC District regulations were developed, staff believed that the FAR limit should apply to those uses that created the greatest impact on traffic, such as office. Thus the PTC District was adopted with the provision that required office and other HTGUs to be counted toward a maximum FAR of 2.5. As noted, HTGUs are not defined, in the Zoning Ordinance, so in order to reference an industry standard for a high trip generation rate, the provisions reference trip generation rates as calculated by ITE (with adjustments allowed), and it was determined that a use with a rate at or above that of a hotel should be included in the 2.5 FAR maximum.

Since the 2010 adoption of the PTC District, a number of factors have caused confusion regarding the appropriate identification of HTGUs for the purpose of inclusion in the maximum FAR limit. Most importantly, staff notes that ITE rates are generally reflective of rates as would be experienced in a more suburban setting and, as such, they do not always accurately reflect trip generation for more urban, mixed-use developments. For example, a use that generates a high volume of trips in a suburban setting, such as a dry cleaner, may not generate a high volume of trips in an urban mixed-use setting like Tysons. A dry cleaner on the ground floor of a mixed-use building will serve pedestrians and persons already in the building, thus generating very few, if any, additional vehicle trips. Staff had attempted to address this with the June 22, 2010, Guidelines for Trip Generation Analysis for Rezoning Applications to the Tysons PTC District (Attachment 1), which was adopted by the Board in concert with the adoption of the PTC District. The Board policy guidelines allowed for appropriate reductions to the ITE Trip Generation Report rates with supporting documentation (a traffic analysis) and approval by the Fairfax County Department of Transportation. In practice, the policy guidelines proved cumbersome to apply, and the evolution of the transportation analysis process in Tysons has obviated the need for this separate analysis by applicants and staff.

Since the adoption of the Plan, the PTC District and the policy guidelines, the transportation analysis process in Tysons has evolved through the development of the Consolidated Traffic Impact Analyses (CTIAs). The CTIAs were conducted for broader geographic areas rather than for individual application properties, and include Tysons East, Tysons Central and Tysons West. The CTIAs were used to determine, with a high level of detail, current and future traffic conditions based on the implementation of the Plan and the proposed developments in Tysons, and to evaluate and optimize the grid of streets. Since the CTIAs assessed both proposals under review and the assumed Plan densities for properties not currently under development in the station areas, they form a baseline for development for these areas. In practice, if an applicant proposes a new development at a higher density than what was assumed in the CTIA, an operational analysis is requested to determine whether and how the additional trips generated by the higher density could be accommodated. Staff notes that this is in addition to any requirement for a VDOT Transportation Impact Analysis (TIA) under Va. Code § 15.2-2222.1 (known as 870 review); 870 review has been required for most of the large-scale, mixed-use proposals submitted in Tysons. Finally, any development in Tysons, regardless of whether it requires 870 review or exceeds the CTIA base level, is likely to be subject to an operational analysis because of the high densities and potential for local street impacts expected with almost any application.

Additionally, experience has shown that it is the specific mix of uses proposed on a site and the synergy among uses that is important to evaluating traffic impacts in an urban, mixed-use setting, not the individual trip generation rate of a particular use as specified by ITE. Experience has shown that the 2.5 FAR limit is not an effective method of regulating intensity for developments comprised primarily of certain HTGUs. If a development does not include significant amounts of multiple-story office uses (which are the primary use included in the 2.5 FAR maximum), the FAR limit does not serve as a significant limiting factor. For example, if a development proposes to maximize retail uses without a significant office component, the proposed FAR is generally far below 2.5 because uses such as retail and big box retail are rarely multiple stories, thus do not generate the same floor area as multiple-story office uses.

For these reasons, both staff and applicants have struggled with appropriate identification of HTGUs for the purposes of calculating the FAR of a development and staff has reconsidered the effectiveness of the current provisions in appropriately addressing the traffic impacts of developments in Tysons. The practice has successfully evolved to an evaluation of the traffic impact of all uses, “high trip generating” or not, identified through the various traffic analyses and mitigated through commitments developed during the review of a specific rezoning application. As such, staff believes the PTC District provisions that include HTGUs in the 2.5 FAR maximum with office should be eliminated. No change to provisions relating to office is proposed.

Proposed Amendment

In the corresponding amendment to the Comprehensive Plan for Tysons, staff is proposing to eliminate the intensity limitations for HTGUs within ¼ mile of a metro station. In order to implement this recommendation and address the issues noted above, the proposed Zoning Ordinance Amendment will amend Par. 2 of Sect. 6-507 (Maximum FAR in the PTC District) to remove HTGUs from the 2.5 FAR limitation. Staff believes that the current 2.5 FAR limitation on office uses within ¼ mile of a metro station remains appropriate (with an increase permitted by special exception), and that provisions relating to development intensity outside of ¼ mile from a metro station also remain appropriate. Under this proposal, all uses in a PTC District would continue to be subject to review and evaluation of the applicable traffic analyses, design guidelines, proposals for mitigation, consolidation recommendations, and other provisions of the Comprehensive Plan and the Ordinance during the development review process, and only office uses would be subject to the additional limitation of a maximum FAR of 2.5.

If the proposed amendment to the Zoning Ordinance and the corresponding changes to the Comprehensive Plan are adopted, staff believes that the referenced Board policy relating to trip generation analysis for HGTU within the Tysons PTC District will no longer be necessary. Therefore, because the guidelines were specifically adopted by an action of the Board, staff recommends that the Board take a similar action to eliminate this policy guideline. Staff will be providing the Board with a separate, specific motion to eliminate this policy in conjunction with the Board’s action on both the Comprehensive Plan amendment and this Zoning Ordinance Amendment.

Conclusion

The amendment removes HTGUs from the current 2.5 FAR maximum and provides that only office uses within ¼ mile of a metro station in the PTC District will be subject to the 2.5 FAR limitation. As a result, residential and all other uses (excluding office) will be subject to no maximum FAR in the PTC District when the proposed development is implementing the site-specific development guidelines and recommendations of the Comprehensive Plan, including design, mix of uses and scale of the proposed development, and only when the appropriate measures are proposed and/or in place to adequately mitigate the anticipated transportation impacts of the proposed development.

Staff believes that the existing development review practice eliminates the need for this confusing terminology and that these changes will more accurately consider the traffic impacts

of the mix of uses proposed for developments in Tysons through the continued utilization of the CTIAs. The proposed revision is appropriate in order to implement the proposed revisions to the Comprehensive Plan; therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2016, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 Amend Article 6, Planned Development District Regulations, Part 5, PTC Planned Tysons
2 Corner Urban District, Sect. 6-507, Bulk Regulations, by amending Par. 2A, to read as
3 follows:
4

5 2. Maximum floor area ratio (FAR):
6

7 A. Within the TOD District up to one-fourth (1/4) mile from a Metrorail Station entrance:
8

9 ~~(1) For uses that generate the same or fewer AM and PM peak hour vehicle trips than~~
10 ~~hotel use, such as residential or neighborhood serving retail uses, based on the peak~~
11 ~~hour vehicle trip generation rates specified in the most current edition of the Institute~~
12 ~~of Traffic Engineers (ITE) Trip Generation Report; and as determined by the Fairfax~~
13 ~~County Department of Transportation (FCDOT) through either the evaluation of a~~
14 ~~trip generation analysis or in conjunction with the Transportation Impact Analysis~~
15 ~~(TIA) pursuant to Va. Code §15.2222.1: No maximum FAR.~~
16

17 ~~(2) For office and those uses that generate more AM and PM peak hour vehicle trips than~~
18 ~~hotel use, based on the peak hour vehicle trip generation rates specified in the most~~
19 ~~current version of the Institute of Traffic Engineers (ITE) Trip Generation Report,~~
20 ~~and as determined by the Fairfax County Department of Transportation (FCDOT)~~
21 ~~through either the evaluation of a trip generation analysis or in conjunction with the~~
22 ~~Transportation Impact Analysis (TIA) pursuant to Va. Code §15.2222.1: 2.5 FAR,~~
23 ~~exclusive of any bonus intensity obtained for proffered public facilities and/or public~~
24 ~~infrastructure, as set forth in the adopted comprehensive plan; provided, however, an~~
25 ~~increase in FAR may be permitted by the Board in accordance with the provisions of~~
26 ~~Sect. 9-629.~~
27

28 (1) For office uses: 2.5 FAR, exclusive of any bonus intensity obtained for proffered
29 public facilities and/or public infrastructure, as set forth in the adopted comprehensive
30 plan; however, an increase in FAR may be permitted by the Board in accordance with
31 the provisions of Sect. 9-629.
32

33 (2) For residential and all other uses except office: No maximum FAR when the
34 proposed development is implementing the site-specific development guidelines and

35 recommendations of the comprehensive plan, including design, mix of uses and scale
36 of the proposed development, and only when the appropriate measures are proposed
37 and/or in place to adequately mitigate the anticipated transportation impacts of the
38 proposed development.

BOARD OF SUPERVISORS'
GUIDELINES FOR TRIP GENERATION ANALYSIS
FOR REZONING APPLICATIONS TO THE TYSONS PTC DISTRICT

Adopted June 22, 2010

The following guidelines are to be used in determining the trip generation rates for uses within the Planned Tysons Corner Urban District:

For uses that generate the same or fewer AM and PM peak hour vehicle trips than hotel use: For hotel apply peak hour (of adjacent street traffic) vehicle trip generation rates as specified in Land Use Code 310, of the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Report. For other land uses, apply peak hour (of adjacent street traffic) or closest equivalent vehicle trip generation rates using the most recent edition of the ITE Trip Generation Report. For comparison purposes, the trip generation rates obtained from the ITE Trip Generation Report should be modified where necessary to have the same bases (typically per 1,000 square feet of development). In all cases, peak hour rates should be applied and the total (inbound and outbound) hotel rates in each of the A.M. and P.M. should not be exceeded; and the hotel inbound rate for the AM peak hour and the hotel outbound rate for the PM peak hour should not be exceeded when comparing the trip generation rates of other uses with the hotel use. Where appropriate, reductions to the ITE Trip Generation Report rates can be applied with supporting documentation and with approval by the Fairfax County Department of Transportation (FCDOT).

For uses that generate more AM and PM peak hour vehicle trips than hotel use: Apply the same procedure for comparison as specified above.

THIS BOARD POLICY for the Guidelines for Trip Generation Analysis for Rezoning Applications to the Tysons PTC District is effective on this 22nd day of June, 2010.



NANCY VELHRS

Clerk to the Board of Supervisors

ADMINISTRATIVE - 12

Authorization to Advertise a Public Hearing to Lease County-Owned Property to T-Mobile Northeast LLC (Lee District)

ISSUE:

Authorization to advertise a public hearing to lease County-owned property to T-Mobile (T-Mobile) for the installation of telecommunications equipment for public use on the roof of the South County Center located at 8350 Richmond Highway.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish the advertisement of a public hearing to be held on January 24, 2017, at 4:30 p.m.

TIMING:

Board action is requested on December 6, 2016 to provide sufficient time to advertise the proposed public hearing on January 24, 2017, at 4:30 p.m.

BACKGROUND:

The Board of Supervisors is the owner of the South County Center located at 8350 Richmond Highway on a County-owned parcel identified as Tax Map Number 101-3 ((1)) 16A. The property is currently improved with a five-story, 160,000 square foot building that primarily operates as a social services facility (Building). AT&T, Sprint (Clear Wireless LLC) and Verizon Wireless currently have agreements for the use of space on the rooftop.

T-Mobile has submitted a proposal to the Facilities Management Department to locate nine panel antennas, one microwave dish, and one GPS antenna on the roof of the Building. Six of the panel antennas and the GPS antenna will be located on the screen wall that holds equipment from the other telecommunications providers. The leased area will comprise a ten foot by twenty foot (200 square feet total) equipment compound mounted to a steel platform on the roof and will be surrounded by an existing screen wall.

The remaining three antennas and the microwave dish will be placed on a new steel antenna roof mount situated at the north end of the building. The antennas will be screened by a ten-foot-high, three-sided wall made of a radio-frequency-friendly composite that will match the color and texture of the Building.

Staff negotiated proposed terms for a new agreement with T-Mobile in the form of a lease. The term of the lease is 5 years with five 5-year extensions. The lease fee will be \$24,000 for the first year with an annual increase of 3% thereafter. The lease requires T-Mobile to coordinate all site visits with security staff for the Building.

Board Agenda Item
December 6, 2016

Virginia Code Ann. § 15.2-1800 requires a locality to hold a public hearing before it may lease its real property. Staff recommends that the Board authorize the staff to advertise a public hearing to lease County property to T-Mobile, which will permit the co-location of its telecommunications equipment on the rooftop of the South County Center.

FISCAL IMPACT:

The proposed monopole license will generate approximately \$24,000 in revenue the first year with a three percent (3%) increase each subsequent year. An administrative fee of \$2,000 will be paid within thirty (30) days of execution of the lease. All revenue will be deposited in the general fund.

ENCLOSED DOCUMENTS:

Attachment 1 – Location Map 101-3 ((1)) 16A
Attachment 2 – Draft Lease Agreement

STAFF:

David J. Molchany, Deputy County Executive
José A. Comayagua, Jr., Director, Facilities Management Department

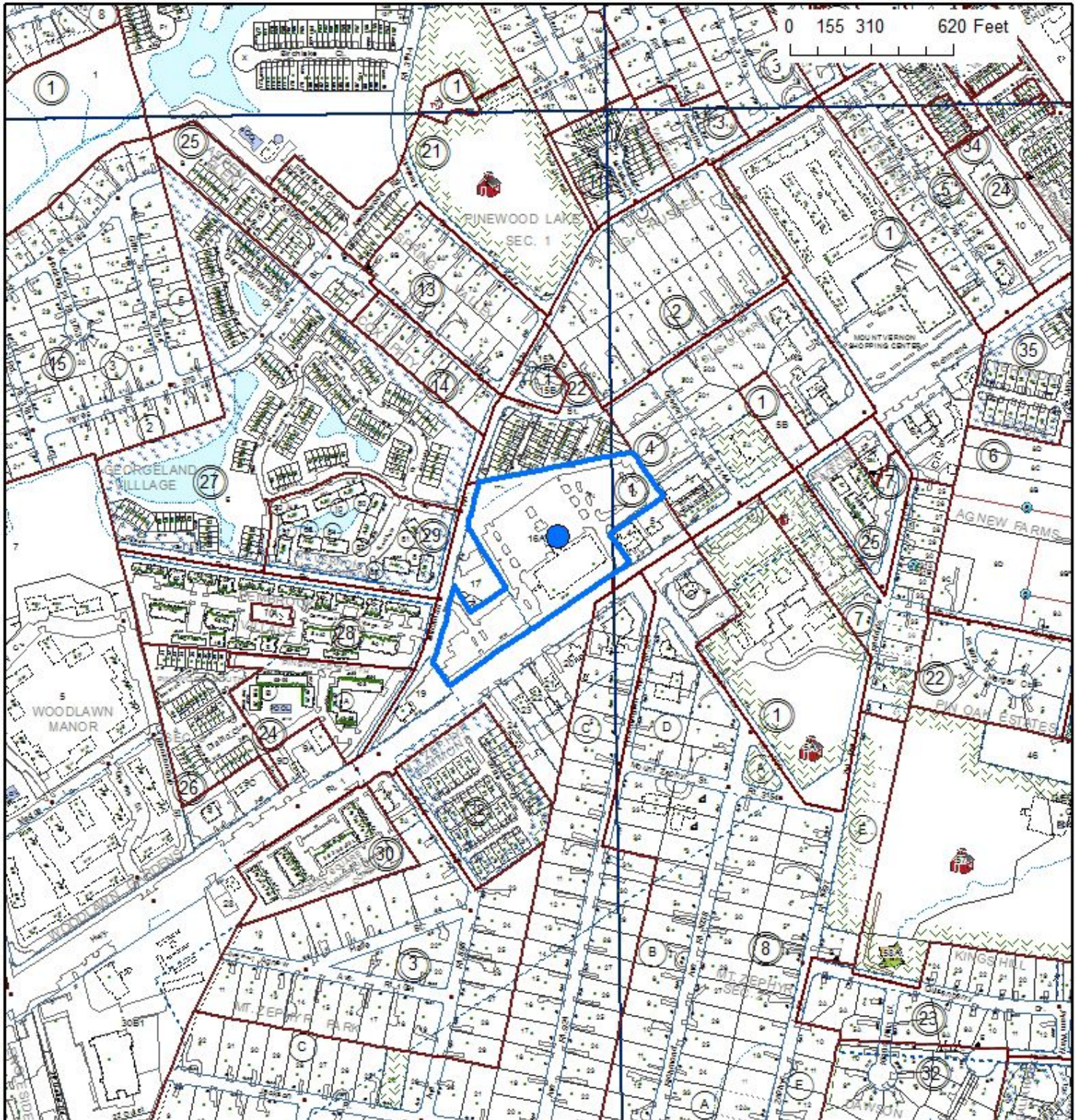
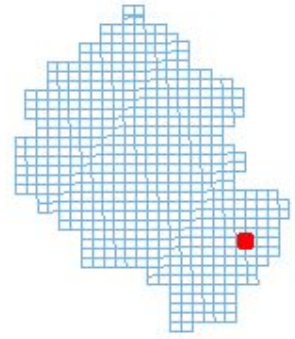
South County Building

8350 Richmond Highway

County Tax Map No.

101-3 ((1)) Parcel 16A

Lee District



REAL PROPERTY DEED OF LEASE AGREEMENT

SITE: South County Building
8350 Richmond Highway
Alexandria, VA 22039
Site # WAC145D Fairfax South County Government Building
Tax Map # 1013 01 0016A

THIS REAL PROPERTY DEED OF LEASE AGREEMENT ("Lease"), made and entered into this _____ day of _____ 2017, by and between THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, with an address of 12000 Government Center Parkway, Fairfax, Virginia 22035 herein referred to as "Lessor", and T-Mobile Northeast LLC, a Delaware limited liability company, with an address of 12920 SE 38th St., Attn: Prop Mgmt./Site 7WAC145D, Bellevue, WA 98006 herein referred to as "Lessee", and the parties mutually agree as follows:

1. LEASED PREMISES:

Lessor is the owner of the building being and situated in the County of Fairfax, Virginia, located at 8350 Richmond Highway, Alexandria, Virginia 22039, which is described on Exhibit A attached hereto and incorporated herein by reference ("the Building"). Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, in consideration of the payment of rentals and performance of the covenants and agreements herein mentioned, a portion of the roof of the Building for the installation and operation of a wireless telecommunications facility, including approximately two hundred (200) square feet of space for equipment cabinets, with location as shown on Exhibit B attached hereto and incorporated herein by reference and to be identified on the plans and specifications approved by Lessor in connection with Lessee's initial construction (the "Leased Premises"). Lessee intends to install on the Leased Premises an equipment pad, power and telephone utility pedestals, and cabinets and related cables and utility lines and a location based system, including, without limitation, coaxial cables, base units, and other associated equipment and radio transmitting and receiving equipment as listed in Section 10 in the Lease and in Exhibit B attached hereto and incorporated herein by reference and to be identified on the plans and specifications approved by Lessor in connection with Lessee's initial construction (the "Equipment"). Lessee accepts the Leased Premises "As Is" and Lessor shall have no obligation to improve or modify the Leased Premises in any manner whatsoever.

2. USE OF LEASED PREMISES:

Lessor leases to Lessee the Leased Premises, together with the right to use, temporarily, adjoining and adjacent portions of the general area surrounding the Building and the

Building's rooftop, without obstructing access to the parking area and without causing any landscaping damage to the Building, as may be designated by Lessor and agreed to in writing by both Lessor and Lessee, during the construction and installation of the Equipment upon the Leased Premises. Lessee shall use its best effort so as not to prevent access to parking areas during construction or maintenance of the Equipment upon the Leased Premises. Lessor further grants to Lessee, during the term of this Lease and any renewals thereof, a right of access to the Leased Premises, as further defined in Section 9 of this Lease, for the purposes of installing, servicing, repairing, maintaining and operating Lessee's Equipment at the Leased Premises.

Lessee shall have the further right, at no cost or expense to Lessor, to construct, erect, install, operate and maintain underground utility cables from the Leased Premises, over, across and through those portions of the Building reasonably agreed upon by Lessor and Lessee to the nearest available utility source. The foregoing shall be accomplished without interfering with the use or development of the Building by Lessor, and promptly upon completion of such construction, erection or installation Lessee shall, at its own cost and expense, repair any damage to the Building resulting from such construction, erection or installation. Lessor specifically reserves the right to develop the Building (exclusive of the Leased Premises) in any manner that does not cause undue interference to Lessee's use of the Leased Premises. Upon termination or expiration of this Lease, the Leased Premises shall be returned to Lessor, in accordance with the terms of Section 7 below, in the condition received by Lessee on the Commencement Date to the reasonable satisfaction of Lessor and which is free of any equipment, foundations, concrete mounting pads, grounding devices or utilities.

Except for the Leased Premises, Lessor reserves the right to continue all existing uses of the Building. Lessor further reserves the right to make or permit any such future additional use and to make or permit any use of the Building as Lessor deems appropriate, provided that Lessee's use of the Leased Premises and the operation of the Equipment are not unreasonably interfered with by such future additional use.

3. TERM:

- (a) Subject to the terms and conditions of this Lease, the initial term of this Lease shall be five (5) years (the "Initial Term") commencing upon the earlier of (i) Lessee's commencement of construction of the Leased Premises or (ii) July 31, 2017 (the "Commencement Date"). Upon thirty (30) days written notice given by Lessee to Lessor, Lessee may terminate this Agreement if Lessee determines the Premises has become unsuitable for Lessee because (i) Lessee is unable to obtain or maintain in force all necessary Governmental Approvals (as hereinafter defined); (ii) a material change in government regulations makes it impractical or uneconomic for Lessee to continue to operate the Equipment; (iii) interference by or to Lessee's operation cannot be resolved; (iv) the Premises are destroyed or damaged or taken in whole or in part (by condemnation or otherwise) sufficient in Lessee's reasonable judgment to affect adversely Lessee's use of the Equipment. Notwithstanding the foregoing, Lessee shall give written notice to Lessor to terminate this Lease within ninety (90) days after the occurrence of any of the foregoing described events which is the basis of termination. "Governmental Approvals" shall include all of the certificates, permits and other

approvals that may be required by any Federal, State or Local authorities as well as a satisfactory building structural analysis which will permit Lessee to use of the Premises as set forth herein. In the event of termination for any reason, Lessor shall retain all rental and Lessee shall remain liable for rent until the date of termination of the Lease and until satisfaction of Lessee's obligations under this Lease.

- (b) Provided that the Lessee does not breach any of the terms, conditions, covenants, representations or warranties set forth in this Lease, this Lease shall automatically renew subject to the provisions of this Paragraph for five (5) additional periods of five (5) years (each a "Renewal Term") upon the same terms and conditions contained herein; provided, however, that the annual lease fee provided for in Paragraph 4 shall be adjusted at the commencement of each Renewal Term as provided in Paragraph 4. The Lease hereby granted shall automatically renew for each Renewal Term unless, at least ninety (90) days prior to expiration of the then existing period, Lessee provides written notification to Lessor of its intention not to permit the Lease to renew. If Lessee provides Lessor with such notice, the option(s) remaining shall be rendered null and void and the Lease shall terminate at the end of the then current period. In addition, if as of ninety (90) days prior to expiration of the then current period Lessee has ceased using all of the Equipment located on the Leased Premises for a continuous period of at least one hundred twenty (120) days, Lessor may terminate this Lease at the expiration of the then current period by providing written notice of such termination to Lessee at least sixty (60) days prior to the end of the then current period. Each Renewal Term shall commence upon the expiration of the immediately preceding Term or applicable Renewal Term. All references in this Agreement to the Term hereof shall include, where appropriate, all Renewal Terms so effected.

4. RENT AND SECURITY DEPOSIT

- (a) Commencing upon the Commencement Date, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule:

| | |
|--------|--------------|
| Year 1 | \$ 24,000.00 |
| Year 2 | \$ 24,720.00 |
| Year 3 | \$ 25,461.60 |
| Year 4 | \$ 26,225.45 |
| Year 5 | \$ 27,012.21 |

- (b) If the Lease is renewed for the first (1st) Renewal Term, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule, beginning on the fifth (5th) anniversary of the Commencement Date:

| | |
|---------|--------------|
| Year 6 | \$ 27,822.58 |
| Year 7 | \$ 28,657.26 |
| Year 8 | \$ 29,516.97 |
| Year 9 | \$ 30,402.48 |
| Year 10 | \$ 31,314.56 |

- (c) If the Lease is renewed for the second (2nd) Renewal Term, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule, beginning on the tenth (10th) anniversary of the Commencement Date:

| | |
|---------|--------------|
| Year 11 | \$ 32,253.99 |
| Year 12 | \$ 33,221.61 |
| Year 13 | \$ 34,218.26 |
| Year 14 | \$ 35,244.81 |
| Year 15 | \$ 36,302.15 |

- (d) If the Lease is renewed for the third (3rd) Renewal Term, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule, beginning on the fifteenth (15th) anniversary of the Commencement Date:

| | |
|---------|--------------|
| Year 16 | \$ 37,391.22 |
|---------|--------------|

| | |
|---------|--------------|
| Year 17 | \$ 38,512.95 |
| Year 18 | \$ 39,668.34 |
| Year 19 | \$ 40,858.39 |
| Year 20 | \$ 42,084.15 |

- (e) If the Lease is renewed for the fourth (4th) Renewal Term, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule, beginning on the twentieth (20th) anniversary of the Commencement Date:

| | |
|---------|--------------|
| Year 21 | \$ 43,346.67 |
| Year 22 | \$ 44,647.07 |
| Year 23 | \$ 45,986.48 |
| Year 24 | \$ 47,366.08 |
| Year 25 | \$ 48,787.06 |

- (f) If the Lease is renewed for the fifth (5th) Renewal Term, Lessee shall pay to Lessor a non-refundable annual rental fee in accordance with the following schedule, beginning on the twenty-fifth (25th) anniversary of the Commencement Date:

| | |
|---------|--------------|
| Year 26 | \$ 50,250.67 |
| Year 27 | \$ 51,758.19 |
| Year 28 | \$ 53,310.94 |
| Year 29 | \$ 54,910.26 |

| | |
|---------|--------------|
| Year 30 | \$ 56,557.57 |
|---------|--------------|

- (g) The first annual rental fee shall be due and payable in one full payment within thirty (30) days of the Commencement Date without notice, demand, deduction or setoff. The annual rental fee hereinafter shall be due on or before the anniversary of the Commencement Date. If Lessee fails to pay any installment of rental fees by the fifth (5th) day of the month in which it is due, Lessee shall also pay to Lessor a late fee equal to five percent (5%) of the late payment. If any amount remains unpaid more than thirty (30) days after its due date, Lessee shall pay Lessor interest on such unpaid amount at an annual rate of eighteen percent (18%) from the date such amount was due until the date such amount is paid to Lessor. If at the time of assessing any late fee, the applicable interest rate exceeds that which Lessor may lawfully assess, the interest rate for that late fee shall be the maximum that the Lessor may lawfully assess.
- (h) Lessee and Lessor agree that Lessee shall not permit any other carriers on the Premises nor shall it transmit any other carrier's signal from the Premises.
- (i) Lessee agrees to pay a security deposit to the Lessor in the amount of Three Thousand Six Hundred and 00/100 Dollars (\$3,600.00 and shall deposit with Lessor within twenty (20) days after the Commencement Date of this Agreement ("Security Deposit"). This Security Deposit shall be held in a non-interest bearing account by the Lessor and shall be returned to Lessee at the termination of the Lease, provided the Lessee has performed all obligations under this Agreement through the date of termination. It is agreed that in the event Lessee defaults with respect to any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of rent and additional rent, Lessor may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which the Lessee is in default or for any sum in which the Lessor may expend or may be required to expend by reason of Lessee's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the re-letting of the Leased Premises, whether such damage or deficiency occurred before or after summary proceedings or other re-entry by Lessor, without waiving any other remedies Lessor may have hereunder. In the event that Lessee does not remove all of the Equipment from the Premises as set forth in Paragraph 7 of this Agreement, Lessor may apply all or any portion of the Security Deposit to the costs incurred by Lessor in removing the Equipment.

5. ADMINISTRATIVE FEE

Lessee shall pay Lessor's reasonable administrative fees for preparing, reviewing and negotiating this Agreement in the sum of Two Thousand and 00/100ths Dollars (\$2,000.00), which shall be due and payable within thirty (30) days of the date of execution of this Agreement.

6. REAL ESTATE TAXES, UTILITIES, MAINTENANCE:

Lessee shall be solely responsible for all costs and expenses relating to the connection, disconnection and consumption use of any utilities in connection with Lessee's construction, installation, operation and maintenance of the Equipment and the Leased Premises including, without limitation, any electric consumption by its Equipment and Lessee agrees to pay all costs for service and installation of a separate electric meter directly to the local utility company. Lessee shall be responsible for obtaining any approvals, permits or authorization required for such utilities and Lessor shall not be liable for any failure to furnish or for any interruption of utility services.

It is acknowledged that Lessor is a political subdivision of the Commonwealth of Virginia and is therefore exempt from taxation. Lessee shall be responsible for the declaration and payment of any applicable taxes or assessments against the Equipment owned by Lessee or allocated (on a pro rata basis) to the Leased Premises by the applicable taxing authority, including but not limited to any sales and property taxes, provided that Lessee be permitted to challenge the appropriate tax authority regarding any and all taxes or assessments against the Equipment. During the Lease Term, Lessee shall be responsible for the payment of all taxes levied upon the Equipment on the Leased Premises.

Lessee shall at all times during the Lease Term, at its own expense, maintain the Equipment/Leased Premises in proper operating condition and maintain same in satisfactory condition as to safety and will repair any damage caused by any waste, misuse or neglect by Lessee, its agents, servants or invitees. Lessee shall keep the Leased Premises free of debris at all times.

7. REMOVAL OF IMPROVEMENTS:

Upon expiration or termination of this Lease at any time, Lessee shall, within one hundred twenty (120) days from such termination and at its own expense, be responsible for the removal and dismantling of any and all Lessee's Equipment and Lessee shall be responsible for restoring the Leased Premises and any other portion of the Building which has been damaged, modified, or altered by or on behalf of Lessee, or Lessee's subleases, its employees, agents, business invitees, licensees, customers, clients, family members, guests, or trespassers to the condition that existed on the Commencement Date, at Lessee's sole cost and expense, reasonable wear and tear excepted.

8. FCC REGULATION:

Lessor acknowledges that Lessee's Equipment will be used directly and exclusively in rendering a service subject to the jurisdiction of the FCC and that Lessee's service and its Equipment may not be intentionally disconnected, terminated or interrupted in any manner without the approval of the FCC prior to any disconnection, termination or interruption. Lessor covenants and agrees that Lessor will not do any act or omit to do any act in violation of the terms of this Lease which would cause, directly or indirectly, any such disconnection,

termination or interruption and that Lessor covenants and agrees Lessor will not do any act or omit to do any act in violation of the terms of this Lease which would cause, directly or indirectly, the disconnection or termination of electrical service to Lessee's Equipment.

9. ACCESS:

Lessor agrees, provided appropriate security measures are followed, that Lessee shall have a non-exclusive license for ingress and egress to the Leased Premises for the purpose of constructing, installing, operating and maintaining the Equipment, and during the continuation of this Lease, and any renewals thereof, ingress and egress is hereby granted to Lessee during normal business hours Monday thru Friday 8:00 a.m. – 5:00 p.m., and after hours for emergencies. Lessee needs to make prior arrangements with Lessor for the purposes of maintenance and repair of Lessee's Equipment. In the case of an emergency, Lessee shall contact Lessor's manager for the South County Building at 703-246-2973 who will provide access to the site. It is agreed, however, that only contractors, subcontractors, agents of Lessee, agents of Lessor, FCC Inspectors and persons under their direct supervision will be permitted to enter the Leased Premises. Security access procedures are subject to change as deemed necessary by Lessor to implement Fairfax County security procedures.

10. CONSTRUCTION BY LESSEE:

- (a) After obtaining the necessary permits and approvals therefore, Lessee, at its sole cost and expense, shall construct, operate and maintain the Equipment shown on Exhibit B.

Area: Approximately 200 square feet in accordance with Exhibit B

Panel Antennas: 9 Antennas (3 per sector)

Lessee states that the facility will be designed and constructed in accordance with the Fairfax County Zoning Ordinance and Comprehensive Plan as to size, quality, color, and material. Any alteration or replacements to the Leased Premises or enhance and upgrades to the Equipment by Lessee shall be subject to prior written approval of the Lessor as set forth below. No consent is required for any repair or replacement of Lessee's Equipment with Equipment that is substantially similar in size, weight and dimensions of the Equipment being replaced, provided that for any such repair or replacement Lessee shall give Lessor not less than ten (10) days prior written notice (except in the case of an emergency, in which case Lessee shall provide written notice promptly and not more than ten (10) days after such repair or replacement has been made). Construction, installation, alterations, replacements, enhancements, and/or upgrades requiring Lessor consent shall be subject to an independent assessment of the Lessee's plans by Lessor's Architectural/Engineering review at the sole, reasonable expense of the Lessee. Should said review require changes to preserve the integrity of the Lessor's Building and/or roof, and should the changes require further review by applicable authorities, such review shall be at the sole expense of the Lessee.

- Lessee shall: (i) perform such construction in a safe manner consistent with generally accepted construction standards; (ii) perform such construction and work in such a way as to not interfere with or otherwise adversely affect the electrical, mechanical, structural, life safety or other building systems of the Building or the use and enjoyment thereof by Lessor, or other lessees and other occupants of the Building and (iii) promptly repair any damage to the Building caused by Lessee, or Lessee's subleases, its employees, contractors, agents, business invitees, customers, clients, family members, guests, or trespassers.
- (b) Construction, installation, alteration and/or replacement of the Equipment and all antennas (collectively "Equipment") on the Leased Premises shall be in accordance with the plans, drawings and specifications prepared and provided by Lessee for Lessor's prior review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The documents provided by Lessee to Lessor shall include, but not be limited to, (i) a set of construction plans certified by a professional engineer satisfactory to Lessor which states the construction and/or installation will be in compliance with all applicable laws, rules and regulations, (ii) a structural analysis report signed and stamped by a certified structural engineer affirming that any proposed construction, installation, alteration and/or replacement of or to the Building will sustain the loads required by the equipment to be installed upon it, (iii) copies of all approved permits and governmental approvals, and (iv) approved Department of Planning and Zoning 2232 and 6409 Application (or status letter) or administrative review (collectively "Lessee's Plans"). After Lessee's submission of the Lessee's Plans, Lessor shall notify Lessee within fifteen (15) business days whether it deems the Lessee's Plans to be satisfactory. It is understood that Lessor may submit all plans to an independent firm or to its staff to perform a technical assessment of the proposed Lessee's Plans, including any potential impacts to the Building. Lessor shall have the option to require reasonable Building upgrades at Lessee's expense to accommodate Lessee's improvements based on the technical assessment as a condition of approval of Lessee's Plans or alternatively Lessor may determine that Lessee's Plans are unsatisfactory. Should the Lessor determine the Lessee's Plans are unsatisfactory, Lessee shall revise the Lessee's Plans to remedy the defects noted by Lessor and re-submit the Lessee's Plans for Lessor's review pursuant to this paragraph.
- (c) The Lessee's Plans will not be considered approved until Lessor signs a "Consent to Lessee's Plans". Lessee agrees that no construction, installation and/or modification to the Equipment will be performed until Lessor provides a signed Consent to Lessee's Plans letter.
- (d) All construction, installation, use and operation of the Equipment by Lessee shall comply with all applicable rules and regulations of the FCC and regulations of any governmental agency (town, county, state or federal) including, but not limited to the applicable requirements of the local planning, zoning, building and electrical codes of Fairfax County Virginia. Lessee has the responsibility of carrying out the terms of its FCC license. Lessee, at its sole costs and expense, shall secure necessary permits and approvals required to permit the construction and operation of the Equipment. Lessor agrees to cooperate with Lessee as is reasonably possible in any necessary applications

or submissions required to permit construction and operation of Lessee's Equipment as described herein, provided that Lessor shall be reimbursed for all expenses incurred in providing such cooperation, and provided also that Lessor's cooperation shall not affect Lessor in its regulatory or legislative functions.

- (e) Lessee further covenants that Lessee's Equipment, and the construction, installation, maintenance, operation and removal thereof, will in no way damage Lessor's property or interfere with the use of the Building by Lessor (subject to the rights expressly granted to Lessee pursuant to this Lease) or with any of the equipment or structures located within or on the Building. Lessee agrees to repair any damage caused to the Building, equipment or structures by such installation, maintenance, operation or removal within thirty (30) days and shall be responsible for the payment of any costs incurred therefore and in default thereof, Lessor may, at its option, effect said repairs at Lessee's sole cost and expense.

11. VARIANCE, PERMITS AND SITE SPECIFICATIONS:

Lessee shall comply with all zoning and other ordinance requirements. In addition, it is understood and agreed by the parties that Lessee's ability to use the Leased Premises is contingent upon its obtaining, after execution of this Lease, all of the certificates, permits (including a Non Residential Use Permit) and other approvals that may be required by federal, state or local authorities which will permit Lessee use of the Leased Premises as set forth in such certificates, permits and approvals, which shall be obtained at Lessee's sole expense.

Lessor will cooperate as reasonably as possible with Lessee, at Lessee's sole cost and expense, in its effort to obtain such approvals; provided that such cooperation does not affect Lessor in its regulatory or legislative functions. In the event any such applications should be finally rejected or any certificate, permit, license or approval issued to Lessee is canceled, expires or lapses, or is otherwise withdrawn or terminated by an authorized governmental authority so that Lessee will be unable to use the Leased Premises for the purposes set forth herein, Lessee shall have the right to terminate this Lease in accordance with Paragraph 3(a).

12. FEASIBILITY:

Prior to the Commencement Date of this Lease, Lessee shall have full access to the Leased Premises with prior notice to Lessor for the purposes of undertaking any necessary tests, studies and inspections relating to Lessee's proposed use of the Leased Premises and at such times Lessor and Lessee mutually agree. In the event Lessee terminates this Lease pursuant to Section 3(a) hereinabove, Lessee agrees that it shall, within one hundred twenty (120) days from the date of termination, restore the Leased Premises and such other portions of the Building that have been damaged, modified or altered by or on behalf of Lessee, its employees, business invitees, licensees, customers, clients, family members, guest or trespassers to the condition that existed on the Commencement Date, at Lessee's sole cost and expense, reasonable wear and tear excepted.

13. INTERFERENCE:

Lessee agrees not to permit any use of the Equipment after the Commencement Date that will interfere with Lessor's operations or use of the Building.

Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with Lessor's "Public Safety Grade" (Manufacturers High Tier) radio frequency communications equipment Lessor's property. In the event Lessee's Equipment causes such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference within twenty-four (24) hours of receipt of written notice from the Lessor and if the interference is not corrected within five (5) business days of receipt of notification, then Lessee shall immediately turn off the Equipment causing such interference until the Equipment can be repaired or replaced, provided that Lessee shall be allowed to test the Equipment causing the interference on an intermittent basis in its efforts to eliminate the interference.

Lessee agrees to install equipment of a type and frequency which will not cause frequency interference with other forms of radio frequency communications equipment previously existing on Lessor's property as of the execution date of this Lease. In the event Lessee's Equipment causes such interference, Lessee agrees it will take all steps necessary to correct and eliminate the interference consistent with appropriate government rules and regulations upon receipt of written notification of the interference. Lessee shall be obligated to respond to the problem of interference within twenty-four (24) hours of receipt of written notice from Lessor and if the interference is not corrected within five (5) business days of receipt of notification (or such time as may reasonably be required with exercise of the due diligence provided such repairs are begun within said five (5) business days), the Equipment causing such interference shall be immediately turned off until the Equipment causing such interference can be repaired or replaced, provided that Lessee shall be allowed to test the Equipment causing the interference on an intermittent basis in its efforts to eliminate the interference. It is further agreed that Lessor will not grant a future lease or license to any party which would cause interference with Lessee's communication system, and future leases or licenses that are granted shall contain similar provisions preventing the lessee or licensee from interfering with previously existing lessees and licensees. In the event that a current or future lessee or licensee of Lessor causes interference with Lessee's communication system, Lessor will take reasonable measures to promptly eliminate said interference. The parties acknowledge that there may not be an adequate remedy at law for noncompliance with the provisions of this Section and therefore, either party may seek equitable remedies, such as, without limitation, injunctive relief and specific performance.

14. DEFAULT:

If Lessee shall fail to pay when due any of the installments of the rental fee provided for herein or any other sum accruing pursuant to the terms of this Lease, and such failure shall continue for fifteen (15) business days after written notice from Lessor, or if Lessee shall be in default or fail to perform in a timely manner any other obligation herein provided, other than the payment of rental fee installments, and such failure shall continue for thirty (30) days after written notice from Lessor, or if a petition in bankruptcy shall be filed by or against Lessee, or

if Lessee shall be adjudicated insolvent, or if Lessee shall make a general assignment for the benefit of its creditors, or if a receiver or trustee shall be appointed to take charge of and wind up Lessee's business, then Lessee shall be considered to have caused an event of default ("Default") hereunder, Lessee's right to possession shall thereupon end and Lessor may elect to terminate this Agreement at its sole discretion and pursue its remedies hereunder, at law or in equity.

The failure of Lessor in case of a breach of this Lease to enforce its rights under this Section or any other Section of this Lease shall not be deemed a waiver of any breach of this Lease. In the absence of written notice of consent, any such breach shall be deemed continuing.

In the event of termination for Default, Lessee shall remain liable for all its obligations under this Lease, and for such actual losses or damages as the Lessor may sustain as a result of Lessee's breach thereof, which together with reasonable attorney's fees shall be considered payable as rent hereunder. If Lessor files an action to enforce any agreement contained in this Lease or for breach of any covenant or condition, Lessee shall pay Lessor's reasonable attorney's fees.

The fact that Lessee may cease using its Equipment at the Leased Premises for a period of time shall not constitute a default of this Lease nor operate as an abandonment of the Leased Premises. However, Lessee's renewal options remain subject to Section 3(b) of this Lease.

15. INSURANCE:

Liability For Damage To Personal Property: All personal property of the Lessee, its employees, agents, contractors, business invitees, licensees, clients, or guests, in and on said Leased Premises, shall be and remain at the sole risk of the Lessee, and Lessor shall not be liable to them for any damage to, or loss of such personal property arising from any act of any other persons, nor from the leaking of the roof or from the bursting, leaking or overflowing of water, sewer or steam pipes or from heating or plumbing fixtures or from electrical wires or fixtures or from air conditioning failure, nor shall the Lessor be liable for the interruption or loss to Lessee's business arising from any of the above described acts or causes

Lessee shall acquire, maintain and pay for commercial liability insurance against claims for personal injury, including bodily injury or death, and property damage, occurring upon the Premises and arising from Lessee's use thereof. Insurance shall provide coverage of at least Two Million Dollars (\$2,000,000) combined single limit for both bodily injury and property damage, shall include Lessor as an additional insured, and shall provide that it may not be canceled without at least thirty (30) days prior written notice to Lessor, and shall otherwise be reasonably satisfactory to Lessor. Such insurance may be included within the coverage of a blanket or umbrella policy, and must be issued by an insurance company licensed in the Commonwealth of Virginia and shall have a general policyholder's rating of at least A and a Financial rating of at least VIII in the current edition of Best's Insurance Reports. Lessee shall provide Lessor an original certificate evidencing such insurance upon (i) the Commencement Date of the term of this Agreement, (ii) each anniversary of the

Commencement Date, and (iii) at any other time during the term of this Agreement upon the request of the Lessor.

Lessee will not do anything or permit anything to be done or any hazardous condition to ("Increased Risk") which shall invalidate or cause the cancellation of property insurance policies carried by Lessor. If Lessee does or permits any Increased Risk which causes an increase in the cost of property insurance policies, then Lessee shall reimburse Lessor for additional premiums attributable to any act, omission or operation of Lessee causing the increase in the premiums, but only after receiving written confirmation from Lessor's property insurers that said increase is due solely Lessee's operations.

16. INDEMNIFICATION

Except to the extent due solely to Lessor's negligence or willful misconduct, Lessee indemnifies and holds Lessor and its agents, employees, volunteers, officers and directors harmless from and against all claims, demands, costs, losses, liabilities, fines and penalties, including but not limited to reasonable attorney's fees and costs of defense, arising from (i) the condition of the Equipment; (ii) any activities undertaken on, in, under or near the Premises by, for or at the direction of Lessee or the Lessee's agents, contractors, employees or invitees; (iii) any default or Event of Default (as defined below) by Lessee under this Agreement; and (iv) the presence, storage, use, placement, treatment, generation, transport, release or disposal on, in, under or near the Premises by Lessee or any of Lessee's Agents of (1) oil, petroleum or other hydrocarbon derivatives, additives or products, (2) hazardous wastes, (3) hazardous or toxic substances or chemicals, (4) fungicides, rodenticide or insecticides, (5) asbestos or (6) urea formaldehyde, in each case as defined by any applicable state, federal or local law, rule or regulation (collectively, "Hazardous Material").

Lessee hereby agrees to indemnify and hold harmless Lessor, its officers, directors, agents, and all employees and volunteers from any and all claims for bodily injury, death, personal injury, theft, and/or property damage, including cost of investigation, all expenses of litigation, including reasonable attorney's fees, and the cost of appeals arising out of any claims or suits that result from the errors, omissions, or negligent or willful acts of the Lessee and its subcontractors and each of their agents and employees or invitees.

17. LIENS:

Lessee shall promptly pay for all work, labor, services or material supplied by or on behalf of Lessee at the Premises or in connection with the Equipment. If any mechanics' or materialmen's liens shall be filed affecting the Building, Lessee shall cause the same to be released of record by payment, bond, court order or otherwise, within thirty (30) days after notice of filing thereof.

18. COMPLIANCE WITH LAWS

Lessee shall, at its expense, throughout the term of this Lease, obtain all building permits and other governmental or quasi-governmental licenses, permits, consents and approvals required for the construction, installation, operation and use of the Equipment in

compliance with all applicable laws, rules, orders, ordinances and requirements, including but not limited to, all laws, rules, orders, ordinances and requirements which relate to the Federal Aviation Administration, Federal Communications Commission, health, safety, environment or land use. In the event of Lessee's failure to comply with this paragraph, Lessor may, but is not obligated to, take such actions as may be necessary to comply with any such laws, rules, regulations, order, ordinances or requirements, and Lessee shall immediately reimburse Lessor for all costs and expenses incurred thereby.

19. REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants to Lessor that (i) it is a limited liability company duly organized and validly existing under the laws of the State of Delaware, (ii) it has all corporate power and authority necessary to own its properties and conduct its business, as presently conducted, and to enter into and perform its obligations under this Agreement, (iii) the person executing this Agreement on its behalf has been duly authorized to do so, and (iv) that it has not dealt with, nor is any brokerage commission due to, any broker in connection with this Agreement.

20. TERMINATION:

Upon the expiration or earlier termination of this Lease, Lessee shall remove the Equipment and any foundation from the Leased Premises as provided in Paragraph 7 of this Lease, and shall repair any damage to the Leased Premises and associated public utility areas caused by the installation, operation or removal of the Equipment. If Lessee remains on the premises more than sixty (60) days after the expiration or termination of this Agreement, Lessee shall pay to Lessor for such holding over a rental fee per month equal to 10% of the annual installment of the rental fee which accrued during the immediately preceding term. The rental fee for such holding over shall remain in effect until Lessee removes the Equipment. If the Equipment is not removed within one hundred twenty (120) days after expiration or earlier termination of this Agreement, Lessor shall at its option complete the removal and restoration at the Lessee's expense. Acceptance of the rental fees upon termination shall not be a waiver by Lessor of any of its other remedies at law or in equity. Paragraphs 16, 17, 29 and 30 of this Agreement shall survive termination of this Agreement.

21. NO PARTNERSHIP:

Nothing contained in this Lease shall be deemed or construed to create a partnership or joint venture of or between Lessor and Lessee, or to create any other relationship between the parties hereto other than that of Lessor and Lessee.

22. AUTHORIZED REPRESENTATIVE:

(a) Lessee and Lessor shall provide the names, titles, email addresses and direct telephone numbers of their qualified individuals employed by Lessor and Lessee ("**Authorized Representatives**") who can, from time-to-time, and as needed, answer questions and assist in any accounting discrepancies. The Authorized Representative is:

LESSOR:

Name: Mike Lambert
Title: Assistant Director, Real Estate Services
Email Address: Michael.lambert@fairfaxcounty.gov
Direct Phone Line: 703-324-2825

LESSEE:

Name: Property Manager
Email Address: propertymanagement@t-mobile.com
Direct Phone Line: 877-373-0093

23. NOTICES:

All notices, payments, demands and requests hereunder shall be in writing and shall be deemed to have been properly given when mailed by Certified Mail, postage prepaid or by a reliable overnight courier, and addressed to the Lessor as follows:

Fairfax County
Facilities Management Department
Attn: Assistant Director, Real Estate Services
12000 Government Center Parkway, Suite 424
Fairfax, Virginia 22035
Attn: Leasing Manager

and to the Lessee as follows:

T-Mobile Northeast LLC
12920 SE 38th Street
Bellevue, WA 98006
Attn: Property Manager/Site 7WAC145D

Notice shall be deemed given upon delivery or refusal to accept delivery. Either party may change its address or any address for copies by giving ten (10) days prior written notice of such change in the manner described above.

24. ASSIGNMENT OR SUBLETTING:

Lessee may, upon notice to Lessor, assign or sublease this Lease or any interest herein to any corporation, partnership or other entity which (i) is controlled by, controlling or under common control with the Lessee, (ii) shall merge or consolidate with or into Lessee, or (iii) shall succeed to all or substantially all the assets, property and business of Lessee. In all other instances, Lessee may only assign or transfer its rights and obligations upon Lessor's written consent, which consent shall not be unreasonably withheld, delayed or conditioned. Any assignment or sublease shall not release Lessee from its obligation hereunder. Lessee shall submit any requests for any requested consents of Lessor at least sixty (60) days before any proposed assignment of this Lease. Upon assignment, Lessee shall furnish to the Lessor six (6) 8 ½" x 11" colored photographs of the existing conditions and six (6) 8 ½"x 11" colored photographs of the assignee's telecommunications Equipment. Photographs will show all Equipment. No other parties are permitted use of the Leased Premises without written permission of Lessor. Furthermore, no other party's equipment shall be permitted at the Leased Premises without permission of Lessor.

25. INSPECTIONS:

Lessee shall allow Lessor or its agent, upon prior notification to Lessee, to enter the Leased Premises or any part thereof at any reasonable time and in a manner so as not to interfere with Lessee's use of the Equipment for the purpose of inspecting the Leased Premises. At its option, Lessee may have a representative present during the inspection provided such inspection is not delayed or hindered. Lessor's right to enter the Leased Premises shall be immediate in the event of an emergency.

26. QUIET ENJOYMENT:

Lessee shall be entitled to use and occupy the Leased Premises during the Lease Term hereof for the purposes herein permitted and subject to the terms and conditions herein contained, without molestation or interference by Lessor.

27. CONDEMNATION:

If all or any part of the Leased Premises or if all or any part of the Building or access right of way to the Leased Premises is taken by eminent domain or other action by jurisdictions having the legal right to take said lands and if said taking in the sole opinion of Lessee renders the Leased Premises unusable for its intended purpose hereunder, then, at Lessee's option, this Lease may be terminated upon thirty (30) days prior written notice to Lessor provided the right to terminate is exercised within ninety (90) days after said taking. In the event of a partial taking and Lessee wishes to maintain its operation, Lessor shall reduce the rental on the Leased Premises by an amount proportionate to the part of the Leased Premises taken by eminent domain or other such legal action and Lessee may continue to use and occupy the Leased Premises under the terms and conditions hereunder, provided Lessor's obligations under this Lease are not altered.

28. SALE, MORTGAGE, OWNERSHIP OF PARCEL:

Lessor covenants that Lessor is seized of good and sufficient title and interest to the parcel and has full authority to enter into and execute this Lease.

At Lessor's option this Lease shall be subordinate to any mortgage by Lessor which from time to time may encumber all or part of the Leased Premises or right of way thereto; provided, however, every such mortgage holder shall recognize the validity of this Lease in the event of a foreclosure of Lessor's interest and also Lessee's right to remain in occupancy of and have access to the Leased Premises as long as Lessee is not in default of this Lease. Lessee shall execute whatever instruments may reasonably be required to evidence this subordination clause. In the event the parcel is encumbered by a mortgage, Lessor, immediately after this option is exercised, will obtain and furnish to Lessee a non-disturbance instrument for each such mortgage in recordable form.

29. HAZARDOUS SUBSTANCES:

Lessee will be responsible for all obligations of compliance with any and all environmental laws, including any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or concerns as may now or hereafter be in effect with respect to the improvements and Equipment being installed on the Leased Premises by the Lessee.

Lessee shall cure, remedy and be responsible to cure or remedy any environmental condition which is created on the Leased Premises by Lessee if such cure or repair is required by any regulatory or governmental authority.

Lessee agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the premises in violation of any law or regulation. Lessee will not permit any third party under Lessee's supervision or on the Leased Premises with Lessee's permission to use, generate, store or dispose of any Hazardous Material on, under, about or within the Leased Premises in violation of any law or regulation. Likewise, Lessor agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Building in violation of any law or regulation. Lessor will not knowingly permit any third party to use, generate, store or dispose of any Hazardous Material on, under, about or within the Building in violation of any law or regulation. As used in this paragraph, "Hazardous Material" shall mean (1) oil, petroleum or other hydrocarbon derivatives, additives or products, (2) hazardous wastes, (3) hazardous or toxic substances or chemicals, (4) fungicides, rodenticide or insecticides, (5) asbestos or (6) urea formaldehyde, in each case as defined by any applicable state, federal or local law, rule or regulation. This paragraph shall survive the termination of this Lease.

30. GOVERNING LAW:

This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of Virginia, disregarding those laws pertaining to conflicts of law. The only proper jurisdiction and venue for any lawsuit arising out of or relating to this Lease shall

be the Circuit Court of Fairfax County or the United States District Court for the Eastern District of Virginia.

31. MISCELLANEOUS:

This Lease plus Exhibit A and Exhibit B contain the entire agreement between the parties and may not be amended, altered or otherwise changed except by a subsequent writing signed by the parties to this Lease. The invalidation of any one of the terms or provisions of this Lease by judgment or court order shall in no way affect any of the other terms of this Lease, which shall remain in full force and effect. Lessor and Lessee agree to execute any additional documents necessary to further implement the purpose and intent of this Lease.

32. CONFORMITY TO BOARD POLICY:

If at any time during the Lease Term, the Board of Supervisors of Fairfax County adopts any policy that is inconsistent with any provision of this Lease, provided that such policy is operational or procedural in nature, the Lessor and Lessee each agree that they will execute an amendment to this Lease which incorporates said change in policy. In no event shall Lessee be required by this paragraph to agree to or incorporate any changes in policy that affect Lessee's rights under this Lease with reference to the Initial Term and any Renewal Terms, the Basic Rent and any escalation thereof, sharing of revenue from any subleases, the agreed specifications and description of the Equipment mounted and installed, and all other primarily economic terms of this Lease. In addition, in no event shall Lessee be required by this paragraph to agree to or incorporate any changes in policy if the quality of Lessee's Equipment transmissions or receptions, or Lessee's operation of its Equipment, could be diminished, impaired or incapacitated as a result thereof.

33. LESSOR LIEN RIGHTS:

Lessor shall retain all lien rights and shall enjoy all rights and remedies under the Lease or available to it by statute, at law or in equity, but such liens, rights, and remedies relating to Lessee's Equipment are and shall be subordinate to the liens, rights, and remedies of Lessee's Equipment lessors and any of Lessee's secured parties under any Equipment financing arrangements ("Secured Parties"). Notwithstanding anything to the contrary herein, Lessor does not waive, relinquish or subordinate any other liens, rights or remedies that Lessor may now have, or shall ever enjoy, as a judgment creditor or otherwise available to Lessor under the Lease, by statute, at law or in equity. Subject to the foregoing, Lessor gives Lessee, its Equipment lessors and Lessee's Secured Parties the right to remove all or any portion of the Equipment upon such date and times as shall be agreed upon by the Lessee, Lessor, Lessee's Equipment lessors and any Secured Parties, such that Lessee, any Equipment lessor and any Secured Parties do not interfere with the operations of, in or on the property or Building, whether before or after a default under this Lease. Lessee, Lessee's Equipment lessors and Secured Parties shall be responsible for repair of any damage caused to the property or Building by removal of Lessee's Equipment and shall be responsible for the payment of any costs incurred by Lessor therefore.

34. TECHNOLOGICAL TERMINATION:

Notwithstanding anything to the contrary contained herein, Lessee may terminate this Lease upon thirty (30) days' written notice to Lessor if Lessee determines that the property, the Building or the Leased Premises are inappropriate or unnecessary for Lessee's operations for technological reasons. Lessee shall remove all of its antennas and equipment installed on the Leased Premises upon such date and times as shall be agreed upon by the Lessee and Lessor such that Lessee does not interfere with the operations of, in or on the property or Building and no later than one hundred twenty (120) days following the date of termination in accordance with Sections 2 and 7 of this Lease.

35. SPECIAL PROVISIONS RELATING TO THE EQUIPMENT:

Without limiting any provision of this Lease, the following provisions of this section shall apply specifically to the use, operation and maintenance of the Equipment, including antennas installed by Lessee:

- (a) Subject to the terms and conditions of this Lease, the Equipment shall be used, operated, repaired, replaced and maintained solely on the rooftop portions of the Leased Premises and solely at the expense of Lessee. Lessee shall promptly and diligently respond to any request by Lessor for any such maintenance or repair. Lessee shall coordinate any repair, replacement or installation activities (collectively, "Activities") with respect to the Equipment with Lessor, giving Lessor reasonable notice of the date and time thereof. Lessee may, subject to the prior written approval of Lessor, replace Equipment within the Leased Premises in accordance with the approved plans and further provided, that in no event shall Lessee be permitted to (i) replace all or any of the antennas with a larger antenna; (ii) replace all or any of the Equipment if the weight of Lessee's Equipment increases as a result of such change; (iii) increase the number of antennas or (iii) operate the Equipment other than for the purposes set forth herein, unless specifically agreed to by a separate written agreement signed by Lessor and Lessee. Lessee will, at all times in connection with Lessee's installation, use, operation and maintenance of the the Equipment, comply with all laws, including applicable building and fire codes, and will particularly comply with all applicable requirements of the Federal Aviation Administration and the Federal Communications Commission in respect thereof. In connection with the foregoing, Lessee, at Lessee's own cost, shall be obligated to secure and obtain (or maintain, as the case may be) all required permits, approvals and licenses (collectively, the "Permits") for or with respect to the operation of the the Equipment by Lessee, and the Activities undertaken in connection therewith, prior to the commencement thereof, and Lessee shall be obligated to keep in force and renew all Permits before the same, or any of them, shall expire. The parties hereto agree that Lessee's use of the Leased Premises is contingent upon Lessee obtaining, at its sole cost and expense, after execution of this Lease, all certificates, permits and other approvals that may be required by applicable federal, state or local authorities which will permit Lessee to use the Leased Premises for the purpose agreed upon herein. In the event any application should be finally rejected or any certificate, permit, license or approval issued to Lessee is canceled, revoked, rescinded or lapses, or is not renewed, for any

reason such that Lessee is no longer authorized to use the Leased Premises for the purpose agreed to herein, Lessee shall have the right to terminate this Agreement in accordance with Section 3(a) herein.

- (b) Lessee shall keep the Leased Premises, as well as the Equipment, in a good and safe order and condition.
- (c) The Equipment shall be used solely for the purpose described in this Lease.
- (d) It is expressly understood and acknowledged that the installation and placement of the Equipment from both an aesthetic and an engineering standpoint, is of substantial importance to Lessor. No variation from the installation and placement of the Equipment as set forth in the approved plans will be permitted without the prior written approval of Lessor.

(Signatures can be found on the following page)

In WITNESS WHEREOF, the parties hereto execute this Real Property Deed of Lease Agreement on the dates indicated.

LESSOR: THE BOARD OF SUPERVISORS
OF FAIRFAX COUNTY, VIRGINIA

By: David J. Molchany
Its: Deputy County Executive

Date:_____

LESSEE: T-MOBILE NORTHEAST LLC

By: _____

Its: _____

Date:_____

EXHIBIT A

Building Address: 8350 Richmond Hwy., Alexandria, VA 22309

(Legal Description)

Being all Parcel 'A', South County Center by deed recorded in Deed Book 11598 at Page 520 among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point on the eastern right-of-way line of Buckman Road, Route 836 (60 feet wide) said point also being the southeast corner of Parcel A, Chateauneuf, being the property of Chateauneuf Homeowners Association (Deed Book 3434, Page 494) thence leaving said right-of-way and running with the Southern line of the Chateauneuf Subdivision the following two (2) courses and distances:

1. North 79°14'41" East, 299.49 feet to a point; thence
2. North 78°41'13" East, 299.66 feet to an iron pipe found (held); thence leaving the southern property line of the Chateauneuf Subdivision and running with the western property line of the Blas G. Garcia Subdivision
3. South 33°33'55" East, 207.51 feet to an iron pipe found (held); thence leaving the western property line of the Blas G. Garcia Subdivision and

running with the northern property line of the property of Hong/Kang (Deed Book 5665, Page 1629) and Benson (Deed Book 4425, Page 714) the following two (2) courses and distances

4. South 55°52'03" West, 246.00 feet to an iron pipe found (held); thence
5. South 33°33'55" East, 125.00 feet to a point on the northerly right-of-way line of Richmond Highway, Route 1 (width varies); thence leaving the aforementioned line of Benson and running with the northern right-of-way line of Richmond Highway, Route 1 the following two (2) courses and distances
6. South 55°52'03" West, 460.31 feet to a point; thence
7. North 29°42'57" West, 3.01 feet to a point; thence
8. South 55°52'03" West, 165.30 feet to a point; thence
9. South 29°42'57" East, 3.01 feet to a point; thence
10. South 55°52'03" West, 211.42 feet to a point, said point being on the northern line of the property of Tonizzo (Deed Book 11013, Page 16); thence leaving the right-of-way line of Richmond Highway, Route 1 and running with the northern property line of Tonizzo
11. North 34°07'57" West, 112.33 feet to a point of curvature (Non-tangent) on the eastern right-of-way line of Buckman Road, Route 836 (60 feet wide); thence leaving the northern property line of Tonizzo and running with the eastern right-of-way line of Buckman Road, Route 836 the

following four (4) courses and distances

12. 31.47 feet along the arc of a curve to the left having a radius of 280.00 feet and a chord bearing and distance of North 24°41 '36" East, 31.45 feet to a point; thence

13. North 21°28'26" East, 79.45 feet to a point of curvature (tangent); thence

14. 37.93 feet along the arc of a curve to the left having a radius of 280.00 feet and a chord bearing and distance of North 17°35'35" East, 37.90 feet to a point; thence

15. North 13°42'45" East, 151.43 feet to a point, said point being on the southern property line of Kinder Care Learning Centers, Inc. (Deed Book 6058, Page 1057); thence leaving the eastern right-of-way line of Buckman Road, Route 836 and running with the property line of Kinder Care Learning Centers the following three (3) courses and distances

16. South 29°42'57" East, 124.33 feet to a point; thence

17. North 55°58'20" East, 165.40 feet to a point; thence

18. North 29°42'57" West, 286.01 feet to a rebar found, said point being on the eastern right-of-way line of Buckman Road, Route 836; thence leaving the property line of Kinder Care Learning Centers, Inc. and running with the eastern right-of-way line of Buckman Road, Route 836 the following three (3) courses and distances

19. North 13°42'45" East, 115.12 feet to a point of curvature (tangent); thence

20. 41.42 feet along the arc of a curve to the right having a radius of 470.00 feet and a chord bearing and distance of North 16°14'13" East 41.40 feet to a point; thence

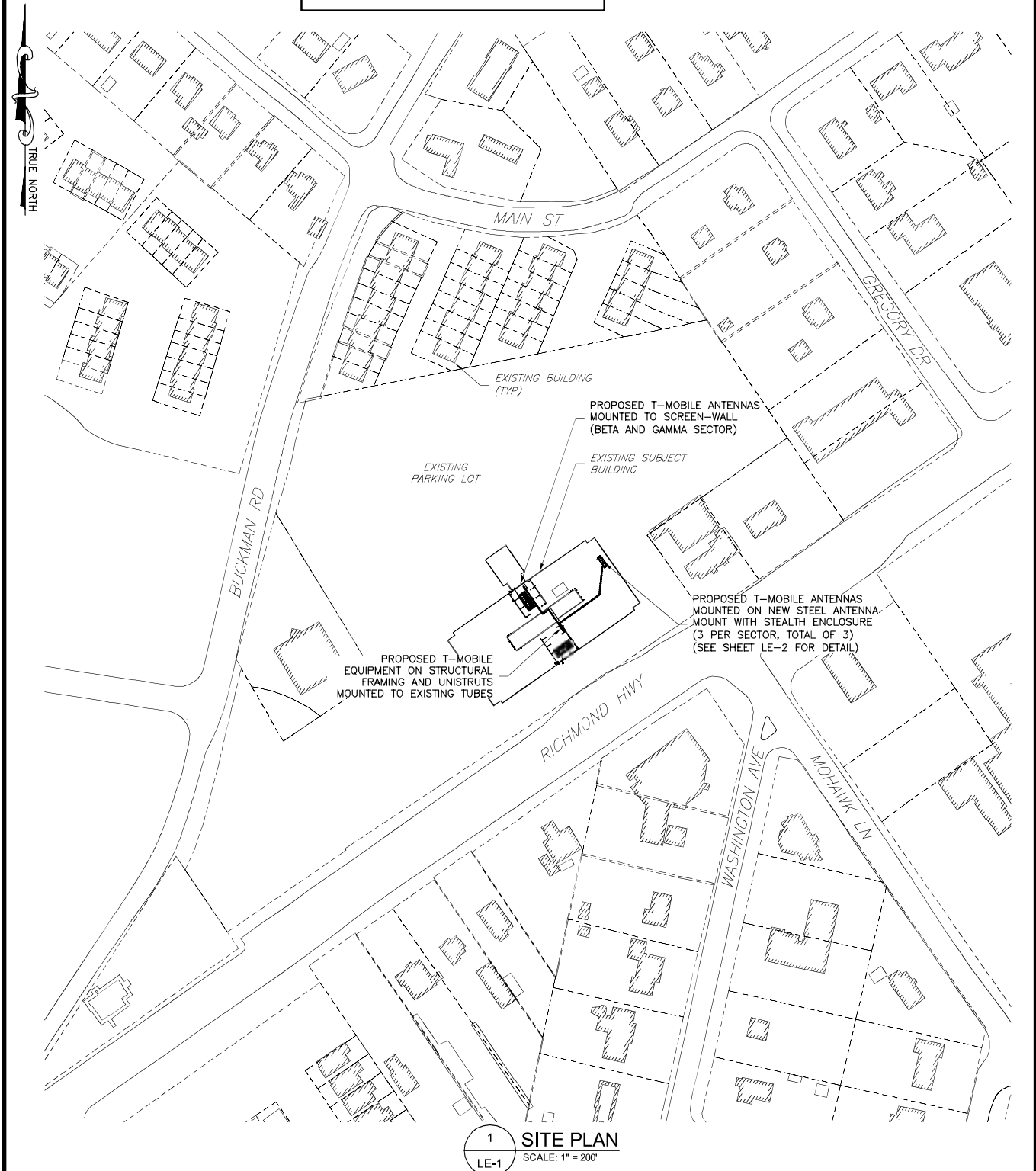
21. North 18°45'42" East, 7.24 feet to a point to the point of beginning, containing approximately 359,109 square feet or approximately 8.24401 acres of land.

EXHIBIT B

Antenna and Equipment Drawing

(See Attached)

EXHIBIT B



NB+CTM
TOTALLY COMMITTED.

NB+C ENGINEERING SERVICES, LLC.
6095 MARSHALEE DRIVE, SUITE 300
ELK RIDGE, MD 21075
(410) 712-7092

T-Mobile

T-MOBILE NORTHEAST LLC

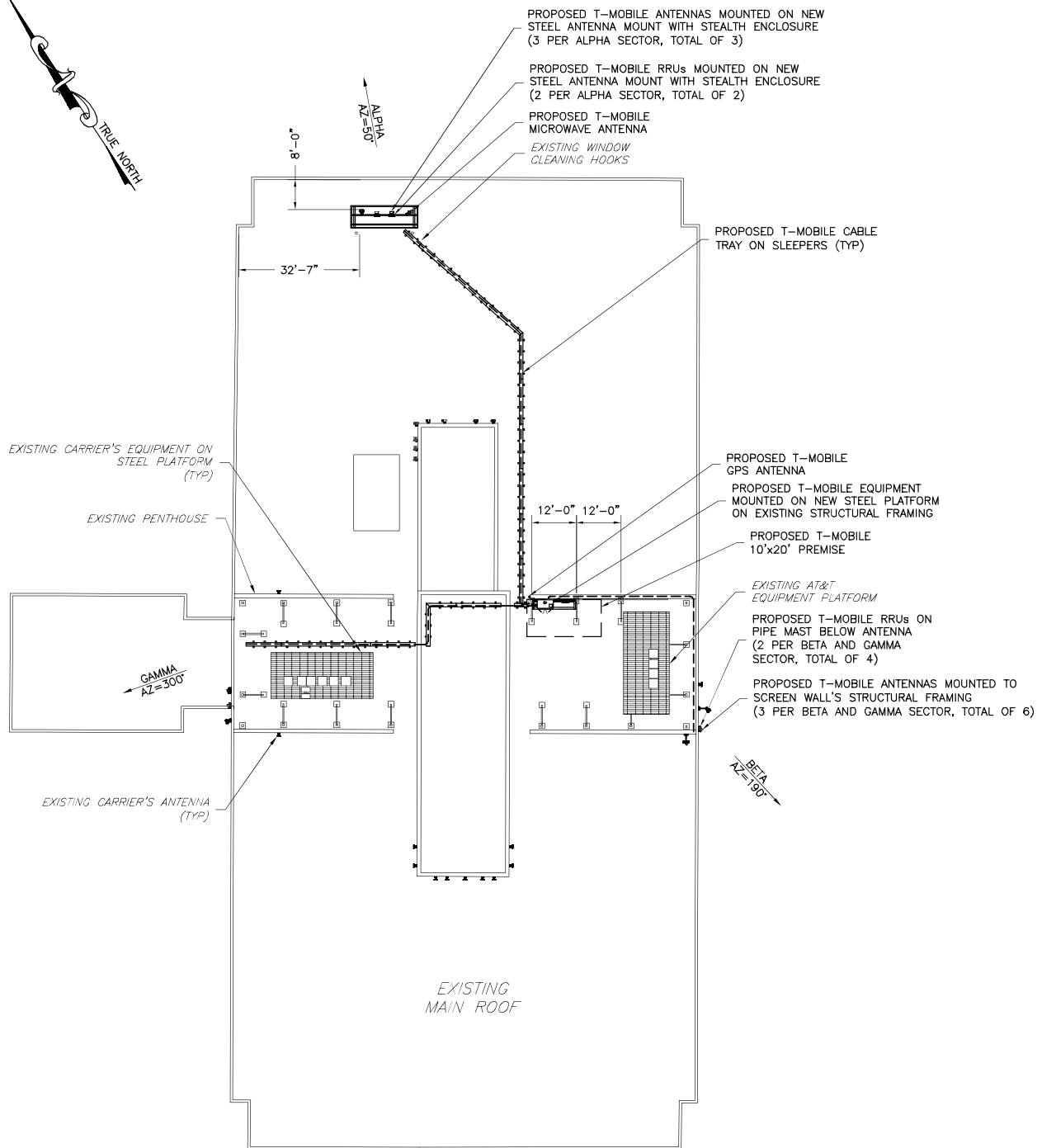
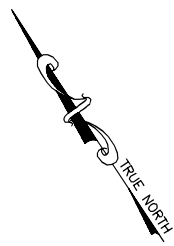
12050 BALTIMORE AVENUE
BELTSVILLE, MD 20705
OFFICE: (240) 264-8600
FAX: (240) 264-8610

7WAC145D
FAIRFAX SOUTH COUNTY
GOVERNMENT BUILDING
8350 RICHMOND HWY
ALEXANDRIA, VA 22309

SUBMITTALS

| | |
|---|----------|
| A | 06/29/16 |
| B | 10/28/16 |

SHEET 1 OF 3



1 ROOF PLAN
LE-2 SCALE: 1" = 40'

NB+CTM
TOTALLY COMMITTED.

NB+C ENGINEERING SERVICES, LLC.
6095 MARSHALEE DRIVE, SUITE 300
ELK RIDGE, MD 21075
(410) 712-7092

T-Mobile

T-MOBILE NORTHEAST LLC

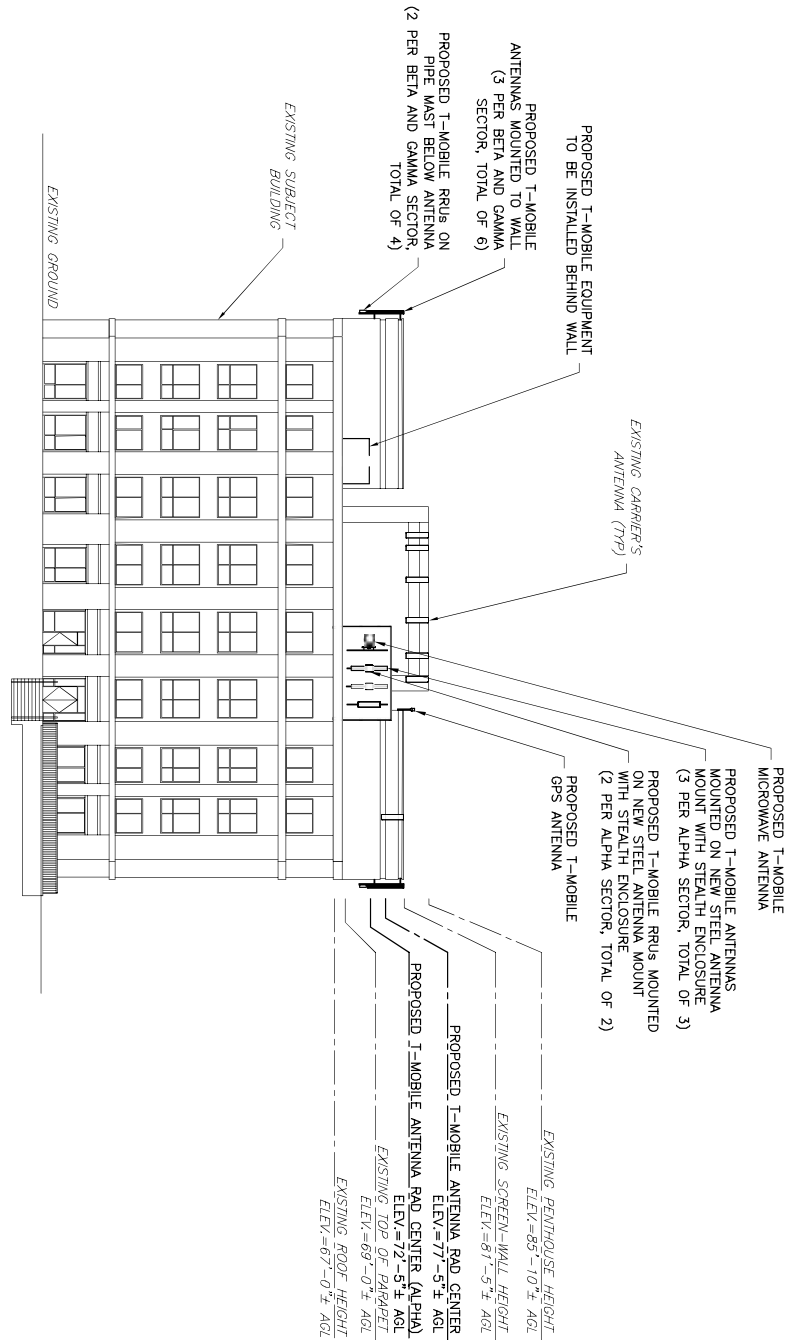
12050 BALTIMORE AVENUE
BELTSVILLE, MD 20705
OFFICE: (240) 264-8600
FAX: (240) 264-8610

7WAC145D
FAIRFAX SOUTH COUNTY
GOVERNMENT BUILDING
8350 RICHMOND HWY
ALEXANDRIA, VA 22309

SUBMITTALS

| | |
|---|----------|
| A | 06/29/16 |
| B | 10/28/16 |

SHEET 2 OF 3



1 ELEVATION
LE-3 SCALE: 1" = 40'

NB+C
TOTALLY COMMITTED.

NB+C ENGINEERING SERVICES, LLC.
6095 MARSHALEE DRIVE, SUITE 300
ELK RIDGE, MD 21075
(410) 712-7092

T-Mobile

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12050 BALTIMORE AVENUE
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7WAC145D
FAIRFAX SOUTH COUNTY
GOVERNMENT BUILDING
8350 RICHMOND HWY
ALEXANDRIA, VA 22309

SUBMITTALS

| | |
|---|----------|
| A | 06/29/16 |
| B | 10/28/16 |

SHEET 3 OF 3

ADMINISTRATIVE – 13

Authorization to Advertise a Public Hearing to Consider an Ordinance to Amend and Readopt Fairfax County Code Sections 109.1-1-2, 109.1-5-3, 109.1-5-5, and 109.1-5-6 Relating to the County's Solid Waste Ordinance, Chapter 109.1

ISSUE:

Authorization to advertise a public hearing to consider an ordinance that proposes to amend and readopt Chapter 109.1 of the Fairfax County Code to prohibit the use of plastic bags for disposal of yard waste and disposal of cathode ray tubes (CRTs) in the county's solid waste disposal system.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 4:00 p.m. on January 24, 2017, to consider this ordinance.

TIMING:

Board of Supervisors' authorization to advertise on December 6, 2016, is required for a public hearing on January 24, 2017 at 4:00 p.m.

BACKGROUND:

The Fairfax County Department of Public Works and Environmental Services (DPWES) regulates the collection, recycling and disposal of municipal solid waste from residents and businesses within the county through the administration of the county's solid waste ordinance, Chapter 109.1.

In 1993, Fairfax County Board of Supervisors approved an ordinance requiring yard waste, including leaves and grass to be recycled. Such materials are sent to composting facilities, where they undergo a controlled decomposition process that results in valuable, high-quality compost. The collection of leaves and grass in plastic bags causes numerous issues in the composting process, including, but not limited to: 1) increased difficulty in the removal of the materials from the plastic bags; 2) increased breakage and maintenance needs for the mechanical equipment used for composting; and 3) decreased quality of the final compost due to remnants of the plastic bags. Instead, the use of reusable containers or paper bags will decrease costs and protect the quality of the compost.

Board Agenda Item
December 6, 2016

In addition, Fairfax County's Solid Waste Management Program is dedicated to pollution prevention in its program operations. CRTs contain a significant quantity of lead and other metals that are not destroyed by the disposal process. Therefore, prohibiting disposal of CRTs will aid the county's pollution prevention efforts. The Code of Virginia, Title 10.1-1425.6 (C), enables a locality to prohibit the disposal of CRTs provided that the locality has implemented a recycling program that is capable of handling CRTs. The county has developed an electronic-waste recycling program that accepts CRTs, which is available at no charge to residents.

Chapter 109.1 is being amended to prohibit: 1) the use of plastic bags for the collection of yard waste and 2) the disposal of cathode ray tubes (CRTs) into the county's solid waste disposal system. These modifications are to take effect on July 1, 2017. Attachment 1, Staff Report, provides the proposed amendments that are included in this revision to Chapter 109.1. Attachment 2 provides a markup of the proposed amendments to Chapter 109.1, and Attachment 3 provides the final version of Chapter 109.1 if the amendments are adopted.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 - Staff Report

Attachment 2 - Markup of proposed changes of *Code of the County of Fairfax*, Chapter 109.1, Solid Waste Management

Attachment 3 – Proposed *Code of the County of Fairfax*, Chapter 109.1, Solid Waste Management

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, P.E., Director, Department of Public Works and Environmental Services (DPWES)

John W. Kellas, Deputy Director, DPWES, Solid Waste Management Program (SWMP)

Pamela F. Gratton, Director, Recycling, Engineering and Environmental Compliance, SWMP

Joanna L. Faust, Assistant County Attorney

Staff Report on Proposed Modifications to Chapter 109.1, January 24, 2016

Article 1 – General Requirements

1. Adds one definition for Cathode Ray Tubes or CRTs. (see Page 3)

The definition of cathode ray tubes (CRTs) was added to Section 109.1-2-2, Definitions. The added definition is language promulgated by the United States Environmental Protection Agency to define CRTs. This definition is contained in federal regulations at Title 40, Code of Federal Regulations (CFR), Part 260.10

Article 2 – Recycling

No Changes

Article 3 – Pre-collection and Storage

No Changes

Article 4 – Required Permits, Registrations, and Certifications (new title)

No Changes

Article 5 – Collection of Solid Waste

1. Adds Cathode Ray Tube-containing devices to the items that solid waste collection companies are not required to collect at the curb. (See page 22)

Fairfax County's Solid Waste Management Program is dedicated to pollution prevention in its program operations. To that end, staff has recommended that CRTs be prohibited from disposal. CRTs contain a significant quantity of lead and other metals that are not destroyed by the disposal process.

There is implementing legislation that authorizes Virginia localities that have electronic waste recycling programs to prohibit the disposal of CRTs. Specifically, Code of Virginia, Title 10.1-1425.26 C states that:

C. Any locality may, by ordinance, prohibit the disposal of thermostats containing mercury and cathode ray tubes in any waste-to-energy or solid waste disposal facility within its jurisdiction, provided the locality has implemented a recycling program that is capable of handling all thermostats containing mercury and cathode ray tubes generated within its jurisdiction. However, no such ordinance shall contain any provision that penalizes anyone other than the initial generator of such thermostats containing mercury and cathode ray tubes.

Fairfax County has developed an electronic-waste recycling program that accepts CRTs. This program is available to residents seven-days-per-week at two locations within the county at no charge to residents. This fulfills the statutory requirement to have a recycling program for all CRTs generated within the county. Therefore, Section 109.1-5-3.b is modified to add the phrase "any device containing a cathode ray tube" to the list of items that are not required to be collected at the curb.

Electronic waste generated by businesses or institutions in Fairfax County is required by both federal and state law to either be recycled or disposed of as hazardous waste. As the county's disposal system is NOT permitted to accept hazardous wastes from businesses or institutions, businesses and institutions are obligated to either legitimately recycle their electronic wastes or

dispose of them at a permitted hazardous waste disposal facility. Business and institutional waste is not subject to the household hazardous waste exclusion as it is not generated in a household. As such, businesses and institutions CANNOT use the household hazardous waste program to dispose of their electronic waste. The cost of waste disposal is borne by the generator; businesses and institutions either recycle their electronic waste or send it for proper disposal. In this scenario, businesses and institutions are already prohibited from disposing of cathode ray tube-containing devices in the county's waste management system.

2. Clarifies type of bag permissible for the collection of yard waste by prohibiting the use of a plastic bag

In 1993, Fairfax County Board of Supervisors approved an ordinance requiring yard waste, including leaves, grass, and branches, to be recycled. This requirement is embodied in Chapter 109.1. Woody materials like twigs, branches and sticks, are ground into mulch by Fairfax County staff at the county's two solid waste management facilities.

Fairfax County does not own or operate a facility suitable for processing leaves and grass, so the county sends these remaining materials to composting facilities, where the materials undergo a controlled decomposition process that takes 4-6 months. The resulting compost is a desirable and highly-valued product. However, the placement of yard waste in plastic bags unnecessarily introduces plastic into the composting process and degrades the quality of the finished compost for the following reasons:

- The yard waste is very difficult to remove from the plastic bags. The bags have to be manually split or opened, which is a very time-consuming process.
- Mechanical equipment for the removal of yard waste from plastic bags can be very difficult to operate because the plastic bags get entangled into the operational mechanisms of this equipment. The plastic bags are often responsible for equipment downtime and resulting maintenance.
- When plastic bags are introduced into the compost process, it is very difficult to remove the plastic shreds from the final product. The removal of plastic shreds or pieces from finished compost involves running the compost through a mechanical screen. While mechanical screens can remove some of the plastic, they are not capable of removing all plastic shreds or pieces. Plastic pieces in compost significantly reduce its quality, which dramatically reduces the price for which the material can be sold.
- Plastic bags are not necessary for the collection of yard waste. Yard waste collection in a reusable container or a paper bag is the optimal method for collecting yard waste efficiently while protecting the quality of compost. It also reduces quantity of solid waste generated. Paper bags are available at local stores and are comparable to the price of plastic bags.

Article 5 of Chapter 109.1 will be modified to add the word paper in three sections to clarify that plastic bags are no longer acceptable for the collection of yard waste placed at the curb.

Section 109.1-5-3.d.3 adds the word "paper" in front of the word "bag" to describe the type of bag acceptable for use. (See page 22)

Section 105.1-5-5.a.4 adds the word "paper" in front of the word "bag" to describe the type of bag acceptable for use. It also states that "yard waste set out in plastic bags will not be collected." (See page 23)

Section 109.1-5-6.a.5 has been reworded to make it clear that yard waste may only be collected if set out in paper bags, reusable containers, or in piles as specified in Section 109.1-5-5.a.
(See page 25)

Article 6 – Transportation

No Changes

Article 7 – Disposal of Solid Waste

No Changes

Article 8 – Emergency Provisions

No Changes

Article 9 – Enforcement

No Changes

**PROPOSED ORDINANCE AMENDING
CHAPTER 109.1 OF THE FAIRFAX COUNTY CODE,
RELATING TO PROHIBITION OF PLASTIC BAGS FOR DISPOSAL OF YARD WASTE
AND DISPOSAL OF DEVICES CONTAINING CATHODE RAY TUBES (CRTs) INTO THE
COUNTY'S SOLID WASTE DISPOSAL SYSTEM**

...

Draft of November 2, 2016

AN ORDINANCE to amend and readopt Sections 109.1-1-2, 109.1-5-3, 109.1-5-5, and 109.1-5-6 of the Fairfax County Code to prohibit the use of plastic bags for disposal of yard waste and disposal of cathode ray tubes (CRTs) into the County's Solid Waste Disposal System.

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

1. Sections 109.1-1-2, 109.1-5-3, 109.1-5-5, and 109.1-5-6 are amended and re-adopted to read as follows:

Section 109.1-1-1. Statement of Policy.

(a) The purpose of this Chapter is the furtherance of effective solid waste management, as provided for and authorized by the Code of Virginia (e.g., Titles 10.1 and 15.2). Consistent with the Code of Virginia, and complementary to its intent, the efficient management of municipal solid waste (MSW) (e.g., recycling, collection, transfer, and disposal) with as few negative environmental and economic impacts as possible is an essential and integral part of promoting public health and welfare. This Chapter therefore intends to protect life, property, and the general environment, by establishing standards and procedures for the administration and enforcement of such standards as they relate to the control, collection, transportation, and disposal of MSW, and to promote source reduction and recycling as means of reducing the amount of MSW that has to be disposed.

To these ends, this Chapter acknowledges and/or authorizes the following supporting documents that further describe critical elements of the County's solid waste management system that may be updated or revised from time to time:

- (1) The County's Solid Waste Management Plan;
- (2) The County's Recycling Program Requirements;
- (3) Solid Waste Advisories;
- (4) Other County Solid Waste Management Program guidance and requirements, as they are developed by the Director.

(b) Applicability.

Except as otherwise provided, this Chapter, and any regulations or administrative directives or

109.1-1

procedures issued under its authority, apply to all residents and commercial, industrial, and institutional establishments within or doing business within the County, and any person or entity who collects, transports, disposes, or otherwise manages or arranges for management of MSW.

Section 109.1-1-2. Definitions.

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

Authorized Agent means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Brush means shrub and tree trimmings arising from i) general residential landscape maintenance and ii) similar non-residential landscape maintenance.

Cathode Ray Tube means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device.

Certificate-to-Operate is the permit/approval for any person to engage in the business of collecting MSW in Fairfax County.

Collection means the collection and transportation of MSW.

Collection vehicle means any vehicle used to collect and/or transport MSW.

Collector means any person engaged in the regularly-scheduled commercial collection and/or transportation of MSW from two or more residential, commercial, industrial, institutional or other establishments.

Community Association or Homeowners' Association means an unincorporated association, corporation or other organization that owns or has under its care, custody, or control real estate subject to a recorded declaration of covenants that obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated association, corporation or other organization. For the purposes of this Chapter, an unincorporated association, corporation or other organization representing residents shall be considered the designee of Association members when acquiring solid waste services.

Compensation means any type of consideration paid for the collection, transportation or disposal of MSW, including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

Composting facility means a permitted facility producing a stabilized organic material.

Construction/Demolition Debris (CDD) means solid waste generated during construction, remodeling, repair, or demolition of pavements, houses, commercial buildings or any other structures. CDD includes, but is not limited to: lumber; wire; sheetrock; brick; shingles; glass; pipes; concrete; paving materials; metals; and plastic; if part of the materials of construction and/or empty containers for such materials.

Construction/Demolition Debris (CDD) landfill means a land burial facility which accepts CDD for disposal.

Customers means anyone providing compensation to collectors and/or recycling or disposal facilities. Persons using County drop-off facilities shall also be considered customers.

Department means the Fairfax County Department of Public Works and Environmental Services.

Director means the Director of the Fairfax County Department of Public Works and Environmental Services or his/her designee.

88 **Disposal** means the final placement or destruction of MSW.

89 **Disposal site** means a facility at which MSW is disposed.

90 **Energy/Resource Recovery Facility (E/RRF)** means a disposal site designed for the purpose of
91 reducing the volume of MSW through incineration. The process further produces steam, and/or electricity,
92 as a result of the combustion process.

93 **Hazardous waste** means a "hazardous waste" as defined by the Virginia Hazardous Waste
94 Management Regulations (9 VAC 20-60).

95 **Household Hazardous Waste (HHW)** means discarded household products that contain
96 corrosive, toxic, ignitable, or reactive ingredients, or are otherwise potentially harmful if released to the
97 environment. Products that fall into this category include, but are not limited to certain paints, cleaners,
98 and pesticides. Latex paint is not HHW.

99 **Materials Recovery Facility (MRF)** means a facility where source-separated recyclables are
100 either stored until large enough volumes are collected to be shipped to a buyer or processor, or they are
101 processed to meet the specifications of recycling markets.

102

103 **Mixed paper** means corrugated cardboard, magazines, catalogues, envelopes, office paper,
104 brochures, phone books, junk mail, food boxes (such as cereal and cracker boxes), shoe boxes, and any
105 other clean paper product without food residue.

106 **Municipal Solid Waste (MSW)** means that waste which is normally composed of residential,
107 commercial, non-residential and institutional solid waste and residues derived from combustion of these
108 wastes, as defined in Virginia's solid waste management regulations at 9 VAC-20-81-10. MSW includes
109 recyclables.

110 **Person** means and includes an individual, designee, corporation, association, firm, partnership,
111 joint stock company, county, city, town, school, or any other legal entity.

112 **Pipestem driveway** means an extension off of a public road where one or more houses share a
113 private drive to which their own driveways connect.

114

115 **Principal Recyclable Material (PRM)** means the recyclable material from the following list that
116 comprises the majority of a business or commercial property's waste stream: newspaper, ferrous scrap
117 metal, non-ferrous scrap metal, used motor oil, corrugated cardboard, kraft paper, container glass,
118 aluminum, mixed paper, metal cans, cloth, automobile bodies, plastic, clean wood, brush, leaves, grass
119 and other vegetative materials. "Principal recyclable materials" do not include large diameter tree stumps.

120 **Property Manager (PM)** means a company, employee, or individual employed or otherwise
121 engaged, including as a volunteer, by a property owner or a community association to manage day-to-day
122 operations at one or more locations on the owner or owners' behalf and is considered to be a designee
123 when acquiring solid waste services.

124 **Putrescible material** means organic material that can decompose.

125 **Recyclables** means any of the materials that are or may be recycled, including but not limited to
126 those listed in Article 2 – Recycling and the Recycling Program Requirements.

127 **Recycling** means the process of separating a material from the waste stream with the intent of
128 diverting it from disposal.

129 **Recycling center** means a facility used for the collection of source-separated recyclable
130 materials.

131 **Recycling route** means the route a collector follows to collect source-separated recyclable
132 materials from customers.

Recycling system means the means by which recyclable materials are separated from the waste stream at the point of generation, and may include the means of delivering source-separated materials to a recycling center or MRF.

Refuse means all MSW having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from cleanup of spills or contamination, or other discarded materials.

Regulations means rules, guidance, and/or requirements issued by the Director pursuant to this Chapter.

Responsible company official means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Sanitary landfill means a land burial facility for the disposal of MSW which is so located, designed, constructed and operated to contain and isolate the MSW so that it does not pose a substantial present or potential hazard to public health or the environment; provided, however, that the term "sanitary landfill" shall not mean a land burial facility which only accepts non-putrescible MSW (such as a CDD landfill, as defined in this Chapter).

Significant Modification means any physical change in or change in the method of operation of a commercial establishment that has the potential to result in a change in the quantity or characteristics of MSW being generated or managed by the establishment or facility.

Solid waste means any material defined as "solid waste" in 9 VAC 20-81-10 et seq., of Virginia's solid waste management regulations.

Solid waste broker means a person or entity that, for a fee or other consideration, brokers, acts as a designee or otherwise arranges agreements between solid waste generators (including property owners, community/homeowner's associations, property managers or other entities) and providers of municipal solid waste collection, recycling, or disposal services.

Solid waste generators includes any persons that produce solid waste.

Source reduction is the reduction or elimination of the quantity or toxicity of waste being generated, which can be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, or increases in the efficiency of machinery and recycling within a process. The term does not include dewatering, compaction, or waste reclamation.

Source separation is the process of removing recyclable materials from the waste stream at the point where the material is generated. For residential material, the source is considered the household and contiguous residential property such as lawns or yards. For commercial material, the source is considered the commercial premises in which business is conducted and contiguous property such as storage yards.

Tare weight means the operating weight of a fully-fueled vehicle with no payload but includes the driver; i.e., the empty weight of the vehicle.

Transfer station means any MSW storage or collection facility at which MSW is transferred from collection vehicles to other vehicles or means of transportation, for shipment to another site for permanent disposal.

Tree removal means any activity which generates MSW from the maintenance, trimming, or removal of trees or shrubs where any individual piece or bundle exceeds 50 pounds in weight, is longer than four feet in length, or larger than six inches in diameter. Christmas trees are exempt from these size limitations if they are less than eight feet in length.

Unacceptable waste means waste which is prohibited from disposal at Fairfax County facilities by Fairfax County Code, rules or regulations, the *Virginia Code* and/or the Code of Federal Regulations.

Waste collection route means the route a collector follows to collect any MSW set out by customers for collection.

Yard waste means the organic fraction of MSW that consists of grass clippings, leaves, vines, and brush arising from general landscape maintenance. Yard waste also includes similar materials collected from non-residential landscape maintenance, such as maintenance of streets, parks and recreational areas. Yard waste does not include any materials arising from tree removal, land clearing, or development activities.

Section 109.1-5-3. Solid Waste to be Collected.

(a) MSW generated by normal household or commercial activities from premises to which collection services are being provided shall be collected in accordance with the requirements of this Chapter.

(b) The following materials are not subject to the collection requirement of 109.1-5-3:

- (1) Dead animals and pets;
- (2) Manure;
- (3) Tree stumps;
- (4) Dirt, stone, rock, and brick;
- (5) Containerized liquids;
- (6) Friable asbestos;
- (7) Lead-acid batteries;
- (8) Appliances containing ozone-depleting chemicals;
- (9) Scrap metal and discarded appliances that are over 50 pounds in weight or 48 inches in length; and
- (10) Poisons, corrosives, flammables, explosives or other unacceptable or hazardous waste. It should be noted that items considered to be household hazardous waste (HHW) are subject to the collection requirements of 109.1-5-3.
- (11) Any device containing a cathode ray tube.

(c) For materials required to be collected curbside under this Article: (1) materials too large for containers shall be collected if tied securely in bundles not exceeding four feet in length; and (2) no single container or bundle shall exceed 50 pounds gross weight.

(d) The base price for any collection contract shall include the minimum level of service unless otherwise approved by the Director. The minimum level of service for collection by material type shall be as follows:

- (1) *Refuse*: For residential customers, weekly removal of all refuse that is set out and prepared in accordance with Section 109.1-5-3(c). For non-residential customers, weekly collection is required unless specifically approved by the Director in writing.
- (2) *Recyclable Materials*: weekly removal of all recyclable materials from residential and non-residential customers properly prepared and set out. Other collection frequencies may be adopted for containerized and non-residential recycling service through application for and approval of an alternative recycling system.

221 (3) *Yard waste from single-family and townhouse residential units, including*
222 *brush: from March 1 to December 24, weekly removal for recycling of up to ten*
223 *individual paper bags, containers, or bundles. Brush may be limited to individual*
224 *pieces or bundles of no greater than 50 pounds in weight, four feet in length, and*
225 *no piece larger than six inches in diameter. Outside this period, yard waste may*
226 *be collected with refuse.*

227 (4) *Christmas trees from single-family and townhouse residential units: removal and*
228 *recycling of all trees of less than 8 feet in length that are set out during the first*
229 *two weeks of January.*

230 (e) Nothing in this Chapter shall preclude the collector from providing a higher level of
231 service than required, with regard to frequency, quantity, size, material type, or other factor.

232 (f) All MSW collected by the collector, upon being loaded into the collection vehicle, shall
233 become the property of the collector.
234
235

236 **Section 109.1-5-5. Collection Points and Set-Out Restrictions.**
237

238 (a) Set-out of **residential** refuse and recycling shall comply with the following:

239 (1) Containers for residential use shall be stored upon the residential premises.

240 (2) The outside storage of refuse and recyclables in plastic bags with closed tops for
241 not more than 12 hours is allowed by residential customers only.

242 (3) Loose, bulky non-putrescible materials which are too large to fit into mechanically
243 dumped containers may be set out, provided that they are: 1) securely bundled;
244 or 2) completely contained and adequately secured to prevent leakage or
245 spillage; and, 3) individual bundles, bags, boxes or other containers do not
246 exceed four feet in length and 50 pounds in weight.

247 (4) Yard waste may only be set out in paper bags, reusable containers, or in piles as
248 instructed by the company which will be collecting them.

249 (5) Recyclable materials shall be set out separately from MSW intended for disposal
250 and contained so as to prevent leakage or spillage but not to preclude visual
251 identification and inspection. Recycling shall be set out as described in
252 subsections (3) and (4) above. Individual containers, bundles, bags, and/or
253 boxes of recyclable materials set out for collection shall not exceed four feet in
254 length and 50 pounds in weight.

255 (6) On each scheduled collection day, residential refuse and recyclables shall be
256 placed at the curb line or at a point on the property line at the edge of pavement
257 or terminal point of a pipestem driveway easement, adjacent to the public right of
258 way where the collection vehicle stops. Residential refuse and recyclables shall
259 not be set out for curbside collection on any sidewalks or any other portion of the
260 public right of way where they could interfere with pedestrians or vehicular traffic.

261 (7) If MSW placed at the curb or in the public right-of-way by a residential customer
262 is not picked up within ten days, the County may remove them and recover the
263 costs of removal.

264 (b) Set-out of **non-residential** refuse and recycling shall comply with the following:

265 (1) All containers shall be stored upon private property, at points which shall be well
266 drained and fully accessible to collection vehicles and to public health inspection,

- 267 fire inspection, and solid waste inspection personnel, in addition to complying
268 with Section 109.1-5-6.
- 269 (2) Non-residential customers are only permitted to store refuse and recyclables
270 outdoors inside of an approved container as described in Section 109.1-5-6.
271 Non-residential customers are not permitted to store refuse or recyclables in
272 bags, boxes or bundles outside unless specifically approved in writing by the
273 Director.
- 274 (3) Recyclable materials shall be set out separately from MSW intended for disposal
275 and contained as described in Section 109.1-5-6 so as to prevent leakage or
276 spillage but not to preclude visual identification and inspection. Co-collection of
277 recyclables and refuse in a single container is not permitted and does not comply
278 with the recycling requirements in Article 2 of this Chapter.
- 279 (4) If MSW placed at the curb or in the public right-of-way by a non-residential
280 customer is not picked up within ten days, the County may remove it and recover
281 the costs of removal from the customer, collection company and/or designee.

282

283 **Section 109.1-5-6. Collection Containers and Vehicles.**

284

- 285 (a) Containers (including compactors, front-end containers and roll-off containers) used to
286 collect refuse and recycling shall comply with the following:
- 287 (1) All refuse containers shall be of sturdy, rodent and insect resistant and watertight
288 construction with tight fitting lids sufficient to prevent leakage or spillage of the
289 disposed materials contained therein and must be closed when not in use.
- 290 (2) Any dumpster, front-loading container, compactor or wheeled cart provided for
291 collection of recycling shall be of sturdy, rodent and insect resistant and
292 watertight construction with tight fitting lids sufficient to prevent leakage or
293 spillage of the recyclables contained therein but not to preclude visual
294 identification and inspection and must be closed when not in use.
- 295 (3) Collectors who provide refuse and/or recycling containers shall be responsible for
296 maintaining up-to-date name and contact information on these containers. Where
297 a collector chooses to change this information, the collector must either correct
298 the changes on every container (except containers used for collection at single-
299 family homes or townhouses), or remove that container from service. Collectors
300 may not charge a fee for updating containers in this manner.
- 301 (4) Open-top containers may not be used to collect, store, or transport refuse or any
302 other putrescible items. Open-top containers may not be used for recyclables
303 except per 109.1-5-2 (g)(3).
- 304 (5) Yard waste may only be collected if set out in paper bags, reusable containers,
305 or in piles as according to described in Section 109.1-5-5 (a)(4).
- 306 (6) All roll-off containers and compactors shall have safety reflectors affixed to both
307 sides and ends of container. Safety reflector requirements for said roll-off
308 container or compactor shall include the use and/or combination of reflective
309 tape, reflective paint, or reflective glass
- 310 (7) All solid waste collection containers with a capacity of two cubic yards or larger
311 and are used for the collection of solid waste shall be clearly marked with the
312 owner's name and telephone number and the type of material acceptable for the
313 container.

109.1-7

- 314 (8) In the event of refuse or recycling collection service cancellation by a customer,
315 the owner of the refuse or recycling collection container shall be responsible for
316 removing the container(s). All such containers shall be removed within ten
317 business days of customer service cancellation. Any container which is not
318 removed within ten business days of service cancellation shall be deemed
319 abandoned and subject to removal by the County. The Director must make a
320 reasonable attempt to notify the owner of the container prior to removal by the
321 County. Containers removed by the County will be emptied, and stored at the
322 owner's expense, including the cost for disposal of waste contained therein, and
323 may not be reacquired until all such expenses have been paid. Any container not
324 reacquired within 30 days will be forfeited to the County of Fairfax and sold at
325 public auction or added to the County's assets.
- 326 (9) The County can require the owner of any container to remove that container if it
327 is found to create a nuisance, traffic impediment or adversely affect public health
328 or safety. If after making a reasonable attempt to notify the owner of this
329 requirement the Director is unable to contact the owner, or if the owner fails to
330 remove the container after notification of such requirement, the County may
331 remove, empty and store the container at the owner's expense, including the cost
332 for disposal of waste contained therein, and the container may not be reacquired
333 until all such expenses have been paid. Any container not reacquired within 30
334 days will be forfeited to the County of Fairfax and sold at public auction or added
335 to the County's assets.
- 336 (b) All vehicles used to collect refuse and recycling shall comply with the following:
- 337 (1) All collection vehicles to be used in the collection of MSW must have a collection
338 vehicle permit (see Article 4).
- 339 (2) All collection vehicles for which a collection vehicle permit is being sought must
340 be designed and manufactured specifically for the collection of MSW.
- 341 (i) Design and manufacture shall include a completely enclosed and
342 watertight truck body with automatic dumping capabilities, and additional
343 requirements as determined by the Director in the collection vehicle
344 inspection and as described in this Chapter and in the Fairfax County
345 Solid Waste Management Program Permit Manual.
- 346 (ii) All collection vehicles shall display the current name and telephone
347 number of the company operating the vehicle.
- 348 (iii) Vehicles permitted to collect recyclables must be clearly identified as
349 such. Such signage shall be removed if the vehicle is used to collect
350 refuse.
- 351 (iv) The Director may consider the use of vehicles not specifically
352 manufactured for the collection of MSW under emergency conditions or
353 for other reasons as determined by the Director. The vehicles must
354 receive a temporary vehicle permit prior to being put into service.
- 355 (3) All collection vehicles to be used in the collection of MSW shall be maintained in
356 a manner that prevents spillage of the types of MSW to be collected therein, and
357 provides proper control of odors, vermin, and liquid waste leakage.
- 358 (4) No collection vehicles of any type are required to enter into any pipestem
359 driveway for the purpose of conducting refuse or recycling collection operations
360 or turning around.

361 **2. That the provisions of this ordinance are severable, and if any provision of**
362 **this ordinance or any application thereof is held invalid, that invalidity shall not**
363 **affect the other provisions or applications of this ordinance that can be given effect**
364 **without the invalid provision or application.**

365
366 **3. That this Ordinance is effective upon adoption.**
367

368 GIVEN under my hand this day of _____ 2016.
369
370

371 _____
372 Catherine A. Chianese
373 Clerk to the Board of Supervisors
374

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CHAPTER 109.1 OF THE FAIRFAX COUNTY CODE
Solid Waste Management

ARTICLE 1. General Requirements.

Section 109.1-1-1. Statement of Policy.

(a) The purpose of this Chapter is the furtherance of effective solid waste management, as provided for and authorized by the Code of Virginia (e.g., Titles 10.1 and 15.2). Consistent with the Code of Virginia, and complementary to its intent, the efficient management of municipal solid waste (MSW) (e.g., recycling, collection, transfer, and disposal) with as few negative environmental and economic impacts as possible is an essential and integral part of promoting public health and welfare. This Chapter therefore intends to protect life, property, and the general environment, by establishing standards and procedures for the administration and enforcement of such standards as they relate to the control, collection, transportation, and disposal of MSW, and to promote source reduction and recycling as means of reducing the amount of MSW that has to be disposed.

To these ends, this Chapter acknowledges and/or authorizes the following supporting documents that further describe critical elements of the County's solid waste management system that may be updated or revised from time to time:

- (1) The County's Solid Waste Management Plan;
- (2) The County's Recycling Program Requirements;
- (3) Solid Waste Advisories;
- (4) Other County Solid Waste Management Program guidance and requirements, as they are developed by the Director.

(b) Applicability.

Except as otherwise provided, this Chapter, and any regulations or administrative directives or procedures issued under its authority, apply to all residents and commercial, industrial, and institutional establishments within or doing business within the County, and any person or entity who collects, transports, disposes, or otherwise manages or arranges for management of MSW.

Section 109.1-1-2. Definitions.

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

Authorized Agent means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Brush means shrub and tree trimmings arising from i) general residential landscape maintenance and ii) similar non-residential landscape maintenance.

Cathode Ray Tube (CRT) means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device.

Certificate-to-Operate is the permit/approval for any person to engage in the business of

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collecting MSW in Fairfax County.

Collection means the collection and transportation of MSW.

Collection vehicle means any vehicle used to collect and/or transport MSW.

Collector means any person engaged in the regularly-scheduled commercial collection and/or transportation of MSW from two or more residential, commercial, industrial, institutional or other establishments.

Community Association or Homeowners' Association means an unincorporated association, corporation or other organization that owns or has under its care, custody, or control real estate subject to a recorded declaration of covenants that obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated association, corporation or other organization. For the purposes of this Chapter, an unincorporated association, corporation or other organization representing residents shall be considered the designee of Association members when acquiring solid waste services.

Compensation means any type of consideration paid for the collection, transportation or disposal of MSW, including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

Composting facility means a permitted facility producing a stabilized organic material.

Construction/Demolition Debris (CDD) means solid waste generated during construction, remodeling, repair, or demolition of pavements, houses, commercial buildings or any other structures. CDD includes, but is not limited to: lumber; wire; sheetrock; brick; shingles; glass; pipes; concrete; paving materials; metals; and plastic; if part of the materials of construction and/or empty containers for such materials.

Construction/Demolition Debris (CDD) landfill means a land burial facility which accepts CDD for disposal.

Customers means anyone providing compensation to collectors and/or recycling or disposal facilities. Persons using County drop-off facilities shall also be considered customers.

Department means the Fairfax County Department of Public Works and Environmental Services.

Director means the Director of the Fairfax County Department of Public Works and Environmental Services or his/her designee.

Disposal means the final placement or destruction of MSW.

Disposal site means a facility at which MSW is disposed.

Energy/Resource Recovery Facility (E/RRF) means a disposal site designed for the purpose of reducing the volume of MSW through incineration. The process further produces steam, and/or electricity, as a result of the combustion process.

Hazardous waste means a "hazardous waste" as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60).

Household Hazardous Waste (HHW) means discarded household products that contain corrosive, toxic, ignitable, or reactive ingredients, or are otherwise potentially harmful if released to the environment. Products that fall into this category include, but are not limited to certain paints, cleaners, and pesticides. Latex paint is not HHW.

Materials Recovery Facility (MRF) means a facility where source-separated recyclables are either stored until large enough volumes are collected to be shipped to a buyer or processor, or they are processed to meet the specifications of recycling markets.

Mixed paper means corrugated cardboard, magazines, catalogues, envelopes, office paper,

brochures, phone books, junk mail, food boxes (such as cereal and cracker boxes), shoe boxes, and any other clean paper product without food residue.

Municipal Solid Waste (MSW) means that waste which is normally composed of residential, commercial, non-residential and institutional solid waste and residues derived from combustion of these wastes, as defined in Virginia's solid waste management regulations at 9 VAC-20-81-10. MSW includes recyclables.

Person means and includes an individual, designee, corporation, association, firm, partnership, joint stock company, county, city, town, school, or any other legal entity.

Pipestem driveway means an extension off of a public road where one or more houses share a private drive to which their own driveways connect.

Principal Recyclable Material (PRM) means the recyclable material from the following list that comprises the majority of a business or commercial property's waste stream: newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard, kraft paper, container glass, aluminum, mixed paper, metal cans, cloth, automobile bodies, plastic, clean wood, brush, leaves, grass and other vegetative materials. "Principal recyclable materials" do not include large diameter tree stumps.

Property Manager (PM) means a company, employee, or individual employed or otherwise engaged, including as a volunteer, by a property owner or a community association to manage day-to-day operations at one or more locations on the owner or owners' behalf and is considered to be a designee when acquiring solid waste services.

Putrescible material means organic material that can decompose.

Recyclables means any of the materials that are or may be recycled, including but not limited to those listed in Article 2 – Recycling and the Recycling Program Requirements.

Recycling means the process of separating a material from the waste stream with the intent of diverting it from disposal.

Recycling center means a facility used for the collection of source-separated recyclable materials.

Recycling route means the route a collector follows to collect source-separated recyclable materials from customers.

Recycling system means the means by which recyclable materials are separated from the waste stream at the point of generation, and may include the means of delivering source-separated materials to a recycling center or MRF.

Refuse means all MSW having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from cleanup of spills or contamination, or other discarded materials.

Regulations means rules, guidance, and/or requirements issued by the Director pursuant to this Chapter.

Responsible company official means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Sanitary landfill means a land burial facility for the disposal of MSW which is so located, designed, constructed and operated to contain and isolate the MSW so that it does not pose a substantial present or potential hazard to public health or the environment; provided, however, that the term "sanitary landfill" shall not mean a land burial facility which only accepts non-putrescible MSW (such as a CDD landfill, as defined in this Chapter).

Significant Modification means any physical change in or change in the method of operation of

a commercial establishment that has the potential to result in a change in the quantity or characteristics of MSW being generated or managed by the establishment or facility.

Solid waste means any material defined as "solid waste" in 9 VAC 20-81-10 et seq., of Virginia's solid waste management regulations.

Solid waste broker means a person or entity that, for a fee or other consideration, brokers, acts as a designee or otherwise arranges agreements between solid waste generators (including property owners, community/homeowner's associations, property managers or other entities) and providers of municipal solid waste collection, recycling, or disposal services.

Solid waste generators includes any persons that produce solid waste.

Source reduction is the reduction or elimination of the quantity or toxicity of waste being generated, which can be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, or increases in the efficiency of machinery and recycling within a process. The term does not include dewatering, compaction, or waste reclamation.

Source separation is the process of removing recyclable materials from the waste stream at the point where the material is generated. For residential material, the source is considered the household and contiguous residential property such as lawns or yards. For commercial material, the source is considered the commercial premises in which business is conducted and contiguous property such as storage yards.

Tare weight means the operating weight of a fully-fueled vehicle with no payload but includes the driver; i.e., the empty weight of the vehicle.

Transfer station means any MSW storage or collection facility at which MSW is transferred from collection vehicles to other vehicles or means of transportation, for shipment to another site for permanent disposal.

Tree removal means any activity which generates MSW from the maintenance, trimming, or removal of trees or shrubs where any individual piece or bundle exceeds 50 pounds in weight, is longer than four feet in length, or larger than six inches in diameter. Christmas trees are exempt from these size limitations if they are less than eight feet in length.

Unacceptable waste means waste which is prohibited from disposal at Fairfax County facilities by Fairfax County Code, rules or regulations, the *Virginia Code* and/or the Code of Federal Regulations.

Waste collection route means the route a collector follows to collect any MSW set out by customers for collection.

Yard waste means the organic fraction of MSW that consists of grass clippings, leaves, vines, and brush arising from general landscape maintenance. Yard waste also includes similar materials collected from non-residential landscape maintenance, such as maintenance of streets, parks and recreational areas. Yard waste does not include any materials arising from tree removal, land clearing, or development activities.

Section 109.1-1-3. Statement of Policy and Administration.

(a) The Director shall be responsible for the administration and enforcement of this Chapter. Fairfax County Departments that shall assist in enforcing this Chapter, in cooperation with the Director, include but are not limited to, the Health Department, the Police Department, the Fire and Rescue Department, the Department of Planning and Zoning, the Department of Code Compliance, and the Park Authority.

(b) The Director shall have the power to make and issue fair and reasonable rules and regulations which will carry out the purposes and intent of this Chapter; the right to enter and inspect the business premises and collection vehicles of any collector and of any solid waste management facility; the right to require reasonable conditions in the application for a solid waste permit; the right to prohibit disposal of certain unacceptable waste at the I-66 Transfer Station, I-95 Sanitary Landfill or I-95 Energy/Resource Recovery Facility; and the right to adopt reasonable application forms and permit forms; provided that nothing herein contained shall in any way affect the authority of any other County agency as otherwise provided by the *Code of the County of Fairfax*.

(c) The Director shall determine solid waste permit fees, and set fees to be charged for the disposal of MSW at all Fairfax County owned, operated, or associated solid waste management facility. The Director may change, at any time, the fees charged for the solid waste permits and for the disposal of MSW at the I-66 Transfer Station, I-95 Sanitary Landfill, I-95 Energy/Resource Recovery Facility, or other associated solid waste management facility.

(d) The Director shall be responsible for implementing a recycling program, and shall have the authority to enforce compliance through use of civil penalties as authorized by this Chapter.

ARTICLE 2. Recycling.

Section 109.1-2-1. Administration.

(a) This Article defines the recycling system for the residences and non-residential properties in Fairfax County, and identifies and describes the following elements of the recycling system:

- (1) Materials that must be source-separated for recycling at both residences and non-residential properties (defined for the purposes of this Chapter as *recyclable materials*);
- (2) Parties responsible for the provision of certain residential and non-residential recycling systems; and
- (3) Required recycling reports to the County.

(b) Methods available for implementation and enforcement of this Article are described elsewhere as follows:

- (1) Article 3 of this Chapter addresses pre-collection and storage;
- (2) Article 5 of this Chapter describes collection requirements;
- (3) Article 9 of this Chapter presents the means and process of enforcement for this Chapter; and
- (4) The Recycling Program Requirements.

(c) The Director may approve alternative recycling systems that can demonstrate compliance with the intent of this Article to the satisfaction of the Department. All requests for alternative recycling systems must be submitted in writing to the Department. Approval must be granted by the Director prior to implementation.

(d) The Director may designate or alter which of the recyclable materials identified in Sections 109.1-2-2 and 109.1-2-3 which must be source separated.

(e) The provisions of this Chapter shall not affect the right of any person to sell or otherwise dispose of MSW material as provided in the Code of Virginia, Section 15.2-933, nor permitted under any other law of the Commonwealth of Virginia.

(f) For purposes of this Article, non-residential properties shall specifically include schools and other institutions.

Section 109.1-2-2. Recycling at Residential Properties.

(a) Occupants of single-family homes and townhouses shall source-separate: container glass; metal food and beverage containers; plastic bottles and jugs; yard waste; scrap metal; and cardboard and mixed paper, including but not limited to corrugated cardboard, magazines, newspaper, office paper, and miscellaneous paper products.

(b) Owners of multi-family dwelling units or their designees shall, within 30 days of taking ownership of these units, provide or cause to be provided a recycling system for residents to source-

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separate cardboard and mixed paper (including but not limited to magazines, newspaper, office paper, and miscellaneous paper products), container glass, metal food and beverage containers, plastic bottles and jugs, and scrap metal. The recycling system must also comply with the items listed below:

- (1) The size of any collection containers and the frequency with which they are collected must combine to create a recycling system of sufficient capacity that there is no need for residents to deposit material on the ground or put their recyclables in a refuse container.
- (2) All refuse and recycling containers must be emptied at least once weekly unless a reduced collection frequency application or an alternative recycling system has been approved in writing by the Director.
- (3) On or before February 1, 2016, any refuse collection container with a capacity of 2 cubic yards or greater must be accompanied by one or more recycling collection containers with volume equal to or greater than 25% of that of the refuse container.
- (4) Recyclables collection containers must be clearly labeled with regards to what materials are accepted for recycling and must meet applicable portions of Article 5 of Chapter 109.1.
- (5) Owners or their designees must provide each unit with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter. Notification may be in the form of community newspapers or other outreach techniques.
- (6) Owners or their designees are responsible for keeping the area around collection containers free from litter.

(c) The provisions of 109.1-2-2 do not impose any liability upon any multi-family dwelling unit owner (or designee) for failure of residents to comply with the requirements for the separation of recyclable materials nor upon any collector or transporter of recyclable materials for failure of its customers to comply with such regulations. However, all multi-family dwelling unit owners (or their designees) must provide a recycling system for their residents that conforms to the County requirements for such systems, and must provide such residents with regular notifications, as specified herein.

(d) To ensure compliance with applicable Code provisions, owners of multi-family dwelling units or their designees must maintain for a period of three years and make available to the Department for inspection and copying during normal business hours, upon request, any contracts and invoices for collection of materials to be disposed of or recycled. Contract prices and other such financial information may be deleted from materials provided.

Section 109.1-2-3. Recycling at Non-Residential Properties.

(a) Owners of non-residential properties or their designees shall, within 30 days of taking ownership of these properties, provide or cause to be provided a recycling system for their tenants, occupants, employees, and vendors to source-separate cardboard and mixed paper (including but not limited to magazines, newspaper, office paper, and miscellaneous paper products). Any such system must include the following:

- (1) Recyclables must be collected in a container specifically designed for the purpose of containing municipal solid waste and must comply with applicable portions of Article 5 - Collection.

- (2) The size of any collection containers and the frequency with which they are collected must combine to create a recycling system of sufficient capacity that there is no need for tenants to deposit material on the ground or put their recyclables in a refuse container.
- (3) All refuse and recycling containers must be emptied at least once weekly unless a reduced frequency application or an alternative recycling system has been approved in writing by the Director.
- (4) On or before February 1, 2016, any refuse collection container with a capacity of 2 cubic yards or greater must be accompanied by one or more recycling collection containers with volume equal to or greater than 25% of that of the refuse container.
- (5) All collection containers must be clearly labeled with regards to what materials are accepted for recycling and must meet applicable portions of Article 5 of Chapter 109.1.
- (6) Property owners or their designees must provide each tenant with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter.
- (7) Owners or their designees are responsible for keeping the area around collection containers free from litter.

(b) Within 30 days of taking ownership, owners or their designees of non-residential properties that meet or exceed the size thresholds defined in the County's Recycling Program Requirements shall also provide, or cause to be provided, a recycling system for their tenants, occupants, employees, and vendors to source-separate the establishment's Principal Recyclable Material (PRM). Non-residential properties which generate cardboard and mixed paper as their PRM need only recycle those materials.

(c) Construction and demolition contractors shall source-separate and recycle cardboard.

(d) The provisions of 109.1-2-3 do not impose any liability upon any non-residential property owner for failure of tenants, occupants, employees and/or vendors to comply with the requirements for the separation of recyclable materials, nor upon any collector or transporter of refuse or recyclable materials for failure of its customers to comply with such regulations.

(e) To ensure compliance with applicable Code provisions, owners of non-residential properties or their designees must maintain for a period of three years and make available to the Department for inspection and copying during normal business hours, upon request, any contracts and invoices for collection of materials to be disposed of or recycled. Contract prices and other such financial information may be deleted from materials provided.

(f) If a tenant contractually assumes responsibility for refuse and recyclables management, the responsibilities placed on the property owners or their designees in this Article will also apply to the tenant.

Section 109.1-2-4. Recycling Report Required.

The owners or their designees of all non-residential properties that meet or exceed the size thresholds defined in the County's Recycling Program Requirements, and companies that collect or manage MSW generated in Fairfax County, shall annually report, by March 1 for the previous calendar

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year, such nonproprietary information regarding waste generation, waste management, and recycling as is necessary to facilitate County compliance with regulations adopted pursuant to the *Virginia Code*, Section 10.1-1411. Quantities and material types are considered nonproprietary, absent a detailed explanation.

All reports required by this section shall be based on volume or weight of each material recycled, provided that where such measurements cannot be accurately determined, the report may be based on carefully estimated data. Where estimates are submitted, they must contain sufficient detail to reasonably describe how the estimate was prepared, including but not limited to such data as container volume, frequency of collection, percent full when collected, and the type of material collected for recycling.

When information is withheld as proprietary, the report shall specify the nature of the information withheld and the basis for its proprietary determination. Annual recycling reports shall be submitted on a standardized form to be provided by the Director, and shall be signed by a responsible company official. Said reports shall include but not be limited to the name and address of the reporting entity, period of time covered by the report, and type and weight/volume of each material reported. Supporting documentation used in preparation of the report shall be retained for audit and clarification of reported data for a period of two (2) years following submissions of said report.

Section 109.1-2-5. Removal of Recyclable Materials.

It shall be unlawful for any person to salvage or otherwise remove any recyclable materials from recycling routes, private recycling containers, Fairfax County recycling centers, or any other County solid waste management facility without the authorization of the Director.

Section 109.1-2-6. Maintenance of Recycling System.

(a) No solid waste permit shall be issued to a collector or continue in effect until and unless the collector provides a written statement indicating that it: maintains a recycling system for residential customers in accordance with this Chapter and offers and/or maintains a recycling system to multi-family and non-residential customers in accordance with this chapter.

(b) Recycling containers shall be subject to the requirements of Article 5 - Collections, Section 109.1-5-6.

(c) The mixing of refuse with any recyclables required to be source-separated or that have been source separated, except as provided for in 109.1-5-3 (d) (3), is prohibited.

(d) Where source-separated recyclable materials are set out for collection on a scheduled refuse-only collection day, collectors shall not collect those recyclables and said recyclables will be collected on the next scheduled recyclables or yard waste collection day. Collectors shall leave information for the customer to inform them about why those materials were not collected.

(e) Construction and demolition debris cannot be collected in the same container with MSW and/or recyclables.

(f) Only certain recyclables as designated by the Director can be collected in an open-top container. They are: white goods, scrap metal, Christmas trees, or cardboard at construction and demolition sites. This shall not apply to construction and demolition debris that is collected for recycling rather than disposal.

ARTICLE 3. Pre-collection and Storage.

Section 109.1-3-1. Storage.

All occupants of single-family homes and townhomes, and owners of multi-family dwelling units or non-residential properties in the County (or their designees) shall maintain secure, safe, and sanitary facilities for storage of MSW, including recyclables. Such facilities shall be convenient to inspection and collection, and shall provide for secure, safe, and sanitary storage prior to collection as follows:

- (a) Readily available and well-signed access for the type of collection vehicle or system to be used. Access to the recycling facility shall be as obvious and convenient to residents, tenants, customers, employees, or other system users as that provided for storage of refuse, in order to promote recycling wherever it is being made available;
- (b) Ease of use for tenants. Collection locations shall be well-signed. Recycling locations shall be clearly marked, with diagrams and photos as necessary to encourage use by non-English speakers;
- (c) The size, design, signage and proper care of containers shall be sufficient to provide for secure and sanitary storage of all refuse and recyclables generated by the residence or establishment for a seven-day period unless collected more frequently than once per week;
- (d) Refuse and recyclables shall be collected on a frequency adequate to prevent overfilling or spilling of refuse or recyclables from storage containers, and in no case less than weekly, unless otherwise authorized by the Director; and
- (e) Storage facilities shall be actively managed such that loose refuse, litter, and spillage from collection vehicles is minimized, and that any spillage is removed from the ground around the storage containers within 24 hours. Outside storage containers for refuse and recyclables shall be checked for proper closure daily, to prevent litter from blowing winds, and to discourage access by vermin and wildlife.

Section 109.1-3-2. MSW Management and Recycling Plans.

(a) The owner of any non-residential property or any multi-family dwellings or their designees shall develop a MSW Management and Recycling Plan consistent with the requirements of this Chapter, and make these Plans available to the Director for review and approval upon request. The Plan shall describe, at minimum:

- (1) Facility name and street address;
- (2) Name(s) of collection company(ies) providing refuse and recycling collection;
- (3) Number, location, and size of refuse and recycling containers or equipment;
- (4) Recyclable material(s) collected;
- (5) Frequency of refuse and recycling collections; and
- (6) Name and telephone number of the company official or property owner's representative responsible for implementing the plan.

(b) The MSW Management and Recycling Plan shall be updated and operational changes made concurrent with the following events:

- (1) Construction of a new facility or significant modification to an existing facility;
- (2) Occupancy by new tenants that materially change the function of the property resulting in changes in the MSW generated therein;
- (3) Change of ownership or property management firm; and
- (4) Change of MSW collection vendor(s) or every five years, whichever comes first.

(c) The MSW Management and Recycling Plan shall be provided to Fairfax County within 30 days of receiving a written request from the Director.

(d) The MSW Management and Recycling Plan shall be implemented within 30 days of occupancy or as required by item (b) above. The Director may also request proof that any MSW Management and Recycling Plan has been implemented and become operational.

ARTICLE 4. Required Permits, Registrations, and Certifications.

Section 109.1-4-1. General.

(a) The County shall regulate certain aspects of its integrated solid waste management system through the following:

- (1) Municipal Solid Waste (MSW) Collector Certificate to Operate (CTOs);
- (2) Other Solid Waste Permits, including:
 - (i) MSW Disposal Permits,
 - (ii) Special Waste/Use Permits, including Commercial Cash Accounts, Tire Disposal Accounts, Special Waste and Other Accounts; and
 - (iii) Vehicle permits issued that correspond to waste permits and/or customer accounts. Vehicle permits are issued to a specified vehicle and must remain with the vehicle.
- (3) Recycling Business Registration.
- (4) Regulation of community/homeowners associations, property managers, and solid waste brokers or other entities or designees inasmuch as they arrange for residential or non-residential refuse and recyclables collection/ management services.
- (5) The Solid Waste Management Program guidance documents.

(b) Any person providing regularly-scheduled refuse collection services is required to maintain a CTO and at least one vehicle designed and manufactured specifically for the collection of MSW. Each vehicle shall have a county-issued MSW collection vehicle permit. Any person providing refuse collection services on an ad-hoc basis is required to maintain the appropriate disposal or special waste/use permit (i.e., no CTO is required). This provision shall not apply to any business or vehicle which is solely transporting MSW which has originated and was generated from a site outside Fairfax County to a cooperative, inter-jurisdictional disposal site; provided that the business and/or collection vehicle is duly licensed and/or permitted by a respective member of the disposal site cooperative.

(c) Government entities are exempt from the bonding requirements of this Article.

(d) Changes to any information included in any application for any permit under this Chapter shall be communicated in writing to the Director within 30 days of the change. Examples of changes include, but are not limited to, change of business name, any changes to payment bond or required surety, change to back-up collector, change of street address for collection vehicle parking location, or changes to the Statement of Service required by this Chapter. In addition, changes to the business address, telephone number, or authorized agent or registered agent shall be reported to the Director within twenty-four (24) hours of change. See section 109.1-4-6.

Section 109.1-4-2. CTO Application and Recycling Registration Requirements.

(a) No person shall engage in the business of collecting MSW without a valid and current CTO or appropriate solid waste permit from the Director.

(b) No person shall engage in the business of collecting recyclables without first registering with the County as a recycling business. However, CTO holders that also collect recyclables are exempt from the requirement to register as a recycling business.

(c) The provisions of 109.1-4-2 (a) and (b) shall not apply to the County, nor employees for the holder of any CTO or permit/approval, nor shall this provision prohibit any person from collecting, processing, recycling, or disposing of their own household solid waste.

(d) A CTO or permit shall only be issued upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of the Fairfax County Code and the *Code of Virginia*. This includes proof of payment of other fees required by Fairfax County required under other codes. CTO Permit holders will be invoiced monthly for disposal charges incurred during the month.

(e) Applicants for a CTO shall provide the Director with a copy of the Statement of Service required by the Fairfax County Solid Waste Management Program Permit Manual, accompanied by proof acceptable to the County that customers are or will be furnished with the Statement of Service upon occupancy and at least annually thereafter.

(f) MSW collectors with only one permitted collection vehicle shall provide written certification to be included with the CTO application that another collector holding a current CTO is committed to act in a backup capacity should the permitted vehicle become unusable. The applicant must immediately notify the Director concerning any change in this backup arrangement during the term of the CTO. Backup collection arrangements obtained by the CTO holder may not be used by the CTO to avoid payment of delinquent disposal fees.

(g) The Director may require additional information of any applicant or holder of a CTO, permit, or registration as is necessary to ensure that the individual or company is competent to satisfactorily and lawfully perform or continue to perform the proposed service.

(h) Applications shall be approved or denied by the Director with 30 days of the receipt of a complete application.

(i) Applicants operating without the appropriate CTO or other permit(s), or operating while a CTO or permit has been suspended, may be denied renewal of a CTO or other required permit(s) for a period of up to one year from the time of the offense, in addition to any other penalties described in this Chapter.

(j) All CTO and permit holders shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which material is being discharged.

Section 109.1-4-3. MSW Collection Vehicle Permit.

(a) No company shall operate any vehicle to provide regularly-scheduled refuse collection without first obtaining a collection vehicle permit.

(b) All MSW collection vehicles operating under a CTO shall be inspected on a schedule set by the Director, who shall designate a reasonable time and place for collection vehicle inspections. All vehicles operating under a CTO shall meet the requirements of Section 109.1-5-6 (b).

(c) A vehicle permit shall be issued by the Director for each collection vehicle that passes inspection and for which the permit fee has been paid.

(d) The Director shall assign a permit number to each approved collection vehicle, and provide a visible permit (e.g., plate, sticker) that shall be permanently affixed by the applicant to both sides of the collection vehicle on the door of the cab or at the farthest point forward on the truck body.

(e) Vehicle permits shall expire according to a schedule specified by the Director, and shall not be transferred or prorated.

(f) In the event that any permitted collection vehicle is removed from service or sold, the permit holder shall notify the Director and the permit for that collection vehicle shall be removed and returned to the Director no less than 10 business days following the vehicle's removal from service or sale. This shall be done before any permit is issued to the new vehicle owner.

(g) In the event that a permit is lost, stolen or otherwise unrecoverable, the permit holder shall notify the Director in writing of the permit number of said collection vehicle and the circumstances of loss within 10 business days. This shall be done, as well as payment of a lost permit fee, before a replacement permit will be issued.

Section 109.1-4-4. Temporary Vehicle Permits.

(a) A temporary vehicle permit must be obtained for any additional collection vehicle not identified in the application for a CTO which is used or intended to be used by a collector already operating under a CTO. The temporary permit authorizes the collector to use a new, borrowed, rented or demonstrator collection vehicle not currently permitted by Fairfax County

(b) The Director may issue a temporary vehicle permit to any person who may need a temporary vehicle permit to collect or dispose of waste using a vehicle that is not otherwise permitted for that use by the County.

(c) The temporary collection vehicle permit shall expire according to a schedule specified by the Director, cannot be transferred or prorated, and may not be renewed without the specific approval of the Director. After the expiration of the temporary permit, the collector may use the collection vehicle only if it is permitted in accordance with provisions of this Chapter.

Section 109.1-4-5. Vehicle Permit Exemption.

Vehicles used exclusively for the collection of recyclables, when clearly identified as such with signs approved by the Director, are exempt from the permitting and bonding requirements of this Article. If the same vehicle uses Fairfax County designated disposal facilities, the permit and bonding requirements for collection vehicles shall apply. All recycling collection businesses and vehicles are subject to the registration requirements of Section 109.1-4-14.

Section 109.1-4-6. Collector Business Office Location and Contact Information.

No CTO shall be issued to a collector or continued in effect until and unless the applicant maintains an office that is located and operated in compliance with all laws and regulations applicable to the business. The office shall be used for the transaction of business, such business to include, but not be limited to, the receipt of correspondence and the maintenance of records. In addition, the collector shall maintain a telephone system for receipt of complaints. Any change of address, telephone number, or authorized agent or registered agent shall be reported to the Director within twenty-four (24) hours.

Section 109.1-4-7. Collector Bonding Required; Condition; Term Renewal.

(a) Any person seeking a CTO to collect MSW as described herein shall furnish a bond or other financial instrument acceptable to the County. The surety shall be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless said County, as well as any person, firm, or corporation, from all fees, charges, expenses, or damages that may be incurred by such entity, caused by any failure to comply with the provisions of this Chapter, neglect in the handling of MSW, or nonpayment of fees imposed for the disposal of MSW at any County-designated solid waste management facility. Handling of MSW shall be deemed neglected when the CTO holder fails to meet the frequency and/or quantity of collection required by this Chapter and contracted for by the customer. If the CTO holder fails to correct any such neglect or noncompliance with this Chapter within forty-eight (48) hours after receipt of written notice from the Director, the bond/surety shall be

forfeited and the principal and/or surety on said bond shall be required to reimburse the County of Fairfax or any customer of such CTO holder for any expense or damage incurred as a result of such neglect or failure.

(b) The said bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the CTO. Cancellation of the bond, for any reason, prior to the date of expiration of the CTO shall require a written notification to the Director at least 30 days prior to said cancellation. The collector's CTO will be revoked if an alternate bond, meeting the requirements of this section, is not provided.

(c) The Director may increase the bond amount for any CTO holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(d) CTO holders shall provide the Director with a copy of any current and active surety bond applicable to Fairfax County which must include the following details: name, address, e-mail address, and telephone number of the bonding agency, the amount of the bond, the bond duration, and the bond number.

Section 109.1-4-8. MSW Disposal Permits.

(a) No person shall dispose of MSW at Fairfax County disposal facilities without first obtaining a MSW Disposal Permit, or other appropriate permit, from the Director; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of any such permit, nor shall this provision prohibit any individual from collecting, processing, recycling or disposing of their own household MSW. Non-residential establishments engaged in disposing of their own MSW shall be subject to this provision.

(b) The Director shall issue a permit for MSW disposal upon receipt of a complete MSW Disposal Permit application. The applicant must certify that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including, but not limited to all applicable sections of the Fairfax County Code and the *Code of Virginia* as a condition to the issuance and continued validity of the Disposal Permit.

(c) The disposal permit holder shall be responsible for payment of solid waste disposal fees and for compliance by its employees and vehicles with the rules and regulations of the facility at which waste is being discharged.

(d) Disposal permits shall expire according to a schedule specified by the Director, and shall not be transferred or prorated.

Section 109.1-4-9. Disposal Bonding Required; Condition; Term Renewal.

(a) Any person seeking a permit only for the disposal of MSW shall furnish a bond, or other financial instrument acceptable to the County for each permitted vehicle disposing of MSW at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of MSW at any site designated by the County.

(b) The Director may increase the bond amount for any permit holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(c) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A disposal permit shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.

Section 109.1-4-10. Other Permits: General.

In addition to the permitting programs for waste collection and disposal companies described above, the County may require and issue permits for the other disposal activities and system users as necessary.

Section 109.1-4-11. Commercial Cash Accounts.

(a) Commercial cash accounts are issued to businesses that generate waste at their business and need to dispose of it by paying at the time of disposal rather than being billed for disposal services according to procedure set by the county. No bond is required to secure payment to the county.

(b) The Director shall issue a Commercial Cash Account upon receipt of a completed application.

(c) Failure to pay for service is a violation that incurs a penalty for nonpayment and other fees if not paid timely after notification by the County of the nonpayment.

(d) In order to use the commercial cash account, companies must obey all facility rules and regulations and keep the county notified of changes of address, vehicles or status of the business. The commercial cash account may be rescinded upon failure to comply with this code and other applicable portions of Fairfax County code.

Section 109.1-4-12. Tire Disposal Permits.

(a) No person shall dispose of tires at a County solid waste management facility without first obtaining a Tire Disposal Permit; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of a county disposal permit, nor shall this provision prohibit any individual resident or business from collecting, recycling or disposing of their own tires.

(b) The Director shall issue a permit for a Tire Disposal Permit upon receipt of a completed application and proof of the required bond amount.

(c) Companies will be invoiced for tire disposal for remittance to Fairfax County.

Section 109.1-4-13. Other Permit Types (reserved).

Section 109.1-4-14. Recycling Business Registration.

(a) No person shall engage in the business of collecting recyclable materials in Fairfax County as a commercial enterprise without first registering their organization and all vehicles used for this purpose with the Director; provided, however, that this provision shall not be deemed to apply to employees of the business owner, nor prohibit any individual from collecting, processing, or transporting recyclable materials generated within their own household or commercial establishment. Companies with active CTOs which have identified all vehicles used to collect MSW in their current CTO application need not register under this requirement.

(b) Persons registering their recycling business shall provide the Director with at least the following information and documents annually, upon request:

- (1) Name of business;
- (2) Type of business (single propriety, partnership, corporation, etc.);
- (3) Name of parent company (if applicable);
- (4) Owner(s) and Authorized Agent (if applicable);
- (5) Business address;
- (6) Mailing address;
- (7) E-mail address (if available);
- (8) Business telephone number;
- (9) A complete list of vehicles to be used in the collection of recyclable materials, including manufacturer, model, and body capacity/style.
- (10) Street address(es) of collection vehicle parking location(s);
- (11) Customer service area by U.S. Postal zip code, and type of service arrangements (e.g., subscription or contract); and
- (12) The types of recyclable material being collected (by established commercial grade), the anticipated quantity to be collected, and the final market, interim processor, or MRF to which collected materials are to be delivered and other information as necessary to establish compliance with section 109.1-2-4.

(c) Recycling companies will provide an update of any of the above information to the Director within 30 days of a change.

Section 109.1-4-15. Community Associations and Property Managers.

(a) Community associations and/or property managers or their designees that arrange for MSW collection service must provide communication between residents of the community and/or their tenants and the collection company providing MSW collection service through a Statement of Service upon occupancy and at least annually thereafter, as described in the Fairfax County Solid Waste Management Program Permit Manual.

(b) Any community association and/or property manager or his/her designee that arranges for MSW collection service that does not comply with County Code shall be in violation of the code, and subject to enforcement action, as provided in this Chapter.

(c) Any community association or property manager or his/her designee that knowingly or willfully contracts with a solid waste broker or a MSW collection company that is not registered or permitted to operate in Fairfax County as described above shall be in violation of this chapter.

Section 109.1-4-16. Solid Waste Brokers.

(a) All businesses operating in Fairfax County as a solid waste broker on behalf of customers must register annually as such with the Solid Waste Management Program. The registration must be completed in the provided format and include the following information:

- (1) Virginia State Corporation Commission ID number;
- (2) Contact information for all employees operating as a solid waste broker on behalf of customers that are located in Fairfax County, including for each such

employee:

- (i) Name.
- (ii) Address.
- (iii) Telephone number.
- (iv) E-mail address.

(3) List of contractors with whom the solid waste broker arranges collection service.

(b) All businesses operating as a solid waste broker shall pay an annual registration fee specified by the Director.

(c) Any solid waste broker operating without such registration is in violation of Chapter 109.1 and subject to enforcement action as provided in Article 9.

(d) Any business or individual who knowingly or willfully contracts with a solid waste broker that is not registered to operate in Fairfax County as described above shall be in violation of this Chapter.

(e) All solid waste brokers operating in Fairfax County must provide the following information to establishments in Fairfax County for which the broker has arranged solid waste services:

- (1) Information on the applicable recycling and refuse requirements in Fairfax County, as described in this Chapter and in Recycling Program Requirements which are incorporated by reference.
- (2) A Statement of Service defining what service will be provided to the customer, including days and frequency of service, type of containers, materials accepted, set-out instructions, and contact information. A completed "MSW Management and Recycling Plan" may be used in place of a statement of service; however, distribution of such must be accompanied by explanatory information such as a cover letter.

(f) In the event that a solid waste broker arranged for MSW and/or recycling collection service on behalf of a customer for which service is not in compliance with Chapter 109.1, both the broker and the customer, except as provided by Article 2 of this Chapter, shall be in violation of Chapter 109.1 and subject to enforcement action as provided in Article 9.

ARTICLE 5. Collection of Solid Waste.

Section 109.1-5-1. Intent

In the interest of public health, public safety, environmental quality, and the safeguarding of public and private property, this Article describes the manner in which MSW shall be collected. Lawful storage, set-out, collection, vehicles, and service levels are also addressed.

This Article is intended to specify the minimum or base levels of service to be provided by permitted MSW collectors in Fairfax County. Nothing in this Article is intended to prevent a collector from providing a level of service greater than the minimum levels required by this Article, at such rates and charges as agreed between the collector and customer.

Section 109.1-5-2. Manner of Collection.

(a) No person shall knowingly or willfully contract with any MSW collector who does not possess a County-issued Certificate-to-Operate for collection services or with any recycling business that is not registered with Fairfax County. For purposes of this Section, evidence of a knowing violation is the voluntary contracting by a person after having received written notice from the County that the MSW collector is not authorized to operate within the County or that the recycling business is not registered in the County.

(b) MSW collection shall be conducted in such a manner that it does not create a nuisance or safety hazard, adversely affect public health, violate any ordinance or Code of the County of Fairfax, nor allow such conditions to continue. This includes, but is not limited to, obeying all applicable speed limits and other traffic controls in transit to, from, and while serving collection routes, operating the vehicle on the correct side of the street at all times, giving way to oncoming traffic where it is required by law to do so, picking up litter that may have gathered around the collection container or been released during transportation, and returning empty containers so that they do not interfere with pedestrian or vehicular traffic.

(c) Collection of MSW shall be by permitted collection vehicles and shall be conducted in such a manner that it is not dumped, spilled, stored or thrown into any street, court, lane, alley, sewer inlet, vacant public lot, stormwater structure, public way, private property, or any area not designated as a lawful disposal site.

(d) In the event any MSW spills or falls into a street, public way, court, lane, or alley during the process of collection, it shall be deemed the responsibility of the collector to immediately correct such conditions.

(e) MSW shall be completely emptied at a lawful disposal or recycling site as soon as possible after the completion of any daily collection route, and shall not be stored in MSW collection vehicles for a length of time exceeding 24 hours, excluding Sundays.

(f) Collection vehicles shall not be parked overnight anywhere other than in properly zoned locations. Parking of collection vehicles on the public right-of-way, other than temporary stops during the collection route, is a violation of 109.1-6-2 (a).

(g) The following collection methods are prohibited unless specifically approved in writing by the Director:

- (1) Commingling refuse and recyclables in one collection container.
- (2) On-call service or collection of refuse or recyclables less frequently than once per week.

- (3) Collection of refuse or recyclables in an open-top container, other than white goods, scrap metal, Christmas trees, or cardboard at construction and demolition sites. This shall not apply to construction and demolition debris that is collected for recycling rather than disposal.

Section 109.1-5-3. Solid Waste to be Collected.

(a) MSW generated by normal household or commercial activities from premises to which collection services are being provided shall be collected in accordance with the requirements of this Chapter.

(b) The following materials are not subject to the collection requirement of 109.1-5-3:

- (1) Dead animals and pets;
- (2) Manure;
- (3) Tree stumps;
- (4) Dirt, stone, rock, and brick;
- (5) Containerized liquids;
- (6) Friable asbestos;
- (7) Lead-acid batteries;
- (8) Appliances containing ozone-depleting chemicals;
- (9) Scrap metal and discarded appliances that are over 50 pounds in weight or 48 inches in length; and
- (10) Poisons, corrosives, flammables, explosives or other unacceptable or hazardous waste. It should be noted that items considered to be household hazardous waste (HHW) are subject to the collection requirements of 109.1-5-3.
- (11) Any device containing a cathode ray tube.

(c) For materials required to be collected curbside under this Article: (1) materials too large for containers shall be collected if tied securely in bundles not exceeding four feet in length; and (2) no single container or bundle shall exceed 50 pounds gross weight.

(d) The base price for any collection contract shall include the minimum level of service unless otherwise approved by the Director. The minimum level of service for collection by material type shall be as follows:

- (1) *Refuse*: For residential customers, weekly removal of all refuse that is set out and prepared in accordance with Section 109.1-5-3(c). For non-residential customers, weekly collection is required unless specifically approved by the Director in writing.
- (2) *Recyclable Materials*: weekly removal of all recyclable materials from residential and non-residential customers properly prepared and set out. Other collection frequencies may be adopted for containerized and non-residential recycling service through application for and approval of an alternative recycling system.
- (3) *Yard waste from single-family and townhouse residential units, including brush*: from March 1 to December 24, weekly removal for recycling of up to ten individual paper bags, containers, or bundles. Brush may be limited to individual pieces or bundles of no greater than 50 pounds in weight, four feet in length, and

no piece larger than six inches in diameter. Outside this period, yard waste may be collected with refuse.

- (4) *Christmas trees from single-family and townhouse residential units:* removal and recycling of all trees of less than 8 feet in length that are set out during the first two weeks of January.

(e) Nothing in this Chapter shall preclude the collector from providing a higher level of service than required, with regard to frequency, quantity, size, material type, or other factor.

(f) All MSW collected by the collector, upon being loaded into the collection vehicle, shall become the property of the collector.

Section 109.1-5-4. Frequency of Collection.

(a) MSW shall be collected no less than once weekly from single-family residences and townhouses.

(b) MSW from all other sources shall also be collected no less than once weekly, unless a reduced collection frequency or alternative recycling system is approved in writing by the Director.

(c) MSW shall be collected more frequently, as may be fixed by the Director or collected more frequently as may be fixed by the Fire Marshal or Chief of Fire and Rescue Department upon a determination that more frequent collections are necessary for the preservation of the public safety with respect to any particular establishment producing flammable MSW

(d) Any solid waste management bond or other surety held by Fairfax County as required by Article 4 may be used to pay for collection of waste where the collector for whom the bond/surety was issued has failed to meet the minimum collection frequency specified in this Article.

Section 109.1-5-5. Collection Points and Set-Out Restrictions.

(a) Set-out of **residential** refuse and recycling shall comply with the following:

- (1) Containers for residential use shall be stored upon the residential premises.
- (2) The outside storage of refuse and recyclables in plastic bags with closed tops for not more than 12 hours is allowed by residential customers only.
- (3) Loose, bulky non-putrescible materials which are too large to fit into mechanically dumped containers may be set out, provided that they are: 1) securely bundled; or 2) completely contained and adequately secured to prevent leakage or spillage; and, 3) individual bundles, bags, boxes or other containers do not exceed four feet in length and 50 pounds in weight.
- (4) Yard waste may only be set out in paper bags, reusable containers, or in piles as instructed by the company which will be collecting them.
- (5) Recyclable materials shall be set out separately from MSW intended for disposal and contained so as to prevent leakage or spillage but not to preclude visual identification and inspection. Recycling shall be set out as described in subsections (3) and (4) above. Individual containers, bundles, bags, and/or boxes of recyclable materials set out for collection shall not exceed four feet in length and 50 pounds in weight.
- (6) On each scheduled collection day, residential refuse and recyclables shall be placed at the curb line or at a point on the property line at the edge of pavement

or terminal point of a pipestem driveway easement, adjacent to the public right of way where the collection vehicle stops. Residential refuse and recyclables shall not be set out for curbside collection on any sidewalks or any other portion of the public right of way where they could interfere with pedestrians or vehicular traffic.

- (7) If MSW placed at the curb or in the public right-of-way by a residential customer is not picked up within ten days, the County may remove them and recover the costs of removal.
- (b) Set-out of **non-residential** refuse and recycling shall comply with the following:
 - (1) All containers shall be stored upon private property, at points which shall be well drained and fully accessible to collection vehicles and to public health inspection, fire inspection, and solid waste inspection personnel, in addition to complying with Section 109.1-5-6.
 - (2) Non-residential customers are only permitted to store refuse and recyclables outdoors inside of an approved container as described in Section 109.1-5-6. Non-residential customers are not permitted to store refuse or recyclables in bags, boxes or bundles outside unless specifically approved in writing by the Director.
 - (3) Recyclable materials shall be set out separately from MSW intended for disposal and contained as described in Section 109.1-5-6 so as to prevent leakage or spillage but not to preclude visual identification and inspection. Co-collection of recyclables and refuse in a single container is not permitted and does not comply with the recycling requirements in Article 2 of this Chapter.
 - (4) If MSW placed at the curb or in the public right-of-way by a non-residential customer is not picked up within ten days, the County may remove it and recover the costs of removal from the customer, collection company and/or designee.

Section 109.1-5-6. Collection Containers and Vehicles.

- (a) Containers (including compactors, front-end containers and roll-off containers) used to collect refuse and recycling shall comply with the following:
 - (1) All refuse containers shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the disposed materials contained therein and must be closed when not in use.
 - (2) Any dumpster, front-loading container, compactor or wheeled cart provided for collection of recycling shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the recyclables contained therein but not to preclude visual identification and inspection and must be closed when not in use.
 - (3) Collectors who provide refuse and/or recycling containers shall be responsible for maintaining up-to-date name and contact information on these containers. Where a collector chooses to change this information, the collector must either correct the changes on every container (except containers used for collection at single-family homes or townhouses), or remove that container from service. Collectors may not charge a fee for updating containers in this manner.
 - (4) Open-top containers may not be used to collect, store, or transport refuse or any other putrescible items. Open-top containers may not be used for recyclables except per 109.1-5-2 (g)(3).

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- (5) Yard waste may only be collected if set out in paper bags, reusable containers, or in piles as described in Section 109.1-5-5 (a).
 - (6) All roll-off containers and compactors shall have safety reflectors affixed to both sides and ends of container. Safety reflector requirements for said roll-off container or compactor shall include the use and/or combination of reflective tape, reflective paint, or reflective glass
 - (7) All solid waste collection containers with a capacity of two cubic yards or larger and are used for the collection of solid waste shall be clearly marked with the owner's name and telephone number and the type of material acceptable for the container.
 - (8) In the event of refuse or recycling collection service cancellation by a customer, the owner of the refuse or recycling collection container shall be responsible for removing the container(s). All such containers shall be removed within ten business days of customer service cancellation. Any container which is not removed within ten business days of service cancellation shall be deemed abandoned and subject to removal by the County. The Director must make a reasonable attempt to notify the owner of the container prior to removal by the County. Containers removed by the County will be emptied, and stored at the owner's expense, including the cost for disposal of waste contained therein, and may not be reacquired until all such expenses have been paid. Any container not reacquired within 30 days will be forfeited to the County of Fairfax and sold at public auction or added to the County's assets.
 - (9) The County can require the owner of any container to remove that container if it is found to create a nuisance, traffic impediment or adversely affect public health or safety. If after making a reasonable attempt to notify the owner of this requirement the Director is unable to contact the owner, or if the owner fails to remove the container after notification of such requirement, the County may remove, empty and store the container at the owner's expense, including the cost for disposal of waste contained therein, and the container may not be reacquired until all such expenses have been paid. Any container not reacquired within 30 days will be forfeited to the County of Fairfax and sold at public auction or added to the County's assets.
- (b) All vehicles used to collect refuse and recycling shall comply with the following:
- (1) All collection vehicles to be used in the collection of MSW must have a collection vehicle permit (see Article 4).
 - (2) All collection vehicles for which a collection vehicle permit is being sought must be designed and manufactured specifically for the collection of MSW.
 - (i) Design and manufacture shall include a completely enclosed and watertight truck body with automatic dumping capabilities, and additional requirements as determined by the Director in the collection vehicle inspection and as described in this Chapter and in the Fairfax County Solid Waste Management Program Permit Manual.
 - (ii) All collection vehicles shall display the current name and telephone number of the company operating the vehicle.
 - (iii) Vehicles permitted to collect recyclables must be clearly identified as such. Such signage shall be removed if the vehicle is used to collect refuse.
 - (iv) The Director may consider the use of vehicles not specifically

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manufactured for the collection of MSW under emergency conditions or for other reasons as determined by the Director. The vehicles must receive a temporary vehicle permit prior to being put into service.

- (3) All collection vehicles to be used in the collection of MSW shall be maintained in a manner that prevents spillage of the types of MSW to be collected therein, and provides proper control of odors, vermin, and liquid waste leakage.
- (4) No collection vehicles of any type are required to enter into any pipestem driveway for the purpose of conducting refuse or recycling collection operations or turning around.

Section 109.1-5-7. Alteration of Collection Service; Required Notices.

(a) Any collector shall give written notice of intent to alter collection service to residential customers in the following manner:

- (1) *Sale or transfer of business:* the Director and all customers shall be notified within thirty (30) days of such sale or transfer, if no change or interruption in service will occur.
- (2) *Termination of service for nonpayment by customer:* the Director and all affected customers shall be notified no less than ten (10) days prior to the termination.
- (3) *Termination of service for any other reason:* the Director and all affected customers shall be notified no less than thirty (30) days prior to the change.
- (4) *Alteration of service or change in collection schedule:* the Director and all affected customers shall be notified no less than thirty (30) days prior to the change, except on cases of emergencies as declared by the Director.

(b) Any prepaid customer account will be either refunded by the collection company to the customer or transferred to the subsequent collector.

(c) All notifications to the Director required by this Section to customers whose service has been changed shall include evidence that all affected customers have been notified.

Section 109.1-5-8. Advance Billing of Customer.

Advance billing of residential customers shall not be permitted more than ninety (90) days in advance of delivery of collection service.

Section 109.1-5-9. Rates and Charges for Residential Collection.

(a) Collection companies shall explicitly notify residential customers in writing of all rates, charges, and fees (including, but not limited to, fuel surcharges, environmental fees, equipment recovery fees, and service cancellation fees) that will be billed as part of the service provided or at termination of that service. Such notification shall be made prior to commencement of service.

(b) Rates and charges shall be increased only after each residential customer and the Director have been given thirty (30) days' written notice in advance. Such notice shall include the amount of the increase. A rate change shall be deemed invalid if the collector fails to provide this notification.

(c) All notifications to the Director required by this Section shall include evidence that all affected customers have been notified.

(d) No refuse or recycling collector shall charge a fee greater than twenty-five dollars to remove its containers from a customer's residence.

Section 109.1-5-10. Assignment of Customer.

The Director shall have the authority to assign a specific customer to a collector; provided that the assigned customer shall first have paid any outstanding collection charges properly due any collector; and provided further that the collector assigned by the Director shall be one currently providing collection service in the area in which the assigned customer is located. The collector to whom any such customer is assigned shall, upon receipt of notice of assignment, commence rendering of collection service as assigned.

ARTICLE 6. Solid Waste Transportation

Section 109.1-6-1. Manner of Operation.

- (a) Any vehicle used to transport MSW materials in or through Fairfax County shall be operated in such a manner as not to create a nuisance or adversely affect public health.
- (b) MSW shall not be spilled, dumped, or thrown onto any street, court, lane, alley, sewer inlet, stormwater structure, vacant lot, public way, private property, or any area not designated as a permitted and authorized disposal site or recycling center.
- (c) All vehicles used to transport liquid and semi-liquid wastes with non-watertight vehicle bodies shall carry said wastes in watertight containers.
- (d) Any vehicle used to transport MSW and its contents shall not produce foul odors nor leak any fluids while parked or moving.
- (e) Violation of this section shall constitute a nuisance per se.

Section 109.1-6-2. Parking on Public Rights-of-Way Prohibited.

- (a) It is unlawful to park a vehicle which is being used to transport MSW in or through Fairfax County on a public right-of-way. Violation of this section shall constitute a nuisance per se.
- (b) This section shall be enforced by Fairfax County law enforcement officers. Those officers are hereby authorized to immediately remove, or cause to be removed, any vehicle parked in violation of this section. The owner or operator of any such vehicle shall be required to pay, in addition to any fine, the charges for such removal and storage.

Section 109.1-6-3. Parking on Private Property.

It is unlawful to park a loaded or partially loaded collection or transfer vehicle which is being used to transport MSW in or through Fairfax County on any private property unless: (1) the owner has consented in writing, (2) the written consent has been furnished to the Director, and (3) the site is a lawful place to store MSW collection and/or transfer vehicles in accordance with the County Zoning Ordinance.

ARTICLE 7. Disposal of Solid Waste

Section 109.1-7-1. Disposal Site Designation.

(a) All refuse collected under the provisions of this Chapter shall be disposed of only at disposal sites designated by the Director.

(b) It shall be unlawful for any person to dispose of MSW in or at any disposal site other than those designated by the Director pursuant to paragraph (a) above. This provision shall not apply to the occupants of single-family residences or family farms disposing of their own MSW if such occupants have paid the fees, rates and charges of other single-family residences and family farms in the same service area.

(c) Nothing contained in previous subsections shall be deemed applicable to:

- (1) Garbage, trash, and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter.
- (2) Recyclable materials which are those materials that have been source-separated by any person or materials that have been separated from garbage, trash, and refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy, except that yard waste must be delivered to a yard waste management facility legally permitted to operate in the Commonwealth of Virginia.
- (3) Construction/demolition debris to be disposed of in a landfill.
- (4) Waste oil.

(d) All MSW disposed of at solid waste management facilities operated by the County of Fairfax shall become the property of the County.

Section 109.1-7-2. Hazardous Waste Prohibited.

No hazardous waste shall be disposed of at the I-66 Transfer Station, the I-95 Sanitary Landfill, the I-95 Energy/Resource Recovery Facility, or any other disposal site in Fairfax County. The Director may request an analysis by a certified laboratory deemed acceptable by the Director of any MSW requested for disposal. The purpose of the laboratory analysis is to ensure that the MSW does not contain any hazardous constituents. The laboratory analysis must be submitted to the Director in advance and in writing. Only after favorable review by the Director may the MSW be accepted for disposal.

Section 109.1-7-3. Out-of-County Waste Prohibited.

It shall be unlawful for any person to use a Fairfax County Certificate to Operate and/or permit for the disposal of MSW originating outside the County of Fairfax, at the I-66 Transfer Station, I-95 Sanitary Landfill or I-95 Energy/Resource Recovery Facility, unless previously approved by the Director.

Section 109.1-7-4. Use of County Solid Waste Management Facilities.

(a) The Director may establish rules and regulations for the use of Fairfax County solid waste management facilities, including specifying the types and characteristics of waste which are unacceptable, and disposal charges.

(b) Use of County facilities shall be limited to the purpose for which access is granted.

(c) All persons disposing of MSW shall be charged, billed or invoiced for the disposal fees owed for use of County facilities. Any person failing to pay an account when due may incur a monthly charge of ten percent on the outstanding balance, annualized, from the first day following the day such account is due, or ten dollars, whichever is greater. An account shall be paid when payment has been received by the County.

Section 109.1-7-5. Permit for Solid Waste Management Facility--Required.

No person shall locate, operate, conduct or maintain a storage or disposal site (temporary or permanent), transfer station, recycling processing, landfill or any other type of solid waste management facility in the County unless all applicable state, federal and local laws, regulations, permits, and zoning requirements are met. Any facility must also be consistent with the County's Solid Waste Management Plan.

ARTICLE 8. Emergency Provisions

Section 109.1-8-1. Emergency Management.

(a) This Article sets forth specific solid waste management requirements that shall take affect during an emergency as determined the county's emergency manager or other situations identified by the Director. It is intended that the following take place with respect to solid waste management during emergency circumstances:

- (1) that the County will take the lead in coordinating emergency or disaster clean-up efforts countywide; and
- (2) that private collectors shall not be required to provide collection services in excess of the base levels of service defined elsewhere in this Chapter.

(b) At the Director's discretion, to the extent allowable by State and Federal law, specific requirements of this Chapter may be waived or suspended during a local emergency.

Section 109.1-8-2. Operation of Essential Facilities.

(a) During a local emergency, the Director shall authorize, as necessary, the operation of primary and temporary solid waste management sites by the County, including the provision of equipment and personnel support to maintain the functionality of essential County services and support emergency response and disaster recovery operations.

(b) The Director shall provide refuse collection and disposal services as necessary to support operation of essential facilities used to receive and care for evacuees, volunteer workers, emergency responders, and maintenance and support personnel.

(c) Specifics of operations described in this Section shall be further described in the County's Emergency Operations, Continuity of Operations, and Debris Management Plans.

Section 109.1-8-3. Emergency Debris Management.

Management of debris from areas impacted by an emergency shall continue to be a shared responsibility between the County and permitted private MSW collectors. However, at the Director's discretion, the County may elect to provide solid waste removal and disposal services in any area where the County deems that existing permitted waste collection resources are overwhelmed and/or improperly trained and/or inadequately equipped for the prevailing emergency conditions.

ARTICLE 9. Enforcement.

Section 109.1-9-1. Enforcement Authorities.

(a) The Director shall have and is hereby vested with the authority to pursue administrative, civil, or criminal enforcement actions on any entity that violates this Chapter.

(b) The Director may also undertake the following actions:

- (1) Issue notices of violations for violations of any provision of this Chapter.
- (2) Issue regulations and/or procedures to provide for administration, policy direction, and implementation of this Article.
- (3) Make and enter into consent agreements incidental to the performance of the Director's duties and the execution of the Director's powers under this Article.
- (4) Impose penalties for violations of this chapter as described herein and in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-2. Definition of Violation.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), every act or condition prohibited by this Chapter, and every failure or omission to act as required herein, is a violation of this Chapter.

Section 109.1-9-3. Requirements for Written Notice.

For the purpose of enforcing this Chapter, written notice may be provided by certified mail or by any appropriate method specified in Virginia Code Ann. § 8.01-296.

Section 109.1-9-4. CTO and/or Permit Suspension and Revocation.

(a) Violation of any requirement of this Chapter, the Fairfax County Code, the Fairfax County Zoning Ordinance, or any court orders relating thereto, shall be grounds to deny, suspend, or revoke any solid waste CTO and/or permit.

(b) Examples of grounds for CTO and/or permit denial, suspension or revocation include, but are not limited to, the following:

- (1) Disposal of unacceptable or hazardous waste.
- (2) Collection services fail to meet any applicable Fairfax County Code requirement.
- (3) Failure to pay solid waste disposal fees.
- (4) Use of a Fairfax County-issued permit for the disposal of waste from outside the County without prior authorization.
- (5) Disposal of county waste at sites other than those designated by the Director.
- (6) Storage or consolidation of waste fails to meet any applicable Fairfax County Code requirement.

(7) Failure to abide by the rules and regulations of a Fairfax County solid waste management facility.

(8) Failure to submit an accurate permit application.

(c) Further, it shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any person to misuse a collection vehicle, permit, and/or CTO. Misuse includes, but is not limited to, operating while CTO is suspended, any switching of permits between collection vehicles, any use of a permit in an unpermitted collection vehicle or by an unpermitted collector, and/or any use of a discontinued CTO and/or permit.

(d) It shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any company which is delinquent in its payment of the disposal bill to Fairfax County to use the collection vehicle and/or permit of another company to gain access to any County solid waste management facility. It shall be unlawful for any company to allow another company to use its collection vehicle and/or permit in the aforementioned manner.

(e) In the event the Director elects to consider suspending or revoking an issued CTO and/or permit, except in instances involving the nonpayment of fees, charges, fines, or civil penalties, or the disposal of unacceptable or hazardous waste, the permit holder will be notified by certified mail that said CTO and/or permit is under review. The CTO/permit holder will have 48 hours after receipt of the letter of notification to correct any deficiencies and to notify the Director of the corrective action taken. If satisfactory corrective action is not taken within 48 hours, the CTO and/or permit may be suspended or revoked by the Director. This shall not be construed to limit the authority of the Director to immediately suspend without notice any CTO/permit holder for the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste.

(f) Any revocation, suspension or denial of a CTO or permit, other than those related to the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste, shall be in writing and may be appealed to the County Executive or his designee within ten days of the date of revocation, suspension or denial. Any appeal shall be in writing and filed with the County Executive or his designee. Thereafter, the County Executive or his designee shall promptly schedule a hearing at which the applicant and all interested parties, which may include but are not limited to the Director of the Fairfax County Solid Waste Management Program, the Zoning Administrator, the Health Officer, the Police Department, the Department of Code Compliance, the Department of Tax Administration and the Board of Supervisors of Fairfax County, Virginia, may present testimony or evidence. Any interested party or the applicant may be represented by counsel at the hearing.

Section 109.1-9-5. Penalties - Recycling Violations.

Violation of any provision of the recycling requirements of this Chapter, or any rule or regulation adopted hereunder, including but not limited to the required registration of a recycling business, shall be punishable by a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. No criminal penalties shall be imposed for such violations. Each household, business, or collection point at which a violation of any provision of the recycling requirements of this Chapter occurs shall constitute a separate offense.

Section 109.1-9-6. Penalties – Disposal Violations.

(a) Except as provided for in 109.1-9-6 (b), any disposal of waste at an improper or prohibited site shall be subject to a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. Each day any violation continues shall constitute a separate offense. Violators may also have their CTO and/or collection/ disposal permits denied, suspended, restricted or revoked, and denied a CTO and/or permit for a period of up to one (1) year from the time of the offense.

(b) Any person who disposes of MSW originating outside the County of Fairfax at a County

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facility where such waste is prohibited shall be subject to suspension from use of said facility for a period of time not to exceed one hundred twenty (120) calendar days and a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual.

(c) Disposing of waste at a County solid waste management facility without having paid the required disposal fee will be considered a violation, and may subject the person to a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-7. Penalties - Contracting With Unauthorized Collector or Solid Waste Broker.

Contracting with a person not authorized to perform refuse and/or recycling collection services or act as a Solid Waste Broker within Fairfax County shall be subject to a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. For purposes of this Section, evidence of a violation is the voluntary contracting by a person, business, property owner, property manager, solid waste broker, or community/homeowners' association with an MSW collector or Solid Waste Broker after having received written notice from the Director that the refuse or recycling collector or Solid Waste Broker is not authorized to operate within the County.

Section 109.1-9-8. Penalties - Violations Not Otherwise Specified.

Violation of any provision of this Chapter, unless otherwise specified in this Article, shall be punishable as a Class II misdemeanor, with a fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-9. Penalties - Escalation of Penalty for Repeat Offenders.

(a) Except as otherwise provided by federal, state or local law, the Director shall have the authority to recommend leniency in the event of first violations, and to seek escalating penalties for repeated violations in a 12 month period.

(b) In circumstances where a person or business has violated one or more provisions of this Chapter on at least three separate occasions within 12 months, the Director shall pursue an additional financial penalty equal to a reasonable estimate of the financial benefits of non-compliance as described in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-10. Continuing Violations.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), acts, omissions, or conditions in violation of this Chapter which continue, exist, or occur on more than one day constitute separate violations and offenses on each such day.

Section 109.1-9-11. Consent Agreements.

(a) As an alternative to pursuing criminal or civil remedies described elsewhere in this Section, the Director may make and enter into Consent Agreements with suspected violators as a means to resolve the violation(s).

(b) For the purpose of this Section, a Consent Agreement is an administrative order issued with the consent of both parties, to perform specific actions to come into compliance with this Chapter and any relevant rules and regulations.

(c) The Director shall develop Consent Agreements and generally draft them after one or more meetings with the alleged violator. Such agreements shall be developed cooperatively and entered

into by mutual agreement, even though the Agreement shall effectively serve as a direct order to the alleged violator to comply.

(d) A Consent Agreement may be issued without an adversarial proceeding, and therefore need not include a determination that a violation has occurred.

(e) Consent Agreements issued pursuant to this Section shall include, at a minimum, the following:

- (1) An established and enforceable course of action for bringing a suspected or alleged violator into compliance expeditiously, with explicit deadlines by which compliance must be achieved.
- (2) The assessment and collection of a monetary penalty for the violation(s), consistent with the requirements of this Chapter and appropriate County policy and guidance.
- (3) An explanation of what further actions the County may take if the violator fails to meet the terms of the Consent Agreement.

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

ADMINISTRATIVE - 14

Authorization to Advertise Public Hearings on Proposed Amendment to the Code of the County of Fairfax, Chapter 122 (Tree Conservation Ordinance) Regarding the Posting of Signs on Private Property When an Infill Lot Grading Plan Is Submitted to the County for Review

ISSUE:

Board of Supervisors' authorization to advertise public hearings on a proposed amendment to Chapter 122 (Tree Conservation Ordinance) of *The Code of the County of Fairfax, Virginia* (County Code), regarding posting signs to notify the public when an infill lot grading plan is submitted to the County for review.

RECOMMENDATION:

The County Executive recommends that the Board authorize the advertisement of the proposed amendment as set forth in the Staff Report dated November 7, 2016.

The proposed amendment has been prepared by Land Development Services (LDS) and coordinated with the Urban Forest Management Division of the Department of Public Works and Environmental Services, and the Office of the County Attorney.

TIMING:

Board action is requested on December 6, 2016, to advertise public hearings before the Planning Commission on January 11, 2017, and before the Board on February 14, 2017 at 4:00 p.m. The proposed amendment will become effective on March 1, 2017, at 12:01 a.m. The County will execute a contract with a vendor that will post the signs as close to March 1, as possible.

BACKGROUND:

Recently, the General Assembly passed legislation that resulted in the enactment of § 15.2-961.2 of the *Code of Virginia*, effective July 1, 2016. The legislation provides the enabling authority for an amendment to the Tree Conservation Ordinance to allow the County to post signs on private property that notify the public that an infill lot grading plan is pending for review by the County. The legislation also specifies that the County cannot require the applicant to be responsible for such posting, and the failure to post the sign at the property cannot be a reason for denial of the grading plan.

Board Agenda Item
December 6, 2016

At the July 26, 2016, meeting, the Board directed staff to study the enabling legislation, identify the requisite amendments to the County Code, and present a proposal for implementation to the Development Process Committee (Committee) for further consideration. Staff presented to the Committee on September 13, 2016, and provided additional information to the Committee on October 11, 2016.

PROPOSED AMENDMENT:

The proposed amendment to Chapter 122 (Tree Conservation Ordinance) is necessary to implement the legislation and will add a new Article 8, Notice, and renumber the subsequent article accordingly. The new provision authorizes the County to post a sign on private property to notify the public that an infill lot grading plan has been submitted to the County for review. The proposed provision specifies the minimum information that will be included on the sign and incorporates the state mandated limitation that the County cannot disapprove the plan for the failure to post the notice.

The proposed amendment to Chapter 122 (Tree Conservation Ordinance) is included as Attachment A to the Staff Report.

REGULATORY IMPACT:

The proposed provision applies to existing single-family detached residential lots when the construction of a new home, or addition to an existing home, will include land-disturbing activity in excess of 2,500 square feet and will require approval of an infill lot grading plan as required in accordance with Paragraph 3 of Section 2-601 of the Zoning Ordinance.

The proposed provision does not apply to other projects on residential lots when approval of an infill lot grading plan is not required, including, but not limited to:

- Building permits for residential projects when construction will not include land-disturbing activity in excess of 2,500 square feet, such as additions or tear downs and rebuilds on existing foundations;
- Conservation plans for additions, accessory structures and demolitions, where a certified plat may be submitted for approval by the Director in accordance with Paragraph 4 of Section 2-601 of the Zoning Ordinance; and
- Rough grading plans for land-disturbing activity in excess of 2,500 square feet which do not include construction of, or addition to, a single-family home.

FISCAL IMPACT:

Implementation of the proposed amendment will have an impact on the County budget. LDS estimates the Ordinance will cost approximately \$141,323 annually. This estimate

Board Agenda Item
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includes a contract with a vendor for the sign installation and removal, as well as 1/1.0 Full Time Equivalent position for the anticipated increase in demand on staff resources for the coordination, review and response to the comments received. These resources will be included for the Board's consideration and approval as part of the Fiscal Year 2018 budget development process. Additional activities, such as the administration of the contract, coordination with the vendor when plans are submitted, and providing copies of the submitted plans to interested parties upon request, will be assigned to existing staff resources. There is no anticipated additional cost to homeowners and homebuilders because the County will be responsible for posting the signs in accordance with the state legislation.

ENCLOSED DOCUMENTS:
Attachment I – Staff Report

STAFF:
Robert A. Stalzer, Deputy County Executive
Bill Hicks, Director, Land Development Services

LAND DEVELOPMENT SERVICES

STAFF REPORT

- ☒ PROPOSED COUNTY CODE AMENDMENT
- ☐ PROPOSED PFM AMENDMENT
- ☐ APPEAL OF DECISION
- ☐ WAIVER REQUEST

Proposed Amendment to Chapter 122 (Tree Conservation Ordinance) of The Code of the County of Fairfax, Virginia, Regarding the Posting of Signs on Private Property When an Infill Lot Grading Plan is Submitted to the County for Review.

Authorization to Advertise

December 6, 2016

Planning Commission Hearing

January 11, 2017 at 8:15 p.m.

Board of Supervisors Hearing

February 14, 2017 at 4:00 p.m.

Prepared by:

Site Code Research and
Development Branch, LDS
Jerry Stonefield (703) 324-1780

November 7, 2016

Staff Report

A. Issue:

Proposed amendment to Chapter 122 (Tree Conservation Ordinance) of The Code of the County of Fairfax, Virginia regarding the posting of signs on private property when an Infill Lot Grading Plan is submitted to the County for review.

B. Recommended Action:

Staff recommends that the Board of Supervisors (the Board) adopt the proposed amendment as set forth in Attachment A. Staff further recommends that the Board make the proposed amendment effective March 1, 2017, to allow for the execution of a contract with a vendor that will post the signs.

C. Timing:

Board of Supervisors Authorization to Advertise – December 6, 2016

Planning Commission Public Hearing – January 11, 2017

Board of Supervisors Public Hearing – February 14, 2017, 4:00 p.m.

Effective Date – 12:01 a.m. on March 1, 2017

D. Source:

Land Development Services (LDS)

E. Coordination:

The proposed amendments have been prepared by LDS and coordinated with the Urban Forest Management Division of the Department of Public Works and Environmental Services, and Office of the County Attorney.

F. Background:

Recently, the General Assembly passed legislation that resulted in the enactment of § 15.2-961.2 of the *Code of Virginia*, effective July 1, 2016. The legislation provides the enabling authority for an amendment to the Tree Conservation Ordinance to allow the County to post signs on private property that notify the public that an infill lot grading plan is pending for review by the County. The legislation also specifies that the County

cannot require the applicant to be responsible for such posting, and the failure to post the sign at the property cannot be a reason for denial of the grading plan. A copy of the legislation is included as Attachment B.

At the July 26, 2016, meeting, the Board directed staff to study the enabling legislation, identify the requisite amendments to the County Code, and present a proposal for implementation to the Development Process Committee (Committee) for further consideration. Staff presented to the Committee on September 13, 2016, and provided additional information to the Committee on October 11, 2016.

The proposed amendment to Chapter 122 (Tree Conservation Ordinance) is necessary to implement the legislation. A summary of the proposed amendment is set forth below.

G. Summary of Proposed Amendment:

The proposed amendment to Chapter 122 (Tree Conservation Ordinance) will add a new Article 8, Notice, and renumber the subsequent article accordingly. The new provision authorizes the County to post a sign on private property to notify the public that an infill lot grading plan has been submitted to the County for review. The proposed Code provision specifies the minimum information that will be included on the sign and incorporates the state mandated limitation that the County cannot disapprove the plan for the failure to post the notice.

The proposed amendment to Chapter 122 is included as Attachment A.

H. Regulatory Impact:

The proposed provision applies to existing single-family detached residential lots when the construction of a new home, or addition to an existing home, will include land-disturbing activity in excess of 2,500 square feet and will require approval of an infill lot grading plan as required in accordance with Paragraph 3 of Section 2-601 of the Zoning Ordinance.

The proposed provision does not apply to other projects on residential lots when approval of an infill lot grading plan is not required, including, but not limited to:

- Building permits for residential projects when construction will not include land-disturbing activity in excess of 2,500 square feet, such as additions or tear downs and rebuilds on existing foundations;
- Conservation plans for additions, accessory structures and demolitions, where a certified plat may be submitted for approval by the Director in accordance with Paragraph 4 of Section 2-601 of the Zoning Ordinance; and
- Rough grading plans for land-disturbing activity in excess of 2,500 square feet which do not include construction of, or addition to, a single-family home.

I. Attached Documents:

Attachment A – Proposed Amendment to Chapter 122 (Tree Conservation Ordinance)

Attachment B – Virginia Acts of the Assembly, 2016 Session, Chapter 412

Proposed Amendments to Chapter 122 (Tree Conservation Ordinance)
of
The Code of the County of Fairfax, Virginia

Amend Chapter 122 (Tree Conservation Ordinance), by adding a new Article 8, and renumbering the subsequent article accordingly, to read as follows:

ARTICLE 8.

Notice

Section 122-8-1. Notice for Infill Lot Grading Plans

(a) Upon submission and acceptance for review of an infill lot grading plan, required in accordance with Paragraph 3 of Section 2-601 of Article 2 of the Zoning Ordinance, the Director will, except for minor revisions to approved plans that do not affect the limits of clearing and grading, post a sign on the property to notify the public that the plan has been submitted for review. The sign shall include, at a minimum, the following information:

1. Notice that an infill lot grading plan has been submitted to the County for review,
2. The reference number of the plan,
3. The street address of the property (if assigned), and
4. The address and telephone number of the County office where a copy of the plan may be viewed.

(b) The failure to post the sign at the property shall not be grounds for denial of the plan.

CHAPTER 412

An Act to amend the Code of Virginia by adding a section numbered 15.2-961.2, relating to tree conservation ordinance; notice.

Approved March 11, 2016

[H 647]

Be it enacted by the General Assembly of Virginia:

- 1. That the Code of Virginia is amended by adding a section numbered 15.2-961.2 as follows:**

§ 15.2-961.2. Conservation of trees; notice of infill lot grading plan.

An ordinance adopted pursuant to § 15.2-961.1 may allow a locality to post signs on private property that is proposed to be redeveloped with one single-family home that notify the public that an infill lot grading plan is pending for review before the locality. The locality may not require the applicant to be responsible for such posting. The failure to post the property shall not be a ground for denial of such grading plan.

ADMINISTRATIVE - 15

Authorization for the Department of Family Services to Apply for and Accept Grant Funding from the Department of Health and Human Services for Supplemental Funding Associated with the Early Head Start Child Care Partnership and Expansion Grant

ISSUE:

Board of Supervisors authorization is requested for the Department of Family Services to apply for and accept grant funding, if received, from the Department of Health and Human Services, Administration for Children and Families, Office of Head Start in the amount of \$576,929, including \$115,386 in Local Cash Match. The grantor has authorized the County to apply for supplemental funding that is available as a result of unexpended federal funds from the prior grant program year. The funding is specifically being approved to support program quality improvement, address new health and safety requirements, and provide professional development as required by the new Federal Head Start Performance Standards released October 1, 2016. The grant period is July 1, 2016 to June 30, 2017. Program year 2015 was the first year of the Child Care Partnership and Expansion initiative, and unanticipated delays in program startup resulted in unexpended federal and local funding. The Local Cash Match balance from program year 2015 is available to meet the non-federal funding requirements for this supplemental funding application for program year 2017. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Family Services to apply for and accept grant funding, if received, from the Department of Health and Human Services, Administration for Children and Families, Office of Head Start in the amount of \$576,929, including \$115,386 in Local Cash Match. Supplemental funding is specifically being provided to support program quality improvement, address new health and safety requirements, and provide professional development. No new grant positions are being requested with this funding; however, grant funding currently supports 13/11.5 FTE grant positions.

TIMING:

Board action is requested on December 6, 2016. The application associated with the Early Head Start Child Care Partnership and Expansion grant was due on November 4,

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2016. The Department of Family Services submitted the application in accordance with Board policy for supplemental awards. However, the grantor has indicated that before funding is awarded, the Board of Supervisors must formally approve the application; therefore, this Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

The Department of Family Services, Child Care Division was awarded a combined Early Head Start Child Care Partnership and Expansion grant in FY 2015, and again in FY 2017 to serve 56 infants and toddlers, and their families, by establishing new partnerships with family child care providers and expanding the existing EHS center-based option at the Gum Springs Glen Early Head Start program. The grantor has authorized the County to submit an application to carryover unexpended funds from the prior grant program year to support critical requirements in the current program year, such as program quality improvement initiatives, addressing new health and safety requirements, and providing professional development opportunities for staff as required by the new Federal Head Start Performance Standards released October 1, 2016.

FISCAL IMPACT:

Grant funding in the amount of \$576,929, including \$115,386 in Local Cash Match, is being requested to support program quality improvement, address new health and safety requirements, and provide professional development. Program year 2015 was the first year of the Child Care Partnership and Expansion initiative, and unanticipated delays in program startup resulted in unexpended federal and local funding. The Local Cash Match balance from program year 2015 is available to meet the non-federal funding requirements for this supplemental funding application for program year 2017. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2017. This grant does allow the recovery of indirect costs; however because this funding opportunity is highly competitive, the Department of Family Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

No new grant positions are being requested with this funding; however, the Early Head Start Child Care Partnership and Expansion Grant currently supports 13/11.5 FTE grant positions. The County has no obligation to continue funding the existing positions if grant funding ends.

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ENCLOSED DOCUMENTS:

Attachment 1: Early Head Start Child Care Partnership and Expansion Application

STAFF:

Patricia D. Harrison, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie D. Twohie, Director, Office for Children, Department of Family Services

| Application for Federal Assistance SF-424 | | |
|---|---|--|
| * 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application | * 2. Type of Application: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input checked="" type="checkbox"/> Revision | * If Revision, select appropriate letter(s): <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">Increase Award</div> * Other (Specify): <div style="border: 1px solid black; height: 20px; width: 100%;"></div> |
| * 3. Date Received: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | 4. Applicant Identifier: <div style="border: 1px solid black; padding: 2px;">03HP0003</div> |
| 5a. Federal Entity Identifier: <div style="border: 1px solid black; padding: 2px;">N/A</div> | | 5b. Federal Award Identifier: <div style="border: 1px solid black; padding: 2px;">03HP0003</div> |
| State Use Only: | | |
| 6. Date Received by State: <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | 7. State Application Identifier: <div style="border: 1px solid black; width: 200px; height: 20px;"></div> |
| 8. APPLICANT INFORMATION: | | |
| * a. Legal Name: <div style="border: 1px solid black; padding: 2px;">FAIRFAX COUNTY VIRGINIA</div> | | |
| * b. Employer/Taxpayer Identification Number (EIN/TIN): <div style="border: 1px solid black; padding: 2px;">54-0787833</div> | | * c. Organizational DUNS: <div style="border: 1px solid black; padding: 2px;">074837626</div> |
| d. Address: | | |
| * Street1: <div style="border: 1px solid black; padding: 2px;">12000 Government Center Pkwy</div> | | |
| Street2: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | |
| * City: <div style="border: 1px solid black; padding: 2px;">Fairfax</div> | | |
| County/Parish: <div style="border: 1px solid black; padding: 2px;">Fairfax County</div> | | |
| * State: <div style="border: 1px solid black; padding: 2px;">VA: Virginia</div> | | |
| Province: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | |
| * Country: <div style="border: 1px solid black; padding: 2px;">USA: UNITED STATES</div> | | |
| * Zip / Postal Code: <div style="border: 1px solid black; padding: 2px;">22035-0002</div> | | |
| e. Organizational Unit: | | |
| Department Name: <div style="border: 1px solid black; padding: 2px;">Department of Family Services</div> | | Division Name: <div style="border: 1px solid black; padding: 2px;">OPC- Head Start & Early Head S</div> |
| f. Name and contact information of person to be contacted on matters involving this application: | | |
| Prefix: <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | * First Name: <div style="border: 1px solid black; padding: 2px;">Jennifer</div> | |
| Middle Name: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | |
| * Last Name: <div style="border: 1px solid black; padding: 2px;">Branch</div> | | |
| Suffix: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | |
| Title: <div style="border: 1px solid black; padding: 2px;">Head Start Division Director</div> | | |
| Organizational Affiliation: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | | |
| * Telephone Number: <div style="border: 1px solid black; padding: 2px;">(703) 324-8087</div> | | Fax Number: <div style="border: 1px solid black; padding: 2px;">(703) 324-8200</div> |
| * Email: <div style="border: 1px solid black; padding: 2px;">jennifer.branch@fairfaxcounty.gov</div> | | |

| |
|---|
| Application for Federal Assistance SF-424 |
| <p>* 9. Type of Applicant 1: Select Applicant Type:</p> <p>County Government</p> <p>Type of Applicant 2: Select Applicant Type:</p> <p></p> <p>Type of Applicant 3: Select Applicant Type:</p> <p></p> <p>* Other (specify):</p> <p></p> |
| <p>* 10. Name of Federal Agency:</p> <p>ACF-Head Start</p> |
| <p>11. Catalog of Federal Domestic Assistance Number:</p> <p>93.600</p> <p>CFDA Title:</p> <p>Head Start</p> |
| <p>* 12. Funding Opportunity Number:</p> <p>eGrants-N/A</p> <p>* Title:</p> <p>N/A</p> |
| <p>13. Competition Identification Number:</p> <p>Not Applicable</p> <p>Title:</p> <p>Not Applicable</p> |
| <p>14. Areas Affected by Project (Cities, Counties, States, etc.):</p> <p>1. FAIRFAX COUNTY 2. CITY OF FALLS CHURCH 3</p> |
| <p>* 15. Descriptive Title of Applicant's Project:</p> <p>Early Head Start- Child Care Partnership and Expansion - Virginia (Fairfax County)</p> |
| <p>Attach supporting documents as specified in agency instructions.</p> |

| Application for Federal Assistance SF-424 | |
|---|---|
| 16. Congressional Districts Of: | |
| * a. Applicant VA-008 | b. Program/Project VA-008, VA-010, VA-011 |
| Attach an additional list of Program/Project Congressional Districts if needed. <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | |
| 17. Proposed Project: | |
| * a. Start Date: 07/01/2016 | * b. End Date: 06/30/2017 |
| 18. Estimated Funding (\$): | |
| * a. Federal | 461,543 |
| * b. Applicant | 115,386 |
| * c. State | |
| * d. Local | |
| * e. Other | 0 |
| * f. Program Income | |
| * g. TOTAL | 576,929 |
| * 19. Is Application Subject to Review By State Under Executive Order 12372 Process? | |
| <input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on | |
| <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review. | |
| <input checked="" type="checkbox"/> c. Program is not covered by E.O. 12372. | |
| * 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.) | |
| <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| If "Yes", provide explanation and attach <div style="border: 1px solid black; height: 20px; width: 100%;"></div> | |
| 21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001) | |
| <input checked="" type="checkbox"/> ** I AGREE | |
| ** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions. | |
| Authorized Representative: | |
| Prefix: Ms. | * First Name: Sharon |
| Middle Name: | |
| * Last Name: Bulova | |
| Suffix: | |
| * Title: Chairman, Board of Supervisors | |
| * Telephone Number: (703) 324-2321 | Fax Number: |
| * Email: sharon.bulova@fairfaxcounty.gov | |
| * Signature of Authorized Representative: Sharon Bulova | |
| * Date Signed: 10/28/16 | |

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ADMINISTRATIVE - 16

Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia - Chapter 82 (Motor Vehicles and Traffic), Article 2 (Signs, Signals and Markers), to Add a New Section 82-2-8 Relating to the Authorization for the Fairfax County School Board to Install and Operate a Video Monitoring System to Enforce the Law Against Passing Stopped School Buses

ISSUE:

Authorization to advertise a public hearing to consider amendment to *The Code of the County of Fairfax*, Chapter 82, Article 2, to add a new section 82-2-8.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on January 24, 2017, at 4:30 p.m., to consider adoption of this ordinance.

TIMING:

Board action is requested on December 6, 2016, to provide sufficient time to advertise a January 24, 2017 public hearing on the proposed ordinance.

BACKGROUND:

Va. Code Section 46.2-844, which is incorporated into the Fairfax County Code, requires motorists who approach a school bus that has stopped to take on or discharge passengers to stop until the passengers are clear of the road (motorists do not need to stop when a physical barrier or unpaved area separates them from the bus). Violations subject drivers to a \$250 civil penalty. During the 2011 General Assembly, legislation was enacted to allow localities, by ordinance, to authorize the local school division to install and operate video-monitoring systems on school buses to catch violators. The ordinance could authorize the school division to install and operate such systems directly, or to contract with a private vendor to do so on its behalf. The 2011 legislation was similar in some respects to state statutes that authorize video monitoring to catch red light violators, drivers who fail to pay tolls, and drivers who violate the Dulles Access Road restrictions. However, there were also provisions that differed significantly from other photo monitoring statutes, making implementation of the school bus authority difficult for local governments. One of the most challenging differences was that other video-monitored offenses statutes allow for the mailing of summonses, while there was no such language in the school bus statute. Therefore, as enacted in 2011, the statute

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required all photo school bus summonses to be personally served on the alleged violator.

A coalition of local governments, including Fairfax County, sought to address obstacles to implementation through legislation in the 2016 General Assembly. As a result of these efforts, which were also supported by Fairfax County Public Schools (FCPS), HB 168 (LaRock, Kory, Krizek)/SB 120 (Carrico, Favola, Wexton) were enacted, allowing summonses to be mailed.

Since the enactment of the 2016 legislation, staff has worked with key stakeholders, including representatives from the Fairfax County Schools to resolve other implementation issues not addressed in either the original legislation or the 2016 amendments. In July 2016, the Board sent a letter to the Executive Secretary of the Supreme Court of Virginia supporting an amendment to the Uniform Fine Schedule to allow pre-payment of violations. The Committee on District Courts met on September 8 and endorsed the County's recommendation, as did the Virginia Supreme Court, and the Uniform Fine Schedule was amended in September to allow violations to be pre-payable. In September 2016, another significant obstacle was removed when the Commissioner of the Virginia Department of Motor Vehicles (DMV) assured the Chairman of the Senate Transportation Committee that the DMV has the authority to allow a vendor to view DMV records for the purpose of mailing a summons for violations of the ordinance.

The stakeholders are continuing to work on implementation issues associated with the procedure for prosecuting violations of the ordinance, including those related to the program's cost. However, at the meeting of the Board's Legislative Committee on September 30, 2016, FCPS representatives stated that FCPS would not issue a Request for Proposals (RFP) until after the Board adopts an ordinance. Accordingly, the Legislative Committee directed staff to bring an ordinance to the full Board for its consideration as promptly as possible and to continue to work with the other stakeholders to iron out the final implementation issues. The ordinance as drafted allows the County the flexibility to continue to work with FCPS, the Clerk of the General District Court, and other stakeholders to address outstanding issues, while allowing FCPS to initiate the RFP process as soon as the ordinance is adopted.

FISCAL IMPACT:

Per the ordinance all expenses incurred by Fairfax County, including but not limited to those incurred by the Fairfax County Police Department (FCPD) for additional positions, program administration, verification of violations etc. are to be covered by fine-related revenue. Therefore, there is no net fiscal impact to Fairfax County anticipated as part of this action.

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It should be noted that fines will be remitted from the General District Court to the Fairfax County Department of Finance, who will deduct all expenses incurred by Fairfax County as noted above, and then remit the remainder to FCPS. Whatever vendor is eventually chosen to administer the Photo School Bus program will only be remunerated through a to-be-determined percentage of violation fees. All remaining funds will belong to FCPS.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to *The Code of the County of Fairfax*, Section 82-2-8.

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Daniel Robinson, Assistant County Attorney

AN ORDINANCE AMENDING
ARTICLE 2 OF CHAPTER 82 OF THE FAIRFAX COUNTY CODE, RELATING TO
THE AUTHORIZATION FOR THE FAIRFAX COUNTY SCHOOL BOARD TO
INSTALL AND OPERATE A VIDEO MONITORING SYSTEM TO ENFORCE LAW
AGAINST PASSING STOPPED SCHOOL BUSES

Draft of November 9, 2016

AN ORDINANCE to amend the Fairfax County Code by adding a new
section 82-2-8 relating to a video monitoring system on County school
buses.

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

1. That Section 82-2-8 is adopted as follows:

Chapter 82 – Motor Vehicles and Traffic.

Article 2. – Signs, Signals and Markers.

**Section 82-2-8. Authorization of School Board to Install and Operate a Video Monitoring
System to Enforce Law Against Passing Stopped School Buses; enforcement; and penalty.**

(a) The Fairfax County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board, or it may contract with a private vendor to do so on its behalf for the purpose of recording violations of subsection A of Virginia Code § 46.2-844, incorporated by reference into the Fairfax County Code pursuant to Section 82-1-6.

(b) “Video-monitoring system” has the same meaning as the definition set forth in Virginia Code § 46.2-844(B).

(c) The driver of a vehicle that is found to have failed to comply with Virginia Code § 46.2-859, as evidenced by information obtained from a video-monitoring system, shall be liable for a monetary civil penalty of \$250 imposed in accordance with this ordinance.

(d) In any prosecution for which a summons charging a violation of this ordinance was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 of Subtitle II of Title 46.2 of the Virginia Code, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner

ATTACHMENT 1

1 of the vehicle files an affidavit by regular mail with the clerk of the general district court that
2 he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies
3 in open court under oath that he was not the operator of the vehicle at the time of the alleged
4 violation, or (iii) a certified copy of a police report showing that the vehicle had been reported
5 to the police as stolen prior to the time of the alleged violation of this section is presented prior
6 to the return date established on the summons issued pursuant to this section to the court
7 adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise
8 admissible evidence.

9
10 (e) Any person who receives a summons pursuant to this ordinance may waive his right to appear
11 and be formally tried for the offense pursuant to Virginia Code § 16.1-69.40:1.B. The waiver
12 shall be effective when the person pays the civil penalty of \$250.00 and all applicable court
13 costs and processing fees to the Clerk of the General District Court.

14
15 (f) The Clerk of the General District Court shall at month end, in addition to remittance of all
16 other local cost and fee monies, transmit to the Fairfax County Director of Finance all funds
17 received from a civil penalty imposed pursuant to this Section. The Fairfax County Director
18 of Finance, after first deducting all of the costs incurred by Fairfax County associated with the
19 administration of this ordinance, including the costs incurred by the police department in
20 connection with its review of violations, shall remit the remaining balance of those funds to
21 the Fairfax County School Board.

22
23 **2. That the provisions of this ordinance are severable, and if any provision of this**
24 **ordinance or any application thereof is held invalid, that invalidity shall not affect the other**
25 **provisions or applications of this ordinance that can be given effect without the invalid**
26 **provision or application.**

27
28 **3. That this Ordinance is effective upon adoption.**
29
30

31 GIVEN under my hand this _____ day of _____, 2016
32
33

34 _____
35 Clerk for the Board of Supervisors

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ACTION - 1

Endorsement of the Chief Administrative Officers Task Force's Recommendation
Regarding the Preliminary FY 2018 Virginia Railway Express Capital and Operating
Budget

ISSUE:

Board endorsement of the Chief Administrative Officers (CAO) Task Force's initial recommendation regarding the proposed FY 2018 Virginia Railway Express (VRE) budget.

RECOMMENDATION:

The County Executive recommends that the Board endorse the CAO Task Force's primary recommendation on the FY 2018 VRE budget. The recommendation is to concur with the VRE Operations Board's recommendation to help balance the FY 2018 budget with a fare increase of three percent, as part of their six-year financial plan.

It is anticipated that additional recommendations will be presented to help balance the budget before the VRE Operations Board considers adoption of the FY 2018 budget on December 16, 2016. Some of the major strategies include identifying one-time expenses to be funded with FY 2017 surplus, updating contractual costs with actual cost-driver indices which are expected to be lower for FY 2018 when they become available (November – Consumer Price Index for Keolis and Association of American Railroads for Norfolk Southern), ongoing review and reduction of VRE departmental operational costs and various marketing strategies to improve ridership. County staff concurs with evaluating these strategies to balance the FY 2018 VRE budget.

TIMING:

The Board should act on this item on December 6, 2016, because this is the last Board meeting before the VRE Operations Board considers adoption of the FY 2018 VRE budget on December 16, 2016.

DISCUSSION:

The VRE Chief Executive Officer presented the preliminary FY 2018 budget to the VRE Operations Board on September 15, 2016. The FY 2018 budget included an unfunded amount of approximately \$4.39 million. The shortfall was primarily attributed to lower than budgeted federal and state operating and capital revenue to VRE, contractual

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increases, an increase in track access fees, and lower than anticipated ridership contributing to lower fare revenue in FY 2017.

During the FY 2018 budget year, VRE will operate 34 daily revenue trains and continue its safety and customer service outreach programs. The capital budget for FY 2018 will focus on state of good repair of equipment and facilities and replacement of the mid-day storage facility. Nine expansion railcars were ordered in FY 2016 and are currently being manufactured.

The budget was referred to the local jurisdictions for review and comment. Beginning July 12, 2016, a staff task force, organized by CAOs of the VRE jurisdictions, has reviewed the preliminary budget and continues to meet with VRE staff to discuss it in detail.

The CAO Task Force is preparing a final report summarizing its review of the FY 2018 budget and offering any further recommendations that may be developed. The Task Force and VRE staff met on September 13, October 18, and November 15, 2016, to discuss recommendations. The CAOs will meet in mid-December 2016, before the December VRE Operations Board meeting, to officially review the Task Force's recommendation(s) and receive the VRE staff response. After the multiple meetings, phone conversations and on-line discussions between the Task Force and VRE staff, it is anticipated that VRE staff will deliver a balanced budget to the VRE Operations Board by December 16, 2016. Although the Task Force's report is not finalized, it is expected to contain the following primary recommendation for the budget. The recommendation is as follows:

1) Help Balance the FY 2018 Budget With a Three Percent Fare Increase

The VRE service currently must be supported within the confines of jurisdictional budget constraints and a competitive and equitable fare structure. VRE's Financial Plan forecast was the first step in quantifying the need for additional ongoing dedicated funding sources to support both the operating and capital needs of the commuter rail service. VRE has had three fare increases in the last six fiscal years (FY 2013, FY 2014 & FY 2016) to maintain the level of service without being excessive in cost to the rider. The FY 2017 six-year financial forecast projected a fare increase of three percent in FY 2018. Before the Operations Board adopts the budget in December, this increase will be evaluated as the budget process continues, with consideration given to market factors, system funding needs, commuter benefit levels, comparison to relevant indices, and a preference for biennial increases. For the various reasons stated above, VRE staff calculated a projected shortfall for the FY 2018 budget of \$4.39 million. One of their main proposals for reducing this amount is the three percent subsidy increase which will yield approximately \$1.1 million. Other potential proposals for reducing the

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remainder of the shortfall include continuing to review Departmental expenses on a line item basis for potential cost savings, continuing to review for potential one-time qualifying expenses, adjusting for impact of changes in cost-driving indices, reviewing contingency calculation for appropriateness, implementing various marketing strategies to improve ridership, and reviewing and integrating the Capital/CIP Program and its affect on the overall budget.

FISCAL IMPACT:

The preliminary FY 2018 VRE budget includes an estimated total jurisdictional subsidy of \$17,250,000. Based on the most recent information received, Fairfax County's portion of the total FY 2018 local subsidy is not expected to exceed \$5,200,000. Fairfax County's FY 2018 subsidy level should be available in mid-December 2016 upon completion of the jurisdictional subsidy calculations based on the VRE Passenger Survey held on October 5, 2016.

When the final amount of Fairfax County's share is known, the local subsidy will be updated in Fund 40000, County Transit Systems, and included in the FY 2018 Adopted Budget Plan approved by the Board of Supervisors. The Board is not being asked to approve Fairfax County's FY 2018 VRE subsidy at this time.

ENCLOSED DOCUMENTS:

None

STAFF:

Robert A. Stalzer, Deputy County Executive

Joe Mondoro, Chief Financial Officer, Department of Management and Budget

Tom Biesiadny, Director, Department of Transportation, FCDOT

Todd Wigglesworth, Division Chief, Coordination and Funding Division, FCDOT

Mike Lake, Senior Transportation Planner, Coordination and Funding Division, FCDOT

ACTION – 2

Lease Agreement for Commuter Parking at Springfield Town Center (Lee District)

ISSUE:

Execution of Lease Agreement (Attachment I) with the new owner of Springfield Mall. Springfield Mall was sold to PR Springfield Town Center LLC and renamed Springfield Town Center. The new owner would like to continue the lease arrangement for commuter parking spaces with the County that was executed between the County and the previous owner on December 5, 2005.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Approve an agreement in substantial form to the attached lease agreement to continue commuter parking at the Springfield Town Center (formerly known as Springfield Mall).
2. Authorize the Director of the Transportation to execute the attached lease agreement, in substantial form, between the County and PR Springfield Town Center LLC.

TIMING:

Board approval is requested on December 6, 2016, so that the new Lease Agreement with PR Springfield Town Center LLC can be executed.

BACKGROUND:

Between 1990 and 2001, the Board approved parking lease agreements with four entities to provide commuter parking spaces in support of the Springfield I-95/395/495 interchange construction project, including one with the then owner of Springfield Mall. On June 7, 1999, the Board approved the lease of 1,000 spaces from Springfield Mall.

The agreement was amended to 500 spaces on April 26, 2004, after the opening of additional parking at the Franconia-Springfield Metrorail Station.

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The amended agreement between Springfield Mall and the County also allowed Fairfax Connector buses to operate on the property of Springfield Mall. The new Lease Agreement will continue to allow Fairfax Connector buses to operate on the Springfield Town Center property.

In February 2004, the Virginia Department of Transportation (VDOT) informed FCDOT that as of December 31, 2005, VDOT would discontinue all funding for commuter parking. Subsequently, the County has continued to fund the lease, since renting these spaces is significantly cheaper than constructing new park-and-ride spaces.

Weekday commuter occupancy of these parking spaces is approximately 69 percent.

FISCAL IMPACT:

Existing funds are available in Fund 40000 (County Transit System) to cover the \$11,250 for FY17. Funding for future years will be included in the annual budget in Fund 40000. Insurance coverage will be maintained by the County with PR Springfield Town Center LLC as an additional insured under the County's Commercial General Liability Policy.

ENCLOSED DOCUMENTS:

Attachment I - Lease Agreement between Fairfax County and PR Springfield Town Center LLC for Commuter Parking

Attachment II –Transfer of Springfield Town Center letter from Franconia Two, L.P. to PR Springfield Town Center, LLC

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, FCDOT

Dwayne Pelfrey, Chief, Transit Services Division, FCDOT

Karen Payne, Park and Ride Facilities Manager, FCDOT

Joanna L. Faust, Assistant County Attorney

**LEASE AGREEMENT BETWEEN FAIRFAX COUNTY AND PR SPRINGFIELD
TOWN CENTER LLC FOR COMMUTER PARKING**

THIS LEASE AGREEMENT (this "Agreement") is made as of the 1st day of April, 2015 (the "Effective Date") by and between **PR SPRINGFIELD TOWN CENTER LLC**, a Delaware limited liability company (hereafter referred to as "PR SPRINGFIELD"), having an address c/o PREIT Services, LLC, 200 S. Broad Street, Third Floor, Philadelphia, Pennsylvania 19102, and the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY** (hereinafter referred to as the "COUNTY"), a body public of Virginia, having an address at 12000 Government Center Parkway, Fairfax, Virginia 22035.

WHEREAS, the COUNTY continues to support public transportation services, facilities, and commuter park-and-ride lots as effective traffic mitigation facilities;

WHEREAS, PR SPRINGFIELD is the owner of Springfield Town Center, located at 6500 Springfield Mall, Springfield, Virginia, 22150;

WHEREAS, the COUNTY desires to lease the use of certain parking spaces at Springfield Town Center to provide additional commuter parking in the area;

WHEREAS, Parking Deck "A" (also known as the Macy's Parking Deck), located at Springfield Town Center, has available on its 2nd, 4th, and 6th level parking areas at least 500 spaces for commuter parking on weekdays (i.e., Monday through Friday) between 5:00 am and 8:00 pm;

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth below, PR SPRINGFIELD and the COUNTY agree as follows:

1. Five hundred (500) parking spaces on the 2nd, 4th and 6th levels of Parking Deck "A", which are shown on the plan attached hereto and incorporated herein as Exhibit A, will be reserved for use by commuters who carpool, vanpool, or ride public transportation.
2. a. A lease fee shall be paid to PR SPRINGFIELD by the COUNTY under this Agreement in an amount equal to \$3,750.00 per month, based on 500 spaces at \$7.50 per space per month. Quarterly payments shall be made in the amount of \$11,250.00 for each full calendar quarter in which all 500 spaces are made available for commuter parking. If the total number of parking spaces required by Paragraph 1 is not available for a full quarter, the license fee shall be prorated accordingly for that quarter. The COUNTY shall make such quarterly lease fee payments to PR SPRINGFIELD within 30 business days after receipt of PR SPRINGFIELD's quarterly invoice. Quarters are designated as July 1-September 30; October 1-December 31; January 1-March 31; and April 1-June 30.

- b. PR SPRINGFIELD shall submit all invoices to:

Park-and-Ride Manager
County of Fairfax Department of Transportation
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895

- c. The license payments to PR SPRINGFIELD shall be made payable to "PR SPRINGFIELD TOWN CENTER LLC" and sent to:

PR Springfield Town Center LLC
P.O. Box 932831
Cleveland, OH 44193

3. "FAIRFAX CONNECTOR" buses shall be permitted to access Springfield Town Center and pick-up and drop-off passengers at a bus stop in a location that is mutually acceptable to PR SPRINGFIELD and the COUNTY.
4. PR SPRINGFIELD shall continue to provide lighting, sweeping, and snow removal with respect to the commuter parking spaces reserved on the 2nd, 4th and 6th levels of Parking Deck "A".
5. The COUNTY shall provide and maintain signage on the premises to direct commuters to Parking Deck "A", 2nd, 4th and 6th level parking areas.
6. The COUNTY shall obtain and keep in force throughout the duration of this Agreement a Commercial General Liability insurance policy with a limit of \$1,000,000 per occurrence/aggregate to protect against losses involving the COUNTY's use of the reserved commuter parking spaces, as described in this Agreement. Claims, suits or actions brought on account of any injury or damage sustained to any person, or to the property of any person, while utilizing the commuter parking area as a park-and-ride on the 2nd, 4th and 6th levels of Parking Deck "A", shall be directed to:

Claims Supervisor, Risk Management
County of Fairfax
12000 Government Center Parkway, Suite 215
Fairfax, Virginia 22035-5511

The liability insurance policy shall name **PR SPRINGFIELD TOWN CENTER LLC, PREIT Associates, L.P.** and **PREIT Services, LLC** as additional insureds and shall provide that cancellation cannot occur without 45 days' prior written notice to the named additional insureds from the insurance company. The COUNTY shall provide to PR SPRINGFIELD a Certificate of Insurance evidencing the required coverage. It is expressly agreed and understood that the COUNTY does not agree to indemnify or hold harmless PR SPRINGFIELD for or against any claim brought by any party against PR SPRINGFIELD.

7. PR SPRINGFIELD shall monitor and enforce all parking regulations concerning where and when commuter parking is permitted. Parking by commuters shall be permitted only in specifically identified spaces on levels 2, 4 and 6 of Parking Deck "A", Monday through Friday, between the hours of 5:00 am and 8:00 pm. These spaces shall be available for use by visitors to Springfield Town Center at all other times.
8. The COUNTY shall be permitted to advertise the availability of commuter parking in Parking Deck "A" at Springfield Town Center in its promotional literature about commuter parking located in Fairfax County.
9. This Agreement shall be effective as of the Effective Date and shall continue in force until terminated by either party, with or without cause, 30 calendar days after receipt of a written termination notice from the other party; however, the COUNTY's covenants to provide insurance as set forth in paragraph 6 and to install and to provide and maintain signage as set forth in paragraph 5 are subject to annual appropriations by the Fairfax County Board of Supervisors. In the event that such appropriation(s) are not made, PR SPRINGFIELD may terminate this Agreement immediately upon five (5) calendar days' written notice to the COUNTY.
10. Nothing herein shall be construed by the parties or any third party as a waiver of the sovereign immunity of the County of Fairfax.
11. All notices under this agreement shall be sent to the following addresses:

To COUNTY:

Mr. Tom Biesiadny, Director
County of Fairfax Department of Transportation
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895

To PR SPRINGFIELD:

PR Springfield Town Center LLC
c/o PREIT Services LLC
200 South Broad Street, 3rd Floor
Philadelphia, PA 19102
Attention: General Counsel

With a copy to:

Springfield Town Center Management Office
Attn: General Manager
6500 Springfield Mall
Springfield, Virginia 22150

12. Nothing contained in this Agreement shall be construed or interpreted as creating anything other than a license; that is, this Agreement shall not be construed or interpreted as creating any property rights in the Parking Deck "A" commuter parking areas at Springfield Town Center.
13. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.
14. If any provision of this Agreement shall be invalid or unenforceable to any extent, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
15. This Agreement shall be governed and construed in all respects in accordance with the laws of the Commonwealth of Virginia, without regard to conflict of laws principles. This Agreement is also subject to and conditioned upon compliance with all applicable state and local building codes and zoning requirements.
16. This Agreement supersedes and replaces in all respects that certain "Agreement between Fairfax County and Springfield Mall for Commuter Parking" dated as of April 26, 2004 by and between the COUNTY and PR SPRINGFIELD's predecessor in interest, Franconia Two, L.P.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

COUNTY OF FAIRFAX, VIRGINIA

PR SPRINGFIELD TOWN CENTER LLC

By: PREIT Services, LLC, its authorized agent

By: _____

Tom Biesiadny, Director
Department of Transportation

By: _____

Bruce Goldman
Executive Vice President



FAIRFAX COUNTY
DEPARTMENT OF TRANSPORTATION
SPRINGFIELD TOWN CENTER
COMMUTER PARKING



RSPM/0316A
County of Fairfax Park & Ride

FRANCONIA TWO, L.P.
C/O VORNADO REALTY TRUST
210 ROUTE 4 EAST
PARAMUS, NJ 07652

March 31, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

County of Fairfax
Mr. Young Ho Chang P.E. Dir.
Department of Transportation;
4050 Legato Rd. Suite 400
Fairfax, VA 22033

RE: Transfer of Springfield Town Center, Springfield, Virginia

Ladies and Gentlemen:

Please be advised that Franconia Two, L.P. (the "Prior Owner") has this day transferred the above referenced property to PR Springfield Town Center LLC (the "New Owner"). The New Owner has assumed all obligations of the landlord under your lease from and after the above date. All security deposits in the possession of the Prior Owner have been delivered to the New Owner. Please send all future payments pursuant to your lease to New Owner in accordance with the payment instructions set forth below, unless otherwise directed by the New Owner.

If remitting via check:

PR Springfield Town Center LLC
PO Box 932831
Cleveland, OH 44193

If remitting via check using overnight courier:

PR Springfield Town Center LLC
c/o PNC Bank
ATTN: LOCKBOX # 932831
Mail LOC 01-6141
4100 West 150th Street
Cleveland, OH 44135

If remitting via electronic payment (ACH in CCD+ or CTX format only or Fedwire transfer):

PNC Bank, ABA 041000124

Springfield Town Center
Notification to Tenants

RSPM/0316A

County of Fairfax Park & Ride

Account name: PR Springfield Town Center LLC
Account Type: Business Checking
Account number: 4007809409

New Owner is a disregarded entity for tax reporting purposes and uses the tax identification number of its sole member, PREIT Associates, L.P. The federal tax identification number for PREIT Associates, L.P. is 23-2925032.

Please also note that, in the future, all legal notices to and other communications with the New Owner should be sent in writing and addressed as follows, unless otherwise directed by the New Owner:

PR Springfield Town Center LLC
c/o PREIT Services LLC
200 South Broad Street, 3rd Floor
Philadelphia, PA 19102
Attention: General Counsel

With copy to:

Springfield Town Center Management Office
Attn: General Manager
6500 Springfield Mall
Springfield, VA 22150
Phone: (703) 971-3738, ext. 214.

Please note that you should contact your insurance broker and notify them to send a revised certificate of insurance replacing the former owner as the additional named insured with that of the New Owner, PREIT Associates L.P., PREIT Services LLC and Pennsylvania Real Estate Investment Trust as the additional named insureds. The revised certificate of insurance should be sent to the attention of the Risk Management Department at the address listed above.

If your lease requires submission of sales data, all such reports should include the mall name and store number and be sent to:

If by e-mail: SpringfieldTownCentersales@preit.com

If by mail: Springfield Town Center Management Office
Attn: Office Manager
6500 Springfield Mall
Springfield, VA 22150

If by fax: (703) 313-6170.

[Signature on following page.]

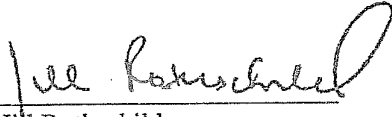
Springfield Town Center
Notification to Tenants

RSPM/0316A
County of Fairfax Park & Ride

Very truly yours,

**Franconia Two, L.P., a Virginia limited
partnership**

By: Franconia GP LLC, a Delaware limited
liability company

By: 
Jill Rothschild,
Vice President, Accounts Receivable

[Signature continued on following page.]

Springfield Town Center
Notification to Tenants


RSPM/0316A
County of Fairfax Park & Ride

**PR Springfield Town Center LLC, a Delaware
limited liability company**

By: PREIT Associates, L.P., its Sole Member

By: Pennsylvania Real Estate Trust, its
General Partner

By:


Name **Mario C. Ventresca, Jr.**
Title: **Executive Vice President**

Springfield Town Center
Notification to Tenants

ACTION – 3

Lease Agreement for Commuter Parking at Springfield United Methodist Church (Lee District)

ISSUE:

Approval to execute a lease agreement between Fairfax County and the Springfield United Methodist Church to continue commuter parking at the Church.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Approve the attached agreement in substantial form, (Attachment 1) to continue commuter parking at Springfield United Methodist Church.
2. Authorize the Director of the Department of Transportation to execute an agreement in substantial form as (Attachment 1).

TIMING:

Board approval is requested on December 6, 2016, so that the agreement with Springfield United Methodist Church can be executed in a timely manner.

BACKGROUND:

Between 1999 and 2001, the Board approved a park-and-ride lease agreement with four organizations to provide commuter parking space in support of the Springfield I-95/395/495 interchange construction project. On June 7, 1999, the Board approved the lease of 1,000 spaces from Springfield Mall's Macy's parking garage. That agreement was amended to 500 spaces on April 26, 2004, after the opening of additional parking at the Franconia-Springfield Metrorail Station. On October 3, 2000, the County entered into an agreement with Springfield Plaza for the lease of 75 spaces, and on July 16, 2001, the County leased 100 spaces from American Legion Post 176. On December 31, 2008, the Springfield Plaza lease was reduced by 75 spaces.

The Springfield United Methodist Church has leased these 54 spaces to the County for free since 2009, and now the Church is requesting the County to pay to lease these same spaces to provide revenue for the Church to maintain the parking spaces. Springfield United Methodist Church agreed to lease the County 54 parking spaces at

Board Agenda Item
December 6, 2016

an annual cost of \$20.45 per space, per month. These spaces are typically full every weekday. This lease payment is the same as the County has previously agreed to with the American Legion. It is significantly cheaper than trying to construct 54 new replacement parking spaces. FDCOT and DPWES are developing a new commuter parking structure on the County's property next to the Church. When that facility opens, it is anticipated that all of the leases for commuter parking in central Springfield will be terminated. The monthly payments will be retroactive to \$1,104.30 starting September 1, 2016.

FISCAL IMPACT:

Existing funds are available in Fund 40000 (County Transit System) to cover the \$13,252.00 payment in FY17. Funding for future years will be included in the annual budget in Fund 40000.

ATTACHMENTS:

Attachment I - Lease Agreement

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Department of Transportation, FCDOT
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT
Karen Payne, Park and Ride Manager, Fairfax Connector Section FCDOT
Joanna L. Faust, Assistant County Attorney

FAIRFAX COUNTY PARK AND RIDE
LEASE AGREEMENT

THIS Lease Agreement made this _____ day of _____ 2016, by and between Springfield United Methodist Church ("Owner"), and the BOARD OF SUPERVISORS OF FAIRFAX COUNTY (hereinafter referred to as the "County"), a body of politic of Virginia,

WHEREAS, the County continues to support public transportation services, facilities and commuter park-and-ride lots as effective traffic mitigation facilities; and

WHEREAS, the County desires to provide satellite parking spaces in various places in Fairfax County to supplement parking at Metrorail, Virginia Railway Express stations, and other parking area; and

WHEREAS, the property that is the subject of this Lease Agreement is located at 6501 Spring Road, Springfield, Virginia 22150, in Fairfax County; and

WHEREAS, the Owner has available 54 spaces for commuter parking at the subject property;

NOW THEREFORE, for and in consideration of the mutual promises and agreements set forth below Owner and the County agree as follows:

1. The 54 parking spaces indicated on Attachment I, hereto will be available for use by persons who carpool, vanpool, or ride public transportation
 - a. The Lease agreement will be evaluated each year. Upon approval by both parties, the lease agreement proceed as stated in the original agreement.
 - b. Subject to the provisions of this Agreement, the County shall make the lease payments to Owner.
 - c. The amount of lease payments payable to Owner shall be \$1,104.30 per month, based on 54 spaces @ \$20.45 per space per month. Quarterly payments shall be in the amount of \$3,312.90 for each full quarter. Yearly payment shall total \$13,251.60. If the parking spaces are not available for the full quarter (for reasons that the Owner is having programs/services), the lease payment shall be prorated accordingly.

d. The County shall make lease payments to Owner on a quarterly basis upon receiving an invoice, with payment being made within thirty (30) working days after receipt of Owner's quarterly invoice. Quarters are designated as July1 – September 30, October 1 – December 31, January 1 – March 31, and April 1 – June 30.

e. Owner shall submit to the County a quarterly invoice to the following person

Attn: Park and Ride Manager
Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, Virginia 22033

f. The lease payment to Owner shall be forwarded to:

Chairman, Board of Trustees
Springfield United Methodist Church
6501 Spring Road
Springfield, Virginia 22150

2. As part of its continuing maintenance of the parking spaces on the subject property, Owner shall continue to provide lighting, sweeping, and snow removal with respect to the parking spaces covered by this Lease Agreement.
3. Owner agrees to provide the County with the use of the parking spaces covered by this Lease Agreement, and upon termination of this Lease Agreement or any extension of the term hereof, the County shall leave said parking spaces in good condition, normal wear and tear accepted. The County shall be permitted to inspect the parking spaces shown on Exhibit A and shall within five (5) days advise Owner of the existence of any conditions that may be hazardous. After having been so notified by the County, Owner shall have fourteen (14) days in which to eliminate the hazardous conditions or offer to the County alternative spaces on the subject property.
4. In cooperation with Owner, the County shall designate with appropriate means where persons may park on the subject property in accordance with this Lease Agreement. The County shall be responsible for the installation, maintenance, and removal of all signing subject to this lease agreement.

5. The County shall obtain and keep in force throughout the duration of this Lease Agreement a Commercial General Liability Insurance Policy in the limit of \$1,000,000 per occurrence/aggregate. Claims, suits and actions brought on account of any injury or damage sustained by any person, or to the property of any person, while utilizing the parking spaces that are the subject of his Lease Agreement, should be directed to:

Claims Supervisor, Risk Management
County of Fairfax
12000 Government Center Parkway, Suite 215
Fairfax, Virginia 22035-5511

6. The aforesaid liability insurance policy shall name Springfield United Methodist Church as an additional insured and shall provide that cancellation cannot occur without 30 days prior written notice to Springfield United Methodist Church from the insurance company. It is expressly agreed and understood that the County does not agree to indemnify or hold harmless Springfield United Methodist Church for or against any claim brought by any party against Springfield United Methodist Church.
7. The County and Owner cooperatively shall monitor and enforce all parking regulations concerning where and when parking is permitted on the subject property in accordance with this Lease Agreement,
8. The parties agree that this Lease Agreement shall be effective on September 1, 2016. This Agreement can be terminated by either party, with or without cause, 30 days after receipt of written notice by the other party.
9. The County's covenants to provide insurance as set forth in paragraph 5 and 6 above and to fulfill any other financial obligation required by this Lease Agreement are subject to annual appropriations by the Fairfax County Board of Supervisors.
10. All notices under this Agreement shall be sent to the following addresses:

As to the County:

Tom Biesiadny, Director
Department of Transportation
County of Fairfax
4050 Legato Road, Suite 400
Fairfax, Virginia 22033

As to Owner:

Chairman, Board of Trustees
Springfield United Methodist Church
6501 Spring Road
Springfield, Virginia 22150

11. Nothing in this Agreement shall be construed or interpreted as creating anything other than a lease; that is, this agreement shall not be construed or interpreted as creating any property rights at the said location.
12. Nothing in this Agreement shall be construed as a waiver of the sovereign immunities of the County of Fairfax and no provision of this lease shall be construed as giving any rights to any third party.
13. This Agreement may not be modified except by a written instrument duly executed by the parties hereto.
14. This Lease Agreement shall be governing in all respects to Virginia law. If any provision of this Agreement shall be invalid or unenforceable to any extent, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

WITNESS the following signatures as per this agreement:

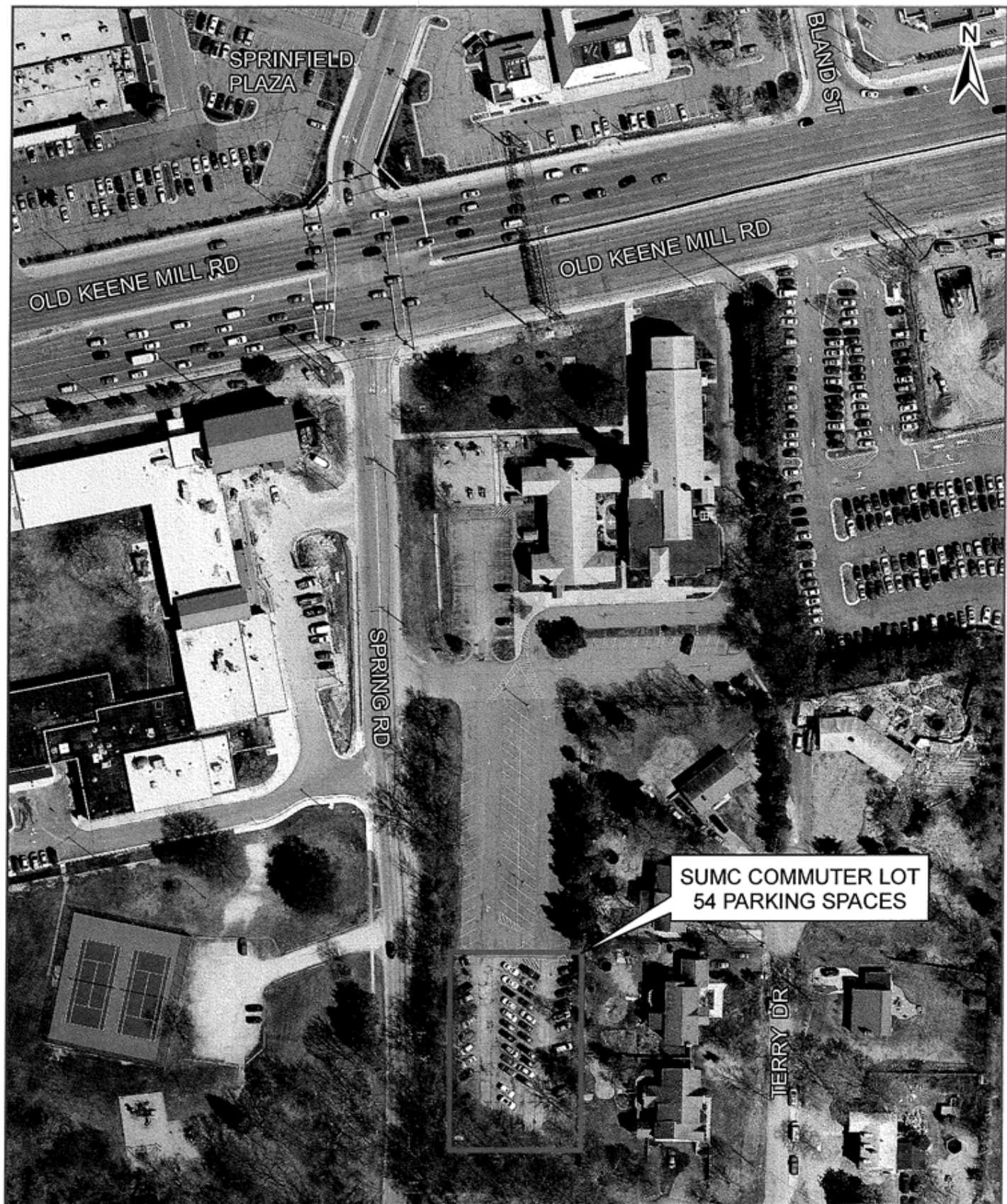
COUNTY OF FAIRFAX, VIRGINIA

BY: _____
Tom Biesiadny, Director
Fairfax County Department of Transportation

Date

BY: _____
Chairman, Board of Trustees
Springfield United Methodist Church

Date



FAIRFAX COUNTY
DEPARTMENT OF TRANSPORTATION
SPRINGFIELD UNITED METHODIST CHURCH
COMMUTER LOT



Board Agenda Item
December 6, 2016

ACTION - 4

Approval of Standard Project Agreement with the Northern Virginia Transportation Authority for the Fairfax County Parkway Widening Project from Ox Road (Route 123) to Lee Highway (Route 29) (Springfield, Braddock Districts)

ISSUE:

Board of Supervisors' authorization for the Director of the Fairfax County Department of Transportation to sign a standard project agreement with the Northern Virginia Transportation Authority (NVTa), substantially in the form of Attachment 2, to secure NVTa FY 2017 Program funding for the implementation of the widening of Fairfax County Parkway from Ox Road (Route 123) to approximately 2,000 feet north of Lee Highway (Route 29).

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution, substantially in the form of Attachment 1, authorizing the Director of the Fairfax County Department of Transportation to execute a Standard Project Agreement (SPA) with NVTa, substantially in the form of Attachment 2, for \$10 million in NVTa FY 2017 Program funding to support the widening of Fairfax County Parkway from Ox Road (Route 123) to approximately 2,000 feet north of Lee Highway (Route 29).

TIMING:

The Board of Supervisors should act on this item on December 6, 2016, so that NVTa can begin to release FY 2017 Program funding to the Virginia Department of Transportation for the implementation of the Fairfax County Parkway widening project.

BACKGROUND:

On January 28, 2014, the Board of Supervisors approved the Transportation Priorities Plan (TPP), which included \$55 million for improvements on Fairfax County Parkway. More specifically, those improvements included the widening from four to six lanes along the following segments:

- Lee Chapel to Rolling Road,
- VA 123 to Lee Chapel Road,
- Lee Highway (US 29) to Ox Road (VA 123),
- Dulles Toll Road to West Ox Road, and
- West Ox Rd to Rugby Road

Board Agenda Item
December 6, 2016

On November 17, 2015, the Board of Supervisors approved staff's recommended project submissions for NVTa consideration for the FY 2017 Program. On July 14, 2016, NVTa approved its FY 2017 Program, which included \$10 million in regional funding for the Fairfax County Parkway widening project.

NVTa had previously approved \$10 million in regional funding for the Fairfax County Parkway widening project in April 2015. The \$10 million approved in July 2016 provides an additional \$10 million for the project, for a total of \$20 million through FY 2017. These regional funds will support preliminary engineering and design, as well as land acquisition for the nearly six-mile segment between Route 123 and north of Route 29. Ultimately, this project will provide for the widening of Fairfax County Parkway from four lanes (divided) to six lanes (divided). This improvement will provide pedestrian and bicycle amenities. Conceptual design assumes that all existing lanes will be used and that 12 feet of pavement will be added to the inside median and two feet will be added to the outside to accommodate the future HOV lanes, which are identified in the County's Comprehensive Plan. Intersection improvements and access management will be considered in the design. The NVTa project description sheet for this approved project is included as Attachment 3.

HB 2313 directs NVTa to use 70 percent of the revenue collected from the three Northern Virginia taxes and fees for (i) transportation projects selected by NVTa that are contained in the regional transportation plan or (ii) mass transit capital projects that increase capacity.

To facilitate the implementation of the regionally funded projects, NVTa and jurisdictional staff developed an SPA to govern the terms and conditions associated with the funding that NVTa approves for these regional projects. The SPA is based on the requirements of HB 2313, but the SPA also includes practical provisions associated with the implementation of the law and standard contract language. A specific project agreement must be executed for each project approved by NVTa. County staff was extensively involved in drafting this SPA, and in tailoring it for the Fairfax County Parkway widening project.

The SPA provides that the County will:

- Perform work in accordance with all applicable federal, state, and local laws and regulations, the SPA and the Project Description Sheet;
- Perform or have performed all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisition as required by the SPA and necessary to complete the project;
- Update project cash flow requirements periodically;

Board Agenda Item
December 6, 2016

- Provide requests for payment consistent with the approved cash flow for a project on standard requisition forms;
- Notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances. NVTA will decide whether to fund these additional costs, but only in accordance with NVTA's project selection process;
- Release or return any unexpended funds to NVTA no later than 90 days following final payment to contractors;
- Certify that any matching funds required for the project have been secured;
- Reimburse NVTA (with interest) for any funds misapplied or not used in accordance with the statutes governing NVTA's revenues;
- Certify that the County will use the project for its intended purpose for the duration of its useful life or reimburse NVTA for the residual value of the asset based on its depreciated value;
- Acknowledge that NVTA will not be responsible for operating or maintaining the project upon completion;
- Obtain all necessary permits or permissions necessary for constructing and/or operating the project;
- Comply with all applicable federal and state funding requirements, if such other sources are used to fund the project;
- Certify that it has adhered to all applicable laws and regulations, as well as the requirements of the agreement.

The SPA provides that NVTA will:

- Provide funding for the project on a reimbursement basis, as outlined in the project agreement, project budget and cash flow as originally or subsequently approved;
- Assign a project coordinator to monitor the project to ensure compliance with the agreement and review payment requisitions;
- Make project payments within 20 days, if the payment requisition is sufficient;
- Notify the County of reasons a payment requisition is declined;
- Consider additional payment requests recommended by the Executive Director and the Finance Committee;
- Conduct periodic reviews of the project to ensure that it remains in compliance with the agreed-upon project scope;
- Advise the County in writing of any misused or misapplied funding and make recommendations to NVTA's Finance Committee, if the issue(s) is not resolved, and withhold additional funding for the project until final resolution of the matter.
- Secure reimbursement from the County (with interest) of any misused or misapplied funding;
- Make guidelines available to assist with complying with the terms of the agreement.

Board Agenda Item
December 6, 2016

Fairfax County has often contracted with VDOT to construct projects on the County's behalf. However, with the advent of NVTA regional funding, the number of such projects will increase significantly and establishing clear roles and responsibilities between the County and VDOT, vis-à-vis NVTA funding, will help facilitate these projects going forward. With this in mind, County staff worked with VDOT to craft a new, modified SPA between the County and VDOT, specific to NVTA-funded projects. On September 22, 2015, the Board of Supervisors approved this agreement between the County and VDOT securing the initial \$10 million in regional funding and identifying VDOT as the implementing agency for the project. This agreement was executed on November 2, 2015. Staff will work with VDOT to amend the agreement to include the \$10 million from NVTA's FY 2017 Program funding.

The FCDOT/VDOT agreement enables FCDOT to remain responsible for and oversee the implementation by VDOT of the Fairfax County Parkway widening project, according to the terms of the County's agreement with NVTA and provides a mechanism for funding to flow directly from NVTA to VDOT, on a reimbursement basis.

FISCAL IMPACT:

The County will oversee and authorize an additional \$10 million in NVTA FY 2017 Program funding, for a total of \$20 million in NVTA regional funding. These funds will flow directly from NVTA to VDOT on a reimbursement basis to support the implementation of the Fairfax County Parkway widening project. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution to Execute Agreement with the Northern Virginia Transportation Authority

Attachment 2: Standard Project Agreement for the Fairfax County Parkway Widening Project (Route 123 to Route 29) including Related Appendices, with the Northern Virginia Transportation Authority

Attachment 3: Approved Project Description Sheet for the Fairfax County Parkway Widening Project (Route 123 to Route 29)

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Minnix, Chief, Transportation Design Division, FCDOT

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Joe LaHait, Debt Coordinator, Department of Management and Budget

Joanna L. Faust, Assistant County Attorney

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Project Funding Agreement with the Northern Virginia Transportation Authority for the funding of the Fairfax County Parkway widening project from Route 123 to approximately 2,000 feet north of Route 29 to be administered by the Virginia Department of Transportation.

Adopted this 6th day of December 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

Standard Project Agreement for Funding and Administration
between
Northern Virginia Transportation Authority
and
Fairfax County
(Recipient Entity)

Project Name: Fairfax County Parkway Improvements

NVTA Project Number: _____

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this _____ day of _____, 20__, as between the Northern Virginia Transportation Authority ("NVTA") and Fairfax County ("Recipient Entity").

WITNESSETH

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTa Fund and/or from NVTa Bond Proceeds, is located within a locality embraced by NVTa's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTa;

WHEREAS, Fairfax County formally requested that NVTa provide funding to the Project by timely submitting an application for NVTa funding in response to NVTa's call for projects;

WHEREAS, NVTa has reviewed Fairfax County's application for funding and has approved Fairfax County's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by Fairfax County, NVTa has determined that the Project complies with all requirements of the NVTa Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTa described in Appendix B have been duly authorized and directed by Fairfax County to finance the Project;

WHEREAS, NVTa agrees that Fairfax County will design and/or construct the Project or perform such other specific work for the Project and Fairfax County agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the Fairfax County's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTa's governing body and Fairfax County's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTa funds specified on Appendix B to pay any Project cost if the NVTa Act does not permit such Project cost to be paid with NVTa funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTa will provide funding for such multiple phases (as set forth on Appendix B), NVTa may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTa funds, Fairfax County shall submit a written request to NVTa's Executive Director explaining the need for NVTa's funding of an advanced phase. NVTa's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTa's current and projected cash flow position and make a recommendation to NVTa whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTa for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTa's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTa's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTa's Executive Director will periodically update NVTa's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTa so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTa requests for payment consistent with Appendix B and the most recently approved NVTa cash flow estimates that include NVTa's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTa and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTa, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTa. Approved payments may be made by means of electronic transfer of funds from NVTa to or for the account of Fairfax County.
8. Promptly notify NVTa's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTa detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTa's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTa will do so only in accordance with NVTa's approved Project Selection Process and upon formal action and approval by NVTa. Fairfax County shall timely provide to NVTa a

complete and accurate update to Appendix B, if NVTa approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTa no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTa Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to _____ Fairfax County _____'s Project: a) Prior to any NVTa funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTa member localities; b) any such funds released by NVTa for such project will be in addition to the funds that the NVTa member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTa until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTa.
11. Should _____ Fairfax County _____ be required to provide matching funds in order to proceed or complete the funding necessary for the Project, _____ Fairfax County _____ shall certify to NVTa that all such matching funds have been either authorized and/or appropriated by _____ Fairfax County _____s governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern _____ Fairfax County _____ and provide copies of any such financial records to NVTa, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTa copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTa for all NVTa funds (with interest earned at the rate earned by NVTa) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTa Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTa and its Bond Trustee or require that all Fairfax County's contractors name NVTa or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTa with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTa that Fairfax County may use NVTa funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTa's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTa, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTa be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTB Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTB funds and/or NVTB Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTB will not be a party or signatory to that Agreement; nor will NVTB have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTB no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

B. NVTB's Obligations

NVTB shall:

- I. Provide to Fairfax County the funding authorized by NVTB for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO"), all payment requisitions submitted by Fairfax County for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTA's assigned Program Coordinator all Fairfax County's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from Fairfax County. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify Fairfax County in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of Fairfax County that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all _____ Fairfax County _____'s supplemental requests for funding from NVTa under Paragraphs A.5 and A.8 of this Agreement to NVTa's Executive Director. NVTa's Executive Director will initially review those requests and all supporting documentation with NVTa's CFO. After such initial review, NVTa's Executive Director will make a recommendation to NVTa's Finance Committee for its independent consideration and review. NVTa's Finance Committee will thereafter make a recommendation on any such request to NVTa for final determination by NVTa.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTa Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of _____ Fairfax County _____'s financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTa's review of any payment requisition or of any NVTa compliance review, NVTa staff determines that _____ Fairfax County _____ has misused or misapplied any NVTa funds in derogation of this Agreement or in contravention of the NVTa Act, Chapter 766 or applicable law, NVTa staff will promptly advise NVTa's Executive Director and will advise _____ Fairfax County _____'s designated representative in writing. _____ Fairfax County _____ will thereafter have thirty (30) days to respond in writing to NVTa's initial findings. NVTa's staff will review _____ Fairfax County _____'s response and make a recommendation to NVTa's Finance Committee. NVTa's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTa. Pending final resolution of the matter, NVTa will withhold further funding on the Project. If NVTa makes a final determination that _____ Fairfax County _____ has misused or misapplied funds in contravention of this Agreement, the NVTa Act, Chapter 766, or other applicable law, NVTa will cease further funding for the Project and will seek reimbursement from _____ Fairfax County _____ of all funds previously remitted by NVTa (with interest earned at the rate earned by NVTa) which were misapplied or misused by _____ Fairfax County _____. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTAs funds to be provided and allocated to the Project and the amounts of any NVTAs funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTAs of this Agreement. If so terminated, NVTAs shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTAs as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTAs fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTAs. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTAs sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTAs an opportunity to investigate and cure any such alleged breach.
3. NVTAs may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTAs all funds NVTAs provided to Fairfax County for the Project (including interest earned at the rate earned by NVTAs). NVTAs will provide Fairfax County with sixty (60) days written notice that NVTAs is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTa excuse _____ Fairfax County _____ from refunding all funds NVTa provided to _____ Fairfax County _____ for the Project based upon _____ Fairfax County _____'s substantial completion of the Project or severable portions thereof; and NVTa may, in its sole discretion, excuse _____ Fairfax County _____ from refunding all or a portion of the funds NVTa provided to _____ Fairfax County _____ for the Project. No such request to be excused from refunding will be allowed where _____ Fairfax County _____ has either misused or misapplied NVTa funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, _____ Fairfax County _____ will release or return to NVTa all unexpended NVTa funds with interest earned at the rate earned by NVTa no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTa's Executive Director and _____ Fairfax County _____'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTa and to _____ Fairfax County _____'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTa's Financial Interest in Project Assets

_____ Fairfax County _____ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTa under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTa shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTa under this

Agreement. In the event that Fairfax County fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Fairfax County shall refund to NVTa with interest at the rate earned by NVTa the amount attributable to NVTa's proportionate financial interest in the value of said Project Asset. If Fairfax County refuses or fails to refund said monies to NVTa, NVTa may recover its proportionate financial interest from Fairfax County by pursuit of any remedies available to NVTa, including but not limited to NVTa's withholding of commensurate amounts from future distributions of NVTa funds to Fairfax County.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTa pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTa Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTa Fund are subject to appropriation by the General Assembly and (ii) NVTa's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTa Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTa, to the attention of its Executive Director;
3040 Williams Drive, Suite 200
Fairfax, VA 22031
- 2) to Fairfax County, to the attention of Tom Biesiadny
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895 (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVTa; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: _____

Date: _____

_____ Fairfax County _____ (Name of Recipient Entity)

By: _____

Date: _____

Appendix A –Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Fairfax County Parkway Improvements (Widening between Ox Road (Route 123) to ~ 2000 feet north of Lee Highway (Route 29), 5D

Recipient Entity: Fairfax County

Project Manager Contact Information: Karyn Moreland, (703) 877-5760;
Karyn.Moreland@FairfaxCounty.gov

Table A-1 Project Changes

The project provides for the widening of Route 286 from Route 123 to 2,000 feet north of Route 29 from four lanes (divided) to six lanes (divided). This improvement will provide or improve pedestrian and bicycle amenities. Conceptual design assumes that all existing lanes will be used and that 12 feet of pavement will be added to the inside median and two feet will be added to the outside. The additional lanes will also allow the accommodation of future HOV lanes as designated on the County's Transportation Plan. Intersection improvements and access management will be considered in the design.

The project provides for some improvements the intersection of Fairfax County Parkway, Popes Head Road and Shirley Gate Extension. The section of the project also includes shared use paths, bicycle accommodations, and future connection to Shirley Gate Road to the northeast.

Table A-2 Project Milestone Changes

Only Complete if Different from the Approved NVTA Project Description Form Attached

Signature: _____
Chief Executive Officer

Date: _____

Revised: 4/14/2016

APPENDIX B-PROJECT BUDGET & CASH FLOW
PROJECT IDENTIFICATION AND PROPOSED FUNDING

NVTA Project Title: Fairfax County Parkway Improvements
 Recipient Entity: Fairfax County
 Project Contact Information: Karyn Moreland (703) 877-5760; Karyn.Moreland@FairfaxCounty.gov

NVTA Use:

Date Received: _____

Funding Program: _____

Project #: _____

Ledger Account #: _____

Revision Date: _____

Recy'd Certificate of Ins: _____

TABLE B-1 PROJECT COSTS & FUNDING SOURCE

| Project Cost Category | Total Project Costs | Approved NVTA Project Funds | Amount of Other Sources of Funds | List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category) |
|-----------------------------|----------------------|-----------------------------|----------------------------------|---|
| Study | \$ - | \$ - | \$ - | |
| Preliminary Engineering | \$ 10,000,000 | | \$ 10,000,000 | NVTA FY15-16 Program |
| Right-of-Way Acquisition | \$ 10,330,000 | \$ 10,000,000 | \$ 330,000 | NVTA FY17 Program; Local Contribution |
| Construction | \$ 60,530,656 | | \$ 60,530,656 | NVTA FY18-23 Program (future request) |
| Capital Asset Acquisitions | | | | |
| Other | | | | |
| Total Estimated Cost | \$ 80,860,656 | \$ 10,000,000 | \$ 70,860,656 | |

TABLE B-2 PROJECT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY

| Project Cost Category | Total FY2017 Project Funds | Total FY2018 Project Funds | Total FY2019 Project Funds | Total FY2020 Project Funds | Total FY2021 Project Funds | Total FY2022 Project Funds |
|-----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Study | | | | | | |
| Preliminary Engineering | | | | | | |
| Right-of-Way Acquisition | | | \$ 5,000,000 | \$ 5,000,000 | | |
| Construction | | | | | | |
| Capital Asset Acquisitions | | | | | | |
| Other | | | | | | |
| Total Estimated Cost | \$ - | \$ - | \$ 5,000,000 | \$ 5,000,000 | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

TABLE B-3 MONTHLY/QUARTERLY PROJECT CASH FLOW FOR NVTA FUNDS ONLY

| Month | FY2017 Monthly Cash Flow | FY2018 Quarterly Cash Flow | FY2019 Quarterly Cash Flow | FY2020 Quarterly Cash Flow | FY2021 Quarterly Cash Flow | FY2022 Quarterly Cash Flow |
|------------------------------|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| July | | | | | | |
| August | | | | | | |
| September | | | \$ 1,250,000 | \$ 1,250,000 | | |
| October | | | | | | |
| November | | | | | | |
| December | | | \$ 1,250,000 | \$ 1,250,000 | | |
| January | | | | | | |
| February | | | | | | |
| March | | | \$ 1,250,000 | \$ 1,250,000 | | |
| April | | | | | | |
| May | | | | | | |
| June | | | \$ 1,250,000 | \$ 1,250,000 | | |
| Total per Fiscal Year | \$ - | \$ - | \$ 5,000,000 | \$ 5,000,000 | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

The Total Amounts in Table B-2 and Table B-3 must agree to the total NVTA Funds listed in Table B-1

The total of each Fiscal Year must match in Table B-2 and Table B-3

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

| | | |
|---|---|---|
| Recipient Entity | Northern Virginia Transportation Authority | Northern Virginia Transportation Authority |
| Signature _____ | Signature _____ | Signature _____ |
| Director, Fairfax County Dept of Transportation | NVTA Executive Director | NVTA Chief Financial Officer |
| Title _____ | Title _____ | Title _____ |
| Date _____ | Date _____ | Date _____ |

Print name of person signing

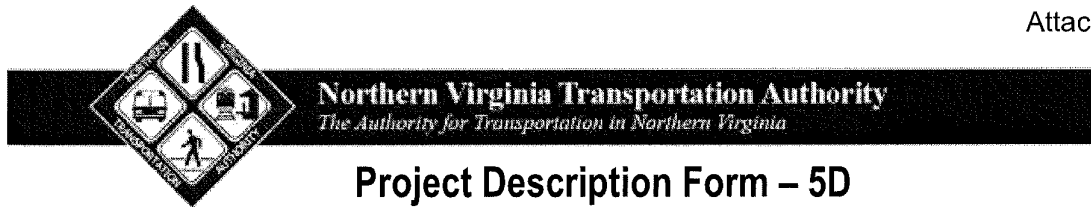
Revised: 4/13/2016

Appendix E -Authorization of designee(s)

Attach this page to the recipient governing body's authorization for their respective designee(s) to execute the Standard Project Agreement and Tax Covenant (if applicable) on their behalf(s) as evinced by entity's clerk's minutes.

Submission of the original signed or certified copy of the governing body's authorization is required

Revised: 2/17/2016

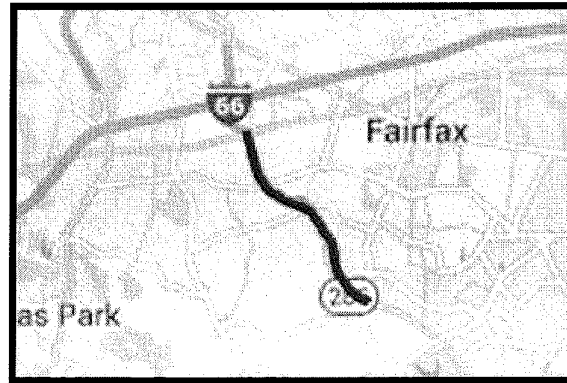


Basic Project Information

Submitting Jurisdiction/Agency: Fairfax County

Project Title: Route 286 Fairfax County Parkway Widening: Route 123 to Route 29

Project Location: Ox Road (Route 123) to ~ 2,000 feet north of Lee Highway (Route 29)



Project Description: The project provides for the widening of Route 286 from Route 123 to 2,000 feet north of Route 29 from four lanes (divided) to six lanes (divided). This improvement will provide or improve pedestrian and bicycle amenities including a major paved trail on the east side and major paved regional trail on the west side. Conceptual design assumes that all existing lanes will be salvaged and that 12 feet of pavement will be added to the inside median and two feet will be added to the outside. The additional lanes will also allow the accommodation of future HOV lanes as designated on the County's Transportation Plan. Intersection improvements and access management will be considered in the design.

The project provides for some improvements the intersection of Fairfax County Parkway, Popes Head Road and Shirley Gate Extension. The section of the project also includes shared use paths, bicycle accommodations, and future connection to Shirley Gate Road to the northeast.

Project Milestones

Project Milestones by Project Phase:

- **Engineering:**
- **Environmental Work:**
- **Design:** 1/2016 - 1/2018
- **Right of Way Acquisition:** 1/2018 - 1/2019
- **Construction:** 7/2018 - 6/2021
- **Capital Asset Acquisitions:**
- **Other:**

Project Analysis Summary*

| | | | |
|--|-------|----------------|--------|
| NVTA Quantitative Score | 49.22 | Rank | 9 |
| Congestion Reduction Relative to Cost Ratio (NVTA Share) | 0.37 | hours saved/\$ | Rank 8 |
| Congestion Reduction Relative to Cost Ratio (Total Cost) | 0.33 | hours saved/\$ | Rank 6 |

*Detailed scoring information can be found at: <http://www.thenovaauthority.org/planning-programming/fy2017-program/>

FY2017 Program

Route 286 Fairfax County Parkway Widening: Route 123 to Route 29 5D

5.11.16

Project Cost

Requested NVTa FY2017 Funds: \$10,000,000

Total Cost to Complete Project: \$82,400,000

| Project Phases | Requested NVTa FY2017 Funds | Other Sources of Funding | Total Cost by Phase |
|----------------------------|--------------------------------|--|--------------------------------|
| Engineering | | \$10,000,000 (NVTa FY2015-16) | \$10,000,000 (FY2016 – FY2018) |
| Environmental Work | | (included in engineering) | (included in engineering) |
| Design | | (included in engineering) | (included in engineering) |
| Right of Way Acquisition | \$10,000,000 (FY2018 – FY2019) | \$1,900,000 (NVTa and/or HB 2 future request) | \$11,900,000 (FY2018 – FY2019) |
| Construction | | \$60,500,000 (NVTa and/or HB 2 future request) | \$60,500,000 (FY2019 – FY2021) |
| Capital Asset Acquisitions | | | |
| Other | | | |
| TOTAL | \$10,000,000 | \$72,400,000 | \$82,400,000 |

Project Impacts

What regional benefit(s) does this project offer? This project will focus upon widening of the 4-lane sections of the Fairfax County Parkway with the highest traffic volumes. The portion of the Fairfax County Parkway between Route 123 (Ox Road) and Route 29 (Lee Highway) is currently experiencing the highest peak hour traffic loads for 4-lane sections of the Parkway. These peak hour volumes exceed 3300 and 3000 vehicles per hour in the AM and PM peak hours, respectively. The expanded capacity of this section of roadway will help address the increasing travel demand between populations in southern Fairfax County/eastern Prince William County and the employment centers in the 28 and Dulles Corridors in western Fairfax County/eastern Loudoun County. This project is a vital first step in potentially providing a viable alternative for I-495 commuters.

How will the project reduce congestion? Significant queues are experienced northbound in the AM and in both the northbound and southbound directions in the PM. The additional through lanes and the conversion of the at-grade intersection with Popes Head Road into a grade separation with Popes Head and the Shirley Gate Road extension is expected to reduce delays along this stretch of the Parkway by as much as 50 percent by 2040.

How will the project increase capacity? The project will increase capacity by adding two additional lanes on Fairfax County Parkway (one in each direction) from Route 123 (Ox Road) to Route 29 (Lee Highway).

How will the project improve auto and pedestrian safety? Crash statistics along the Fairfax County Parkway are high at at-grade intersections where rear-end crashes are frequent. Within the limits of this project, crashes are particularly high at the Burke Centre Parkway intersection and at the signalized intersections at the Braddock Road interchange. In addition, there have been high numbers of 'angle' crashes at the Popes Head at-grade intersection. It is expected that these high crash locations will be improved with the advent of the grade-separation at Popes Head and at other intersections with the signal retiming and upgrades in geometrics.

How will the project improve regional connectivity? This project will improve regional connectivity to multiple regional activity clusters but will have the most direct influence upon the Fairfax Center/City of Fairfax cluster. However, significant improvements to capacity and connectivity will also be prevalent for the Potomac Mills/Woodbridge cluster on the south and to the North and South Dulles Areas and to the Dulles Corridor on the north. This project is a necessary component to provide high priority bus service on the Parkway, also a TransAction 2040 project.

How will the project improve bicycle and pedestrian travel options? This improvement will provide or improve pedestrian and bicycle amenities including a major paved trail on the east side and major paved regional trail on the west side.

How will the project improve the management and operation of existing facilities through technology applications? N/A

Board Agenda Item
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ACTION - 5

Approval of Standard Project Agreement with the Northern Virginia Transportation Authority for the Route 7 Widening Project from Colvin Forest Drive to Jarrett Valley Drive (Dranesville District)

ISSUE:

Board of Supervisors' authorization for the Director of the Fairfax County Department of Transportation to sign a standard project agreement with the Northern Virginia Transportation Authority (NVTA), substantially in the form of Attachment 2, to secure NVTA FY 2017 Program funding for the implementation of the widening of Route 7 from Colvin Forest Drive to Jarret Valley Drive.

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution, substantially in the form of Attachment 1, authorizing the Director of the Fairfax County Department of Transportation to execute a Standard Project Agreement (SPA) with NVTA, substantially in the form of Attachment 2, for \$10 million in NVTA FY 2017 Program funding to support the widening of Route 7 from Colvin Forest Drive to Jarrett Valley Drive.

TIMING:

The Board of Supervisors should act on this item on December 6, 2016, so that NVTA can begin to release FY 2017 Program funding to the Virginia Department of Transportation for the implementation of the Route 7 widening project.

BACKGROUND:

On January 28, 2014, the Board of Supervisors approved the Transportation Priorities Plan (TPP), which included \$23.8 million for the Route 7 widening project. On November 17, 2015, the Board of Supervisors approved staff's recommended project submissions for NVTA consideration for the FY 2017 Program. On July 14, 2016, NVTA approved its FY 2017 Program, which included \$10 million in regional funding for the Route 7 widening project. These regional funds will partially support the right of way acquisition in the segment of the project between Colvin Forest Drive and Jarrett Valley Drive.

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Ultimately, this project will provide for the widening of Route 7 from four to six lanes between Reston Avenue and Jarrett Valley Drive, improve intersections, add bicycle and pedestrian facilities. This improvement will increase capacity, decrease congestion, and improve safety. Widening this high-volume road has been part of Fairfax County's Comprehensive Plan for many years, and is an important improvement to link northern and western Fairfax with the County's planned revitalization of Tysons. The NVTA project description sheet for this approved project is included as Attachment 3.

HB 2313 directs NVTA to use 70 percent of the revenue collected from the three Northern Virginia taxes and fees for (i) transportation projects selected by NVTA that are contained in the regional transportation plan or (ii) mass transit capital projects that increase capacity.

To facilitate the implementation of the regionally funded projects, NVTA and jurisdictional staff developed an SPA to govern the terms and conditions associated with the funding that NVTA approves for these regional projects. The SPA is based on the requirements of HB 2313, but the SPA also includes practical provisions associated with the implementation of the law and standard contract language. A specific project agreement must be executed for each project approved by NVTA. County staff was extensively involved in drafting this SPA, and in tailoring it for the Route 7 Widening project.

The SPA provides that the County will:

- Perform work in accordance with all applicable federal, state, and local laws and regulations, the SPA and the Project Description Sheet;
- Perform or have performed all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisition as required by the SPA and necessary to complete the project;
- Update project cash flow requirements periodically;
- Provide requests for payment consistent with the approved cash flow for a project on standard requisition forms;
- Notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances. NVTA will decide whether to fund these additional costs, but only in accordance with NVTA's project selection process;
- Release or return any unexpended funds to NVTA no later than 90 days following final payment to contractors;
- Certify that any matching funds required for the project have been secured;
- Reimburse NVTA (with interest) for any funds misapplied or not used in accordance with the statutes governing NVTA's revenues;

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- Certify that the County will use the project for its intended purpose for the duration of its useful life or reimburse NVTa for the residual value of the asset based on its depreciated value;
- Acknowledge that NVTa will not be responsible for operating or maintaining the project upon completion;
- Obtain all necessary permits or permissions necessary for constructing and/or operating the project;
- Comply with all applicable federal and state funding requirements, if such other sources are used to fund the project;
- Certify that it has adhered to all applicable laws and regulations, as well as the requirements of the agreement.

The SPA provides that NVTa will:

- Provide funding for the project on a reimbursement basis, as outlined in the project agreement, project budget and cash flow as originally or subsequently approved;
- Assign a project coordinator to monitor the project to ensure compliance with the agreement and review payment requisitions;
- Make project payments within 20 days, if the payment requisition is sufficient;
- Notify the County of reasons a payment requisition is declined;
- Consider additional payment requests recommended by the Executive Director and the Finance Committee;
- Conduct periodic reviews of the project to ensure that it remains in compliance with the agreed-upon project scope;
- Advise the County in writing of any misused or misapplied funding and make recommendations to NVTa's Finance Committee, if the issue(s) is not resolved, and withhold additional funding for the project until final resolution of the matter.
- Secure reimbursement from the County (with interest) of any misused or misapplied funding;
- Make guidelines available to assist with complying with the terms of the agreement.

Fairfax County has often contracted with VDOT to construct projects on the County's behalf. However, with the advent of NVTa regional funding, the number of such projects will increase significantly and establishing clear roles and responsibilities between the County and VDOT, vis-à-vis NVTa funding, will help facilitate these projects going forward. With this in mind, County staff worked with VDOT to craft a new, modified SPA between the County and VDOT, specific to NVTa-funded projects.

The FCDOT/VDOT agreement enables FCDOT to remain responsible for and oversee the implementation by VDOT of the Route 7 Widening project, according to the terms of the County's agreement with NVTa and provides a mechanism for funding to flow

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directly from NVTA to VDOT, on a reimbursement basis. Staff will be seeking Board approval in early 2017 for an agreement between FCDOT and VDOT, using the aforementioned agreement for the Route 7 Widening project.

FISCAL IMPACT:

The County will oversee and authorize \$10 million in funding directly from NVTA to VDOT on a reimbursement basis to support the implementation of the Route 7 Widening project. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1 - Resolution to Execute Agreement with the Northern Virginia Transportation Authority

Attachment 2 - Standard Project Agreement for the Route 7 Widening (Colvin Forest Drive to Jarrett Valley Drive) Project, including Related Appendices, with the Northern Virginia Transportation Authority

Attachment 3 - Approved Project Description Sheet for the Route 7 Widening (Colvin Forest Drive to Jarrett Valley Drive) Project

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Minnix, Chief, Transportation Design Division, FCDOT

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Joe LaHait, Debt Coordinator, Department of Management and Budget

Joanna L. Faust, Assistant County Attorney

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Project Funding Agreement with the Northern Virginia Transportation Authority for the funding of the Route 7 widening project from Colvin Forest Drive to Jarrett Valley Drive to be administered by VDOT.

Adopted this 6th day of December 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

**Standard Project Agreement for Funding and Administration
between
Northern Virginia Transportation Authority
and
Fairfax County

(Recipient Entity)**

Project Name: Route 7 Widening: Colvin Forest Drive to Jarrett Valley Drive

NVTA Project Number: _____

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this _____ day of _____, 20__, as between the Northern Virginia Transportation Authority ("NVTA") and _____ Fairfax County _____ ("Recipient Entity").

WITNESSETH

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

Revised: July 28, 2015

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTa Fund and/or from NVTa Bond Proceeds, is located within a locality embraced by NVTa's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTa;

WHEREAS, Fairfax County formally requested that NVTa provide funding to the Project by timely submitting an application for NVTa funding in response to NVTa's call for projects;

WHEREAS, NVTa has reviewed Fairfax County's application for funding and has approved Fairfax County's administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by Fairfax County, NVTa has determined that the Project complies with all requirements of the NVTa Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTa described in Appendix B have been duly authorized and directed by Fairfax County to finance the Project;

WHEREAS, NVTa agrees that Fairfax County will design and/or construct the Project or perform such other specific work for the Project and Fairfax County agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the Fairfax County's administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTa's governing body and Fairfax County's governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;.

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

Fairfax County shall:

- I. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVTAFunds specified on Appendix B to pay any Project cost if the NVTAFunds Act does not permit such Project cost to be paid with NVTAFunds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVTAFunds will provide funding for such multiple phases (as set forth on Appendix B), NVTAFunds may not provide funding to Fairfax County to advance the Project to the next phase until the current phase is completed. In any circumstance where Fairfax County seeks to advance a Project to the next phase using NVTAFunds, Fairfax County shall submit a written request to NVTAFunds's Executive Director explaining the need for NVTAFunds's funding of an advanced phase. NVTAFunds's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVTAFunds's current and projected cash flow position and make a recommendation to NVTAFunds whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit Fairfax County from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTA for having advance funded a future phase of the Project. However, Fairfax County further recognizes that NVTA's reimbursement to Fairfax County for having advance funded a Project phase will be dependent upon NVTA's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTA's Executive Director will periodically update NVTA's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. Fairfax County shall provide all information required by NVTA so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTA requests for payment consistent with Appendix B and the most recently approved NVTA cash flow estimates that include NVTA's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTA and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTA, Fairfax County can expect to receive payment within twenty (20) days upon receipt by NVTA. Approved payments may be made by means of electronic transfer of funds from NVTA to or for the account of Fairfax County.
8. Promptly notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTA detailed estimates of additional costs associated with those circumstances. Fairfax County understands that it will be within NVTA's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTA will do so only in accordance with NVTA's approved Project Selection Process and upon formal action and approval by NVTA. Fairfax County shall timely provide to NVTA a

complete and accurate update to Appendix B, if NVTa approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTa no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTa Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to _____ Fairfax County _____'s Project: a) Prior to any NVTa funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTa member localities; b) any such funds released by NVTa for such project will be in addition to the funds that the NVTa member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTa until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTa.
11. Should _____ Fairfax County _____ be required to provide matching funds in order to proceed or complete the funding necessary for the Project, _____ Fairfax County _____ shall certify to NVTa that all such matching funds have been either authorized and/or appropriated by _____ Fairfax County _____s governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern _____ Fairfax County _____ and provide copies of any such financial records to NVTa, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern Fairfax County; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that Fairfax County misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code ("the NVTA Act") Chapter 766 of the 2013 Virginia Acts of Assembly ("Chapter 766"), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all Fairfax County's contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of Fairfax County for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that Fairfax County may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA's in-house legal counsel) in connection with the work performed under this Agreement Fairfax County so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, Fairfax County will use the Project for its intended purposes for the duration of the Project's useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern Fairfax County.

19. Acknowledge that if the Project is being funded in whole or in part by NVTB Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if Fairfax County expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that Fairfax County agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that Fairfax County is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if Fairfax County is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTB funds and/or NVTB Bond Proceeds that Fairfax County will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTB will not be a party or signatory to that Agreement; nor will NVTB have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTB no later than 90 days after final payment to the contractors that Fairfax County adhered to all applicable laws and regulations and all requirements of this Agreement.

B. NVTB's Obligations

NVTB shall:

- I. Provide to Fairfax County the funding authorized by NVTB for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO"), all payment requisitions submitted by Fairfax County for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTA's assigned Program Coordinator all Fairfax County's payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from Fairfax County. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify Fairfax County in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of Fairfax County that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all _____ Fairfax County _____'s supplemental requests for funding from NVTa under Paragraphs A.5 and A.8 of this Agreement to NVTa's Executive Director. NVTa's Executive Director will initially review those requests and all supporting documentation with NVTa's CFO. After such initial review, NVTa's Executive Director will make a recommendation to NVTa's Finance Committee for its independent consideration and review. NVTa's Finance Committee will thereafter make a recommendation on any such request to NVTa for final determination by NVTa.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTa Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of _____ Fairfax County _____'s financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTa's review of any payment requisition or of any NVTa compliance review, NVTa staff determines that _____ Fairfax County _____ has misused or misapplied any NVTa funds in derogation of this Agreement or in contravention of the NVTa Act, Chapter 766 or applicable law, NVTa staff will promptly advise NVTa's Executive Director and will advise _____ Fairfax County _____'s designated representative in writing. _____ Fairfax County _____ will thereafter have thirty (30) days to respond in writing to NVTa's initial findings. NVTa's staff will review _____ Fairfax County _____'s response and make a recommendation to NVTa's Finance Committee. NVTa's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTa. Pending final resolution of the matter, NVTa will withhold further funding on the Project. If NVTa makes a final determination that _____ Fairfax County _____ has misused or misapplied funds in contravention of this Agreement, the NVTa Act, Chapter 766, or other applicable law, NVTa will cease further funding for the Project and will seek reimbursement from _____ Fairfax County _____ of all funds previously remitted by NVTa (with interest earned at the rate earned by NVTa) which were misapplied or misused by _____ Fairfax County _____. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to Fairfax County to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTAs funds to be provided and allocated to the Project and the amounts of any NVTAs funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. Fairfax County may terminate this Agreement, for cause, in the event of a material breach by NVTAs of this Agreement. If so terminated, NVTAs shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by Fairfax County to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTAs as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTAs fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTAs. Before initiating any proceedings to terminate under this Paragraph, Fairfax County shall give NVTAs sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTAs an opportunity to investigate and cure any such alleged breach.
3. NVTAs may terminate this Agreement, for cause, resulting from Fairfax County's material breach of this Agreement. If so terminated, Fairfax County shall refund to NVTAs all funds NVTAs provided to Fairfax County for the Project (including interest earned at the rate earned by NVTAs). NVTAs will provide Fairfax County with sixty (60) days written notice that NVTAs is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, Fairfax County may

request that NVTa excuse _____ Fairfax County _____ from refunding all funds NVTa provided to _____ Fairfax County _____ for the Project based upon _____ Fairfax County _____'s substantial completion of the Project or severable portions thereof; and NVTa may, in its sole discretion, excuse _____ Fairfax County _____ from refunding all or a portion of the funds NVTa provided to _____ Fairfax County _____ for the Project. No such request to be excused from refunding will be allowed where _____ Fairfax County _____ has either misused or misapplied NVTa funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, _____ Fairfax County _____ will release or return to NVTa all unexpended NVTa funds with interest earned at the rate earned by NVTa no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTa's Executive Director and _____ Fairfax County _____'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTa and to _____ Fairfax County _____'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTa's Financial Interest in Project Assets

_____ Fairfax County _____ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTa under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTa shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTa under this

Agreement. In the event that Fairfax County fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, Fairfax County shall refund to NVTa with interest at the rate earned by NVTa the amount attributable to NVTa's proportionate financial interest in the value of said Project Asset. If Fairfax County refuses or fails to refund said monies to NVTa, NVTa may recover its proportionate financial interest from Fairfax County by pursuit of any remedies available to NVTa, including but not limited to NVTa's withholding of commensurate amounts from future distributions of NVTa funds to Fairfax County.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTa pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTa Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTa Fund are subject to appropriation by the General Assembly and (ii) NVTa's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTa Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTa, to the attention of its Executive Director;
3040 Williams Drive, Suite 200
Fairfax, VA 22031
- 2) to Fairfax County, to the attention of Tom Biesiadny
4050 Legato Road, Suite 400
Fairfax, Virginia 22033-2895 (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

Fairfax County represents that it is not acting as a partner or agent of NVT A; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: _____

Date: _____

Fairfax County (Name of Recipient Entity)

By: _____

Date: _____

Appendix A –Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Route 7 Widening (Colvin Forest Drive to Jarrett Valley Drive), 1S

Recipient Entity: Fairfax County

Project Manager Contact Information: Smitha Chellappa, (703) 877-5761;
Smitha.Chellappa@FairfaxCounty.gov

Table A-1 Project Changes

Widen Route 7 from four to six lanes between Colvin Forest Drive and Jarrett Valley Drive, improve intersections and add bicycle and pedestrian facilities. This project aims to increase capacity, decrease congestion and improve safety along a 3.6-mile segment of Route 7 between Jarrett Valley Drive and Colvin Forest Drive, and includes:

- Widening from four to six lanes.
- Intersection improvements along the corridor, with careful focus on community access.
- A 10-foot shared-use path on both sides of Route 7, with connections to local trails.

As of 2011, this section of Route 7 carried up to 54,000 vehicles a day, and is expected to carry up to 86,000 vehicles a day by 2040. Widening this high-volume road has been part of Fairfax County's Comprehensive Plan for many years, and is an important improvement to link northern and western Fairfax with the county's planned revitalization of Tysons.

Table A-2 Project Milestone Changes

Only Complete if Different from the Approved NVTA Project Description Form Attached

Signature: _____
Chief Executive Officer

Date: _____

Revised: 4/14/2016

APPENDIX B-PROJECT BUDGET & CASH FLOW
PROJECT IDENTIFICATION AND PROPOSED FUNDING

NVTA Project Title: Route 7 Widening (Colvin Forest to Jarrett Valley)
 Recipient Entity: Fairfax County
 Project Contact Information: Smitha Chellappa, (703) 877-5761; Smitha.Chellappa@FairfaxCounty.gov

| | |
|---------------------------|-------|
| NVTA Use: | |
| Date Received: | _____ |
| Funding Program: | _____ |
| Project #: | _____ |
| Ledger Account #: | _____ |
| Revision Date: | _____ |
| Rec'd Certificate of Ins: | _____ |

TABLE B-1 PROJECT COSTS & FUNDING SOURCE

| Project Cost Category | Total Project Costs | Approved NVTA Project Funds | Amount of Other Sources of Funds | List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category) |
|-----------------------------|-----------------------|-----------------------------|----------------------------------|---|
| Study | \$ - | \$ - | \$ - | |
| Preliminary Engineering | \$ 2,400,000 | | \$ 2,400,000 | RSTP |
| Right-of-Way Acquisition | \$ 27,000,000 | \$ 10,000,000 | \$ 17,000,000 | NVTA FY17 Program; RSTP, FY17-22 HB2 allocation (SYIP). |
| Construction | \$ 106,471,738 | | \$ 106,471,738 | RSTP, FY17-22 HB2 allocation (SYIP). |
| Capital Asset Acquisitions | | | | |
| Other | | | | |
| Total Estimated Cost | \$ 135,871,738 | \$ 10,000,000 | \$ 125,871,738 | |

TABLE B-2 PROJECT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY

| Project Cost Category | Total FY2017 Project Funds | Total FY2018 Project Funds | Total FY2019 Project Funds | Total FY2020 Project Funds | Total FY2021 Project Funds | Total FY2022 Project Funds |
|-----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Study | | | | | | |
| Preliminary Engineering | | | | | | |
| Right-of-Way Acquisition | \$ 3,000,000 | \$ 3,000,000 | \$ 2,000,000 | \$ 2,000,000 | | |
| Construction | | | | | | |
| Capital Asset Acquisitions | | | | | | |
| Other | | | | | | |
| Total Estimated Cost | \$ 3,000,000 | \$ 3,000,000 | \$ 2,000,000 | \$ 2,000,000 | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

TABLE B-3 MONTHLY/QUARTERLY PROJECT CASH FLOW FOR NVTA FUNDS ONLY

| Month | FY2017 Monthly Cash Flow | FY2018 Quarterly Cash Flow | FY2019 Quarterly Cash Flow | FY2020 Quarterly Cash Flow | FY2021 Quarterly Cash Flow | FY2022 Quarterly Cash Flow |
|------------------------------|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| July | | | | | | |
| August | | | | | | |
| September | | \$ 750,000 | \$ 500,000 | \$ 500,000 | | |
| October | | | | | | |
| November | | | | | | |
| December | | \$ 750,000 | \$ 500,000 | \$ 500,000 | | |
| January | | | | | | |
| February | | | | | | |
| March | \$ 1,500,000 | \$ 750,000 | \$ 500,000 | \$ 500,000 | | |
| April | | | | | | |
| May | | | | | | |
| June | \$ 1,500,000 | \$ 750,000 | \$ 500,000 | \$ 500,000 | | |
| Total per Fiscal Year | \$ 3,000,000 | \$ 3,000,000 | \$ 2,000,000 | \$ 2,000,000 | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

The Total Amounts in Table B-2 and Table B-3 must agree to the total NVTA Funds listed in Table B-1

The total of each Fiscal Year must match in Table B-2 and Table B-3

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

| | | |
|---|---|---|
| Recipient Entity | Northern Virginia Transportation Authority | Northern Virginia Transportation Authority |
| Signature _____ | Signature _____ | Signature _____ |
| Director, Fairfax County Dept of Transportation | NVTA Executive Director | NVTA Chief Financial Officer |
| Title _____ | Title _____ | Title _____ |
| Date _____ | Date _____ | Date _____ |

Print name of person signing

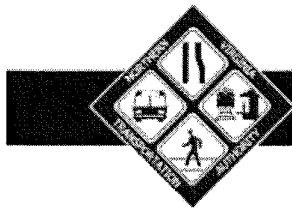
Revised: 4/13/2016

Appendix E -Authorization of designee(s)

Attach this page to the recipient governing body's authorization for their respective designee(s) to execute the Standard Project Agreement and Tax Covenant (if applicable) on their behalf(s) as evinced by entity's clerk's minutes.

Submission of the original signed or certified copy of the governing body's authorization is required

Revised: 2/17/2016



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

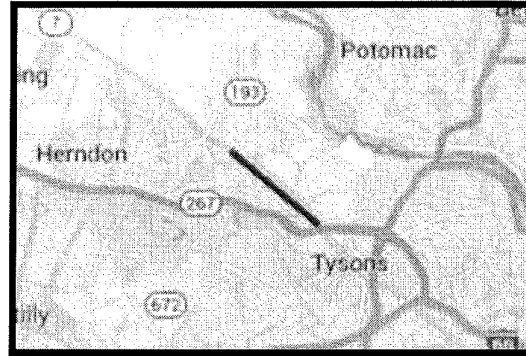
Project Description Form – 1S

Basic Project Information

Submitting Jurisdiction/Agency: Fairfax County

Project Title: Route 7 Widening: Colvin Forest Drive to Jarrett Valley Drive

Project Location: Colvin Forest Drive to Jarrett Valley Drive



Project Description: Widen Route 7 from four to six lanes between Colvin Forest Drive and Jarrett Valley Drive, improve intersections and add bicycle and pedestrian facilities. This project aims to increase capacity, decrease congestion and improve safety along a 3.6-mile segment of Route 7 between Jarrett Valley Drive and Colvin Forest Drive, and includes:

- Widening from four to six lanes.
- Intersection improvements along the corridor, with careful focus on community access.
- A 10-foot shared-use path on both sides of Route 7, with connections to local trails.

As of 2011, this section of Route 7 carried up to 54,000 vehicles a day, and is expected to carry up to 86,000 vehicles a day by 2040. Widening this high-volume road has been part of Fairfax County's Comprehensive Plan for many years, and is an important improvement to link northern and western Fairfax with the county's planned revitalization of Tysons.

Project Milestones

Project Milestones by Project Phase:

- **Engineering:**
- **Environmental Work:**
- **Design:** Scoping/preliminary design (2014 to Sept 2016), Detailed/final design (Sept 2016 to Feb 2020)
- **Right of Way Acquisition:** Land acquisition (Mar 2018 to Feb 2020); Utility relocation (Late 2018 to Jul 2020)
- **Construction:** Jan 2021 to Dec 2022
- **Capital Asset Acquisitions:**
- **Other**

Project Analysis Summary*

| | | | |
|--|-------|----------------|---------|
| NVTA Quantitative Score | 66.24 | Rank | 2 |
| Congestion Reduction Relative to Cost Ratio (NVTA Share) | 0.21 | hours saved/\$ | Rank 12 |
| Congestion Reduction Relative to Cost Ratio (Total Cost) | 0.18 | hours saved/\$ | Rank 11 |

*Detailed scoring information can be found at: <http://www.thenovaauthority.org/planning-programming/fy2017-program/>

FY2017 Program

Route 7 Widening: Colvin Forest Drive to Jarrett Valley Drive 1S

5.11.16

Project Cost

Requested NVTa FY2017 Funds: \$10,000,000

Total Cost to Complete Project: \$135,900,000

| Project Phases | Requested NVTa FY2017 Funds | Other Sources of Funding | Total Cost by Phase |
|-----------------------------------|-------------------------------------|--|---------------------------------|
| Engineering | | \$2,400,000 (RSTP) | \$2,400,000 (FY2016 – FY2020) |
| Environmental Work | | (included in engineering) | (included in engineering) |
| Design | | (included in engineering) | (included in engineering) |
| Right of Way Acquisition | \$10,000,000 (Late FY2017 - FY2020) | \$17,000,000 (RSTP) | \$27,000,000 (FY2017 – FY2020) |
| Construction | | \$4,331,000 (RSTP) \$102,169,000 (HB2 and/or NVTa future request) | \$106,500,000 (FY2021 – FY2023) |
| Capital Asset Acquisitions | | | |
| Other | | | |
| TOTAL | \$10,000,000 | \$125,900,000 | \$135,900,000 |

Project Impacts

What regional benefit(s) does this project offer? As of 2011, this section of Route 7 carried up to 54,000 vehicles a day, and is expected to carry up to 86,000 vehicles a day by 2040. Widening this high-volume road has been part of Fairfax County's Comprehensive Plan for many years, and is an important improvement to link northern and western Fairfax with the county's planned revitalization of Tysons.

How will the project reduce congestion? The widening of the roadway increases the vehicular capacity of the roadway itself. The addition of bicycle and pedestrian facilities will provide alternate commuting and travel modes into and out of Tysons, and help reduce vehicular congestion. In addition, the widening will also improve level of service on the facility, reduce auto vehicle miles travelled. The application of access management on this Route 7 project places a focus on the location, spacing, and design of intersections, entrances, median openings, and traffic signals. Each of these creates "conflict points" where vehicles have to stop or slow, thus disrupting the flow of traffic. The more conflict points a roadway has, the more it experiences traffic congestion and crashes. Reducing the number of conflict points and their adverse impact on roadway operations and public safety will come through better management of access to Route 7. With access management motorists spend less time in traffic, increase fuel efficiency, air pollution is reduced, and commuting times are lessened.

How will the project increase capacity? The project will increase capacity by adding two additional lanes on Route 7 (one in each direction) for approximately 3.6 miles between Jarrett Valley Drive and Colvin Forest Drive.

How will the project improve auto and pedestrian safety? The application of access management on this Route 7 project places a focus on the location, spacing, and design of intersections, entrances, median openings, and traffic signals. Each of these creates "conflict points" where vehicles have to stop or slow, thus disrupting the flow of traffic. The more conflict points a roadway has, the more it experiences traffic congestion and crashes. Reducing the number of conflict points will improve safety for both motorists and pedestrians. In addition, this project will provide multi-use trails on both sides of Route 7 which will further improve safety for pedestrians.

How will the project improve regional connectivity? The project will improve access between the four Tysons Activity Centers and points west. Further, widening this high-volume road has been part of Fairfax County's Comprehensive Plan for many years, and is an important improvement to link northern and western Fairfax with the county's planned revitalization of Tysons.

How will the project improve bicycle and pedestrian travel options? The roadway widening work includes adding 10 foot wide shared-use paths on both sides of the road. These improvements will improve safety and expand mobility for cyclists and pedestrians, all in conformity with Fairfax County's Comprehensive Plan.

How will the project improve the management and operation of existing facilities through technology applications? N/A

Additional Information in Support of This Project

VDOT Project Page - http://www.virginiadot.org/projects/northernvirginia/route_7_widening_-_reston_ave_to_dtr.asp



Board Agenda Item
December 6, 2016

ACTION - 6

Approval of Rescission of Memorandum of Agreement Between the Board of Supervisors of Fairfax County, Virginia, and the Vienna Volunteer Fire Department

ISSUE:

Board approval of Rescission of Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia, and the Vienna Volunteer Fire Department.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the Rescission of Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia and the Vienna Volunteer Fire Department and authorize him to sign it on behalf of the Board.

TIMING:

Board of Supervisors approval is requested on December 6, 2016, to complete the transaction by the end of 2016 as directed by the Board on October 18, 2016.

BACKGROUND:

On October 18, 2016, the Board directed the County Attorney to prepare an action item to rescind the 2004 Memorandum of Agreement (MOA) between Fairfax County and the Vienna Volunteer Fire Department (VVFD). The Board requested this item be returned for action before the end of 2016.

In 1996, the VVFD began a series of renovations to its fire station located at 400 Center Street South in Vienna. The County agreed to contribute approximately \$1.5M toward the renovation. The VVFD borrowed \$1.5M and the balance was paid by community fund raising efforts and saved VVFD funds raised over the years for this effort. The total renovation cost was approximately \$3.8M.

In connection with the County's contribution, the County and the VVFD entered into the MOA on October 16, 2004 (Attachment 1). The MOA primarily outlines each party's responsibilities during and after the renovation project, such as selection of the contractors, administration of the construction contracts, and operation and maintenance of the fire station.

Board Agenda Item
December 6, 2016

The MOA continues in force indefinitely unless the County terminates it. The County has the option to terminate the MOA in the event the VVFD fails to meet certain conditions set forth in Section 13 of the MOA. The County must provide the VVFD with notice of its intent to terminate and an opportunity to cure any deficiencies.

The MOA contains a reverter clause in Section 14, which provides that if the County does elect to terminate the MOA for any of the reasons set forth in Section 13, then the VVFD must convey the fire station to the Town of Vienna or to the County if the Town of Vienna declines to accept it. Although the Town of Vienna was not a signatory to the MOA, the Vienna Town Council passed a resolution endorsing and supporting the MOA on February 7, 2005. This resolution is included in the attached MOA. The primary purpose of the reverter clause is to ensure that an operational fire station remains at the Vienna location.

The VVFD has encountered difficulties when attempting to refinance its renovation loans, because some lenders have cited the reverter clause in the MOA as a cloud on the title that would affect marketability of the property. The Rescission of Memorandum of Agreement (Attachment 2) explicitly provides that the termination and consequences of termination provisions of Sections 13 and 14 of the MOA, including the reverter clause, are null and void and of no further effect. Furthermore, this Rescission of Memorandum of Agreement is not a termination within the meaning of Section 13 of the MOA and therefore does not invoke the reverter clause.

The VVFD is a signatory to another agreement with the County. In 2007 the County convened a Management Agreement Committee ("MAC") to create a single agreement between the County and each of its volunteer fire departments. Every individual volunteer fire department, including the VVFD, signed the resulting MAC Agreement by May 2013 (Attachment 3). The MAC Agreement reduces existing policies and procedures to writing, and covers issues such as the recruitment and training of volunteers, purchase and maintenance of apparatus, care of facilities, and financial assistance by the County. The Board directive that staff bring this rescission to it correctly noted that this action would have no bearing on the MAC Agreement.

Many of the provisions of the MOA are out of date. The provisions dealing with construction contracts and administration no longer have any effect because the renovation project is complete. The provisions dealing with the operation and maintenance of the facilities are now covered in substantially the same form in the MAC Agreement. In particular, Section 4 of the MAC Agreement specifically contemplates a volunteer company turning over assets to the County as a means of enabling the County's Fire and Rescue Department to continue to provide services in the area the volunteer company serves.

Board Agenda Item
December 6, 2016

The VVFD has a long history as a stable and successful volunteer fire company, and anticipates no financial shortfalls in the foreseeable future. Although the MOA was beneficial to VVFD at one time, it has since become a hindrance. The County's interests in ensuring a fire station remains at the Vienna location are adequately protected by the MAC Agreement.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:

Attachment 1 – Memorandum of Agreement Between the Board of Supervisors, Fairfax County, Virginia, and the Vienna Volunteer Fire Department
Attachment 2 – Rescission Agreement
Attachment 3 – Management Advisory Commission Agreement

STAFF:

Dave Rohrer, Deputy County Executive
Fire Chief Richard Bowers, Fire and Rescue Department
Jeffrey Katz, Fairfax County Volunteer Fire Department Liaison
John Burton, Office of the County Attorney

RESOLUTION OF THE TOWN COUNCIL OF THE
TOWN OF VIENNA, VIRGINIA ENDORSING AND
SUPPORTING THE MEMORANDUM OF AGREEMENT BETWEEN
THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,
VIRGINIA AND VIENNA VOLUNTEER FIRE DEPARTMENT

WHEREAS: Fairfax County, Virginia, by its governing body, the Board of Supervisors of the County, and the Vienna Volunteer Fire Department, a nonprofit, non-stock Virginia Corporation, has entered into an agreement for the purpose of providing monetary assistance pursuant to Virginia Code § 15.2-953.B(ii)(1950 Code of Virginia, as amended) in connection with the renovation of fire and rescue facilities on property owned by the Vienna Volunteer Fire Department located at 400 Center Street, Vienna, Virginia and referenced in the Fairfax County Tax Maps as 038-4-02-0152; and

WHEREAS: The Vienna Volunteer Fire Department serves an essential public safety service to the citizens of the Town of Vienna; and

WHEREAS: The Vienna Volunteer Fire Department is also an integral part of the greater Vienna community; and

WHEREAS: The Fairfax County Board of Supervisors has recognized the contribution of the Vienna Volunteer Fire Department and has provided financial assistance to ensure the continued vitality of the Vienna Volunteer Fire Department as well as to ensure public safety needs as met; and

NOW THEREFORE BE IT RESOLVED that the Council of the Town of Vienna, Virginia, in the best interests of the Town of Vienna, endorses and supports the Memorandum of Agreement between the Board of Supervisors of Fairfax County, Virginia and the Vienna Volunteer Fire Department.

ADOPTED this 7th day of February, 2005.

M. Jane Seeman
M. Jane Seeman, Mayor

ATTEST:

Carol G. Phelan
Town Clerk

C:\sdb.towncode.vvfd

**MEMORANDUM OF AGREEMENT BETWEEN
THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, AND
VIENNA VOLUNTEER FIRE DEPARTMENT**

THIS MEMORANDUM OF AGREEMENT (the "Agreement"), between Fairfax County, Virginia (the "County"), by its governing body, the Board of Supervisors of the County, and The Vienna Volunteer Fire Department (the "VVFD"), a nonprofit, non-stock Virginia corporation, is for the purpose of providing monetary assistance pursuant to Va. Code §15.2-953.B(ii) (1950 Code of Virginia, as amended) in connection with the renovation of fire and rescue facilities (the "Fire and Rescue Facilities") on property owned by the VVFD located at 400 Center Street, Vienna, Virginia and referenced in the Fairfax County Tax Maps as 038-4-02-0152 (the "Subject Property"). In making this Agreement, the County and the VVFD (collectively the "Parties") hereby state:

WHEREAS, the VVFD has been providing fire and rescue services within the Town of Vienna (the "Town") and the County for over 100 years and the established policy of the County is to encourage volunteer fire and rescue service participation in the County; and

WHEREAS, on or about 1996, the VVFD commenced a renovation project designed to update and upgrade the Fire and Rescue Facilities in three phases (hereinafter the "Renovation Project"); and

WHEREAS, in Phase 1 of the Renovation Project, completed in 2002, the front of the VVFD's station was rebuilt to accommodate new overhead apparatus doors; and

WHEREAS, in Phase 2 of the Renovation Project, currently underway, sprinklers are being installed throughout the existing building (provisions are being made to allow for future sprinkler expansion), the front staircase is being redesigned as a secondary emergency exit, and a restroom, accessible to the public, is being installed; and

WHEREAS, the VVFD now plans to commence Phase 3 of the Renovation Project, involving the expansion of the building and complete renovation of the living and administrative quarters of the operational and volunteer staff, which includes correcting critical deficiencies in the living quarters for male and female personnel, providing an OSHA required decontamination area, adding training space for both personnel of the County's Fire and Rescue Department ("Career Personnel") and VVFD personnel, bringing all mechanical and electrical systems up to

current County building codes, remodeling and upgrading the second floor community hall and associated facilities, and installing a new roof on the building, all at an estimated cost of \$2,600,000; and

WHEREAS, the Parties recognize that each Party would be benefited if the County provided additional financial resources to the VVFD in order to implement Phase 3 and complete the Renovation Project; and

WHEREAS, pursuant to the authority granted in Va. Code Ann. §15.2-953(B) (LNMB Supp. 2004), the County is prepared to assist the VVFD by providing funding in an amount not to exceed \$1,500,000.00 (the "County Contribution") and other valuable assistance in accordance with the terms of this Agreement to assist the VVFD in completing the Renovation Project; and

WHEREAS, the VVFD is prepared to continue to maintain the Fire and Rescue Facilities in good condition and to provide fire and rescue services within Vienna and in surrounding areas as has been the case for over 100 years; and

WHEREAS, the VVFD will obtain the balance of the funds it will need for the Renovation Project from sources other than the County in general compliance with the business plan (the "Business Plan") which Business Plan is attached hereto as Exhibit "A".

Now, Therefore, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by the Parties that:

Section 1: Cooperation by the Parties. The VVFD and the County shall cooperate to complete the Renovation Project in accordance with this Agreement. The respective roles and responsibilities of the Parties shall be governed by this Agreement.

Section 2. Design and Construction. The Renovation Project will be constructed in accordance with the plan prepared by LeMay Erickson Architects and numbered 03203B0760, as submitted to Building and Plan Review Agency of Fairfax County and approved by that agency on May 7, 2004. The Renovation Project shall meet all Federal, State and County requirements that are generally applicable to the construction of such facilities. The Parties acknowledge that the VVFD has received

approvals as necessary from the Town and the County for all building plans and permits for the Renovation Project, and that both the Town and the County have waived all fees associated with the Renovation Project.

Section 3. Award of Construction Contract. The VVFD shall be responsible for preparing a request for competitive sealed bids for Phase 3. The procurement will follow the VVFD's bylaws that require competitive bids for any non-emergency purchase order over \$1,500. The County will provide advice and expertise in the review of the bids, but the VVFD shall have the sole power to choose the winning bidder and to make an award of contract for the Renovation Project. Neither the VVFD, nor any individual member of the VVFD shall have a direct or indirect personal interest in any bid submitted for the Renovation Project.

Section 4. Award and Administration of Construction Contract; Costs.

A. Contract Award: The VVFD shall award a contract for Phase 3 of the Renovation Project (a "Contract") in accordance with this Agreement.

B. Contract Administration: After the Contract is awarded, the VVFD shall administer the Contract, with the assistance of the County as provided herein. The County will assign a Department of Public Works Project Manager (hereinafter "County Representative") who will act as an advisor to the VVFD. The cost to the VVFD of the County Representative will be based on the time expended by the County Representative in his or her role as advisor to the VVFD, but shall not exceed \$75,000.00, and shall be payable from the County Contribution.

a. County Contribution: The County Contribution shall be the lesser of (i) the reasonably estimated cost of Phase 3 as set forth in the Business Plan or (ii) \$1,500,000.00. The County Contribution will be paid by the County to the VVFD in one lump sum within thirty (30) days following the full execution of the Agreement, less \$75,000.00 which shall be withheld to cover the cost of the County Representative. Any remaining balance of this withheld amount not needed to cover the cost of the County Representative shall be paid to the VVFD at such time as the County determines that the work of the County Representative in connection with the Renovation Project is completed.

b. Payments to Contractor: The VVFD shall be responsible for paying its contractor for the total cost of constructing the Renovation Project. At such time as the VVFD receives invoices, requests for payments or other documentation from its contractor requesting payment in connection with Phase 3, the VVFD shall review such documentation, with the assistance of the County Representative as needed, and, if the request for payment is deemed appropriate, within thirty days after receipt of the referenced documentation the VVFD shall pay such amount to the contractor.

Section 5. Changes to Construction Contract: The VVFD, in its sole discretion, shall have the power to approve contract change orders for The Renovation Project. The County reserves the right to review all change orders for potential operational impact and recommend action as necessary to ensure operational requirements are met.

Section 6. Operation and Maintenance of the New Facilities. Upon completion of the Renovation Project, the VVFD will continue to own the Fire and Rescue Facilities. The VVFD will continue to maintain the Fire and Rescue Facilities in good condition and in compliance with County standards and the VVFD shall make all necessary repairs in a timely manner to keep the Fire and Rescue Facilities in good operating condition.

Section 7. Use of the Subject Property. Use of the Subject Property for purposes other than for fire and rescue services in operational areas of the building shall be consistent with Virginia law and Fairfax County Fire and Rescue Department policies as well as the VVFD's operational policies. Operational areas for the purpose of this Agreement are defined as the ground floor areas of the building where the fire vehicles and Career Personnel or VVFD personnel are housed or based. All supporting activities, including but not limited to use of the upstairs community hall for fundraising, community activities, and VVFD functions, and use of the back parking lot, which shall include sufficient parking for Career Personnel assigned to the VVFD, will be governed solely by the VVFD.

Section 8. Standards and Requirements. The VVFD shall meet and maintain the standards and requirements for a volunteer fire department established by Title 27 of the Code of

Virginia, as it may be amended from time to time, and by Chapter 62 of the Fairfax County Code and other applicable County ordinances that may, from time to time, be adopted or amended and that are applicable to volunteer fire departments within the County. The VVFD shall be notified in writing 60 days prior to the effective date of any County ordinance adopted or amended after the effective date of this Agreement that may affect the operations of the VVFD.

Section 9. Operations of the VVFD. The VVFD shall provide fire and rescue services under the direction of an integrated volunteer/career officer structure in accordance with the standard operational procedures of the County's Fire and Rescue Department. The administrative functions of the VVFD are governed by the policies and procedures of the VVFD and by its bylaws.

Section 10. Insurance. The County will continue to provide the VVFD with the same insurance coverages that the County provides generally for other volunteer departments.

Section 11. Liability of the County. No activity assumed or undertaken by the County pursuant to this Agreement shall make the County or any of its officers or employees responsible for any action, decision, policy, or practice of the VVFD or for any action, decision, policy or practice of any officer, member or employee of the VVFD.

Section 12. Liability of the VVFD. No activity assumed or undertaken by the VVFD pursuant to this Agreement shall make the VVFD responsible for any action, decision, policy or practice of the County or for any action, decision, policy or practice of any officer or employee of the County.

Section 13. Duration of Agreement; Termination and Notice. This Agreement shall exist and continue in force provided the following conditions continue to be met: (a) the VVFD maintains the Fire and Rescue Facilities in good condition and repair, as provided in Section 6 of this Agreement; (b) the VVFD exists as a properly constituted volunteer fire department; (c) the Subject Property is used solely as provided herein; and (d) the VVFD meets the standards and requirements for volunteer fire departments set forth in the Code of Virginia

and in County ordinances as provided by Section 8 of this Agreement. The County at its sole option may elect to terminate this Agreement if any one of these conditions does not continue to be met at all times. The County shall provide written notice to the VVFD of its intention to so terminate this Agreement, and for a period of 90 days following receipt of such notice the VVFD shall have an opportunity to cure any deficiencies. If the VVFD cures those deficiencies within that 90-day cure period, then this Agreement shall not be terminated. Furthermore, if in the judgment of the County the deficiencies reasonably cannot be cured within the 90-day period, but the VVFD has commenced and is continuing a diligent effort to cure the deficiencies, then without otherwise waiving its right to terminate, the County may extend the time within which the VVFD may effect a cure of the deficiencies.

Section 14. Consequences of Termination. If this Agreement is terminated by the County as provided in Section 13 of this Agreement, then the VVFD forthwith shall convey the Subject Property to the Town of Vienna if the governing body of the Town of Vienna agrees to accept the Subject Property and continue to support the existence and operation of a fire station on the Subject Property, or if the Town of Vienna declines to do so, then to the County.

Section 15. Administration. Except as otherwise specifically provided by this Agreement, this Agreement shall be administered and enforced on behalf of the County by the County Executive or by the designated agent or agents of the County Executive. Except as otherwise specifically provided by this Agreement, this Agreement shall be administered and enforced on behalf of the VVFD by the President of the VVFD or by the designated agent or agents of the President of the VVFD.

Section 16. Notice. Except as otherwise specifically provided by this Agreement, any and all notices, requests, or other communications hereunder shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt therefor, or by registered mail, return receipt requested and first-class postage prepaid, or by Federal Express or similar reputable overnight courier service, as follows:

To the County: County Executive
 12000 Government Center Parkway, Suite 552
 Fairfax, VA 22035

With a copy to:

Chief
Fire and Rescue Department
4100 Chain Bridge Road
Fairfax, Virginia 22030

To The VVFD: President
Vienna Volunteer Fire Department
400 Center Street South
Vienna, VA

Or such other address as either Party may furnish to the other by notice in accordance with this Section. Notice shall be deemed effective when delivered if hand-delivered or delivered by private courier, or three business days from posting if mailed using the United States Postal Service.

Section 17. Headings. The headings of the sections of this Agreement are intended merely as informative catchwords to indicate the contents of each section. Those headings shall not be construed to modify or amend the text of any section.

Section 18. Virginia Law. Virginia law shall govern this Agreement.

Section 19. Effective Date. This Agreement shall become effective on the first date when signed by the authorized representative of each Party.

Section 20. Original Copies. This Agreement shall be prepared and endorsed in duplicate original copies. Each Party shall have an original copy of this Agreement, and each copy represents a valid and enforceable agreement.

Board of Supervisors of Fairfax County, Virginia

Anthony H. Griffin

Anthony H. Griffin, County Executive
Fairfax County, Virginia

12/16/04

Date

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County
aforesaid this 17 day of December, 2004.

Sheila L. Morgan
Notary Public

My Commission Expires: 12-31-2007

Vienna Volunteer Fire Department, Inc.

Howard Springsteen

Howard Springsteen, President

Vienna Volunteer Fire Department, Inc.

12/21/2004

Date

COMMONWEALTH OF VIRGINIA

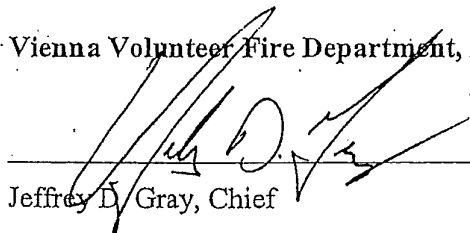
COUNTY OF FAIRFAX, to-wit

Subscribed and sworn to before me a Notary Public in the Commonwealth and County
aforesaid this 21 day of December, 2004.

Daphne Lee Gardner
Notary Public

My Commission Expires: 4/30/2007

Vienna Volunteer Fire Department, Inc.


Jeffrey D. Gray, Chief

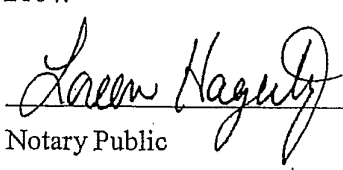
Vienna Volunteer Fire Department, Inc.

12/21/04
Date

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County
aforesaid this 21st day of December, 2004.


Notary Public

My Commission Expires: Jan. 31st 2008

RESCISSION OF MEMORANDUM OF AGREEMENT

This Rescission of Memorandum of Agreement is made this ____ day of December, 2016, by and between the Board of Supervisors of Fairfax County, Virginia ("County") and the Vienna Volunteer Fire Department, Inc. ("VVFD").

WHEREAS, the County and the VVFD entered into a Memorandum of Agreement on October 16, 2004, in connection with the County's financial contribution toward a renovation project at the VVFD's fire station located at 400 Center Street S, Vienna, Virginia; and,

WHEREAS, the County and the VVFD have determined that this Memorandum of Agreement is no longer necessary and should not remain in full force and effect; and,

WHEREAS, the County and the VVFD desire to rescind the Memorandum of Agreement.

NOW, THEREFORE, the County and the VVFD agree as follows:

1. The County and the VVFD hereby rescind the Memorandum of Agreement and all terms, covenants, conditions and restrictions therein are hereby rendered null and void and of no further force and effect as if such Memorandum of Agreement had never been entered into by the parties. For the purpose of clarity, this Rescission of Memorandum of Agreement renders the termination and consequences of termination provisions of Sections 13 and 14 of the Memorandum of Agreement null and void and of no further effect.
2. This Rescission of Memorandum of Agreement is not a termination under Section 13 of the Memorandum of Agreement and therefore does not invoke the consequences of termination provisions set forth in Section 14 of the Memorandum of Agreement.
3. This Rescission of Memorandum of Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Rescission of Memorandum of Agreement to be executed under seal on their behalf.

Vienna Volunteer Fire Department, Inc.

Anthony Stancampiano, President
Vienna Volunteer Fire Department, Inc.

Date

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County aforesaid this ____ day of _____, 2016.

My Commission Expires: _____

Notary Public

Board of Supervisors of Fairfax County, Virginia

Edward J. Long Jr., County Executive

Date

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County aforesaid
this ____ day of _____, 2016.

My Commission Expires: _____

Notary Public



THE AGREEMENT BETWEEN

THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

AND

THE FAIRFAX COUNTY VOLUNTEER FIRE AND RESCUE DEPARTMENTS

MAY 14, 2013



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**AGREEMENT BETWEEN THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, AND THE
VOLUNTEER FIRE AND RESCUE DEPARTMENTS**

ARTICLE I – BACKGROUND AND OBJECTIVES

Section 1. Preamble

THIS AGREEMENT (this "Agreement"), dated as of May 14, 2013, is entered into by the Fairfax County Board of Supervisors (hereafter, the "Board") on behalf of the County of Fairfax, Virginia (hereafter, the "County") and the undersigned Volunteer Fire and Rescue Departments, each an independent entity formed under Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue Code or otherwise (hereafter, individually, the "Volunteer Department" and collectively, the "Volunteer Departments"). The Fairfax County Fire and Rescue Department (FCFRD) shall act as the County's agent for the purposes of implementing this Agreement.

Section 2. Agreement Purpose

In recognition of the fact that Volunteer Departments in Fairfax County are considered the primary provider of emergency services within each Volunteer Department's service area, and that Volunteer Departments work with career personnel of the FCFRD and other emergency service organizations providing personnel, facilities, apparatus, and other services as needed to protect the citizens of Fairfax County, this Agreement is entered into for the purpose of enhancing the provision of emergency services through a combined volunteer and career service delivery model.

Section 3. Agreement Objectives

The objectives of this Agreement are as follows:

- Define Roles. Define and clarify the roles and responsibilities of the County, the Volunteer Departments, and the FCFRD in the combined career and volunteer service delivery model.
- Emergency Services. Maintain and strengthen the Volunteer Departments as key contributors in the efficient provisioning of emergency services.
- Utilize Members. Ensure the utilization of members of the Volunteer Departments to the fullest extent of their training and certification.
- Support Members. Support and strengthen the capabilities of members of the Volunteer Departments in the provisioning of emergency services and supporting business operations.
- Sustain Contributions. Sustain the contribution of personnel facilities and apparatus by the Volunteer Departments.
- Reinforce Relationships. Ensure the smooth functioning of the combined service delivery model and establish a mutually reinforcing relationship between the County, the Volunteer Departments, and the FCFRD.
- Improve transparency of VFD business operations and financial solvency.
- Outline succession strategies if the VFDs are no longer able to maintain operations.

ARTICLE II – DEFINITIONS

Capitalized terms in this Agreement shall have the meanings provided below.

"Capital Fund Contribution" means the annual provision of financial assistance by the FCFRD to the Volunteer Departments for the procurement and maintenance of the facilities and vehicles.

"CIP" means the County's Capital Improvement Program.

"Employee Assistance Program" means a program administered by the County to assist its employees, retirees, volunteers, and their immediate families in effectively coping with personal and/or job related stress. "FCVFRA" means the Fairfax County Volunteer Fire and Rescue Association, which shall work with the Volunteer Departments to support this Agreement.

"Office of the Volunteer Liaison" means the staff function within the FCFRD that serves as the liaison between the Fire Chief, Senior Staff, and the Volunteer Departments.

"Personal Protective Equipment" means all protective clothing and safety equipment required to perform in either a firefighter or EMS position.

"Rules and Regulations" mean directives issued from time to time by the FCFRD that are applicable to Fire and Rescue Department personnel in Fairfax County.

"Schedule A" is an inventory, which shall be maintained by each Volunteer Department, identifying facilities and assets owned by the Volunteer Department and facilities and assets owned by the FCFRD. The parties agree that by June 30, 2013, each Volunteer Department will submit its completed Schedule A, which will be incorporated into this Agreement by reference. Each participating Volunteer Department must update its Schedule A annually.

"Standard Operating Procedure" means operating procedures from time to time issued by the FCFRD that are applicable to the Volunteer Departments in Fairfax County.

"Territorial Agreements" means the agreements as specified by the Internal Revenue Service which must be executed by the government entity to document the role of a volunteer department to provide essential emergency services. These agreements are prerequisites to obtaining low interest loans.

"VFC" means the Volunteer Fire Commission, which shall work with the Volunteer Departments to support this Agreement.

"Volunteer Policies and Procedures Manual" means a reference source produced by the FCFRD for the Volunteer Departments containing policies, procedures, and answers to frequently asked questions in an effort to provide guidance to the Volunteer Departments in policies and procedures unique to volunteers as well as additional guidance, information, and contacts in other areas.

ARTICLE III – TERMS

Section 1. Partnership

The Volunteer Departments are considered full partners with the FCFRD in providing fire, rescue, and emergency medical services to the residents, visitors, and neighbors of Fairfax County. Volunteers shall be utilized by the FCFRD to the fullest extent of their capabilities, to fulfill the purpose of the Volunteer Departments as community-based emergency services organizations.

Section 2. Strategic Planning

On at least an annual basis, the FCFRD, through the Office of the Volunteer Liaison, shall meet (the "Strategic Meeting") (i) first, with the VFC to develop overall strategic plans for the operation, sustainability, and continued development of the County's combined career and volunteer fire and rescue system and (ii) second, with each Volunteer Department to discuss the implementation of the strategic plans as it relates to each Volunteer Department. These plans will include, but not be limited to, volunteer utilization, operational posture, facilities, apparatus, capital investment, training and certification, and human resources. The Volunteer Departments will work closely with the FCFRD to implement the strategic plans including, but not limited to, the construction, maintenance, and renovation of each Volunteer Department's facility.

Section 3. Volunteer Personnel

A. General. Volunteers through the Volunteer Departments provide a source for force multiplication, incident support, and business operations that are vital to the effective delivery of emergency services and

community aid. The efforts of the FCFRD and the Volunteer Departments relating to volunteer personnel resources will be promoted and supported by the VFC and the FCFVRA.

B. Personnel Accounting. Each Volunteer Department will maintain accurate rosters of operational and administrative personnel. Each Volunteer Department will provide the FCFRD with such data as required by the FCFRD to maintain an accurate centralized database of volunteer personnel and their qualifications. The FCFRD database will be considered the master record for personnel accounting.

C. Personnel Fitness. The FCFRD, through the Fairfax County Occupational Health Center, will provide the operational members of each Volunteer Department with medical examinations which are necessary to ensure that each Volunteer Department member maintains the required health standards as set forth by the Standard Operating Procedures and the General Orders of the FCFRD. Additionally, the Volunteer Departments and their members will be provided the results of the medical examination no later than thirty (30) calendar days from the date of each examination. The Volunteer Departments will investigate options for implementing a wellness fitness program for all Operational Volunteers and will report such options to the Fire Chief within twelve (12) months of the implementation of this agreement.

D. Recruitment, Development, and Retention. The Volunteer Departments and the Board shall work together to promote the recruitment, development, and retention of members of the Volunteer Departments, to include the promulgation of joint recruitment programs, volunteer incentive packages, meaningful operational roles for volunteers, professional development opportunities, and training programs. In connection with the recruitment programs of the Volunteer Departments, the FCFRD shall provide assistance to the Volunteer Departments with services relating thereto, including, but not limited to, individual background investigations.

E. Training. The FCFRD, through its Training Division, will provide training to members of the Volunteer Departments. Such training will be sufficient to enable volunteer members to function as emergency responders within the combined system. Training will include initial training, refresher training, advanced/specialty training, and continuing education necessary to attain and maintain certifications and skills required by the FCFRD to function as fully qualified firefighters and emergency medical services personnel. The FCFRD will maintain the master training database.

F. Benefits/Services. Volunteer personnel shall be considered non-compensated employees who are provided certain employee benefits/services; including, but not limited to:

1. Personal Protective Equipment;
2. Occupational Health Center services, and accident and injury insurance while operating as a Fairfax County volunteer;
3. Access to or use of the County's Employee Assistance Program; and
4. Disability and life insurance.

Section 4. Facilities

A. General. As indicated on each Volunteer Department's Schedule A, Volunteer Departments may own, operate, and maintain vital facilities which provide a base of operations for the delivery of emergency services provided by both career and volunteer personnel; serve as rallying points for the public in times of crisis; shelter abandoned children; provide a venue for fundraising, social activities, business operations, and public gatherings; and are landmarks for communities across the County.

B. Maintenance. Volunteer Department facilities must be constructed and maintained to promote the safety and security of career and volunteer personnel who live, work, and sleep therein, and to fulfill their mission to provide emergency services. It is recognized then that the Volunteer Departments that own and are responsible for fire stations and related facilities have a duty to operate and maintain stations and related facilities in a condition suitable for the safety, health, and well-being of those career and volunteer personnel who use them, and to ensure the stations and related facilities meet required operational standards as set forth in the facilities plan developed by the FCFRD and the Volunteer Departments. Prior to Strategic Meetings, each Volunteer Department shall confirm the accuracy of its Schedule A or provide an updated Schedule A to the FCFRD's representative or agent and the VFC (the "Annual Schedule Update").

C. Tracking Finances. Volunteer Departments shall track their fiscal resources, forecast funding requirements for facility management, and provide adequate notification to the Board, the VFC, and the FCFRD when it is anticipated that a significant lapse in facility management, operation, maintenance, renovation, replacement, or construction is expected to occur due to insufficient funds.

D. Facilities Funding Shortfalls. It is recognized that Volunteer Departments do not possess an assured source of income. As non-profit organizations operating without taxing authority, the ability to charge fees for services, or maintain consistent sources of funds, Volunteer Departments may experience funding shortfalls that impact their ability to renovate, maintain or replace existing facilities, or to build new fire stations.

E. Financial Assistance. In the event that any Volunteer Department is unable to adequately maintain or fund a replacement facility when required, such Volunteer Department will take the necessary action to develop a plan in conjunction with the Board and the FCFRD, subject to County wide priorities, to identify and acquire funding sources or to otherwise enable the FCFRD to provide fire and rescue service in the area serviced by such Volunteer Department, which can be accomplished by a partnership or by the Volunteer Department turning over assets to the County.

Section 5. Apparatus and Equipment

A. General. As indicated on each Schedule, Volunteer Departments provide apparatus and equipment for the provision of emergency services and fulfillment of community functions. As described more fully below, apparatus provided by the Volunteer Departments consists of four categories: (i) Frontline Units, (ii) Ready Reserve Units, (iii) Operational Specialty Units, and (iv) Non-Operational Specialty Units.

1. Frontline Units. The Volunteer Departments provide certain vehicles to operate out of the Volunteer Departments' stations, making up the minimum complement of response resources for the FCFRD for each such station. Volunteer-owned Frontline Units will meet the minimum requirements established in the Volunteer Policies and Procedures Manual.

2. Ready Reserve Units. The Volunteer Departments provide and staff certain vehicles (i) to supplement the standard complement of in service operational units staffed throughout the County by the FCFRD (A) in times of increased operational tempo; (B) to replace Frontline Units engaged in long duration emergency incidents or on-duty training evolutions; (C) as standby resources at public gatherings or emergency training evolutions; (D) to augment the standard complement of in service operational units during routine operations, at the discretion of the applicable Volunteer Department; and (E) to temporarily replace Frontline Units, which are out of service for short durations, and (ii) to support the accomplishment of their missions, including, but not limited to (A) community functions, (B) training evolutions, (C) transportation of volunteers to and from events, and (D) business operations.

3. Operational Specialty Units. The Volunteer Departments historically have provided Frontline Units or Ready Reserve Units, which are identified and equipped to provide specialty services to the FCFRD beyond that of basic fire suppression and EMS. Operational Specialty Units include both Heavy Specialty Apparatus and Light Specialty Apparatus. From the date of this Agreement and thereafter, the Volunteer Departments may not purchase any additional Heavy Specialty Apparatus unless agreed upon by a mutual discussion between the Volunteer Department and the FCFRD and based on financial considerations. If an agreement is reached not to replace the unit, at the end of the life cycle of a Heavy Specialty Apparatus, the County will be responsible for the replacement of such units, if deemed appropriate by the FCFRD. Light Specialty Apparatus may continue to be purchased by the Volunteer Departments in coordination with the FCFRD.

4. Non-Operational Specialty Units. The Volunteer Departments provide certain vehicles for administrative or ceremonial functions.

5. Utility Units. The Volunteer Departments provide certain support vehicles such as pickup trucks, SUVs, and sedans used to transport equipment and personnel while doing fire department business including administrative work and supporting FCFRD operations.

B. Volunteer Provision of Apparatus. Each Volunteer Department will continue to provide apparatus (other than Operational Specialty Units as specified in Article III, Section 5(A) (3)) to the County in the numbers agreed upon in its Schedule A. Operational Specialty Units owned by a Volunteer Department may be reallocated to fire stations throughout the County, including those unaffiliated with a Volunteer Department, in

accordance with the emergency services needs of the County and the operational plans developed with the input of both the Volunteer Departments and the FCFRD. In the event of an extended or permanent reallocation of any Heavy Specialty apparatus owned by a Volunteer Department, such Volunteer Department shall consent, in its reasonable and sole discretion to such reallocation, and the FCFRD shall provide appropriate compensation determined by fair market value to such Volunteer Department.

C. Apparatus Acquisition Assistance. Each Volunteer Department will work closely with the FCFRD to develop a plan for the purchase, maintenance, and replacement of apparatus owned by each such Volunteer Department.

1. Replacement Plan. Each Volunteer Department will provide the County with a replacement plan, which has been negotiated between the Volunteer Department and the County, for apparatus based on the mileage and expected service life of the various types of apparatus. This plan will be reviewed annually in August by the VFC and will be approved by the VFC and the Fire Chief. Each department must update or reaffirm its plan in conjunction with the schedule needed by the Volunteer Liaison to meet the August review. By reaffirming or updating its plan, the Volunteer Department commits to meet any purchasing, refurbishment or replacement requirements in the approved plan for the next twelve (12) months. Any exceptions to that schedule during the year must be brought to the VFC and the Fire Chief as soon as they are identified for consideration.

2. Stipends. In consideration of the apparatus contributions by the Volunteer Departments, the County will provide apparatus stipends to assist the Volunteer Departments with their principal payments of loans acquired for the acquisition of such apparatus. The provision of stipends by the County is subject to the availability of annual appropriations by the Board and in no way commits or obligates the County to continued provision of stipends. Additionally, the County and the Volunteer Departments will consider partnerships to meet apparatus needs.

3. Maintenance, Fuel and Insurance. The County agrees to provide vehicle maintenance, fuel, and insurance for Approved Apparatus acquired by the Volunteer Departments.

4. Purchase Assistance. Throughout the process of purchasing apparatus, the FCFRD will assist each Volunteer Department in the design, construction, and acceptance of apparatus and other equipment required for providing emergency services.

5. Capital Fund Contributions. The County may provide the Volunteer Departments with a Capital Fund Contribution to be used for either facilities or apparatus, subject to the availability of annual appropriations by the Board. Nothing contained herein should be construed to commit or obligate the County to the continued provision of funds.

Section 6: Territorial Agreements

Territorial Agreements shall be approved by the Board to confirm the tax exempt status of Volunteer Departments to permit the Volunteer Departments to obtain low interest loans for the purchase of facilities, apparatus, and equipment. This Agreement will not affect the terms or obligations of any existing Territorial Agreements between the Board and any Volunteer Department.

Section 7: Capital Improvement Program

The Volunteer Departments and the County will take necessary steps to ensure the inclusion of funding into the CIP as needed and to provide for the maintenance, upgrade, and replacement of facilities. Volunteer owned facilities will not be included in the CIP until an agreement is reached to transfer the facility to the County.

Section 8. Standards of Operation

The FCFRD shall confer, consult, and obtain the input of the Volunteer Departments, through the VFC and the Volunteer Liaison, when changes to Standard Operating Procedures, General Orders, Volunteer Policies and Procedures Manual, and Rules and Regulations, are under consideration.

Section 9. County Contributions and Grants

Assistance under this Agreement may include financial assistance by the County to the Volunteer Departments and shall be subject to the County's auditing procedures. Funding is subject to the availability and appropriation of funds by the Board and will be provided in accordance with the terms of this Agreement. Payment of financial assistance may be made through reimbursement arrangements between the County and applicable Volunteer Department. The procedures for the provision of funds will be mutually agreed upon by the County and the relevant Volunteer Department.

Section 10. Provision of Information

Upon the request of the County a Volunteer Department, will provide the FCFRD, with its Schedule A, as well as any relevant information needed to assist the FCFRD and the Volunteer Department(s) in their joint determination of the viability and solvency of such Volunteer Department, as well as the potential for continued, successful operations. Each Volunteer Department shall provide a financial report to the VFC and the FCFRD on an annual basis, which will be due in August.

ARTICLE IV – AGREEMENT TERM AND TERMINATION

Section 1. Term

This Agreement is between the County and each of the undersigned Volunteer Departments. With respect to individual Volunteer Departments, this Agreement shall commence upon its execution by the County and each Volunteer Department and shall continue in effect until terminated in accordance with the terms of this Agreement. The non-execution of this Agreement by any Volunteer Department shall not affect the validity and effectiveness of this Agreement as between any Volunteer Department executing this Agreement and the County.

Section 2. Termination by a Volunteer Department

If any Volunteer Department desires to terminate its participation in this Agreement, it shall provide ninety (90) days written notice of its intent to terminate to the Board, the VFC, the FCFRD, and each of the other Volunteer Department in accordance with the notice provisions of Article V, Section 1. If such notice is not rescinded within the ninety (90) day period, the Volunteer Department shall be considered terminated and no longer a party to this Agreement. The termination by any Volunteer Department of its participation in this Agreement shall not affect the continued validity and effectiveness of this Agreement between the remaining Volunteer Departments and the Board.

Section 3. Termination by the Board

If the Board desires to terminate this Agreement, it shall provide ninety (90) days written notice of its intention to do so to each Volunteer Department, the VFC and the FCFRD in accordance with the notice provisions of Article V, Section 1, and if such notice is not rescinded within such ninety (90) day period, this Agreement shall terminate.

ARTICLE V – MISCELLANEOUS

Section 1. Notices

Any notice or communication of any concerning this Agreement shall be deemed to have been duly given upon receipt by the County Executive, the Chairman of the Board, and the Presidents and Chiefs of the participating volunteer departments. Any such notice or communication to a party hereto shall be made in writing, by mail, email, fax, overnight delivery service, courier, or in person.

Section 2. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 3. Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Virginia as interpreted by the Fairfax County Circuit Court.

Section 4. Severability

In the event that any provision of this Agreement is deemed to be invalid or unenforceable, it shall not operate to render any other provision of this Agreement invalid or unenforceable.

Section 5. Dispute Resolution

In the event of a dispute under this Agreement between any Volunteer Department and the Board, the parties to the dispute shall promptly attempt to negotiate a resolution to such dispute within a reasonable time. If the dispute is not resolved within a reasonable time, not to exceed sixty (60) days unless otherwise agreed in writing by the disputing parties, then such dispute may be resolved by binding arbitration if each party to the dispute mutually agrees to arbitration. In the event of binding arbitration, the parties to the dispute shall provide notice to the VFC, the FCFRD, and all other Volunteer Departments and submit to arbitration governed by the Commercial Arbitration Rules of the American Arbitration Association in Fairfax, Virginia or as otherwise agreed upon by such parties. The cost of arbitration will be shared by the involved parties.

Section 6. Amendments


This Agreement may not be amended, supplemented, or modified without the prior written notice to and with the written consent of all the parties hereto; provided, that each Volunteer Department may from time to time update its Schedule A to accurately reflect the items included therein.

Section 7. Counterparts


This Agreement may be executed in one or more counterparts, each of which shall constitute one and the same instrument. Facsimile copies, portable document format (PDF) copies, and electronic copies of signatures shall be deemed identical to original signatures for purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

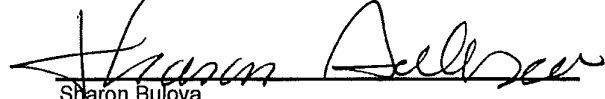

Sharon Bulova
Chairman

ANNANDALE VOLUNTEER FIRE DEPARTMENT,
STATION 8 and 23

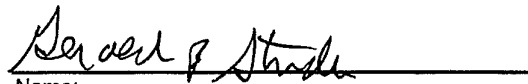

Name: Gary Miller
Title: President

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

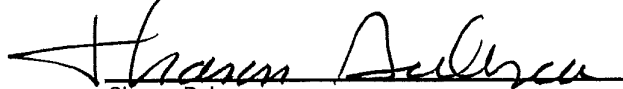

Sharon Bulova
Chairman

BAILEY'S CROSSROADS VOLUNTEER FIRE
DEPARTMENT, STATION 10



Name:
Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written. It is understood that nothing in this agreement should be construed to supersede or abrogate any of the terms of the Memorandum of Agreement entered into by Fairfax County, Virginia and the Burke Volunteer Fire and Rescue Department on June 7, 1999.

FAIRFAX COUNTY BOARD OF SUPERVISORS

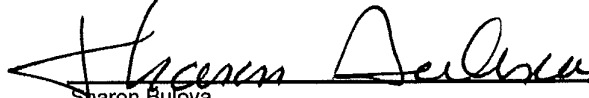

Sharon Bulova
Chairman

BURKE VOLUNTEER FIRE AND RESCUE
DEPARTMENT, STATION 14

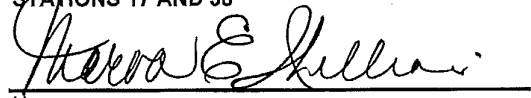

Name: Patrick M. Owens
Title: President

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

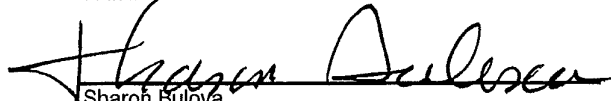

Sharon Bulova
Chairman

CENTREVILLE VOLUNTEER FIRE DEPARTMENT,
STATIONS 17 AND 38

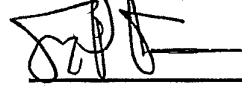

Name:
Title:

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FAIRFAX COUNTY BOARD OF SUPERVISORS

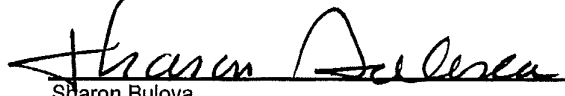

Sharon Bulova
Chairman

DUNN LORING VOLUNTEER FIRE AND RESCUE
DEPARTMENT, STATION 13

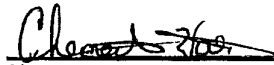

Name:
Title:

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FAIRFAX COUNTY BOARD OF SUPERVISORS

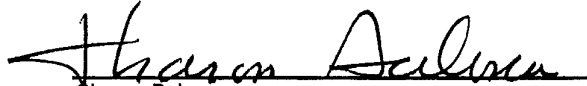

Sharon Bulova
Chairman

FAIR OAKS VOLUNTEER FIRE AND RESCUE
COMPANY, STATION 21

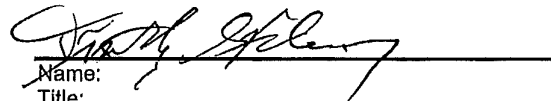

Name:
Title:

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FAIRFAX COUNTY BOARD OF SUPERVISORS

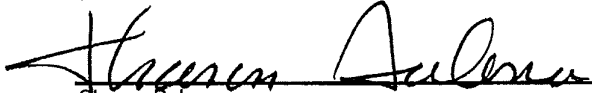

Sharon Bulova
Chairman

FRANCONIA VOLUNTEER FIRE AND RESCUE
DEPARTMENT, STATIONS 5 AND 37

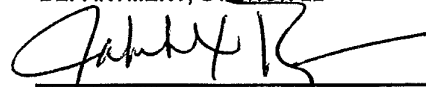

Name:
Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

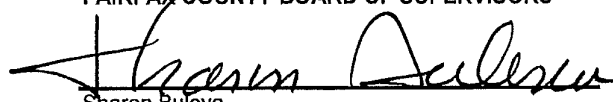

Sharon Bulova
Chairman

GREATER SPRINGFIELD VOLUNTEER FIRE
DEPARTMENT, STATION 22

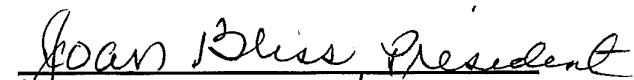

Name: JOHN F. RYAN
Title: PRESIDENT.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS



Sharon Bulova
Chairman

GREAT FALLS VOLUNTEER FIRE DEPARTMENT,
STATION 12



Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

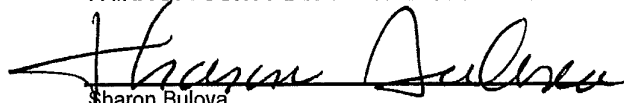

Sharon Bulova
Chairman

LORTON VOLUNTEER FIRE DEPARTMENT,
STATION 19

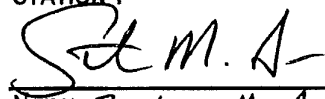

Name:
Title: President LVFD
Earl H. Curtis
- CHIEF

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS

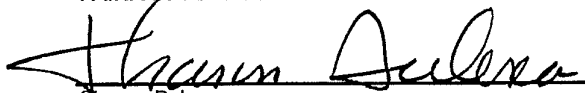

Sharon Bulova
Chairman

MCLEAN VOLUNTEER FIRE DEPARTMENT,
STATION 1

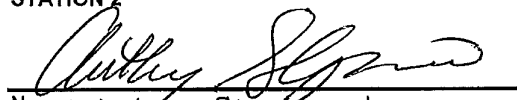

Name: Stephen M. Amer
Title: President

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, as of the date and year first above written.

FAIRFAX COUNTY BOARD OF SUPERVISORS


Sharon Bulova
Chairman

VIENNA VOLUNTEER FIRE DEPARTMENT,
STATION 2


Name: Anthony Stancampiano
Title: President

Attachment 1

Schedule A

Statement of Facilities and Resources

An ☒ below indicates the relevant station and the applicable Volunteer Department:

- ☐ Annandale Volunteer Fire Department, Station 8
- ☐ Annandale Volunteer Fire Department, Station 23
- ☐ Bailey's Crossroads Volunteer Fire Department, Station 10
- ☐ Burke Volunteer Fire and Rescue Department, Station 14
- ☐ Centreville Volunteer Fire Department, Station 17
- ☐ Centreville Volunteer Fire Department, Station 38
- ☐ Dunn Loring Volunteer Fire and Rescue Department, Station 13
- ☐ Fair Oaks Volunteer Fire and Rescue Company, Station 21
- ☐ Franconia Volunteer Fire and Rescue Department, Station 5
- ☐ Franconia Volunteer Fire and Rescue Department, Station 37
- ☐ Greater Springfield Volunteer Fire Department, Station 22
- ☐ Great Falls Volunteer Fire Department, Station 12
- ☐ Lorton Volunteer Fire Department, Station 19
- ☐ McLean Volunteer Fire Department, Station 1
- ☐ Vienna Volunteer Fire Department, Station 2

(Place signature lines for executing parties below)

Attachment 1

III. Facility and Resources

As of the date of this Agreement, the Volunteer Department has title to the land and improvements listed on Exhibit A hereto, and the County has title to the land and improvements listed on Exhibit B hereto. The below checklist indicates which facilities and resources are owned by the Volunteer Department and the County.

| <u>Volunteer Department</u> | <u>The County</u> |
|--|--|
| <u>A. Building Areas</u> | <u>A. Building Areas</u> |
| <input type="checkbox"/> Control Room <input type="checkbox"/> Staff Office <input type="checkbox"/> Volunteer Staff Office <input type="checkbox"/> Conference Room <input type="checkbox"/> Training Room <input type="checkbox"/> Laundry Room <input type="checkbox"/> Decontamination room <input type="checkbox"/> Kitchen Room <input type="checkbox"/> Dining Area <input type="checkbox"/> Dayroom <input type="checkbox"/> Shop <input type="checkbox"/> Storage <input type="checkbox"/> EMS storage <input type="checkbox"/> Weight room <input type="checkbox"/> Battalion management office <input type="checkbox"/> Male bunk and locker facility <input type="checkbox"/> Female bunk and locker facility <input type="checkbox"/> Unisex bunk and locker facility <input type="checkbox"/> Male showers <input type="checkbox"/> Female showers <input type="checkbox"/> Social/ community hall <input type="checkbox"/> Hall kitchen <input type="checkbox"/> Patio/courtyard <input type="checkbox"/> Volunteer leadership offices No. _____ <input type="checkbox"/> Drive thru apparatus bays No. _____ <input type="checkbox"/> Non-drive thru apparatus bays No. _____ <input type="checkbox"/> Parking Facility No. of personnel spaces _____ No. of handicap _____ No. of visitor _____ | <input type="checkbox"/> Control Room <input type="checkbox"/> Staff Office <input type="checkbox"/> Volunteer Staff Office <input type="checkbox"/> Conference Room <input type="checkbox"/> Training Room <input type="checkbox"/> Laundry Room <input type="checkbox"/> Decontamination room <input type="checkbox"/> Kitchen Room <input type="checkbox"/> Dining Area <input type="checkbox"/> Dayroom <input type="checkbox"/> Shop <input type="checkbox"/> Storage <input type="checkbox"/> EMS storage <input type="checkbox"/> Weight room <input type="checkbox"/> Battalion management office <input type="checkbox"/> Male bunk and locker facility <input type="checkbox"/> Female bunk and locker facility <input type="checkbox"/> Unisex bunk and locker facility <input type="checkbox"/> Male showers <input type="checkbox"/> Female showers <input type="checkbox"/> Social/ community hall <input type="checkbox"/> Hall kitchen <input type="checkbox"/> Patio/courtyard <input type="checkbox"/> Volunteer leadership offices No. _____ <input type="checkbox"/> Drive thru apparatus bays No. _____ <input type="checkbox"/> Non-drive thru apparatus bays No. _____ <input type="checkbox"/> Parking Facility No. of personnel spaces _____ No. of handicap _____ No. of visitor _____ |

Attachment 1

| | |
|--|--|
| B. Apparatus <input type="checkbox"/> Frontline Engine <input type="checkbox"/> Frontline Aerial <input type="checkbox"/> Frontline Heavy Rescue <input type="checkbox"/> Frontline EMS Transport Unit <input type="checkbox"/> Frontline Other Specialty Units No. and type: _____ <input type="checkbox"/> Canteen/Rehab Vehicle No. and type: _____ <input type="checkbox"/> Support Vehicles (buggies, etc.) No., type and use: _____ <input type="checkbox"/> Ready Reserve Engine <input type="checkbox"/> Ready Reserve EMS Transport Unit No.: _____ <input type="checkbox"/> Reserve Engine No.: _____ <input type="checkbox"/> Reserve EMS Transport Unit No.: _____ <input type="checkbox"/> Other vehicles No., type and use: _____ | B. Apparatus <input type="checkbox"/> Frontline Engine <input type="checkbox"/> Frontline Aerial <input type="checkbox"/> Frontline Heavy Rescue <input type="checkbox"/> Frontline EMS Transport Unit <input type="checkbox"/> Frontline Other Specialty Units No. and type: _____ <input type="checkbox"/> Canteen/Rehab Vehicle No. and type: _____ <input type="checkbox"/> Support Vehicles (buggies, etc.) No., type and use: _____ <input type="checkbox"/> Ready Reserve Engine <input type="checkbox"/> Ready Reserve EMS Transport Unit No.: _____ <input type="checkbox"/> Reserve Engine No.: _____ <input type="checkbox"/> Reserve EMS Transport Unit No.: _____ <input type="checkbox"/> Other vehicles No., type and use: _____ |
| C. Appliances and Equipment <input type="checkbox"/> Refrigerator No. _____ <input type="checkbox"/> Stove No. _____ <input type="checkbox"/> Oven No. _____ <input type="checkbox"/> Microwave No. _____ <input type="checkbox"/> Dishwasher No. _____ <input type="checkbox"/> Garbage Disposal No. _____ <input type="checkbox"/> Ice Machine No. _____ <input type="checkbox"/> Vending Machine No. _____ <input type="checkbox"/> Water Dispenser No. _____ <input type="checkbox"/> Gas Grill No. _____ <input type="checkbox"/> T.V. No. _____ <input type="checkbox"/> VCR/DVD Player No. _____ <input type="checkbox"/> Cable/Satellite <input type="checkbox"/> Clothes Washer No. _____ <input type="checkbox"/> Clothes Dryer No. _____ <input type="checkbox"/> Hot Water Heater No. _____ <input type="checkbox"/> HVAC <input type="checkbox"/> Gear Storage <input type="checkbox"/> Internet Connectivity <input type="checkbox"/> Wireless Internet Access <input type="checkbox"/> Computers No. _____ <input type="checkbox"/> Printers No. _____ <input type="checkbox"/> LCD Projectors No. _____ <input type="checkbox"/> Fax Machines No. _____ <input type="checkbox"/> Weight Equipment <input type="checkbox"/> Communications Equipment <input type="checkbox"/> Phone Systems <input type="checkbox"/> Vehicle Exhaust Systems <input type="checkbox"/> Building Emergency Generators | C. Appliances and Equipment <input type="checkbox"/> Refrigerator No. _____ <input type="checkbox"/> Stove No. _____ <input type="checkbox"/> Oven No. _____ <input type="checkbox"/> Microwave No. _____ <input type="checkbox"/> Dishwasher No. _____ <input type="checkbox"/> Garbage Disposal No. _____ <input type="checkbox"/> Ice Machine No. _____ <input type="checkbox"/> Vending Machine No. _____ <input type="checkbox"/> Water Dispenser No. _____ <input type="checkbox"/> Gas Grill No. _____ <input type="checkbox"/> T.V. No. _____ <input type="checkbox"/> VCR/DVD Player No. _____ <input type="checkbox"/> Cable/Satellite <input type="checkbox"/> Clothes Washer No. _____ <input type="checkbox"/> Clothes Dryer No. _____ <input type="checkbox"/> Hot Water Heater No. _____ <input type="checkbox"/> HVAC <input type="checkbox"/> Gear Storage <input type="checkbox"/> Internet Connectivity <input type="checkbox"/> Wireless Internet Access <input type="checkbox"/> Computers No. _____ <input type="checkbox"/> Printers No. _____ <input type="checkbox"/> LCD Projectors No. _____ <input type="checkbox"/> Fax Machines No. _____ <input type="checkbox"/> Weight Equipment <input type="checkbox"/> Communications Equipment <input type="checkbox"/> Phone Systems <input type="checkbox"/> Vehicle Exhaust Systems <input type="checkbox"/> Building Emergency Generators |
| D. Furniture, Fixtures and Other <input type="checkbox"/> Couches No. _____ <input type="checkbox"/> Chairs No. _____ <input type="checkbox"/> Coffee table No. _____ <input type="checkbox"/> End tables No. _____ <input type="checkbox"/> Recliners No. _____ <input type="checkbox"/> Gear Storage <input type="checkbox"/> Signage <input type="checkbox"/> Other (list unique items attached to the structure such as weight machines) | D. Furniture, Fixtures and Other <input type="checkbox"/> Couches No. _____ <input type="checkbox"/> Chairs No. _____ <input type="checkbox"/> Coffee table No. _____ <input type="checkbox"/> End tables No. _____ <input type="checkbox"/> Recliners No. _____ <input type="checkbox"/> Gear Storage <input type="checkbox"/> Signage <input type="checkbox"/> Other (list unique items attached to the structure such as weight machines) |

Attachment 1

| E. Utilities | E. Utilities |
|---|---|
| <input type="checkbox"/> Electricity | <input type="checkbox"/> Electricity |
| <input type="checkbox"/> Water | <input type="checkbox"/> Water |
| <input type="checkbox"/> Sewer | <input type="checkbox"/> Sewer |
| <input type="checkbox"/> Trash Pickup | <input type="checkbox"/> Trash Pickup |
| <input type="checkbox"/> Basic Cable | <input type="checkbox"/> Basic Cable |
| <input type="checkbox"/> Extended Cable | <input type="checkbox"/> Extended Cable |
| <input type="checkbox"/> Natural Gas | <input type="checkbox"/> Natural Gas |

Other station or department specific items are listed below:

Attachment 1

Exhibit A to Schedule A

Volunteer Department - Legal Definition of Land and Improvements

Attachment 1

Exhibit B to Schedule A

County - Legal Definition of Land and Improvements

ACTION – 7

Approval of Comments on the Commonwealth of Virginia's Atlantic Gateway Project
(Mason, Lee, and Mount Vernon Districts)

ISSUE:

Board of Supervisors' approval of comments on the Commonwealth of Virginia's Atlantic Gateway Project. The Public Hearing will be held in conjunction with the Commonwealth Transportation Board (CTB) public meeting regarding the Smart Scale Prioritization Process. The public hearing will be held on December 14, 2016, at 6:00 p.m., at the Virginia Department of Transportation (VDOT) Northern Virginia District Office, Fairfax, Virginia.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached letter transmitting the following comments (Attachment 1) regarding the Commonwealth of Virginia's Atlantic Gateway Project:

- Support for the Efforts to Address Capacity Needs at the Long Bridge
- Support for the fourth I-395 Southbound General Purpose Lane south of Little River Turnpike.
- Support for bicycle and pedestrian facilities on the Edsall Road overpass, if rehabilitation on the bridge is undertaken.
- Support for the I-395 Express Lanes annual dedication of at least \$15 million for transit within the corridor.
- Need to replace the Newington Road and Richmond Highway Railroad Bridge Overpasses to address clearance and condition issues.
- Need to address southern access to the Franconia-Springfield Metrorail/Virginia Railway Express (VRE) Station for pedestrians and cyclists.
- Need for significant coordination and community input regarding the implementation of this project, especially considering the complexity, and the number of components, included in Atlantic Gateway.
- Need for County staff to work with the Project Team as the components of project advance to provide technical input and to identify and address concerns as they affect Fairfax County.

TIMING:

The Board of Supervisors should act on this item on December 6, 2016, so that the Board's comments can be provided at the CTB public hearing on the Atlantic Gateway project scheduled for December 14, 2016.

BACKGROUND:

The Atlantic Gateway is a multi-modal suite of projects focused on the I-95 corridor between Washington, D.C., and Fredericksburg, Virginia. Atlantic Gateway includes a combination of freight and commuter rail, highway, and technology components:

- Component 1: Rail and Infrastructure
 - 1A: Long Bridge Phase 1: Construct approximately six miles of a fourth main line track from the south bank of the Potomac River to Alexandria. These improvements will allow for additional VRE and Amtrak trains to use the corridor and will be constructed to ultimately accommodate the Southeast High Speed Rail (SEHSR) and expanded intermodal and freight rail service.
 - 1B: Dedicating the S-Line: CSX is dedicating the abandoned rail line between Petersburg and the North Carolina line to the Commonwealth of Virginia. This corridor, known as the S-Line, is an integral part of SEHSR between Washington and North Carolina.
 - 1C: Constructing a Third Main Line Track (Franconia to Occoquan River): Construct approximately eight miles of new third main line track on CSX's freight corridor between the Franconia-Springfield VRE Station to the Occoquan River in Fairfax County. These improvements will allow for additional VRE and Amtrak trains to use the corridor and ultimately accommodate the SEHSR and expanded intermodal and freight rail service.
 - 1D: Engineering for Long Bridge (Phase 2): Advance the design and engineering to accelerate the permitting and ultimate construction of the full Long Bridge project.
 - 1E: Improving Rail Operations Along the Corridor: Design and installation of two universal track crossovers in Caroline County, which will increase the flexibility for Amtrak trains to meet and pass freight traffic and ultimately accommodate the SEHSR and expanded intermodal and freight rail service.
- Component 2: I-395 Improvements
 - 2A: Extending the Express Lanes to the Pentagon: Extend the I-95 Express Lanes on I-395 north from Edsall Road to the vicinity of Eads Street in Arlington. The two existing High-Occupancy Vehicle (HOV) lanes will be converted to Express Lanes and a third lane will be added, providing three reversible Express Lanes. VDOT's contractor, Transurban, will also make an annual payment to support enhanced bus service in this part of the corridor.

Board Agenda Item
December 6, 2016

- 2B: Improving Multimodal Access to the Pentagon: Improve access into and around the Pentagon South Parking area, while also improving transportation support facilities. The proposed improvements, when combined with improvements to the Eads Street interchange, will provide reduced travel times for transit providers, improved circulation of buses, and reduce queues along I-395.
- 2C: Providing Safety and Capacity Improvements on I-395 (Duke Street to Edsall Road): Address significant safety and capacity issues in the I-395 corridor. As currently configured, southbound I-395 has four through lanes north of the Duke Street interchange and south of the Edsall Road interchange. However, between the Duke Street and Edsall Road interchanges, there are only three lanes, causing heavy congestion on southbound I-395 during weekday afternoon peak periods.
- Component 3: I-95 Improvements:
 - 3A: Extending the Express Lanes to Fredericksburg: Construct approximately nine miles of Express Lanes south of the current terminus near Garrisonville Road to Route 17 in Stafford County.
 - 3B: Adding I-95 Southbound Capacity Across the Rappahannock River: Construct two Collector-Distributor Lanes on Southbound I-95 from Exit 133 (Route 17) to Exit 130 (Route 3), including a new bridge over the Rappahannock River. The interchanges at Exit 133 and 130 will be reconstructed to address significant bottlenecks.
- Component 4: Corridor-Wide Intelligent Transportation Systems (ITS) and Transportation Demand Management (TDM) Improvements
 - 4A: Providing Additional Commuter Parking in Spotsylvania and Stafford Counties.
 - 4B: Transportation Technology: Support a wide range of ITS and advanced technology improvements in the I-95/I-395 Corridor, including:
 - The I-95/I-395 Integrated Corridor Management Program
 - Multimodal traveler information
 - VDOT 511 system enhancements
 - A Predictive Incident Detection System
 - A Roadside Intrusion Detection System
 - Updating selected ramp meters to adaptive ramp meters
 - An I-95 Commercial Truck Parking Location System.
 - 4C: Rest Area Reconstruction and Truck Parking: The Atlantic Gateway Project will also completely reconstruct and re-configure both I-95 north and south rest areas in Caroline County to make these places safer for long-term truck parking. Reconstructing these rest areas will provide approximately 50 additional truck parking spaces.

Board Agenda Item
December 6, 2016

The Board of Supervisors sent a letter of support on the Atlantic Gateway project to the United States Department of Transportation for its federal FASTLANE grant application.

Based on the information provided on the project, to date, County staff suggests including the following comments:

- Support for the Efforts to Address Capacity at the Long Bridge
 - The Long Bridge across the Potomac River is a major railroad bottleneck for the eastern seaboard and a significant issue limiting VRE's ability to operate more trains. The purpose of this project is to provide greater railroad capacity across the Potomac River.
 - VRE is currently collaborating with the Virginia Department of Rail and Public Transportation (DRPT), the District Department of Transportation (DDOT), the Federal Railroad Administration (FRA) and CSX Transportation (CSXT), the bridge owner, on development activities to expand the crossing, doubling the amount of tracks from two to four. The team is currently conducting engineering and environmental analyses under a U.S. Department of Transportation American Recovery and Reinvestment Act grant. The work will involve analyzing potential bridge replacement and expansion options aimed at improving capacity at the only railroad crossing of the Potomac River between the District of Columbia and Virginia. The letter includes language supporting the efforts to address the capacity needs of the Long Bridge.
- Support of the new I-395 Southbound General Purpose Lane south of Little River Turnpike
 - As currently configured, southbound I-395 operates with four through lanes north of the Duke Street interchange and south of the Edsall Road Interchange. However, only three lanes exist between the Duke Street and Edsall Road Interchanges. This constriction causes heavy congestion on southbound I-395 during the evening peak hour period. In addition, the Duke Street and Edsall Road Interchanges each have two closely spaced loop ramps that operate at low speeds. This "merge-weave" area between the loop ramps at each interchange contributes to congestion in the through travel lanes on southbound I-395, and is also the source of many crashes. The letter includes language supporting the inclusion of this vital project within Atlantic Gateway.
- Support of bicycle and pedestrian facilities on the Edsall Road overpass, if rehabilitation on the bridge is undertaken
 - Including bicycle and pedestrian facilities on the Edsall Road bridge over I-395 will help provide a vital connection over the interstate, improved accessibility for the residents on both sides of I-395, and eliminate a

significant pedestrian barrier. The letter notes that if rehabilitation of the Edsall Road overpass is included within the Atlantic Gateway project, pedestrian and bicycle facilities should be incorporated.

- Support for the I-395 Express Lanes annual dedication of at least \$15 million for transit within the corridor.
 - The I-395 Express Lanes expansion calls for an annual payment of at least \$15 million to support enhanced bus service in this part of the corridor. The letter includes language supporting this provision, to ensure that sufficient multimodal options are provided in the corridor.
- Need to replace the various railroad bridges, including the Newington Road and Richmond Highway Railroad Bridge Overpasses, to address clearance and condition issues.
 - The additional third railway track that is being undertaken as part of the high speed rail component will require bridges at Newington Road and Richmond Highway just north of the Occoquan River. In each of these locations, the project calls for a new bridge for the new track adjacent to the bridge for the existing rail lines, but no modifications to the existing facilities. The clearance for current bridges and the proposed bridges is more than two feet less than VDOT's standard criteria of 16.5 feet. Further, the existing bridges are deteriorated, and the Newington Road bridge is only one lane. Language in the letter notes that the project should replace the current bridges as well as construct the new bridge. Failure to replace the existing bridges will make it significantly more complicated to do so in the future.
- Need to address access for pedestrians and cyclists to the Franconia-Springfield Metrorail/Virginia Railway Express (VRE) Station from neighborhoods south of the station
 - A significant number of transit users currently access the Franconia-Springfield Station through a path and entrance on the south side of the station. Once entering the VRE platform, these transit users can then board a VRE train or utilize the pedestrian bridge to access the Metrorail station. While the VRE station was designed to accommodate a third track, the construction of the third rail track from Franconia to the Occoquan will adversely impact the current southern access point to the station. The letter states that the Commonwealth should work with the County and stakeholders to ensure that these residents in neighborhoods south of Franconia-Springfield continue to have access to the station.
- Need for significant coordination and community input regarding the implementation of this project, especially considering the complexity, and the

Board Agenda Item
December 6, 2016

number of components, included in Atlantic Gateway. The letter includes language noting that County staff will continue to work with the Project Team as the individual projects advance to provide technical comments and to identify and address concerns as they affect Fairfax County.

The public hearing, including a formal public comment period, for this project will be held as part of the CTB scheduled public meeting to receive input on transportation improvements and the Smart Scale process. The CTB public meetings, which are being held across the state, will include an open house followed by a town hall session, to provide an ability to ask questions about Smart Scale. While there will be no formal comment period on the Smart Scale, the meetings in Northern Virginia and Fredericksburg are also serving as a public hearing for Atlantic Gateway. A full briefing on the Atlantic Gateway project is planned for the Board Transportation Committee's meeting on December 13, 2016.

FISCAL IMPACT:

There is no fiscal impact to the County as a result of these comments. However, the toll road revenues collected on I-395 will be used for multimodal improvement projects that benefit the toll payers. Some of the projects are located in Fairfax County.

ENCLOSED DOCUMENTS:

Attachment 1: Letter to Secretary of Transportation Aubrey L. Layne, Jr., transmitting the Board's comments on the Atlantic Gateway Project

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT
Karyn Moreland, Chief, Capital Projects Section, FCDOT
Noelle Dominguez, Coordination and Funding Division, FCDOT



SHARON BULOVA
CHAIRMAN

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

12000 GOVERNMENT CENTER PKWY
SUITE 530
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
FAX: 703/324-3955
TTY: 711

chairman@fairfaxcounty.gov

December 13, 2016

ATTACHMENT 1

The Honorable Aubrey L. Layne, Jr.
Secretary of Transportation
Commonwealth of Virginia
1111 East Broad Street, Room 3054
Richmond, Virginia 23219

Reference: Fairfax County Comments on the Atlantic Gateway Project

Dear Secretary Layne:

Thank you for your leadership in seeking improvements to the I-95/I-395 Corridor as part of the Atlantic Gateway project. As you know, this corridor is heavily congested during the morning and evening peak periods. The Fairfax County Board of Supervisors appreciates your willingness to pursue solutions to address this congestion.

As this project advances, the Board of Supervisors would like to provide the following comments:

- The Board supports efforts to address capacity needs at the Long Bridge. The Long Bridge across the Potomac River is a major railroad bottleneck for the Eastern Seaboard and a significant issue limiting VRE's ability to operate more trains. The purpose of this project is to provide greater railroad capacity at Long Bridge. VRE is currently collaborating with the Virginia Department of Rail and Public Transportation (DRPT), the District Department of Transportation (DDOT), the Federal Railroad Administration (FRA) and CSX Transportation (CSXT), the bridge owner, on development activities to double the number of tracks from two to four. The team is currently conducting engineering and environmental analyses, including the analysis of potential bridge replacement and expansion options aimed at improving capacity at the only railroad crossing of the Potomac River between D.C. and Virginia. The Board supports the ongoing efforts to address this choke point.
- The Board supports the inclusion of the additional I-395 Southbound General Purpose Lane south of Little River Turnpike within the Atlantic Gateway project. As currently configured, southbound I-395 operates with four through lanes north of the Duke Street interchange and south of the Edsall Road Interchange. However, only three lanes exist between the Duke Street and Edsall Road Interchanges. This constriction causes heavy congestion on southbound I-395 during the weekday evening peak hour period. In addition, the Duke Street and Edsall Road Interchanges each have two closely spaced loop ramps that operate at low speeds. This "merge-weave" area between the loop ramps at each interchange contributes to congestion in the through travel lanes

on southbound I-395, and is also the source of many crashes. The Board supports the inclusion of this vital project within the Atlantic Gateway project.

- The Board believes that if rehabilitation of the Edsall Road overpass over I-395 is included in this project, pedestrian and bicycle facilities should be incorporated. This will help provide a vital connection over the interstate and improved accessibility for the residents on both sides of I-395.
- The Board supports the I-395 Express Lanes annual dedication of at least \$15 million to support enhanced bus service in this part of the corridor. The Board strongly believes this provision is important to ensure that sufficient multimodal options are provided in the corridor.
- The Board believes that the current rail bridges above Richmond Highway and Newington Road must be addressed. The additional third railway track that is being undertaken as part of the high speed rail component of the Atlantic Gateway project will require bridges at Newington Road and Richmond Highway just north of the Occoquan River. In each of these locations, the project calls for a new bridge for the new rail adjacent to the bridge for the existing rail lines, but no modifications to the existing facilities. The clearance for current bridges and the proposed bridges would be more than two feet less than VDOT's standard criteria of 16.5 feet. Further, the existing bridges are deteriorated and in need of replacement. Additionally, Newington is only a one-lane underpass. The Board believes that project should replace the current bridges or, at the very least, efforts to lower the roadway to improve clearance issues.
- The Board believes that the Commonwealth must work with the County and stakeholders on access for pedestrians and cyclists to the Franconia-Springfield Metrorail/Virginia Railway Express (VRE) Station from neighborhoods south of the station. A significant number of transit users currently access the Franconia-Springfield Station through a path and entrance on the south side of the VRE station. Once entering the VRE platform, these transit users can then board a VRE train or utilize the pedestrian bridge to access the Metrorail station, and/or Fairfax Connector or Metrobus service. The construction of the third rail track from Franconia to the Occoquan will adversely impact this current access point to the station. The Board feels that it is critical that the Commonwealth work with the County and our residents to ensure that the neighborhoods south of the Franconia-Springfield Station continue to have access to the station.
- The Board believes that it is essential that significant community outreach occur during the development of the individual projects within Atlantic Gateway. Many localities, their citizens, and other stakeholders will be impacted by this project, including landowners, those living near component projects, transit users, and other commuters. The Board believes that it is essential that those impacted by the project are aware of project details and have the opportunity to provide input.
- The Board understands that Atlantic Gateway is an extremely complex project and includes many components. The Board feels it is critical that significant coordination occur between the Administration and the jurisdictions in which the components are located. County staff will continue to work with the Project Team as the project advances to provide technical comments

The Honorable Aubrey L. Layne, Jr.
December 13, 2016
Page Three

and to identify and address concerns as they affect Fairfax County. Further, as part of this effort, the Board feels it will be beneficial if all project components, and segments within those components, be identified as part of the larger project to ensure that stakeholders are aware of what is included within Atlantic Gateway.

Thank you, again, for your leadership in seeking improvements to the I-95/I-395 Corridor. If you have any questions or need additional information, please call Tom Biesiadny, Director of Fairfax County's Department of Transportation at (703) 877-5663 or me at (703) 324-2321.

Sincerely,

Sharon Bulova
Chairman

cc: Members, Fairfax County Board of Supervisors
Edward L. Long Jr., County Executive, Fairfax County
Robert A. Stalzer, Deputy County Executive
Catherine A. Chianese, Assistant County Executive
Nicholas Donohue, Deputy Secretary of Transportation
Jennifer Mitchell, Director, Virginia Department of Rail and Public Transportation
Helen Cuervo, Administrator, Northern Virginia District, VDOT

ACTION – 8

Sale of General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds

ISSUE:

Board approval of a resolution to authorize the sale of General Obligation Public Improvement and Public Improvement Refunding Bonds on or about January 24, 2017.

RECOMMENDATION:

The County Executive recommends approval of the sale of General Obligation Public Improvement Bonds that will generate \$258.3 million to fund construction of capital facilities and infrastructure as previously approved by the Board.

County staff recommends the Board take the following action:

Approve the resolution authorizing the issuance of the General Obligation Public Improvement Bonds and Public Improvement Refunding Bonds, which also authorizes the execution and delivery of a Continuing Disclosure Agreement and other documents necessary for sale. This resolution delegates to the County Executive or Chief Financial Officer authority to award the bonds, on specified criteria, through either a competitive or negotiated sale. Bond Counsel has advised that this form of authorization is acceptable and provides flexibility for changing market conditions. This resolution also approves the form of the notice of sale and the Official Statement for the Public Improvement Bonds, and authorizes the Chairman, Vice Chairman, County Executive or Chief Financial Officer to sign the Official Statement for the Public Improvement Bonds.

TIMING:

Board action is requested on December 6, 2016.

BACKGROUND:

The Proposed Bond Sale Schedule of Events indicates a new money bond sale on or about January 24, 2017. Accompanying this Board Item are the necessary documents to proceed with the new money bond sale to meet FY 2017 capital funding requirements for on-going projects. There are many potential market events that could affect the bond sale in the next few months and this sale date is therefore subject to market

conditions. The closing date for the bonds is currently scheduled for the week of February 6, 2017. The County staff, along with the County's Financial Advisor, however, will revisit and adjust the sale date, as needed.

The resolution also lists several outstanding series of bonds that may become future candidates to refund if interest rates remain favorable. As with new money bond sales, the refunding candidates may be impacted by future actions taken by the Federal Reserve with respect to interest rates.

New Money Sale

The General Obligation Bond sale totals \$258.3 million. Of that amount, the Fairfax County Public Schools will receive \$155 million. In addition, \$30 million will be allocated to the Washington Metropolitan Area Transit Authority (WMATA) as the County's share of WMATA's FY 2017 Adopted Capital Improvement Program, and \$20 million will fund on-going Board of Supervisors' approved transportation projects such as the widening of Cinder Bed Road, and Lorton Road; and several pedestrian improvement projects. Public Safety funding of \$20 million will provide for on-going and close-out construction costs at the McLean and Reston Police Stations; courtroom renovations; and the construction of the Jefferson, Herndon, and Lorton Volunteer Fire Stations. Funding of \$17 million will be provided for the Fairfax County Park Authority and the Northern Virginia Regional Park Authority will receive \$3.3 million to cover the County's annual capital contribution, including \$0.3 million for the Jean Packard Center. Funding of \$4 million will support design and construction costs at the Pohick, Tysons Pimmit, and John Marshall libraries. Lastly, the Huntington Levee project will receive \$9 million.

The Schedule of Bond Purposes notes the remaining balance of voter-approved authorized but unissued bond funds by category and is included as Attachment 3. The School Board resolution requesting the sale of bonds on behalf of the School system was approved by the School Board at its November 14, 2016 meeting and is included as Attachment 4.

Staff has structured the size of this sale to the level necessary to support the capital construction program for the current fiscal year, without altering any of the schedules of the projects in progress and previously approved by the Board of Supervisors. The bond sale amount was sized on project cash needs for the current fiscal year. This sale of \$258.3 million is within the adjusted total maximum sales allowed in the *Ten Principles of Sound Financial Management*. The FY 2017 Adopted Budget Plan states that the maximum annual sale of bonds will be \$275 million or \$1.375 billion over a five-year period, with a technical limit not to exceed \$300 million in a single year. Consistent with previous bond sales, the County's resolution (Attachment 1) delegates to the County Executive or Chief Financial Officer the authority to award the bonds, on specified criteria, through either a competitive or negotiated sale. Bond Counsel has

advised that this form of authorization is acceptable and provides flexibility for changing market conditions.

The maximum true interest cost rate permitted on the bonds, as established in the Bond Resolution, is 5.5 percent. In addition, for a competitive sale, staff will use the electronic bidding system to receive bids and participate in providing on-line public access to the Notice of Sale (Attachment 5) and the Preliminary Official Statement (Attachment 6).

Attachments 2 through 6 may be subject to minor changes to satisfy final legal review and to provide the most current information possible for bidders. Any material changes will be noted and forwarded to the Board of Supervisors.

Refunding Options – General Obligation Bonds

In January 2016, the County conducted a General Obligation Refunding Bond Sale (Series 2016A) that resulted in \$12 million net present value savings. As a result, the County does not expect there to be any further short term refunding savings as part of the planned new money bond sale in January 2017 (Series 2017A). However, the County's bond resolution does include other additional maturities that may become eligible for refunding when callable later in calendar year 2017. The terms of the bond resolution allow for these bonds to be refunded on or before December 31, 2017. As interest rates continue to fluctuate, this flexibility allows the County to monitor potential refunding candidates specifically authorized in the resolution. County refunding bond sales do not extend the original maturity on any of the refunded bonds.

FISCAL IMPACT:

The estimated debt service budget requirement for the new money bond sale, based on a conservative 4.0 percent True Interest Cost estimate, is \$13.96 million for School purposes and \$9.28 million for County purposes, beginning in FY 2018.

The County issued General Obligation bonds as a new money bond sale in the amount of \$252.2 million on January 26, 2016. The bonds were sold to Morgan Stanley and Company LLC at a true interest cost of 2.45 percent.

The reception of Fairfax County bonds in the market continues to compare favorably both nationally and locally. The County has held a Aaa rating from Moody's since 1975, a AAA rating from Standard and Poor's since 1978, and a AAA rating from Fitch Ratings since 1997. As of January 2016, 11 states, 46 counties, and 33 cities have a Triple-A bond rating from all three major rating agencies. As a result of the County's excellent Triple-A bond rating, the County has saved an estimated \$772.42 million from County bond and refunding sales.

Board Agenda Item
December 6, 2016

ENCLOSED DOCUMENTS:

Attachment 1: 2017 County Public Improvement Bond Resolution
Attachment 2: 2017 Bond Sale Schedule of Events
Attachment 3: 2017 Schedule of Bond Purposes
Attachment 4: School Board Resolution Requesting Sale of Bonds (School Board
Approved on November 14, 2016)
Attachment 5: Notice of Sale, Series 2017
Attachment 6: Draft of the Preliminary Official Statement, Series 2017

STAFF:

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

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 December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

A RESOLUTION AUTHORIZING THE ISSUANCE, IN ONE OR MORE SERIES, OF PUBLIC IMPROVEMENT BONDS AND REFUNDING BONDS, OF FAIRFAX COUNTY, VIRGINIA, PROVIDING FOR THE SALE OF SUCH BONDS AND DELEGATING TO THE COUNTY EXECUTIVE OR THE CHIEF FINANCIAL OFFICER AUTHORITY TO DETERMINE CERTAIN DETAILS OF SUCH BONDS AND ACCEPT OFFERS FOR THE PURCHASE OF SUCH BONDS

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

Section 1(a). Public Improvement Bonds. The Board of Supervisors of Fairfax County, Virginia (the “Board of Supervisors”), has found and determined and does hereby declare that:

(i) **School improvements – \$155,000,000.** At an election duly called and held on November 8, 2011, a majority of the qualified voters of Fairfax County, Virginia (the “County”) voting on the question, approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$252,750,000.

The purpose of the school bonds stated in the election was to provide funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$252,750,000 for such purpose.

The Board of Supervisors at the request of the Fairfax County School Board has heretofore issued \$246,359,500 of the school bonds authorized at the election duly called and held on November 8, 2011.

The Board of Supervisors deems it advisable to authorize the issuance of the \$6,390,500 balance of school bonds authorized at the November 8, 2011, election and to sell the bonds.

At an election duly called and held on November 5, 2013, a majority of the qualified voters of the County, voting on the question, approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$250,000,000.

The purpose of the school bonds stated in the election was to provide funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$250,000,000 for such purpose.

The Board of Supervisors has not issued any of the \$250,000,000 school bonds authorized at the election duly called and held on November 5, 2013.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$148,609,500 of school bonds authorized at the November 5, 2013, election and to sell the bonds.

The issuance of such school bonds is contingent upon the adoption by the Fairfax County School Board of a resolution, in a form acceptable to the County's bond counsel, requesting the issuance of such school bonds.

(ii) **Transportation improvements and facilities – \$50,000,000.** At an election duly called held on November 6, 2007, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the bonds previously authorized for transportation improvements and facilities and any other available funds, in the maximum aggregate principal amount of \$110,000,000 for the purpose of providing funds for the cost of constructing, reconstructing, improving and acquiring transportation improvements, including improvements to primary and secondary State highways, off-street parking, pedestrian improvements, and ancillary related improvements and facilities, and including capital costs of necessary land, transit facilities, rolling stock and equipment in the Washington metropolitan area allocable to the County pursuant to the provisions of the Washington Metropolitan Area Transit Authority Compact.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$110,000,000 for such purpose.

The Circuit Court of Fairfax County, Virginia has duly entered a Final Order on October 8, 2015, granting the Board's petition to extend the time period by two years in which the transportation improvement and facilities bonds may be issued.

The Board of Supervisors has heretofore issued \$91,160,500 transportation improvement and facilities bonds authorized at the election duly called and held on November 6, 2007.

The Board of Supervisors deems it advisable to authorize the issuance of the \$18,839,500 balance of such transportation improvement and facilities bonds authorized at the November 6, 2007, election and to sell the bonds.

At an election duly called and held on November 4, 2014, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of \$100,000,000 for the purpose of providing funds to finance the cost of constructing, reconstructing, improving and acquiring transportation facilities, including improvements to primary and secondary State highways, improvements related to transit, improvements for pedestrians and bicycles, and ancillary related improvements and facilities.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$100,000,000 for such purpose.

The Board of Supervisors has not issued any of the \$100,000,000 transportation improvement and facilities bonds authorized at the election duly called and held on November 4, 2014.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$1,160,500 of transportation improvement and facilities bonds authorized at the November 4, 2014, election and to sell the bonds.

At an election duly called and held on November 8, 2016, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of \$120,000,000 to finance Fairfax County's share, under the Washington Metropolitan Area Transit Authority Compact, of the cost of constructing, reconstructing, improving and acquiring transportation improvements and facilities, including capital costs of land, transit facilities, rolling stock and equipment in the Washington metropolitan area, and to finance improvements to primary and secondary State highways and ancillary related improvements and facilities.

Prior to the issuance of the bonds the Circuit Court of Fairfax County, Virginia will enter its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$120,000,000 for such purpose.

The Board of Supervisors has not issued any of the \$120,000,000 transportation improvement and facilities bonds authorized at the election duly called and held on November 8, 2016.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$30,000,000 of transportation improvement and facilities bonds authorized at the November 8, 2016, election and to sell the bonds.

(iii) **Parks and park facilities – \$20,300,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County, approved contracting a debt, borrowing money and issuing bonds of the County, in addition to the parks and park facilities bonds previously authorized, in the maximum aggregate principal amount of \$75,000,000 for the purpose of providing funds with any other available funds to finance the cost of providing parks and park facilities including the acquisition, construction, development and equipment of additional parks and park facilities, and the purchase of permanent easements for the preservation of open-space land and the development and improvement of existing parks and park facilities by the Fairfax County Park Authority, and including an amount not to exceed \$12,000,000 allocable to the County as its share of the cost of parks and park facilities to be acquired, constructed, developed and equipped by the Northern Virginia Regional Park Authority.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$75,000,000 for such purpose.

The Board of Supervisors has heretofore authorized the issuance of and has issued \$14,740,000 parks and park facilities bonds for the Fairfax County Park Authority authorized at the election duly called and held on November 6, 2012, and has heretofore authorized the issuance of and has issued \$12,000,000 parks and park facilities bonds for the Northern Virginia Regional Park Authority authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$17,000,000 parks and park facilities bonds for the Fairfax County Park Authority authorized at the November 6, 2012, election and to sell the bonds.

At an election duly called and held on November 8, 2016, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County in addition to bonds previously authorized for parks and park facilities, in the maximum aggregate principal amount of \$107,000,000: (i) \$94,700,000 principal amount to finance the Fairfax County Park Authority's cost to acquire, construct, develop and equip additional parks and park facilities, to preserve open-space land, and to develop and improve existing parks and park facilities; and (ii) \$12,300,000 principal amount for Fairfax County's contribution to the Northern Virginia Regional Park Authority to acquire, construct, develop and equip parks and park facilities.

Prior to the issuance of the bonds the Circuit Court of Fairfax County, Virginia will enter its Final Order authorizing the Board of Supervisors, to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$107,000,000 for such purpose.

The Board of Supervisors has not issued any of the \$107,000,000 parks and park facilities bonds authorized at the election duly called and held on November 8, 2016.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$3,300,000 parks and park facilities bonds for the Northern Virginia Regional Park Authority authorized at the November 8, 2016, election and to sell the bonds.

(iv) **Public safety facilities – \$20,000,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in the maximum aggregate principal amount of \$55,000,000, for the purpose of providing funds, with any other available funds, to finance the cost of providing public safety facilities, including the construction, reconstruction, enlargement, renovation and equipment of civil and criminal justice facilities, police training facilities and stations, fire and rescue training facilities and stations, including fire and rescue stations owned by volunteer organizations, and the acquisition of necessary land.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County in the aggregate principal amount of \$55,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$3,135,000 public safety facilities bonds authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$22,100,000 of public safety facilities bonds authorized at the November 6, 2012, election and to sell the bonds.

(v) **Storm drainage improvements – \$9,000,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County, voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in the maximum aggregate principal amount of \$30,000,000 for the purpose of providing funds, with any other available funds, to finance the cost of providing storm drainage improvements to prevent flooding and soil erosion, including the acquisition of necessary land.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$30,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$6,410,000 storm drainage improvement bonds authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$9,000,000 of such storm drainage improvement bonds authorized at the November 6, 2012, election and to sell the bonds.

(vi) **Public library facilities – \$4,000,000.** At an election duly called and held on November 6, 2012, a majority of the qualified voters of the County, voting on the question approved contracting a debt, borrowing money and issuing bonds of the County, in the maximum

aggregate principal amount of \$25,000,000 for the purpose of providing funds, with any other available funds, to finance the cost of providing additional public library facilities, the reconstruction, enlargement, and equipment of existing library facilities, and the acquisition of necessary land.

The Circuit Court of Fairfax County, Virginia has duly entered its Final Order authorizing the Board of Supervisors to proceed to carry out the wishes of the voters of the County as expressed at such election and to contract a debt, borrow money and issue bonds of the County, in the aggregate principal amount of \$25,000,000 for such purpose.

The Board of Supervisors has heretofore issued \$5,385,000 public library facilities bonds authorized at the election duly called and held on November 6, 2012.

The Board of Supervisors deems it advisable to authorize the issuance of up to \$4,000,000 of public library facilities bonds authorized at the November 6, 2012, election and to sell the bonds.

Section 1(b). Prior bond issues. The Board of Supervisors has been advised that certain bonds of certain series of its outstanding public improvement bonds and public improvement and refunding bonds, in certain favorable market conditions, may be refunded to achieve substantial present value debt service savings.

The Board of Supervisors deems it advisable to authorize the issuance of public improvement refunding bonds, pursuant to a tax-exempt or taxable bond sale, to achieve such savings, if available.

The Board of Supervisors has further found and determined and does hereby declare that:

(i) **Series 2009 A Bonds.** For the purposes of providing funds, with other available funds, for school improvements, parks and park facilities, transportation improvements and facilities, human service facilities, public library facilities and public safety facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$199,510,000, designated “Public Improvement Bonds, Series 2009 A” (the “Series 2009 A Bonds”), dated January 28, 2009.

The Series 2009 A Bonds that mature on or before April 1, 2019, are not subject to optional redemption before their maturity. The Series 2009 A Bonds that mature after April 1, 2019, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days’ notice mailed to the registered owners, on any date not earlier than April 1, 2019, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(ii) **Series 2012A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, human services facilities and public library facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$217,655,000, designated “Public Improvement Bonds, Series 2012A” (the “Series 2012A Bonds”), dated February 2, 2012.

The Series 2012A Bonds that mature on or before April 1, 2020, are not subject to optional redemption before their maturity. The Series 2012A Bonds that mature after April 1, 2020, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than April 1, 2020, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(iii) **Series 2013A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities, commercial and redevelopment area improvements and public library facilities the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$206,335,000, designated "Public Improvement Bonds, Series 2013A" (the "Series 2013A Bonds"), dated January 24, 2013.

The Series 2013A Bonds that mature on or before October 1, 2021, are not subject to optional redemption before their maturity. The Series 2013A Bonds that mature after October 1, 2021, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than October 1, 2021, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(iv) **Series 2014A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities and public library facilities and to refund certain Series 2004 A, Series 2004 B and Series 2005 A outstanding bonds of the County, the Board of Supervisors duly issued bonds of the County in the aggregate principal amount of \$316,310,000, designated "Public Improvement and Refunding Bonds, Series 2014A" (the "Series 2014A Bonds"), dated February 6, 2014.

The Series 2014A Bonds that mature on or before October 1, 2023, are not subject to optional redemption before their maturity. The Series 2014A Bonds that mature after October 1, 2023, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not earlier than October 1, 2023, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(v) **Series 2015A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, and storm drainage improvements duly issued bonds of the County in the aggregate principal amount of \$227,340,000, designated "Public Improvement Bonds, Series 2015A" (the "Series 2015A Bonds"), dated March 4, 2015.

The Series 2015A Bonds that mature on or before October 1, 2024, are not subject to optional redemption before their maturity. The Series 2015A Bonds that mature after October 1, 2024, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days' notice mailed to the registered owners, on any date not

earlier than October 1, 2024, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(vi) **Series 2016A Bonds.** For purposes of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, public library facilities and storm drainage improvements and to refund certain Series 2008 A Bonds, Series 2009 A Bonds, Series 2011A Bonds, Series 2012A Bonds and Series 2013A Bonds duly issued bonds of the County in the aggregate principal amount of \$335,980,000, designated “Public Improvement and Refunding Bonds, Series 2016A” (the “Series 2016A Bonds”), dated February 9, 2016.

The Series 2016A Bonds that mature on or before October 1, 2025, are not subject to optional redemption before their maturity. The Series 2016A Bonds that mature after October 1, 2025, may be redeemed, at the option of the County, before their respective maturities, on not more than 60 nor less than 30 days’ notice mailed to the registered owners, on any date not earlier than April 1, 2026, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.

(vii) The Board of Supervisors has determined to provide for the issuance of refunding bonds of Fairfax County, Virginia, for the purpose of providing funds, with other available funds, to refund all or a portion of all or any of the following outstanding bonds of Fairfax County, Virginia (collectively, the “Refunding Candidates”), all as hereinafter provided:

Series 2009 A Bonds that are first subject to, and shall be called for redemption on April 1, 2019, and

Series 2012A Bonds that are first subject to, and shall be called for redemption on April 1, 2020, and

Series 2013A Bonds that are first subject to, and shall be called for redemption on October 1, 2021, and

Series 2014A Bonds that are first subject to, and shall be called for redemption on October 1, 2023, and

Series 2015A Bonds that are first subject to, and shall be called for redemption on October 1, 2024, and

Series 2016A Bonds that are first subject to, and shall be called for redemption on April 1, 2026, and

Any such refunding bonds issued to refund the Refunding Candidates shall not exceed the aggregate principal amount of \$250,000,000.

Section 2. Authorization of bonds. The Board of Supervisors has determined that it is in the best interests of the County to consolidate for the purposes of the sale the bond authorizations mentioned above into one or more series of public improvement and/or refunding bonds of the County. The bonds shall be designated as appropriate “Public Improvement

[and/or] Refunding Bonds, Series 2017[A], [B], [C]”. The bonds shall be dated, shall be stated to mature in certain amounts on such dates, subject to the right of prior redemption, and shall bear interest until their payment at a rate or rates and on such dates as shall hereafter be determined by the Board of Supervisors by resolution or by either the County Executive or Chief Financial Officer pursuant to the delegation to each of them contained in this resolution. The first interest payment date of such bonds shall be no later than thirteen months after the issuance of such bonds. The bonds shall be issuable in fully registered form in the denomination of \$5,000 or any integral multiple thereof and shall be appropriately numbered all as hereinafter provided.

The Board of Supervisors deems it advisable at this time to authorize the sale of such bonds pursuant to the terms of this Resolution.

The bonds issued for the purpose of providing funds for school improvements, transportation improvements and facilities, public safety facilities, parks and park facilities, public library facilities, human services facilities and community facilities and storm drainage improvements shall have an aggregate principal amount not to exceed \$258,300,000.

The bonds issued for the purpose of providing funds, with other available funds, to refund all or a portion of all or any of the Refunding Candidates (the Refunding Candidates so refunded, the “Refunded Bonds”) shall have such principal amounts as shall hereafter be determined by the Board of Supervisors by resolution or by either the County Executive or Chief Financial Officer pursuant to the delegation to each of them contained in this resolution, to produce overall present value debt service savings for the County. The aggregate principal amount of such bonds issued to refund the Refunded Bonds shall not exceed \$250,000,000 and such bonds may be sold on a tax-exempt or taxable basis.

If none of the proceeds of the bonds as authorized should be used for refunding any of the Refunding Candidates, then the bonds shall be designated as appropriate “Public Improvement Bonds, Series 2017, [A], [B], [C]”. If a series of bonds is issued and none of the proceeds is used for providing funds for public improvement purposes, then the bonds shall be designated “Public Improvement Refunding Bonds, Series 2017 [A], [B], [C].

The Board of Supervisors hereby determines that in the event that financial market conditions dictate, and it is determined by the County Executive or Chief Financial Officer to be in the best interests of the County, bond anticipation notes may be issued in anticipation of the issuance of the bonds. Any such bond anticipation notes shall have a first interest payment date no later than July 1, 2018, and a final maturity no later than July 1, 2020. All other provisions in this Resolution setting forth the terms and details of bonds as well as delegations provided shall apply to such bond anticipation notes if the context requires.

Each bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which case it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which case it shall bear interest from its date; provided, however, that if at the time of authentication interest on any bond is in default, such bond shall bear interest from the date to which interest has been paid.

The principal of and the interest and any redemption premium on the bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof. The principal of and any redemption premium on each bond shall be payable to the registered owner thereof or his registered assigns or legal representative at the office of the Bond Registrar mentioned hereinafter upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each bond shall be made by the Bond Registrar on each interest payment date to the person appearing (hereafter provided) on the registration books of the County as the registered owner of such bond (or the previous bond or bonds evidencing the same debt as that evidenced by such bond) at the close of business on the record date for such interest, which, unless otherwise determined pursuant to the delegation of authority contained in this resolution, shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed or by wire transfer to such person at his address as it appears on such registration books.

The bonds initially issued will be in fully registered form and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), and immobilized in the custody of DTC. One fully registered bond for the original principal amount of each maturity will be registered to Cede & Co. Beneficial owners will not receive physical delivery of bonds. Individual purchases of bonds may be made in book-entry form only in original principal amounts of \$5,000 and integral multiples of \$5,000. Payments of the principal of and premium, if any, and interest on the bonds will be made to DTC or its nominee as registered owner of the bonds on the applicable payment date.

So long as Cede & Co., or its successor, as nominee of DTC, is the registered owner of the bonds, references in this resolution to the holders of the bonds mean Cede & Co. and do not mean the beneficial owners of the bonds.

Replacement bonds (the "Replacement Bonds") will be issued directly to beneficial owners of bonds rather than to DTC, or its nominee, but only in the event that:

- (1) DTC determines not to continue to act as securities depository for the bonds;
- (2) The County has advised DTC of its determination that DTC is incapable of discharging its duties; or
- (3) The County has determined that it is in the best interests of the beneficial owners of the bonds not to continue the book-entry system of transfer.

Upon occurrence of the events described in clause (1) or (2), the County will attempt to locate another qualified securities depository. If DTC makes the determination described in clause (1) and the County fails to select another qualified securities depository to replace DTC, the County will execute and the Bond Registrar will authenticate and deliver to the participants in DTC ("Participants") the Replacement Bonds to which the Participants are entitled. In the event the County makes the determination described in clause (2) or (3) (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the County to make any such determination) and, in the case of the determination under

clause (2), the County has failed to designate another qualified securities depository and has made provisions to notify the beneficial owners of the bonds by mailing an appropriate notice to DTC, the County will execute and the Bond Registrar will authenticate and deliver to the Participants the appropriate Replacement Bonds to which the Participants are entitled. The Bond Registrar is entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Bonds.

Section 3. Sale of Bonds. Pursuant to the delegation set forth within this Resolution, bonds (which includes any bond anticipation notes) to be issued may be sold in a competitive sale pursuant to bids received electronically via the BIDCOMP/PARITY Competitive Bidding System or similar electronic based competitive bidding system or through a negotiated sale to one or more underwriters or financial institutions chosen in compliance with County guidelines and regulations. Bonds sold through a negotiated sale may be sold in a public sale or in a private placement. Bonds authorized to be issued under this Resolution may be sold in one or more series and on one or more dates on any date on or before December 31, 2017. The authorization and approvals of the documents set forth in this Resolution (as long as the documents used in such sale are authorized herein) shall apply to each bond sale.

Section 4. Notice of Sale; Bids. If bonds (or bond anticipation notes) are determined to be sold in a competitive sale, the Clerk of the Board of Supervisors is hereby authorized, if recommended by the Financial Advisor of the County to be beneficial for the sale of the bonds, to cause one or more notices calling for bids for the purchase of the bonds, to be published. Such notices shall be substantially in the form of the Notice of Sale(s) annexed to this resolution. Alternatively, the Clerk may cause to be published a summary of the principal terms of the notices. Bids shall be received electronically via the BIDCOMP/PARITY Competitive Bidding System or similar electronic based competitive bidding system.

Section 5. Official Statement. The draft of the Preliminary Official Statement of the County relating to the public improvement and refunding bonds presented at the meeting at which this resolution is adopted, and the circulation thereof, the completion thereof with the results of the sale and the printing and delivery to the winning bidder(s) in a competitive sale or the underwriter(s) in a negotiated sale of a reasonable number of copies thereof as so completed (the "final Official Statement(s)") are hereby approved and authorized, and the Chairman, Vice Chairman of the Board of Supervisors, County Executive or the Chief Financial Officer is hereby authorized and directed to deem final the Preliminary Official Statement(s) for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, and to execute and deliver the final Official Statement(s), both the Preliminary Official Statement(s) and the final Official Statement(s) to be in substantially the form of the related draft Preliminary Official Statement presented at this meeting with the changes contemplated hereby and such other changes as the Chairman, Vice Chairman of the Board of Supervisors, County Executive or the Chief Financial Officer may approve, his or her signature on the final Official Statement to be conclusive evidence of the signer's approval thereof. The Preliminary Official Statement(s) and the final Official Statement(s) may be disseminated or otherwise made available through electronic means.

Section 6. Delegation and Standard. (a) *Competitive Sale Delegation* – The Board of Supervisors has determined that there may be unplanned occasions when it is not possible for

some of the members of the Board of Supervisors to attend a special meeting for the purpose of receiving bids for the purchase of bonds of the County offered for sale at competitive bidding and that the accepted practice of the bond markets dictates that the lowest bid be speedily determined and the bonds be promptly awarded or that all bids be rejected.

The Board of Supervisors delegates to each of the County Executive and the Chief Financial Officer (each a “delegate”), the authority to accept the lowest bid (determined in accordance with the Notice of Sale) for the bonds (or any bond anticipation notes), being offered for sale by the Board of Supervisors at competitive bidding on a date(s) not later than December 31, 2017, subject to the following conditions: (i) a delegate shall have determined that the bid conforms in all material respects to the requirements of the Notice of Sale, (ii) a delegate shall have determined that the bid to be accepted is the lowest bid conforming to the terms of the Notice of Sale, (iii) the Financial Advisor to Fairfax County shall have recommended that the lowest conforming bid be accepted, (iv) the true interest cost of such bid shall not exceed 5.50% for any bonds and (v) the Board of Supervisors shall not then be in special session called for the purpose of accepting bids (the Board not to be deemed in special session if less than a quorum is present and voting).

(b) *Negotiated Sale Delegation* – The Board of Supervisors delegates to each of the County Executive and the Chief Financial Officer, the authority to sell the bonds (or any bond anticipation notes) in a negotiated sale to one or more underwriters or financial institutions on a date not later than December 31, 2017, subject to the following conditions: (i) the Financial Advisor to Fairfax County shall have recommended that due to financial market conditions such a negotiated sale best serves the interest of the County, (ii) the true interest cost of such bonds shall not exceed 5.50% for any bonds and (iii) the underwriter(s) or other financial institutions(s) of the bonds shall have been chosen pursuant to County guidelines and regulations.

In the event of a negotiated sale, the Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such other officer or officers of the County as may be designated by any one of them, is hereby authorized and directed to execute a bond purchase agreement, setting forth the terms of the sale of the bonds. Such bond purchase agreement shall only be executed (i) if such agreement does not contain any terms contradictory to the terms of this Resolution and (ii) the Financial Advisor to the County shall recommend to the County the execution of such agreement.

(c) *Additional Delegation* – The Board of Supervisors hereby further delegates to each of the County Executive and the Chief Financial Officer, subject to the limitations contained herein, powers and duties to determine the following, such delegation to be effective only if the Board of Supervisors shall not then be in session (the Board not to be deemed in session if less than a quorum is present and voting):

- (1) The series designations of such bonds;
- (2) The aggregate principal amount of the bonds issued for public improvement purposes, such amount not to exceed the sum of the amount required to provide \$258,300,000 for such public improvement purposes;

(3) The aggregate principal amount of bonds issued for refunding of the Refunded Bonds; provided, however, that the present value of the debt service savings to be obtained from the refunding of the Refunded Bonds is not less than 3.0% of the principal amount of the Refunded Bonds;

(4) To determine to use additional County funds, in addition to the proceeds of any bonds issued, to refund the Refunded Bonds;

(5) The determination of the bonds as serial or term bonds;

(6) The respective annual maturity dates and any mandatory redemption dates of the bonds, and the respective principal amounts of the bonds to mature or be redeemed on such dates, provided that the first maturity date of bonds for public improvement purposes shall occur no later than December 1, 2018, and the final maturity date shall not be later than December 1, 2037;

(7) The dated date of the bonds provided, however, the bonds shall be dated their date of issue or as of a customary date preceding their date of issue;

(8) The interest payment dates, for the bonds and the record date for the bonds;

(9) The redemption provisions, if any, of the bonds as further set forth in Section 8 of this resolution;

(10) If necessary, upon the refunding of the Refunded Bonds, (i) to approve and execute an escrow agreement, with an escrow agent or letter of instructions (such escrow agreement or letter of instructions to be executed only if such document does not contain any terms contradictory to the terms of this Resolution and only upon the recommendation of Bond Counsel to Fairfax County and the Financial Advisor to Fairfax County), (ii) to appoint a verification agent and an escrow agent and (iii) to determine the particular escrow securities and the form thereof and the terms of any related agreement (including a forward purchase agreement for the delivery of open-market escrow securities), with respect thereto that in his judgment, upon the recommendation of the County's Financial Advisor, will improve the efficiency of the escrow securities in defeasing the Refunded Bonds.

The Board of Supervisors hereby further delegates to each of the County Executive and the Chief Financial Officer authority to allocate any premium received upon the sale of the bonds to (i) fund interest payments on the bonds which relate to projects financed that are under construction through a time period no later than December 1, 2017, (ii) pay costs of issuance of the bonds or (iii) as to any or all of the public improvement bonds, taking into account, among other things, the reoffering prices for the various maturities of the bonds, reduce the principal amount of the bonds to which such allocation is made to produce proceeds approximately equal to the respective amounts authorized to be issued for such purposes by Section 1(a) and paragraph (c)(2) of this Section 6.

Section 7. Forms of bonds. The bonds shall bear the facsimile signatures of the Chairman or Vice Chairman and the Clerk of the Board of Supervisors and a facsimile of the

official seal of the Board shall be imprinted on the bonds. The certificate of authentication of the Bond Registrar to be endorsed on all bonds shall be executed as provided hereinafter.

In case any officer of Fairfax County whose facsimile signature shall appear on any bonds shall cease to be such officer before the delivery of such bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if she or he had remained in office until such delivery, and any bond may bear the facsimile signatures of such persons at the actual time of the execution of such bond shall be the proper officers to sign such bond although at the date of such bond such persons may not have been such officers.

No bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The bonds and the endorsement thereon shall be substantially in the following form:

[Depository Legend]

(Face of Bond)

No. _____

\$ _____

United States of America
Commonwealth of Virginia

FAIRFAX COUNTY
Public Improvement [and/or Refunding] Bond, Series 2017 [A], [B], [C]

| <u>Maturity Date</u> | <u>Interest Rate</u> | <u>Dated Date</u> | <u>CUSIP</u> |
|-----------------------------|-----------------------------|--------------------------|---------------------|
| [_____] | _____% | _____, 2017 | _____ |

Fairfax County, Virginia, is justly indebted and for value received hereby promises to pay to

or registered assigns or legal representative on the date specified above (or earlier as hereinafter referred to), upon the presentation and surrender hereof, at the office of the Director of the Department of Finance of Fairfax County, Virginia (the "Bond Registrar"), in Fairfax County, Virginia, the principal sum of

_____ **DOLLARS**

and to pay interest on such principal sum from the date hereof or from the [____ 1 or ____ 1] next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is an [____ 1 or a ____ 1] to which interest shall have been paid, in

which case from such date, such interest to the maturity hereof being payable on the 1st days of _____ and _____ in each year, the first interest payment date being _____, 20____, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by wire transfer, at the discretion of the County, or check mailed to such person at his address as it appears on the bond registration books of the County. Both the principal of and the interest on this bond shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged.

This bond and the bonds of the series of which it is one are issued under and pursuant to a resolution duly adopted by the Board of Supervisors of Fairfax County, Virginia on December 6, 2016 (the "Resolution"), for [(i) the purpose of providing funds, with other available funds, for school improvements, transportation improvements and facilities, parks and park facilities, public safety facilities, and storm drainage improvements and public library facilities [and/or (ii) refunding portions of [] outstanding series of bonds of Fairfax County, Virginia designated []]].

The bonds of this series that mature on or before _____, 20____, are not subject to redemption before maturity. Bonds that mature after _____ 1, 20____, may be redeemed, at the option of the County, before their respective maturities on any date not earlier than _____ 1, 20____, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price of par plus accrued interest to the redemption date.]

Term bonds of this series purchased or redeemed pursuant to a partial optional redemption by the County may be credited against the amortization requirements therefor as the County in its sole discretion may determine.

If less than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portions of bonds of such maturity to be redeemed shall be selected by lot by the County in such manner as the County in its discretion may determine; provided, however, that the portion of any bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting bonds for redemption, the County shall treat each bond as representing that number of bonds which is obtained by dividing the principal amount of such bond by \$5,000.

Bonds may be redeemed only in increments of \$5,000 or whole multiples thereof. If a portion of a Bond is called for redemption, a new Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any bonds to be redeemed, whether such redemption be in whole or in part, the County shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid,

to the registered owner of each bond to be redeemed in whole or in part at his address appearing upon the registration books of the County, but failure to mail such notice or any defect therein shall not affect the validity of the redemption. If a portion of this bond shall be called for redemption, a new bond or bonds in principal amount equal to the unredeemed portion hereof will be issued to the registered owner hereof or his legal representative upon the surrender hereof.

Any notice of optional redemption of the bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption shall be deemed to be revoked.

If the County gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If the County gives a conditional notice of redemption, and the amount of money to pay the redemption price of the affected Bonds shall have been set aside with the Trustee or a depository (either, a "depository") for the purpose of paying such bonds, then on the redemption date the bonds will become due and payable. In either case, if on the redemption date the County holds money to pay the bonds called for redemption, thereafter no interest will accrue on those bonds, and a bondholder's only right will be to receive payment of the redemption price upon surrender of those bonds.

The County shall give notice as contemplated by Securities Exchange Act of 1934 Release No. 34-23856, dated December 3, 1986, including the requirement that notice be given to all organizations registered with the Securities and Exchange Commission as securities depositories, and to one or more information services of national recognition which disseminate redemption information with respect to municipal securities.

The bonds are issuable in fully registered form in the denomination of \$5,000 or any multiple thereof. At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, bonds may be exchanged for an equal aggregate principal amount of bonds of the same series and maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at its office the books of the County for the registration of transfer of bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new bond or bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same series and maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any bond called for redemption in whole or in part pursuant to the Resolution.

This bond is one of a series issued under the authority of and in full compliance with the Constitution and laws of Virginia, particularly the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia, 1950, as amended, and pursuant to votes of a majority of the qualified voters of Fairfax County, Virginia, voting at elections duly called and held under the provisions of the Code of Virginia, 1950, as amended, and under orders of the Circuit Court of Fairfax County, Virginia, authorizing the Board of Supervisors of the County to proceed to carry out the wishes of the voters as expressed at such elections, and pursuant to resolutions duly adopted by the Board of Supervisors and the School Board of the County.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of Virginia to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in due time, form and manner as so required, that the total indebtedness of Fairfax County, Virginia, including this bond, does not exceed any constitutional or statutory limitation thereon, and that provision has been made for the levy and collection of an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on this bond as the same shall become due which tax shall be without limitation as to rate or amount and shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the resolution mentioned hereinafter until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the Board of Supervisors of Fairfax County, Virginia, has caused this bond to be issued in the name of Fairfax County, Virginia, and the Board has caused this bond to bear the facsimile signatures of its Chairman and Clerk and a facsimile of the official seal of the Board to be imprinted hereon, all as of the ____ day of _____, 2017.

(Facsimile signature)

(Facsimile signature)

**Clerk, Board of Supervisors
of Fairfax County, Virginia**

**Chairman, Board of Supervisors
of Fairfax County, Virginia**

(Facsimile seal)

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds of the series designated herein and described in the within mentioned Resolution.

Director of the Department of Finance of
Fairfax County, Virginia as Bond Registrar

By _____
Authorized Signature

Date of authentication: _____, 2017

(Form of Assignment)

ASSIGNMENT

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

Please insert social security or
other identifying number of assignee

(Please Print or Typewrite Name and Address of Transferee)

the within bond, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to register the transfer of the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

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

Signature Guaranteed* by: _____

*Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Trustee which requirements will include membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Trustee in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Section 8(a). Optional redemption. The Board of Supervisors hereby delegates to each of the County Executive and the Chief Financial Officer the authority, subject to the limitations contained herein, to determine the optional redemption provisions of any bonds pursuant to the delegation set forth in Section 6(c)(8). The first optional call date for the bonds must be no earlier than 5 years and no later than 10.5 years after the date of issue of such bonds. The maximum redemption price for the bonds may not exceed 102% of the principal amount of the bonds to be redeemed, plus accrued interest to the date of redemption. Bonds of a different series may contain different optional redemption provisions. Such delegation shall be effective only if the Board of Supervisors shall not then be in session (the Board of Supervisors not to be deemed in session if less than a quorum is present and voting). The bonds which are subject to optional redemption may be redeemed, at the option of Fairfax County, Virginia, before their respective maturities on any date not earlier than the optional redemption date, determined as set forth above, in whole or in part (in integral multiples of \$5,000), upon payment of the redemption price, determined as set forth above, plus accrued interest to the redemption date. The County Executive or the Chief Financial Officer, upon the recommendation of the Financial Advisor to the County, may determine that the public improvement refunding bonds shall not be subject to optional redemption prior to their maturity.

Section 8(b). Mandatory redemption. The term bonds, if any, shall be called for redemption, in part, in the principal amounts equal to the respective amortization requirements for the term bonds of such series (less the principal amount of any term bond of such series retired by purchase or optional redemption) at a price of par plus accrued interest thereon to the date fixed for redemption on a date specified pursuant to the delegation of authority contained in this resolution, preceding their maturity for which there is an amortization requirement.

In the event of a partial optional redemption or purchase of any such term bonds, the County will credit the principal amount of such term bonds so purchased or redeemed against the amortization requirements for the remaining term bonds outstanding in such amount and in such years as it in its sole discretion shall determine.

Section 8(c). Redemption provisions in general. If less than all of the bonds of any one maturity shall be called for redemption, the particular bonds or portions of bonds of such maturity to be redeemed shall be selected by lot by the County in such manner as the County in its discretion may determine; provided, however, that the portion of any bond to be redeemed shall be in the principal amount of the minimum authorized denomination or some multiple thereof and that, in selecting bonds for redemption, the County shall treat each bond as representing that number of bonds which is obtained by dividing the principal amount of such bond by such minimum authorized denomination.

In the case of redemptions of bonds at the option of the County, the County will select the maturities of the bonds to be redeemed.

The Board of Supervisors hereby delegates to each of the County Executive and the Chief Financial Officer the authority to modify the redemption provisions relating to the bonds based upon the recommendation of the County's financial advisor of current financial market considerations.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any bonds to be redeemed, whether such redemption be in whole or in part, the County shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each bond to be redeemed in whole or in part at his address appearing upon the registration books of the County, but failure to mail such notice or any defect therein shall not affect the validity of the redemption. Each such notice shall set forth the date designated for redemption, the redemption price to be paid, the maturities of the bonds to be redeemed and, if less than all of the bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such bonds to be redeemed and, in the case of any bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such bond, a new bond or bonds in principal amount equal to the unredeemed portion of such bond will be issued.

Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price of any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption shall be deemed to be revoked.

If the County gives an unconditional notice of redemption, then on the redemption date the Bonds called for redemption will become due and payable. If the County gives a conditional notice of redemption, and the amount of money to pay the redemption price of the affected Bonds shall have been set aside with the escrow agent or a depository (either, a "depository") for the purpose of paying such Bonds, then on the redemption date the Bonds will become due and payable. In either case, if on the redemption date the County holds money to pay the Bonds called for redemption, thereafter no interest will accrue on those Bonds, and a bondholder's only right will be to receive payment of the redemption price upon surrender of those Bonds.

The County shall give notice as contemplated by Securities Exchange Act of 1934 Release No. 34-23856, dated December 3, 1986, including the requirement that notice be given to all organizations registered with the Securities and Exchange Commission as securities depositories, and to one or more information services of national recognition which disseminate redemption information with respect to municipal securities.

On or before the date fixed for redemption, moneys shall be deposited with the Bond Registrar to pay the principal of and the redemption premium, if any, on the bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

If a portion of a bond shall be called for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such bond to the Bond Registrar for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the bond so surrendered, a bond or bonds of the same series and maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

Section 9. Exchange; registration of transfer; Bond Registrar. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of bonds of the same series and maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any bond may be registered only upon the registration books of the County upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such bond a new bond or bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such bond so surrendered, of the same series and maturity and bearing interest at the same rate.

In all cases in which bonds shall be exchanged or the transfer of bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time bonds in accordance with the provisions of this resolution. All bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The County or the Bond Registrar may make a charge for any governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made for exchanging or registering the transfer of bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any bond called for redemption in whole or in part pursuant to Section 8 of this resolution.

As to any bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such bond and the interest on any such bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such bond, including the redemption premium, if any, and the interest thereon, to the extent of the sum or sums so paid.

The County shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the bonds. The Director of the Department of Finance of Fairfax County, Virginia, is hereby appointed the registrar, transfer agent and paying agent for the bonds (collectively the "Bond Registrar"), subject to the right of the Board of Supervisors of the County to appoint another Bond Registrar, and as such shall keep at his office the books of the County for the registration, registration of transfer, exchange and payment of the bonds as provided in this resolution.

Section 10. Full faith and credit pledged. For the prompt payment of the principal of and the interest on the bonds authorized by this resolution as the same shall become due, the full faith and credit of Fairfax County, Virginia, are hereby irrevocably pledged, and each year while any of the bonds shall be outstanding, to the extent other funds of the County are not lawfully available and appropriated for such purpose, there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and the interest on the bonds as such principal and interest shall become due, which tax shall be without limitation and in addition to all other taxes authorized to be levied in the County.

Section 11. Continuing Disclosure Agreement. The Chairman or Vice Chairman of the Board of Supervisors, the County Executive and the Chief Financial Officer, or such officer or officers of the County as may be designated, is hereby authorized and directed to execute a Continuing Disclosure Agreement, in the form contained in the draft Preliminary Official Statement presented at this meeting, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 12. Tax covenant. The County covenants to take all action, and to refrain from taking any action, necessary under the Internal Revenue Code of 1986, as amended, to ensure that interest on any tax-exempt bonds will remain not includable in gross income for Federal income tax purposes to the same extent as it is not includable on the date of closing on such bonds.

Section 13. Certificate concerning delegation. The County Executive or the Chief Financial Officer shall execute a Certificate or Certificates evidencing determinations or other actions taken pursuant to the authority granted in this resolution, and any such Certificate shall be conclusive evidence of the action or determination of such County Executive or the Chief

Financial Officer as stated therein. The delegations of authority in this resolution to the County Executive and the Chief Financial Officer are to each of them severally, and any action taken by either the County Executive or the Chief Financial Officer pursuant to such delegations of authority is sufficient for all purposes of this resolution.

Section 14. Authority of officers. The officers and agents of the County are hereby authorized and directed to do all the acts and things required of them by the bonds and by this resolution for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the bonds and in this resolution.

Section 15. Certification and filing. The Clerk of the Board of Supervisors is hereby authorized and directed to file a certified copy of this resolution and a certified copy of the resolution of the School Board of the County with the Circuit Court of Fairfax County, Virginia.

A Copy – Teste:

Clerk to the Board of Supervisors

DRAFT Critical Path Events
Fairfax County, Virginia
General Obligation Public Improvement & Refunding Bonds, Series 2017

| October 2016 | November 2016 | December 2016 | January 2017 | February 2017 | March 2017 |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S |
| 2 3 4 5 6 7 8 | 6 7 8 9 10 11 12 | 4 5 6 7 8 9 10 | 1 2 3 4 5 6 7 | 5 6 7 8 9 10 11 | 5 6 7 8 9 10 11 |
| 9 10 11 12 13 14 15 | 13 14 15 16 17 18 19 | 11 12 13 14 15 16 17 | 8 9 10 11 12 13 14 | 12 13 14 15 16 17 18 | 12 13 14 15 16 17 18 |
| 16 17 18 19 20 21 22 | 20 21 22 23 24 25 26 | 18 19 20 21 22 23 24 | 15 16 17 18 19 20 21 | 19 20 21 22 23 24 25 | 19 20 21 22 23 24 25 |
| 23 24 25 26 27 28 29 | 27 28 29 30 | 25 26 27 28 29 30 31 | 22 23 24 25 26 27 28 | 26 27 28 | 26 27 28 29 30 31 |
| 30 31 | | | 29 30 31 | | |

| Week of | Activity & Event | Responsible Party |
|---------------------------------|--|--------------------------------|
| October 3rd | First draft of County & School Board Resolution, POS, & NOS, collectively "Bond Documents" distributed | NRF |
| October 10th | Comments due on Bond Documents | All |
| October 17th | Revised draft of Bond Documents distributed NLT Friday October 21 st – Draft CAFR data needed for PFM to prep for credit assessment | NRF FX |
| October 24th | Comments due on Bond Documents | All |
| October 31st | Tuesday, November 1 st – County Board Meeting Tuesday, November 1 st – Board Title Due Friday, November 4 th – Board Item Due Send draft Bond Documents to School Board | FX FX, NRF FX, NRF FX |
| November 7th | Comments due on Bond Documents <i>Friday, November 11th – Veteran's Day (Markets Closed)</i> Draft Ratings Presentation distributed 11/9 Credit Assessment Meeting 10am DMB | All -- PFM FX, PFM |
| November 14th | Monday, November 14 th - School Board considers Bond Documents Friday, November 18th @ 11 AM – Ratings Prep Meeting | -- FX, PFM |
| November 21st | Tuesday, November 22 nd - County/School Board Joint Meeting <i>Thursday, November 24th – Thanksgiving Holiday (Markets Closed)</i> <i>Friday, November 25th – County Offices Closed</i> | FX -- |
| November 28th | Revised Ratings Presentation distributed Revised draft POS distributed Draft Bond Documents sent to Rating Agencies | PFM NRF PFM |
| December 5th | Tuesday, December 6th – Board considers Bond Documents [Tuesday, December 6 th – FY2016 CAFR Published] Finalize Rating Agency Presentation DATE TBD – Ratings Rehearsal Meeting | FX FX FX, PFM FX, PFM |
| December 12th | Comments due on draft POS DATES TBD – Rating Calls [Format TBD] | All FX, PFM |
| December 19th | DATES TBD – Rating Calls [Format TBD] | FX, PFM |

DRAFT Critical Path Events
Fairfax County, Virginia
General Obligation Public Improvement & Refunding Bonds, Series 2017

| October 2016 | November 2016 | December 2016 | January 2017 | February 2017 | March 2017 |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S | S M T W T F S |
| 2 3 4 5 6 7 8 | 6 7 8 9 10 11 12 | 4 5 6 7 8 9 10 | 1 2 3 4 5 6 7 | 5 6 7 8 9 10 11 | 5 6 7 8 9 10 11 |
| 9 10 11 12 13 14 15 | 13 14 15 16 17 18 19 | 11 12 13 14 15 16 17 | 8 9 10 11 12 13 14 | 12 13 14 15 16 17 18 | 12 13 14 15 16 17 18 |
| 16 17 18 19 20 21 22 | 20 21 22 23 24 25 26 | 18 19 20 21 22 23 24 | 15 16 17 18 19 20 21 | 19 20 21 22 23 24 25 | 19 20 21 22 23 24 25 |
| 23 24 25 26 27 28 29 | 27 28 29 30 | 25 26 27 28 29 30 31 | 22 23 24 25 26 27 28 | 26 27 28 | 26 27 28 29 30 31 |
| 30 31 | | | 29 30 31 | | |

| Week of | Activity & Event | Responsible Party |
|---------------------------|---|-----------------------|
| | Friday, December 23 rd – County Offices Closed Sunday, December 25 th – Christmas Day | -- |
| December 26 th | Monday, December 26 th – County Offices Closed Sunday, January 1 st – New Year's Day | -- |
| January 2 nd | Monday, January 2 nd – County Offices Closed Revised draft POS distributed | NRF |
| January 9 th | Comments due on draft POS NLT Thursday, January 12 th – Ratings Received NLT Friday, January 13 th – POS & NOS posted | All FX, PFM NRF |
| January 16 th | Monday, January 16 th – Martin Luther King, Jr. Day (Markets Closed) Market the Bonds | -- PFM |
| January 23 th | Tuesday, January 24 th – Competitive Sale | -- |
| January 30 th | Finalize & Mail OS and Closing Documents | PFM |
| February 6 th | Tuesday, February 7 th – Closing | -- |
| February 14 th | Tuesday, February 14 th – FY2018 Budget Released | FX |

Legend:
FX = Fairfax County
PFM = Public Financial Management Inc., County's Financial Advisor
NRF = Norton Rose Fulbright, Bond Counsel

Schedule of Bond Purposes
FY 2017 Bond Sale - Series 2017A (New Money)

| Fund | Category | Referendum Date | BEGIN Authorized But Unissued Balance | FY 2017 Bond Sale Projection | END Authorized But Unissued Balance |
|---------------------------------|-----------------------------------|------------------------|--|---|--|
| County | | | | | |
| 300-C30030 | Library Facilities | 11/6/12 | 19,615,000 | 4,000,000 | 15,615,000 |
| 300-C30010 | NVRPA | 11/8/16 | 12,300,000 | 3,300,000 | 9,000,000 |
| 300-C30050 | Road Bond Construction | 11/6/07 | 18,839,500 | 18,839,500 | - |
| | Road Bond Construction | 11/4/14 | 100,000,000 | 1,160,500 | 98,839,500 |
| 300-C30000 | Transportation Facilities (Metro) | 11/8/16 | 120,000,000 | 30,000,000 | 90,000,000 |
| 300-C30070 | Public Safety Facilities | 11/6/12 | 51,865,000 | 20,000,000 | 31,865,000 |
| | Public Safety Facilities | 11/3/15 | 151,000,000 | - | 151,000,000 |
| 300-C30400 | Park Authority | 11/6/12 | 48,260,000 | 17,000,000 | 31,260,000 |
| | Park Authority | 11/8/16 | 94,700,000 | - | 94,700,000 |
| 400-C40100 | Flood Control | 11/6/12 | 23,590,000 | 9,000,000 | 14,590,000 |
| 300-30010 | Human Services Facilities | 11/8/16 | 85,000,000 | - | 85,000,000 |
| Subtotal County | | | \$725,169,500 | \$103,300,000 | \$621,869,500 |
| Schools | | | | | |
| 390 | | 11/8/11 | 6,390,500 | 6,390,500 | - |
| 390 | | 11/6/13 | 250,000,000 | 148,609,500 | 101,390,500 |
| 390 | | 11/3/15 | 310,000,000 | - | 310,000,000 |
| Subtotal Schools | | | \$566,390,500 | \$155,000,000 | \$411,390,500 |
| TOTAL COUNTY AND SCHOOLS | | | \$1,291,560,000 | \$258,300,000 | \$1,033,260,000 |

A RESOLUTION REQUESTING THE BOARD OF SUPERVISORS
OF FAIRFAX COUNTY, VIRGINIA, TO ISSUE AND SELL SCHOOL BONDS OF
FAIRFAX COUNTY, VIRGINIA, TOTALING \$155,000,000 AND APPROVING THE FORM
OF A TAX CERTIFICATE AND AUTHORIZING THE EXECUTION THEREOF

At an election duly called and held on November 8, 2011, a majority of the qualified voters of the County, voting on the question, approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$252,750,000 (the “2011 Referendum”);

WHEREAS, the stated purpose of the school bonds authorized in the 2011 Referendum was for purposes of providing funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system; and

WHEREAS, the Board of Supervisors of Fairfax County, Virginia (the “Board of Supervisors”) has heretofore issued \$246,359,900 of the bonds authorized by the 2011 Referendum, leaving a balance of \$6,390,500 authorized but unissued bonds; and

WHEREAS, at an election dully called and held on November 5, 2013, a majority of the qualified voters of the County, voting on the question, approved contracting a debt, borrowing money and issuing school bonds of the County, in the aggregate principal amount of \$250,000,000 (the “2013 Referendum”); and

WHEREAS, the stated purpose of the school bonds authorized in the 2013 Referendum was for purposes of providing funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system; and

WHEREAS, the Board of Supervisors has heretofore issued has heretofore issued none of the bonds authorized by the 2013 Referendum, leaving a balance of \$250,000,000 authorized but unissued bonds; and

WHEREAS, the School Board of Fairfax County, Virginia (the “School Board”) deems it advisable for the Board of Supervisors to (i) issue school bonds from the 2011 Referendum in an aggregate principal amount not to exceed \$6,390,500, issue school bonds and issue school bonds from the 2013 Referendum in an aggregate principal amount not to exceed \$148,609,500 (collectively the “School Bonds”); (ii) determine certain pricing and sale details of the School Bonds and (iii) determine whether to refund any prior public improvement bonds of Fairfax

County, Virginia which were issued for school improvements (the “Board of Supervisors Actions”); and

WHEREAS, the School Board recognizes that it will be necessary for it to make certain certifications regarding the use of the proceeds of the School Bonds and any refunding bonds for federal income tax purposes;

NOW, THEREFORE, BE IT RESOLVED by the School Board of Fairfax County, Virginia:

Section 1. For the purpose of providing funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system, the Board of Supervisors is hereby requested to issue the School Bonds, subject to the Board of Supervisors Actions, in an aggregate principal amount not to exceed \$155,000,000 and provide for the sale of such bonds and any refunding bonds at this time.

Section 2. The form of a certificate attached to this resolution as Appendix A (the “School Board Tax Certificate”) to be executed by the School Board in connection with the issuance of the School Bonds and any refunding bonds is approved in all respects and the Chairman, Vice Chairman or any other member or officer of the School Board designated in writing by the Chairman of the School Board is hereby authorized and directed to approve, by execution and delivery, the School Board Tax Certificate in substantially the form presented to this meeting together with such changes, modifications, insertions and deletions as the Chairman, Vice Chairman or such designated member or officer, with the advice of counsel, may deem necessary and appropriate; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the School Board.

Section 3. The Clerk of the School Board is hereby authorized and directed to file two certified copies of this resolution with the Board of Supervisors.

CERTIFICATE OF THE SCHOOL BOARD

This certificate is provided to the County of Fairfax, Virginia (the “County”) by the School Board of the County of Fairfax, Virginia (the “School Board”) in connection with the issuance by the County of its [\$_____,000 Public Improvement Bonds, Series 2017 [] [] and \$_____ Public Improvement Refunding Bonds, Series 2017 [] [] (collectively, the “Bonds”), the proceeds of which will be used to finance the cost of constructing, furnishing, acquiring and equipping school improvements (the “[New] School Projects”) [and to refinance school projects that were financed with the proceeds of the County’s _____ Bonds and _____ Bonds (the “Refunded School Projects” and together with the New School Projects, the “School Projects”)],

The School Board recognizes that some of the representations made by the County in its Tax Certificate dated _____, 2017, and executed in connection with the issuance of the Bonds (the “Tax Certificate”) must be based on the representations and certifications of the School Board and that the exclusion from gross income of the interest on the Bonds for federal income tax purposes depends on the use of proceeds of the Bonds.

Accordingly, the School Board certifies that it has reviewed the representations set forth in Section 1 of Part B of the Tax Certificate to which this certificate is attached regarding the use of proceeds of the Bonds and the School Projects and that such representations, to the extent they relate to the School Projects, are true and correct, except as follows: (i) with respect to paragraph (d) (“Definition of Private Use”), in the second paragraph, fourth line, after (“General Public Use”), there shall be deemed to be inserted “or other than as is excepted as private use by U.S. Treasury Regulations,” and (ii) with respect to paragraph (e) (“Management and Service Contracts”), the references to Revenue Procedure 97-13 shall be deemed to include “or other applicable law.” Furthermore, such representations are hereby incorporated by reference in this certificate and shall be treated as representations made by the School Board with respect to the School Projects as if set forth herein. The School Board shall not take any action that is inconsistent with such representations.

The School Board further covenants that:

(a) it shall not sell or otherwise dispose of the School Projects prior to the final maturity date of the Bonds of [____ 1, 20____], except as shall be permitted in the opinion of an attorney or firm of attorneys, acceptable to the County, nationally recognized as experienced with respect to matters pertaining to the exclusion of interest on obligations of States and political subdivisions from gross income for federal income tax purposes; and

(b) it shall not knowingly take any action which will, or fail to take any action which failure will, cause the interest on the Bonds to become includable in the gross income of the owners of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations promulgated thereunder in effect on

the date of original issuance of the Bonds and for purposes of assuring compliance with Section 141 of the Code.

School Board of the County of Fairfax, Virginia

Name:

Title:

Date: _____, 2016

* * * * *

I hereby certify the above is a true and correct copy of a resolution adopted by the School Board of Fairfax County, Virginia, at a regular meeting held on _____, 2016, at _____, _____, Virginia.

Date

Ilene D. Muhlberg, Clerk
School Board of
Fairfax County, Virginia

NOTICE OF SALE

\$ _____ *

FAIRFAX COUNTY, VIRGINIA**Public Improvement and Refunding Bonds, Series 2017A**

Electronic Bids, BiDCOMP/Parity Competitive Bidding System (“BiDCOMP/Parity”) only, will be received by the Board of Supervisors of Fairfax County, Virginia, until 11:00 a.m. Fairfax, Virginia Time, on

_____, 2017*

for the purchase of all, but not less than all, of the \$ _____ * Public Improvement and Refunding Bonds, Series 2017A (the “Bonds”), of Fairfax County, Virginia (the “County”), dated the date of their delivery and maturing, subject to the right of prior redemption as hereinafter set forth, on the 1st day of [October] in the following years and in the following amounts, respectively:

Initial Maturity Schedule for the Bonds*

| <u>Year of Maturity</u> | <u>Principal Amount*</u> | <u>Year of Maturity</u> | <u>Principal Amount*</u> |
|-----------------------------|------------------------------|-----------------------------|------------------------------|
| 2017 | \$ | 2027 | \$ |
| 2018 | | 2028 | |
| 2019 | | 2029 | |
| 2020 | | 2030 | |
| 2021 | | 2031 | |
| 2022 | | 2032 | |
| 2023 | | 2033 | |
| 2024 | | 2034 | |
| 2025 | | 2035 | |
| 2026 | | 2036 | |

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

* Preliminary, subject to change.

BID PARAMETERS TABLE FOR THE BONDS*

| INTEREST | | PROCEDURAL | |
|---|--|---------------------------|--|
| Dated Date: | Date of Delivery | Sale Date and Time: | Bids due January __, 2017 at 11:00 AM Local Time |
| Anticipated Delivery Date: | February __, 2017 | Bid Submission: | Electronic bids through PARITY Only |
| Interest Payments Dates: | April 1 and October 1 | All or None? | Yes |
| First Interest Payment Date: | [April 1, 2017] | Bid Award Method: | Lowest TIC |
| Coupon Multiples: | 1/8 or 1/20 of 1% | Good Faith Deposit: | 1% of the Bid Maturity Schedule, as more fully described on page 6, under "Good Faith Deposit" |
| Zero Coupons: | Not Permitted | Max TIC | __% |
| Split Coupons: | Not Permitted | | |
| PRINCIPAL | | PRICING | |
| Optional Redemption: | Due after [October 1, 20__, callable on April 1, 20__] and thereafter at par | Max. Aggregate Bid Price: | __% |
| Post-bid Principal Increases in Aggregate: | 10% | Min. Aggregate Bid Price: | __% |
| Post-bid Principal Reductions in Aggregate: | 10% | Max. Price per Maturity: | No Limit |
| Term Bonds: | Any two or more consecutive maturities may be designated as term bonds from 10/1/20 __ -10/1/20 __ | Min. Price per Maturity: | No Limit |
| | | High Coupon per Maturity: | 10/1/20 __ -10/1/20 __ - __% 10/1/20 __ -10/1/20 __ - __% 10/1/20 __ -10/1/20 __ - __% |
| | | Low Coupon per Maturity: | 10/1/20 __ -10/1/20 __ - No Limit 10/1/20 __ -10/1/20 __ - 5.0% |

* Subject to the detailed provisions of this Notice of Sale.

Changes to Initial Maturity Schedule for the Bonds

The Initial Maturity Schedule for the Bonds set forth on page 1 above represents an estimate of the principal amount of Bonds to be sold. The County hereby reserves the right to change the Initial Maturity Schedule, based on market conditions prior to the sale, by announcing any such change not later than 30 minutes prior to the announced time and date for receipt of bids via TM3 (www.tm3.com). The resulting schedule of maturities will become the "Bid Maturity Schedule for the Bonds." If no such change is announced, the Initial Maturity Schedule will become the Bid Maturity Schedule.

Changes to Bid Maturity Schedule

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

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

Book-Entry System

The Bonds will be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York ("DTC"), and immobilized in its custody. The book-entry system will evidence beneficial ownership interests of the Bonds in the principal amount of \$5,000 and any multiple thereof, with transfers of beneficial ownership interests effected on the records of DTC participants and, if necessary, in turn by DTC pursuant to rules and procedures established by DTC and its participants. The successful bidder, as a condition to delivery of the Bonds, shall be required to deposit the bond certificates with DTC, registered in the name of Cede & Co., nominee of DTC. Interest on the Bonds will be payable on each April 1 and October 1, the first interest payment date being [April 1, 2017], and principal of and any redemption premium on the Bonds will be payable at maturity or upon prior redemption, to DTC or its nominee as registered owner of the Bonds. Transfer of principal, interest and any redemption payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the County determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the County will discontinue the book-entry system with DTC. If the County fails to

select another qualified securities depository to replace DTC, the County will deliver replacement Bonds in the form of fully registered certificates.

The Bonds

The Bonds will be general obligations of Fairfax County, Virginia, and all taxable property therein will be subject to the levy of an annual ad valorem tax sufficient in amount to provide for the payment of the principal of and the interest on the bonds as the same become due, which tax will be without limitation as to rate or amount and will be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purposes.

The Bonds are being issued as one series of bonds authorized for the purpose of providing funds for School Improvements (\$155,000,000), Transportation Improvements and Facilities (\$58,839,500), Public Safety Facilities (\$22,100,000), Parks and Park Facilities (\$18,300,000), Public Library Facilities (\$8,500,000), Human Services Facilities (\$6,360,500) and Storm Drainage Improvements (\$5,900,000) and, subject to prevailing market conditions, to refund certain maturities or portions thereof of the County's outstanding general obligation bonds in order to achieve present value debt service savings. If the County's savings threshold is not met, the County reserves the right to adjust the principal amounts and maturities of the Bonds, as specified in this Notice of Sale.

Term Bonds and Mandatory Redemption

The successful bidder of the Bonds may designate two or more of the consecutive serial maturities on or after October 1, 20__ to be a term bond maturity equal in aggregate principal amount, and with sinking fund requirements corresponding, to such designated serial maturities.

Optional Redemption*

The Bonds maturing on or before October 1, 20__, are not subject to optional redemption before their maturity. [The Bonds maturing after October 1, 20__, are subject to redemption prior to maturity, at the option of the County, from any money available for such purpose on any date not earlier than April 1, 20__ in whole or in part (in integral multiples of \$5,000) at any time, at a redemption price equal to the principal amount thereof, together with the interest accrued to the redemption date on the principal amount to be redeemed.]

Electronic Bidding and Bidding Procedures

Registration to Bid

All prospective bidders must be contracted customers of i-Deal LLC's BiDCOMP/Parity Competitive Bidding System. If you do not have a contract with BiDCOMP/Parity, call (212) 404-8102 to inquire about becoming a customer. By submitting a bid for the Bonds, a prospective bidder represents and warrants to the County that such bidder's bid for the purchase of the Bonds (if a bid is submitted in connection with the sale) is submitted for and on behalf of

* Preliminary, subject to change.

such prospective bidder by an officer or agent who is duly authorized to bind the prospective bidder to a legal, valid and enforceable contract for the purchase of the Bonds. By contracting with BiDCOMP/Parity a prospective bidder is not obligated to submit a bid in connection with the sale.

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

Disclaimer

Each prospective bidder shall be solely responsible to register to bid via BiDCOMP/Parity. Each qualified prospective bidder shall be solely responsible to make necessary arrangements to access BiDCOMP/Parity for purposes of submitting its bid in a timely manner and in compliance with the requirements of the Notice of Sale. Neither the County nor BiDCOMP/Parity shall have any duty or obligation to undertake such registration to bid for any prospective bidder or to provide or assure such access to any qualified prospective bidder, and neither the County nor BiDCOMP/Parity shall be responsible for a bidder's failure to register to bid or for proper operation of, or have any liability for any delays or interruptions of, or any damages caused by, BiDCOMP/Parity. The County is using BiDCOMP/Parity as a communication mechanism, and not as the County's agent, to conduct the electronic bidding for the Bonds. The County is not bound by any advice and determination of BiDCOMP/Parity to the effect that any particular bid complies with the terms of this Notice of Sale and in particular the "Bid Specifications" hereinafter set forth. All costs and expenses incurred by prospective bidders in connection with their registration and submission of bids via BiDCOMP/Parity are the sole responsibility of the bidders, and the County is not responsible, directly or indirectly, for any of such costs or expenses. If a prospective bidder encounters any difficulty in registering to bid or submitting, modifying or withdrawing a bid for the Bonds, it should telephone BiDCOMP/Parity and notify Public Financial Management, Inc., the County's financial advisor, by telephone at (703) 741-0175. After receipt of bids is closed, the County through BiDCOMP/Parity will indicate the apparent successful bidder. Such message is a courtesy only for viewers and does not constitute the award of the Bonds. Each bid will remain subject to review by the County to determine its true interest cost rate and compliance with the terms of this Notice of Sale.

Bidding Procedures

Bids must be submitted electronically for the purchase of all, but not less than all, of the Bonds by means of the Fairfax County, Virginia AON (all or none) Bid Form (the "Bid Form") via Parity. Bids must be communicated electronically to Parity by 11:00 a.m., Fairfax, Virginia Time on the Scheduled Bid Date unless postponed as described herein (see "Change of Bid Date and Closing Date"). Prior to that time, a prospective bidder may input and save the proposed terms of its bid in BiDCOMP. Once the final bid has been saved in BiDCOMP, the bidder may select the final bid button in BiDCOMP to submit the bid to Parity. Once the bids are released

electronically via Parity to the County, each bid will constitute an irrevocable offer to purchase the Bonds on the terms therein provided. For purposes of the electronic bidding process, the time as maintained on BiDCOMP shall constitute the official Fairfax, Virginia Time. For information purposes only, bidders are requested to state in their bids the true interest cost to the County, as described under “Award of Bonds” below, represented by the rate or rates of interest and the bid price specified in their respective bids.

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

Good Faith Deposit

After receipt of bids is closed and prior to the award, the apparent successful bidder indicated on BidCOMP/Parity must submit a good faith deposit (the “Deposit”) for 1% of the Bid Maturity Schedules to the County by wire transfer. The award to the apparent successful bidder is contingent upon receipt of the Deposit, and the Bonds will not be awarded to such bidder until the County has confirmation of receipt of the Deposit.

Wire instructions for the Deposit are as follows:

Bank Name: Bank of America VA/Rich
 ABA: 026 009 593
 Account Name: County of Fairfax, Deposit Account
 Account Number: 0000 7902 5799
 Attention: Tammy Kennedy-Nichols, 410-547-4320
 Reference your company, company contact, phone number or other helpful identification

Award or rejection of bids will be made by or on behalf of the Board of Supervisors of Fairfax County, Virginia, on the date above stated for the receipt of bids. The proceeds of the Deposit will be held as security for the performance of the successful bidder’s bid and applied to the purchase price of the Bonds, but, in the event the successful bidder shall fail to comply with the terms of its bid, the Deposit will be retained as and for full liquidated damages. No interest will be allowed thereon.

Award of Bonds

Award or rejection of bids will be made by the County prior to 5:00 p.m., Fairfax, Virginia Time on the date of receipt of bids. ALL BIDS SHALL REMAIN FIRM UNTIL 5:00 P.M., FAIRFAX, VIRGINIA TIME, ON THE DATE OF RECEIPT OF BIDS. An award of the Bonds, if made, will be made by the County within such six-hour period of time (11:00 a.m. – 5:00 p.m.).

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

the dated date of the Bonds. If two or more bidders offer to purchase the Bonds at the same lowest TIC, the Bonds may be apportioned between such bidders if it is agreeable to each of the bidders who have offered the bids producing the same lowest TIC, provided, that if apportionment is not acceptable to such bidders the County will have the right to award the Bonds to one of such bidders. There will be no auction.

Right of Rejection

The County expressly reserves the right (i) to waive any informalities, (ii) to reject all bids, any incomplete bid or any bid not fully complying with all of the requirements set forth herein, and (iii) to solicit new bids or proposals for the sale of the Bonds or otherwise provide for the public sale of the Bonds if all bids are rejected or the winning bidder defaults, including, without limitation, sale of the Bonds to one or more of the losing or rejected bidders without regard to their original bid or its relationship to any other bid.

The County reserves the right to reject bids on the Bonds.

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

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

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

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

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

The County reserves the right to otherwise change this Notice of Sale. The County anticipates that it would communicate any such changes via TM3 by 4:00 p.m., Fairfax, Virginia Time on the date prior to the scheduled date for receipt of bids but no later than 30 minutes prior to the scheduled time and date for receipt of bids.

Conflict Waiver

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

Undertakings of the Successful Bidder

The successful bidder shall make a bona fide public offering of all of the Bonds to the general public (excluding bond houses, brokers, or similar persons acting in the capacity of underwriters or wholesalers who are not purchasing for their own account as ultimate purchasers without a view to resell) and will, within 30 minutes after being notified of the award of the Bonds, advise the County in writing (via facsimile transmission) of the Initial Reoffering Terms. Prior to the delivery of the Bonds, the successful bidder will furnish a certificate acceptable to Bond Counsel as to the “issue price” of the Bonds within the meaning of Section 1273 of the Internal Revenue Code of 1986, as amended. It will be the responsibility of the successful bidder to institute such syndicate reporting requirements, to make such investigation, or otherwise to ascertain the facts necessary to enable it to make such certification with reasonable certainty.

Delivery

The Bonds will be delivered on or about February __, 2017, in New York, New York, at DTC against payment of the purchase price therefor (less the amount of the Deposit) in Federal Reserve funds.

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

CUSIP Numbers

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

Official Statements

Copies of the Preliminary Official Statement may be obtained without cost via the Internet at www.i-dealprospectus.com. The Preliminary Official Statement at its date is “deemed final” by the County for purposes of the Securities and Exchange Commission Rule 15c2-12 adopted under the Securities Exchange Act of 1934, as amended (the “Rule”), but is subject to revision, amendment and completion.

After the award of the Bonds, the County will prepare copies of the Official Statement (no more than 300) and will include therein such additional information concerning the reoffering of the Bonds as the successful bidder may reasonably request; provided, however, that the County will not include in the Official Statement a “NRO” (“not reoffered”) designation with respect to any maturity of the Bonds. The successful bidder will be responsible to the County in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering. The County expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to The Electronic Municipal Market Access System (“EMMA”) administered by the Municipal

Securities Rulemaking Board. The successful bidder will be required to acknowledge receipt of such Official Statement, to certify that it has made delivery of the Official Statement to EMMA and to acknowledge that the County expects the successful bidder to deliver copies of such Official Statement to persons to whom such bidder initially sells the Bonds and to certify that the Bonds will only be offered pursuant to such Official Statement and only in states where the offer is legal. The successful bidder will be responsible to the County in all respects for the accuracy and completeness of information provided by such successful bidder with respect to such reoffering.

In general, the Rule prohibits an underwriter from purchasing or selling municipal securities, such as the Bonds, unless it has determined that the issuer of such securities has committed to provide annually certain information, including audited financial information, and notice of various events described in the Rule, if material. The County will provide to EMMA annual information respecting the County, including audited financial statements. In addition, the County will provide to EMMA the required notice of the occurrence of any events described in the Rule.

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

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

Reservation of Rights

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

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By: Catherine A. Chianese, Clerk

PRELIMINARY OFFICIAL STATEMENT DATED JANUARY __, 2017

NEW ISSUE – Full Book Entry

RATINGS: Fitch:
Moody's:
Standard & Poor's:
(See "RATINGS" herein)

In the opinion of Bond Counsel, under existing law and assuming continuing compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), as described herein, interest on the Bonds will not be includable in the gross income of the owners thereof for federal income tax purposes. Under existing law, the interest on the Bonds is excluded from Virginia taxable income for purposes of the individual income tax and the income taxation of corporations by the Commonwealth of Virginia under Sections 58.1-322 and 58.1-402 of the Code of Virginia of 1950, as amended, to the extent that such interest is excludable from gross income for federal income tax purposes. See "TAX MATTERS" herein for certain provisions of the Code that may affect the tax treatment of interest on the Bonds for certain bondholders.

\$ _____ *

FAIRFAX COUNTY, VIRGINIA
PUBLIC IMPROVEMENT [AND REFUNDING] BONDS, SERIES 2017A

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

Interest on the Bonds will be payable on each April 1 and October 1, commencing April 1, 2017.

The Bonds are being issued to finance various public improvements and, subject to favorable financial market conditions, to refund certain outstanding bonds of the County and to pay costs of issuing the Bonds.

The Bonds maturing after October 1, 20[26]*, are subject to redemption prior to maturity as a whole or in part at any time on or after [April] 1, 20[27]*, at a redemption price of par plus accrued interest.

The Bonds will be general obligations of Fairfax County, Virginia, for the payment of which the Board of Supervisors of the County is unconditionally obligated to levy and collect an annual ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation.

This page and the inside cover page contain certain information for quick reference only. They are not a summary of this issue. Investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Bonds are offered for delivery when, as, and if issued, subject to the approving opinion of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel. The Bonds will be available for delivery in New York, New York, through the facilities of DTC on or about February __, 2017.

January __, 2017

* Preliminary, subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. The Bonds may not be sold nor may an offer to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

**FAIRFAX COUNTY, VIRGINIA
PUBLIC IMPROVEMENT [AND REFUNDING] BONDS, SERIES 2017A**

MATURITY DATES, PRINCIPAL AMOUNTS, INTEREST RATES AND PRICES/YIELDS

Base CUSIP† Number 30382A*

\$ _____ * SERIES 2017A BONDS

| Maturity Date | Principal | Interest | Price or | CUSIP† |
|-------------------------|-----------------------|--------------------|---------------------|----------------------|
| <u>October 1</u> | <u>Amount*</u> | <u>Rate</u> | <u>Yield</u> | <u>Suffix</u> |
| [2017 | \$ | % | % | |
| 2018 | | | | |
| 2019 | | | | |
| 2020 | | | | |
| 2021 | | | | |
| 2022 | | | | |
| 2023 | | | | |
| 2024 | | | | |
| 2025 | | | | |
| 2026 | | | | |
| 2027 | | | | |
| 2028 | | | | |
| 2029 | | | | |
| 2030 | | | | |
| 2031 | | | | |
| 2032 | | | | |
| 2033 | | | | |
| 2034 | | | | |
| 2035 | | | | |
| 2036] | | | | |

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

* Preliminary, subject to change.

Fairfax County, Virginia

BOARD OF SUPERVISORS

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

COUNTY OFFICIALS

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

PAYING AGENT

Fairfax County Director of Finance
12000 Government Center Parkway, Suite 214
Fairfax, Virginia 22035-0074
(703) 324-3120

FINANCIAL ADVISOR

Public Financial Management, Inc.
4350 North Fairfax Drive, Suite 580
Arlington, Virginia 22203-1547
(703) 741-0175

BOND COUNSEL

Norton Rose Fulbright US LLP
799 9th Street NW, Suite 1000
Washington, D.C. 20001-4501
(202) 662-0200

For information relating to this Official Statement please contact:

Joseph M. Mondoro, Chief Financial Officer
Fairfax County, Virginia
12000 Government Center Parkway, Suite 561
Fairfax, Virginia 22035-0074
(703) 324-2391

No person has been authorized by Fairfax County (the “County”) to give any information or to make any representations with respect to the County or the Bonds other than those contained in this Official Statement, and, if given or made, such other information or representations may not be relied upon as having been authorized by the County. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation, or sale. The information herein is subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the County since the date hereof. This Official Statement is not to be construed as a contract or agreement between the County and the purchasers or owners of any of the Bonds. Any electronic reproduction of this Official Statement may contain computer generated errors or other deviations from the printed Official Statement. In any such case, the printed version controls.

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OFFICIAL STATEMENT
FAIRFAX COUNTY, VIRGINIA

Regarding

\$ _____ * Public Improvement [and Refunding] Bonds, Series 2017A

INTRODUCTION

The purpose of this Official Statement, which includes the cover page, the inside cover pages and the appendices hereto, is to furnish information in connection with the sale by Fairfax County, Virginia (the "County" or "Fairfax County"), of its \$ _____ * Public Improvement [and Refunding] Bonds, Series 2017A (the "Bonds").

THE BONDS

Authorization And Purposes; [Refunding Plan]

The Bonds will be issued under a resolution (the "Resolution") adopted by the Board of Supervisors of Fairfax County (the "Board of Supervisors") on December 6, 2016, pursuant to Article VII, Section 10(b) of the Constitution of Virginia and the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act").

A portion of the Bonds will be issued to provide funds¹ for the following purposes (collectively, the "Public Improvements"):

| | |
|---|----------------------|
| School Improvements..... | \$155,000,000 |
| Transportation Improvements and Facilities..... | 50,000,000 |
| Parks and Park Facilities..... | 20,000,000 |
| Public Safety Facilities..... | 20,000,000 |
| Storm Drainage Improvements..... | 9,000,000 |
| Public Library Facilities..... | <u>4,000,000</u> |
| Total | <u>\$258,300,000</u> |

[A portion of the Bonds is authorized to be issued to provide funds, with other available funds, to refund and to redeem prior to their respective maturities certain outstanding bonds, including all or a portion of the following outstanding bonds of the County referred to hereafter as the "2009A Refunding Candidates," the "2012A Refunding Candidates," the "2013A Refunding Candidates," the "2014A Refunding Candidates," the "2015A Refunding Candidates" and the "2016A Refunding Candidates" and collectively as the "Refunding Candidates:"*]

¹For purposes of this Preliminary Official Statement it is assumed that proceeds of the Bonds will include a net bond premium in order to fund the purposes described above.

* Preliminary, subject to change.

| <u>Series of Refunded Bonds*</u> | <u>Principal Amount*</u> | <u>Maturities*</u> | <u>Redemption Date</u> | <u>Redemption Price</u> | <u>CUSIP Nos.</u> [‡] |
|--------------------------------------|------------------------------|--------------------|------------------------|-----------------------------|--------------------------------|
| 2009A | \$ | | April 1, 2019 | 100% | |
| 2012A | | | April 1, 2020 | 100 | |
| 2013A | | | October 1, 2021 | 100 | |
| 2014A | ‡ | | October 1, 2023 | 100 | |
| 2015A | | | October 1, 2024 | 100 | |
| 2016A | | | April 1, 2026 | 100 | |

[†]The County is not responsible for the accuracy of the CUSIP numbers provided above. The CUSIP numbers are provided solely for the convenience of bondholders.

[‡]Only portions of the outstanding maturities are expected to be refunded.

* Preliminary, subject to change.

The purpose of the refunding is to achieve present value debt service savings. The County's decision whether to refund any given Refunding Candidates is subject to prevailing market conditions at the time of the sale of the Bonds. The County may refund only certain Refunding Candidates if refunding such Refunding Candidates permits the County to meet certain savings targets. The Refunding Candidates, if any, that are refunded with proceeds of the Bonds are referred to as the "Refunded Bonds." The final Refunded Bonds will be described in the final Official Statement.

Upon delivery and issuance of the Bonds by the County, proceeds thereof will be used to provide for the payment and redemption of the Refunded Bonds by depositing with The Bank of New York Mellon Trust Company N.A., pursuant to an escrow deposit agreement, cash and non-callable, direct obligations of the United States of America the maturing principal of and interest on which, together with such cash, will be sufficient to pay all principal, applicable redemption premiums, and interest on the Refunded Bonds to their respective redemption dates. The arithmetical computations of the sufficiency of the cash and securities deposited with The Bank of New York Mellon Trust Company N.A., to pay the principal of and interest on the Refunded Bonds will be verified by Robert Thomas CPA, LLC .]

The sources and uses of the proceeds of the Bonds are summarized below.

Sources

| | |
|-------------------------------|----------|
| Par amount of the Bonds | \$ |
| Net offering premium | |
| Total Sources | \$ _____ |

Uses

| | |
|-------------------------------|----------|
| Public Improvements | \$ |
| Escrow Fund Deposit | |
| Underwriters' discount | |
| Other issuance expenses | |
| Total Uses | \$ _____ |

Description

The Bonds will be dated the date of their delivery, will bear interest from their delivery date, payable on each April 1 and October 1, commencing April 1, 2017, at the rates, and will mature in amounts on October 1 in each of the years 2017 through 2036, inclusive, as set forth on the inside cover page of this Official Statement. The Bonds will be issued in denominations of \$5,000 and integral multiples thereof under the book-entry system of the Depository Trust Company ("DTC"), and principal and interest on the Bonds will be payable in the manner described in Appendix V, "BOOK-ENTRY ONLY SYSTEM." The Fairfax County Director of Finance is serving as bond registrar and paying agent for the Bonds.

Optional Redemption*

The Bonds maturing on or before October 1, 20__*, are not subject to optional redemption before their maturity. The Bonds maturing after October 1, 20__*, are subject to redemption prior to maturity, at the option of the County, from any money available for such purpose on any date not earlier than ____ 1, 20__*, as a whole or in part (in integral multiples of \$5,000) at any time, at a redemption price equal to the principal amount thereof, together with the interest accrued to the redemption date on the principal amount to be redeemed.

Mandatory Sinking Fund Redemption*

[This caption and one or more of the following paragraphs will be included in the final Official Statement only if the successful bidder elects to combine, in accordance with the Notice of Sale, two or more consecutive serial maturities [from October 1, 20__ to October 1, 20__ into any number of term bonds.]

The Bonds maturing October 1, 20__ and October 1, 20__ are subject to mandatory redemption in part, on a pro rata basis, on _____ 1 in the years shown below, at a redemption price equal to the principal amount thereof, plus accrued interest, if any, to the date of redemption in an amount equal to the sinking fund installments for such Bond for such date:

* Preliminary, subject to change.

Term Bonds Maturing October 1, 20__

| <u>Years</u> | <u>Sinking Fund Installments</u> |
|--------------|----------------------------------|
| 20__ | \$ |
| 20__ | |
| 20__† | |

Term Bonds Maturing October 1, 20__

| <u>Years</u> | <u>Sinking Fund Installments</u> |
|--------------|----------------------------------|
| 20__ | \$ |
| 20__ | |
| 20__ | |
| 20__† | |

† Final Maturity
Selection of Bonds for Redemption

Bonds may be redeemed only in increments of \$5,000 or integral multiples thereof. If less than all of the Bonds of a maturity are called for redemption, the Bonds or portions thereof to be redeemed will be selected by the paying agent and bond registrar in such manner as the paying agent and bond registrar in its sole discretion may determine, each \$5,000 increment being counted as one Bond for such purpose. If a portion of a Bond is called for redemption, a new Bond in a principal amount equal to the unredeemed portion thereof will be issued to the bondholder upon the surrender thereof.

In the case of redemption of Bonds at the option of the County, the County will select the maturities of the Bonds to be redeemed.

Notice of Redemption

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, the County will cause a notice of such redemption to be filed with the bond registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part at his address appearing upon the registration books of the County, but failure to mail such notice or any defect therein will not affect the validity of the redemption. Each such notice is to set forth the date designated for redemption, the redemption price to be paid, the maturities of the Bonds to be redeemed and, if less than all of the Bonds of any one maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of any Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption will state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice of optional redemption of the Bonds may state that it is conditioned upon there being available an amount of money sufficient to pay the redemption price plus interest accrued and unpaid to the redemption date, and any conditional notice so given may be rescinded at any time before the payment of the redemption price if any such condition so specified is not satisfied. If a redemption does not occur after a conditional notice is given due to an insufficient amount of funds on deposit by the County, the corresponding notice of redemption will be deemed to be revoked.

Security

The Bonds are general obligations of the County for which its full faith and credit are irrevocably pledged. The Act requires that the Board of Supervisors shall, in each year while any of the Bonds shall be outstanding, levy and collect an ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation sufficient to pay the principal of and the interest on the Bonds as the same shall become due, to the extent other funds of the County are not lawfully available and appropriated for such purpose. Such tax shall be in addition to all other taxes authorized to be levied in the County.

State Aid Intercept

The provisions of Section 15.2-2659 of the Act, in substance, direct the Governor of Virginia (the “Governor”), upon satisfactory proof of default by the County in the payment of principal of or interest on the Bonds, immediately to order the Comptroller of Virginia (the “Comptroller”) to withhold all further payment to the County of all funds, or any part thereof, appropriated and payable by the Commonwealth of Virginia (the “Commonwealth” or “State”) to the County for any and all purposes until such default is remedied. For as long as the default continues, the law directs the Governor to require the Comptroller to pay to the holders of such Bonds or the paying agent therefor all of the withheld funds or as much as are necessary to cure, or to cure insofar as possible, the default on such Bonds. The Governor shall, as soon as practicable, give notice of such default and of the availability of funds with the paying agent or with the Comptroller by publication one time in a daily newspaper of general circulation in the City of Richmond, Virginia, and by mail to the registered owners of such Bonds. Although the provisions of Section 15.2-2659 have never been tested in a Virginia court, the Attorney General of Virginia has opined that appropriated funds can be withheld pursuant to its provisions.

Remedies

The Bonds do not specifically provide any remedies that would be available to a bondholder if the County defaults in the payment of principal of or interest on the Bonds, nor do they contain a provision for the appointment of a trustee to protect and enforce the interests of the bondholders upon the occurrence of such default. If a bondholder does not receive payment of principal or interest when due, the holder could seek to obtain a writ of mandamus from a court of competent jurisdiction requiring the Board of Supervisors to levy and collect an ad valorem tax, unlimited as to rate or amount, upon all property in the County subject to local taxation sufficient to pay the principal of and the interest on the Bonds as the same shall become due. The mandamus remedy, however, may be impracticable and difficult to enforce. The enforceability of rights or remedies with respect to the Bonds (but not the validity of the Bonds) may be limited by bankruptcy, insolvency, or other Commonwealth or federal laws, heretofore or hereafter enacted, and equitable principles affecting the enforcement of creditors’ rights.

No Litigation Respecting the Bonds

To the best of the County’s knowledge, no litigation is pending or, threatened (a) to restrain or enjoin the issuance, sale, or delivery of any of the Bonds, the application of the proceeds thereof, or the pledge of tax revenues for payment of the Bonds, (b) in any way contesting or affecting any authority for the issuance or validity of the Bonds, (c) in any way contesting the existence or powers of the County or (d) that, if determined adversely against the County, would have a material adverse effect on the County. See “CONTINGENT LIABILITIES AND CLAIMS” for a description of litigation affecting the County.

FAIRFAX COUNTY

GENERAL DESCRIPTION

Overview

The County is located in the northeastern corner of the Commonwealth of Virginia (the “Commonwealth”) and encompasses an area of 407 square miles. Its current estimated population exceeds one million. The County is part of the Washington, D.C., metropolitan area, which includes jurisdictions in Maryland, the District of Columbia and Northern Virginia.

The Fairfax County government is organized under the Urban County Executive form of government (as defined under Virginia law). The governing body of Fairfax County is the Board of Supervisors, which makes policies for the administration of the County. The Board of Supervisors is comprised of ten members: the Chairman, elected at large for a four year term, and one member from each of nine districts, each elected for a four year term by the voters of the district in which the member resides. The Board of Supervisors appoints a County Executive to act as the administrative head of the County. The County Executive serves at the pleasure of the Board of Supervisors, carries out the policies established by the Board of Supervisors, directs business and administrative procedures, and recommends officers and personnel to be appointed by the Board of Supervisors. (See Appendix I.)

In Virginia, cities and counties are discrete units of government and do not overlap. Fairfax County completely surrounds the City of Fairfax and is adjacent to the City of Falls Church and the City of Alexandria. (See Appendix II.) Property within these cities is not subject to taxation by Fairfax County, and the County generally is not required to provide governmental services to their residents. The County does, however, provide certain services to the residents of certain of these cities pursuant to agreements with such cities.

In Fairfax County there are three incorporated towns, Clifton, Herndon and Vienna, which are underlying units of government within the County, and the ordinances and regulations of the County are, with certain limitations prescribed by Virginia law, generally effective in them. (See Appendix III.) Property in these towns is subject to County taxation, and the County provides certain services to their residents. These towns may incur general obligation bonded indebtedness without the prior approval of the County (more fully discussed in “DEBT ADMINISTRATION – Underlying Bonded Indebtedness”).

Population

Fairfax County’s estimated 2015 population is 1,142,234. In 1980, Fairfax County was the third most populous jurisdiction in the Washington, D.C., primary metropolitan statistical area, as defined by the U.S. Bureau of the Census. By 1990, Fairfax County, with 818,584 residents, had become the most populous jurisdiction in the Washington, D.C. area, having added an average of 22,168 people per year in the 1980s. Population growth during the 1990s and 2000s slowed; on average, the County gained about 11,499 people per year during 2000-2015.

Fairfax County Population

| <u>Calendar Year</u> | <u>Population</u> |
|----------------------|-------------------|
| 1940 | 40,929 |
| 1950 | 98,557 |
| 1960 | 248,897 |
| 1970 | 454,275 |
| 1980 | 596,901 |
| 1990 | 818,584 |
| 2000 | 969,749 |
| 2001 | 984,366 |
| 2002 | 1,004,435 |
| 2003 | 1,012,090 |
| 2004 | 1,022,298 |
| 2005 | 1,033,646 |
| 2006 | 1,037,311 |
| 2007 | 1,041,507 |
| 2008 | 1,050,315 |
| 2009 | 1,074,227 |
| 2010 | 1,081,726 |
| 2011 | 1,104,147 |
| 2012 | 1,118,683 |
| 2013 | 1,130,924 |
| 2014 | 1,137,538 |
| 2015 | 1,142,234 |

Sources: U.S. Census Bureau (1940-2000, 2010) and U. S. Census Bureau Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015 (2011-2015)

The following table reflects the population age distribution of County residents, based on the U.S. Census Bureau's 2010 Decennial Census. The survey estimated the County's total population in 2010 at 1,081,726.

Household Population Age Distribution
Fairfax County

| <u>Age Group</u> | <u>2010</u> | |
|------------------|---------------|--------------------|
| | <u>Number</u> | <u>Percent (%)</u> |
| Under 20 years | 285,405 | 26.4 |
| 20 – 34 | 218,781 | 20.2 |
| 35 – 54 | 339,757 | 31.4 |
| 55 – 64 | 131,493 | 12.2 |
| 65 and Over | 106,290 | 9.8 |
| Total | 1,081,726 | 100.0 |

Sources: U.S. Bureau of the Census, 2010 Decennial Census and Virginia Employment Commission

Based on the latest data released by the U.S. Census Bureau, Fairfax County's median household income was \$112,102 and median family income was \$130,269 in 2014. Over 35.0% of the County's

households and 42.5% of families had annual incomes of \$150,000 or more. The following table shows the 2014 household and family income distribution in the County.

2014 Household and Family Income Distribution¹

| <u>Income Level</u> | <u>Household</u> | <u>Family</u> |
|----------------------------|-------------------------|----------------------|
| Under \$25,000 | 7.3% | 5.2% |
| \$25,000 – 49,999 | 10.7% | 9.4% |
| \$50,000 – 74,999 | 13.1% | 10.9% |
| \$75,000 – 99,999 | 12.6% | 11.1% |
| \$100,000 – 149,999 | 21.4% | 21.0% |
| \$150,000 or more | 35.0% | 42.5% |
| Median Income | \$112,102 | \$130,269 |

Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates

¹ Household Income is defined as that income which is available to all residents of a housing unit, regardless of relationship. Income is from all sources, before taxes and deductions, and includes wages, business, retirement, SSI, alimony, child support, interest, etc. Family Income is derived by including only those households containing two or more persons related by blood, marriage or adoption. Percentages add to more than 100% due to rounding.

Certain County Administrative and Financial Staff Members

Edward L. Long Jr., County Executive, joined the County in 1977 as a Budget Analyst. He served as a Senior Budget Analyst from 1980 to 1983 and as Assistant Director from 1983 to 1989. He was appointed Director of the Office of Management and Budget in October 1989 and Deputy County Executive-Chief Financial Officer (“DCE-CFO”) in 1997. Mr. Long retired as DCE-CFO in May, 2011. Mr. Long was appointed County Executive effective April 25, 2012. Mr. Long has a Bachelor’s Degree in Political Science from Emory & Henry College, Emory, Virginia and a Master’s Degree in Urban Studies from the University of Maryland at College Park. He has served on the Fairfax-Falls Church Community Services Board and is active and has held offices in numerous professional organizations in the Northern Virginia region. Mr. Long serves as an adjunct professor at George Mason University and American University. He served on the Government Finance Officers Association (“GFOA”) Standards Committee on Governmental Budgeting and Management. In 1993 Mr. Long was recognized by the Washington Metropolitan GFOA with the Anna Lee Berman Award for Outstanding Leadership in Governmental Finance. In 2006, Mr. Long was awarded the A. Heath Onthank Award, the County’s highest employee award, in recognition of his achievements in advancing and improving public service in Fairfax County. In 2012, Mr. Long received the 2012 Distinguished Local Government Leadership Award from the Association of Government Accountants.

Patricia D. Harrison, Deputy County Executive, has worked in the field of human services since her graduation from Slippery Rock University, Slippery Rock, Pennsylvania in 1980 where she obtained a Bachelor’s Degree in Therapeutic Recreation. She joined Fairfax County Government in 1986 and directed the creation of inclusive and therapeutic recreation services for people with disabilities. Prior to joining the County Executive’s office, she served as Director for the Department of Community and Recreation Services for ten years. Ms. Harrison also holds a Master’s Degree with a concentration in Therapeutic Recreation Administration from University of Maryland at College Park and obtained a Certificate of Public Management from George Washington University. She maintains her credentials as a Certified Therapeutic Recreation Specialist.

David J. Molchany, Deputy County Executive, joined the County in 1995. In 2003 Mr. Molchany was recognized by Governing magazine as one of the top ten Public Officials of the Year. He is also active in professional organizations at the international, national, state, and local levels of

government. Previous employers have included Sallie Mae, American Management Systems, and Electronic Data Systems. Mr. Molchany is a 1983 graduate of Juniata College and holds a Bachelor of Science degree in Marketing and Computer Science.

David M. Rohrer, Deputy County Executive, has worked with the Fairfax County Police Department for almost 32 years and was appointed chief in 2004. In addition, Mr. Rohrer has also served as deputy chief for investigations and operations support; Patrol Bureau commander; Special Operations Division and district commander; SWAT first-line supervisor; and first-line patrol supervisor. Mr. Rohrer has served two terms as chairman of the Metropolitan Washington Council of Governments Police Chiefs' Committee, and he is a member of numerous organizations, including the International Association of Chiefs of Police; the Major Cities Chiefs' Association; the Police Executive Research Forum; and the Virginia Association of Chiefs of Police. Mr. Rohrer holds a bachelor's degree in administration of justice from George Mason University.

Robert A. Stalzer, Deputy County Executive, joined Fairfax County Government on June 5, 2000. Mr. Stalzer previously served as Town Manager for the Town of Herndon, Virginia from 1988 until June 2000. He was Director of Planning and Zoning for Roanoke County, Virginia from 1983 until 1988. Mr. Stalzer holds a Bachelor of Arts degree from Clark University, Worcester, Massachusetts, a Master of Regional and City Planning degree from the University of Oklahoma, and a Master of Business Administration degree from Syracuse University. Mr. Stalzer is a past president of the Virginia Local Government Management Association and recognized as a credentialed manager by the International City/County Management Association. Mr. Stalzer has served as an adjunct professor at Virginia Polytechnic Institute and State University, Roanoke College, and George Mason University.

Elizabeth D. Teare was appointed County Attorney by the Fairfax County Board of Supervisors effective July 1, 2016. Prior to her appointment, Ms. Teare served as the Deputy County Attorney for the Land Use and Environmental Law Section of the Fairfax County Attorney's Office from 2012 through 2016. From 2009 through 2012, she served as a Senior Assistant County Attorney and from 2000 to 2008 as an Assistant County Attorney. Prior to her tenure with the Fairfax County Attorney's Office, Ms. Teare was an associate attorney with a law firm known at that time as Surovell, Jackson, Colten & Dugan, P.C., in Fairfax, Virginia, from 1992 to 2000. She also worked as an Assistant Attorney General in Richmond, Virginia, in a temporary position from 1991 to 1992. Ms. Teare clerked for the Honorable Rosemarie Annunziata, who was then a Fairfax County Circuit Court Judge, from 1990 to 1991. Ms. Teare has been appointed by the Supreme Court of Virginia to serve on the faculty of the Virginia State Bar's Harry L. Carrico Professionalism Course. In addition, she has lectured on land use and environmental law related issues for the Fairfax County Bar Association and the Local Government Attorneys of Virginia. Ms. Teare received a Bachelor of Arts degree from Sweet Briar College, *magna cum laude* with high honors in English, in 1986. In 1990, Ms. Teare received her juris doctorate degree, *cum laude*, from the Washington and Lee University School of Law and was admitted to the Virginia State Bar later that year.

Christopher J. Pietsch was appointed Director of Finance for Fairfax County effective December 30, 2013. From 2003 until his appointment as Director of Finance, Mr. Pietsch served as the Director of the Fairfax County Internal Audit Office. Prior to that, Mr. Pietsch spent 16 years working in bank auditing as well as governmental auditing with the Commonwealth. Mr. Pietsch is a graduate of James Madison University, Harrisonburg, Virginia, with a degree in Finance. In addition, he is a Certified Internal Auditor and a Certified Bank Auditor.

Joseph M. Mondoro is the Chief Financial Officer/Director of the Department of Management and Budget of the County effective September 2015. Prior to assuming the duties of Chief Financial Officer/Director of the Department of Management and Budget, Mr. Mondoro had been Acting Chief

Financial Officer/Director of the Department of Management and Budget of the County effective April 2015. From February 2004 until his appointment as Chief Financial Officer/Director of the Department of Management and Budget of the County, Mr. Mondoro served as Deputy Director of the Department of Management and Budget. Mr. Mondoro received his Bachelor's Degree in History and Government and a Masters of Public Policy from the College of William and Mary. Mr. Mondoro worked as an analyst in the Financial Planning Bureau of the City of Norfolk, Virginia from 1993 to 1995. He joined the Fairfax County Department of Management and Budget in July 1995 as a budget analyst.

County Employees

As of July 2015, the School Board supported 23,868.8 full time equivalent positions. The County supported 10,951.14 full time equivalent positions in activities funded directly or supported by the General Fund and 1,253.18 full time equivalent positions employed in activities not supported by the General Fund, principally the County's Integrated Sewer System (the "Integrated Sewer System"). Fairfax County employees are not represented by unions. Fairfax County public school employees have, however, organized the Fairfax Education Association and the Fairfax County Federation of Teachers to represent the interests of its members at public hearings and meetings before the School Board and the Board of Supervisors. General County employees' interests are represented at these types of meetings by the Employees Advisory Council and other groups such as police, fire, and sheriff employee organizations. None of these organizations is empowered to serve as negotiating agent for its members for collective bargaining purposes. Collective bargaining by public employees in Virginia is prohibited by law, a restriction upheld by the Supreme Court of Virginia.

GOVERNMENT SERVICES

Reflecting its urban character, Fairfax County provides a comprehensive range of public services characteristic of its form of government under Virginia law and its integral position within the Washington metropolitan area. The following subsections describe principal governmental services and services performed in conjunction with other governmental entities.

General Government Administration

The County government center complex is located in the Fairfax Center area and is accessible by U.S. Routes 50 and 29, near Interstate Highway 66. The 675,000 square foot government center houses core County services and agencies. Two adjacent County office buildings provide an additional 486,000 square feet of space and house primarily human services and community development agencies and departments of the County. The County also occupies a 135,000 square foot governmental center for delivery of County services in the southeast part of the County, and has six remote governmental centers throughout the County. The centers provide office space for members of the Board of Supervisors, personnel, police, and building inspectors, and provide meeting rooms for community activities.

From FY 2004 through FY 2015, the International City/County Management Association ("ICMA") recognized Fairfax County's performance measurement efforts with its "Certificate of Distinction." In 2009, ICMA created its third and highest level of recognition, called the "Certificate of Excellence," which Fairfax County has received from 2009 and through 2015 for its consistent efforts to incorporate performance data into decision-making, sustain the program through training and process improvement, and providing a high level of accountability and transparency while obtaining and sharing community input.

Fairfax County's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2014, received the Certificate of Achievement for Excellence in Financial Reporting for the 37th year

from the Government Finance Officers Association (GFOA). Fairfax County has also earned GFOA's Distinguished Budget Presentation Award for the past 31 years. This award represents the highest form of recognition in governmental budgeting and reflects the commitment of the governing body and staff to meet the highest principles of public budgeting. The Association of Public Treasurers of the United States and Canada ("APT") has awarded the County certification for its investment policy every year since 1998, confirming that the County meets the high public investment standards set forth by the Association. Written investment policies submitted to the APT received vigorous peer team review for conformity with principles of sound investment management, careful public stewardship, and adoption of the profession's best practices.

Public Schools

Fairfax County Public Schools ("FCPS") is the largest educational system in the Commonwealth of Virginia and the tenth largest school system nationwide, ranked by enrollment. The system is directed by a twelve person School Board elected by County residents to serve four-year terms. A student representative with a one-year term participates in the School Board's discussions but does not vote. Because the School Board is not empowered to levy taxes or to incur indebtedness, the operating costs of FCPS are provided by transfers to the School Board from the General Fund of the County and the federal and Commonwealth governments (see the "FINANCIAL INFORMATION – General Fund Summary" herein). Capital construction funding for public school facilities is provided primarily by the sale of general obligation bonds of the County.

The FCPS system is a high quality system offering a variety of programs. There is a strong academic program for college-bound students. Almost 93% of FCPS class of 2014 graduates self-reported plans to enroll in post-secondary educational programs. In addition to the traditional academic curriculum, the Thomas Jefferson High School for Science and Technology provides a four-year college preparatory program for students who have a strong interest and high aptitude in mathematics, science, computer science, engineering, or related professional fields. The school is designated as one of the Governor's magnet schools for science and technology, and students from other Northern Virginia counties are admitted on a tuition-paying basis.

FCPS also offers an extensive program for students pursuing opportunities in technical careers, with courses in business, health occupations, industrial technology, marketing, trade and industrial, and family and consumer sciences studies. In addition, there are special programs offered for gifted children and for students with disabilities spanning ages 2 through 21. FCPS also provides an extensive adult education program offering basic education courses and general education, vocational, and enrichment programs.

As of FY 2016, the School Board operates 189 schools and 7 special education centers:

Fairfax County Public Schools

| <u>Type of School</u> | <u>Number of Public Schools</u> |
|--------------------------------|--|
| Elementary School | 139 |
| Middle School | 23 |
| High School | 22 |
| Secondary Schools ¹ | 3 |
| Alternative High Schools | 2 |
| Special Education Centers | <u>7</u> |
| Total | 196 |

Source: Fairfax County Public Schools FY 2016 Approved Budget

¹ Grades 7-12.

The number of students attending Fairfax County Public Schools increased overall between FY 2005 and FY 2015. Enrollment for FY 2015 was 185,914, an increase of 21,506 students over the FY 2005 enrollment, and 2,019 over the FY 2014 enrollment. FY 2016 approved enrollment is 188,545 students.

Fairfax County Public Schools Enrollment

| <u>Fiscal Year</u> | <u>Number of Public School Students</u> | <u>% Change</u> |
|---------------------------|--|------------------------|
| 2005 | 164,408 | - |
| 2006 | 164,284 | (.08) |
| 2007 | 164,486 | 0.12 |
| 2008 | 166,307 | 1.12 |
| 2009 | 169,538 | 1.94 |
| 2010 | 172,391 | 1.68 |
| 2011 | 174,933 | 1.48 |
| 2012 | 177,918 | 1.71 |
| 2013 | 181,259 | 1.88 |
| 2014 | 183,895 | 1.45 |
| 2015 | 185,914 | 1.10 |
| 2016 | 188,545 | 1.42 |

Source: Fairfax County Public Schools FY 2016 Approved Budget

The average per pupil expenditures based on FY 2016 approved budget operating costs for several Washington metropolitan area jurisdictions are as follows:

Washington Metropolitan Per Pupil Expenditures

| <u>Jurisdiction</u> | <u>Per Pupil Expenditures</u> |
|------------------------------|--------------------------------------|
| Arlington County | \$19,040 |
| Falls Church City | 17,109 |
| Alexandria City | 17,041 |
| Montgomery County (Md.) | 15,351 |
| Fairfax County | 13,519 |
| Prince George's County (Md.) | 12,902 |
| Manassas City | 12,613 |
| Loudoun County | 12,195 |
| Manassas Park | 10,836 |
| Prince William County | 10,365 |

Source: FY 2015 Washington Area Boards of Education Guide, FCPS 2016 Approved Budget

Of the Advanced Placement (AP) tests taken by FCPS students in 2014, 71% rated a score of 3 or above (on a grading scale of 1 to 5). In 2014, 37,097 AP test were given, an increase of 15.1% from 2010. Students who score a 3 or above on at least three AP exams are recognized by the College Board as AP Scholars; the total number of FCPS students recognized as AP Scholars rose from 5,015 in 2010 to 6,690 in 2014.

For the 2013-2014 school year, FCPS' average SAT score was 1668, compared with the Virginia average of 1520 and the national average of 1471.

Public Works

The Department of Public Works and Environmental Services (DPWES) provides essential management, professional engineering, design, and construction services in support of the construction of roads, sidewalks, trails, storm drainage, sewers, street lights, bus shelters and public facilities (except schools, housing, and parks). DPWES is also responsible for the acquisition of land for, and timely construction of, public facilities projects contained in bond referenda questions approved by the voters of Fairfax County. See "DEBT ADMINISTRATION – Bond Referenda Authorization" herein.

Wastewater generated in the County is treated at one County-owned treatment facility (Noman M. Cole, Jr. Pollution Control Plant), four inter-jurisdictional treatment facilities (District of Columbia Water and Sewer Authority's Blue Plains Facility, and plants operated by the Upper Occoquan Sewage Authority, Arlington County, and the Alexandria Renew Enterprises), and one private treatment facility (Harbor View Wastewater Treatment Plant). The County's treatment capacity in the six facilities totals approximately 157.18 million gallons per day ("mgd"). In addition, the County has purchased 0.1 mgd of capacity from the Prince William County Service Authority for future flow needs in the southern portion of the County.

DPWES manages and operates the I-95 Sanitary Landfill located on approximately 500 acres in the southern portion of the County. This facility is operated on a "special fund" basis, which utilizes tipping fees to pay for the operation and capital expenditures of the landfill. Since January 1, 1996, the landfill has been dedicated to the disposal of ash generated primarily by the incineration of municipal

solid waste at the Arlington/Alexandria Energy-from-Waste Facility and the Fairfax County I-95 Energy/Resource Recovery Facility (“E/RRF”). On older portions of the landfill, the County has initiated closure activities which involve placing a synthetic or low permeability soil cap over the closed section of the landfill along with installation of landfill gas extraction wells and leachate collection systems. Capping activity has been completed on approximately 260 acres of the site. The closure project is a multi-phase construction project to continue through the remaining life of the facility. The County has established reserves for this purpose and has met the financial assurance requirements established by the Virginia Department of Environmental Quality regarding closure and post-closure care. Additional landfill requirements, whether debris or municipal solid waste, are met through separate contracts.

The E/RRF burns solid waste delivered to the facility from the County as well as portions of the District of Columbia, Prince William County, and Loudoun County. The facility has a dependable electric capacity rating of 63 megawatts for sale to Dominion Virginia Power, although it has the ability to generate over 80 megawatts. Fairfax County and the Fairfax County Solid Waste Authority, which was created by the County, entered into a service contract (the “Covanta Contract”) in August 1987 with Ogden Martin Systems of Fairfax (now Covanta Fairfax, Inc.), under which Covanta Fairfax, Inc., was obligated to design, construct, operate, and maintain a 3,000 ton per day resource recovery facility at the I-95 Landfill Site. The County, under the Covanta Contract, is obligated to deliver certain minimum annual tonnages of solid waste to the E/RRF and to pay Covanta Fairfax, Inc., tipping fees for the disposal of such waste to provide funds sufficient to pay the operating costs of the E/RRF. Covanta Energy Corporation, of which Covanta Fairfax, Inc., is an indirectly wholly-owned subsidiary, has guaranteed the obligations of Covanta Fairfax, Inc., under the Covanta Contract.

During FY 2015, the E/RRF processed over 943,089 tons of material towards the County’s delivery commitment, exceeding the guaranteed requirements by 12,339 tons. On April 11, 2014, the County and Covanta Fairfax, Inc. entered into a Waste Disposal Agreement (WDA) that became effective February 2, 2016, and has an initial five year term. Under the WDA, the County’s delivery commitment is 650,000 tons (as may be adjusted under the terms of the WDA).

Transportation

General

Fairfax County is served by various highway, rail and air transportation facilities. The Capital Beltway (Interstate Highways 95 and 495), Interstate Highways 395 and 66, and the Dulles Toll Road provide access to all parts of the Washington metropolitan area and major surface transportation corridors along the eastern seaboard. The Washington Metropolitan Area Transit Authority (“WMATA”) Metrorail system provides area residents with one of the largest and most modern regional transit systems in the world.

Two major airports serve the County with daily national and international service. Washington Dulles International Airport (“Dulles Airport”), located along the County’s western boundary, is also the site of a designated Foreign Trade Zone. Ronald Reagan Washington National Airport, located a few miles east of the County, is accessible by Interstate Highways 66 and 395. In 1987, control of these facilities was transferred by a 50-year lease from the federal government to the Metropolitan Washington Airports Authority (“MWAA”), a public authority created by inter-jurisdictional compact between the Commonwealth and the District of Columbia. In June 2003, the lease was extended to 2067.

Ground transportation receives significant attention from the County, primarily in an effort to relieve traffic congestion along the major arterials leading to Washington, D.C. and also to facilitate cross-County movement, connecting established and developing centers of commerce and industry.

Recent efforts have included increased local funding for highway improvements, establishment of transportation improvement districts, creation of County transit systems, continued participation in WMATA, and other improvements which encourage increased use of Metrorail, bus services, and carpooling. The County also participates in a regional commuter rail system to expand transportation services available to County residents. In Virginia, the Commonwealth is generally responsible for highway construction and maintenance. However, highway improvement needs in Fairfax County far exceed the highway revenues available from the Commonwealth.

Since 1993, funding for County transportation projects has been received from Commonwealth bond financing, Federal Highway Reimbursement Anticipation Notes, Commonwealth general funds, fuel tax collections, County bond financing, Northern Virginia Transportation Authority tax collections and other revenue sources. A few of the many projects supported by these funding sources have included the Fairfax County Parkway, the County's share of capital costs for the WMATA's Metrorail system, the Dulles Toll Road, and improvements to U.S. Route 1, U.S. Route 29, I-66, I-95, I-495, the Fairfax County Parkway, State Route 7 and State Route 28.

Metro Transit System

Since 1970, Fairfax County and the other major political subdivisions in the Washington, D.C., metropolitan area have contracted with WMATA to finance, construct and operate a 103-mile Metrorail subway and surface rail transit system. Funding for the construction of the Metrorail system has come from direct Congressional appropriations and by direct local contributions. Five Interim Capital Contributions Agreements between WMATA and the participating political jurisdictions were executed to fully fund and complete the 103-mile adopted regional system. By 2019, 23 additional miles are expected to be added to the system with construction of the Silver Line, with new tracks connecting downtown Washington, D.C., to Washington Dulles International Airport. In July 2014, 11.7 miles of the Silver Line were completed and began operation.

WMATA's Board of Directors periodically adopts a Capital Improvement Plan ("CIP"), which prioritizes and maintains the existing capital plant and rolling stock of the Metrobus and Metrorail systems. The regional counter-parties to WMATA periodically agree to updated funding agreements regarding their portion of capital priorities and infrastructure renewal projects. The County issues bonds as the primary source of the County's share of WMATA's CIP.

The County's operating assistance to WMATA is funded from the General Fund, gasoline tax receipts, and State aid. Fairfax County's share of the bus and rail operating subsidies for FY 2006-FY 2016 are shown in the following table:

Fairfax County WMATA Operating Subsidies
(Millions of Dollars)

| <u>Fiscal Year</u> | <u>Bus Operations^{1,2}</u> | <u>Rail Operations¹</u> | <u>ADA Para-transit¹</u> | <u>Less State Aid³</u> | <u>Less Gas Tax Receipts⁴</u> | <u>Adjustments and Interest Applied</u> | <u>Net General Fund</u> |
|--------------------|-------------------------------------|------------------------------------|-------------------------------------|-----------------------------------|--|---|-------------------------|
| 2006 | \$31.687 | \$18.849 | \$5.841 | \$19.809 | \$17.971 | \$1.200 | \$17.397 |
| 2007 | 37.368 | 17.496 | 5.803 | 19.406 | 20.885 | 1.990 | 18.386 |
| 2008 | 36.745 | 19.267 | 7.088 | 21.375 | 22.610 | 1.287 | 17.828 |
| 2009 | 45.292 | 17.665 | 7.565 | 39.836 | 23.490 | 0.000 | 7.196 |
| 2010 | 40.204 | 22.622 | 9.164 | 46.003 | 17.799 | 0.300 | 7.888 |
| 2011 | 45.387 | 15.598 | 11.347 | 44.745 | 21.838 | 0.300 | 5.449 |
| 2012 | 47.458 | 19.481 | 12.410 | 46.252 | 26.163 | 2.259 | 4.675 |
| 2013 | 48.829 | 26.209 | 12.424 | 49.734 | 28.568 | 0.056 | 9.104 |
| 2014 | 52.118 | 34.952 | 13.351 | 63.893 | 23.274 | 4.119 | 9.135 |
| 2015 | 53.349 | 39.271 | 13.367 | 69.971 | 24.501 | 1.974 | 9.541 |
| 2016 | 57,617 | 42,413 | 14,437 | 77,966 | 27,500 | 0.150 | 8,851 |

Sources: Fairfax County Department of Transportation and Department of Management and Budget

¹ The amounts shown for operating subsidies represent actual disbursements in those years. Adjustments based on final WMATA annual audited figures are incorporated in the fiscal year in which the credit for an overpayment was applied or a debited amount was paid rather than the fiscal year in which the credit or debit was earned. Fiscal Years 2006-2015 are actual, FY 2016 is the Adopted budget amount.

² Includes other service enhancements.

³ Virginia law permits the use of State aid for transportation to fund transit program operating costs in addition to transit program capital costs.

⁴ A 2% retail gasoline tax is dedicated to mass transit costs in those Northern Virginia jurisdictions covered by the Northern Virginia Transportation Commission ("NVTC"). The receipts from this tax are paid to NVTC which then allocates these funds to participating jurisdictions for payment of transit operating, capital and debt service costs.

Tax Districts

Transportation improvement districts provide another source of funding for transportation improvements in the County. The County, together with Loudoun County, a neighboring jurisdiction, formed the Route 28 Highway Transportation Improvement District (the "Route 28 District") in 1987 to accelerate highway improvements proposed by the Commonwealth to State Route 28. State Route 28 runs approximately parallel to the County's western border and connects State Route 7 in eastern Loudoun County to U.S. Route 50 and Interstate Highway 66 in western Fairfax County. The initial improvements, which consisted of expanding State Route 28 from two to six lanes, with additional turning lanes, are now complete. State Route 28 provides access to Washington Dulles International Airport, as do the Dulles Access Road and the Dulles Toll Road, both of which connect the Capital Beltway to Dulles Airport. Such improvements were financed from proceeds of a special improvements tax (the "Route 28 Special Improvements Tax") collected from owners of real property zoned for commercial and industrial use in the Route 28 District and bonds issued by the Fairfax County Economic Development Authority (the "EDA") secured by the Route 28 Special Improvements Tax collections.

In 2001, the Virginia General Assembly enacted legislation permitting the creation of one or more special transportation taxing districts located between the West Falls Church Metrorail station and the Dulles Airport area to provide a means of financing an extension of rail service in the Dulles Corridor. The structure of any such district is modeled after the existing Route 28 District. In February 2004, pursuant to a petition submitted by landowners representing a majority of the assessed value of property zoned for commercial or industrial use in the Tysons and Reston commercial districts, the Board of

Supervisors formed the Phase I Dulles Rail Transportation Improvement District (the “Phase I District”) to provide funds to support the County’s share of Phase I of a proposed expansion of the Metrorail system to Dulles Airport and beyond (“Phase I”). Funds for financing the County’s \$400 million share of the Phase I expansion of the Metrorail system are provided from a real estate tax levy on all property zoned for commercial and industrial use in the Phase I District (the “Phase I Special Improvements Tax”). As of December, 2013 the County has provided to MWAA its required \$400 million share for the Phase I Project from the proceeds of the Phase I Special Improvements Tax and from bonds issued by the EDA secured by the Phase I Special Improvements Tax collections. Metrorail service for Phase I began in July 2014.

Phase II of the proposed expansion of the Metrorail system (“Phase II”) will complete the 23-mile line to Dulles Airport and beyond into Loudoun County. In October 2009, the County received a valid petition to form another special tax district comprised of the Reston-Herndon-Dulles commercial districts to provide \$330 million toward the County’s portion of the Phase II financing. The Phase II tax district was approved by the Herndon Town Council on November 11, 2009, and by the Fairfax County Board of Supervisors on December 7, 2009. On May 9, 2014, the United States Department of Transportation (“USDOT”) approved an application of the County to receive loans in the aggregate principal amount of up to \$403,274,894 plus capitalized interest to fund county obligated Phase II project costs (the “TIFIA Loan”). The TIFIA Loan closed on December 17, 2014. [As of December 2015, the County has drawn \$46.1 million of the TIFIA Loan.]

County Transit Systems

Within the County, the Fairfax Connector System provides feeder bus service to Metrorail Stations. The Fairfax Connector operates 84 routes to 13 Metrorail Stations which include the Dunn Loring, Franconia-Springfield, Greensboro, Huntington, McLean, Pentagon, Pentagon City, Spring Hill, Tysons Corner, Van Dorn Street, Vienna, West Falls Church, and Wiehle-Reston East stations. Private contractors operate and maintain the service and have the responsibility to employ and supervise all transit personnel, while the Board of Supervisors maintains control and approves all policies for bus service such as routes and service levels, fare structures, and funding assistance. The Fairfax Connector System is supported from General Fund and fare box revenues. The FY 2016 Adopted Budget Plan also includes support of \$21.3 million from State aid. The Fairfax Connector carried approximately 9.8 million passengers in FY 2015. Fairfax Connector System expenditures totaled approximately \$88.0 million in FY 2015, including capital expenditures. The County runs three permanent maintenance and garage facilities for the Fairfax Connector System, with bus operations management provided by a third-party contractor.

Commuter Rail

Fairfax County is a member of the Northern Virginia Transportation Commission and, in cooperation with the Potomac and Rappahannock Transportation Commission, is a participating jurisdiction in the operation of the Virginia Railway Express (“VRE”) commuter rail service. As of December 2015, the service consisted of seven peak period trips from south of the County in the Spotsylvania County to north of the County in the District of Columbia and six peak trips that run from west of the County in the City of Manassas to north of the County in the District of Columbia. Under a Master Agreement among VRE’s participating jurisdictions, the County is to contribute to capital, operating, and debt service costs of the VRE on a pro rata basis according to its share of ridership. The County’s share of the FY 2016 commuter rail operating and capital budget is \$4.7 million.

Parks, Recreation and Libraries

Fairfax County provides a variety of recreational, educational, and cultural activities and services. In FY 2015, the Fairfax County Public Library (the “Library”) made more than 12.1 million loans and recorded more than 4.8 million visits to its 23 branches, and reported more than 4.7 million user visits to its web site. The Library offers free events and activities, including puppet shows for toddlers, story time for school-aged children, book discussion groups for teens, author visits for adults, and English conversation classes for English for Speakers of other Languages customers (or new arrivals). The Library also makes library services available and accessible to people who have disabilities or are homebound.

The Department of Community and Recreation Services provides a variety of recreational, community, and human services for County residents. These services include senior adult programs and centers, therapeutic recreation services for individuals with disabilities, a variety of youth programs including recreational activities at youth centers, community-based recreational opportunities, support for Fairfax County’s various volunteer sports councils and leagues, and a variety of volunteer opportunities.

Fairfax County also operates an extensive park system that provides a variety of recreational activities and facilities. Under the direction of a 12-member Park Authority Board appointed by the Board of Supervisors, the Fairfax County Park Authority (“FCPA”) works with constituents, government leaders and appointees to implement Park Authority Board policies, preserve and protect natural and cultural resources, and facilitate the development of park and recreation programs and facilities. FCPA oversees operation and management of a 23,346-acre County park system with 426 parks, nine recreation centers, eight golf courses, an ice skating rink, 210 playgrounds, 668 public garden plots, five nature centers, three equestrian facilities, 240 Park Authority athletic fields, 35 synthetic turf fields, 459 natural turf school fields, 10 historic sites, two waterparks, a horticultural center, and more than 320 miles of trails. In FY 2015, FCPA welcomed over 17.8 million visitors to parks, groomed fields for 174,000 competitors, and worked to control non-native invasive plants, promote native species and preserve woodlands and green open spaces.

FCPA charges fees for the use of certain park facilities including the recreation and fitness centers, classes, camps, programs and golf courses, which are operated on a cost recovery basis, and represent approximately 65% of FCPA’s funding. The remaining operating funds are appropriated by the Board of Supervisors from the County’s combined general fund, providing the main operating funds for natural and cultural preservation and protection, administrative tasks, general access parks, planning and development, and park maintenance and operations. User fees do not cover the cost of new development of facilities, land acquisition, or the major renovation of existing facilities. These improvements are funded primarily through revenue bonds and general obligation bonds. General obligation bonds are primarily used for the renovation of existing facilities.

The Northern Virginia Regional Park Authority (“NVRPA”), an independent entity in which the County participates, operates 30 parks covering approximately 11,000 acres throughout Northern Virginia including the County. NVRPA is continually in the process of completing, acquiring, developing, or expanding its regional park facilities.

Community Development

The Fairfax County Redevelopment and Housing Authority (“FCRHA”) was established in 1966 to meet low and moderate income family housing needs. It owns or administers housing developments in Fairfax County with staff and funding provided from County, federal, Commonwealth, and private sources. As of January 2016, the FCRHA owns or operates 77 properties, which are comprised of over

3,800 apartments, townhouses, senior retirement homes, and assisted living facilities. The FCRHA also owns other specialized housing such as mobile home pads and beds in group homes. The FCRHA also administers 3,868 federal Housing Choice Vouchers. In FY 2015, 17,690 people were served through the FCRHA's three major affordable housing programs: Public Housing, the Housing Choice Voucher program, and the Fairfax County Rental Program (FCRP). In FY 2015, the average income of households served in these three programs was approximately \$24,200, or 25% of Area Median Income for a family of three (the average size of the households served). This meets the U.S. Department of Housing and Urban Development's (HUD) definition of "extremely low income."

FCRHA has provided financing with low-income housing tax credits for privately owned developments that reserve a total of 1,6555 units for lower income tenants. Fairfax County's Workforce Housing policy, adopted by the Board of Supervisors in 2007, is a proffer-based incentive system designed to encourage the voluntary development of new housing affordable to a range of moderate-income workers in Fairfax County's high-rise/high-density areas. The County's Comprehensive Plan provides for a density bonus of up to one unit for every workforce unit provided by a developer, with the expectation that at least 12% of units, and up to 20% depending on location, in new developments be affordable or workforce housing.

In April 2004, the Board of Supervisors adopted its Affordable Housing Preservation Initiative to preserve affordable housing units. The centerpiece of the Initiative was the creation of the "Penny for Affordable Housing Fund." Beginning in FY 2006, the County's budget each year included the equivalent of one penny on the County's real estate tax rate for the preservation and production of affordable housing in the County. In FY 2010, the Penny Fund was reduced to the equivalent of half of one penny. In FY 2016, this funding equated to \$11,300,000 for affordable housing.

Other County services include efforts to increase local employment opportunities by encouraging and retaining business and industrial development through the County's Economic Development Authority. On July 1, 2007, the County established an Office of Community Revitalization and Reinvestment ("OCR"). The mission of the OCR is to facilitate strategic redevelopment and investments within targeted commercial areas of the County that align with the community vision, and improve the economic viability, appearance and function of those areas. Among other initiatives, the OCR is charged with working with property owners and the community to facilitate interest and participation in commercial development activities, and to develop public/private partnerships that further the County's revitalization, redevelopment, and reinvestment efforts.

Health and Welfare

The County provides services designed to protect, promote, and improve the health and welfare of Fairfax County citizens through a decentralized human services program. Based on individual needs, County human service centers define a comprehensive assistance plan that utilizes the services provided by all County departments. The County operates human service centers in locations convenient to residents to provide financial, medical, vocational, and social services. The Fairfax-Falls Church Community Services Board ("CSB") responsible for planning, organizing, and providing services to individuals who have a mental illness, intellectual disability, or a substance use disorder. The CSB provides state mandated services to assist, improve, and maximize the potential of individuals affected by these conditions and strengthen their capacity for living self-determined, productive, and valued lives. The CSB is part of the Fairfax County Human Services System providing its services at many sites throughout the County, including seven community mental health centers, several outpatient sites, a detoxification center, group homes, consumer-operated drop in centers, and several specialized residential treatment sites.

The County also provides subsidized day care programs for older adults and children of low-income families, two special needs centers that serve emotionally disturbed or physically challenged children, and group homes for youth with serious emotional disturbances. Residential treatment services are also offered in the areas of substance abuse as well as substance abuse outpatient and specialized day treatment programs. Vocational and residential programs are also available for adults with intellectual disabilities and serious mental illness.

Financial assistance and social services are available to eligible residents. For low-income families and individuals, the Department of Family Services (“DFS”) administers federal, Commonwealth, and local programs, such as public assistance, employment and training, and subsidized child care, as well as programs targeted to at-risk children, such as child abuse prevention, Child Protective Services, Foster Care and Adoption, and services purchased under the Comprehensive Services Act. For older adults, DFS also administers programs that include federal funds granted to localities, Commonwealth funds and additional support from the County. The federal and state governments partially reimburse DFS for the cost of administering the programs based on an annual allocation to the County as well as program costs. DFS operates the County’s after school child care program in 140 school-age child centers (located in the public schools, one recreational center and one community center) that serve more than 13,000 children each year. Since FY 1986, the County has provided a comprehensive County transportation service, Fastran, for qualified elderly, disabled, and low-income persons. Transportation is provided by bus, van, or cab on a door-to-door basis to County programs, medical care, grocery stores, and other destinations.

Judicial Administration

Fairfax County’s court system is one of the most sophisticated systems in Virginia in its use of advanced case management techniques and rehabilitation programs. The County uses automated systems to support case docketing and record retrieval, electronic filing and imaging in the land recordation process, juror selection, service of notices and subpoenas, and the processing of criminal and traffic warrants and collecting delinquent tax obligations.

The County has undertaken rehabilitation efforts through the Juvenile and Domestic Relations District Court and the Office of the Sheriff. These efforts include work training programs and counseling services for both adult and juvenile offenders. Additionally, residential treatment services are provided for juvenile offenders, and a work release program is provided for offenders confined in the County’s Adult Detention Center.

Public Safety

A number of agencies share responsibility for public safety in Fairfax County. The Police Department, which is responsible for law enforcement, had an authorized strength of 1,339 police officers, 31 animal control officers, and 352 civilian personnel, with 8 positions supported by grant funding, effective July 1, 2015. The agency is accredited by the Virginia Law Enforcement Professional Standards Commission, which signifies the Department’s compliance with standards that are specific to Virginia law enforcement operations and administration. The commanders of the eight police district stations located throughout the County have considerable latitude to tailor their operations to provide police services in ways most responsive to the needs of their respective communities, including community policing endeavors. The department has specialized units that operate as both standing (staffed full time) and non-standing units (staffed as needed), including the Helicopter Division, which operates two helicopters to provide support to general police operations, traffic monitoring, emergency medical evacuation, and rescue support; the Criminal Intelligence Unit, which provides an effective response to organized criminal activity including terrorist-related, gang, and bias crimes; the Gang Unit,

which provides regional leadership directed at combating gang crime through prevention and enforcement initiatives; and the Language Skills Support Unit, which serves to bridge the gap in the diverse cultures in the community by providing language support for the successful resolution of major criminal investigations.

Over the past 10 years, the County has maintained one of the lowest rates of serious crimes among jurisdictions in the Washington, D.C., metropolitan area and among comparable suburban jurisdictions throughout the United States. Additionally, the Police Department has continually attained a clearance rate for violent crimes such as murder, rape, and robbery far above the national averages for such offenses. At the same time, Fairfax County has maintained one of the lowest per capita costs for police services of all the local jurisdictions in the Washington metropolitan area.

Fire and rescue services are provided by 1,405 paid uniformed personnel, 187 paid civilian support personnel, and approximately 300 operational volunteers as of January 1, 2016. The County operates 38 fire and rescue stations. The department operates various specialty units, including paramedic engine companies, a hazardous materials response unit, a technical rescue operations team, an arson canine unit, and a water rescue team whose members are certified in swift water rescue. The department also supports regional, national, and international emergency response operations through maintaining and supporting the Urban Search and Rescue Team ("US&R"). US&R operates under the auspices of the Department of Homeland Security for domestic responses and is sponsored by the United States Agency for International Development/Office of Foreign Disaster Assistance for international deployments. In addition to emergency response, the department provides various non-emergency services.

In May 2004, the Office of Emergency Management was established as a separate agency serving as the County's focal point for emergency preparedness and internal and external coordination to respond to natural, technological, and terrorist-related emergencies. Employees provided emergency management services for Fairfax County, including the Towns of Clifton, Herndon and Vienna. The major areas of focus include emergency management planning and policy, the County-wide emergency training and exercise program, public preparedness and education, and enhancement of response and recovery capabilities.

Water Supply Service

Fairfax Water ("FW") provides water service to residents of Fairfax County and the cities of Fairfax and Falls Church. In addition, FW supplies water for resale, principally in the City of Alexandria, Loudoun County, Prince William County, Fort Belvoir, and the Towns of Vienna and Herndon. The average population served by FW is estimated at 2,000,000 persons. FW, which operates the largest water system in the Commonwealth of Virginia, was established by the Board of Supervisors in 1957 to develop a comprehensive, County-wide water supply system through the acquisition of existing systems and the construction of new facilities. FW is an independent body administered by a ten-member board appointed by the Fairfax County Board of Supervisors. FW finances its capital improvements through the issuance of revenue bonds that are not backed by the full faith and credit of the County but principally repaid by revenues derived from charges for services rendered. As of July 1, 2015, FW's basic retail water charge was set at \$2.55 per 1,000 gallons, plus a quarterly service charge (currently \$9.80 for most single-family homes and townhouses). To pay for treatment and pumping capacity which is used only during periods of high demand, FW also levies a peak use charge of an additional \$3.55 per 1,000 gallons on customers who exceed their winter quarter consumption by 6,000 gallons or 33%, whichever is greater. There also are fees for initial connection to the system and for opening, closing, or transferring an account.

FW utilizes three sources of water supply (Occoquan and Potomac Rivers and the Washington Aqueduct), operates associated treatment, transmission, storage, and distribution facilities, and provides service to approximately 235,000 retail accounts in Fairfax County, with an average daily consumption of about 164 million gallons per day (“mgd”). The combined maximum daily capacity of the supply and treatment facilities is 376 mgd, which is sufficient to meet current demand.

Under an agreement with the Board of Supervisors, FW annually submits a 10-year capital improvement program which is reviewed and approved by the Board of Supervisors as part of the County’s total capital improvement program. FW’s 10-year Capital Improvement Program for FY 2016-2025 includes projects totaling \$735,761,000.

ECONOMIC FACTORS

Economic Development

Economic development activities of the County are carried out through the Fairfax County Economic Development Authority (“EDA”), whose seven commissioners are appointed by the Board of Supervisors. EDA promotes Fairfax County as a premier location for business start-up, relocation and expansion, and capital investment. It works with new and existing businesses to help identify their facility and site needs, and assist in resolving County-related issues and provide other business assistance. Pursuant to its enabling legislation, EDA encourages investment in the County with tax-exempt conduit revenue bond financing.

The County’s office space inventory exceeded 116.1 million square feet at year end 2015, a decrease of approximately 74,503 square feet from the office space inventory at year end 2014. The office space inventory decreased due to the demolition of four older properties. At that time, seven buildings totaling nearly 2.5 million square feet were under construction countywide. More than 80 percent of space under construction was leased at year-end 2015. The direct office vacancy was 16.2 percent at year-end 2015. Including sublet space, the office vacancy rate was 17.2 percent.

The base of technology-oriented companies, particularly in computer software development, computer systems integration, telecommunications, and Internet-related services, has served as a magnet for the expansion and attraction of business and professional services. Government contractors, as well as diversified business and financial services, have added to the demand for prime office space in a number of key employment centers throughout the County.

Federal civilian employment in the County makes up 4.1% of the total jobs in the County. Federal jobs declined slightly in 2014 but in 2015, the number of federal civilian jobs had more than regained the number of jobs lost. During 2015, the labor market in the County showed improvement. Employment increased by almost 7,600 jobs, an increase of 1.3 percent compared to 2014. Industry sectors that created new jobs include Leisure and Hospitality, Education and Health Services, and Financial Activities. Employment in Professional and Business Services, which includes most federal contractors, remained essentially flat during the year. Federal procurement spending in the County declined 2.8% to \$22.87 billion in FY 2015. The two year federal budget agreement for federal fiscal years 2016 and 2017 is expected to provide stability for the economy and increased certainty for businesses and consumers. County General Fund revenue rose 4.2% in FY 2015, primarily due to an increase of 6.3% in current year real estate tax receipts. Current personal property tax receipts rose 2.0% in FY 2015, while Business Professional and Occupational License (BPOL) revenue increased a modest 0.4%. The combined Consultant and Business Service Occupations categories, which represent 43 percent of total BPOL receipts and include federal contractors decreased 1.9 percent from the FY 2014 level. The remaining categories rose a combined 2.2%. Sales Tax receipts rose 6.6% in FY 2015.

There are over 100 hotels in the County, totaling over 18,500 hotel rooms. A 160-room hotel opened in 2016 in the Seven Corners area of the County, and one hotel is currently under construction. This hotel is expected to open by late 2016 and will add an additional 120 rooms to the County's inventory. Hotel development parallels commercial construction in terms of diversity of concept and design with a variety of product and service mixes (all-suites, business meeting facilities, and leisure facilities) in the marketplace.

Improvements to the County's transportation system, including increased service levels at Washington Dulles International Airport, helped increase corporate activities dependent on immediate access to travel throughout the region, country, and world. The Metrorail service extension (the Silver Line) from the East Falls Church station, through Tysons through Dulles Airport, to Route 772 in Loudoun County will continue to help foster economic growth.

The Board of Supervisors and the County actively support revitalization and redevelopment throughout the County, particularly in its more mature business areas. Many enhancements have been made to the residential and commercial neighborhoods in Annandale, Bailey Crossroads/Seven Corners, the Lake Anne section of Reston, the Springfield and McLean central business districts, Merrifield, and the Richmond Highway corridor in the southeastern portion of the County. A number of capital improvement projects and other construction in process or already completed have improved the appearance and quality of life of these communities.

The most notable area of redevelopment in the County, Tysons—Fairfax County's "downtown"—is undergoing a transformative land-use replanning effort. Spurred by the Metrorail expansion project, the County is working to set the stage for Tysons's evolution into a more urban-scale, pedestrian-friendly environment, with more housing, recreation and open space in addition to more-dense office and retail development. Tysons currently has over 37 million square feet of office, retail, and other commercial space and is behind only downtown Washington's Central Business District and the East End submarkets in the entire Washington D.C. metropolitan area in total office inventory, and has 12.6 million square feet of residential space. Now that Phase I of the Metrorail expansion has been completed, it is expected that Tysons will continue to have significant growth in population, employment and commercial, retail and residential space over the next several decades. County staff continues to evaluate potential arrangements for financing the public share of Tysons infrastructure improvements and to facilitate co-operative funding agreements with the private sector. County staff, in cooperation with private participants, created a new 501(c)(6) membership organization known as the Tysons Partnership in January 2011. The Tysons Partnership provides a comprehensive approach to tasks that include marketing and branding, transportation, urban design/planning, public facilities and community amenities and finance. On January 8, 2013, the Board of Supervisors established, by ordinance, the Tysons Transportation Service District No. 1 (the "Tysons Service District") to provide transportation infrastructure and transit services within Tysons. As the governing board of the Tysons Service District, the Board of Supervisors is empowered to levy and collect a tax on any property within Tysons Service District's boundaries to finance the transportation infrastructure and transit services projects. The tax rate of \$0.04 per \$100 of assessed value was adopted by the Board of Supervisors as part of the FY 2014 Adopted Budget Plan, and this rate remained unchanged as part of the FY 2015 Adopted Budget. However, in the FY 2016 Adopted Budget, the tax rate increased one cent from \$0.04 to \$0.05 per \$100 of assessed value. The tax rate remained unchanged at \$0.05 per \$100 of assessed value in the FY 2017 Adopted Budget.]

Employment

As of the third quarter of 2015, there were more than 37,000 payroll business establishments (units) including global, corporate and regional headquarters, technology firms, sales and marketing

offices, and business services located in Fairfax County, employing over 588,000. Local businesses create employment in diversified areas like computer software development and systems integration, technical services, management consulting, government contracting, Internet-related services, wholesale and retail trade, and financial services. The following table presents data on the average number of payroll establishments and employment by major industry classification in Fairfax County as of third quarter 2015.

**Businesses and Employment by Industry
Fairfax County, Virginia¹**

| <u>Industrial Classification</u> | <u>Number of Establishments</u> | <u>Average Payroll Employment for Quarter</u> |
|--|--|--|
| Agriculture, Forestry, Fishing and Hunting | 21 | 81 |
| Mining, quarrying, and oil and gas extraction | 12 | 170 |
| Utilities | 17 | 1,160 |
| Construction | 2,356 | 23,328 |
| Manufacturing | 473 | 6,221 |
| Wholesale Trade | 1,223 | 13,464 |
| Retail Trade | 2,762 | 54,305 |
| Transportation and Warehousing | 407 | 6,898 |
| Information | 890 | 21,920 |
| Finance and Insurance | 1,678 | 23,319 |
| Real Estate and Rental and Leasing | 1,558 | 9,717 |
| Professional and Technical Services ² | 10,487 | 150,991 |
| Management of Companies and Enterprises | 369 | 19,548 |
| Administrative and Waste Services | 2,028 | 40,084 |
| Educational Services | 640 | 11,120 |
| Health Care and Social Assistance | 3,845 | 51,982 |
| Arts, Entertainment, and Recreation | 370 | 10,717 |
| Accommodation and Food Services | 2,152 | 43,835 |
| Other Services except Public Administration | 5,137 | 21,301 |
| Unclassified | 362 | 686 |
| Federal Government, all industries | 144 | 24,501 |
| State Government, all industries | 33 | 9,693 |
| Local Government, all industries | <u>88</u> | <u>40,013</u> |
| Total | 37,052 | 586,053 |

Source: U.S. Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Fairfax County, third quarter 2015

¹ Excludes self-employed business owners.

² The Services category includes professional and technical services, health care and social assistance, management services, educational services, accommodation and food services, arts, entertainment and recreation, administrative and waste services, and membership organizations and trade associations.

The following is a list of the largest private, base sector (non-retail) employers as of ____, 2015. Companies are alphabetized in their size category.

Largest Private Employers in Fairfax County**4,000-7,000+ Employees**

| <u>Company Name</u> | <u>Type of Business</u> |
|---|---|
| Booz Allen Hamilton* | Professional, Scientific and Technical Services |
| Federal Home Loan Mortgage Corp. (Freddie Mac)* | Finance and Insurance |
| General Dynamics* | Professional, Scientific and Technical Services |
| Inova Health System* | Health Care and Social Assistance |

1,000-3,999 Employees

| <u>Company Name</u> | <u>Type of Business</u> |
|--|---|
| Accenture | Professional, Scientific and Technical Services |
| AECOM | Professional, Scientific and Technical Services |
| Amazon Web Services | Information |
| AT&T | Information (Telecommunications) |
| BAE Systems | Professional, Scientific and Technical Services |
| Boeing | Professional, Scientific and Technical Services |
| CACI International | Professional, Scientific and Technical Services |
| Capital One* | Finance and Insurance |
| Catholic Diocese of Arlington | Educational Services/Other Services |
| CGI | Professional, Scientific and Technical Services |
| CSC | Professional, Scientific and Technical Services |
| Deloitte | Professional, Scientific and Technical Services |
| Engility* | Professional, Scientific and Technical Services |
| Erickson Living (Greenspring) | Health Care and Social Assistance |
| EY (Ernst & Young) | Professional, Scientific and Technical Services |
| Harris | Professional, Scientific and Technical Services |
| HCA Virginia | Health Care and Social Assistance |
| HP | Professional, Scientific and Technical Services/Information |
| IBM | Professional, Scientific and Technical Services |
| ICF International* | Professional, Scientific and Technical Services |
| Kaiser Foundation Health (Kaiser Permanente) | Health Care and Social Assistance |
| KPMG | Professional, Scientific and Technical Services |
| L-3 Communications | Professional, Scientific and Technical Services |
| Leidos* | Professional, Scientific and Technical Services |
| Lockheed Martin | Professional, Scientific and Technical Services |
| ManTech International Corp.* | Professional, Scientific and Technical Services |
| The MITRE Corporation* | Professional, Scientific and Technical Services |
| Navy Federal Credit Union* | Finance and Insurance |
| Northrop Grumman* | Professional, Scientific and Technical Services |
| Oracle | Professional, Scientific and Technical Services |
| PricewaterhouseCoopers | Professional, Scientific and Technical Services |
| Quest Diagnostics | Health Care and Social Assistance |
| Raytheon | Professional, Scientific and Technical Services |
| SAIC* | Professional, Scientific and Technical Services |
| Sprint | Information |
| Time Warner Cable | Information |
| Triple Canopy | Administrative and Support Services |
| United Parcel Service | Transportation and Warehousing |
| US Fitness Holdings | Arts, Entertainment, and Recreation |
| Vencore* | Professional, Scientific and Technical Services |
| Verizon | Information |
| Wells Fargo Bank | Finance and Insurance |

500-999 Employees

| <u>Company Name</u> | <u>Type of Business</u> |
|------------------------------------|---|
| The Aerospace Corporation | Professional, Scientific and Technical Services |
| AMERICAN SYSTEMS CORP.* | Professional, Scientific and Technical Services |
| Bechtel | Professional, Scientific and Technical Services |
| Bright Horizons Children's Centers | Health Care and Social Assistance |
| Cavalier Maintenance Services* | Administrative and Support Services |
| CF Management –VA | Administrative and Support Services |
| Cisco Systems | Professional, Scientific and Technical Services |
| College Entrance Exam Board* | Educational Services |
| Crothall Services | Administrative and Support Services |
| Cvent* | Professional, Scientific and Technical Services |
| Deltek* | Professional, Scientific and Technical Services |
| Diversified Maintenance | Administrative and Support |
| ECS Limited | Professional, Scientific and Technical Services |
| EMC | Professional, Scientific and Technical Services |
| Fairfax Radiological Consultants* | Health Care and Social Assistance |
| Frontpoint Security Solutions | Administrative and Support Services |
| Gannett* | Information |
| Golden Gate Service* | Administrative and Support Services |
| Hilton Worldwide* | Accommodation and Food Services |
| HITT Contracting* | Construction |
| Hyatt Corporation | Accommodation and Food Services |
| K12* | Educational Services |
| Knowledge Universe Education | Educational Services |
| Laboratory Corporation of America | Professional, Scientific and Technical Services |
| LMI* | Professional, Scientific and Technical Services |
| Marriott | Accommodation and Food Services |
| MAXIMUS* | Professional, Scientific and Technical Services |
| Microsoft Corporation | Professional, Scientific and Technical Services |
| MicroStrategy* | Professional, Scientific and Technical Services |
| Middle East Broadcasting* | Information |
| Mount Vernon | Other Services |
| MV Contract Transportation | Health Care and Social Assistance |
| NJVC* | Professional, Scientific and Technical Services |
| Omniplex World Services* | Administrative and Support Services |
| SallientCRGT* | Professional, Scientific and Technical Services |
| Securitas Security Services | Administrative and Support Services |
| Serco Inc. | Professional, Scientific and Technical Services |
| Sodexo USA | Accommodation and Food Services |
| Sunrise Senior Living | Health Care and Social Assistance |
| Unisys | Professional, Scientific and Technical Services |
| Washington Post | Information |
| WGL | Utilities |
| William A. Hazel* | Construction |
| Wipro | Professional, Scientific and Technical Services |
| Volkswagen of America | Management of Companies and Enterprises |

Source: Fairfax County Economic Development Authority, List of Largest Employers April 2016. Excludes public-sector and retail entities.

Employment figures are for company facilities in Fairfax County only. Additionally, these numbers include employees, not independent contractors.

Type of Business description for each firm is based on two-digit North American Industry Classification System (NAICS) codes. Companies may have business activities in other two-digit NAICS sectors.

*Company with headquarters in Fairfax County

A list of the top ten new or expanded office projects within the County announced in the first quarter of 2016 is shown below:

New or Expanded Commercial Projects

| <u>Name of Company</u> | <u>Type of Business</u> | <u>Projected New/Additional Employment</u> |
|--------------------------------|--|---|
| Pentagon Federal Credit Union | Financial services | 500 |
| CACI International, Inc. | Systems integration and software development | 344 |
| Carahsoft Technology Corp. | Information technology | 150 |
| Cvent, Inc. | Information technology | 121 |
| Ampcus, Inc. | Information technology | 90 |
| Unissant | Software development and consulting | 80 |
| Bognet Construction | Construction | 72 |
| Hensel Phelps Construction Co. | Construction services | 49 |
| Michael and Son Services, Inc. | HVAC, electrical, plumbing, remodeling | 44 |
| SSB BART Group | Software and consulting | 30 |

Source: Fairfax County Economic Development Authority

Unemployment in the County has historically been, and continues to be, well below the national average, even in challenging economic times. The average unemployment rate in Fairfax County in 2016 through April was 3.1%. The average Virginia and U.S. unemployment rates during the same period were 4.1% and 5.1%, respectively. Reflecting the global recession that began in late 2007 and escalated a year later, Fairfax County's average annual unemployment rate rose to a high of 5.1% in 2010 but has since declined, reflecting an overall leveling out of the economic downturn. The following table shows the average annual unemployment rate in Fairfax County as compared to Virginia and national averages in the past decade.

Average Annual Unemployment Rates

| Calendar Year | Fairfax County | Virginia | United States |
|--------------------------|---------------------------|-----------------|----------------------|
| 2007 | 2.2% | 3.0% | 4.6% |
| 2008 | 2.8 | 3.9 | 5.8 |
| 2009 | 4.8 | 6.7 | 9.3 |
| 2010 | 5.1 | 7.2 | 9.6 |
| 2011 | 4.8 | 6.6 | 9.0 |
| 2012 | 4.5 | 6.0 | 8.1 |
| 2013 | 4.4 | 5.7 | 7.4 |
| 2014 | 4.21 | 5.2 | 6.2 |
| 2015 | 3.6 | 4.4 | 5.3 |
| 2016* | 3.1 | 4.1 | 5.1 |

Source: U.S. Bureau of Labor Statistics. Data are not seasonally adjusted.

*Through April 2016.

According to the Bureau of Labor Statistics, the average total number of jobs in the County was 588,998 in the third quarter of 2015. Self-employed persons are not included in these counts. The following table presents total covered employment in recent years:

Covered Employment¹

| Third Quarter | Covered Employment in Fairfax County | % Change |
|----------------------|---|-----------------|
| 2012 | 508,811 | - |
| 2013 | 504,119 | (0.9%) |
| 2014 | 498,375 | (1.1) |
| 2015 | 506,252 | 1.6 |

Source: U.S. Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment Wages

¹ Covered employment means employees covered by state and federal unemployment laws.

Construction Activity

The following table includes data for residential and commercial construction activity in the County:

| Fiscal Year | Building Permits | | | | Estimated Housing Units Started |
|----------------|------------------------|---------------------------|---|---------------------------|---------------------------------------|
| | Residential Properties | | Industrial and Commercial Properties | | |
| | Number | Estimated Value (000s) | Number | Estimated Value (000s) | |
| 2006 | 17,168 ¹ | \$918,839 | 4,413 ¹ | \$450,382 | 2,784 |
| 2007 | 11,419 ¹ | 757,848 | 4,974 ¹ | 1,297,296 | 1,599 |
| 2008 | 10,719 ¹ | 548,759 | 5,046 ¹ | 619,613 | 2,238 |
| 2009 | 8,780 ¹ | 327,454 | 4,361 ¹ | 413,719 | 1,361 |
| 2010 | 8,977 | 428,941 | 3,946 | 375,126 | 1,150 |
| 2011 | 9,371 | 480,268 | 4,595 | 397,435 | 1,797 |
| 2012 | 9,454 | 538,307 | 4,308 | 602,444 | 3,023 |
| 2013 | 10,610 | 509,957 | 3,907 | 710,488 | 1,930 |
| 2014 | 10,469 | 895,638 | 5,054 | 660,063 | 4,154 |
| 2015 | 10,320 | 529,104 | 4,714 | 475,241 | 2,580 |

Sources: Building permits provided by Fairfax County Department of Public Works and Environmental Services, and estimated housing units started provided by the Weldon Cooper Center for Public Service, University of Virginia.

¹ Includes new and alteration/repair permits issued. Does not include trade permits issued.

Housing

In 2015 single-family detached housing units represented 47.3% of the total housing units within Fairfax County. Single-family attached housing accounted for 24.3%, and multi-family housing made up the remaining 28.4%. In 2015, the median market value of all owned housing units, including condominiums, in Fairfax County was estimated by the Department of Neighborhood and Community Services to be \$492,126.

| | Housing Units by Type of Structure | | | | | | | |
|---------------------------|------------------------------------|--------------|----------------|--------------|----------------|--------------|----------------|--------------|
| | 1980 | | 1990 | | 2000 | | 2015 | |
| | No. | % | No. | % | No. | % | No. | % |
| Single-Family: | | | | | | | | |
| Detached ¹ | 125,580 | 59.3 | 163,029 | 53.9 | 181,591 | 50.6 | 195,034 | 47.3 |
| Attached ² | 30,833 | 14.6 | 67,306 | 22.3 | 87,171 | 24.3 | 100,161 | 24.3 |
| Multi-Family ³ | <u>55,333</u> | <u>26.1</u> | <u>72,129</u> | <u>23.8</u> | <u>90,198</u> | <u>25.1</u> | <u>117,003</u> | <u>28.4</u> |
| Total | <u>211,746</u> | <u>100.0</u> | <u>302,464</u> | <u>100.0</u> | <u>358,960</u> | <u>100.0</u> | <u>412,198</u> | <u>100.0</u> |

Sources: U.S. Bureau of the Census, U.S. Census of Housing (1980-2000) and Fairfax County Department of Neighborhood and Community Services

¹ Single-family detached includes all single-family homes and mobile homes.

² Single-family attached includes duplexes, townhouses, and multiplex units.

³ Multi-family includes condominiums, apartments and other units in structures with a common entryway.

The average sale price of housing units within the County comparing March 2016 to March 2015 is listed below:

| Average Sale Price Housing Units | | | |
|---|--------------------------|--------------------------|------------------------|
| <u>Type of Structure</u> | <u>March 2016</u> | <u>March 2015</u> | <u>% change</u> |
| All Homes | \$545,625 | \$532,800 | 2.41% |
| Detached Homes | 716,356 | 687,839 | 4.15 |
| Attached Homes | 373,948 | 373,921 | (0.01) |

Source: Fairfax County Department of Management and Budget Economic Indicators – May 2016

Colleges and Universities

Sixteen institutions of higher education are located in Fairfax County: George Mason University, ITT Technical Institute, Marymount University, Missouri State University (Department of Defense Studies), Northern Virginia Community College, Potomac College, Stratford University, Strayer University, University of Fairfax, University of North America, University of Phoenix, University of Virginia-Northern Virginia Center, Virginia International University, Virginia Polytechnic Institute, Washington Bible College – Capital Bible Seminary, and Westwood College. Two campuses of the University of Virginia (both Virginia Tech and the Falls Church campus) are located in the Northern Virginia Graduate Center in Fairfax County. George Mason University, with an enrollment of more than 33,000 students, offers over 200 degree and certificate programs. The Northern Virginia Community College serves more than 76,000 students in credit courses and non-credit workforce and professional development programs at six campuses and two centers throughout Northern Virginia. American University, George Washington University, Catholic University, and Virginia Commonwealth University also operate programs in the County's secondary schools and on military installations within the County.

Cultural Amenities

Wolf Trap Farm Park for the Performing Arts, a cultural facility internationally renowned for its ballet, symphony, concert, and opera offerings, and the only national park for the performing arts in the U.S., is located in north-central Fairfax County. Nearly 300 cultural organizations – theater and opera companies, music and dance groups, community arts centers, festivals, and other activities – are based in and around the County. The County also assists in supporting the Fairfax Symphony, an internationally recognized orchestra that provides a variety of musical programs and outreach services to County residents. Other well-known attractions in the County include Mount Vernon, the home of George Washington; Woodlawn Plantation, George Washington's wedding gift to his nephew; and Gunston Hall, home of George Mason, author of the U.S. Bill of Rights and the first Constitution of Virginia. The region also boasts professional baseball, basketball, football, ice hockey and soccer.

DEBT ADMINISTRATION

Statement of Bonded Indebtedness

Pursuant to the Constitution of Virginia and the Act, a county in Virginia is authorized to issue general obligation bonds secured by a pledge of its full faith and credit. For the payment of such bonds, the Board of Supervisors of the County is required to levy, if necessary, an annual ad valorem tax on all property in the County subject to local taxation.

As of June 30, 2015, the County had outstanding the following principal amounts of general obligation bonds:

| <u>Purpose</u> | <u>Total General Obligation Bonds</u> |
|---|--|
| School | \$1,363,426,000 |
| General Government | <u>795,414,000</u> |
| Total General Obligation Bonded Indebtedness ¹ | <u>\$2,158,840,000</u> |

Source: Fairfax County Comprehensive Annual Financial Report FY 2015

¹ See "Debt Service on Tax Supported Debt Obligations" herein for outstanding debt service as of February 29, 2016.

The County does not rely upon short-term borrowings to fund operating requirements. The County has never defaulted in the payment of either principal or interest on any general obligation indebtedness.

Limits on Indebtedness

There is no legal limit on the amount of general obligation bonded indebtedness that Fairfax County can at any time incur or have outstanding. However, all such indebtedness must be approved by voter referendum prior to issuance. Since 1975, the Board of Supervisors has established as a financial guideline a self-imposed limit on the average annual amount of bond sales. In May 2006, the Board of Supervisors increased the bond sale target to \$1.375 billion over a 5-year period, or an average of \$275 million annually, with the flexibility to expand to a maximum of \$300 million based on market conditions and/or priority needs in any given year. The actual amount of bond sales will be determined by construction funding requirements and municipal bond market conditions.

The Board of Supervisors also has imposed limits which provide that the County's long-term debt should not exceed 3% of the total market value of taxable real and personal property in the County. The limits also provide that annual debt service should not exceed 10% of annual General Fund disbursements. These limits may be changed by the Board of Supervisors, and they are not binding on future Boards of Supervisors of the County.

Bond Referenda Authorization

[The following chart presents by purpose Fairfax County's authorized but unissued general obligation bond indebtedness as of February 29, 2016:] - **needs to be updated after election**]

| <u>Authorized Purpose</u> | <u>Amount Authorized but Unissued as of February 29, 2016</u> |
|--|--|
| School Improvements | \$566,390,500 |
| Transportation Improvements and Facilities | 118,839,500 |
| Parks and Park Facilities | 48,260,000 |
| Public Safety Facilities | 202,865,000 |
| Library Facilities | 19,615,000 |
| Flood Control | <u>23,590,000</u> |
| Total | <u>\$979,560,000</u> |

Source: Fairfax County Department of Management and Budget

Other Tax Supported Debt Obligations

The Board of Supervisors of the County directly or indirectly appoints all or a portion of the governing body of several legally independent local and regional authorities that provide services to the County and its constituents. Such authorities include those that issue revenue bonds that are not general obligations of the County and issue debt supported directly or contingently by appropriations of tax revenues by the County. The full faith and credit of the County are not pledged to secure such bonds.

In March 1994, the Fairfax County Economic Development Authority (“EDA”) issued \$116,965,000 of lease revenue bonds to finance the County’s acquisition of two office buildings occupied by County agencies and departments. In October 2003, EDA issued \$85,650,000 of lease revenue refunding bonds to refund \$88,405,000 of the 1994 lease revenue bonds. The County is obligated by the terms of a lease agreement with EDA to pay amounts equal to debt service on EDA’s bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the lease agreement extend to November 15, 2018.

Beginning in 1996, the Fairfax County Redevelopment and Housing Authority (“FCRHA”) has issued \$42,460,000 of revenue bonds in seven series to finance the construction or renovation of five community center buildings, two adult day health care centers, one Head Start facility and one senior center. The County was obligated by the terms of triple net lease agreements or payment agreements with FCRHA to pay amounts equal to debt service on FCRHA’s bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of funds for such purpose. The coincidental terms of the various bonds, lease agreements and payment agreements extend to May 1, 2029. On March 10, 2010, EDA issued \$43,390,000 revenue bonds (Six Public Facilities Projects) (the “2010 Bonds”) and provided a portion of the proceeds of the 2010 Bonds to the County to enable the County pursuant to its lease agreements with FCRHA to purchase five facilities financed from FCRHA bond issuances in 1996, 1998, 1999 and 2004. FCRHA used the funds provided by the County to redeem or defease the four series of bonds that financed the applicable facilities. The original series issued by FCRHA in 2003 financing a head start facility remains outstanding.

In July 2000, the Fairfax County Board of Supervisors entered into a Master Development Agreement with a private developer to finance and construct a 135,000 square foot government center in the southeastern region of the County. In November 2000, \$29,000,000 of Certificates of Participation (“Certificates” or “COPs”) were issued, secured by a triple net lease on the property between the developer and the County. The County was obligated by the terms of the lease agreement to pay an amount equal to the debt service on the Certificates. The County accepted the government center as substantially complete in February 2002. A portion of the proceeds of EDA’s 2010 Bonds were provided to the County to enable the County to exercise an option to purchase the government center (the “South County Government Center Purchase”). The purchase price provided by the County was used to defease the COPs. The County is obligated by the terms of a contract with the EDA to pay amounts equal to debt service on the EDA’s 2010 Bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of EDA’s 2010 Bonds and the contract extend to April 2032.

In June 2003, EDA issued \$70,830,000 of revenue bonds (Laurel Hill Public Facilities Project), backed by a contract with the County. Approximately \$55,300,000 of the bonds were allocable to the financing of a new public secondary school in the southern part of the County and \$15,530,000 of the bonds were allocable to the financing of a new 18 hole public golf course in the southern part of the County. The County is obligated by the terms of a contract with EDA to pay amounts equal to debt service on EDA’s bonds. The County’s obligation to make such payments is subject to the annual

appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to June 2033. In April 2012, EDA issued its \$47,745,000 Revenue Refunding Bonds (Laurel Hill Public Facilities Projects) to refund a portion of the bonds.

On January 27, 2005, EDA issued \$60,690,000 of revenue bonds (School Board Central Administration Building Project Phase I) (the “School Board Building Bonds”), backed by a contract with the County. The bonds were issued to finance the purchase of certain property, including an existing office building thereon, the purchase of certain land adjacent thereto and the improvement of the existing building for use by the School Board as an administration building. The County is obligated by a contract with EDA to pay amounts equal to debt service on the School Board Building Bonds. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the School Board Building Bonds and the contract extend to April 2035. In June, 2014, EDA issued \$170,690,000 Fairfax County Facilities Revenue and Refunding Bonds Series 2014 A (County Facilities Projects) to refund a portion of the School Board Building Bonds.

On December 27, 2005, the Fairfax County Park Authority (“FCPA”) issued two promissory notes in the aggregate amount of \$12,900,000 for the purpose of providing a portion of the purchase price of a conservation easement for preservation purposes on an approximately 41 acre parcel of land, and options to purchase certain land. This land is known as “Salona,” an historic site within the County. The County is obligated by the terms of a contract with FCPA to pay amounts sufficient to pay the principal and interest installments on the promissory notes when due. The County’s obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the promissory notes and contract extend to December 2025.

On February 16, 2006, FCRHA issued a \$40,600,000 Bond Anticipation Note (Affordable Housing Acquisition) Series 2006 (the “Series 2006 Note”). The Series 2006 Note was issued for the purpose of providing a portion of the funds required for the purchase of a multi-family rental housing complex, known as Crescent Apartments, to further FCRHA’s goal of preserving existing affordable housing in Fairfax County. In 2007, 2008, 2011 and 2013 FCRHA issued bond anticipation notes, each time to refinance previous bond anticipation notes issued for the financing or refinancing of the Crescent Apartments project that were not paid from County money set aside to promote affordable housing. In February, 2015 the County and FCRHA entered into a direct loan agreement with Bank of America, N.A. (the “Crescent Apartments Loan Agreement”), in a principal amount of \$18,260,000, which together with other County funds refinanced the 2013A Notes. The County is obligated by a contract with FCRHA to make payments equal to the debt service on the Crescent Apartments Loan Agreement. The County’s obligation to make such payments is subject to annual appropriation.

On November 28, 2007, FCRHA issued \$105,485,000 Bond Anticipation Notes (Affordable Housing Acquisition) Series 2007B (the “Series 2007B Notes”). The Series 2007B Notes were issued for the purpose of providing a portion of the funds required for the purchase of a multi-family rental housing complex located in Annandale, Virginia. In 2008, FCRHA issued bond anticipation notes to refinance the Series 2007B Notes. On August 20, 2009, FCRHA issued its Revenue Bonds (Affordable Housing Acquisition) Series 2009 in the aggregate amount of \$94,950,000 (the “Series 2009 Bonds”) to pay a portion of the principal amount of the 2008 outstanding bond anticipation notes. A portion of the principal amount of the 2008 bond anticipation notes, and the interest due on such notes, was paid from money set aside to promote affordable housing. The County is obligated by the terms of a payment agreement with FCRHA, subject to the appropriation of funds for the purpose, to pay amounts equal to the interest on and the principal of the Series 2009 Bonds. The coincidental terms of the Series 2009 Bonds and the related payment agreement extend to October 2039.

In July 2011, EDA issued \$99,430,000 of Revenue Bonds (Wiehle Avenue Metrorail Station Parking Project). The bonds were issued to finance a portion of the costs of construction of a public parking facility to serve the Wiehle Avenue Metrorail Station that is being constructed as part of the extension of Washington Metropolitan Area Transit Authority's Metrorail System in the Dulles Corridor. The County is obligated by contract with EDA to pay amounts equal to debt service on EDA's bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to August 2034.

In May 2012, EDA issued \$65,965,000 of Revenue Bonds (Community Services Facilities Projects) backed by a contract between the County and EDA. The bonds were issued to finance the improvement of certain properties to be used by the County as a mental health facility and as a neighborhood community center. The County is obligated by a contract with EDA to pay amounts equal to debt service on such bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the bonds and the contract extend to March 2042.

In November 2013, the County issued an \$11,085,000 special subfund revenue bond (the "2013 VRA Bond") to Virginia Resources Authority ("VRA"). In return for issuing the 2013 VRA Bond, VRA provided the County with a portion of the proceeds realized from its autumn 2013 pooled financing bond transaction. The 2013 VRA Bond was issued to finance renovations to a complex that serves as a senior housing and assisted living facility, a senior center and an adult day health care center in the County. The County is obligated by a contract with VRA to pay amounts equal to the debt service on the 2013 VRA Bond. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the 2013 VRA Bond and the contract extend to October 2033.

[In December 2013, EDA and the County entered into a master credit agreement with Bank of America, N.A., pursuant to which a revolving line of credit in an amount of up to \$100,000,000 is made available to the County to provide interim financing for projects within the County's Capital Improvement Program or other similar projects.]

In December 2013, EDA and the County entered into a loan agreement with T.D. Bank, N.A. (the "T.D. Loan Agreement"), pursuant to which the proceeds of the loan in the amount of \$25,000,000 are made available to the County to provide financing for the costs of the planned replacement of County-owned building subsystems such as roofs, electrical systems, HVAC, plumbing systems, carpet replacement, parking lot and garage repairs, fire alarm replacement and emergency generator replacement that have reached the end of their useful life (collectively, "County Building Improvements"). The County is obligated by a contract with EDA to pay amounts equal to the debt service on the loan. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. In March 2015, the County received an additional \$10,000,000 from T.D. Bank, N.A. pursuant to the T.D. Loan Agreement to finance additional County Building Improvements.

In June 2014, EDA issued \$170,690,000 of Fairfax County Facilities Revenue and Refunding Bonds Series 2014 A (County Facilities Projects) (the "2014A County Facilities Projects Bonds"). The 2014 A County Facilities Projects Bonds were issued to provide funds to finance the costs of the construction of a building to serve as a public safety facility for the County and the construction of a related parking garage, to refund and redeem prior to their respective maturities certain outstanding School Board Building Bonds and to capitalize interest on a portion of the Series 2014A County Facilities Projects Bonds up to and including the October 1, 2016, interest payment date. The County is obligated

by a contract with EDA to pay amounts equal to debt service on such bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the Series 2014A County Facilities Projects Bonds and the contract extend to October, 2034.

In June 2014, EDA issued \$30,175,000 of Fairfax County Facilities Revenue Bonds Series 2014 B (Federally Taxable) (County Facilities Projects) (the "2014B County Facilities Projects Bonds, and together with the 2014A County Facilities Projects Bonds, the "2014 County Facilities Projects Bonds") to provide funds to permanently finance the leasehold acquisition from LAF, LLC, of the Workhouse Arts Center located in the southeastern corner of the County, for a price sufficient to enable the lessee to retire all of its indebtedness relating to the Workhouse Arts Center. The County leased the 55-acre site and existing historic structures of the Lorton Correctional Complex to the lessee in 2006, and the lessee incurred over \$50 million in debt through EDA to finance improvements to convert the Complex into a center for visual and performing arts. The County plans to provide for the continuation of the existing educational and cultural programs at the Center, while the County conducts a study of the optimum uses of and develops plans for further improvements to the Center. The County is obligated by a contract with EDA to pay amounts equal to debt service on such bonds. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The coincidental terms of the 2014A County Facilities Projects Bonds and the contract extend to October, 2033.

On December 17, 2014, EDA entered into a loan agreement with the United States Department of Transportation and obtained a Transportation Infrastructure Financing and Innovation Act (TIFIA) loan in the principal amount up to \$403,274,894 (plus capitalized interest). Proceeds from the TIFIA loan will be used to finance the County's share of Phase II of the Silver Line Metrorail expansion. The County is obligated by a contract with the EDA to pay amounts equal to debt service on the TIFIA loan. The County's obligation to make such payments is subject to the annual appropriation by the Board of Supervisors of sufficient funds for such purpose. The terms of the TIFIA loan provide for repayment to begin October 1, 2023 and end April 1, 2046. At June 30, 2015, the outstanding principal of the TIFIA loan was \$20,703,448.

Lease Commitments and Contractual Obligations

The County leases certain real estate, equipment, and sewer facilities under various long-term lease agreements. In addition, pursuant to contracts with Arlington County, the Alexandria Sanitation Authority, the District of Columbia, and the Upper Occoquan Sewage Authority, the County is obligated to share the capital costs and associated debt service of certain facilities.

[In 1989 and 1990, EDA issued \$26,765,000 of parking revenue bonds to finance construction of parking structures near the Vienna Metrorail Station and the Huntington Metrorail Station in Fairfax County. All obligations relating to the construction of such parking structures have now been paid. EDA issued \$25.735 million in bonds on November 10, 1999, to finance a second parking structure at the Vienna Metrorail Station. In August 2005, EDA issued \$18,695,000 in bonds to refund all of the callable 1999 parking revenue bonds. The parking revenue bonds are payable under a lease with WMATA from revenues to be derived by WMATA from parking surcharges at these and other parking facilities in Fairfax County. In the event such revenues are not sufficient to pay debt service on the parking revenue bonds and under certain other conditions, the County is, in effect, obligated, subject to annual appropriation by its Board of Supervisors, to make payments to EDA sufficient to pay such debt service. **[most likely will delete paragraph if bonds redeemed]**

In February 1990, the Northern Virginia Transportation Commission (“NVTC”) issued \$79.4 million of bonds to finance certain costs associated with the establishment of commuter rail services (the Virginia Railway Express) in the area of Northern Virginia bordering Washington, D.C. Fairfax County has joined with other jurisdictions through a Master Agreement to bear certain costs associated with operating and insuring the rail service as well as servicing the debt issued by NVTC. The Master Agreement requires that the County’s governmental officers charged with preparing its annual budget include an amount equal to its share of the costs of the Virginia Railway Express. Each jurisdiction’s share is determined by a formula set out in the Master Agreement. Fairfax County’s share of this cost was \$4.9 million in FY 2015. An additional \$23 million in NVTC commuter rail revenue bonds were issued in early 1997 to purchase new rail coaches. Debt service on these bonds is being funded predominantly by Commonwealth and federal funds and VRE revenues.

On October 29, 2003, EDA issued \$33,375,000 transportation contract revenue bonds to provide \$30,000,000 to the Commonwealth Transportation Board (CTB) for construction of certain interchanges on Route 28 in the Route 28 Highway Transportation District, which is partly in Fairfax County and partly in Loudoun County. On August 26, 2004, EDA issued \$57,410,000 transportation contract revenue bonds to provide an additional \$60 million for construction of additional interchanges. The bonds issued in 2003 and 2004 financed the construction of six interchanges. In March 2007, EDA issued \$41,505,000 transportation contract revenue bonds to finance a portion of the costs of constructing an additional four interchanges in the Route 28 Highway Transportation District. In July 2008, EDA issued \$51,505,000 transportation contract revenue bonds to finance additional costs of constructing the additional four interchanges on Route 28. See also the discussion of taxes levied by the County in the Route 28 Highway Transportation Improvement District, located partly in the County, to pay debt service on CTB and EDA bonds in “GOVERNMENT SERVICES – Transportation – *Tax Districts*” herein. In May, 2012, EDA issued bonds to refund a portion of the bonds issued in 2003 and 2004 and in August 2016 EDA issued bonds to refund all of the outstanding bonds issued in March 2007 and a portion of the outstanding bonds issued in July 2008.

On May 26, 2011, EDA issued \$205,705,000 Transportation District Improvement Revenue Bonds (Silver Line Phase I Project) Series 2011 which provided \$220 million to provide a portion of the financing for the expansion of Metrorail of approximately 11.5 miles of rail line through the County’s primary urban center, Tysons to Reston. On October 10, 2012, EDA issued an additional \$42,390,000 Transportation District Improvement Revenue Bonds (Silver Line Phase I Project) Series 2012 to provide \$48,400,000 for this purpose. Debt service on the bonds is paid from a special improvements tax levied by the County on commercial and industrial use property located in the Phase I Dulles Rail Transportation Improvement District within the County. On March 16, 2016, EDA issued \$173,960,000 Transportation District Improvement Revenue Refunding Bonds (Silver Line Phase I Project) Series 2016 which refunded certain of the outstanding bonds issued in 2011 and 2012.

On June 9, 2011, the Mosaic District Community Development Authority (the “CDA”) issued \$46,980,000 Revenue Bonds, Series 2011A, and the CDA issued in July, 2011 an additional \$18,670,000 Revenue Bonds, Taxable Series 2011A-T (collectively, the “CDA Bonds”). Proceeds from the CDA Bonds were used to finance certain public infrastructure improvements within the Mosaic District Community Development Authority District (the “Mosaic District”) to support a mixed-use development to be constructed within the Mosaic District. The CDA Bonds are payable primarily from certain incremental real estate tax revenues collected by the County in the District and certain special assessments imposed and collected within the by the County within the Mosaic District. The payment of incremental real estate tax revenues and special assessments, as applicable, by the County to the CDA to be used for debt service payments on the CDA Bonds is subject to appropriation by the County.

Debt Service on Tax Supported Debt Obligations

[Total principal and interest payments on the County's outstanding tax supported debt obligations, including general obligation bonds and other tax supported debt obligations are presented in the following table as of February 29, 2016:

| Fiscal Year Ending June 30 | General Obligation Bonds | | Other Tax Supported Debt Obligations | | Total² |
|---|---------------------------------|-----------------------------|---|----------------------|--------------------------|
| | Principal | Interest¹ | Principal | Interest | |
| 2017 | \$178,160,000 | \$92,467,175 | \$34,938,849 | \$24,704,404 | \$330,270,428 |
| 2018 | 180,670,000 | 84,914,510 | 51,813,773 ³ | 23,330,964 | 340,729,247 |
| 2019 | 178,710,000 | 76,937,015 | 39,198,872 | 21,372,759 | 316,218,646 |
| 2020 | 170,465,000 | 69,056,775 | 26,059,151 | 20,076,300 | 285,657,226 |
| 2021 | 163,330,000 | 61,462,480 | 24,604,618 | 18,980,624 | 268,377,722 |
| 2022 | 154,550,000 | 54,188,640 | 25,165,278 | 17,870,211 | 251,774,129 |
| 2023 | 145,810,000 | 47,321,475 | 25,766,139 | 16,729,010 | 235,626,624 |
| 2024 | 134,075,000 | 40,564,305 | 22,653,724 | 15,636,359 | 212,929,388 |
| 2025 | 130,795,000 | 33,964,655 | 23,250,000 | 14,622,266 | 202,631,921 |
| 2026 | 120,625,000 | 28,431,625 | 23,552,500 | 13,588,846 | 186,197,971 |
| 2027 | 113,025,000 | 23,441,840 | 23,885,000 | 12,536,687 | 172,888,527 |
| 2028 | 100,755,000 | 19,228,900 | 24,585,000 | 11,467,314 | 156,036,214 |
| 2029 | 88,575,000 | 15,452,905 | 25,320,000 | 10,360,909 | 139,708,814 |
| 2030 | 78,165,000 | 11,972,313 | 26,030,000 | 9,200,538 | 125,367,850 |
| 2031 | 64,580,000 | 8,963,600 | 26,865,000 | 7,994,105 | 108,402,705 |
| 2032 | 56,620,000 | 6,453,725 | 27,730,000 | 6,735,521 | 97,539,246 |
| 2033 | 45,745,000 | 4,086,025 | 26,685,000 | 5,421,092 | 81,937,117 |
| 2034 | 35,430,000 | 2,302,450 | 26,590,000 | 4,140,115 | 68,462,565 |
| 2035-2044 | <u>33,065,000</u> | <u>1,312,300</u> | <u>73,025,000</u> | <u>10,492,931</u> | <u>117,895,231</u> |
| Total ² | <u>\$2,214,365,000</u> | <u>\$726,430,784</u> | <u>\$596,158,036</u> | <u>\$277,922,264</u> | <u>\$3,814,876,084</u> |

Source: Fairfax County Department of Management and Budget

¹ Does not reflect anticipated payments by the United States Treasury with respect to the County's Public Improvement Bonds Series 2009E (Federally Taxable - Build America Bonds).

² Totals may not add due to rounding.

³ Includes the debt service on the Crescent Apartments Loan Agreement, including the \$13,260,000 principal installment of the Crescent Apartments Loan Agreement due on March 1, 2018, which is expected to be refinanced.

Sewer Revenue Bonds

In 1986, the County issued \$75 million of an authorized \$179 of million sewer revenue bonds pursuant to a General Bond Resolution adopted by the Board of Supervisors (the "General Bond Resolution"). The proceeds were expended to finance the expansion of the wastewater treatment facilities at the Noman M. Cole, Jr., Pollution Control Plant from 36 mgd to 54 mgd and the County's share of the cost of expanding facilities at the District of Columbia's Blue Plains Wastewater Treatment Plant. The treatment capacity of the Blue Plains Plant expanded from 309 mgd to 370 mgd, and the County's share increased from 16.02 mgd to 31.0 mgd. In 1993, the County issued \$72.1 million sewer revenue

refunding bonds to advance refund for debt service savings a portion of its outstanding sewer revenue bonds. In July 1996, the County issued the remaining authorized but unissued \$104 million sewer revenue bonds to finance additional expansion and improvements to its Noman M. Cole, Jr., Pollution Control Plant. On November 15, 2003, the County redeemed from available funds of the Integrated Sewer System the outstanding balance of its 1993 sewer revenue refunding bonds. On October 14, 2004, the County issued its \$94.005 million sewer revenue refunding bonds to advance refund for debt service savings all of the callable 1996 sewer revenue bonds. On June 17, 2009, the County issued its \$152.255 million sewer revenue bonds to finance a portion of the upgrade costs allocable to the County at certain wastewater treatment facilities that are owned by, or that provide service to, the County, the purchase of additional capacity at certain wastewater treatment facilities for the benefit of the County and the costs of certain additions, extensions and improvements to the County's sewage collection, treatment and disposal systems. On August 8, 2012, the County issued its \$90.710 million sewer revenue bonds to finance a portion of capital improvement costs allocable to the County at certain wastewater facilities that are owned by, or that provide service to, the County, which are required by the Commonwealth to reduce nitrogen discharge, the purchase of additional capacity at certain wastewater treatment facilities for the benefit of the County and the costs of certain additions, extensions and improvements to the County's sewage collection, treatment and disposal systems. On April 16, 2014, the County issued its \$61.755 million sewer revenue refunding bonds to advance refund for debt service savings a portion of the callable 2004 sewer revenue bonds. On May 12, 2016, the County issued its \$164,450,000 sewer revenue refunding bonds to advance refund for debt service savings certain callable 2009 bonds and 2012 bonds.

Wastewater treatment capacity and services are also provided to the Integrated Sewer System pursuant to contracts with Arlington County, the Alexandria Renew Enterprises ("ARE"), the District of Columbia, and the Upper Occoquan Sewage Authority ("UOSA"), whereby the County is obligated to share the capital costs and associated debt service of certain facilities. The County's obligations to such entities are payable solely from the revenues of the Integrated Sewer System on a basis, under the General Bond Resolution, subordinate to its sewer revenue bonds, and are not general obligations of the County. Further information concerning these obligations is included in Notes J and K to the County's Basic Financial Statements.

The County has entered into a service agreement with ARE that obligates the County for 60% of the cost of capacity of the ARE wastewater treatment plant and a joint use system, including debt service on ARE bonds issued for ARE system improvements where the County does not otherwise provide for its share of the capital cost of such improvements. The County's share of previous upgrades was \$200 million. The County's share of additional upgrades, as estimated by ARE, is approximately \$80 million. The County obtained permanent funding from the Virginia Water Facilities Revolving Fund in FY 2001 and again in FY 2002 for a portion of its share of the initial costs from the proceeds of two loans aggregating \$90 million. The County issued to the Virginia Water Facilities Revolving Fund the County's \$40 million subordinated sewer revenue bonds which now bear interest at the rate of 0.95% per annum and \$50 million subordinated sewer revenue bonds which now bear interest at the rate of 0.95% per annum, in evidence of its obligation to repay the loans. The County expects to provide the balance of its share of the costs of ARE's improvement project from other borrowings and available Integrated Sewer System funds.

In January 1996, UOSA issued \$330.86 million of bonds: \$288.60 million to finance the cost of expanding its advanced wastewater treatment plant from 32 mgd to 54 mgd and \$42.26 million to refinance certain of its outstanding bonds. In January 2004, UOSA refunded a portion of this debt for debt service savings and accordingly revised the participating member jurisdictions' debt service schedules. In November 2004, July 2005, and again in February 2007, UOSA refunded additional portions of its outstanding debt. In February of 2007, UOSA issued \$90,315,000 of Regional Sewer System Revenue Refunding Bonds to advance refund another portion of the outstanding bonds issued in

1996. In December 2007, UOSA issued \$119,715,000 in bonds to finance the expansion and replacement of certain systems within its wastewater treatment plant. In December 2010, UOSA issued \$85.18 million in bonds to finance UOSA capital improvements including interceptor and pump delivery systems, nutrient reduction projects and miscellaneous plant and hydraulic improvements. See the table below for the County's debt service obligations on outstanding UOSA bonds. In 2013 UOSA issued two series of refunding bonds for debt service savings and accordingly reduced the participating member jurisdictions' debt service payment requirements. In 2014 UOSA issued another series of refunding bonds for debt service savings and again reduced the participating member jurisdictions' debt service payment requirements.

The debt service on the County's outstanding sewer revenue bonds, its subordinated sewer revenue bonds payable to the Virginia Water Facilities Revolving Fund evidencing loans for a portion of the County's costs associated with the ARE improvement project, and its subordinated obligations payable for capacity under its contract with UOSA, is reflected in the following table as of July 1, 2016:

| Fiscal Year Ending June 30 | Sewer Revenue Bonds⁽¹⁾ | | Other Sewer Debt Service Obligations | | Total³ |
|---------------------------------------|--|----------------------|---|-------------------------|--------------------------|
| | Principal | Interest | SRF/VRA¹ | UOSA² | |
| 2016 ⁽⁴⁾ | \$7,655,000 | \$13,241,350 | \$6,203,277 | \$20,016,677 | \$47,116,304 |
| 2017 | 7,980,000 | 12,938,500 | 6,203,277 | 20,014,867 | 47,136,644 |
| 2018 | 8,365,000 | 12,562,625 | 6,203,277 | 20,015,966 | 47,146,868 |
| 2019 | 8,810,000 | 12,133,250 | 6,203,277 | 20,013,108 | 47,159,635 |
| 2020 | 9,295,000 | 11,680,625 | 6,203,277 | 20,014,406 | 47,193,308 |
| 2021 | 9,780,000 | 11,203,750 | 6,203,278 | 19,668,258 | 46,855,286 |
| 2022 | 10,295,000 | 10,701,875 | 3,412,199 | 22,654,711 | 47,063,785 |
| 2023 | 10,835,000 | 10,173,625 | - | 20,221,591 | 41,230,216 |
| 2024 | 11,410,000 | 9,617,500 | - | 20,221,985 | 41,249,485 |
| 2025 | 11,985,000 | 9,055,650 | - | 20,224,190 | 41,264,840 |
| 2026 | 12,510,000 | 8,542,325 | - | 27,519,796 | 48,572,121 |
| 2027 | 13,020,000 | 8,058,950 | - | 20,844,160 | 41,923,110 |
| 2028 | 13,530,000 | 7,548,713 | - | 20,840,646 | 41,919,358 |
| 2029 | 14,100,000 | 6,983,138 | - | 20,843,153 | 41,926,290 |
| 2030 | 8,735,000 | 6,470,338 | - | 8,150,355 | 23,355,693 |
| 2031 | 9,170,000 | 6,038,188 | - | 8,155,677 | 23,363,865 |
| 2032 | 9,620,000 | 5,584,625 | - | 8,150,312 | 23,354,937 |
| 2033 | 10,100,000 | 5,108,563 | - | 8,066,569 | 23,275,131 |
| 2034 | 10,600,000 | 4,608,788 | - | 7,792,216 | 23,001,004 |
| 2035 | 11,125,000 | 4,084,200 | - | 7,793,931 | 23,003,131 |
| 2036 | 11,675,000 | 3,533,588 | - | 7,791,605 | 23,000,193 |
| 2037 | 12,255,000 | 2,955,625 | - | 7,791,753 | 23,002,378 |
| 2038 | 12,860,000 | 2,348,975 | - | 7,791,180 | 23,000,155 |
| 2039 | 13,495,000 | 1,712,300 | - | 7,604,668 | 22,811,968 |
| 2040 | 14,165,000 | 1,044,025 | - | 7,603,965 | 22,812,990 |
| 2041 | 4,965,000 | 590,063 | - | 6,427,811 | 11,982,874 |
| 2042 | 5,195,000 | 361,463 | - | 1,900,094 | 7,456,556 |
| 2043 | 5,435,000 | 122,288 | - | 1,899,531 | 7,456,819 |
| Total ⁽⁴⁾ | <u>\$288,965,000</u> | <u>\$189,004,900</u> | <u>\$40,631,864</u> | <u>\$390,033,181</u> | <u>\$908,634,945</u> |

Source: Fairfax County Department of Public Works and Environmental Services

¹ Debt service on the County's subordinated sewer revenue bonds issued to the Virginia Water Facilities Revolving Fund evidencing the County's obligation to repay \$90 million in loans made to the County by Virginia Resources Authority from the Fund.

² Based on the County's share of scheduled UOSA debt service. Does not reflect any anticipated payments by the United States Treasury on outstanding UOSA Build America Bonds.

³ Totals may not add due to rounding.

⁴ Includes all debt service payable in Fiscal Year 2016..

Debt Ratios

The following data show trends in the relationship of the general obligation bond indebtedness of the County to the estimated market value of taxable property in the County and to its estimated population and the trend of general obligation debt service requirements as a percentage of General Fund disbursements.

Trend of Debt as a Percentage of Estimated Market Value of Taxable Property (in 000s)

| Fiscal Year Ended June 30 | Bonded Indebtedness¹ | Estimated Market Value² | Percentage |
|--------------------------------------|--|---|-------------------|
| 2008 | \$2,109,908 | \$245,338,140 | 0.86% |
| 2009 | 2,131,273 | 244,973,908 | 0.87 |
| 2010 | 2,318,699 | 222,951,827 | 1.04 |
| 2011 | 2,554,051 | 204,324,080 | 1.25 |
| 2012 | 2,734,135 | 210,318,077 | 1.30 |
| 2013 | 2,514,452 | 211,298,487 | 1.19 |
| 2014 | 2,766,717 | 224,369,644 | 1.23 |
| 2015 | 2,770,822 | 236,403,666 | 1.17 |
| 2016 ³ | 2,876,095 | 241,013,081 | 1.19% |
| 2017 ³ | 2,884,488 | 248,078,113 | 1.16% |

Source: Fairfax County Comprehensive Annual Financial Report FY 2008-2015

¹ Bonded Indebtedness beginning with Fiscal Year 2013 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with Fiscal Year 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount. The total includes General Obligation Bonds and other tax supported debt payable from the General Fund including the County's obligation to make payments with respect to "Other Tax Supported Debt Obligations."

² Estimated market value is based on recorded values as of January 1 of the prior fiscal year, and reflects the original book value and does not reflect any adjustments made during the fiscal year.

³ Estimates per the FY 2016 Revised Budget Plan and FY 2017 Adopted Budget Plan per Fairfax County Department of Management and Budget.

Debt Per Capita

| Fiscal Year Ended June 30 | Bonded Indebtedness (in 000s)¹ | Estimated Population (in 000s)² | Bonded Indebtedness Per Capita | Fairfax County Per Capita Income³ | Debt Per Capita as Percentage of Per Capita Income |
|--|--|---|---|---|---|
| 2008 | \$2,109,908 | 1,046 | \$2,018 | \$70,822 | 2.85% |
| 2009 | 2,131,273 | 1,052 | 2,026 | 69,241 | 2.93 |
| 2010 | 2,318,699 | 1,082 | 2,144 | 67,094 | 3.20 |
| 2011 | 2,554,051 | 1,104 | 2,313 | 64,637 | 3.58 |
| 2012 | 2,734,135 | 1,119 | 2,444 | 68,847 | 3.55 |
| 2013 | 2,514,452 | 1,131 | 2,223 | 71,607 | 3.10 |
| 2014 | 2,766,717 | 1,138 | 2,432 | 71,752 | 3.39 |
| 2015 | 2,770,822 | 1,138 | 2,435 | 71,752 | 3.39 |
| 2016 | 2,876,095 | 1,142 | 2,518 | 71,752 | 3.51 |
| 2017 | 2,884,488 | 1,142 | 2,526 | 71,752 | 3.52 |

Source: Fairfax County Comprehensive Annual Financial Report FY 2015

¹ Bonded Indebtedness beginning with Fiscal Year 2013 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with Fiscal Year 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount.

² U.S. Census Bureau, 2010 Decennial Censuses, U.S. Census Bureau, 2010 Decennial Census, U. S. Census Bureau Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015 (2011-2015)

³ Source: Bureau of Economic Analysis (BEA), U.S. Department of Commerce, 2006-2008 and Fairfax County Department of Management and Budget 2009-2014.

Debt Service Requirements as a
Percentage of General Fund Disbursements (in 000s)

| Fiscal Year Ended June 30 | Debt Service Requirements¹ | General Fund Disbursements | Percentage |
|--|--|---------------------------------------|-------------------|
| 2008 | \$267,624 | \$3,320,397 | 8.06% |
| 2009 | 276,105 | 3,354,860 | 8.23 |
| 2010 | 277,370 | 3,309,905 | 8.38 |
| 2011 | 285,551 | 3,343,689 | 8.54 |
| 2012 | 288,302 | 3,419,953 | 8.43 |
| 2013 | 289,714 | 3,533,098 | 8.20 |
| 2014 | 295,451 | 3,637,841 | 8.12 |
| 2015 | 313,969 | 3,729,625 | 8.42 |
| 2016 ² | 336,371 | 3,894,131 | 8.64 |
| 2017 ² | 333,904 | 4,012,540 | 8.32 |

Source: Fairfax County Comprehensive Annual Financial Report FY 2015

¹ The Debt Service Requirements include total principal and interest payments on the County's outstanding tax supported debt obligations, including all debt listed under the heading "Other Tax Supported Debt Obligations."

² Estimates per the FY 2016 Revised Budget Plan and FY 2017 Adopted Budget Plan per Fairfax County Department of Management and Budget.

Underlying Bonded Indebtedness

The following table shows the underlying bonded indebtedness of towns within the boundaries of Fairfax County as of June 30, 2015:

| | | |
|-------------------------------|---|---------------------|
| Town of Vienna ¹ | General Obligation Bonds and Public Improvement Notes | \$17,863,000 |
| Town of Herndon ¹ | General Obligation Bonds | <u>12,359,712</u> |
| Total Underlying Indebtedness | | <u>\$30,222,712</u> |

Source: Fairfax County Comprehensive Annual Financial Report 2015

¹ Town of Vienna, Town of Herndon. Bonded Indebtedness for Fiscal Year 2015 included herein differs from the data shown in Tables 3.1, 3.2 and 3.4 of the Statistical Section of the County's Comprehensive Annual Financial Report based on the treatment of bond premium and discounts. In the Comprehensive Annual Financial Report, beginning with FY 2013, Bonded Indebtedness represents principal outstanding plus unamortized premium (minus unamortized discount). In the table above, Bonded Indebtedness is based on outstanding principal without adjustment for unamortized premium or discount.

These underlying general obligation bonds are obligations of the respective towns only and are not obligations of Fairfax County.

The bonds, notes and other obligations of Fairfax Water, the Fairfax County Park Authority, the Fairfax County Industrial Development Authority, the Fairfax County Economic Development Authority, the Fairfax County Redevelopment and Housing Authority, the Northern Virginia Health Center Commission, the Northern Virginia Transportation Commission, and the Mosaic District Community Development Authority are not obligations of the County.

TAX BASE DATA

Fairfax County annually reassesses over 350,000 parcels of real property employing a computer assisted mass reassessment program for both residential and non-residential properties. The County uses a statistic called the coefficient of dispersion (the "Coefficient of Dispersion") which measures the uniformity of assessment to sale ratios among properties. The lower the coefficient of dispersion, the more uniform the assessment. The overall Coefficient of Dispersion in Fairfax County for tax year 2014 (FY 2015) was 3.9%, and the assessment to sales price ratio was 0.936. A Coefficient of Dispersion of 15% is considered good by professional assessing standards. The County falls into the excellent category, indicating a high degree of assessment uniformity and equity.

The assessed value for FY 2017 of the real estate tax base, as reported for calendar year 2016 assessments in the main tax book for Fairfax County, increased by 3.0% in value from the prior year.

The data in the following five tables are presented to illustrate trends and characteristics of the assessed value of real and personal property which are major sources of County-derived revenue:

Assessed Value of All Taxable Property¹

| <u>Fiscal Year</u> | <u>Real Property</u> | <u>Personal Property</u> | <u>Total</u> |
|--------------------|----------------------|--------------------------|-------------------|
| 2008 | \$226,344,848,687 | \$14,968,086,737 | \$241,312,935,424 |
| 2009 | 226,983,531,614 | 15,516,080,309 | 242,499,611,923 |
| 2010 | 204,047,166,164 | 14,502,191,112 | 218,549,357,276 |
| 2011 | 185,755,271,151 | 14,767,968,334 | 200,523,239,485 |
| 2012 | 192,062,068,734 | 15,265,499,862 | 207,327,568,596 |
| 2013 | 198,178,754,789 | 16,053,881,534 | 214,232,636,323 |
| 2014 | 205,045,008,994 | 16,420,356,751 | 221,465,365,745 |
| 2015 | 216,830,917,406 | 16,518,808,610 | 233,349,726,016 |
| 2016 ² | 224,319,188,163 | 16,806,001,014 | 241,013,081,462 |
| 2017 ³ | 231,053,798,265 | 17,024,314,268 | 248,078,112,533 |

Source: Fairfax County Department of Tax Administration and Department of Management and Budget. All years included figures for the Public Service Corporation. All Public Service Corporation real property assessments are required under Virginia law to be made at 100% of estimated market value annually by the State Corporation Commission.

¹ Figures are net of exonerated assessments and tax relief for the elderly and disabled.

² Estimates per the FY 2016 Revised Budget Plan and FY 2017 Adopted Budget Plan per Fairfax County Department of Management and Budget. Fiscal year property taxes are levied on prior year assessments.

Tax Rates per \$100 Assessed Value (Fiscal Year)

| <u>Tax Category</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Real Estate – Regular and Public Service | \$0.89 | \$0.92 | \$1.04 | \$1.09 | \$1.07 | \$1.08 | \$1.09 | \$1.09 | \$1.09 | \$1.13 |
| Personal Property – Regular | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 |
| Personal Property – Public Service | 0.89 | 0.92 | 1.04 | 1.09 | 1.07 | 1.075 | 1.085 | 1.09 | 1.09 | 1.13 |
| Personal Property – Machinery and Tools | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 |
| Personal Property – Development | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 | 4.57 |
| Personal Property – Mobile Homes | 0.89 | 0.92 | 1.04 | 1.09 | 1.07 | 1.075 | 1.085 | 1.09 | 1.09 | 1.13 |
| Personal Property – Special ¹ | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 | 0.01 |

Source: Fairfax County Adopted Budgets, FY 2008-FY 2017

¹ Includes vehicles specially equipped for the handicapped, privately owned vans used for van pools, vehicles belonging to volunteer fire and rescue squad members, vehicles owned by auxiliary police and reserve deputy sheriffs, certain property of homeowners associations, antique cars, aircraft, including flight simulators, and motor vehicles owned by qualified elderly or disabled individuals, and boats.

**Commercial-Industrial Percentage of the
Total Assessed Value of Real Property¹**

| <u>Fiscal Year²</u> | <u>Percent (%)³</u> |
|---------------------------------------|---------------------------------------|
| 2008 | 19.23 |
| 2009 | 21.06 |
| 2010 | 22.67 |
| 2011 | 19.70 |
| 2012 | 19.64 |
| 2013 | 20.77 |
| 2014 | 19.96 |
| 2015 | 19.01 |
| 2016 | 18.67 |
| 2017 | 18.89 |

Source: Fairfax County Department of Tax Administration

¹ Assessed values are reported by State of Virginia Land Use Codes. Vacant land is defined according to zoning classification.

² Fiscal year property taxes are levied on prior year assessments.

³ Includes the Towns of Vienna, Herndon and Clifton.

The following data show the assessed value of real property of the 25 largest holders of real property in the County as of January 1, 2016.

**Top 25
Holders of Real Property in Fairfax County
As of January 1, 2016**

| Rank | Property Owner | Property Type | Total Assessment¹ |
|--------------|--|--------------------------------------|-------------------------------------|
| 1 | Tysons Corner Property Holdings LLC | Tysons Corner Regional Shopping Mall | \$1,366,631,700 |
| 2 | Fairfax Company Of Virginia LLC | Fair Oaks Mall | 460,727,210 |
| 3 | Pr Springfield Town Center LLC | Commercial & Retail | 452,237,390 |
| 4 | Cesc Skyline LLC | Commercial & Industrial | 386,413,480 |
| 5 | Camden Summit Partnership LP | Apartments | 338,314,320 |
| 6 | Capital One Bank | Office | 336,627,680 |
| 7 | Washington Gas Light Company | Public Utility | 320,797,401 |
| 8 | Federal Home Loan Mortgage Corporation | Office | 314,241,930 |
| 9 | South Office Market LLC | Office | 282,172,630 |
| 10 | Homart Newco One Inc | Commercial & Industrial | 277,281,870 |
| 11 | Reston Town Center Property LLC | Commercial & Retail | 275,012,620 |
| 12 | Ps Business Parks LP | Industrial Parks | 258,348,800 |
| 13 | Rbdw Avant LLC | Office | 238,267,610 |
| 14 | Hyundai Able Patriots Park LLC | Office | 235,677,290 |
| 15 | Tamares 7950 Owner LLC | Office | 235,346,940 |
| 16 | Sri Seven Fair Lakes LLC | Commercial & Industrial | 229,760,290 |
| 17 | Home Properties Mount Vernon LLC | Apartments and Office | 229,272,660 |
| 18 | Writ LP | Commercial & Industrial | 215,042,750 |
| 19 | Aimco Riverside Park LLC | Apartments | 211,247,190 |
| 20 | Tysons Corner Office I LLC | Office | 210,975,720 |
| 21 | Gba Associates Limited Partnership | Office | 186,294,110 |
| 22 | Eqr-Skyline Towers LLC | Apartments and Office | 183,533,560 |
| 23 | Mitre Corporation | Office | 181,296,910 |
| 24 | Dunn Loring Development Company LLC | Commercial & Retail | 180,183,270 |
| 25 | Rbdw Amberleigh LLC | Apartments | 176,220,650 |
| Total | | | \$7,781,925,981 |

Source: Fairfax County Department of Tax Administration, January 1, 2016, tax rolls

¹ As of January 1, 2016, the assessed value of the real property of the 25 largest holders of real property in the County represented 3.37% of the total assessed value of all real property in Fairfax County, excluding tax-exempt properties. January 1, 2016, assessments generate tax revenue in FY 2017.

**Real and Personal Property
Tax Levies and Tax Collections**

| Fiscal Year | Total Levy¹ | Current Collections² | % of Total Levy Collected³ | Collection of Delinquent Taxes | Total Current & Delinquent Taxes | % of Total Levy & Delinquent Taxes |
|------------------------|-------------------------------|--|--|---|---|---|
| 2008 | \$2,526,532,291 | \$2,517,345,644 | 99.64 | \$22,348,830 | \$2,539,694,474 | 100.52 |
| 2009 | 2,616,413,372 | 2,597,768,048 | 99.29 | 23,406,200 | 2,621,174,248 | 100.18 |
| 2010 | 2,617,630,834 | 2,611,825,961 | 99.78 | 21,900,682 | 2,633,726,643 | 100.61 |
| 2011 | 2,529,322,489 | 2,519,767,097 | 99.62 | 22,696,208 | 2,542,463,305 | 100.52 |
| 2012 | 2,578,579,112 | 2,563,131,721 | 99.40 | 22,034,282 | 2,585,166,003 | 100.26 |
| 2013 | 2,685,186,192 | 2,679,668,935 | 99.79 | 18,659,978 | 2,698,328,913 | 100.49 |
| 2014 | 2,789,010,004 | 2,776,199,493 | 99.54 | 21,735,390 | 2,797,934,883 | 100.32 |
| 2015 | 2,932,029,373 | 2,926,228,317 | 99.80 | 23,425,378 | 2,949,653,695 | 100.60 |
| 2016 | 3,025,147,403 | 3,033,027,340 | 99.50 | 22,014,102 | 3,033,027,340 ⁴ | 100.26 |
| 2017 | 3,199,369,328 | 3,184,640,504 | 99.50 | 22,014,102 | 3,206,654,606 ⁴ | 100.23 |

Sources: Fairfax County Department of Management and Budget and Department of Tax Administration

¹ The total levy is the levy for General Fund real and personal property taxes and does not include the property tax levy for Special Revenue Funds, e.g. for refuse collection and community centers.

² Current collections do not include tax collections for the Special Revenue Funds or payments in lieu of taxes. As a result of revised accounting procedures, the collection of penalty and interest payments for late payments of current taxes is included in the collection of current taxes rather than under the collection of back taxes.

³ The percentage of levy is not the collection rate since current collections also include penalty and interest payments for late payments of current taxes.

⁴ FY 2008 through FY 2015 from Fairfax County Comprehensive Annual Financial Reports; FY 2016 and FY 2017 are estimates per the FY 2017 Adopted Budget per Fairfax County Department of Management and Budget and Department of Tax Administration.

Section 58.1-3916 of the Code of Virginia authorizes Fairfax County, pursuant to Section 4-10-1 of the County Code, to impose a penalty of 10% for failure to pay taxes when due, with interest to be due on such taxes and penalty following the day such taxes are due at the rate of 10% per annum the first year and at the greater of 10% per annum and the rate established pursuant to Section 6621 of the Internal Revenue Code for the second and subsequent years of delinquency.

FINANCIAL INFORMATION

Five Year Summary of Revenues, Expenditures and Fund Balances for the General Fund

The financial data shown in the following table represent a summary for the five fiscal years ended June 30, 2016, of the revenues, expenditures, and fund balances accounted for in the County's General Fund.

| | Fiscal Years Ended June 30 | | | | |
|---|----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| REVENUES | | | | | |
| Taxes | \$ 2,827,326,585 | \$ 2,881,577,799 | \$ 3,008,000,381 | \$ 3,091,497,604 | \$ 3,233,977,029 |
| Permits, fees, and licenses | 34,267,179 | 36,843,892 | 38,201,352 | 39,351,756 | 45,545,990 |
| Intergovernmental | 348,640,195 | 347,750,676 | 339,758,071 | 345,208,093 | 344,894,850 |
| Charges for services | 64,102,781 | 66,804,146 | 68,546,107 | 69,207,776 | 71,273,201 |
| Fines and forfeitures | 16,563,245 | 17,147,019 | 16,792,348 | 16,669,844 | 16,298,999 |
| Developers' contributions | - | - | 10,473 | 14,906 | 5,757 |
| Use of money and property | 19,988,418 | 19,624,211 | 18,554,603 | 15,033,510 | 15,701,691 |
| Recovered costs | 12,613,615 | 12,351,649 | 7,695,967 | 9,426,879 | 11,655,234 |
| Gifts, donations, and contributions | 1,317,536 | 1,145,815 | 1,294,507 | 771,379 | 916,287 |
| Total revenues | \$ 3,324,819,554 | \$ 3,383,245,207 | \$ 3,498,853,809 | \$ 3,587,181,747 | \$ 3,740,269,038 |
| EXPENDITURES | | | | | |
| Current: | | | | | |
| General government admin. | \$ 123,805,513 | \$ 134,174,444 | \$ 165,846,296 | \$ 163,828,478 | \$ 162,063,387 |
| Judicial administration | 48,904,332 | 48,614,484 | 44,865,364 | 49,302,583 | 52,120,422 |
| Public safety | 519,345,496 | 540,295,384 | 581,786,118 | 620,073,326 | 634,174,750 |
| Public works | 78,263,533 | 83,525,370 | 79,745,099 | 86,012,739 | 84,038,207 |
| Health and welfare | 339,071,477 | 362,790,788 | 349,735,140 | 352,430,786 | 362,016,707 |
| Community development | 53,629,631 | 54,506,493 | 49,760,626 | 55,705,696 | 57,331,723 |
| Parks, recreation, and cultural | 32,597,281 | 34,383,659 | 37,985,735 | 35,409,661 | 34,297,699 |
| Intergovernmental: | | | | | |
| Community development | 9,437,885 | 9,828,749 | 9,989,987 | 10,382,091 | 10,492,636 |
| Parks, recreation, and cultural | 30,572,280 | 31,890,125 | 29,591,048 | 31,427,759 | 31,114,997 |
| Education - for Public Schools | 1,611,730,658 | 1,610,974,578 | 1,683,462,921 | 1,717,128,761 | 1,768,588,028 |
| Capital outlay: | | | | | |
| General government admin. | 36,641,724 | 38,902,298 | 9,623,346 | 9,073,520 | 11,071,093 |
| Judicial administration | 25,297 | 120,744 | 167,696 | 54,113 | 225,921 |
| Public safety | 505,804 | 496,518 | 297,806 | 675,118 | 1,388,288 |
| Public works | 161,991 | 336,125 | 614,691 | 106,271 | 128,823 |
| Health and welfare | 609,502 | 525,254 | 628,993 | 213,352 | 319,412 |
| Community development | 37,634 | 8,943 | 19,684 | 27,670 | 7,318 |
| Parks, recreation, and cultural | 3,566,145 | 2,959,225 | 3,564,993 | 3,919,566 | 4,275,727 |
| Debt service: | | | | | |
| Principal retirement | 1,435,411 | 431,927 | 347,692 | 362,258 | 314,660 |
| Interest and other charges | 128,572 | 71,724 | 52,732 | 38,166 | 22,987 |
| Total expenditures | \$ 2,890,470,166 | \$ 2,954,836,832 | \$ 3,048,085,967 | \$ 3,136,171,914 | \$ 3,213,992,785 |
| Revenues over (under) expenditures | \$ 434,349,388 | \$ 428,408,375 | \$ 450,767,842 | \$ 451,009,833 | \$ 526,276,253 |
| OTHER FINANCING SOURCES (USES) | | | | | |
| Transfers in | 9,801,238 | 12,571,043 | 10,030,457 | 24,195,595 | 12,473,516 |
| Transfers out | (454,432,831) | (463,707,216) | (485,201,216) | (501,669,578) | (515,632,051) |
| Total other financing sources | \$ (444,631,593) | \$ (451,136,173) | \$ (475,170,759) | \$ (477,473,983) | \$ (503,158,535) |
| Net change in fund balances | \$ (10,282,205) | \$ (22,727,798) | \$ (24,402,917) | \$ (26,464,150) | \$ 23,117,718 |
| Beginning Fund Balance | \$ 386,681,169 | \$ 376,398,964 | \$ 353,671,166 | \$ 329,268,249 | \$ 302,804,099 |
| Ending Fund Balance ¹ | \$ 376,398,964 | \$ 353,671,166 | \$ 329,268,249 | \$ 302,804,099 | \$ 325,921,817 |

1 – Includes Nonspendable Prepaid Amounts. *Source:* Fairfax County Comprehensive Annual Financial Reports for the fiscal years ended June 30, 2011-2015, Exhibit A-3 Statement of Revenues, Expenditures and Changes in Fund Balance for Governmental Funds.

Financial Policies

The Board of Supervisors has been guided by long-standing financial policies and guidelines in the conduct of financial management. The governing statement of financial policy is contained within the Ten Principles of Sound Financial Management (“Ten Principles”). Adopted by the Board of Supervisors in 1975 and amended as needed to address changing economic conditions and management practices, the Ten Principles have been reaffirmed and have guided each succeeding Board of Supervisors to establish strong fiscal management tools and practices. The Ten Principles provide for the integration of land use planning with capital and operating budgets; establish guidelines for the development of annual balanced budgets; stress the importance of maintaining positive cash balances; establish firm not to exceed limits to debt ratios; provide guidance on cash management, internal controls, and performance measurement; provide guidelines restricting the proliferation of underlying debt and use of moral obligation financing; and encourage the development of a diversified economy within the County.

In 1982, the Board of Supervisors adopted a financial policy requiring maintenance of a “managed reserve” in the General Fund beginning on July 1, 1982, at a level not less than 2% of General Fund disbursements. This reserve has been incorporated in the budget each fiscal year. This reserve was implemented to provide for temporary financing of unforeseen needs of an emergency nature and to permit orderly adjustment to changes resulting from termination of revenue sources through actions of other governmental bodies. In 1985, the Board of Supervisors adopted a policy on appropriations during quarterly budget reviews, which provides that non-recurring revenues should be used for either capital expenditures or other non-recurring expenditures and that quarterly review adjustments are not to exceed 2% of the General Fund disbursements. In addition, on September 13, 1999, the Board of Supervisors established a Revenue Stabilization Fund with a goal of reaching 3% of General Fund disbursements. As of the FY 2006 Third Quarter Review, the Revenue Stabilization Fund was fully funded at 3% of General Fund disbursements. This reserve is designed to address ongoing requirements in years of significant economic downturn. Criteria for withdrawals from the Revenue Stabilization Fund include (1) projected revenues must reflect a decrease of greater than 1.5% from the current fiscal year estimate, (2) withdrawals must not exceed one-half of the fund balance in any fiscal year, and (3) withdrawals must be used in combination with spending cuts or other measures.

From time to time the Board of Supervisors has amended the Ten Principles in order to address changing economic conditions and management practices. Changes adopted on April 21, 2015 have been made which reflect the Board’s commitment to increasing the County’s reserve policies and continue to strengthen the County’s financial position. The Managed Reserve target was increased from 2% to 4% of General Fund disbursements and the Revenue Stabilization Fund target was increased from 3% to 5% of General Fund Receipts. In addition, an Economic Opportunity Reserve was established to stimulate economic growth and will provide for strategic investment opportunities that are identified as priorities by the Board of Supervisors. When fully funded, this reserve will equal 1% of total General Fund disbursements in any given fiscal year. Funding for this reserve would only occur after the Managed Reserve and the Revenue Stabilization Fund are fully funded at their new levels of 4% and 5%, respectively. Funding of this increase will begin immediately; however, it will take several years to fully fund the new target level. As of June 30, 2015, the Managed Reserve and Revenue Stabilization Fund were funded at \$76.7 million and \$121.1 million, respectively.

Other policies and tools that have been designed to enhance the impact of the Ten Principles include annual adoption of budgetary guidelines, formal establishment of various expenditure, revenue, and special purpose reserves, capital improvement planning guidelines, policies for risk management, guidelines for acceptance of grant awards, and planning for information technology. Various tools in active use by the County include the annual budget, the Capital Improvement Program, revenue and

financial forecasts, and management initiatives such as a performance measurement program, a pay-for-performance management system, workforce planning, and various information technology initiatives.

Certain Financial Procedures

Description of Funds

The County's annual audited financial statements include the funds administered by the Board of Supervisors and the School Board. The accounts of the County are organized on the basis of funds, each of which is considered to be a separate accounting entity. The transactions in each fund are accounted for by providing a separate set of self-balancing accounts which comprise its assets, liabilities, fund balance, revenues, and expenditures.

Annual Financial Statements

The County has no legal authority to borrow in anticipation of future years' revenues, except by the issuance of bonds or bond anticipation notes.

Prior to the beginning of each fiscal year, the Board of Supervisors adopts a budget plan consisting of contemplated expenditures and estimated revenues for such fiscal year. On the basis of the adopted budget plan, the Board of Supervisors appropriates funds for the expenditures, and establishes tax rates sufficient to produce the revenues, contemplated in the budget plan.

The annual budgeting process for a fiscal year begins in the first quarter of the previous fiscal year with the submission by agency directors of budget requests to the Department of Management and Budget. During the second quarter, budget requests are reviewed and meetings between the County Executive, Deputy County Executives, and agency directors are held to discuss agency requests. Upon receipt of the preliminary budget of the School Board in the third quarter, the County Executive prepares an initial budget for submission to the Board of Supervisors and proposes tax rates sufficient to produce revenues needed to meet expenditures contemplated in the initial budget. After work sessions with the Board of Supervisors and public hearings on the proposed budget, changes are made and the final budget is adopted. Tax rates are established prior to the beginning of the fiscal year for which the budget is prepared.

During the fiscal year, quarterly reviews of revenue and expenditures are undertaken by the County Department of Management and Budget. On the basis of these reviews, the Board of Supervisors revises appropriations as needed or desired.

Investment Management Policy

The County's Division of Investments and Cash Management operates under the direction of the Investment Committee comprised of the Chief Financial Officer/Director of the Department of Management and Budget, the Director of the Department of Finance, the Director of the Department of Tax Administration, and the Deputy Director of the Department of Finance. Guided by a formal investment policy, the Committee continually reviews the County's investment policies and strategies and monitors daily investment activity.

During FY 2015, the County's average portfolio size (which includes investments in the General Fund, Special Revenue Funds, and Enterprise Funds) was approximately \$2.84 billion. The funds are invested in U.S. Treasury obligations, obligations of the Federal Home Loan Mortgage Corporation, Federal Home Loan Banks, Federal Farm Credit Bank, and Fannie Mae, bankers' acceptances,

commercial paper (rated A1/P1 or higher), negotiable and non-negotiable and insured certificates of deposit, money market mutual funds limited to government obligations, corporate notes, bank notes, and other investments permitted under Virginia law for these purposes.

The County's investment policy, which governs the pooled cash, and general obligation bond proceeds, portfolios prohibits investment in instruments generally referred to as derivatives, and the County does not employ leverage in its investments.

The Association of Public Treasurers of the United States and Canada has awarded the County a certification for its investment policy each year since 1998. To achieve certification, an investment policy must establish standards recognized in the profession as fostering prudent management of public funds.

General Fund Revenues, Expenditures, Transfers and Beginning Fund Balance

The General Fund is maintained by the County to account for revenue derived from Countywide ad valorem taxes, other local taxes, licenses, fees, permits, charges for services, certain revenue from federal and State governments, and interest earned on invested cash balances of the General Fund and Capital Project Funds. General Fund expenditures and transfers include the costs of general County government, transfers to the School Operating Fund to pay the local share of operating Fairfax County public schools, and transfers to the Debt Service and Capital Projects Funds to pay debt service on County general obligation bonds and for certain capital improvement projects.

General Fund Summary

Shown below are the County's revenues, expenditures, transfers, and beginning fund balance of the General Fund for FY 2011 through FY 2015.

| General Fund Revenues, Transfers, and Beginning Fund Balance | | | | | |
|---|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| General Property Taxes | \$ 2,321,809,361 | \$ 2,364,202,058 | \$ 2,477,039,967 | \$ 2,576,653,463 | \$ 2,727,409,751 |
| Other Local Taxes | 505,517,224 | 517,375,741 | 530,960,414 | 514,844,141 | 506,567,278 |
| Permits, fees, and licenses | 34,267,179 | 36,843,892 | 38,201,352 | 39,351,756 | 45,545,990 |
| Intergovernmental | 348,640,195 | 347,750,676 | 339,758,071 | 345,208,093 | 344,894,850 |
| Charges for Services and Recovered Costs | 76,716,396 | 79,155,795 | 76,242,074 | 78,634,655 | 82,928,435 |
| Fines and Forfeitures | 16,563,245 | 17,147,019 | 16,792,348 | 16,669,844 | 16,298,999 |
| Use of money and property | 19,988,418 | 19,624,211 | 18,554,603 | 15,033,510 | 15,701,691 |
| Miscellaneous | 1,317,536 | 1,145,815 | 1,304,980 | 786,285 | 922,044 |
| Transfers In | 9,801,238 | 12,571,043 | 10,030,457 | 24,195,595 | 12,473,516 |
| Beginning Fund Balance | 386,681,169 | 376,398,964 | 353,671,166 | 329,268,249 | 302,804,099 |
| Total | \$ 3,721,301,961 | \$ 3,772,215,214 | \$ 3,862,555,432 | \$ 3,940,645,591 | \$ 4,055,546,653 |

Source: Fairfax County Comprehensive Annual Financial Reports for FY 2011-FY 2015

| General Fund Expenditures and Transfers Out | | | | | |
|--|------------------|------------------|------------------|------------------|------------------|
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| Transfer to School Operating Fund | \$ 1,611,730,658 | \$ 1,610,974,578 | \$ 1,683,462,921 | \$ 1,717,128,761 | \$ 1,768,588,028 |
| Costs of General County Government | 1,371,866,615 | 1,444,358,636 | 1,474,233,561 | 1,529,124,187 | 1,557,590,972 |
| Transfer to Debt Service Funds | 281,869,025 | 276,519,825 | 281,610,137 | 291,165,641 | 310,883,333 |
| Transfer to Capital Project Funds | 15,907,861 | 19,626,964 | 17,054,569 | 27,636,497 | 37,682,606 |
| Transfer to Metro Construction and Operations Fund | 7,409,851 | 11,298,296 | 11,298,296 | 11,298,296 | 11,298,296 |
| Other Transfers | 56,118,987 | 55,765,749 | 65,627,699 | 61,488,110 | 43,581,601 |
| Total | \$ 3,344,902,997 | \$ 3,418,544,048 | \$ 3,533,287,183 | \$ 3,637,841,492 | \$ 3,729,624,836 |

Source: Fairfax County Comprehensive Annual Financial Reports for FY 2011-FY 2015

Revenues

The following is a discussion of the General Fund revenue structure.

General Property Taxes – An annual ad valorem tax is levied by the County on the assessed value of real and tangible personal property located within the County as of January 1 preceding the fiscal year in which such tax is due. The personal property tax on motor vehicles that acquire situs within the County or have title transferred on or after January 2 is prorated on a monthly basis. Real property and personal property are assessed at 100% of fair market value. Real property taxes are due on July 28 and December 5 of the fiscal year in which they are levied. The payment date for personal property taxes is October 5. The penalty for late payment is 10% of the amount due, and interest on delinquent taxes and penalties accrues at a rate of 1% per annum for real estate taxes and 5% per annum for personal property taxes. In cases of property on which delinquent taxes are not paid within three years, the County may sell the property at public auction to pay the amounts due. There is no legal limit at the present time on the property tax rates that may be established by the County. Property taxes (including delinquent payments, penalties, and interest) accounted for 72.9% of total General Fund revenues in FY 2015. However, this percentage does not include the reimbursement from the Commonwealth of Virginia for a portion of the personal property tax. Including the reimbursement reflected in Intergovernmental revenue, the percentage of revenue from property taxes in FY 2015 was 78.6%. A description of the Commonwealth's plan to reduce personal property taxes follows.

During its 1998 Special Session, the General Assembly of Virginia enacted legislation to reduce personal property taxes applicable to individually owned motor vehicles. The reduction, which applies to the first \$20,000 in assessed value, was scheduled to be phased in over a five year period. The legislation states that the Commonwealth will reimburse local governments for the revenue lost from the reduction in personal property tax collections. In fiscal years subsequent to the legislation personal property taxes paid by citizens steadily reduced until such reduction equaled 70% in 2002. Due to Commonwealth budget constraints, the 2003 Virginia General Assembly temporarily froze the tax reduction at 70%. The 2005 General Assembly revised this measure further to limit its tax relief payments to all localities to a total of \$950 million per tax year beginning with 2006 (fiscal year 2007). The County's fixed share of the \$950 million is \$211,313,944, as determined by its share of the total payments made to all localities by the Commonwealth during calendar years 2004 and 2005 for tax year 2004 (fiscal year 2005). The County's total personal property tax collections for FY 2015 were \$581.6 million, comprised of \$370.3 million paid by taxpayers and \$211.3 million reimbursed by the Commonwealth of Virginia.

Other Local Taxes – The County levies various other local taxes, including a 1% local sales tax (collected by the Commonwealth and remitted to the County), a tax on consumer utility bills based on consumption for gas and electric services and a 5% communications sales tax which is imposed on the charge for or sale of communications services. Also included in this category are a cigarette tax of \$0.30

per pack, property recordation taxes, an automobile license tax, and various businesses, professional, and occupational licenses taxes. These taxes accounted for 13.5% of total General Fund revenues in FY 2015.

Permits, Privilege Fees, and Regulatory Licenses – The County requires that licenses or permits be obtained in order to perform certain activities in the County and that fees be paid for services provided by certain County departments. These revenues represented 1.2% of total General Fund revenues for FY 2015.

Fines and Forfeitures – The sources of revenue in this category include court fines and penalties from the Circuit Court and the General District Court and court fines, costs from the Juvenile and Domestic Relations District Court and fines for traffic violations, misdemeanors, and felonies. In addition, the County receives revenues from parking violations as authorized under the County Code. Revenues in this category represented 0.4% of General Fund revenues in FY 2015.

Revenue from the Use of Money and Property – The principal sources of revenue to the General Fund from the use of money and property are interest on General Fund and Capital Project Fund investments and minor amounts of revenue from the sale and lease of County equipment and property. These revenues represented 0.4% of General Fund revenues in FY 2015.

Charges for Services and Recovered Costs – The principal sources of revenue to the General Fund from charges for services are County Clerk fees, school age child care fees, recreation fees, publication sales and various other services for which the County charges a fee. Revenues in this category represented 2.2% of General Fund revenues in FY 2015.

Intergovernmental Revenue – Intergovernmental revenue is comprised of revenue from the Commonwealth and revenue from the federal government. Revenues in this category represented 9.2% of General Fund revenues in FY 2015. This percentage includes the revenue that the County receives from the Commonwealth as reimbursement for the County's personal property tax. Each revenue source within intergovernmental revenue is described below.

Revenue from the Commonwealth – The County is reimbursed by the Commonwealth of Virginia for a portion of shared expenses, including certain expenditures for social services, the sheriff's office, courts, the Office of the Commonwealth Attorney, and other constitutional offices. Additionally, the County receives a share of the net profits from the State Alcoholic Beverage Control Board's liquor sales and state contributions to assist in meeting law enforcement expenditures. As mentioned in the section concerning General Property Taxes, the Commonwealth also reimburses the County for a portion of its personal property tax on vehicles. Including the reimbursement for the County's personal property tax, revenues from this category represented 8.2% of total General Fund revenues in the fiscal year ended June 30, 2015. Excluding this reimbursement, revenue from this category represented 2.6% of General Fund revenue in FY 2015. The County receives a significant amount of additional State aid in support of public school operations. These revenues are credited directly to the School Operating and School Lunch Funds, however, and are not reflected in the General Fund.

Revenue from the Federal Government – The principal sources of categorical federal aid to the General Fund are federal grant money supporting human service programs such as supplemental nutrition, temporary assistance for needy families, foster care, adoption assistance, and medical assistance for clients of the Department of Family Services. This revenue category represented 1.0% of General Fund revenues in FY 2015.

Miscellaneous Revenues – The sources of revenue in this category include the sale of land and buildings, contract rebates, and other miscellaneous sources. These revenue sources accounted for less than 0.02% of General Fund revenue in FY 2015.

Expenditures and Transfers

The following is a discussion of the major classifications of General Fund expenditures and transfers.

Transfer to School Operating Fund – The County transfers money from the General Fund to the School Operating Fund to pay the County's share of the costs of operating public schools in Fairfax County. This transfer represented approximately 47.4% of total disbursements from the General Fund in the fiscal year ended June 30, 2015. The transfer to the School Operating Fund was approximately 72.0% of total receipts of the School Operating Fund. Other revenues credited directly to the School Operating and School Lunch Funds include revenue from the Federal Government, the Commonwealth of Virginia, the City of Fairfax (representing tuition of students residing in the City of Fairfax who attend Fairfax County schools), and other revenue derived locally from sale of textbooks, school lunches, etc.

Costs of General County Government – The County pays the costs of general County government from the General Fund. These costs include expenditures for general government administration, judicial administration, public safety, public works, health and welfare, parks, recreational and cultural programs, and community development. This classification was approximately 41.8% of total General Fund disbursements in FY 2015.

Transfer to Debt Service Fund – The County transfers from the General Fund to the Debt Service Fund amounts sufficient to pay principal and interest on outstanding County and School debt including general obligation bonds and EDA and FCRHA revenue bonds. Transfers to the Debt Service Fund represented 8.3% of total General Fund disbursements in FY 2015. Effective FY 2006, Fairfax County Public Schools (FCPS) transfers from its operating fund to the County's Debt Service Fund an amount sufficient to pay principal and interest on the outstanding School Board Building Bonds and the applicable portion of the 2014A County Facilities Projects Bonds.

Transfer to Capital Project Funds – The County transfers money from the General Fund to the Capital Project Funds to pay the cost of certain capital improvements. The General Fund transfer to the Capital Project Funds (except for the General Fund transfer for Fairfax County's obligations to WMATA, which is discussed below) represented 1.0% of total General Fund disbursements in FY 2015.

Transfer to Metro Construction and Operations Fund – The County is a member jurisdiction of WMATA and as such has agreed to make certain capital contributions in support of the construction by WMATA of a rail transit system to serve the Washington metropolitan area (which includes the County) and to pay a portion of the deficit incurred by WMATA in the operation of its bus system and rail system. The County generally has used bond proceeds to fund its capital contributions to WMATA and has transferred money from the General Fund to pay its share of the bus and rail operating subsidies. The General Fund transfer to the Metro Construction and Operations Fund to pay the County's share of the system's operating subsidies represented 0.3% of total General Fund disbursements in FY 2015. See the subsection herein entitled "GOVERNMENT SERVICES – Transportation" for a more complete discussion of the County's obligations with respect to WMATA.

Other Funds – The County transfers money from the General Fund to other funds for a variety of purposes. The General Fund transfer to other funds includes transfers to the County Transit Systems, Information Technology, Aging Grants and Programs, Community-Based Funding Pool, Housing

Programs for the Elderly, Health Benefits Trust, and Equipment Management and Transportation Agency. Transfers to other funds were 1.2% of total General Fund disbursements in FY 2015.

Transfer to Revenue Stabilization Fund – Beginning in FY 2000, the County began setting aside money in the General Fund for a Revenue Stabilization Fund to address significant revenue reductions during severe, prolonged economic downturns. The Revenue Stabilization Fund represented 37.2% of the total fund balance in the General Fund as of June 30, 2015.

FY 2017 Budget

On April 26, 2016 the Board of Supervisors adopted the Fiscal Year 2017 Budget. The real estate tax rate of \$1.13 per \$100 of assessed value reflects an increase of \$0.04 over the FY 2016 Adopted Budget Plan real estate tax rate of \$1.09 per \$100 of assessed value. General fund disbursements total \$4.01 billion, an increase of \$192.99 million or 5.05% over the FY 2016 Adopted Budget Plan. The total County transfer to support the Fairfax County Public Schools operations and debt service is \$2.12 billion or 52.7% of total County disbursements. In addition, funding is provided for employee compensation, and an increase in the amortization level from 95% to 97% of the unfunded actuarial accrued liability for all retirement systems.

FY 2018 Budget

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CAPITAL IMPROVEMENT PROGRAM

In connection with the County's adopted comprehensive land use plan, the Fairfax County Planning Commission annually prepares and submits to the Board of Supervisors a capital improvement program ("CIP") for the ensuing five-year period. The CIP is designed to balance the need for public facilities as expressed by the County's land use plan with the fiscal capability of the County to provide for those needs.

The CIP is an integral element of the County's budgeting process. The five-year document serves as a general planning guide for the construction of general purpose, school and public utility projects in the County. The CIP is updated and approved by the Board of Supervisors each year. This annual review process prompts careful attention to the development of reliable capital expenditure and revenue estimates and the timely scheduling of bond referenda.

In connection with the CIP process, the Board of Supervisors has adopted certain policy guidelines for the development and financing of the CIP. These guidelines include self-imposed restrictions on the issuance of general obligation bonds designed to keep General Fund supported debt service expenditures less than 10% of total Combined General Fund disbursements, and to maintain the ratio of bonded indebtedness to the market value of taxable property in the County at a level less than 3.0%.

The Board of Supervisors continues to review the County's debt program in light of current fiscal conditions and capital needs. Currently, general obligation bond sales for new money projects are limited to an average of \$275 million per year with a maximum limit of \$300 million in a single year. The CIP for fiscal years 2017-2021 (along with estimates for fiscal years 2022 to 2026) was approved by the Board of Supervisors on April 26, 2016. The County program includes new construction, renovation and

renewal of school facilities, parks, housing development, revitalization, storm water management, public safety and courts, libraries, human services, solid waste, sewers, and transportation. Significant capital construction activity from FY 2017-2026 totaling \$8.7 billion is anticipated for the County, in addition to \$0.8 billion in regional parks and water supply projects that are undertaken within the County to benefit County residents, but is not managed or funded directly by the County. The total capital construction activity to be financed by the County totals \$9.5 billion from FY 2017-2026.

RETIREMENT SYSTEMS

Fairfax County administers four separate public employee retirement systems that provide pension benefits for various classes of County employees: Fairfax County Employees' Retirement System (ERS), Fairfax County Police Officers Retirement System (PORS), Fairfax County Uniformed Retirement System (URS), and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC). In addition, professional employees of the Fairfax County Public Schools participate in a plan sponsored and administered by the Virginia Retirement System (VRS).

The Fairfax County retirement systems investments are managed by independent professional investment managers. Investments in derivatives are not made for speculative purposes but may be used by investment managers to gain access to markets, to reduce risk, or to reduce transaction costs.

In fiscal year 2015, the County implemented GASB No. 68, *Accounting and Financial Reporting for Pensions – an amendment of GASB Statement No. 27*. GASB Statement No. 68 establishes the standards for accounting and reporting employee pension plans including the recognition and measurement of liabilities, deferred inflows and outflows, expenses and expenditures. The tables below are presented in conformity with GASB Statement No. 68.

As of July 1, 2013 (December 31, 2013, for the Educational Employees' Supplemental Retirement System), membership in the reporting entity's plans consisted of the following:

| Description | Primary Government | | | Component Unit – Public Schools |
|---|--------------------|--------------|--------------|------------------------------------|
| | ERS | PORS | URS | ERFC |
| Retirees and beneficiaries receiving benefits | 7,263 | 907 | 1,155 | 10,156 |
| Terminated employees entitled to, but not yet receiving, benefits | 1,576 | 33 | 47 | 3,509 |
| Deferred Retirement Option Plan participants | 670 | 89 | 126 | N/A |
| Active employees | 14,011 | 1,237 | 1,862 | 21,643 |
| Total number of plan members | 23,520 | 2,266 | 3,190 | 35,308 |

Source: Fairfax County Comprehensive Annual Financial Report for FY 2015

Fairfax County Employees' Retirement System (ERS)

Plan Description

The Fairfax County Employees' Retirement System (ERS) is a legally separate single-employer defined benefit pension plan established under the Code of Virginia which covers only employees of the reporting entity. The plan covers full-time and certain part-time employees of the reporting entity who are not covered by other plans of the reporting entity or the VRS. This is the only plan that provides pension benefits to both the primary government and component units. The balances have been allocated in the

financial statements as follows: County 65.9 percent including business type activities, FCPS 28.2 percent, EDA 0.5 percent, FCRHA 1.7 percent, FCPA 3.7 percent of all totals.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement, an individual must meet the following criteria: (a) attain the age of 65 with five years of creditable service, or (b) attain the age of 50 with age plus years of creditable service being greater than or equal to 80. The normal retirement benefit is calculated using average final compensation (i.e., the highest 78 consecutive two week pay periods or the highest 36 consecutive monthly pay periods) and years (or partial years) of creditable service at date of termination. In addition, if normal retirement occurs before Social Security benefits are scheduled to begin, an additional monthly benefit is paid to retirees. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. The benefit for early retirement is actuarially reduced and payable at early termination.

Funding Policy

All contribution requirements for ERS are established and may be amended by County ordinances, including member contribution rates. Plan A and Plan C require member contributions of 4.0 percent of compensation up to the maximum Social Security wage base and 5.33 percent of compensation in excess of the wage base. Plan B and Plan D require member contributions of 5.33 percent of compensation. The County is required to contribute at an actuarially determined rate; the rate for the fiscal year ended June 30, 2014 was 19.3 percent of annual covered payroll. Since the ERS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2015, the amortization target was increased to 93 percent, and for fiscal year 2016, it was increased to a 95 percent level. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made for the measurement period was \$129,618,309.

Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)

| CAFR Reporting Year Measurement Date June 30 of prior year | | 2015 |
|--|-----------|------------------|
| Total Pension Liability | | |
| Service cost | \$ | 84,074.83 |
| Interest | | 340,920 |
| Changes in benefit terms | | - |
| Differences between expected and actual experience | | - |
| Changes of assumptions | | - |
| Benefit payments, including refunds of member contributions | | (238,562) |
| Net change in total pension liability | | 186,433 |
| Total pension liability - beginning | | 4,621,440 |
| Total pension liability - ending | \$ | 4,807,873 |
| Plan Fiduciary Net Position | | |
| Contributions - employer | \$ | 129,618 |
| Contributions - member | | 32,759 |
| Net investment income | | 490,196 |
| Benefit payments, including refunds of member contributions | | (238,560) |
| Administrative expense | | (1,885) |
| Net change in plan fiduciary net position | | 412,128 |
| Plan fiduciary net position - beginning | | 3,353,932 |
| Plan fiduciary net position - ending | \$ | 3,766,060 |
| Net pension liability - ending | \$ | 1,041,814 |
| Plan fiduciary net position as a percentage of the total pension liability | | 78.33 % |
| Covered employee payroll | \$ | 671,597 |
| Net pension liability as a percentage of covered employee payroll | | 155.12 % |

Source: *Fairfax County Comprehensive Annual Financial Report for FY 2015*

Administration

There are ten members of the ERS Board of Trustees. Four members are appointed by the Board of Supervisors. Three members are elected representing the following groups: County employees, Schools employees, and retired employees. The Fairfax County Director of Human Resources and the Director of Finance serve as ex-officio members of the board, along with an appointee from the Schools.

Professional Services

An independent auditor and actuary are hired to provide service to the fund.

Fairfax County Police Officers Retirement Systems (PORS)*Plan Description*

The Fairfax County Police Officers Retirement System (PORS) is a legally separate single-employer defined benefit pension plan established under the Code of Virginia. The plan covers County police officers who are not covered by other plans of the reporting entity or the VRS and former Park Police officers who elected to transfer to the PORS from the Uniformed Retirement System effective January 22, 1983.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement, an individual must meet the

following criteria: (a) if employed before July 1, 1981, attain the age of 55 or have completed 20 years of creditable service, or (b) if employed on or after July 1, 1981, attain the age of 55 or have completed 25 years of creditable service. The normal retirement benefit is calculated using average final compensation and years (or partial years) of creditable service at date of termination. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. To be eligible for early retirement, the employee must have 20 years of creditable service (does not apply if hired before July 1, 1981). The benefit for early retirement is actuarially reduced and payable at early termination.

Funding Policy

All contribution requirements for PORS are established and may be amended by County ordinances, including member contribution rates. Member contributions were 10.0 percent of compensation at June 30, 2014. For 2015 this has been adjusted to 8.65 percent of compensation. The County is required to contribute at an actuarially determined rate; the rate for the year ended June 30, 2014 was 33.9 percent of annual covered payroll. Since the PORS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2015, the amortization target was to a 93 percent level, and for fiscal year 2016, it was increased to a 95 percent level. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made for the measurement period was \$34,178,960.

Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)

| CAFR Reporting Year | | |
|--|----|-----------|
| Measurement Date June 30 of prior year | | 2015 |
| Total Pension Liability | | |
| Service cost | \$ | 30,858.61 |
| Interest | | 102,492 |
| Changes in benefit terms | | -- |
| Differences between expected and actual experience | | -- |
| Changes of assumptions | | - |
| Benefit payments, including refunds of member contributions | | (62,288) |
| Net change in total pension liability | | 71,063 |
| Total pension liability - beginning | | 1,381,997 |
| Total pension liability - ending | \$ | 1,453,060 |
| Plan Fiduciary Net Position | | |
| Contributions - employer | \$ | 34,179 |
| Contributions - member | | 10,091 |
| Net investment income | | 176,684 |
| Benefit payments, including refunds of member contributions | | (62,288) |
| Administrative expense | | (431) |
| Net change in plan fiduciary net position | | 158,235 |
| Plan fiduciary net position - beginning | | 1,102,522 |
| Plan fiduciary net position - ending | \$ | 1,260,757 |
| Net pension liability - ending | \$ | 192,303 |
| Plan fiduciary net position as a percentage of the total pension liability | | 86.77 % |
| Covered employee payroll | \$ | 100,912 |
| Net pension liability as a percentage of covered employee payroll | | 190.56 % |

Source: *Fairfax County Comprehensive Annual Financial Report for FY 2015*

Administration

There are seven members of the PORS Board of Trustees. Three members are appointed by the Board of Supervisors. Two members are active employee elected representatives, and one member is a retiree elected representative. The Fairfax County Director of Finance serves as an ex-officio member of the board.

Professional Services

Independent auditor, actuary and investment consultants are hired to provide service to the fund.

Fairfax County Uniformed Retirement System (URS)*Plan Description*

The Fairfax County Uniformed Retirement System (URS) is a legally separate single-employer defined benefit pension plan. The plan covers uniformed employees including non-clerical employees of the Fire and Rescue Department and Office of Sheriff, Park Police, Helicopter Pilots, Animal Wardens and Game Wardens who are not covered by other plans of the reporting entity or the VRS.

Benefit provisions are established and may be amended by County ordinances. All benefits vest at five years of creditable service. To be eligible for normal retirement an individual must meet the

following criteria: (a) attain the age of 55 with six years of creditable service, or (b) complete 25 years of creditable service. The normal retirement benefit is calculated using average final compensation and years (or partial years) of creditable service at date of termination. Annual cost of-living adjustments are provided to retirees and beneficiaries equal to the lesser of 4.0 percent and the percentage increase in the Consumer Price Index for the Washington Consolidated Metropolitan Statistical Area. The plan provides that unused sick leave credit may be used in the calculation of average final compensation by projecting the final salary during the unused sick leave period. Those who commenced employment on or after January 1, 2013, may not use more than 2,080 hours of accrued sick leave toward service credit for retirement or DROP entry. To be eligible for early retirement, employees must have 20 years of creditable service. The benefit for early retirement is actuarially reduced and payable at early termination.

Funding Policy

All contribution requirements for URS are established and may be amended by County ordinances, including member contribution rates. Employees hired before July 1, 1981 were enrolled in Plan A. Plan A members were given the opportunity to enroll in Plan B as of July 1, 1981 and to enroll in Plan C as of April 1, 1997. From July 1, 1981 through March 31, 1997, all new hires were enrolled in Plan B. Plan B members were given the opportunity to enroll in Plan D as of April 1, 1997. From April 1, 1997 through December 31, 2012, all new hires were enrolled in Plan D. From January 1, 2013 forward all new hires are enrolled in Plan E. Plan A requires member contributions of 4.0 percent of compensation up to the Social Security wage base and 5.75 percent of compensation in excess of the wage base. Plan B requires member contributions of 7.08 percent of compensation up to the Social Security wage base and 8.83 percent of compensation in excess of the wage base. Plan C requires member contributions of 4.0 percent of compensation. Plan D and Plan E require contributions of 7.08 percent of compensation.

The County is required to contribute at an actuarially determined rate; the rate for the year ended June 30, 2014 was 36.4 percent of annual covered payroll. Since the URS's adjusted funded ratio (the ratio of the sum of the actuarial value of assets and commitments already made to fund changes to the actuarial accrued liability) fell below 90 percent, the contribution rate includes a margin to amortize this shortfall back to the 90 percent level. For fiscal year 2015, the amortization target was increased to a 93 percent level, and for fiscal year 2016, it was increased to a 95 percent level. Per the County's pension funding policy as approved by the Board of Supervisors as part of the FY 2016 Adopted Budget Plan and incorporated in the Fairfax County Code, the County will continue increasing the amortization target so that, at or before fiscal year 2020, 100 percent of the unfunded actuarial accrued liability is amortized and included in the contribution rate. The employer contribution made for the measurement period was \$56,094,690.

Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)

| CAFR Reporting Year Measurement date June 30 of prior year | | 2015 |
|--|----|-----------|
| Total Pension Liability | | |
| Service cost | \$ | 39,647.53 |
| Interest | | 125,660 |
| Changes in benefit terms | | - |
| Differences between expected and actual experience | | - |
| Changes of assumptions | | - |
| Benefit payments, including refunds of member contributions | | (78,918) |
| Net change in total pension liability | | 86,390 |
| Total pension liability - beginning | | 1,694,741 |
| Total pension liability - ending | \$ | 1,781,131 |
| Plan Fiduciary Net Position | | |
| Contributions - employer | \$ | 56,095 |
| Contributions - member | | 10,906 |
| Net investment income | | 210,256 |
| Benefit payments, including refunds of member contributions | | (78,917) |
| Administrative expense | | (434) |
| Net change in plan fiduciary net position | | 197,906 |
| Plan fiduciary net position - beginning | | 1,318,814 |
| Plan fiduciary net position - ending | \$ | 1,516,720 |
| Net pension liability - ending | \$ | 264,411 |
| Plan fiduciary net position as a percentage of the total pension liability | | 85.15 % |
| Covered employee payroll | \$ | 153,979 |
| Net pension liability as a percentage of covered employee payroll | | 171.72 % |

Source: *Fairfax County Comprehensive Annual Financial Report for FY 2015*

Administration

There are eight members of the URS Board of Trustees. Three members are appointed by the Board of Supervisors. Three members are employee elected representatives comprised of two members from the Fire and Rescue Department, and one member from the Sheriff's Department. The Fairfax County Director of Finance and Director of Human Resources serve as ex-officio members of the board.

Professional Services

An independent auditor and actuary are hired to provide service to the fund.

Educational Employees' Supplementary Retirement System of Fairfax County (ERFC)*Plan Description*

Benefit provisions for ERFC and ERFC 2001 are established and may be amended by ERFC's Board of Trustees (ERFC Board) subject to approval by the School Board. All members are vested for benefits after five years of service. The ERFC benefit formula was revised effective July 1, 1988, following changes to VRS, which ERFC has historically supplemented. The benefit structure is designed to supplement VRS and Social Security benefits to provide a level retirement benefit throughout retirement.

ERFC 2001 has a stand-alone structure. Member contributions for ERFC and ERFC 2001 are made through an arrangement that results in a deferral of taxes on the contributions. Further details of member contributions may be found in Article III of the ERFC and ERFC 2001 Plan Documents.

ERFC and ERFC 2001 provide for a variety of benefit payment types. ERFC's payment types include Service Retirement, Reduced Service, Disability, Death-in-Service, and Deferred Retirement. ERFC 2001's payment types include Service Retirement, Death-in-Service, and Deferred Retirement. ERFC's minimum eligibility requirements for receipt of full benefits range from members attaining the age of 55 with 25 years of service to completing five years of service prior to age 65. The minimum eligibility requirements for full benefits for ERFC 2001 members are age 60 with five years of service or any age with 30 years of service. Annual post-retirement cost-of-living increases of 3 percent are effective each March 31. Participants in their first full year of retirement receive a 1.49 percent increase. Participants who retire on or after January 1 receive no cost-of-living increase that first March. Additional details regarding benefit payment types can be found in the actuarial valuation and the Plan Documents.

Funding Policy

All contribution requirements for ERFC plans are established and may be amended by the ERFC Board with the approval of the School Board. The requirements are based upon a fundamental financial objective of having rates of contribution that remain relatively level from generation to generation of employees. To determine the appropriate employer contribution rates and to assess the extent to which the fundamental financial objective is being achieved, ERFC has actuarial valuations prepared annually. The contribution requirements of members and the employer are established and may be amended by the ERFC Board, subject to School Board approval. Members are required to contribute 3 percent of annual salary. The employer is required to contribute at an actuarially determined rate which presently is 5.6 percent.

The actuarial valuations are used to set the employer contribution rate for the two-year period beginning 18 months after the valuation date. As such, the December 31, 2011 valuation recommended that the contribution rate for the two-year period beginning July 1, 2013 to June 30, 2015 be increased to 5.6 percent. Restructuring of the VRS employee contribution rate caused the School Board to decrease the ERFC member contribution rate to 3 percent beginning in fiscal year 2013.

Schedule of Changes in Net Pension Liability and Related Ratios (Dollar amounts in thousands)

| CAFR Reporting Year | | 2015 |
|--|-----------|------------------|
| Measurement Date Jun 30 of prior year | | |
| Total Pension Liability | | |
| Service cost | \$ | 75,788 |
| Interest | | 192,724 |
| Changes in benefit terms | | - |
| Differences between expected and actual experience | | 19,052 |
| Changes of assumptions | | - |
| Benefit payments, including refunds of member contributions | | (167,050) |
| Net change in total pension liability | | 82,410 |
| Total pension liability - beginning | | 2,615,279 |
| Total pension liability - ending | \$ | 2,697,689 |
| Plan Fiduciary Net Position | | |
| Contributions - employer | \$ | 74,174 |
| Contributions - member | | 40,018 |
| Net investment income | | 304,641 |
| Benefit payments, including refunds of member contributions | | (167,050) |
| Administrative expense | | (3,629) |
| Net change in plan fiduciary net position | | 248,154 |
| Plan fiduciary net position - beginning | | 1,956,773 |
| Plan fiduciary net position - ending | \$ | 2,204,927 |
| Net pension liability - ending | \$ | 492,762 |
| Plan fiduciary net position as a percentage of the total pension liability | | 81.73 % |
| Covered employee payroll | \$ | 1,324,537 |
| Net pension liability as a percentage of covered employee payroll | | 37.20 % |

Source: Fairfax County Comprehensive Annual Financial Report for FY 2015

Administration

The Board is composed of seven members: three are appointed by the School Board, and three are elected by active ERFC members. The six combined Board members recommend someone who is not affiliated with FCPS for the seventh position, which is subject to approval by the School Board.

Professional Services

An independent auditor and actuary are hired to provide service to the fund.

Virginia Retirement Systems (VRS)*Plan Description*

FCPS contributes to VRS on behalf of its covered professional employees. VRS is a cost-sharing, multiple-employer retirement system, which administers two defined benefit plans and a hybrid plan that combines the features of a defined benefit plan and a defined contribution plan. These plans are administered by the State and provide coverage for State employees, public school board employees, employees of participating political subdivisions, and other qualifying employees. All full-time, salaried, permanent employees of VRS-participating employers are automatically covered under VRS. All employees hired after January 1, 2014 are automatically enrolled in the Hybrid Plan. Contributions made by members and participating VRS employers are invested to provide future retirement and disability benefits, annual cost of living adjustments, and death benefits to plan members and beneficiaries.

Funding Policy

The contribution requirement for active employees is governed by Section 51.1-145 of the Code, as amended, but may be impacted as a result of funding provided to school divisions by the Virginia General Assembly. Employees are required to contribute 5.0 percent of their compensation toward their retirement. Prior to July 1, 2012, all or part of the 5.0 percent member contribution may have been assumed by the employer. Beginning July 1, 2012 new employees were required to pay the 5.0 percent member contribution. In addition, for existing employees, employers were required to begin making the employee pay the 5.0 percent member contribution. This could be phased in over a period of up to 5 years and the employer is required to provide a salary increase equal to the amount of the increase in the employee-paid member contribution. Each school division's contractually required contribution rate for the year ended June 30, 2015 was 14.50 percent of covered employee compensation. This rate was based on an actuarially determined rate from an actuarial valuation as of June 30, 2013. The actuarial rate for the Teacher Retirement Plan was 18.20 percent. The actuarially determined rate, when combined with employee contributions, was expected to finance the costs of benefits earned by employee during the year, with an additional amount to finance any unfunded accrued liability. Based on the provisions of Section 51.1-145 of the Code, as amended, the contributions were funded at 79.69 percent of the actuarial rate for the year ended June 30, 2015. Employer contributions to the pension plan were \$192,934,971 and \$154,954,000 for the years ended June 30, 2015 and June 30, 2014, respectively. VRS issues publicly available annual reports and financial statements that can be obtained through their website or writing directly to the agency.

Fairfax County Retirement Systems – Plan Revisions from the Board of Supervisors

As directed by the Board of Supervisors, the Fairfax County Department of Human Resources contracted with a benefits consultant to conduct a comprehensive retirement study. Based on the results of this study, the Board of Supervisors, as part of their mark-up of the FY 2013 Adopted Budget Plan on April 24, 2012, reaffirmed the County's commitment to a defined benefit plan model for current employees and for new hires. The Board also directed staff to prepare revisions to the Fairfax County Code to incorporate several modifications to the retirement systems, to apply only to new employees who are hired after January 1, 2013. These changes included increasing the minimum retirement age from 50 to 55 in the Employees' system, increasing the rule of 80 to the rule of 85 in the Employees' system, removing the pre-Social Security Supplement from DROP accounts in the Employees' system and the Uniformed system, and placing a cap on the use of sick leave for retirement purposes at 2,080 hours for all three retirement systems.

Other Post-Employment Benefits (OPEB)

In fiscal year 2008, the County and FCPS implemented the Governmental Accounting Standards Board Statement No. 45, Accounting and Financial Reporting by Employers for Benefits Postemployment Benefits Other Than Pensions. The County provides health care and life insurance benefits to eligible retirees and their spouses. Fairfax County is one of the founding participants in the Virginia Pooled OPEB Trust Fund sponsored by the Virginia Municipal League and the Virginia Association of Counties (VML/VACo). The Virginia Pooled OPEB Trust Fund was established as an investment vehicle for participating employers to accumulate assets to fund Other Public Employment Benefits (OPEB).

At June 30, 2015, the County had actuarial plan assets of \$192.95 million and reported a net OPEB asset of \$19.02 million, representing that the annual required contributions (ARC) were in excess of actual contributions. As of the July 1, 2014, actuarial valuation, the County had an actuarial accrued liability of \$486.13 million and an ARC of \$31.03 million.

FCPS also provides health insurance benefits to eligible retirees and their spouses and is a participant in the Virginia Pooled OPEB Trust Fund. At June 30, 2015, FCPS had actuarial plan assets of \$71.19 million in the pooled trust fund and reported a net OPEB asset of \$31.15 million. As of the July 1, 2014, actuarial valuation, FCPS had an actuarial accrued liability of \$283.68 million and an ARC of \$17.38 million.

CONTINGENT LIABILITIES AND CLAIMS

The County is contingently liable with respect to lawsuits and other claims that arise in the ordinary course of its operations. See Note L in the County's Financial Statements in Appendix IV to this Official Statement for details as of the end of Fiscal Year 2016.

APPROVAL OF LEGAL PROCEEDINGS

Legal matters incident to the authorization and issuance of the Bonds are subject to the approval of Norton Rose Fulbright US LLP, Washington, D.C., Bond Counsel, the proposed form of whose opinion is included herein as Appendix VI for the Bonds. Certain legal matters will be passed upon for the County by Elizabeth D. Teare, Esquire, County Attorney.

TAX MATTERS

Opinion of Bond Counsel

In the opinion of Norton Rose Fulbright US LLP, Bond Counsel, except as provided in the following sentence, interest on the Bonds will not be includable in the gross income of the owners of the Bonds for federal income tax purposes under existing law. Interest on the Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Bonds in the event of a failure by the County or the School Board to comply with applicable requirements of the Internal Revenue Code of 1986, as amended (the "Code"), and their respective covenants regarding the use, expenditure, and investment of the proceeds of the Bonds and the timely payment of certain investment earnings to the United States Treasury; and no opinion is rendered by Bond Counsel as to the effect on the exclusion from gross income of the interest on the Bonds for federal income tax purposes of any action taken or not taken without the approval of Bond Counsel or upon the advice or approval of counsel other than Bond Counsel.

Interest on the Bonds will not be an item of tax preference for purposes of the federal individual or corporate alternative minimum tax under the Code. Interest on the Bonds will, however, be included in the calculation of alternative minimum tax liability imposed on corporations under the Code. The Code contains other provisions (some of which are noted below) that could result in tax consequences, as to which no opinion will be rendered by Bond Counsel, as a result of (i) ownership of the Bonds or (ii) inclusion in certain computations of interest that is excluded from gross income.

Original Issue Discount

The excess, if any, of the amount payable at maturity of any maturity of the Bonds purchased as part of the initial public offering over the issue price thereof constitutes original issue discount. The amount of original issue discount that has accrued and is properly allocable to an owner of any maturity of the Bonds with original issue discount (a "Discount Bond") will be excluded from gross income for federal income tax purposes to the same extent as interest on the Bonds. In general, the issue price of a maturity of the Bonds is the first price at which a substantial amount of Bonds of that maturity was sold (excluding sales to bond houses, brokers, or similar persons or organizations acting in the capacity of

underwriters, placement agents, or wholesalers) and the amount of original issue discount accrues in accordance with a constant yield method based on the compounding of interest. A purchaser's adjusted basis in a Discount Bond is to be increased by the amount of such accruing discount for purposes of determining taxable gain or loss on the sale or other disposition of such Discount Bonds for federal income tax purposes.

A portion of the original issue discount that accrues in each year to an owner of a Discount Bond which is a corporation will be included in the calculation of the corporation's federal alternative minimum tax liability. In addition, original issue discount that accrues in each year to an owner of a Discount Bond is included in the calculation of the distribution requirements of certain regulated investment companies and may result in some of the collateral federal income tax consequences discussed herein. Consequently, an owner of a Discount Bond should be aware that the accrual of original issue discount in each year may result in an alternative minimum tax liability, additional distribution requirements or other collateral federal income tax consequences although the owner of such Discount Bond has not received cash attributable to such original issue discount in such year.

The accrual of original issue discount and its effect on the redemption, sale, or other disposition of a Discount Bond that is not purchased in the initial offering at the first price at which a substantial amount of such Bonds is sold to the public may be determined according to rules that differ from those described above. Owners of a Discount Bond should consult their tax advisors with respect to the determination for federal income tax purposes of the amount of original issue discount with respect to such Discount Bond and with respect to state and local tax consequences of owning and disposing of such Discount Bond.

Bond Premium

The excess, if any, of the tax basis of Bonds purchased as part of the initial public offering to a purchaser (other than a purchaser who holds such Bonds as inventory, stock in trade, or for sale to customers in the ordinary course of business) over the amount payable at maturity is "Bond Premium." Bond Premium is amortized over the term of such Bonds for federal income tax purposes (or, in the case of a bond with bond premium callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). Owners of such Bonds are required to decrease their adjusted basis in such Bonds by the amount of amortizable Bond Premium attributable to each taxable year such Bonds are held. The amortizable Bond Premium on such Bonds attributable to a taxable year is not deductible for federal income tax purposes; however Bond Premium on such Bonds is treated as an offset to qualified stated interest received on such Bonds. Owners of such Bonds should consult their tax advisors with respect to the determination for federal income tax purposes of the treatment of Bond Premium upon sale, redemption or other disposition of such Bonds and with respect to state and local income tax consequences of owning and disposing of such Bonds.

Backup Withholding

Interest paid on the Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. While this reporting requirement does not, by itself, affect the excludability of interest on the Bonds from gross income for federal income tax purposes, the reporting requirement causes the payment of interest on the Bonds to be subject to backup withholding if such interest is paid to beneficial owners who (i) are not "exempt recipients," and (ii) either fail to provide certain identifying information (such as the beneficial owner's taxpayer identification number) in the required manner or have been identified by the Internal Revenue Service as having failed to report all interest and dividends required to be shown on their income tax returns. Generally, individuals are not exempt recipients,

whereas corporations and certain other entities generally are exempt recipients. Amounts withheld under the backup withholding rules from a payment to a beneficial owner would be allowed as a refund or a credit against such beneficial owner's federal income tax liability provided the required information is furnished to the Internal Revenue Service.

Other Tax Consequences

Under existing law, the interest on the Bonds is excluded from Virginia taxable income for purposes of the individual income tax and the income taxation of corporations by the Commonwealth of Virginia under Sections 58.1-322 and 58.1-402 of the Code of Virginia of 1950, as amended (the "Virginia Code"), to the extent that such interest is excludable from gross income for federal income tax purposes.

The Code and the Virginia Code contain other provisions (some of which are noted below) that could result in tax consequences, upon which Bond Counsel expresses no opinion, as a result of ownership of the Bonds or the inclusion in certain computations of interest on the Bonds that is excluded from gross income for purposes of federal income taxation.

PROSPECTIVE PURCHASERS OF THE BONDS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE APPLICABILITY AND IMPACT OF ANY SUCH COLLATERAL TAX CONSEQUENCES.

Ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S Corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit.

Future Tax Developments

Future or pending legislative proposals, if enacted, regulations, rulings or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to State or local income taxation, or may otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. Legislation or regulatory actions and future or pending proposals may also affect the economic value of the federal or state tax exemption or the market value of the Bonds. Prospective purchasers of the Bonds should consult their tax advisors regarding any future, pending or proposed federal or State tax legislation, regulations, rulings or litigation as to which Bond Counsel expresses no opinion.

For example, various proposals have been made in Congress and by the President that would subject interest on bonds that is otherwise excludable from gross income for federal income tax purposes, including interest on the Bonds, to federal income tax payable by certain bondholders with adjusted gross income in excess of specified thresholds. Prospective purchasers should consult their tax advisors as to the effect of such proposals on their individual situations.

FINANCIAL ADVISOR

The County has retained Public Financial Management, Inc., Arlington, Virginia, as financial advisor (the "Financial Advisor") in connection with the issuance of the Bonds. Although the Financial Advisor assisted in the preparation and review of this Official Statement, the Financial Advisor is not

obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. The Financial Advisor is a financial advisory, investment management, and consulting organization and is not engaged in the business of underwriting municipal securities.

VERIFICATION OF CERTAIN FINANCIAL COMPUTATIONS

[The accuracy of (i) the arithmetical computations of the maturing principal and interest earned on the federal securities in the escrow account established in the escrow agreement relating to the Refunded Bonds to pay when due or at their respective redemption dates, the principal of, premium, if any, and interest on the Refunded Bonds and (ii) the mathematical computations supporting the conclusion that the Bonds are not “arbitrage bonds,” within the meaning of Section 148 of the Code, have been verified by Robert Thomas CPA, LLC. Such verification has been based upon information supplied by the Financial Advisor.]

RATINGS

The Bonds have been rated “___” (stable outlook) by Fitch Ratings (“Fitch”), “___” (stable outlook) by Moody’s Investors Service, Inc. (“Moody’s”), and “___” (stable outlook) by S&P Global Ratings, a division of Standard & Poor’s Financial Services LLC (“Standard & Poor’s”). The County requested that the Bonds be rated and furnished certain information to Fitch, Moody’s, and Standard & Poor’s, including certain information that is not included in this Official Statement.

These ratings are not a recommendation to buy, sell, or hold the Bonds. Generally, rating agencies base their ratings on such materials and information provided by the County, as well as investigations, studies, and assumptions of the rating agencies. Such ratings may be changed at any time and no assurance can be given that they will not be revised downward or withdrawn entirely by any or all of such rating agencies, if, in the judgment of any or all, circumstances so warrant. Such circumstances may include, without limitation, change in or unavailability of information relating to the County. Any such downward revision or withdrawal of any of such ratings may have an adverse effect on the market price of the Bonds.

SALE AT COMPETITIVE BIDDING

The Bonds will be offered for sale at competitive bidding on a date determined pursuant to the provisions of the Notice of Sale relating to the Bonds (See Appendix VIII). After the Bonds have been awarded, the County will issue an Official Statement in final form to be dated the date of the award. The County will deem the Official Statement in final form as of its date, and the Official Statement in final form will be a “Final Official Statement” within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Official Statement in final form will include, among other matters, the identity of the winning bidder (the “Underwriter”), the expected selling compensation to the Underwriter and other information on the interest rates and offering prices or yields of the Bonds, all as supplied by the Underwriter.

CERTIFICATE CONCERNING OFFICIAL STATEMENT

Concurrently with the delivery of the Bonds, the Chairman of the Board of Supervisors and the County Executive of the County will certify that, to the best of their knowledge, this Official Statement did not as of its date, and does not as of the date of delivery of the Bonds, contain any untrue statement of a material fact or omit to state a material fact that should be included therein for the purpose for which the Official Statement is to be used, or that is necessary in order to make the statements contained therein, in

the light of the circumstances under which they were made, not misleading. Such certificate will also state, however, that the Chairman of the Board of Supervisors and the County Executive of the County did not independently verify the information indicated in this Official Statement as having been obtained or derived from sources other than the County and its officers but that they have no reason to believe that such information is not accurate.

MISCELLANEOUS

Any statements in this Official Statement involving matters of opinion or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of the estimates will be realized.

FUTURE FINANCIAL INFORMATION

The Securities and Exchange Commission has adopted Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the “Rule”). In general, the Rule prohibits an underwriter from purchasing or selling municipal securities such as the Bonds, unless it has determined that the issuer of such securities and/or other persons deemed to be material “obligated persons” have committed to provide to The Electronic Municipal Market Access (“EMMA”) system administered by the Municipal Securities Rulemaking Board (i) on an annual basis, certain financial information and operating data (“Annual Reports”), and, if available, audited financial statements, and (ii) notice of various events described in the Rule, if material (“Event Notices”).

The County will covenant in the Continuing Disclosure Agreement (the form of which appears in Appendix VII), to be dated the date of delivery of the Bonds, for the benefit of the holders of the Bonds, to provide to EMMA, annually, not later than March 31 of each year, commencing March 31, 2017, Annual Reports with respect to itself, as issuer. Similarly, the County will provide Event Notices with respect to the Bonds to EMMA.

[In accordance with continuing disclosure undertakings (the “Sewer Undertakings”) relating to the County’s sewer revenue bonds, the County agreed to provide and file certain annual financial and statistical information (“Sewer System Annual Disclosure Reports”) relating to the County’s sanitary sewer system (the “System”) as well as the County’s audited financial statements for the System (“Sewer System Annual Financial Statements”). For the Fiscal Years ended June 30, 2009, and June 30, 2010, the County prepared and filed the Sewer System Annual Disclosure Reports for each year. Such filings, however, inadvertently did not include the prepared Sewer System Annual Financial Statements (the “2009 and 2010 Sewer System Annual Financial Statements”) required to be included in such filings pursuant to the terms of the Continuing Disclosure Undertakings, although the 2009 and 2010 Sewer System Annual Financial Statements were timely posted to the County’s website. As of June 5, 2014, the County has filed the 2009 and 2010 Sewer System Annual Financial Statements. In addition, as a condition to the issuance of various series of revenue bonds (“UOSA Bonds”) issued by the Upper Occoquan Service Authority for the benefit of the County and other jurisdictions, the County has agreed pursuant to continuing disclosure undertakings (the “UOSA Undertakings”) to provide and file the Sewer System Annual Disclosure Reports and Sewer System Annual Financial Statements. The 2009 and 2010 Sewer System Annual Financial Statements were filed pursuant to the UOSA Undertakings but not in a timely manner and other filings were complete and timely but were not correctly cross-referenced to the UOSA Bonds. The County has implemented procedures to ensure the inclusion of necessary information in a timely manner in future filings required by the Sewer Undertakings and the UOSA Undertakings.]

Pursuant to several continuing disclosure undertakings entered into relating to the Fairfax County Economic Development Authority’s Transportation Contract Revenue Bonds (Route 28 Project), the

County provided all required information, except that it inadvertently did not include in its annual information required under such undertakings a description of the twenty largest owners of real property by assessed value in the State Route 28 Highway Transportation Improvement District. The County has implemented procedures to ensure the inclusion of such information in future filings.

It should be noted, however, that while the County has timely filed each annual financial report required by its continuing disclosure undertakings (except as described under this caption), the filings with respect to certain bond issues were not cross-referenced to such bonds. Although such cross-references are not specifically required by the undertakings, the County has implemented procedures to ensure such cross-references in future filings.

Except as described under this caption, in the five years preceding the date of this Official Statement, the County has materially complied with its undertakings under the Rule.]

PRELIMINARY OFFICIAL STATEMENT DEEMED FINAL

The distribution of this Preliminary Official Statement has been duly authorized by the Board of Supervisors of the County. The County deems this Preliminary Official Statement final as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for the omission of certain pricing and other information permitted to be omitted by Rule 15c2-12.

**BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA**

By: _____,
Chairman

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[Insert Organization Chart here]

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[Insert Regional map here]

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[Insert County Map here]

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FAIRFAX COUNTY, VIRGINIA
MANAGEMENT'S DISCUSSION AND ANALYSIS AND BASIC FINANCIAL STATEMENTS
(Fiscal Year Ended June 30, 2016)

BOOK-ENTRY ONLY SYSTEM

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each principal amount of Bonds of a Series bearing interest at a specified interest rate, each in the aggregate principal amount of such quantity of Bonds, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

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

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may

not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detailed information from the County, on a payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC is the responsibility of the County, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the County. Under such circumstances, in the event that a successor depository is not obtained, certificates for the Bonds are required to be printed and delivered.

The County may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, certificates for the Bonds will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the County believes to be reliable, but the County takes no responsibility for the accuracy thereof.

_____, 2017

Board of Supervisors of Fairfax County, Virginia
Fairfax, Virginia

As bond counsel to Fairfax County, Virginia (the “County”), we have examined certified copies of the legal proceedings, including the election proceedings and other proofs submitted, relative to the issuance and sale of

\$ _____
Fairfax County, Virginia
Public Improvement and Refunding Bonds, Series 2017A (the “Bonds”)

The Bonds are dated the date of their delivery, mature in annual installments on October 1 in each of the years 2017 to 2036, inclusive, and bear interest, payable on the 1st days of April and October in each year, commencing April 1, 2017. The Bonds are subject to redemption prior to their respective maturities in the manner and upon the terms and conditions set forth in the resolution authorizing the issuance of the Bonds adopted by the Board of Supervisors of Fairfax County on December 6, 2016.

From such examination, we are of the opinion that:

(1) Such proceedings and proofs show lawful authority for the issuance and sale of the Bonds pursuant to the Constitution and laws of Virginia, and the Bonds constitute valid and binding general obligations of the County, for the payment of which the full faith and credit of the County are pledged, and all taxable property in the County is subject to the levy of an ad valorem tax, without limitation as to rate or amount, for the payment of the Bonds and the interest thereon, which tax shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

(2) Except as provided in the following sentence, interest on the Bonds is not includable in the gross income of the owners thereof for federal income tax purposes under existing law. Interest on the Bonds will be includable in the gross income of the owners thereof retroactive to the date of issue of the Bonds in the event of a failure by the County or the school board of the County to comply with applicable requirements of the Internal Revenue Code of 1986, as amended (the “Code”), and their respective covenants regarding use, expenditure, and investment of the proceeds of the Bonds and the timely payment of certain investment earnings to the United States Treasury, and we render no opinion as to the effect on the exclusion from gross income of the interest on the Bonds for federal income tax purposes of any action taken or not taken without our approval or upon the advice or approval of counsel other than us.

(3) Interest on the Bonds is not an item of tax preference for purposes of the federal individual or corporate alternative minimum tax.

The Code contains other provisions that could result in tax consequences, as to which we render no opinion, as a result of ownership of the Bonds or the inclusion in certain computations (including without limitation those related to the corporate alternative minimum tax) of interest that is excluded from gross income.

Respectfully submitted,

CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the “Disclosure Agreement”) is executed and delivered by Fairfax County, Virginia (the “County”), in connection with the issuance by the County of \$_____ aggregate principal amount of its Public Improvement and [Refunding Bonds], Series 2017A (the “Bonds”) pursuant to the provisions of a resolution (the “Resolution”) adopted on December 8, 2015, by the Board of Supervisors of the County. The proceeds of the Bonds are being used by the County to finance various public improvements in the County [and refund certain public improvement bonds of the County] The County hereby covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the County for the benefit of the holders of the Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below). The County acknowledges that it is undertaking primary responsibility for any reports, notices, or disclosures that may be required under this Agreement.

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

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

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

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

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

“Holder” or “holder” shall mean, for purposes of this Disclosure Agreement, any person who is a record owner or beneficial owner of a Bond.

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

principal and interest payment delinquencies;

non-payment related defaults; if material;

unscheduled draws on debt service reserves reflecting financial difficulties;

unscheduled draws on credit enhancements reflecting financial difficulties;

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

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

modifications to rights of holders, if material;

bond calls, if material, and tender offers;

defeasances;

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

rating changes;

bankruptcy, insolvency, receivership or similar event of the County; which event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court of governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County;

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

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

“Participating Underwriter” shall mean any of the original underwriters of the County’s Bonds required to comply with the Rule in connection with the offering of such Bonds.

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

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

SECTION 3. Provision of Annual Reports.

A. The County shall, or shall cause the Dissemination Agent to, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. Such Annual Report shall be filed on a date (the “Filing Date”) that is not later than March 31 after the end of any Fiscal Year (commencing with its Fiscal Year ended June 30, 2017). Not later than ten (10) days prior to the Filing Date, the County shall provide the Annual Report to the Dissemination Agent (if applicable). In such case, the Annual Report (i) may be submitted as a single document or as separate documents comprising a package, (ii) may cross-reference other information as provided in Section 4 of

this Disclosure Agreement, and (iii) shall include the County's audited financial statements or, if audited financial statements are not available, such unaudited financial statements as may be required by the Rule. In any event, audited financial statements of the County must be submitted, if and when available, together with or separately from the Annual Report.

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

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

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

Any or all of such information may be incorporated by reference from other documents, including official statements of securities issues with respect to which the County is an "obligated person" (within the meaning of the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

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

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

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

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

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this

Disclosure Agreement, the County shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

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

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

Date: February __, 2017

FAIRFAX COUNTY, VIRGINIA

By: _____
Joseph M. Mondoro
Chief Financial Officer

EXHIBIT A

CONTENT OF ANNUAL REPORT

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

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

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

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

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

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

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

EXHIBIT B

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

**Re: FAIRFAX COUNTY VIRGINIA
PUBLIC IMPROVEMENT AND REFUNDING IMPROVEMENT BONDS,
SERIES 2017A**

CUSIP NOS.:

Dated: _____, 20__

NOTICE IS HEREBY GIVEN that Fairfax County, Virginia has not provided an Annual Report [Audited Annual Financial Statements] as required by Section 3 of the Continuing Disclosure Agreement, which was entered into in connection with the above-named bonds issued pursuant to that certain Resolution adopted on December 6, 2016, by the Board of Supervisors of the County, the proceeds of which were used to finance and refinance various public improvements in the County. [The County anticipates that the Annual Report [Audited Annual Financial Statements] will be filed by _____.]

Dated: _____

FAIRFAX COUNTY, VIRGINIA

By

NOTICE OF SALE

ACTION – 9

Approval of State Litter Prevention and Recycling Grant Funding Transfer to Clean Fairfax Council, Incorporated

ISSUE:

Board approval of the transfer of the State Litter Prevention and Recycling Grant Funding to Clean Fairfax Council, Incorporated. The total grant amount for Fairfax County in FY2017 is \$124,726. The dollar amount allocated to Fairfax County is \$123,678 and \$1,048 to the Town of Clifton.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the transfer of \$124,726 to Clean Fairfax Council, Incorporated.

TIMING:

Approval of the transfer is requested to allow Clean Fairfax Council, Incorporated to utilize the grant funding.

BACKGROUND:

Annually, Fairfax County applies for a grant from the Virginia Department of Environmental Quality's Litter Prevention and Recycling Fund. A grant was awarded from this fund to the County in September 2016 in the amount of \$124,726. Funds were received in the Solid Waste Program's budget, specifically Fund 400-C40140, Collection and Recycling.

For the Board's information, last year's grant amount was \$129,453. The grant varies from year to year, as it is based upon State fees collected from the sale of certain items identified as litter in Virginia Code. It is distributed to localities based on a formula that uses population and road miles as its basis. The litter fund grant provided to Fairfax County includes \$1,048 that is directed to the Town of Clifton. This amount will be sent to the Town of Clifton by Clean Fairfax Council.

Clean Fairfax Council, Incorporated will comply with the provisions of the grant, including reporting back to the County pursuant to State requirements and the Memorandum of Understanding between the County and Clean Fairfax Council, Incorporated.

Board Agenda Item
December 6, 2016

FISCAL IMPACT:

None. The grant is from the State.

ENCLOSED DOCUMENTS:

Attachment 1: Litter and Recycling Fund Grant Application

STAFF:

Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services
(DPWES)

January 2016

Virginia Department of Environmental Quality
FY 2017 APPLICATION AND CONTRACT FOR A
VIRGINIA LITTER PREVENTION AND RECYCLING GRANT

Grant Period: July 1, 2016 through June 30, 2017

Deadline for application: June 30, 2016

Applicant Status: Are you applying as a single locality? ☐ Yes or ☒ No (If yes, fill in ONLY your local government name on the line for The Primary Agency)

- OR -

Are you applying as a co-op? ☒ Yes or ☐ No (If yes, fill in your agency as the primary agency and the localities that you are representing in addition to your own on the "Localities of" line)

The Primary Agency Fairfax County representing theLocalities of Fairfax County and Town of Clifton

The Agency is applying for FY 2017 grant funding and agrees to use these grant funds to perform the litter prevention and recycling activities listed below: (Note: for an agency to qualify, a minimum of two items must be selected.)

| | | | | | |
|-------------------------------------|--------------------------|-------------------------|-------------------------------------|--------------------------|--|
| Yes | No | | Yes | No | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planning & Organization | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Adopt-A Programs (if more than one, please list) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Recycling | | | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Youth Education | | | Other activities (List) _____ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Cleanups | <input checked="" type="checkbox"/> | | <u>SpringFest Fairfax</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Law Enforcement | | | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Public Communication | | | |

I certify that the above information is correct and agree to the terms and conditions contained herein and in the Guidelines (DEQ-LPR-2) for this grant program. For Co-op applications, I certify that a written agreement between the Coordinating Agency and each participating locality is on file.

Name of Organization: DPWES-Solid Waste Division

Name of Authorized Official: Edward L. Long, Jr Edward.Long@fairfaxcounty.gov
(Please print) Email Address for Grant Notifications

Secondary email address, if needed, for grant notifications: jen@cleanfairfax.org

Circle correct title: County Administrator, City Manager, Town Manager or Coordinating Agency's Executive

Signature: Edward L. Long, Jr Director) Date: 3/28/2016
Address: 12000 Government Center Pkwy #552 FIN# 54-0787833
Fairfax, VA 22035 FIPS# _____

Phone: 703-324-2536

As long grant funds are committed by June 30, they can be reported as committed funds (outstanding invoices) on your accounting report as having been spent. Unspent funds will be deducted from the locality's FY 2016 - 2017 grant.

Do you expect to have any unspent grant money remaining? ☐ Yes ☒ No

INFORMATION BELOW IS FOR DEPARTMENT OF ENVIRONMENTAL QUALITY USE ONLY

Signature of DEQ Official: _____ Date: _____



| TRANS | AGENCY | FUND FUND DET | FFY | PROGRAM PROG SUB ELE | OBJECT | AMOUNT | COST CODE |
|----------------|--------|-----------------------|------|---------------------------------|--------|--------|--------------|
| 325 | 440 | 0925 | 2017 | 515 09 00 | 1451 | | 501 |
| INVOICE NUMBER | | PROJECT CODE 90024 | | DESCRIPTION | | | |
| GRANTS | | | | LITTER PREVENTION AND RECYCLING | | | |

Mail to: DEQ, Litter and Recycling Grants Program, P.O. Box 1105, Richmond, VA 23218

ACTION - 10

Authorization for the Department of Transportation to Apply for Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program Funds; and for the Fostering Advancements in Shipping and Transportation for the Long-Term Achievement of National Efficiencies Grant Program

ISSUE:

Board authorization is requested for the Fairfax County Department of Transportation (FCDOT) to apply for FY 2023 Regional Surface Transportation Program (RSTP) and Congestion Mitigation and Air Quality Program (CMAQ) Funds through the Northern Virginia Transportation Authority (NVTA); and for the Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) Grant Program funding through the United States Department of Transportation (USDOT). FCDOT staff is recommending eight projects throughout the County for funding through these various programs. These projects are either included in the Transportation Priorities Plan, adopted by the Board of Supervisors on January 28, 2014, or have been otherwise previously approved by the Board.

RECOMMENDATION:

The County Executive recommends that the Board:

1. Approve a resolution of endorsement (Attachment 1) of proposed projects to be submitted by the Fairfax County Department of Transportation (FCDOT), and support for the Washington Metropolitan Area Transit Authority (WMATA), and the Virginia Railway Express (VRE) to submit projects to be considered by NVTA for FY 2023 RSTP/CMAQ program allocations. See Attachment 2 for a description of Fairfax County projects for consideration.
2. Authorize FCDOT to apply for the FASTLANE Grant Program for the Route 28 Widening (Prince William County Line to Old Centreville Road)

TIMING:

The NVTA is requesting that jurisdictions submit applications for FY 2023 RSTP/CMAQ funds, including endorsement from the relevant Board (Attachment 1), by December 14, 2016. The Commonwealth Transportation Board (CTB) will subsequently consider the NVTA-approved list of projects in May or June 2016, as part of its Six-Year Improvement Program (SYIP). In addition, the USDOT recently announced that the deadline for submitting applications for the FASTLANE Program is December 15, 2016.

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To meet these submission deadlines, Board consideration is being requested on December 6, 2016.

BACKGROUND:

CMAQ and RSTP Programs

The CMAQ Program provides federal funds for regions that are determined to be in non-attainment for air quality to assist them in complying with Clean Air Act requirements. The RSTP Program provides federal formula funds to the region to assist with the implementation of transportation capital projects.

The Board last endorsed RSTP and CMAQ applications for FY 2022 funds in December 2015. The Commonwealth's current SYIP, adopted by the CTB on June 14, 2016, included RSTP and CMAQ funding through FY 2022.

For the purposes of preparing its recommended project lists, NVTa currently estimates that in Northern Virginia, \$52.6 million will be available for distribution in the RSTP Program, and \$29.6 million will be available in the CMAQ Program. Staff recommends submitting the following projects (Attachment 2), for funding consideration. The project requests for FY 2023 funding are a continuation of funding for projects included in the County's Transportation Priorities Plan adopted by the Board of Supervisors on January 28, 2014, for FY 2015 to FY 2020. No new projects are being recommended.

- Countywide Transit Stores
- Fairfax County Parkway Improvements
- Reston Roadway Improvements
- Richmond Highway Bus Rapid Transit Project
- Richmond Highway Widening (Mount Vernon Highway to Napper Road)
- Seven Corners Interchange Improvements
- Tysons Roadway Improvements

The NVTa also requires regional agencies to obtain a resolution from the jurisdiction in which the project(s) is located. The following projects are expected to be submitted by regional agencies:

- Funding for Replacement Buses (*WMATA*)
- Funding for construction of the Backlick Road platform extension (*VRE*)
- Funding for Preliminary Engineering and Environmental for the second platforms for the stations below. (*VRE*)
 - Backlick Road
 - Rolling Road
 - Burke Centre

FASTLANE

The FASTLANE program was established in the Fixing America's Surface Transportation (FAST) Act to provide Federal financial assistance to freight and highway projects of national or regional significance. The FAST Act authorized the program at \$4.5 billion for FY 2016 through 2020, including \$850 million for FY 2017. The FASTLANE program provides dedicated, discretionary funding for projects that address critical freight issues facing our nation's highways and bridges.

The County submitted an application for the Route 7 widening project, as well as letters of support for the Arlington Memorial Bridge Reconstruction Project and the Atlantic Gateway project, as part of the program's first call for applications. USDOT received 212 applications, and 18 projects were selected to receive funding. While the Route 7 project was not successful in this effort, the other two projects were selected to receive funding. Route 7 subsequently received approximately \$120 million through the Commonwealth's Smart Scale funding process.

The FASTLANE program provides the opportunity to address signification challenges, including, but not limited to: improving the safety, efficiency, and reliability of the movement of freight and people; generating national or regional economic benefits and increasing the United States' global competitiveness; reducing highway congestion and bottlenecks; enabling more efficient intermodal connections; and addressing the impact of population growth on the movement of people and freight. Ten percent of FASTLANE funds are reserved for small projects; which are identified in Virginia as projects less than \$100 million.

Recognizing the interconnected and multimodal nature of the nation's transportation system, USDOT has announced that it will give additional consideration to nationally or regionally significant multimodal and multijurisdictional projects. The Notice of Funding Opportunity (NOFO) notes that USDOT will also consider whether projects enhance personal mobility and accessibility. Such projects include, but are not limited to, investments that better connect people to essential services such as employment centers, health care, schools and education facilities, healthy food, and recreation; remove physical or operational barriers to access; strengthen communities through neighborhood redevelopment; mitigate the negative impacts of freight movement on communities; and support workforce development, particularly for disadvantaged groups. USDOT may consider whether a project's design is likely to generate benefits for all users of the proposed project, including non-driving members of a community adjacent to or affected by the project.

FCDOT staff has reviewed criteria for awarding FASTLANE funding and has determined that the Route 28 Widening (Prince William County Line to Old Centreville Road) is the Fairfax County project best suited to meet those criteria. The project consists of widening the existing four lane divided highway to a six lane divided roadway for

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approximately 2.3 miles, from north of the existing bridge over Bull Run to the intersection with Old Centreville Road/Upperridge Drive. The project will also include pedestrian and bicycle facilities. This section of Route 28 currently carries 60,000 vehicles per day, with a peak hour Level of Service F. The project seeks to eliminate split phase signals at all intersections by expanding turning lane approaches. Existing traffic signals will be upgraded; bike and pedestrian crossings will be improved at all intersections.

FISCAL IMPACT:

There is no Local Cash Match (LCM) required for the RSTP and CMAQ funds; as the state provides the matching funds. There is no impact to the General Fund for the RSTP and CMAQ requests.

For the FASTLANE Program, maximum FASTLANE awards may not exceed 60 percent of future eligible project costs. The total project estimate for the Route 28 Widening project is \$68.8 million. Of the \$68.8 million, \$18.4 million is being requested from the FASTLANE program. The Commonwealth has committed \$32.8 million through the Smart Scale program, and the remaining \$17.6 consists of: \$10 million NVTA regional, and \$7.6 million in state Revenue Sharing funding (\$4.5 million requested for FY 2018, awards to be announced in June 2017). There is no impact to the General Fund. Should Fairfax County be awarded funds from the FASTLANE program, staff will return to the Board for concurrence on a grant agreement for project.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution of Endorsement of Projects Being Submitted for FY2023 funding through the federal Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program

Attachment 2: List of Projects submitted by Fairfax County for RSTP and CMAQ Applications

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Ray Johnson, Senior Transportation Planner, Coordination and Funding, FCDOT

Brent Riddle, Senior Transportation Planner, Coordination and Funding, FCDOT

Noelle Dominguez, Legislative Liaison, Coordination and Funding, FCDOT

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby approves the submission to the Northern Virginia Transportation Authority requests for funding from the federal Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program for FY 2023 for the following projects:

- Countywide Transit Stores
- Fairfax County Parkway Improvements
- Reston Roadway Improvements
- Richmond Highway Bus Rapid Transit Project
- Richmond Highway Widening (Mount Vernon Highway to Napper Road)
- Seven Corners Interchange Improvements
- Tysons Roadway Improvements

BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby also endorses the efforts of the Washington Metropolitan Area Transit Authority (WMATA) and the Virginia Railway Express (VRE) in submitting applications to the Northern Virginia Transportation Authority requests for funding from the federal Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program for FY 2023 for the following projects located in Fairfax County that are submitted by regional entities:

- Replacement Buses (WMATA)
- Construction of the Backlick Road platform extension (VRE)
- Preliminary Engineering and Environmental work for platforms at the following stations: (VRE)
 - Backlick Road
 - Rolling Road
 - Burke Centre

Adopted this 6th day of December 2016.

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors

Fairfax County Projects Submitted for Regional Surface Transportation Program (RSTP) and Congestion Mitigation and Air Quality (CMAQ) Program FY 2023 Funding

| CMAQ/RSTP (proposed request in millions) | | Priority |
|---|--------|-----------------|
| Countywide Transit Stores – These stores provide transit information, trip planning, fare media, and ridesharing information to area residents and visitors seeking alternatives to driving alone. From FY 2002 through FY 2022, CMAQ funding has been allocated to the operation of the countywide transit stores. | \$0.65 | 6 |
| Fairfax County Parkway Improvements – Roadway, bicycle, and pedestrian improvements planned to improve access and mobility throughout the corridor. | \$10.0 | 5 |
| Reston Roadway Improvements – Roadway, bicycle, and pedestrian improvements planned for Reston that will enhance access to future developments, particularly around the new Silver Line stations. | \$9.0 | 4 |
| Richmond Highway Bus Rapid Transit – The Route 1 (Richmond Highway) Multimodal Alternatives Analysis recommended a series of roadway and transit-related improvements in the Richmond Highway corridor. This funding request is associated with the implementation of Bus Rapid Transit, from the Huntington Metrorail Station area to Fort Belvoir. | \$10.0 | 1 |
| Richmond Highway Widening (Mt Vernon Memorial Highway to Napper Road) – The Richmond Highway widening project is 2.9 miles in length and is located between Mt. Vernon Memorial Highway (south) and Napper Road. This project will provide a six-lane facility complementing the existing Richmond Highway project currently under construction from Telegraph Road to Mt. Vernon Memorial Highway. This project will tie into the section of Richmond Highway north of Napper Road which is also a six lane facility, resulting in a six lane facility from Ft. Belvoir to I-95/I-495 in Alexandria. This project includes both pedestrian and bicycle facilities and provision for future bus rapid transit. | \$9.0 | 2 |
| Seven Corners Interchange Improvements – The Seven Corners area is centered around the Seven Corners Interchange which is the convergence of three regional commuter routes; Arlington Boulevard (Route 50), Leesburg Pike (Route 7), and Wilson Boulevard/Sleepy Hollow Road. The existing interchange is a confusing confluence of major roads, multiple signalized intersections, extremely limited pedestrian facilities, and no bicycle facilities. Due to the | \$9.0 | 7 |

| | | |
|---|----------------|---|
| convergence of so many regional commuting corridors at a single point, most of the intersections at the interchange operate at level of service E or F during peak periods. The Fairfax County Board of Supervisors adopted an updated Comprehensive Plan for the Seven Corners area in July 2015 that includes a concept for a new Seven Corners Interchange. | | |
| Tysons Roadway Improvements – This series of roadway improvements in the Tysons area will improve/increase access to the future development planned for Tysons and the Metrorail Silver Line. Some of these projects may also include pedestrian and bicycle improvements. This request does not include funding for the planned grid of streets. Allocations to Tysons Roadway Improvements serve as federal contributions to the Tysons Funding Plan, approved by the Board of Supervisors on January 8, 2013. | \$9.0 | 3 |
| Total CMAQ/RSTP Requested | \$56.65 | |

ACTION – 11

Approval of a Memorandum of Understanding Between the City of Falls Church, Fairfax County and the Fairfax-Falls Church Community Services Board Establishing Collaboration Between the City of Falls Church and Law Enforcement Agencies at the Merrifield Crisis Response Center for People Experiencing a Psychological Crisis

ISSUE:

The Fairfax-Falls Church Community Services Board (CSB) provides emergency screening for individuals detained through emergency custody (ECO), temporary detention (TDO), and for others in search of crisis intervention and support. This Memorandum of Understanding (MOU) allows law enforcement officers (LEO) from the City of Falls Church within the CSB service area to have the opportunity to have the Crisis Intervention trained police officer or deputy sheriff on duty at the Merrifield Crisis Response Center (MCRC) take custody of an individual in lieu of being charged with a minor crime, being held by an LEO through an ECO, allowing the LEO to return to patrol or other duties as assigned by their respective jurisdictions.

RECOMMENDATION:

The County Executive recommends approval of this Memorandum of Understanding.

TIMING:

Board action is requested on December 6, 2016, to allow for stronger collaboration with the City of Falls Church within the CSB service area, and to serve individuals in crisis at the MCRC in the best way possible.

BACKGROUND:

Diversion First offers alternatives to incarceration for people with mental illness and/or a co-occurring substance use disorder, or for those with developmental disability, who may come into contact with law enforcement for minor crimes. Diversion First helps prevent unnecessary entry into the criminal justice system by sending people experiencing psychological crisis to assessment and treatment when jail is clearly not the appropriate place for them.

The MCRC opened on January 1, 2016, and is located within the Merrifield Emergency Services of the CSB. The MCRC is staffed with on-duty Crisis-Intervention-trained officers of both the Fairfax County Police Department and the Fairfax County Office of the Sheriff (the MCRC officers). Law enforcement officers on patrol are able to transport individuals experiencing psychological crisis to the Merrifield site for assessment, hospitalization if necessary, or other stabilization services. The MCRC

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officers on site are able to take custody of the individuals in crisis, allowing the LEO who originally detained the individual to return to patrol. The MCRC officer may also be able to transport the individual to the facility of temporary detention.

The Memorandum of Understanding provides the legal basis and procedures for the MCRC officers to take custody from LEOs from these other jurisdictions instead of having to remain with the individual they detained at the site through the entire assessment and TDO process, which can last several hours.

At the Board meeting on May 17, 2016, MOUs were approved between the Fairfax County Board of Supervisors, the Fairfax-Falls Church Community Services Board and the Town of Vienna, the City of Fairfax, the Town of Herndon, and the Northern Virginia Community College. And, at the Board meeting on September 20, 2016 a MOU was approved between George Mason University and Fairfax County and the Fairfax-Falls Church Community Services Board establishing collaboration with the Entity's Law Enforcement at the Merrifield Crisis Response Center.

FISCAL IMPACT:

None. The staffing at the MCRC has been achieved through realignment of existing resources.

ENCLOSED DOCUMENTS:

Attachment 1: MOU between the City of Falls Church, Fairfax County and the Fairfax-Falls Church Community Services Board

STAFF:

Patricia Harrison, Deputy County Executive
Laura Yager, Diversion First Project Manager, Office of County Executive
Tisha Deeghan, Executive Director, Fairfax-Falls Church Community Services Board
David Rohrer, Deputy County Executive

**MEMORANDUM OF UNDERSTANDING BETWEEN THE FAIRFAX COUNTY
BOARD OF SUPERVISORS, THE FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD,
AND THE CITY COUNCIL FOR THE CITY OF FALLS CHURCH**

I. PARTIES:

This Memorandum of Understanding (MOU) is entered into this ____ day of _____ 2016, by and between the Board of Supervisors of Fairfax County, Virginia (County), the Fairfax-Falls Church Community Services Board (CSB), and the City Council for the City of Falls Church, Virginia (City of Falls Church), for the purpose of identifying responsibilities of each party to the Crisis Intervention Team Program (CIT), a collaborative mental health and criminal justice program serving the CSB's service area which includes the County of Fairfax (County), the City of Falls Church, the City of Fairfax, the Town of Vienna, the Town of Herndon, the Town of Clifton, George Mason University's campus, located in the City of Fairfax, and the Northern Virginia Community College campus, located in the County.

II. TERM:

The term of this MOU shall commence on _____, 2016 and end on December 31, 2016. This MOU may be extended for five successive one year periods upon the agreement of the parties hereto in writing. Extensions shall not be automatic and shall be by written amendment signed by the parties hereto.

III. AUTHORITY:

- A. The CSB is an administrative policy community services board established by the County, the City of Fairfax and the City of Falls Church to provide appropriate services for persons with mental illness and substance abuse, or co-occurring disorders and/or those with intellectual disabilities.
- B. Pursuant to Va. Code Ann. §§ 37.2-808, -810 and 16.1-340, -340.2 because the CSB serves more than one jurisdiction, a magistrate shall specify the primary law-enforcement agency, or any other willing law enforcement agency, to provide transportation and execute the order of temporary detention within the CSB's service area where the person who is the subject of the emergency custody order is taken into custody. If the person has not yet been taken into custody, the primary law-enforcement agency specified by a magistrate to execute the order and provide transportation is the one from the jurisdiction where the person is then presently located.
- C. The CIT Merrifield Crisis Response Center (MCRC) is a licensed facility with, pursuant to this MOU, and in conjunction with the Fairfax County Police Department (FCPD) and the Fairfax County Sheriff's Office (Sheriff's Office), who will provide the MCRC with the ability to provide the level of security necessary to protect persons and others from

harm and, in conjunction with the FCPD and the Sheriff's Office, is capable of providing such security. The CSB agrees to provide the City of Falls Church with a copy of its licensure. The MCRC is a facility located in Merrifield, Virginia, less than .5 miles of the INOVA Fairfax Hospital and the Northern Virginia Mental Health Institute. The MCRC will be staffed by CSB Emergency Services clinical staff who are Virginia Certified Prescreeners (CSB Prescreener). A function of the MCRC is to provide an assessment of persons in the custody of a law enforcement officer as a result of an emergency custody order (ECO) issued by a magistrate pursuant to Va. Code Ann. §§ 37.2-808 (A) through (F) and (I) through (O), or Va. Code Ann. §§ 16.1-340 (A) through (F) and (I) through (O), or in the emergency custody of a law enforcement officer pursuant to Va. Code Ann. §§ 37.2-808 (G) or (H), or Va. Code Ann. §§ 16.2-340 (G) or (H), (paperless ECO).

- D. Va. Code Ann. §§ 37.2-808 (E) and 16.1-340(E) provides for a licensed facility, such as the CSB's MCRC within CSB Emergency Services, to enter into an MOU with the FCPD and with the Sheriff's Office to provide the requisite level of safety and security necessary to protect such person and others from harm while at the MCRC. Va. Code Ann. §§ 37.2-810 and 16.1-340.2 provides that the FCPD and the Sheriff's Office may each agree to be a willing law enforcement agency specified by a magistrate to provide transportation and execute the order of temporary detention within the CSB's service area.

IV. PURPOSE:

To establish the terms and conditions under which the MCRC will function and, in conjunction with the FCPD and the Sheriff's Office, provide the level of security necessary to protect persons and others from harm while detained at the MCRC. This MOU is only applicable to persons who are in the custody of an FCPD law enforcement officer (FCPD officer), Sheriff's deputy, or another law enforcement officer in Virginia, such as a City of Falls Church law enforcement officer with which the Fairfax County Board of Supervisors has entered into this agreement with the Falls Church City Council (Qualified Officer), to allow a CIT trained law enforcement officer assigned to the MCRC, as defined below in Part V(A)(2), to take custody of a person detained by such Qualified Officer, as a result of an ECO issued by a magistrate pursuant to Va. Code Ann. §§ 37.2-808 (A) through (F), and (I) through (O), or Va. Code Ann. §§ 16.1-340 (A) through (F) and (I) through (O), or in the emergency custody of a Qualified Officer pursuant to Va. Code Ann. §§ 37.2-808 (G) or (H), or Va. Code Ann. §§ 16.2-340 (G) or (H).

V. RESPONSIBILITIES OF CSB:

The CSB will have sole responsibility for obtaining the appropriate licensing for the MCRC and for complying with all applicable regulations for the facility. The CSB will also have sole responsibility for maintaining the MCRC facility and staffing CSB Prescreeners and any other individual necessary to complete the evaluation process or preliminary medical screening.

VI. RESPONSIBILITIES DURING THE ECO PROCESS:

Pursuant to the stated purpose of this MOU, the County, the CSB and the City of Falls Church agree to the following responsibilities and procedures:

- A. When a Qualified Officer who has probable cause to believe that a person meets the criteria of Va. Code Ann. § 37.2-808(A) or, if a juvenile, Va. Code Ann. § 16.1-340(A), and requires an assessment pursuant to a magistrate issued ECO or takes a person into emergency custody through a paperless ECO, the County, the CSB and the City of Falls Church agree that the following shall occur:
 1. The Qualified Officer, as required by Va. Code Ann. § 37.2-808(J) or Va. Code Ann. § 16.1-340(J), as soon as practicable after execution of the ECO or after the person has been taken into custody pursuant to a paperless ECO, will call **703-573-5679** to notify the CSB Prescreener who is responsible for conducting the required evaluation under §§ 37.2-808 or 16.1-340 to inform the MCRC that a person has been taken into custody pursuant to §§ 37.2-808 or 16.1-340, provide the name, date of birth, and any other available information regarding the person in custody, and provide the estimated time of arrival at the MCRC of the Qualified Officer and the person in custody.
 2. The FCPD and the Sheriff's Office have separately agreed, pursuant to Va. Code Ann. §§ 37.2-810 and 16.1-340.2, to each be a willing law enforcement agency to provide transportation and execute the order of temporary detention, and the FCPD and the Sheriff's Office have each also agreed to assign to the MCRC, only an FCPD officer(s) and a deputy sheriff(s) who has successfully completed crisis intervention team training in accordance with the *Essential Elements for the Commonwealth of Virginia's Crisis Intervention Team Programs (CIT)*, the CIT Program Development Guidance, Department of Criminal Justice Services and Department of Behavioral Health Services, September 8, 2011 (updated October 1, 2014) (MCRC officer). Such MCRC officer will be available, as provided below between the hours of 11:30 a.m. one day to 8:00 a.m. the following day, seven days a week.
 3. A Qualified Officer who has a person in custody will enter the MCRC through the designated Emergency Services lower level entrance and inform the MCRC officer of his or her arrival with the person in custody.
 4. The Qualified Officer, the MCRC officer, and the CSB Prescreener will discuss the facts and circumstances leading the Qualified Officer to take the person into emergency custody, or the reason, if known, that an ECO was issued by a magistrate. The MCRC officer will decide, in his or her sole discretion, whether or not the MCRC officer is able at that time to take custody of that person and to provide the level of security necessary for the person in custody, based on the MCRC officer's evaluation of the needs of the person in custody, the staffing levels and needs of any other persons being served at the MCRC and/or the CSB's Emergency Services facility where the MCRC is located, including but not limited to, the safety

and provision of services by staff to all persons present at either facility, and any other factors the MCRC officer believes are relevant.

B. Determination based on this evaluation:

1. Upon determination by the MCRC officer that he or she is able to provide the necessary level of security during the period of time the person in the Qualified Officer's custody will need to remain at the MCRC, the MCRC officer will take custody of that person while at the MCRC, and the Qualified Officer may leave the MCRC only after the MCRC officer has taken custody and directed that the Qualified Officer may leave the MCRC.
2. If the MCRC officer decides for any reason that the level of security the MCRC officer is able to provide is not sufficient to protect the MCRC, its staff, the person being detained, any other person at the Merrifield Center, or a member of the public, the MCRC officer will so inform the Qualified Officer who then must maintain the custody of the person detained for the entire period of time that such person is required to remain at the MCRC, and the Qualified Officer will then transport such detained person to the facility designated in the Temporary Detention Order (TDO) by a magistrate, if issued, including to obtain medical clearance for the person who is the subject of the TDO, and/or to follow any other order contained in the TDO.
3. At any time, the MCRC officer, based on his or her sole determination, may require the Qualified Officer who originally had custody of the person being detained at the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer, to return to the MCRC to take custody of that person for whatever reason, including, but not limited to, a change in the level of security required at the MCRC to maintain the peace and good order at the MCRC, and/or to transport the person being detained at the MCRC to the facility of temporary detention as ordered in the TDO, if issued, including to obtain medical clearance for the person who is the subject of the TDO, and/or to carry out any other order in the TDO as required.
4. Once inside the MCRC, or other such treatment room as designated by the MCRC officer or the CSB Prescreener, the CSB Prescreener will conduct the evaluation required by the Code of Virginia and provide the necessary services, if any, pursuant to the policies of the CSB, and the CSB Prescreener will conduct a preliminary medical screening as part of the pre-admission screening process.
5. It is understood by the parties that a person detained at the MCRC may require further medical evaluation or treatment at INOVA Fairfax Hospital or another hospital emergency department as deemed necessary by the CSB Prescreener, or as required by the facility of temporary detention designated in the TDO. If any transportation of the person detained at the MCRC is required for any reason, the MCRC officer will determine whether or not the MCRC officer or Qualified Officer who originally had custody of the person then detained at the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer,

will take custody of the person detained and provide the transportation to a hospital emergency room.

VII. RESPONSIBILITIES IN THE EVENT THE RESPONDENT IS RELEASED FROM THE ECO:

The CSB Prescreener is responsible for determining whether a person does not meet, or no longer meets, the criteria set for in Va. Code Ann. §§ 37.2-808 or 16.1-340 for the person's continued detention. If the CSB Prescreener makes this determination, then the person will be immediately released from custody of any law enforcement officer at the MCRC. The person will also be released from custody at the MCRC after the eight (8) hour period during which any ECO is valid has expired.

- A. If the person who was previously in custody at the MCRC asks to be transported to the place from which he or she was originally detained, then a Peer Specialist, other CSB staff member, family member, or other individual that serves as a support mechanism may transport the previously detained person to return him or her to the place where he or she was originally detained or to another supportive environment within a reasonable distance from the place of original detention. If none of the above-listed people are available to transport the previously detained person, the CSB may provide the previously detained person with suitable public transportation.
- B. As required, the CSB Prescreener will transmit the completed ECO paperwork by facsimile to the court and/or facility of temporary detention designated by the issuing magistrate pursuant to Va. Code Ann. §§ 37.2-808(C) or 16.1-340(C).

VIII. RESPONSIBILITIES DURING TDO PROCESS:

- A. When a TDO is issued for an individual who is currently located at the MCRC, the following procedures will apply:
 - 1. The Prescreener who located the facility of temporary detention for the person who is the subject of the TDO will request a magistrate to transmit the TDO paperwork by facsimile to the MCRC at **703-876-1640** when the TDO is issued.
 - 2. The MCRC officer, or whichever Qualified Officer executes the TDO, will send a copy of the fully executed TDO to the County Attorney's Office, using only the secure facsimile number, at **703- 653-1366**. Whichever officer executes the TDO may have the CSB Prescreener include a copy of the executed TDO in the transmission to that secure facsimile number of the Petition and Prescreen, if a copy of the executed TDO is available at the time of that transmission.
- B. When a TDO is issued for an individual who is located in a facility other than the MCRC (e.g., a hospital emergency department or hospital of temporary detention), the Qualified Officer who originally detained the person, or another Qualified Officer from the same locality or entity as the original Qualified Officer will, upon receipt of the TDO at the hospital or elsewhere by secure facsimile transmission from a magistrate or

otherwise, execute the TDO and transport that person to the temporary detention facility designated on the TDO, including obtaining any medical clearance for the person who is the subject of the TDO, and/or to carry out any other order in the TDO as required.

IX. FEES OR COSTS ASSOCIATED WITH ECO/TDO AND CUSTODY PROCESS:

- A. Nothing herein shall be constructed to obligate the County, the CSB, the FCPD, the Sheriff's Office, or the locality or entity of the Qualified Officer for the payment of any fees, expenses, or damages incurred during the ECO/TDO processes.
- B. Any and all fees or costs associated with the medical screening and assessment services or any treatment provided during the ECO process or during a TDO period of detention shall be paid by the Commonwealth as provided in Va. Code Ann. §§ 37.2-804 or 16.1- 347.

X. MCRC SECURITY:

- A. Any Qualified Officer who has a person in his or her custody is responsible for the safety and security of that person and the general public, until and unless that Qualified Officer has placed the person in his or her custody into the custody of another Qualified Officer, the MCRC officer, or another law enforcement officer.
- B. The primary duty of the MCRC officer will be to maintain the safety and control of the person in his or her custody at all times, and to assist, when possible, in maintaining the safety of all CSB staff and individuals receiving services at the MCRC and the Merrifield Center. All other facility related security will be provided by the private security personnel hired by the CSB to maintain the peace and good order of the Merrifield Center, where the MCRC is located. CSB will also be responsible for maintaining the Merrifield Center, including the security of the building and access to the building. At the discretion of the CIT Coordinator in conjunction with the CSB Director of Emergency Services, and in coordination with the FCPD and/or the Sheriff's Office, other law enforcement services may be provided by the FCPD and/or the Sheriff's Office or others.
- C. When the MCRC officer has a person in his or her custody, the MCRC officer will have the sole discretion to allow another law enforcement officer or CSB staff members into the area where the MCRC officer has a person in custody, to ensure the ability of the MCRC officer to maintain the safety and control of the person he has in custody and those in the immediate area. Any family, witness, or significant other who come to the Merrifield Center will enter through the Emergency Services entrance, and will only be allowed into the area where the MCRC officer has a person custody if allowed to do so by the MCRC officer, at his or her sole discretion, after the MCRC officer's evaluation of the need for such person to be in the area where the MCRC officer has a person in custody and, if such person is needed, then the totality of the circumstances and any safety concerns then present may still prohibit such person from being in the area where the MCRC officer has a person in custody.

XI. CSB EMERGENCY SERVICES:

The CSB agrees to provide the MCRC with a CSB Prescreener on a full-time basis during the hours of operation of the MCRC, from 11:30 a.m. one day to 8:00 a.m. the following day, and seven days a week. Law enforcement officers can contact CSB Emergency Services at **703-573-5679**, 24 hours a day, seven days a week.

XII. REQUIREMENTS FOR THE CUSTODY OF THE DETAINED PERSON TO BE PLACED WITH THE MCRC OFFICER:

- A. An MCRC officer **MUST** be on duty and present at the MCRC.
- B. The MCRC officer will make an initial risk assessment of potential aggression or violence of the person detained by a Qualified Officer to determine the current capability of the MCRC officer to take custody of the person detained by a Qualified Officer.
- C. The MCRC officer will list the client number and/or name of any detained person who remains in the custody of the Qualified Officer who originally detained and/or brought the person to the MCRC in the “Log of Referrals Declined from the MCRC” and mark one of the following:
 - a. MCRC officer at capacity
 - b. Other (Explain)
- D. When the MCRC officer declines to take custody of the detained person, then the Qualified Officer who originally detained the person and/or brought the person to the MCRC (original Qualified Officer), or another Qualified Officer from the same locality or entity as the original Qualified Officer, must remain at the Merrifield Center to have the evaluation required by the Code of Virginia performed by a CSB Prescreener.
- E. When the MCRC officer determines that it is not required that the Qualified Officer who originally detained the person and/or brought the person to the MCRC remain at the MCRC, that Qualified Officer may leave the MCRC; however, that Qualified Officer who originally detained the person and/or brought the person to the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer, may need to report to the MCRC to assist with the security or safety of the MCRC or to transport the detained person to another facility as necessary.

XIII. MEDICAL ASSESSMENT:

- A. At the time of the initial call to the MCRC and upon arrival at the MCRC, the CSB Prescreener will initiate a clinical triage process that includes questions regarding medical issues. Non-emergency medical conditions will be deferred.
- B. Any sign or report of the following by or regarding the person detained will require immediate consultation with a licensed CSB psychiatrist on duty, and following any recommendations, including calling 911, as needed:

1. Chest pains
 2. Significantly Elevated or Depressed Blood Pressure
 3. Difficulty Breathing
 4. Dizziness
 5. Pulse outside of normal range
 6. Reported/suspected overdose
 7. Temperature outside normal range
 8. Suspected/reported head injury
 9. Untreated medical condition with potential immediate harm
 10. Dehydration/malnourishment
 11. Other suspected health condition that may be serious in nature
- C. If further medical assessment is recommended, a MCRC officer will transport or have a Qualified Officer from the same locality or entity as the original Qualified Officer report to the MCRC to transport the detained person to INOVA Fairfax Emergency Department or another designated emergency department. As necessary, any available person or staff at the MCRC will call 911 to respond to treat the detained person with emergency medical needs who shall remain in the custody of the MCRC officer or a Qualified Officer from the same locality or entity as the original Qualified Officer and who, along with the detained person, will be transported by emergency medical equipment and staff to the closest available hospital capable of handling the person's medical needs. Such MCRC officer or a Qualified Officer from the same locality or entity as the original Qualified Officer must maintain such custody of the person until a TDO has been issued, executed, and the person is in the custody of the detention facility named in the TDO, or until the person is otherwise released from the custody of such officer.
- D. If the detained person must be transported to INOVA Fairfax ED or another emergency department prior to the completion of a Prescreening evaluation, the CSB Prescreener will provide the preadmission screening assessment as soon as possible thereafter.

XIV. MODIFICATION OF THIS MOU:

This MOU shall not be modified without the agreement of the parties as to such modification, which shall be in writing and signed by an authorized representative of each party. No

modification shall take effect until thirty (30) days after both parties have signed such written agreed modification.

XV. SUSPENSION OF SERVICES:

The County and/or the CSB each retain the right to suspend services in the event any of the following occur:

- A. The City of Falls Church policies and procedures are found by the County or the CSB to conflict with the policies and procedures of the County and /or the CSB;
- B. The FCPD and/or the Sheriff's Office, for whatever reason, reduces or eliminates its commitment to provide MCRC officer(s) in accordance with their respective MOUs with the County and/or the CSB;

Services shall remain suspended until the event causing the suspension is cured, the parties agree in writing to a modification of the MOU, or this MOU is terminated.

XVI. TERMINATION WITHOUT CAUSE:

Any party may at any time, and for any reason, unilaterally terminate this MOU by giving written notice to the other parties specifying the termination date, which shall be no less than thirty (30) days from the date such notice is received. Such written notice to terminate shall be made to a party by delivery to the person for another party whose signature appears below, or their duly appointed successor, at their usual place of business.

XVII. INSURANCE:

- A. Each party to this MOU will, to the extent provided by law, be responsible for the acts and omissions of its respective employees while such employees are acting within the scope of their employment. Each party will also be responsible, to the extent provided by law, for any compensation or benefits owed to that party's employee under the Virginia Worker's Compensation Act.
- B. The County is self-insured as is the FCPD and the CSB. The County also self-insures all vehicles owned by the County, and provides protection against liability arising from the operation of County-owned vehicles. The acts and omissions of persons employed by the County are governed by the Fairfax County Board of Supervisors' Indemnification and Representation Resolution, as amended.
- C. The Sheriff's Office, the Sheriff, Deputy Sheriffs and any other employees of the Sheriff and/or the Sheriff's Office, are covered under the self-insurance and/or any other insurance provided by the Commonwealth of Virginia to the Sheriff's Office, the Sheriff, Deputy Sheriffs and any other employees of the Sheriff and the Sheriff's Office. Liability protection for the Fairfax Sheriff, her appointees and employees is provided by the Commonwealth of Virginia pursuant to the Code of Virginia, § 2.2-1839.

- D. The City of Falls Church's employees are insured through VML Insurance programs for workers' compensation, general liability, law enforcement and professional liability coverage, while acting within the scope of their employment. There is also coverage for liability arising out of the operation of City-owned vehicles.

XIII. COMPLIANCE WITH APPLICABLE LAWS:

The parties agree to comply with all federal, state and local statutes, ordinances, regulations, and guidelines now in effect or hereafter adopted, in the performance of the description of services set forth herein. The County, the CSB and the City of Falls Church each represent that it has all necessary licenses and permits required to conduct its services, and will furnish copies to any other party upon request. Further, the County, the CSB and the City of Falls Church shall at all times observe all health and safety measures and precautions necessary for the safe performance of its obligations hereunder.

FAIRFAX-FALLS CHURCH
COMMUNITY SERVICES BOARD

CITY OF FALLS CHURCH

By: _____
Tisha Deeghan
Executive Director

By: _____
Wyatt Shields
City Manager

Date: _____

Date: _____

FAIRFAX COUNTY

By: _____
Edward L. Long Jr.
County Executive

Date: _____

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December 6, 2016

ACTION - 12

Approval of a Standard Project Agreement with the Northern Virginia Transportation Authority for the Route 28 Widening Project (Prince William County Line to Route 29) (Sully District)

ISSUE:

Board of Supervisors' authorization for the Director of the Fairfax County Department of Transportation to sign a standard project agreement (SPA) with the Northern Virginia Transportation Authority (NVTA), substantially in the form of Attachment 1, to secure \$5 million in NVTA FY 2017 Program funding for the implementation of the Route 28 Widening project.

RECOMMENDATION:

The County Executive recommends that the Board approve a resolution, substantially in the form of Attachment 2, authorizing the Director of the Fairfax County Department of Transportation to execute a standard project agreement with NVTA, substantially in the form of Attachment 1, to secure \$5 million in NVTA FY 2017 Program funding to support the Route 28 Widening project.

TIMING:

The Board of Supervisors should act on this item on December 6, 2016, so that NVTA can release FY 2017 Program funding for the Route 28 Widening project.

BACKGROUND:

Route 28 is a major north-south corridor that serves three counties and two cities in Northern Virginia, and provides an important access to Dulles International Airport. The section of Route 28 south of Interstate I-66 experiences significant peak hour travel congestion, and was the focus of the Route 28 Corridor Safety and Operations Study completed in September 2015. The purpose of the study was to identify existing congestion or safety-related deficiencies/issues along the corridor and to develop low-cost, short-term candidate improvements to address congestion and safety.

Traffic safety and operational improvement opportunities were explored using short-term implementation and manageable construction cost guidelines. A long-term solution for the corridor is the subject of a future study that will be managed by Prince William County and the City of Manassas.

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The overall result of the study is that the Route 28 corridor is expected to see an increase in traffic demand through the year 2020 based on planned land use changes and the lack of roadway, pedestrian, bicycle and transit alternatives. The widening of Route 28 north from Prince William County Line to Route 29 provides the greatest impact for the improvement of corridor travel times and speeds during the peak periods but at the highest cost of any of the improvements.

On January 28, 2014, the Board of Supervisors approved the Transportation Priorities Plan (TPP), which included \$47.35 million for the widening of Route 28 from Prince William County to Route 29. On November 17, 2015, the Board of Supervisors approved staff's recommended project submissions for NVTa consideration for the FY 2017 Program. On July 14, 2016, the NVTa approved its FY 2017 Program, which included \$5 million in regional funding for the Route 28 Widening project.

NVTa had previously approved \$5 million in regional funding for the Route 28 Widening project in April 2015. The additional \$5 million approved in July 2016 provides a total of \$10 million in regional funding through FY 2017. The approved NVTa funds provide for preliminary engineering and design, as well as partial right of way acquisition on the project.

The project will widen Route 28 from four to six lanes, include intersection improvements, pedestrian/bicycle facilities along the roadway and pedestrian/bicycle facilities at all intersections through the corridor. The description sheet for this approved project is included as Attachment 3.

HB 2313 directs NVTa to use 70 percent of the revenue collected from the three Northern Virginia taxes and fees for (i) transportation projects selected by NVTa that are contained in the regional transportation plan or (ii) mass transit capital projects that increase capacity.

To facilitate the implementation of the regionally funded projects, NVTa and jurisdictional staff developed a Standard Project Agreement (SPA) to govern the terms and conditions associated with the funding that NVTa approves for these regional projects. The SPA is based on the requirements of HB 2313, but the SPA also includes practical provisions associated with the implementation of the law and standard contract language. County staff was extensively involved in drafting this SPA, and in subsequently tailoring it for the Route 28 Widening project. The SPA was updated and approved by NVTa on July 28, 2015. A specific project agreement must be executed for each project approved by NVTa.

The SPA provides that the County will:

- Perform work in accordance with all applicable federal, state, and local laws and regulations, the SPA and the Project Description Sheet;

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- Perform or have performed all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisition necessary to complete the project;
- Update project cash flow requirements periodically;
- Provide requests for payment consistent with the approved cash flow for a project on standard requisition forms;
- Notify NVTA's Executive Director of any additional project costs resulting from unanticipated circumstances. NVTA will decide whether to fund these additional costs, but only in accordance with NVTA's project selection process;
- Release or return any unexpended funds to NVTA no later than 90 days following final payment to contractors;
- Certify that any matching funds required for the project have been secured;
- Reimburse NVTA (with interest) for any funds misapplied or not used in accordance with the statutes governing NVTA's revenues;
- Certify that the County will use the project for its intended purpose for the duration of its useful life or reimburse NVTA for the residual value of the asset based on its depreciated value;
- Acknowledge that NVTA will not be responsible for operating or maintaining the project upon completion;
- Obtain all necessary permits or permissions necessary for construction and/or operating the project;
- Comply with all applicable federal and state funding requirements, if such other sources are used to fund the project;
- Certify that it has adhered to all applicable laws and regulations, as well as the requirements of the agreement.

The SPA provides that NVTA will:

- Provide funding for the project on a reimbursement basis, as outlined in the project agreement, project budget and cash flow as original or subsequently approved;
- Assign a project coordinator to monitor the project to ensure compliance with the agreement and review payment requisitions;
- Make project payments within 20 days, if the payment requisition is sufficient;
- Notify recipient of reasons a payment requisition is declined;
- Consider additional payment requests recommended by the Executive Director and the Finance Committee;
- Conduct periodic reviews of the project to ensure that it remains in compliance with the agreed-upon project scope;
- Advise the recipient in writing of any misused or misapplied funding and make recommendations to the Finance Committee, if the issue(s) is not resolved, and withhold additional funding for the project until final resolution of the matter.
- Secure reimbursement (with interest) of any misused or misapplied funding;

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- Make guidelines available to assist with complying with the terms of the agreement.

Staff will return to the Board on a future date for Board consideration of a project agreement with the Virginia Department of Transportation (VDOT) to secure additional state funding needed to further advance the project through implementation.

FISCAL IMPACT:

The County will receive \$5 million on a reimbursement basis from NVTAFY 2017 Program funding for preliminary engineering and partial right of way acquisition. Staff will seek Board approval at a later date to secure Revenue Sharing, and HB2 state funding in VDOT's Six Year Improvement Program. NVTAF monies reimbursed to the County will be allocated to Fund 40010, County and Regional Transportation Projects. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Standard Project Agreement for the Route 28 Widening (Prince William County Line to Route 29) Project, including Related Appendices, with the Northern Virginia Transportation Authority

Attachment 2: Resolution to Execute Agreement with the Fairfax County Department of Transportation and the Northern Virginia Transportation Authority

Attachment 3: Approved Project Description Sheet for the Route 286 Widening (Route 123 to Route 29) Project

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Malcolm Watson, Transportation Planner, Coordination and Funding Division, FCDOT

Joe LaHait, Debt Coordinator, Department of Management and Budget

Joanna L. Faust, Assistant County Attorney

**Standard Project Agreement for Funding and Administration
between
Northern Virginia Transportation Authority
and**

(Recipient Entity)

Project Name: _____

NVTA Project Number: _____

This Standard Project Agreement for Funding and Administration ("this Agreement") is made and executed in duplicate on this _____ day of _____, 20__, as between the Northern Virginia Transportation Authority ("NVTA") and _____ ("Recipient Entity").

WITNESSETH

WHEREAS, NVTA is a political subdivision of the Commonwealth of Virginia created by the Northern Virginia Transportation Authority Act ("the NVTA Act"), Chapter 25 of Title 33.2 of the Code of Virginia, as amended;

WHEREAS, Section 33.2-2500(4) of the Code of Virginia authorizes NVTA to enter into project agreements with certain statutorily designated entities for the provision of transportation facilities and services to the area embraced by NVTA;

WHEREAS, Section 33.2-2509 of the Code of Virginia authorizes NVTA to use funds from a fund established pursuant to that Code section (the "NVTA Fund") in order to assist in the financing, in whole or in part, of certain regional transportation projects in accordance with Code Section 33.2-2510;

WHEREAS, the NVTA Fund provides for the deposit therein of certain dedicated revenues and other funds appropriated by the Virginia General Assembly;

WHEREAS, Section 33.2-2510 of the Code of Virginia authorizes the use of funds from the NVTA Fund and the use of proceeds from NVTA debt issuances ("NVTA Bond Proceeds") to be used by NVTA solely for transportation purposes benefitting those counties and cities embraced by NVTA;

WHEREAS, the Project set forth and described on Appendix A to this Agreement ("the Project") satisfies the requirements of Virginia Code Section 33.2-2510;

WHEREAS, the Project is to be financed, as described in Appendix B, in whole or in part, by funds from the NVTA Fund and/or from NVTA Bond Proceeds, is located within a locality embraced by NVTA's geographical borders, or is located in an adjacent locality, but only to the extent that any such extension is an insubstantial part of the Project and is essential to the viability of the Project within the localities embraced by NVTA;

WHEREAS, _____ formally requested that NVTA provide funding to the Project by timely submitting an application for NVTA funding in response to NVTA's call for projects;

WHEREAS, NVTA has reviewed _____'s application for funding and has approved _____'s administration and performance of the Project's described scope of work;

WHEREAS, based on the information provided by _____, NVTA has determined that the Project complies with all requirements of the NVTA Act related to the use of moneys identified in Virginia Code Sections 33.2-2510(A),(C)1 and all other applicable legal requirements;

WHEREAS, the funds to be provided by NVTA described in Appendix B have been duly authorized and directed by _____ to finance the Project;

WHEREAS, NVTA agrees that _____ will design and/or construct the Project or perform such other specific work for the Project and _____ agrees that it will perform such work on the terms and conditions set forth in this Agreement and the Appendices appended thereto;

WHEREAS, both parties have concurred in the _____'s administration, performance, and completion of the Project on the terms and conditions set forth in this Agreement and its Appendices and in accordance with all applicable federal, state, and local laws and regulations; and

WHEREAS, NVTA's governing body and _____'s governing body have each authorized that their respective designee(s) execute this agreement on their respective behalf(s) as evinced by copies of each such entity's clerk's minutes which are appended hereto as Appendix E;

NOW THEREFORE, in consideration of the promises made mutual covenants, and agreements contained herein, the parties hereto agree as follows:

A. Recipient Entity's Obligations

_____ shall:

1. Complete or perform all said work as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with all applicable federal, state, and local laws and regulations, and all terms and conditions of this Agreement.
2. Ensure that all work performed or to be performed under this Agreement is in accordance with the Project Description Sheets attached to Appendix A and complies with Va. Code Ann. Sections 33.2-2510(A), (C)1.
3. Perform or have performed, and remit all payment requisitions and other requests for funding for design and engineering, including all environmental work, right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions for the Project, as is required by this Agreement and that may be necessary for completion of the Project.
4. Not use the NVT A funds specified on Appendix B to pay any Project cost if the NVT A Act does not permit such Project cost to be paid with NVT A funds.
5. Recognize that, if the Project contains "multiple phases" (as such "multiple phases" are defined for the Project on Appendix A), for which NVT A will provide funding for such multiple phases (as set forth on Appendix B), NVT A may not provide funding to _____ to advance the Project to the next phase until the current phase is completed. In any circumstance where _____ seeks to advance a Project to the next phase using NVT A funds, _____ shall submit a written request to NVT A's Executive Director explaining the need for NVT A's funding of an advanced phase. NVT A's Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and NVT A's current and projected cash flow position and make a recommendation to NVT A whether to authorize the requested advance phase funding. Nothing herein, however, shall prohibit _____ from providing its own funds to

advance a future phase of the Project and from requesting reimbursement from NVTa for having advance funded a future phase of the Project. However, _____ further recognizes that NVTa's reimbursement to _____ for having advance funded a Project phase will be dependent upon NVTa's cash flow position at the time such a request for reimbursement is submitted and to the extent that any such advanced funding is consistent with Appendix B.

6. Acknowledge that NVTa's Executive Director will periodically update NVTa's project cash flow estimates with the objective toward keeping those estimates accurate throughout the life of the Project. _____ shall provide all information required by NVTa so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the life of the Project as described in Appendix B.
7. Provide to NVTa requests for payment consistent with Appendix B and the most recently approved NVTa cash flow estimates that include NVTa's standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by NVTa and that certify all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by NVTa, _____ can expect to receive payment within twenty (20) days upon receipt by NVTa. Approved payments may be made by means of electronic transfer of funds from NVTa to or for the account of _____.
8. Promptly notify NVTa's Executive Director of any additional project costs resulting from unanticipated circumstances and provide to NVTa detailed estimates of additional costs associated with those circumstances. _____ understands that it will be within NVTa's sole discretion whether to provide any additional funding to the Project in such circumstances and that NVTa will do so only in accordance with NVTa's approved Project Selection Process and upon formal action and approval by NVTa. _____ shall timely provide to NVTa a

complete and accurate update to Appendix B, if NVTA approves funding of any additional Project costs for the Project under this Paragraph.

9. Release or return any unexpended funds to NVTA no later than 90 days after final payment has been made to the contractors.
10. Review and acknowledge the requirements of NVTA Resolution No. 14-08 adopted January 23, 2014; to wit that, if applicable to _____'s Project: a) Prior to any NVTA funds being released for a project that may be part of a larger project, projects, or system undertaken with an extra-territorial funding partner, all such extra-territorial funding partners must commit to pay their appropriate, respective proportionate share or shares of the larger project or system cost commensurate with the benefits to each on a basis agreed upon by the NVTA member localities; b) any such funds released by NVTA for such project will be in addition to the funds that the NVTA member locality is to receive from or be credited with by the extra-territorial funding partner for the project or system; and c) there shall be no funding made available by NVTA until such time as all extra-territorial funding partners for such project or system pay or officially commit to fund their appropriate, respective proportionate shares of such large project or system commensurate with the benefits to each on a basis agreed upon with NVTA.
11. Should _____ be required to provide matching funds in order to proceed or complete the funding necessary for the Project, _____ shall certify to NVTA that all such matching funds have been either authorized and/or appropriated by _____s governing body or have been obtained through another, independent funding source;
12. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations, unless superseded by the laws that govern _____ and provide copies of any such financial records to NVTA, free of charge, upon request.

13. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations, unless superseded by the laws that govern _____; and provide to NVTA copies of all such drawings and plans free of charge, upon request.
14. Reimburse NVTA for all NVTA funds (with interest earned at the rate earned by NVTA) that _____ misapplied or used in contravention of Sections 33.2-2500 *et. seq.* of the Virginia Code (“the NVTA Act”) Chapter 766 of the 2013 Virginia Acts of Assembly (“Chapter 766”), or any term or condition of this Agreement.
15. Name NVTA and its Bond Trustee or require that all _____’s contractors name NVTA or its Bond Trustee as an additional insured on any insurance policy issued for the work to be performed by or on behalf of _____ for the Project and present NVTA with satisfactory evidence thereof before any work on the Project commences or continues.
16. Give notice to NVTA that _____ may use NVTA funds to pay outside legal counsel services (as opposed to utilizing the services of its own in-house counsel or NVTA’s in-house legal counsel) in connection with the work performed under this Agreement _____ so as to ensure that no conflict of interest may arise from any such representation.
17. Provide certification to NVTA, that upon final payment to all contractors for the Project, _____ will use the Project for its intended purposes for the duration of the Project’s useful life. Under no circumstances will NVTA be considered responsible or obligated to operate and/or maintain the Project after its completion.
18. Comply with all requirements of the Virginia Public Procurement Act and other applicable Virginia Code provisions, or local ordinances which govern the letting of public contracts, unless superseded by the laws that govern _____.

19. Acknowledge that if the Project is being funded in whole or in part by NVTA Bond Proceeds, comply with the tax covenants attached as Appendix D.
20. Acknowledge that if _____ expects and/or intends that the Project is to be submitted for acceptance by the Commonwealth into its system that _____ agrees to comply with the Virginia Department of Transportation's ("VDOT's") "Standards, Requirements and Guidance."
21. Recognize that _____ is solely responsible for obtaining all permits and permissions necessary to construct and/or operate the Project, including but not limited to, obtaining all required VDOT and local land use permits, applications for zoning approvals, and regulatory approvals.
22. Recognize that if _____ is funding the Project, in whole or in part, with federal and/or state funds, in addition to NVTA funds and/or NVTA Bond Proceeds that _____ will need to comply with all federal and Commonwealth funding requirements, including but not limited to, the completion and execution of VDOT's Standard Project Administration Agreement and acknowledges that NVTA will not be a party or signatory to that Agreement; nor will NVTA have any obligation to comply with the requirements of that Agreement.
23. Provide a certification to NVTA no later than 90 days after final payment to the contractors that _____ adhered to all applicable laws and regulations and all requirements of this Agreement.

B. NVTA's Obligations

NVTA shall:

- I. Provide to _____ the funding authorized by NVTA for design work, engineering, including all environmental work, all right-of-way acquisition, inspection services, testing services, construction, and/or capital asset acquisition(s) on a reimbursement basis as set forth in this Agreement and as specified in the Project Budget and Cash Flow contained in

Appendix B to this Agreement or the most updated amendment thereto, as approved by NVTA.

2. Assign a Program Coordinator for the Project. NVTA's Program Coordinator will be responsible for monitoring the Project on behalf of NVTA so as to ensure compliance with this Agreement and all NVTA's requirements and with overseeing, managing, reviewing, and processing, in consultation with NVTA's Executive Director and its Chief Financial Officer ("CFO") , all payment requisitions submitted by _____ for the Project. NVTA's Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the Project Scope of Work as set forth on Appendix A or to the Project Budget and Cash Flow as set forth on Appendix B.
3. Route to NVTA's assigned Program Coordinator all _____'s payment requisitions, containing detailed summaries of actual Project costs incurred which are in substantially the same form as shown on Appendix C submitted to NVTA for the Project. After submission to NVTA, NVTA's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. NVTA's Program Coordinator will then make a recommendation to the NVTA's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from _____. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is deemed insufficient, within twenty (20) days from receipt, NVTA's Program Coordinator will notify _____ in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed for processing the payment request. Payment will be withheld until all deficiencies identified by NVTA have been corrected. Under no circumstances will NVTA authorize payment for any work performed by or on behalf of _____ that is not in conformity with the requirements of the NVTA Act, Chapter 766, or this Agreement.

4. Route all _____'s supplemental requests for funding from NVTA under Paragraphs A.5 and A.8 of this Agreement to NVTA's Executive Director. NVTA's Executive Director will initially review those requests and all supporting documentation with NVTA's CFO. After such initial review, NVTA's Executive Director will make a recommendation to NVTA's Finance Committee for its independent consideration and review. NVTA's Finance Committee will thereafter make a recommendation on any such request to NVTA for final determination by NVTA.
5. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the NVTA Act, Chapter 766, and other applicable law. Such compliance reviews may entail review of _____'s financial records for the Project and on -site inspections.
6. Acknowledge that if, as a result of NVTA's review of any payment requisition or of any NVTA compliance review, NVTA staff determines that _____ has misused or misapplied any NVTA funds in derogation of this Agreement or in contravention of the NVTA Act, Chapter 766 or applicable law, NVTA staff will promptly advise NVTA's Executive Director and will advise _____'s designated representative in writing. _____ will thereafter have thirty (30) days to respond in writing to NVTA's initial findings. NVTA's staff will review _____'s response and make a recommendation to NVTA's Finance Committee. NVTA's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to NVTA. Pending final resolution of the matter, NVTA will withhold further funding on the Project. If NVTA makes a final determination that _____ has misused or misapplied funds in contravention of this Agreement, the NVTA Act, Chapter 766, or other applicable law, NVTA will cease further funding for the Project and will seek reimbursement from _____ of all funds previously remitted by NVTA (with interest earned at the rate earned by NVTA) which were misapplied or misused by _____. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

7. Make guidelines available to _____ to assist the parties in carrying out the terms of this Agreement in accordance with applicable law.
8. Upon recipient's final payment to all contractors, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans for the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
9. Be the sole determinant of the amount and source of NVTA funds to be provided and allocated to the Project and the amounts of any NVTA funds to be provided in excess of the amounts specified in Appendix B.

C. Term

1. This Agreement shall be effective upon adoption and execution by both parties.
2. _____ may terminate this Agreement, for cause, in the event of a material breach by NVTA of this Agreement. If so terminated, NVTA shall pay for all Project costs incurred through the date of termination and all reasonable costs incurred by _____ to terminate all Project related contracts. The Virginia General Assembly's failure to appropriate funds to NVTA as described in paragraph F of this Agreement or repeal of the legislation establishing the NVTA fund created pursuant to Chapter 766 shall not be considered material breaches of this Agreement by NVTA. Before initiating any proceedings to terminate under this Paragraph, _____ shall give NVTA sixty (60) days written notice of any claimed material breach of this Agreement; thereby allowing NVTA an opportunity to investigate and cure any such alleged breach.
3. NVTA may terminate this Agreement, for cause, resulting from _____'s material breach of this Agreement. If so terminated, _____ shall refund to NVTA all funds NVTA provided to _____ for the Project (including interest earned at the rate earned by NVTA). NVTA will provide _____ with sixty (60) days written notice that NVTA is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, _____ may

request that NVTA excuse _____ from refunding all funds NVTA provided to _____ for the Project based upon _____'s substantial completion of the Project or severable portions thereof; and NVTA may, in its sole discretion, excuse _____ from refunding all or a portion of the funds NVTA provided to _____ for the Project. No such request to be excused from refunding will be allowed where _____ has either misused or misapplied NVTA funds in contravention of applicable law.

4. Upon termination and payment of all eligible expenses as set forth in Paragraph C.3 above, _____ will release or return to NVTA all unexpended NVTA funds with interest earned at the rate earned by NVTA no later than sixty (60) days after the date of termination.

D. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. NVTA's Executive Director and _____'s Chief Executive Officer or Chief Administrative Officer shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to NVTA and to _____'s governing body for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law, including all judicial remedies.

E. NVTA's Financial Interest in Project Assets

_____ agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by NVTA under this Agreement ("Project Assets") for the designated transportation purposes of the Project under this Agreement and in accordance with applicable law throughout the useful life of each Project Asset. NVTA shall retain a financial interest in the value of each of the of the Project Assets, whether any such Project Asset may have depreciated or appreciated, throughout its respective useful life proportionate to the amount of the cost of the Project Asset funded by NVTA under this

Agreement. In the event that _____ fails to use any of the Project Assets funded under this Agreement for the transportation purposes as authorized by this Agreement or applicable law throughout its respective useful life, _____ shall refund to NVTA with interest at the rate earned by NVTA the amount attributable to NVTA's proportionate financial interest in the value of said Project Asset. If _____ refuses or fails to refund said monies to NVTA, NVTA may recover its proportionate financial interest from _____ by pursuit of any remedies available to NVTA, including but not limited to NVTA's withholding of commensurate amounts from future distributions of NVTA funds to _____.

F. Appropriations Requirements

1. Nothing herein shall require or obligate any party to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by their respective governing bodies.
2. The parties acknowledge that all funding provided by NVTA pursuant to Chapter 766 is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the NVTA Fund pursuant to Va. Code Ann. Sections 58.1-638, 58.1-802.2, and 58.1-1742 and any other moneys that the General Assembly appropriates for deposit into the NVTA Fund are subject to appropriation by the General Assembly and (ii) NVTA's obligations under this Agreement are subject to such moneys being appropriated for deposit in the NVTA Fund by the General Assembly.

G. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

- 1) to: NVTA, to the attention of its Executive Director;
3040 Williams Drive, Suite 200
Fairfax, VA 22031
- 2) to _____, to the attention of _____

_____ (address)

H. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

I. Modification or Amendment

This Agreement may be modified, in writing, upon mutual agreement of both parties.

J. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

K. No Agency

_____ represents that it is not acting as a partner or agent of NVTA; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

L. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

M. Incorporation of Recitals

The recitals to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that such recitals are true and correct.

N. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

O. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Northern Virginia Transportation Authority

By: _____

Date: _____

_____ (Name of Recipient Entity)

By: _____

Date: _____

Appendix A –Narrative Description of Project (Attach Project Description Form)

NVTA Project Title: Route 28 Widening (Prince William County Line to Route 29)

Recipient Entity: Fairfax County

Project Manager Contact Information: Todd Minnix (703)877-5749, Wesley.Minnix@fairfaxcounty.gov

Table A-1 Project Changes

Widen Route 28 from 4 to 6 lanes from the Prince William County line at Bull Run to Route 29 in Centreville. The project would include intersection improvements and pedestrian/bicycle facilities on both sides of the roadway and improvements to pedestrian/bicycle facilities at all intersections through the corridor.

The project will add one lane in each direction to improve through capacity on VA Route 28, which currently carries over 60,000 vehicles per day, at a peak hour LOS F. The intersection improvements will improve through travel by eliminating split phase signal timings at five intersections along this section of VA Route 28. In addition, the project will improve travel times and connections to other corridors such as US Route 29 (Lee Highway) and Route 620 (New Braddock Road) which are alternatives to the I-66 corridor. This project is included within a Corridor of Statewide Significance in VDOT's VTrans 2040 long range plan.

By expanding capacity on VA Route 28, congestion on parallel and "cut through" routes such as Ordway Road, Old Centreville Road (in Centreville), and Compton Road (to the east of VA Rte. 28) is expected to be reduced.

Table A-2 Project Milestone Changes

Only Complete if Different from the Approved NVTA Project Description Form Attached

Signature: _____
Director, Department of Transportation

Date: _____

Revised: 4/14/2016

APPENDIX B-PROJECT BUDGET & CASH FLOW

PROJECT IDENTIFICATION AND PROPOSED FUNDING

NVTA Project Title: Route 28 Widening: Prince William County Line to Route 29
 Recipient Entity: Fairfax County
 Project Contact Information: Jim Beall; James.Beall@FairfaxCounty.gov; (703) 877-5673

NVTA Use:

Date Received: _____

Funding Program: _____

Project #: _____

Ledger Account #: _____

Revision Date: _____

Rec'd Certificate of Ins: _____

TABLE B-1 PROJECT COSTS & FUNDING SOURCE

| Project Cost Category | Total Project Costs | Approved NVTA Project Funds | Amount of Other Sources of Funds | List of Other Sources of Funds (For each cost category include all other funding sources; list each source of funds on a separate line for each cost category) |
|-----------------------------|----------------------|-----------------------------|----------------------------------|---|
| Study | \$ - | \$ - | \$ - | |
| Preliminary Engineering | \$ 7,521,000 | \$ 2,521,000 | \$ 5,000,000 | \$5M NVTA FY15/16 Program; |
| Right-of-Way Acquisition | \$ 10,786,000 | \$ 2,479,000 | \$ 8,307,000 | \$3.076 FY17 Rev Shrg; \$5.231M FY17-21 HB2 |
| Construction | \$ 50,522,000 | | \$ 50,522,000 | \$27.599M FY17-21 HB2; \$4.5M FY18 Rev Shrg Req; |
| Capital Asset Acquisitions | | | | \$18.423 NVTA FY18-23 Req; |
| Other | | | | |
| Total Estimated Cost | \$ 68,829,000 | \$ 5,000,000 | \$ 63,829,000 | |

TABLE B-2 PROJECT CASH FLOW PER FISCAL YEAR AND COST CATEGORY FOR NVTA FUNDS ONLY

| Project Cost Category | Total FY2017 Project Funds | Total FY2018 Project Funds | Total FY2019 Project Funds | Total FY2020 Project Funds | Total FY2021 Project Funds | Total FY2022 Project Funds |
|-----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| Study | | | | | | |
| Preliminary Engineering | \$ 1,260,500 | \$ 1,260,500 | | | | |
| Right-of-Way Acquisition | | \$ 2,479,000 | | | | |
| Construction | | | | | | |
| Capital Asset Acquisitions | | | | | | |
| Other | | | | | | |
| Total Estimated Cost | \$ 1,260,500 | \$ 3,739,500 | \$ - | \$ - | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

TABLE B-3 MONTHLY/QUARTERLY PROJECT CASH FLOW FOR NVTA FUNDS ONLY

| Month | FY2017 Monthly Cash Flow | FY2018 Quarterly Cash Flow | FY2019 Quarterly Cash Flow | FY2020 Quarterly Cash Flow | FY2021 Quarterly Cash Flow | FY2022 Quarterly Cash Flow |
|------------------------------|--------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| July | | | | | | |
| August | | | | | | |
| September | | \$ 619,750 | | | | |
| October | | | | | | |
| November | | | | | | |
| December | | \$ 1,880,250 | | | | |
| January | | | | | | |
| February | | | | | | |
| March | | \$ 619,750 | | | | |
| April | | | | | | |
| May | | | | | | |
| June | \$ 1,260,500 | \$ 619,750 | | | | |
| Total per Fiscal Year | \$ 1,260,500 | \$ 3,739,500 | \$ - | \$ - | \$ - | \$ - |

Please Note: If additional years are needed, please submit a separate form with additional columns

The Total Amounts in Table B-2 and Table B-3 must agree to the total NVTA Funds listed in Table B-1

The total of each Fiscal Year must match in Table B-2 and Table B-3

This attachment is certified and made an official attachment to the Standard Project Agreement document by the parties of this agreement.

| | | |
|---|---|---|
| Recipient Entity | Northern Virginia Transportation Authority | Northern Virginia Transportation Authority |
| Signature | Signature | Signature |
| Director, Fairfax County Department of Transportation | NVTA Executive Director | NVTA Chief Financial Officer |
| Title | Title | Title |
| Date | Date | Date |

Print name of person signing

Revised: 4/13/2016

Fairfax County Board of Supervisors Resolution

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted.

AGREEMENT EXECUTION RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute, on behalf of the County of Fairfax, a Standard Project Agreement with the Northern Virginia Transportation Authority for the funding of the Route 28 Widening (Prince William County Line to Route 29) project.

Adopted this 6th day of December 2016, Fairfax, Virginia

ATTEST _____
Catherine A. Chianese
Clerk to the Board of Supervisors



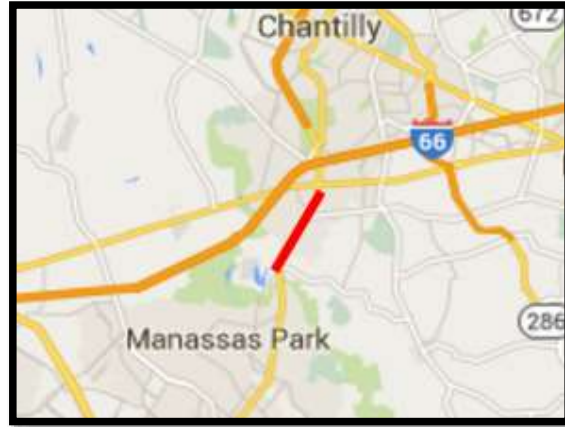
Project Description Form – 3M

Basic Project Information

Submitting Jurisdiction/Agency: Fairfax County

Project Title: Route 28 Widening: Prince William County Line to Route 29

Project Location: Route 28 from the Prince William County Line at the bridge over Bull Run to Route 29 in Centreville



Project Description: This project proposes to widen Route 28 from 4 to 6 lanes from the Prince William County line at Bull Run to Route 29 in Centreville. The project would include intersection improvements and pedestrian/bicycle facilities on both sides of the roadway and improvements to pedestrian/bicycle facilities at all intersections through the corridor.

Project Milestones

Project Milestones by Project Phase:

- **Engineering:** Scoping/Preliminary Engineering (2015 to mid-2017), Issuance of Design/Build RFP January 2017
- **Environmental Work:**
- **Design:**
- **Right of Way Acquisition:** April 2017-August 2018
- **Construction:** February 2018-January 2020
- **Capital Asset Acquisitions:**
- **Other:**

Project Analysis Summary*

| | | | |
|--|-------|----------------|--------|
| NVTA Quantitative Score | 65.34 | Rank | 5 |
| Congestion Reduction Relative to Cost Ratio (NVTA Share) | 0.56 | hours saved/\$ | Rank 5 |
| Congestion Reduction Relative to Cost Ratio (Total Cost) | 0.52 | hours saved/\$ | Rank 2 |

*Detailed scoring information can be found at: <http://www.thenovaauthority.org/planning-programming/fy2017-program/>

FY2017 Program

Route 28 Widening: Prince William County Line to Route 29 3M

5.11.16

Project Cost

Requested NVTa FY2017 Funds: \$5,000,000

Total Cost to Complete Project: \$68,910,000

| Project Phases | Requested NVTa FY2017 Funds | Other Sources of Funding | Total Cost by Phase |
|-----------------------------------|------------------------------------|---|--------------------------------|
| Engineering | \$1,330,000 (FY2016 – FY2019) | \$5,000,000 (NVTa FY2015-16) \$1,330,000 (FY2017 Revenue Sharing, subject to funding approval) | \$7,660,000 (FY2016 – FY2019) |
| Environmental Work | (included in engineering) | | (included in engineering) |
| Design | (included in engineering) | | (included in engineering) |
| Right of Way Acquisition | \$3,250,000 (FY2018 – FY2019) | \$3,250,000 (FY2017 Revenue Sharing, subject to funding approval) | \$6,500,000 (FY2018 – FY2019) |
| Construction | \$420,000 (FY2019) | \$32,830,000 HB 2 \$21,080,000 HB 2 and/or NVTa future request; \$420,000 (FY2017 Revenue Sharing, subject to funding approval) | \$54,750,000 (FY2018 – FY2021) |
| Capital Asset Acquisitions | | | |
| Other | | | |
| TOTAL | \$5,000,000 | \$63,910,000 | \$68,910,000 |

Project Impacts

What regional benefit(s) does this project offer? The project will reduce congestion on a heavily traveled section of the VA Route 28 corridor, which provides travel within and between three counties in northern Virginia (Prince William, Fairfax, and Loudoun) and the two cities of Manassas, and Manassas Park. This section of Route 28 carries 60,000 vehicles per day with a peak hour Level of Service (LOS) F. The project will also improve multi-modal travel by adding pedestrian/bicycle facilities.

Current northbound AM peak hour travel time from Manassas Drive (in Manassas Park) to US 29 (in Centreville) averages between 30 and 40 minutes Monday through Thursday, even without an incident and at times can approach 1 hour. Similar travel times are typical in the southbound direction in the PM peak hour. Traffic queues at various signals along the corridor extend for up to one mile or more. Several large residential developments are currently under construction in Prince William County just south of the Fairfax County line, one a multi-family apartment complex consisting of approximately 750+ units, and a townhouse and single family development with an unknown number of units. With the opening of these developments, congestion and delays along VA Route 28 are increasing.

How will the project reduce congestion? The project will add one lane in each direction to improve through capacity on VA Route 28, which currently carries over 60,000 vehicles per day, at a peak hour LOS F. The intersection improvements will improve through travel by eliminating split phase signal timings at five intersections along this section of VA Route 28. In addition, the project will improve travel times and connections to other corridors such as US Route 29 (Lee Highway) and Route 620 (New Braddock Road) which are alternatives to the I-66 corridor. This project is included within a Corridor of Statewide Significance in VDOT's VTrans 2040 long range plan.

By expanding capacity on VA Route 28, congestion on parallel and "cut through" routes such as Ordway Road, Old Centreville Road (in Centreville), and Compton Road (to the east of VA Rte. 28) is expected to be reduced.

How will the project increase capacity? The project will add one lane in each direction to improve through capacity on VA Route 28. Expanding capacity on VA Route 28 will reduce congestion on parallel and "cut through" routes such as Ordway Road, Old Centreville Road (in Centreville), and Compton Road (to the east of VA Rte. 28).

How will the project improve auto and pedestrian safety? By adding capacity and improving operations, this project helps reduce congestion and the potential for vehicular conflicts. By improving intersections and eliminating split phase signal timings, operations are improved and the potential for vehicle conflicts is reduced, making the road safer for both vehicles and pedestrians/bicyclists. Sidewalks and shared-use paths are included in the project scope. This project will provide bicycle and pedestrian amenities, addressing missing links included in the County's Bicycle Master Plan.

How will the project improve regional connectivity? The project will enhance the roadway network between Prince William, Loudoun, and Fairfax Counties. The project will directly improve connectivity between several MWCOG Activity Centers, specifically Centreville and Yorkshire, City of Manassas, and

Manassas Park. These improvements, combined with improvements at the I-66 interchange, will facilitate access to Washington Dulles International Airport, Reston, Herndon, and beyond.

How will the project improve bicycle and pedestrian travel options? The project scope includes bicycle and pedestrian shared-use pathways, which will connect to the regional network, and are currently sparse and/or non-existent. This project will provide bicycle and pedestrian amenities included in the County's Bicycle Master Plan.

How will the project improve the management and operation of existing facilities through technology applications? N/A

Additional Information in Support of This Project

Route 28 Corridor Safety and Operations Study (VDOT) -

http://www.virginiadot.org/projects/northernvirginia/route_28_corridor_study.asp

Final Report - http://www.virginiadot.org/Route_28_Safety_and_Operational_Study_Final_Report.pdf



4

FY2017 Program

East Falls Church Regional Connection and Access Project 6S

5.11.16

ACTION - 13

Authorization to Enter into License Agreement with Towers Crescent, LLC to Expand Capital Bikeshare in Fairfax County (Providence District)

ISSUE:

Board approval of a License Agreement between Fairfax County (the "County") and Towers Crescent, LLC (Towers Crescent Agreement). This agreement will allow the County to construct and operate a bikeshare station in the Tysons area.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors approve the Towers Crescent Agreement attached to this Board Item (Attachment I) and authorize the Director of the Department of Transportation to execute the Towers Crescent Agreement on behalf of the County.

TIMING:

Board action is requested on December 6, 2016, to allow the Fairfax County Department of Transportation (FCDOT) to proceed with the station installation.

BACKGROUND:

Capital Bikeshare is a transportation system that allows individuals to check out a bike and ride short to moderate distances from station to station. A system of bikeshare stations and bicycles are set up in an area to allow participants to travel between destinations that are generally further than walking, without driving. As a result, roadway congestion is reduced.

Capital Bikeshare operates in the District of Columbia, Arlington County, Alexandria, and Montgomery County. There are currently over 370 stations in the Capital Bikeshare system in these jurisdictions. Fairfax County officially joined the Capital Bikeshare system in October 2016, after the Board approved the necessary funding and license agreements to initiate the system. The Towers Crescent Agreement will allow FCDOT to construct an additional station to serve members of the public who will use Capital Bikeshare. The County will not be paying monetary rent for this license.

The Towers Crescent Agreement allows the County to install, maintain, and operate a Capital Bikeshare station on a privately owned parcel of land located in the Tysons

Board Agenda Item
December 6, 2016

area. This site was identified in the original Bikeshare Program Board Item, which was approved on January 12, 2016.

Following approval and execution of the Towers Crescent Agreement, the station can be installed in approximately one week.

FISCAL IMPACT:

The County has separately participated in two cooperative procurements led by the City of Alexandria to purchase the equipment and services necessary for the installation, maintenance, and operation of Capital Bikeshare, including this station. There is no additional fiscal impact as a result of the Towers Crescent Agreement.

ENCLOSED DOCUMENTS:

Attachment I: Towers Crescent, LLC – 8020 Towers Crescent Drive

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT
Adam Lind, Bicycle Program Coordinator, Capital Projects and Traffic Engineering, FCDOT
Sarah Hensley, Assistant County Attorney, OCA

ATTACHMENT 1

BIKE SHARE LICENSE AGREEMENT

This License Agreement (“Agreement”) is entered into as of this _____ day of _____, 2016 (“Effective Date”) by and between TOWERS CRESCENT, LLC, a Delaware limited liability company (“Licensor”), and the Board of Supervisors of Fairfax County (the “County”), located at 12000 Government Center Parkway, Fairfax, Virginia 22035. The Licensor and the County are sometimes hereinafter separately referred to as “Party” and jointly referred to herein as the “Parties.”

WHEREAS Licensor is the sole fee simple owner of certain real property located at 8020 Towers Crescent Drive, Tysons, Virginia, and all improvements thereon (collectively, “Property”); and

WHEREAS the County desires to establish, operate, and maintain elements of a self-service bicycle rental system (“Services”) on the Property;

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor hereby grants a license to the County, subject to the terms and conditions as follows:

1. **LOCATION:**

- a. The Property has a street address of 8020 Towers Crescent Drive, Tysons, Virginia and is depicted on Exhibit A.
- b. The portion of the Property upon which the County’s bicycle rental docking station (“Docking Station”) will be located is more particularly depicted on Exhibit C (“Licensed Area”) which location has been approved by Licensor, and the plans for the Docking Station are attached hereto as Exhibit B.

2. **SPECIFIC GRANTS, USES AND OBLIGATIONS OF THE LICENSOR:**

Licensor shall:

- a. Grant the County, its successors and assigns, the right and license to construct, install, upgrade, alter, expand, renew, maintain, repair, replace, remove, and relocate the Docking Station, including the installation of a maximum of approximately eleven bicycles (collectively, the “Docking Station Construction”) within the Licensed Area, subject to the terms herein. The Licensed Area (including the Docking Station) may be relocated only upon written agreement of the parties.
- b. Grant the County the right to enter those areas of the Property, subject to the terms herein, that are required for the County to exercise all rights granted and obligations incurred herein, including, but not limited to, removing any obstructions from the Licensed Area that impede Users’ (as that term is later defined) access to the Licensed Area.

- c. Have the right to perform emergency repairs and or take emergency measures as needed to preserve the Property and/or to comply with any contractual obligation binding upon Owner and shall give the County prompt notice thereof.
- d. Permit the County, all of the County's officers, employees, agents, contractors, customers, guests, invitees, successors, assigns ("Users") the non-exclusive right to enter and use the Licensed Area in connection with this Agreement and to use the Services, which may include using the Docking Station or any related bicycles or other equipment within the Licensed Area, subject to and in accordance with the requirements herein. Licensor acknowledges that Users are subject to a User Agreement, which requires them to obey all applicable laws.
- e. Except for emergency situations, not to block or impair any User's full and ready access to the Docking Station (24 hours per day, 365 days per year) or otherwise materially interfere with or alter any User's use or enjoyment thereof, subject to the Owner's rights set forth in Section 2.a above.

3. **SPECIFIC USES AND OBLIGATIONS OF THE COUNTY:**

The County shall:

- a. Obtain all permits and prepare the Licensed Area for the installation and/or relocation of the Docking Station, at no cost or expense to Licensor.
- b. Notify Licensor before performing the initial installation of the Docking Station and provide prior notice of any material repair, maintenance or renovation or relocation work (e.g., excavation and digging in or around the Licensed Area) thereafter; in connection with any and all Docking Station Construction, the County shall comply with Licensor's reasonable rules and regulations regarding construction-related activities on the Property so long as Licensor provides the County with written notice thereof in advance.
- c. Install and remove the Docking Station at its sole cost and expense.
- d. Maintain the Docking Station in good condition at all times, at its sole expense, in accordance with the requirements herein.
- e. Communicate with all Users and other third parties, including responding to all inquiries made by any User. Licensor shall not be obligated and has no authority to communicate with anyone on the County's behalf; provided, however, the foregoing shall not prohibit any communications by Licensor as the owner of the Property.
- f. Remove the Docking Station and all related bicycles and other equipment from the Licensed Area within thirty (30) days after the expiration or earlier termination of this Agreement and restore the Licensed Area to the condition existing as of the Effective Date, ordinary wear and tear excepted.

4. **RENT:** Licensor and the County acknowledge and agree that the County shall have no obligation for payment of monetary rent. Each party shall be responsible for all cost of performance of its obligations as set forth in this Agreement.
5. **DEFAULT:**
 - a. The Licensor shall be in default if the Licensor breaches any material term or condition of this Agreement.
 - b. The County shall be in default if the County breaches any material term or condition of this Agreement.
 - c. In the event of default, the non-defaulting party shall give written notice to the defaulting party identifying the alleged breach of this Agreement, and the defaulting party shall have thirty (30) days from the date of notice to cure the breach to the reasonable satisfaction of the non-defaulting party. If the defaulting party fails to cure such breach within the thirty (30) days period set forth herein, this Agreement may be terminated by the non-defaulting party by giving an additional thirty (30) days' written notice to the breaching party.
6. **TERM AND TERMINATION:**
 - a. The period of this Agreement ("Term") shall be for a term of five (5) years commencing on the Effective Date, subject to the termination right below.
 - b. Subject of the terms herein, Licensor and the County agree that the County may renew this Agreement for up to four (4) additional consecutive five (5) year periods under the same terms and conditions as specified in this Agreement. Any such renewal shall be in the County's sole and complete discretion. Should the County choose to exercise its option to renew, the County shall provide Licensor with written notice of its intent to exercise such option not less than one hundred and eighty (180) days prior to the expiration of the then-current term of this Agreement.
 - c. In the event of a default, this Agreement may terminate as provided in paragraph 5(c) above.
 - d. Notwithstanding the foregoing, either party may terminate this Agreement by providing the non-terminating party with a written termination notice at least thirty (30) days before the termination date specified in such notice.
 - e. In the event of a sale of the Property, or of the portion thereof on which the Licensed Area is located, where this Agreement is not assigned to the new Owner, either party may terminate this Agreement within thirty (30) days after written notice to the non-terminating party.

7. **LIABILITY AND INSURANCE:**

- a. **Liability Insurance.** The County is a self-insured governmental body. The County is prescribed by law from extending its self-insurance to outside parties. Licensor hereby agrees that the County's self-insurance resolution shall satisfy any insurance requirement of the Licensor.
 - b. **Indemnification.** Licensor hereby agrees to indemnify and hold harmless Fairfax County, Virginia, its officers, agents, and all employees and volunteers from any and all claims for bodily injury to members of the public (including reasonable attorney fees) that arise from the gross negligence and/or willful misconduct of Licensor or its officers, agents, employees and/or volunteers in the Licensed Area.
8. **SUITABILITY OF PREMISES:** The County hereby accepts the Licensed Area in an "AS IS" condition and Licensor expressly disclaims any warranty or representation with regard to the condition, safety, security or suitability of the Licensed Area. It is understood by the County that the Licensor does not provide security protection for the Licensed Area and/or the County's property. The County hereby acknowledges and agrees that Licensor makes no representations regarding the suitability of its Property for the uses contemplated herein.
9. **INTEREST IN PROPERTY:** Nothing in this Agreement shall be interpreted to create anything other than a license and shall specifically not create any right, title or interest in property nor shall it create an easement.
10. **NO RIGHTS IN THIRD PARTIES:** The Parties agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, any right as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this Agreement or otherwise.
11. **ASSIGNMENT:** Except as provided in this Section 11, but subject to the terms of Section 6.e, neither party shall transfer or assign this Agreement without the written consent of the other party first had and obtained. Consent shall not be unreasonably withheld. In the event a party desires to assign this Agreement, that party shall provide written notice to the non-assigning party of its intent to transfer or assign this Agreement to another party. The non-assigning party shall provide written consent or rejection of the transfer or assignment within thirty (30) days of receipt of any such notice. Should the non-assigning party fail to respond within such thirty (30) day period, the party desiring to make the assignment may, without the consent of the non-assigning party, transfer or assign the Agreement to the party identified in its notice. Any further transfer or assignment shall require written consent as provided in this Section 11.
12. **COMPLIANCE WITH LAWS:** This Agreement shall be governed by the laws (including without limitation those relating to nondiscrimination) of the United States; the Commonwealth of Virginia; Fairfax County, and appropriate Board Regulations; and both Parties agree to abide by these provisions.

13. **COUNTY'S FINANCIAL OBLIGATION:** To the extent that there are any financial obligations incurred by the County under the terms of this Agreement, such financial obligations shall be subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.
14. **NO PARTNERSHIP:** Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture of or between the County and the Licensor, or to create any other relationship between the parties hereto other than that of Licensor and licensee.

15. **NOTICES:**

Any notice which the Parties may desire or be required to give under the terms of this Agreement shall be deemed sufficiently given or rendered, if in writing, and delivered by certified or registered mail, return receipt requested:

If to Licensor: c/o QDC Property Management, Inc.
1001 G Street, N.W., Suite 900
Washington, D.C. 20001
Attention: General Counsel

If to the County: Adam Lind
Bicycle Program Coordinator
Fairfax County Department of Transportation
4050 Legato Road, 4th Floor
Fairfax, Virginia 22033-2867

With a copy to:

Fairfax County Attorney's Office
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035

Any notice given hereunder shall be deemed delivered when the return receipt is signed or refusal to accept the notice is noted thereon.

16. **TIME OF ESSENCE:** Time is of the essence with respect to the performance of each of the covenants and agreements under this Agreement.
17. **SEVERABILITY:** If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws in effect during the term of this Agreement, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby.
18. **COUNTERPARTS:** This Agreement may be executed in multiple original counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.

19. **REPRESENTATIONS:** Each Party represents to the other Party that: it has the legal power and authority to enter into this Agreement and to undertake and perform all of its duties and obligations hereunder and that there is no contract or other legal obligation that prevents it from entering into this Agreement or from undertaking or performing all of its duties and obligations hereunder.
20. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement between the County and the Licensor. Oral statements, representations, and prior agreements not contained or referenced in this Agreement, shall have no force or effect. This Agreement may be modified only in writing executed by both parties.

IN WITNESS WHEREOF the parties hereto have affixed their signatures all as of the date first above written.

LICENSOR:

TOWERS CRESCENT, LLC

By: Towers Crescent Holdings, LLC

By: _____
Name: _____
Title: _____

LICENSEE:

The Board of Supervisors for Fairfax County
12000 Government Center Parkway
Fairfax, Virginia 22035

By: Tom Biesiadny
Director, Fairfax County
Department of Transportation

\\s17PROLAWPGC01\Documents\128995\SAH\842100.docx

EXHIBIT A
DIAGRAM OF THE PROPERTY

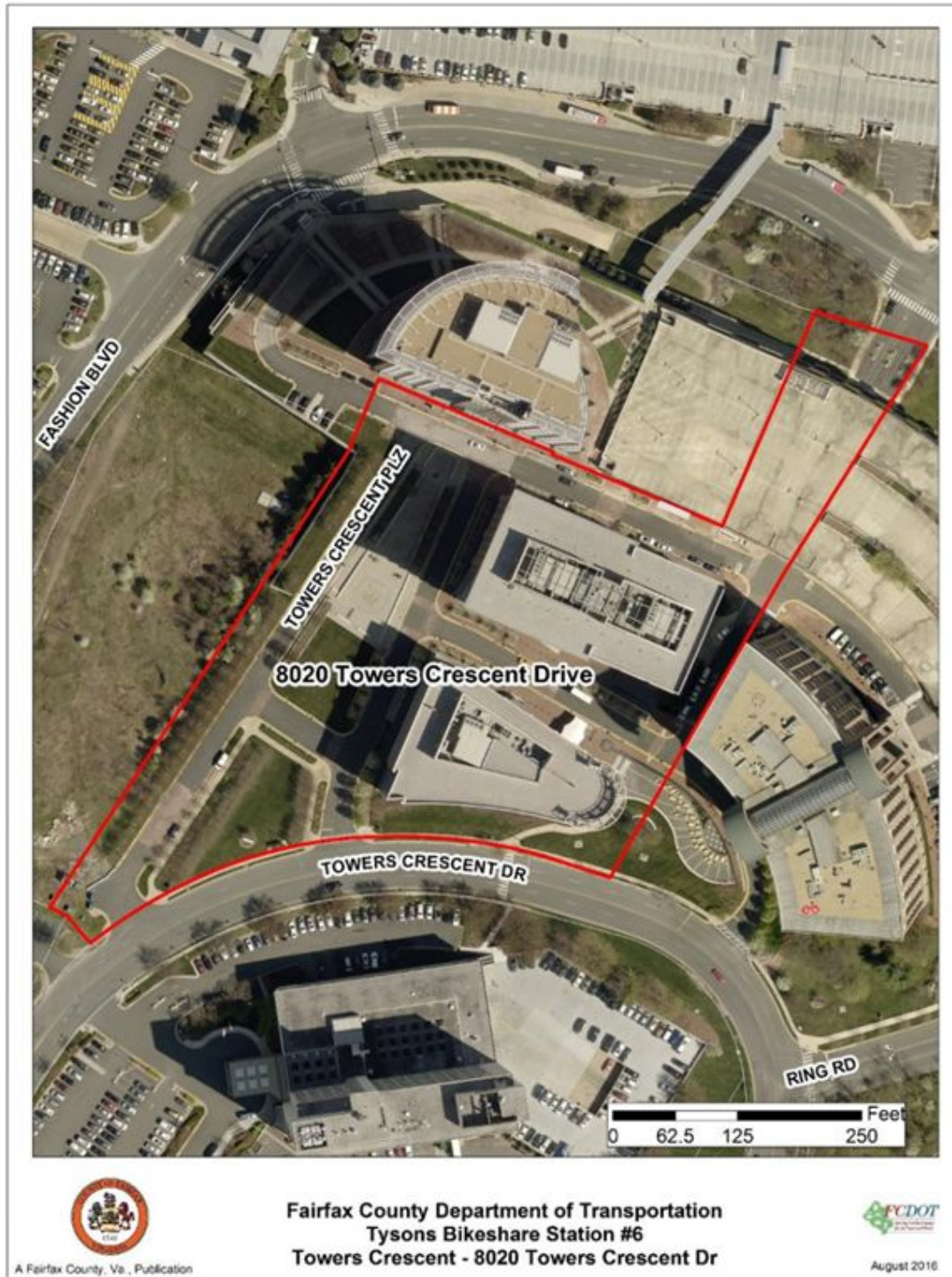


EXHIBIT B STATION PLANS

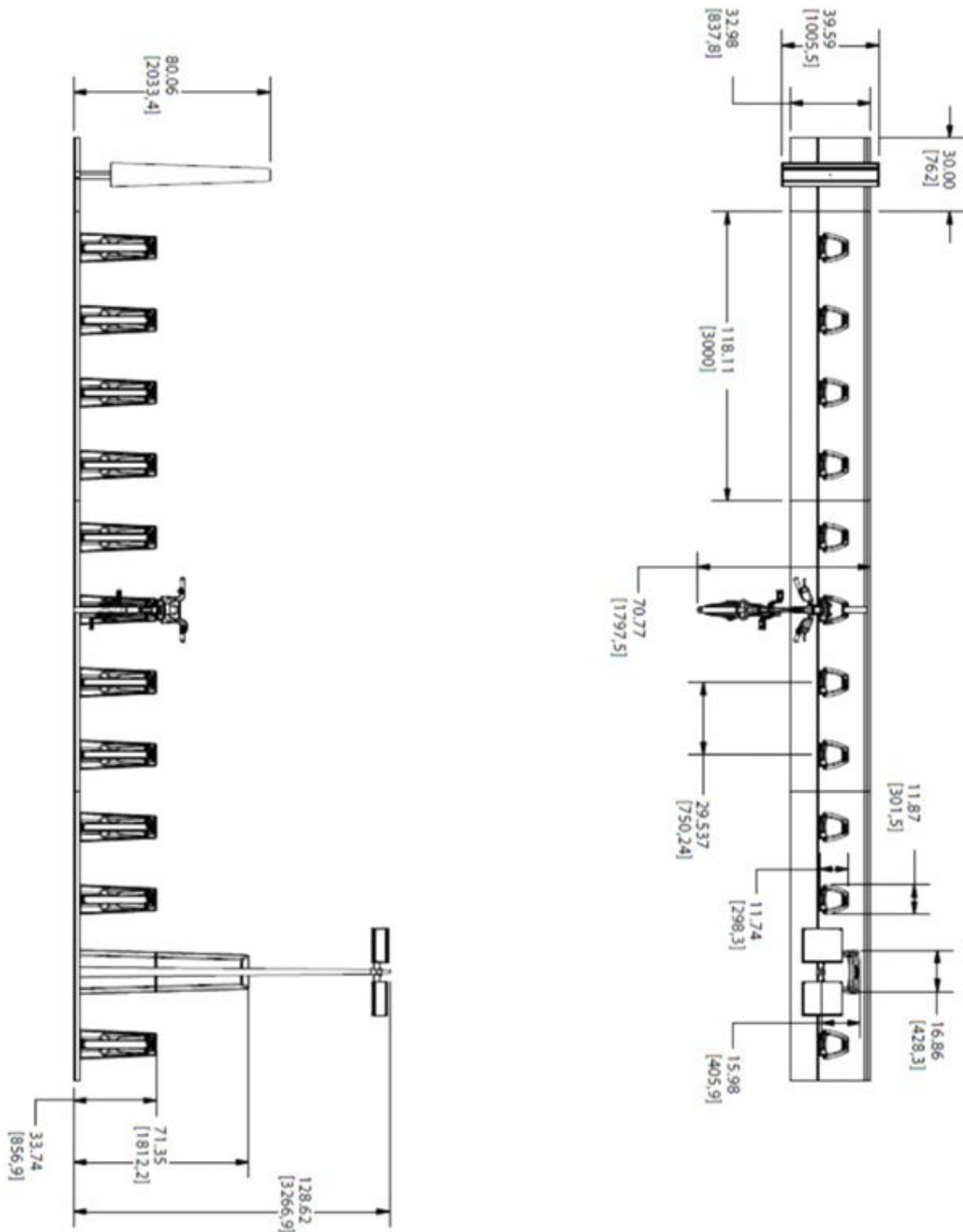


EXHIBIT C
LICENSED AREA



ACTION - 14

Authorization for the Director of the Department of Transportation to Execute Future Bikeshare Station License Agreements and Renewals for Capital Bikeshare

ISSUE:

Board authorization for the Director of the Department of Transportation to execute future Bikeshare Station license agreements (“License Agreements”) and renewals of License Agreements (“Renewals”). Each license agreement would allow the County to install, maintain, and/or operate Capital Bikeshare stations on privately owned parcels of land located in the County. Renewals would permit the County to renew existing and future License Agreements as their terms expire and make other appropriate modifications for such agreements as determined by the Director of the Department of Transportation.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Director of the Department of Transportation to execute License Agreements and Renewals consistent with the financial approvals of the Board of Supervisors.

TIMING:

Board action is requested on December 6, 2016, to allow the Fairfax County Department of Transportation (FCDOT) to identify additional bikeshare station locations, establish and administer license agreements, and further expand the Capital Bikeshare system, consistent with the financial approvals of the Board of Supervisors.

BACKGROUND:

Capital Bikeshare is a transportation system that allows individuals to check out a bike and ride short to moderate distances from station to station. A system of bikeshare stations and bicycles are set up in an area to allow participants to travel between destinations that are generally further than walking, without driving. As a result, roadway congestion is reduced.

Capital Bikeshare operates in the District of Columbia, Arlington County, Alexandria, and Montgomery County. There are currently over 370 stations in the Capital Bikeshare system in these jurisdictions. Fairfax County officially joined the Capital Bikeshare system in October 2016, after the Board approved the necessary funding and license agreements to initiate the system.

Many of the County’s initial Capital Bikeshare stations included in the system launch were located on private property. To secure permission to operate these stations, the

Board Agenda Item
December 6, 2016

County entered into a license agreement with each individual property owner to locate a station on his property. Negotiations for these license agreements enabled FCDOT to address private property owners' concerns regarding the bikeshare stations. Taking into consideration these concerns, FCDOT and the County Attorney's Office prepared the attached sample License Agreement (Attachment I) from which negotiations would proceed. For each property, the final form of the license agreement will be subject to negotiation and acceptance of terms by the Director of the Department of Transportation and the property owner. The sample License Agreement may also be used to negotiate and establish agreements to permit ingress and egress on adjacent private property for maintenance of a station.

In October, the Board approved Capital Bikeshare license agreements for parcels located in the Reston and Tysons areas. Authorizing the Director of Transportation to enter into future License Agreements, will enable FCDOT to efficiently expand the Capital Bikeshare system in Fairfax County, so that more of the County's citizens can take advantage of this transportation option. In addition, this authorization will shorten the time expended between identifying a new bikeshare station site and installing the station. With this authority, the Director of the Department of Transportation may also take action to extend the terms and modify License Agreements as may be needed to address individual locations.

FISCAL IMPACT:

The County has previously participated in two separate cooperative procurements led by the City of Alexandria to purchase the equipment and services necessary for the installation, maintenance, and operation of Capital Bikeshare. FCDOT does not expect any additional fiscal impact as a result of the License Agreements. Any expansion of the bikeshare program will be brought to the Board with specific recommendations for funding the expansion.

ENCLOSED DOCUMENTS:

Attachment I: Sample License Agreement

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, (FCDOT)
Adam Lind, Bicycle Program Coordinator, Capital Projects and Traffic Engineering, FCDOT
Sarah Hensley, Assistant County Attorney, OCA

ATTACHMENT 1

BIKE SHARE LICENSE AGREEMENT

This License Agreement (“Agreement”) is entered into as of this ____ day of _____, 20__ (“Effective Date”) between _____, a <STATE> <BUSINESS TYPE> (“Licensor”), located at <ADDRESS> and the Board of Supervisors of Fairfax County (the “County”), located at 12000 Government Center Parkway, Fairfax, Virginia 22035. The Licensor and the County are sometimes hereinafter separately referred to as “Party” and jointly referred to herein as the “Parties.”

WHEREAS Licensor is the sole fee simple owner of certain real property and all improvements thereon (collectively, “Property”); and

WHEREAS the County desires to establish, operate, and maintain elements of a self-service bicycle rental system (“Services”) on the Property;

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Licensor hereby grants a license to the County subject to the terms and conditions set forth as follows:

1. **LOCATION:**

- a. The Property is located at <ADDRESS> as depicted on Exhibit A.
- b. The portion of the Property upon which the bicycle rental docking station (“Docking Station”) is more particularly depicted on Exhibit B (“Licensed Area”). The Docking Station is part of the Services.

2. **SPECIFIC GRANTS AND OBLIGATIONS OF THE LICENSOR:**

Licensor shall:

- a. Grant the County, its successors, and assigns the right and license to construct, install, upgrade, alter, expand, renew, maintain, repair, replace, remove, relocate, and use the Docking Station and all related bicycles and other equipment within the Licensed Area, and to use and enjoy all rights appurtenant thereto.
- b. Grant the County the right to enter the Property as may be reasonable and appropriate to exercise all rights granted and obligations incurred herein, including, but not limited to, removing any obstructions from the Licensed Area.
- c. Permit the County, all of the County’s officers, employees, agents, contractors, customers, guests, invitees, successors, assigns (“Users”) the right to enter and use the

Licensed Area in connection with this Agreement and using any of the Services, which may include using the Docking Station or any related bicycles or other equipment within the Licensed Area. Licensors acknowledge and agree that any member of the public at large may become a User simply by using any of the Services and that each User must be allowed full access to the Licensed Area.

- d. Not permit the Licensed Area to be used for any other purposes except for the Docking Station and other purposes related to the License or the Services.
- e. Not to block or impair any User's full and ready access to the Docking Station (24 hours per day, 365 days per year) or otherwise materially interfere with or alter any User's use or enjoyment thereof.

3. **USE AND OBLIGATIONS OF THE COUNTY:**

The County shall:

- a. Obtain all permits and prepare the Licensed Area for the installation of the Docking Station at no cost or expense to Licensors.
 - b. Install and remove the Docking Station at its sole cost and expense.
 - c. Maintain the Docking Station in good condition.
 - d. Communicate with all Users and other third parties, including responding to all inquiries made by any User. Licensors have no authority to communicate with anyone on the County's behalf; provided, however, the foregoing shall not prohibit any communications by Licensors as owner of the Property
 - e. Remove the Docking Station and all related bicycles and other equipment from the Licensed Area within thirty (30) days after the expiration or earlier termination of this Agreement and restore the Licensed Area to the condition it was in upon the Effective Date, ordinary wear and tear excepted.
4. **RENT:** Licensors and the County acknowledge and agree that the County shall have no obligation for payment of monetary rent. Each party shall be responsible for all cost of performance of its obligations as set forth in this Agreement.

5. **DEFAULT:**

- a. The Licensors shall be in default if the Licensors breach any material term or condition of this Agreement.
- b. The County shall be in default if the County breaches any material term or condition of this Agreement.

- c. In the event of default, the non-defaulting party shall give written notice to the defaulting party identifying the alleged breach of this Agreement, and the defaulting party shall have thirty (30) days from the date of notice to cure the breach to the reasonable satisfaction of the non-defaulting party. If the defaulting party fails to cure such breach within the thirty (30) days period set forth herein, this Agreement may be terminated by the non-defaulting party by giving an additional thirty (30) days' written notice to the breaching party. Any such termination shall not otherwise limit the non-defaulting party from pursuing its remedies at law and in equity.

6. TERM AND TERMINATION:

- a. The period of this Agreement ("Term") shall be for a term of five (5) years commencing on the Effective Date and ending on _____ ("Termination Date").
- b. Licensor and the County agree that the County may renew this Agreement for up to four (4) additional consecutive five (5) year periods under the same terms and conditions as specified in this Agreement. Any such renewal shall be in the County's sole and complete discretion. Should the County choose to exercise its option to renew, the County shall provide Licensor with written notice of its intent to exercise such option not less than one hundred and eighty (180) days prior to the expiration of the then-current term of this Agreement.
- c. In the event of a default, this Agreement may terminate as provided in paragraph 5(c) above.
- d. In the event of a sale of the Property, or of the portion thereof on which the Licensed Area is located, where this Agreement is not assigned to the new Owner, either party may terminate this Agreement within sixty (60) days after written notice to the non-terminating party.
- e. Notwithstanding the foregoing, either party may terminate this Agreement by providing the non-terminating party with a written termination notice at least 180 days before the termination date specified in such notice.

7. LIABILITY AND INSURANCE:

- a. Liability Insurance. The County is a self-insured governmental body. The County is prescribed by law from extending its self-insurance to outside parties. Licensor hereby agrees that the County's self-insurance resolution shall satisfy any insurance requirement of the Licensor.
- b. Indemnification. The Licensor hereby agrees to indemnify and hold harmless Fairfax County, Virginia, its officers, agents, and all employees and volunteers, from any and all claims for bodily injuries and personal injuries to members of the public, including cost of investigation, all expenses of litigation, including reasonable attorney fees and the cost

of appeals arising out of any claims or suits arising from the use, occupancy, and condition of the Licensed Area.

8. **INTEREST IN PROPERTY:** Nothing in this Agreement shall be interpreted to create anything other than a license and shall specifically not create any right, title or interest in property nor shall it create an easement.
9. **NO RIGHTS IN THIRD PARTIES:** The Parties agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, any right as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this Agreement or otherwise.
10. **ASSIGNMENT:** Except as provided in this Section 10, Licensors shall not transfer or assign this Agreement without the written consent of the County, first had and obtained. The County's consent shall not be unreasonably withheld. In the event Licensors desire to assign this Agreement, Licensors shall provide written notice to the County of Licensors' intent to transfer or assign this Agreement to another party. The County shall provide written consent or rejection of the transfer or assignment within thirty (30) days of receipt of any such notice. Should the County fail to respond within such thirty (30) day period, the Licensors may, without the consent of the County, transfer or assign the Agreement to the party identified in the Licensors' notice. Any further transfer or assignment shall require the written consent of the County as provided in this Section 10.
11. **COMPLIANCE WITH LAWS:** This Agreement shall be governed by the laws (including without limitation those relating to nondiscrimination) of the United States; the Commonwealth of Virginia; Fairfax County, and appropriate Board Regulations; and both Parties agree to abide by these provisions.
12. **COUNTY'S FINANCIAL OBLIGATION:** To the extent that there are any financial obligations incurred by the County under the terms of this Agreement, such financial obligations shall be subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.
13. **NO PARTNERSHIP:** Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture of or between the County and the Licensors, or to create any other relationship between the parties hereto other than that of Licensors and licensee.
14. **NOTICES:** Any notice which the Parties may desire or be required to give under the terms of this Agreement shall be deemed sufficiently given or rendered, if in writing, and delivered by certified or registered mail, return receipt requested:

If to Licensor: _____

[ATTN: NAME OF OFFICER/REP]

If to the County: Adam Lind
Bicycle Program Coordinator
Fairfax County Department of Transportation
4050 Legato Road, 4th Floor
Fairfax, VA 22033-2867

With a copy to: Fairfax County Attorney's Office
12000 Government Center Parkway, Suite 549
Fairfax, VA 22035

Any notice given hereunder shall be deemed delivered when the return receipt is signed or refusal to accept the notice is noted thereon.

15. **TIME OF ESSENCE**: Time is of the essence with respect to the performance of each of the covenants and agreements under this Agreement.
16. **SEVERABILITY**: If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws in effect during the term of this Agreement, it is the intention of the parties that the remainder of this Agreement shall not be affected thereby.
17. **COUNTERPARTS**: This Agreement may be executed in multiple original counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.
18. **REPRESENTATIONS**: Each Party represents to the other Party that: it has the legal power and authority to enter into this Agreement and to undertake and perform all of its duties and obligations hereunder and that there is no contract or other legal obligation that prevents it from entering into this Agreement or from undertaking or performing all of its duties and obligations hereunder.
19. **ENTIRE AGREEMENT**: This Agreement contains the entire agreement between the County and the Licensor regarding the matters set forth herein. Oral statements, representations, and prior agreements not contained or referenced in this Agreement, shall have no force or effect. This Agreement may be modified only in writing executed by both parties.

SIGNATURE PAGE(S) TO FOLLOW

IN WITNESS WHEREOF the parties hereto have affixed their signatures all as of the date first above written.

LICENSOR:

<BUSINESS NAME>

<BUSINESS ADDRESS>

LICENSEE:

The Board of Supervisors for Fairfax
County
12000 Government Center Parkway
Fairfax, Virginia 22035

By: <NAME>
 <TITLE>

By: Tom Biesiadny
 Director, Fairfax County
 Department of Transportation

EXHIBIT A
THE PROPERTY

EXHIBIT B
THE LICENSED AREA

ACTION - 15

Approval of a Letter to the Washington Metropolitan Area Transit Authority (WMATA)
Regarding Proposed Early Metrorail Closing and WMATA FY 2018 Budget Options

ISSUE:

Board approval of a letter to WMATA regarding the proposed early closing of the Metrorail system for increased maintenance time and proposed options for closing the funding gap in the WMATA FY 2018 Budget.

RECOMMENDATION:

The County Executive recommends that the Board approve a letter to WMATA (Attachment I) regarding the proposed early closing of the Metrorail system for increased maintenance time and proposed options for closing the funding gap in the WMATA FY 2018 Budget. The letter includes support for:

- The General Manager's efforts to control costs, reduce the size of the organization, and reduce the amount of capitalized maintenance.
- An increase in jurisdictional subsidies in FY 2018.
- A modest fare increase on Metrobus and Metrorail, but not on parking. Parking usage is already down significantly. Also, the total cost of the trip to the passenger needs to be considered, and a certain amount of parking surcharge revenue is needed to support the revenue bonds that were sold to build the parking structures.
- An earlier closing of Metrorail on weekdays and weekends, and possibly a later opening on Sunday.
- A lengthening of Metrorail peak period headways from 6 minutes to 8 minutes. This schedule adjustment closely matches actual practice today, and it will allow the shortening of the Blue Line headway in Virginia from 12 minutes to 8 minutes.
- Reduction of a small amount of regional Metrobus service. However, any reduction of non-regional service should be decided by the jurisdiction funding the service.

TIMING:

The Board should act on this item on December 6, 2016, to be able to provide timely feedback to WMATA on their proposals before the WMATA Board approves public hearing dockets on December 15, 2016.

BACKGROUND:

WMATA's General Manager proposed permanently closing the Metrorail system earlier than has been the practice until June 2016 to provide additional Metrorail maintenance time. The proposal has four different options to close earlier each day. In 1998, Metrorail was closed for 44 hours each week for maintenance. Over the years, operating hours were expanded to the current hours (through June 2016) which only allow for 33 hours of maintenance in 2016. This is a 25 percent reduction in maintenance time, and a direct contributor to the maintenance problems Metro has been experiencing. The General Manager has proposed to close earlier each night to gain back eight hours of maintenance time which would allow 41 hours per week for maintenance. WMATA needs additional maintenance time to regularly maintain the Metrorail system. The four options vary on when to close the system each day, but all allow for an additional eight hours of maintenance time each week. The additional maintenance time will assist WMATA staff in reaching and keeping the system in a state of good repair for the Metrorail system. The following table shows the four proposed options:

| | PROPOSAL #1 | PROPOSAL #2 | PROPOSAL #3 | PROPOSAL #4 |
|----------------|------------------------|------------------------|------------------------|-----------------------|
| Mon-Thu | 5:00 a.m. – midnight | 5:00 a.m. – 11:30 p.m. | 5:00 a.m. – 11:30 p.m. | 5:00 a.m. – midnight |
| Fri | 5:00 a.m. – midnight | 5:00 a.m. – midnight | 5:00 a.m. – 1:00 a.m. | 5:00 a.m. – 3:00 a.m. |
| Sat | 7:00 a.m. – midnight | 7:00 a.m. – midnight | 7:00 a.m. – 1:00 a.m. | 9:00 a.m. – 3:00 a.m. |
| Sun | 7:00 a.m. – 10:00 p.m. | 7:00 a.m. – 11:30 p.m. | 8:00 a.m. – 11:00 p.m. | Noon – 11:00 p.m. |

The proposed WMATA FY 2018 Operating Budget has also been released by the General Manager, and there is an estimated operating budget gap of approximately \$290 million. Several strategies were included in the proposed budget presentation to address the gap. They include:

- Elimination of 1,000 positions which is 8 percent of the WMATA workforce including 300 operators, mechanics, and supervisors.
- Increasing Fares: Bus \$2.00 (up \$0.25); Rail \$2.25 to \$6.00 maximum (up \$0.10); MetroAccess two times the fixed route but capped at \$6.50; Parking \$4.95 (up \$0.10)

Board Agenda Item
December 6, 2016

- Widen Metrorail headways from 6 minutes to 8 minutes in peak period and from 12 to 15 minutes in off-peak period.
- Eliminate 24 most inefficient Metrobus routes.
- Reduction in capitalized maintenance from \$95 million in FY2017 to \$60 million in FY 2018.
- Increase total FY 2018 jurisdictional subsidy by \$130 million over FY 2017. This translates into approximately a \$20 million increase for Fairfax County in FY 2018.

Other items not included in the General Manager's Proposed FY 2018 Budget that have been discussed for illustrative purposes only are:

- Have the jurisdictions fill the entire gap of \$290 million as a subsidy increase.
- Close the 20 lowest ridership Metrorail stations during off-peak times.
- Reduction of 2,500 positions at WMATA.
- Eliminate 25 percent of all service.
- Raise all fares and fees by 35 percent (assuming no resulting ridership loss).

While mentioned, these items have not been proposed by WMATA. They are not currently under consideration as ways to close the FY 2018 operating budget gap.

To provide input to the WMATA General Manager and Board of Directors prior to the advertisement of a public hearing docket, Department of Transportation staff recommends the Board support the following comments:

- The General Manager's efforts to control costs, reduce the size of the organization, and reduce the amount of capitalized maintenance.
- An increase in jurisdictional subsidies in FY 2018.
- A modest fare increase on Metrobus and Metrorail, but not on parking. Parking usage is already down significantly. Also, the total cost of the trip to the passenger needs to be considered, and a certain amount of parking surcharge revenue is needed to support the revenue bonds that were and will be sold to build the parking structures.
- An earlier closing of Metrorail on weekdays and weekends, and possibly a later opening on Sunday. More specifically:
 - Mon-Thurs 5:00 a.m. to 11:30 p.m.
 - Friday 5:00 a.m. to 1:00 a.m.
 - Saturday 7:00 a.m. to 1:00 a.m.
 - Sunday 7:00 a.m. to 10:00 p.m.
- A lengthening of Metrorail peak period headways from 6 minutes to 8 minutes. This schedule adjustment closely matches actual practice today, and it will allow the shortening of the Blue Line headway in Virginia from 12 minutes to 8

Board Agenda Item
December 6, 2016

minutes.

- Reduction of a small amount of regional Metrobus service. However, any reduction of non-regional service should be decided by the jurisdiction funding the service.

FISCAL IMPACT:

The preliminary FY 2018 WMATA Operating Budget includes an estimated total jurisdictional operating subsidy increase of \$130 million over the FY 2017 amount. Based on the most recent information received, Fairfax County's portion of the total FY 2018 local operating subsidy increase is approximately \$20 million more than FY 2017. Fairfax County's FY 2018 subsidy level will be uncertain until WMATA's FY 2018 budget is adopted by the WMATA Board in May 2017.

When the final amount of Fairfax County's share is known, County Fund 30000 (Metro Operation and Construction) will be adjusted to include that amount in the next County Budget approved by the Board of Supervisors. The County uses a combination of state aid, gas tax, and local funding to meet its annual WMATA operating requirements. The Board is not being asked to approve Fairfax County's FY 2018 WMATA subsidy at this time.

ENCLOSED DOCUMENTS:

Attachment 1 – Letter to WMATA

Attachment 2 – WMATA Proposed Operating Budget Presentation dated 11/3/16

STAFF:

Robert A. Stalzer, Deputy County Executive

Joe Mondoro, Chief Financial Officer, Department of Management and Budget

Tom Biesiadny, Director, Department of Transportation, FCDOT

Todd Wigglesworth, Division Chief, Coordination and Funding Division, FCDOT



SHARON BULOVA
CHAIRMAN

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

12000 GOVERNMENT CENTER PKWY
SUITE 530
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
FAX: 703/324-3955
TTY: 711

chairman@fairfaxcounty.gov

Paul Wiedefeld
General Manager and Chief Executive Officer
Washington Metropolitan Area Transit Authority (WMATA)
600 Fifth Street, NW
Washington, D.C. 20001
Re: Metrorail Service Hours and FY 2018 Budget Options

Dear Mr. Wiedefeld:

WMATA's proposal to close the Metrorail system earlier each night to provide more time for maintenance and the mitigation measures proposed to close the funding gap in FY 2018 has stimulated discussion in Fairfax County. On behalf of the Fairfax County Board of Supervisors, I am requesting that WMATA consider these concerns as it moves forward into FY 2018 and beyond.

Fairfax County both recognizes the importance of and appreciates the intent behind your proposal to modify Metrorail's service hours. We believe that it is important to have late night transit service and also agree that reaching and maintaining the state of good repair should be a safety priority. It is our hope that WMATA will be able to strike an appropriate balance between the two, and find a way to address the late-night service another way.

Public transportation is vital to Northern Virginia's economy, and Metrorail is a large part of that service. Hotels, restaurants, shopping malls and other late night or 24-hour establishments require employees and attract customers from throughout the metropolitan region. Many of whom travel by Metro. Metrorail's late-night service also allows attendants of sporting events and shows to travel home in a safe and responsible manner. Termination of such service without an alternative could be problematic.

Fairfax County is interested in reviewing the details of how bus service could be provided in place of late night Metrorail service. However, we need to have more information to determine if this bus service plan would be a reliable, convenient, and affordable alternative. We would like to see a complete analysis of the cost savings from the reduction in Metrorail operating hours compared to the additional bus services that would be added as an alternative.

Fairfax County also has concerns about the General Manager's FY 2018 Proposed Operating Budget and the options that are being considered to close the very large \$290 million operating

Paul Wiedefeld
Page Two

gap. We also acknowledge that it will take a combination of several measures to close a funding gap of that magnitude at WMATA. Therefore, Fairfax County offers support for the following items to be refined during the WMATA budget development process over the next several months:

- The General Manager's proposal to control costs, reduce the size of the organization, and reduce the amount of capitalized maintenance.
- An increase in jurisdictional subsidies in FY 2018.
- A modest fare increase on Metrobus and Metrorail, but not on parking. Parking usage is already down significantly. Also, the total cost of the trip to the passenger needs to be considered, and a certain amount of parking surcharge revenue is needed to support the bonds that were sold to build the parking structures.
- An earlier closing of Metrorail on weekdays and weekends, and possibly a later opening on Sunday.
- A lengthening of Metrorail headways from 6 minutes to 8 minutes. This schedule adjustment seems to closely match what is already happening today, and it will allow the shortening of the Blue Line headway in Virginia from 12 minutes to 8 minutes.
- Reduction of a small amount of regional Metrobus service. However, any reduction of non-regional service should be decided by the jurisdiction funding the service.

While it is not part of the General Manager's FY 2018 Proposed Budget, we do not support the closing of Metrorail stations during off peak hours. Metrorail stations in Fairfax County are vital to our economy and our transit network. There has been a significant investment made to provide these fixed assets, and they should not be closed.

WMATA's success is vital to Fairfax County and the entire Metropolitan area. Safety is of course the first concern to the region. Frequent, fast and reliable service is what it will take to revive the transit system, and it is in the interest of both Fairfax County and WMATA to ensure that we provide it.

If you have any questions or would like to discuss, please call me at (703) 324-2321.

Sincerely,

Sharon Bulova
Chairman, Fairfax County Board of Supervisors

Cc: Members, Fairfax County Board of Supervisors
Edward L. Long, County Executive
Robert A. Stalzer, Deputy County Executive
Catherine A. Chianese, Assistant County Executive
Jay Fisette, Chairman, Northern Virginia Transportation Commission
Kate Matisse, Acting Executive Director, NVTC



Finance & Administration Committee

Information Item IV-A

November 3, 2016

GM/CEO FY2018 Proposed Operating Budget

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

☐ Action ☒ Information

MEAD Number:
201808

Resolution:
☐ Yes ☒ No

TITLE:

GM/CEO FY2018 Proposed Operating Budget

PRESENTATION SUMMARY:

Present the General Manager/Chief Executive Officer's (GM/CEO) proposed FY2018 operating budget for Metro.

PURPOSE:

This presentation includes forecasts of revenue and expense and describes the various actions necessary to ensure a balanced budget, including management actions to reduce headcount and expense; utilization of Federal Transit Administration (FTA) grant funds for eligible preventive maintenance (PM) expenses; proposed changes to fares on Metrobus, Metrorail, and MetroAccess, as well as to parking fees; proposed rationalizations of Metrobus and Metrorail service to correspond to current lower levels of demand; and increases in jurisdictional contributions.

The GM/CEO will present the proposed FY2018 capital budget and FY2018-2023 Capital Improvement Program (CIP) in December. As part of that item, staff will request Board approval for the required public hearing and associated public participation plan (PPP) activities for both the operating and capital budget proposals. The hearing and PPP activities will take place in January and February, ahead of a planned adoption of the operating and capital budgets in March 2017.

DESCRIPTION:

Key Highlights:

- The FY2018 budget funds key safety improvements, improves train and track reliability, and enhances the customer experience. These actions are critical to reversing declining ridership and building a financially sustainable future for Metro.
- Balancing the FY2018 operating budget will require shared sacrifice. The GM/CEO's budget closes the gap through a significant reduction in Metro employee headcount and other management actions; right-sizing of bus and rail service to current ridership levels; a fare increase; and an increase in the funding contribution from the local jurisdictions.
- The total proposed operating budget for FY2018 is \$1.817 billion. The budget is funded with \$841 million of projected operating revenues, primarily from passenger fares, parking fees, and advertising revenues, and with \$976 million of jurisdictional contributions.
- In December, staff will request authorization from the Board to hold a public

hearing (along with other public participation activities) on the proposed fare and service changes.

Background and History:

The FY2018 budget process kicked off in July of 2016 with a strategy session examining Metro's performance metrics compared to various peers, followed by a workshop in September looking at current trends in transit ridership and regional economic performance. In October, staff conducted an operating budget prep session that presented information on preliminary projections for FY2018 expenses, revenues, and jurisdictional contributions to the Committee. This presentation set forth a number of key considerations – including drivers of expense growth, fare policy, service reductions, and use of Federal Transit Administration (FTA) grants for preventive maintenance activities – for Board discussion and feedback ahead of the formal budget proposal in November.

The current schedule anticipates FY2018 budget adoption in March 2017 in order to provide sufficient time to fully incorporate any Board-approved changes to fares, service, or other major Authority operations by July 1, 2017 (the beginning of FY2018).

Discussion:

Overview

The General Manager's three priorities for Metro are safety, service reliability, and financial responsibility, with safety as the top priority. These priorities guided the development of the FY2018 proposed budget and informed every key decision. Metro must rebuild trust with both its riders and its funding jurisdictions, and this proposed budget provides the resources to achieve the priorities and continue the rebuilding effort.

Metro faces a major funding challenge in FY2018 due to both expense growth and to declining ridership that is significantly reducing fare revenues. The current ridership decline is partly due to service quality and reliability as well as the SafeTrack program. However, the ridership decline is also attributable to other factors which Metro cannot control, such as growth in telecommuting, the low price of gasoline, and the expansion of alternative transportation options.

In October, staff presented an estimated FY2018 operating budget gap of \$275 million based on preliminary forecasts of revenue and expense. The three primary components of that budget gap were expense growth, ridership and fare revenue decline, and the elimination of FTA grant support for eligible preventive maintenance (PM) expenses. In finalizing the proposed budget for November, management has updated the revenue and expense forecasts, and the gap has increased by approximately 5 percent to \$290 million. While the gap due to FTA grant funding is unchanged at \$100 million, revenue forecasts have weakened as a result of ridership uncertainty. As a result, the ridership/revenue gap for FY2018 has increased from \$59 million to \$103 million. In order to partially offset this change, management reduced baseline expense growth by \$29 million.

Financial Accountability: Management & Labor Actions

Total Metro employee headcount has increased substantially in recent years. From less than 11,000 in FY2010, budgeted headcount has grown to just over 13,000 in FY2017. These increases have supported a number of important initiatives, including the expanded capital program to rehabilitate and maintain the system; the opening of Silver Line Phase 1; the adoption of industry-leading fatigue management policies; and the expansion of safety assurance, quality control, and compliance activities in response to FTA and NTSB recommendations.

However, the current low ridership levels and constrained jurisdictional funding cannot support this level of headcount. Earlier this year the GM/CEO directed that 500 positions be eliminated and the fiscal impact of this reduction will be fully realized in FY2018. The FY2018 proposed budget includes a reduction of an additional 500 positions – 200 primarily in various management, administrative, and back-office operations throughout the Authority (some of which will be achieved through consolidation of existing functions), and 300 in operations personnel (operators, mechanics, supervisors, and administration) as a result of right-sizing bus and rail services (see below for additional information). Taken together, these 1,000 positions represent an eight percent reduction in total Metro headcount.

In addition to reducing headcount, the GM/CEO has also implemented or proposed other actions and initiatives to reduce costs and operate Metro more efficiently. These include changes to healthcare for non-represented employees (raising premiums, deductibles, and co-pays) that bring the benefits program in line with other public employees in the region; tighter controls on absenteeism and workers' compensation; and evaluation of other specific functions for potential outsourcing.

Finally, while the budget does include certain contractually required step increases for labor, given the current financial challenges facing Metro and the local jurisdictions, it assumes no general wage increase in FY2018. This presents a risk for Metro and the jurisdictions given potential negotiation outcomes.

Revenue

A primary cause of Metro's current budget challenge is the decline in rail ridership. Total rail ridership peaked in 2009 and has stagnated or declined each year since then. As noted above, some of the broader economic and demographic causes of this decline are outside of Metro's control, but customers have also responded to service quality and reliability challenges by finding alternative travel options. Improving the customer experience – particularly service reliability – is critical to reversing these trends.

The financial impact of declining ridership and fare revenue is exacerbated for the jurisdictions because Metrorail has historically had a high farebox recovery ratio, such that jurisdictions have typically paid about half of the total cost of operating Metro services.

Actual rail system ridership in the first quarter of FY2017 was down 13 percent compared to last year and 15 percent compared to budget. These lower levels of ridership are expected to continue with SafeTrack through the third quarter of FY2017. Based on this ridership forecast, the current year-end operating revenue projection for FY2017 is approximately \$800 million, which will be \$100 million below budget. While

some riders who have reduced their trips on Metro due to specific SafeTrack surges are expected to return, the overall trends are still challenging, and it will take time to restore customer trust and confidence that reliability has improved. Therefore, the base proposed FY2018 revenue projection remains flat from the current FY2017 forecast.

One bright spot for revenue despite the ridership decline is advertising. Digital ad displays have proven to be popular with both riders and advertisers, and Metro anticipates installing 150 new digital ad displays that will increase total ad revenue. Metro also continues to bring in non-passenger revenue from real estate and joint development, fiber optic leases, and other miscellaneous sources to help offset fares and jurisdictional contributions.

Fare Increases

The Board's policies with respect to fare changes are laid out in Resolution 2007-47, which recommends biennial fare increases linked to inflation, and Resolution 2010-66, which identifies seven policy principles to guide Board decision-making on fares. The last of those seven principles is an overarching statement about the importance of generating adequate revenue while maximizing ridership.

Metro's last broad-based fare increase occurred in July 2014 as part of the FY2015 budget. In FY2017, the Board decided against increasing fares, primarily due to ridership challenges and customer dissatisfaction with service quality and reliability. However, as part of the FY2018 proposed budget, the GM/CEO has proposed a fare and fee increase. While any increase will be unpopular with riders and is likely to result in a decline in total ridership, the necessity of generating adequate revenue must be balanced against the ridership impact.

The proposed fare increase is expected to generate approximately \$21 million in net additional revenue, after accounting for a loss of approximately 10 million total trips as a result of the increase. The proposed changes include:

- All base fares increase to at least \$2.00
- Bus fare and minimum off-peak rail fare increase by \$0.25 to \$2.00
- Express bus fare increase by \$0.25 to \$4.25
- All peak rail fares increase by \$0.10 such that the peak boarding charge increases from \$2.15 to \$2.25, and the maximum fare increases from \$5.90 to \$6.00
- The base daily parking fee increases by \$0.10 at all WMATA parking facilities
- The MetroAccess fare structure would remain at twice the fastest comparable fixed-route fare. The minimum fare would increase along with the base bus fare from \$3.50 to \$4.00. The maximum fare would remain at \$6.50.

Metro will also continue its enhanced fare enforcement activities through the Metro Transit Police Department (MTPD) to ensure that all riders are contributing their fair share to the operations of Metro.

Rightsizing Rail and Bus Service

Metrorail ridership has declined substantially from its peak in FY2009, with average daily ridership down from 750,000 trips to 660,000 trips in FY2016 and even lower in FY2017 as a result of SafeTrack service interruptions. Yet Metro is operating more scheduled service now than in FY2009, given the opening of the Silver Line in July 2014

and the adoption of more robust service standards in October 2014 requiring minimum six-minute scheduled headways in the peak (three minutes in core interlined stations) at all stations except Arlington Cemetery.

Given current ridership levels, Metro can right-size its rail service and still remain within Board-approved standards for crowding as measured by average passengers per car (PPC) during the peak hour. The proposed changes to rail service are described below.

Peak: Widen weekday peak headways

The proposal increases scheduled peak period headways on the Orange, Silver, Green, Yellow, and Red Lines from six to eight minutes, and trains would operate every 2-4 minutes at stations in the system's core. Scheduled headways on the Blue Line would be reduced from twelve minutes to eight minutes, and the Rush Plus Yellow Line service would be eliminated.

Off peak: Widen headways and turn back Red Line

The proposed off-peak schedule changes recognize both the reduced ridership of recent years and also the reduced service levels that must be operated during the ongoing maintenance efforts that will be occurring during midday, evening, and weekend periods. The proposal increases midday, early evening weekday, and Saturday headways from 12 to 15 minutes. The proposal also reinstitutes the "Grosvenor turnback" during off-peak times, such that every other Red Line train to Shady Grove terminates at Grosvenor.

Altogether, the proposed rail service changes are expected to result in a net subsidy savings of approximately \$12 million, resulting from about \$20 million in reduced expenses (primarily operator labor, propulsion, and maintenance) offset by an estimated \$8 million in lower fare revenue from reduced ridership.

Metrobus Service Changes

Metrobus presents a different challenge for right-sizing. Routes or lines that have low ridership can be restructured or discontinued; routes that are far away from a garage and expensive to operate (i.e., high amounts of deadhead time) can be discontinued or potentially transferred to a local service provider; and routes with high frequency that require significant numbers of buses and operators can potentially be "thinned out" to reduce costs while still maintaining coverage.

The FY2018 proposed budget includes the elimination or transfer of 14 Metrobus lines among those in the system with the highest subsidy per passenger. A list of these proposed service eliminations/transfers is included in the presentation. In summary, a total of \$17 million in subsidy (\$19.5 million of operating costs offset by \$2.5 million of lost revenue) would be reduced by the elimination or transfer of these lines.

Between the bus and rail service reductions, ridership would decline by an estimated 5 million trips annually. Combined with the impacts of the proposed fare increases, Metro ridership would decline by a total of approximately 15 million trips. Total employee headcount (primarily bus and rail operators, mechanics, supervisors and administration) would be reduced by approximately 300.

FTA Grants for Maintenance

FTA guidance specifically allows transit agencies to utilize federal grant funds for certain eligible “preventive maintenance” (PM) expenses that would otherwise be funded through the operating budget. WMATA Board policy had generally limited FTA grants for PM to approximately \$31 million annually prior to FY2017. For FY2017, the Board increased the amount of eligible PM expenses that could be funded with FTA grants from \$31 million to \$95 million.

For FY2018, the budget proposal includes the use of \$60 million of FTA grant funds for eligible PM expenses. Management intends to decrease the use of FTA grant funds in the operating budget over two years, so that by FY2019, only the traditional \$31 million of grant funding would be used for this purpose. However, it is important to note that the use of FTA grant funds for PM will not materially change the total amount of funding (operating plus capital) that the jurisdictions need to invest in WMATA over the long term.

FY2018 Budget Summary

The proposed FY2018 budget by major expense and revenue category is included in the presentation. Total proposed expenses of \$1.817 billion are matched by operating revenues of \$841 million and jurisdictional contributions of \$976 million. This contribution amount represents an increase of \$130 million or 15 percent over FY2017, when the jurisdictional contributions were held flat at \$845 million (the same as FY2016).

The allocation of this contribution by jurisdiction and mode is also included in the presentation. This allocation is preliminary, particularly for Metrobus, and does not reflect specific service changes that may impact the allocation of the Metrobus contribution among the jurisdictions. The allocation formula will be fully updated with the latest bus miles/hour projections prior to the adoption of the budget in the spring. The preliminary allocation does include the impacts of the recently completed 2016 Metrorail Passenger Survey that demonstrates shifts in average daily ridership by jurisdiction.

Cost Drivers

While personnel costs are declining due the unprecedented reduction in headcount, total non-personnel costs in the FY2018 proposed budget are anticipated to increase by approximately \$64 million or 14 percent. The major drivers of this growth include:

- \$48 million increase in Services including safety and reliability improvements, contract cost inflation, paratransit, NTSB/FTA and audit/financial compliance requirements, reimbursable operating activities, and new facility maintenance
- \$36 million increase in Materials & Supplies including railcar parts and safety and reliability improvements
- \$16 million decrease in energy due to lower rates and service reductions
- \$6 million decrease in casualty and liability insurance premiums
- \$3 million decrease in capital indirect cost allocation credit

Three Year Outlook

A three-year order-of-magnitude outlook on expenses, revenues, and jurisdictional contributions is provided as an attachment. The forecast assumes that ridership will

begin growing again by FY2019, albeit slowly, as the current investments in new railcars, SafeTrack, and other rehabilitation projects lead to improved reliability and quality of service. The revenue forecast also assumes that the Silver Line Phase 2 to Dulles Airport and Loudoun County will open for revenue service in FY2020 and that Metro will increase fares in FY2018 and again in FY2020, consistent with the every-other-year Board policy. As a result, passenger fare revenues are expected to increase by 2-3 percent annually in FY2019 and FY2020.

However, expenses will continue to increase as well. The forecast assumes that baseline costs will increase by approximately four percent and the additional operating and maintenance costs associated with Silver Line Phase 2 to Dulles Airport and Loudoun County will begin to ramp up in FY2019 ahead of full implementation in FY2020. As a result, total jurisdictional contributions are projected to grow by 7 percent in FY2019 and 10 percent in FY2020.

Public Outreach and Title VI Analysis

In December, the Board will be asked to consider and approve the public hearing dockets for service changes and fares as well as for the parking concessionaire fee, which has been described separately. The dockets will describe the fare and service proposals in greater detail, and they serve to set out the maximum possible changes that Board may ultimately approve as part of the budget. However, the Board may choose to make lesser or even no changes. Metro will also initiate public participation plan (PPP) activities as part of the budget process, including surveys, station pop-ups, outreach to community based organizations (CBOs), and other activities.

Once the dockets are approved, staff will also begin equity analyses based on the requirements of the Civil Rights Act of 1964 and overseen by FTA. These analyses will evaluate whether the proposed fare/fee changes and service changes have a disparate impact on minority riders or impose a disproportionate burden on low-income riders. Staff will report back to the on the findings from these equity analyses prior to the adoption of the budget.

FUNDING IMPACT:

| | |
|------------------------------|-------------------|
| No immediate funding impact. | |
| Project Manager: | Thomas J. Webster |
| Project Department/Office: | CFO/OMBS |

TIMELINE:

| | |
|---|--|
| Previous Actions | July 2016 - Strategy session on Metro performance metrics September 2016 - Workshop session on transit ridership trends and regional economic performance October 2016 - Budget prep session on preliminary expense, revenue, and jurisdictional contribution projections |
| Anticipated actions after presentation | December 2016 - GM/CEO proposal of FY2018 capital budget and six-year CIP; request for authorization to hold budget public hearing January-February 2017: Public outreach and public comment period Week of January 30 (tentative): Public hearing March: Adoption of FY2018 budget |

RECOMMENDATION:

No immediate Board action is required. The Board will be asked to approve required public hearing and PPP activities in December.

MEAD 201808 - GM/CEO FY2018 Proposed Operating Budget
Attachment: Three Year Budget Outlook

millions

| | FY2017 | FY2018 | FY2019 | FY2020 |
|-----------------|-----------------|-----------------|-------------------|-------------------|
| | Approved | Proposed | Projection | Projection |
| Revenue | \$934 | \$836 | \$856 | \$876 |
| Expense | \$1,780 | \$1,811 | \$1,904 | \$2,030 |
| Subsidy | \$845 | \$975 | \$1,048 | \$1,154 |
| Growth | | \$130 | \$72 | \$106 |
| % Growth | | 15% | 7% | 10% |



Washington Metropolitan Area Transit Authority

FY2018 Proposed Operating Budget

Enhancing Safety, Reliability and Financial Responsibility

Finance Committee
November 3, 2016



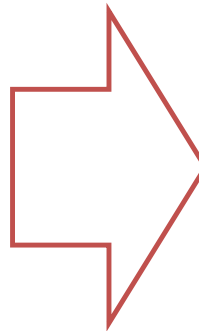
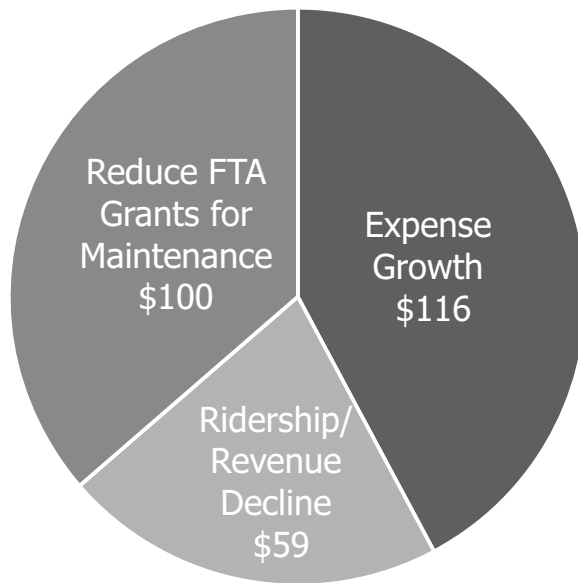
“Reality Check” Budget Plan

- Fund key safety improvements
- Improve train and track reliability
- Cut management and labor costs
- Outsource where possible
- Improve personnel productivity
- Scale service to current ridership
- Reduce dependence on federal grants for maintenance
- Shared sacrifice to balance budget

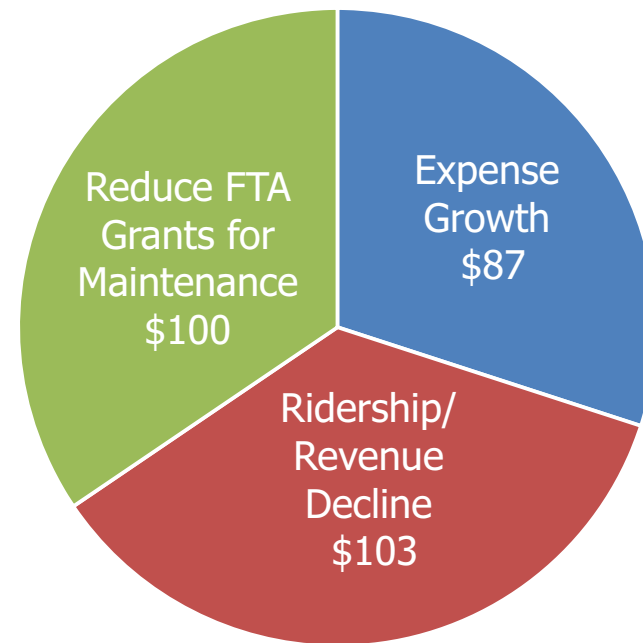


Budget Gap Update: \$290 million

\$275 million



\$290 million





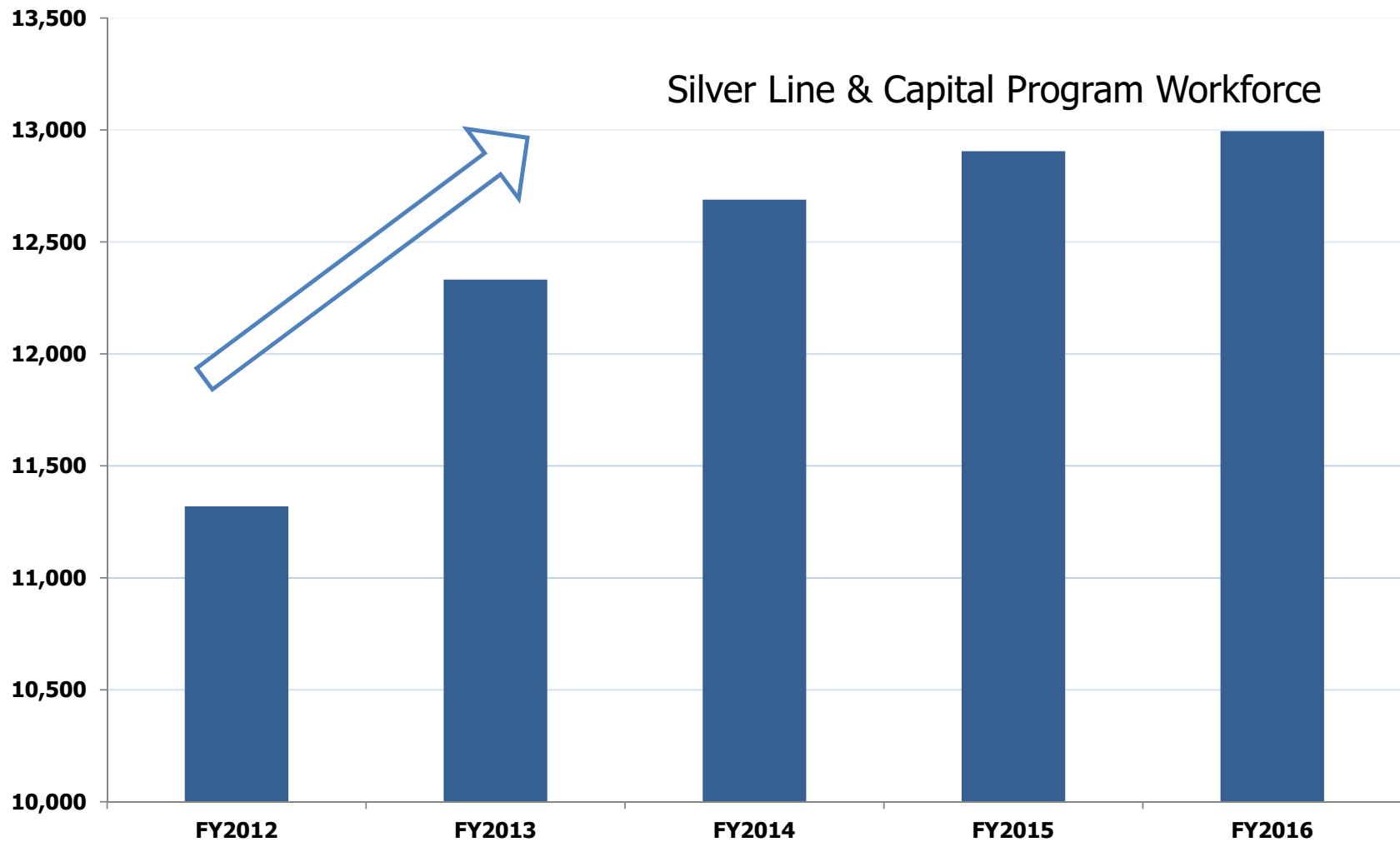
Financial Accountability: Management & Labor Actions

- Actions already underway, fully realized in FY2018:
 - ✓ Cut 500 positions, including closing sales offices
 - ✓ Reduce non-represented employee healthcare
- Assume no general wage increase
- Additional actions:
 - ✓ Consolidate functions and cut 200 more positions
 - ✓ Controls on absenteeism & workers' compensation
 - ✓ Privatize certain functions
 - ✓ Enhance advertising
 - ✓ Implement Abilities-Ride
 - ✓ Fair Fare Collection – increase enforcement



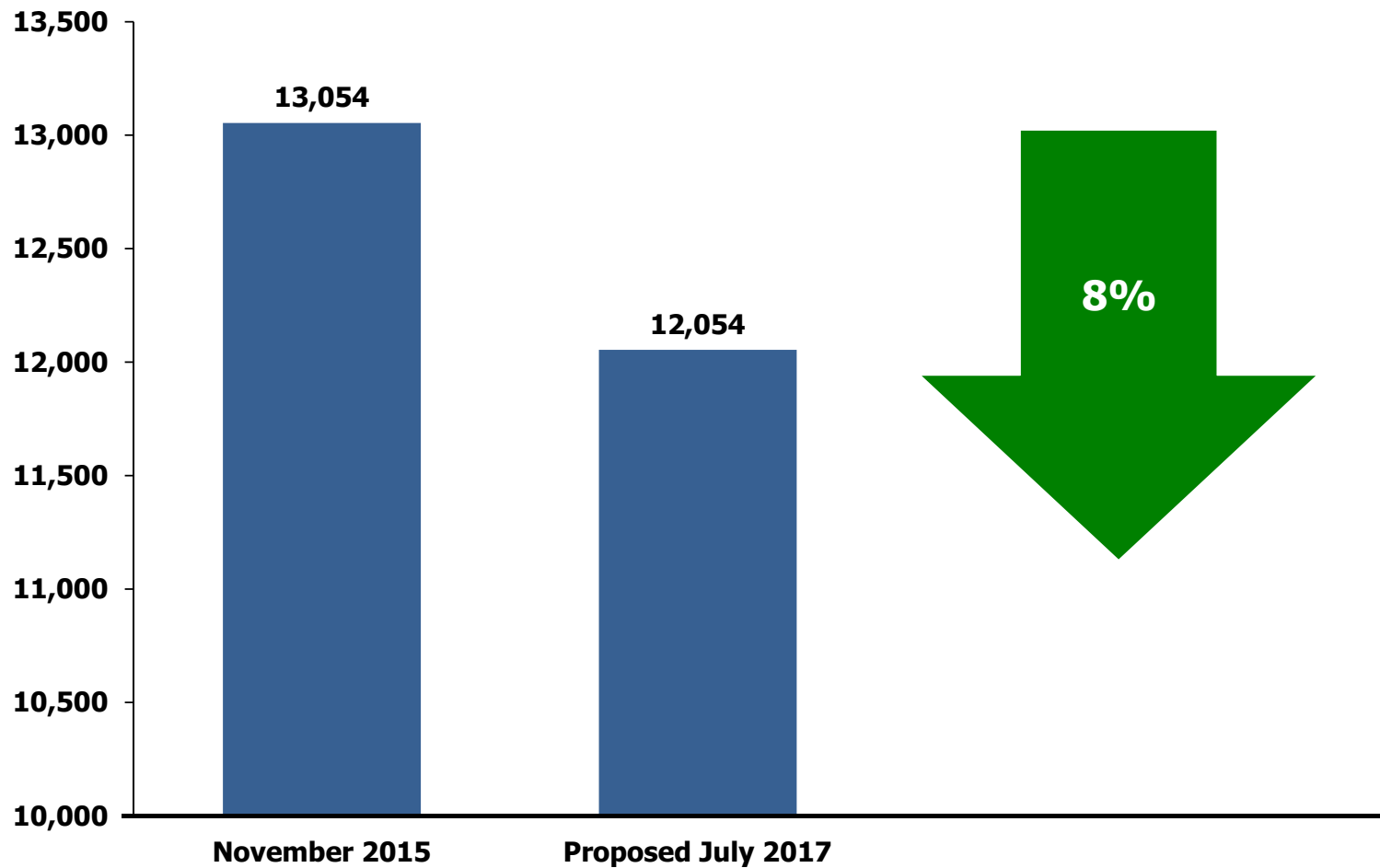


Budgeted Headcount Trend





Elimination of 1,000 Positions





Fare Increases

- Fares unchanged since July 2014
- Raise fares to generate \$21 million net revenue:
 - ✓ All base fares increase to at least \$2.00
 - ✓ Bus fare and minimum off-peak rail fare increase by \$0.25
 - ✓ All peak rail fares increase \$0.10 (base \$2.25, max \$6.00) and daily parking by \$0.10
 - ✓ Access fare remain at 2x fastest fixed-route (capped at \$6.50)
- Total ridership loss of ~10 million trips





Rightsizing Rail and Bus Service





- Rationalize services for today's ridership
- Metrorail (net subsidy savings of \$12 million):
 - ✓ Peak: Widen headways to 8 min on each line (vs 6 min today); service at core stations every 2-4 min
 - ✓ Off-peak: Reduce off-peak frequency (midday/evening/Saturday) and turnback Red Line
- Metrobus (net subsidy savings of \$17 million):
 - ✓ Eliminate most inefficient routes, with option to transfer to local service providers
- Total ridership loss of ~5 million trips
- Estimated headcount reduction of 300 (operators, mechanics, supervisors, etc.)



Proposed Rail Service Changes

| Line | Rush Hour | Midday | Early Evening | Saturday | Sunday |
|---|-----------|--------|---------------|----------|--------|
|  | 8 min | 15 min | 15 min | 15 min | 15 min |
|  | 8 min | 15 min | 15 min | 15 min | 15 min |
|  | 8 min | 15 min | 15 min | 15 min | 15 min |
|  | 8 min | 15 min | 15 min | 15 min | 15 min |
|  | 8 min | 15 min | 15 min | 15 min | 15 min |
|  | 8 min | 15 min | 15 min | 15 min | 15 min |

More Frequent Service At Core Stations

| Line | Peak | Off-Peak |
|--|---------|----------|
|  | 4 min | 7-8 min |
|    | 2-3 min | 5 min |



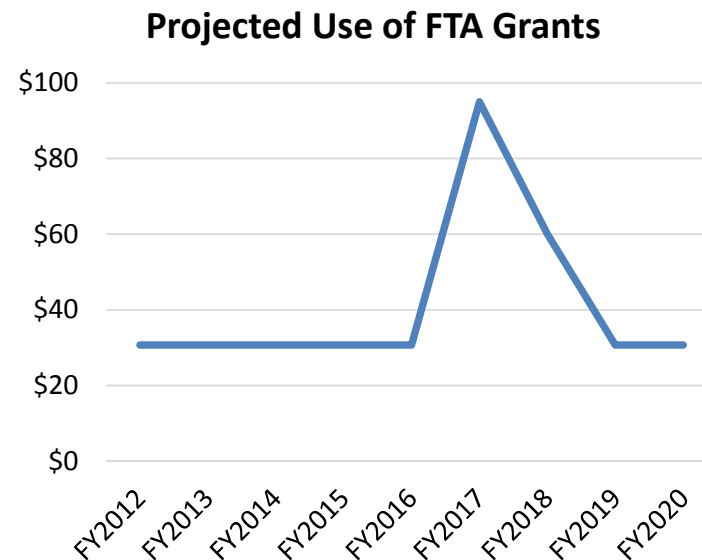
Proposed Bus Service Reductions

| <i>Bus Line Descriptions</i> | | | | <i>Performance Criteria Ranking</i> | | | | | <i>Annual Data</i> | |
|-------------------------------|-----------------|-----------------------------------|--------------|-------------------------------------|--------------------------|----------------------------|--------------------------------|--------------------------------|--------------------|----------------|
| Line Name | Route(s) | Regional/ Non-Regional | State | Weekday Daily Riders | Cost Recovery | Subsidy / Rider | Riders per Rev Trip | Riders per Rev Mile | Riders | Subsidy |
| Pimmit Hills-Falls Church | 3T | Regional | VA | 616 | 8.2% | \$13.04 | 8.9 | 1.0 | 166,018 | \$2,165,018 |
| Arlington-Union Station | 13Y | Regional | VA | 0 | 8.4% | \$12.72 | 8.4 | 1.1 | 6,726 | \$85,582 |
| Indian Head Express | W19 | Non-Regional | MD | 311 | 20.5% | \$12.34 | 11.4 | 0.5 | 78,933 | \$974,110 |
| Kings Park | 17A,B,F,M | Non-Regional | VA | 417 | 20.6% | \$12.27 | 9.0 | 0.5 | 105,423 | \$1,293,904 |
| Greenbelt-BWI Airport Express | B30 | Non-Regional | MD | 370 | 40.3% | \$9.14 | 7.6 | 0.3 | 132,250 | \$1,209,160 |
| Tysons Corner-Dunn Loring | 2T | Regional | VA | 505 | 11.8% | \$8.78 | 9.9 | 1.2 | 161,831 | \$1,421,585 |
| I-270 Express | J7,9 | Non-Regional | MD | 326 | 26.8% | \$8.73 | 9.9 | 0.6 | 82,080 | \$716,616 |
| Burke Centre | 18P,R,S | Non-Regional | VA | 676 | 27.1% | \$8.58 | 11.2 | 0.9 | 170,709 | \$1,464,804 |
| Wisconsin Avenue Limited | 37 | Regional | DC | 599 | 13.7% | \$7.37 | 27.2 | 4.1 | 150,900 | \$1,112,008 |
| Bock Road | W13,14 | Regional | MD | 658 | 32.0% | \$6.77 | 19.2 | 1.3 | 167,541 | \$1,133,613 |
| Oxon Hill-Fort Washington | P17,18,19 | Regional | MD | 1,167 | 32.3% | \$6.68 | 21.3 | 1.3 | 296,228 | \$1,977,655 |
| Fair Oaks-Fairfax Blvd | 1C | Regional | VA | 973 | 15.1% | \$6.57 | 18.5 | 1.3 | 320,729 | \$2,107,075 |
| Chain Bridge Road | 15K,L | Regional | VA | 486 | 15.2% | \$6.51 | 16.8 | 1.3 | 122,580 | \$798,091 |
| Fair Oaks-Jermantown Rd | 2B | Regional | VA | 916 | 15.3% | \$6.48 | 18.0 | 1.3 | 257,612 | \$1,668,943 |



Reduce Dependence on FTA Grants for Maintenance

- Reduce use of FTA grants for maintenance from \$95 million in FY2017 to \$60 million in FY2018
- Ramp down to previous Board policy level of \$31 million over two years



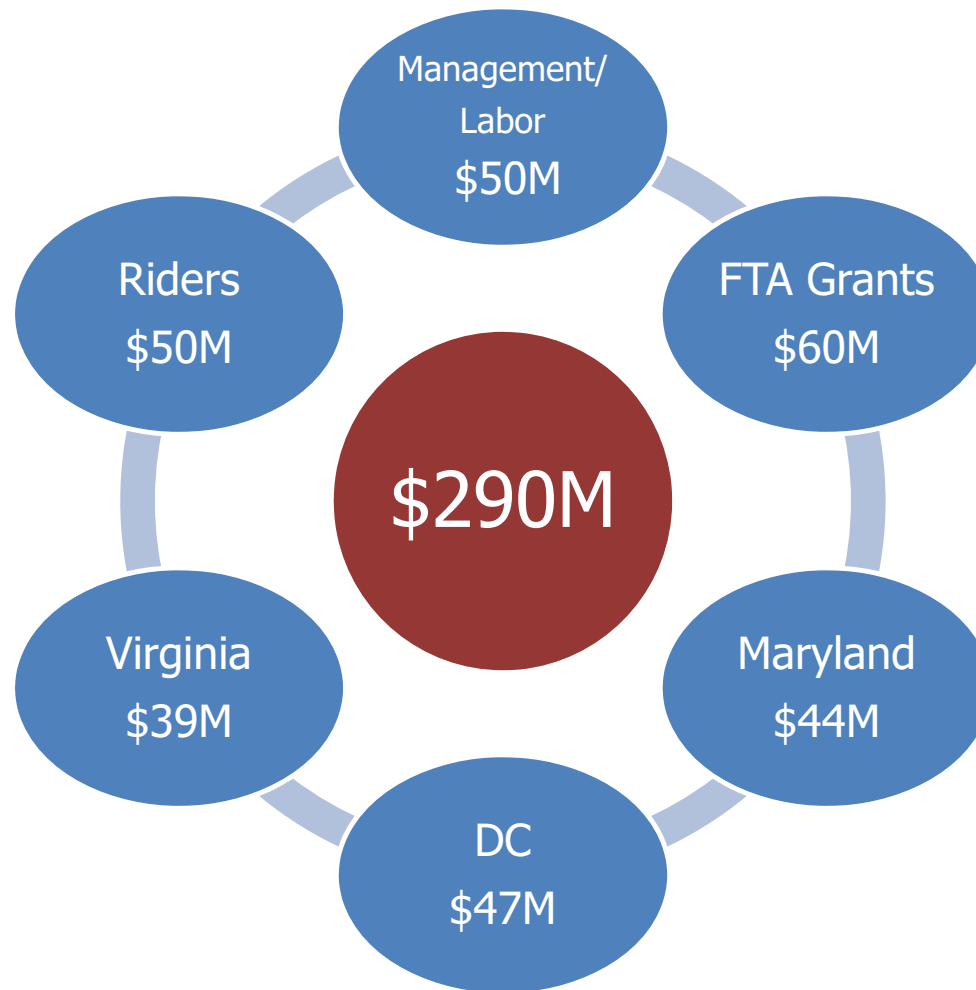


Jurisdictional Contribution

| | FY2016 Budget | FY2017 Budget | FY2018 Proposed | Change (‘17 – ‘18) | % |
|-----------------------------|------------------|------------------|--------------------|-----------------------|------------|
| District of Columbia | \$322.9 | \$323.1 | \$370.3 | \$47.1 | 15% |
| Montgomery County | 144.1 | 145.0 | 168.1 | 23.1 | 16% |
| Prince George's County | 185.2 | 185.9 | 207.3 | 21.4 | 11% |
| Maryland Subtotal | 329.2 | 330.9 | 375.4 | 44.5 | 13% |
| City of Alexandria | 33.8 | 33.0 | 39.5 | 6.5 | 20% |
| Arlington County | 58.2 | 56.6 | 68.4 | 11.9 | 21% |
| City of Fairfax | 1.8 | 1.8 | 2.2 | 0.4 | 20% |
| Fairfax County | 118.1 | 118.7 | 138.6 | 19.9 | 17% |
| City of Falls Church | 2.3 | 2.4 | 2.7 | 0.2 | 10% |
| Virginia Subtotal | 214.4 | 212.5 | 251.4 | 38.9 | 18% |
| | | | | | |
| TOTAL | \$866.5 | \$866.5 | \$997.0 | \$130.5 | 15% |



Shared Sacrifice: Closing the Gap





FY2018 Proposed Operating Budget

| REVENUES | FY2017 Budget | FY2018 Proposed | Change | % |
|-------------------------|--------------------|--------------------|-------------------|-------------|
| Fare Revenue | \$774,891 | \$690,073 | (\$84,818) | -11% |
| Other Passenger Revenue | 17,043 | 19,215 | 2,172 | 13% |
| Parking | 47,103 | 42,164 | (4,939) | -10% |
| Advertising | 23,500 | 24,000 | 500 | 2% |
| Joint Development | 7,000 | 8,000 | 1,000 | 14% |
| Fiber Optics | 16,500 | 15,600 | (900) | -5% |
| Other | 13,989 | 11,278 | (2,711) | -19% |
| Reimbursables | 34,196 | 30,767 | (3,429) | -10% |
| TOTAL | \$934,222 | \$841,096 | (\$93,126) | -10% |
| EXPENSES | FY2017 Budget | FY2018 Proposed | Change | % |
| Personnel | \$1,315,144 | \$1,288,643 | (\$26,501) | -2% |
| Services | 241,772 | 290,141 | 48,369 | 20% |
| Materials & Supplies | 87,026 | 122,529 | 35,503 | 41% |
| Fuel (Gas/Diesel/CNG) | 39,227 | 31,759 | (7,468) | -19% |
| Utilities & Propulsion | 90,924 | 82,324 | (8,600) | -9% |
| Casualty & Liability | 34,895 | 28,560 | (\$6,335) | -18% |
| Leases & Rentals | 6,725 | 8,329 | \$1,604 | 24% |
| Miscellaneous | 6,829 | 5,046 | (1,783) | -26% |
| Capital Allocation | (43,000) | (40,493) | 2,507 | -6% |
| TOTAL | \$1,779,542 | \$1,816,837 | \$37,295 | 2% |
| | FY2017 Budget | FY2018 Proposed | Change | % |
| NET SUBSIDY | \$845,320 | \$975,740 | \$130,420 | 15% |



Expense Growth Drivers: Non-Personnel

- Non-personnel costs projected to increase by \$64 million or 14 percent, including:
 - ✓ \$48 million increase in Services including safety and reliability improvements, contract cost inflation, paratransit, NTSB/FTA and audit/financial compliance requirements, reimbursable operating activities, and new facility maintenance
 - ✓ \$36 million increase in Materials & Supplies including railcar parts and safety and reliability improvements
 - ✓ \$16 million decrease in energy due to lower rates and service reductions
 - ✓ \$6 million decrease in casualty and liability insurance premiums
 - ✓ \$3 million decrease in capital indirect cost allocation credit



Public Hearing and Outreach

- In December, Board will be asked to approve hearing dockets on service changes, fares and parking concessionaire fee as required by Compact
- Dockets describe proposals in detail and set out maximum possible changes that Board may approve
- Metro will also initiate public participation plan (PPP) activities





Title VI Equity Analysis

- Once dockets are approved, staff will begin equity analysis based on Civil Rights Act of 1964 requirements
- Evaluate whether proposed fare/fee and service changes have a disparate impact on minority riders or impose a disproportionate burden on low-income riders



Risks and Contingencies

- Ridership uncertainty due to SafeTrack, fare increase, and service reductions
- Continued changes in rider behavior, trip-making and transportation market (telework, alternate modes, gas prices, etc.)
- Collective bargaining outcome
- Pension and OPEB liabilities
- Safety needs, additional system maintenance efforts and CARE Plan actions



Next Steps

- **December:** GM/CEO proposal of FY2018 Capital Budget and six-year CIP; request for budget public hearing
- **Jan 14-Feb 6:** Public outreach and public comment period begin
- **Week of Jan 30** (tentative): Public hearing
- **Feb 6:** Public comment period closes
- **March:** Adoption of FY2018 Budget

Budget approval in March is needed to fully implement any fare or service changes by July 1



Appendix: Contribution by Mode

| <i>(\$ millions)</i> | FY 2017 Contribution | FY 2018 Contribution | Metrail | Metrobus | Regional | Non- Regional | Metro Access | Debt Service |
|-----------------------------|-------------------------|-------------------------|----------------|----------------|----------------|------------------|-----------------|-----------------|
| District of Columbia | \$323.1 | \$370.3 | \$127.4 | \$206.6 | \$182.5 | \$24.1 | \$25.6 | \$10.7 |
| Montgomery County | \$145.0 | \$168.1 | \$70.5 | \$70.4 | \$61.6 | \$8.8 | \$22.3 | \$4.9 |
| Prince George's County | <u>\$185.9</u> | <u>\$207.3</u> | <u>\$60.1</u> | <u>\$94.0</u> | <u>\$72.3</u> | <u>\$21.8</u> | <u>\$47.6</u> | <u>\$5.5</u> |
| Maryland Subtotal | \$330.9 | \$375.4 | \$130.6 | \$164.4 | \$133.9 | \$30.5 | \$69.9 | \$10.5 |
| City of Alexandria | \$33.0 | \$39.5 | \$18.1 | \$20.6 | \$18.8 | \$1.8 | \$0.8 | \$0.0 |
| Arlington County | \$56.6 | \$68.4 | \$35.9 | \$31.7 | \$30.7 | \$1.0 | \$0.8 | \$0.0 |
| City of Fairfax | \$1.8 | \$2.2 | \$1.2 | \$0.6 | \$0.6 | \$0.0 | \$0.3 | \$0.0 |
| Fairfax County | \$118.7 | \$138.6 | \$59.7 | \$65.5 | \$59.4 | \$6.1 | \$13.4 | \$0.0 |
| City of Falls Church | <u>\$2.4</u> | <u>\$2.7</u> | <u>\$1.0</u> | <u>\$1.5</u> | <u>\$1.5</u> | <u>\$0.0</u> | <u>\$0.1</u> | <u>\$0.1</u> |
| Virginia Subtotal | \$212.5 | \$251.4 | \$115.9 | \$120.0 | \$111.0 | \$8.9 | \$15.5 | \$0.1 |
| Total Subsidy | \$866.5 | \$997.0 | \$373.9 | \$491.0 | \$427.4 | \$63.6 | \$110.9 | \$21.2 |

Note: Metrorail column includes both Base and Maximum Fare subsidies. Total Maximum Fare subsidy is \$7.2 million.

ACTION - 16

Authorization to Enter into Three Party Agreement with the Washington Metropolitan Area Transit Authority (WMATA) and Motivate, Inc., for Operation of Capital Bikeshare on WMATA Property (Providence District)

ISSUE:

Board approval for the Director of the Department of Transportation to execute an agreement with WMATA and Motivate, Inc., to locate and operate Capital Bikeshare on WMATA Property in Fairfax County. At this time Capital Bikeshare stations are planned at the Tysons Corner and Greensboro Metrorail Stations.

RECOMMENDATION:

The County Executive recommends the Board of Supervisors authorize the Director of the Department of Transportation to execute the Agreement in substantial form as Attachment 1 with WMATA and Motivate, Inc.

TIMING:

Board action is requested on December 6, 2016, to allow the Fairfax County Department of Transportation (FCDOT) to proceed with station installations at the Tysons Corner and Greensboro Metrorail Stations.

BACKGROUND:

Bikeshare is a transportation system that allows individuals to check out a bike and ride short to moderate distances from station to station. A system of bikeshare stations and bicycles are set up in an area to allow participants to travel between destinations that are generally further than walking, without driving. As a result, roadway congestion is reduced.

In the Washington D.C. area, Capital Bikeshare is the existing bikeshare system that operates in the District of Columbia, Arlington County, Alexandria, and Montgomery County. There are currently over 370 stations in the Capital Bikeshare system in these jurisdictions. In January 2016, the Board authorized the establishment of a bikeshare system in Fairfax County, initially with 15 stations in Reston and 14 stations in Tysons.

To best serve members of the public who will use Capital Bikeshare, FCDOT identified the Tysons Corner Metrorail Station and the Greensboro Metrorail Station as ideal

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locations to place Capital Bikeshare stations. While there is land at each Metrorail station that is owned by Fairfax County, there are maintenance easements at each site with WMATA. At the Tysons Corner Metrorail Station, the Capital Bikeshare station will be installed on the existing concrete between two bus shelters. The specific location of the bikeshare station at Greensboro Metrorail Station is still being finalized.

This agreement sets the terms and conditions for Motivate, Inc, the bikeshare contractor for Fairfax County, to install and operate the bikeshare station on WMATA property at the Metrorail stations. These agreements are standard between the local jurisdiction, WMATA and Motivate, Inc to operate Capital Bikeshare at Metrorail stations around the region.

Following approval and execution of these license agreements, the Tysons Corner station can be installed in approximately one week. Once the location of the Capital Bikeshare station at the Greensboro Metrorail Station is finalized, design and installation will occur.

FISCAL IMPACT:

There is no fiscal impact as a result of this agreement. The County has separately participated in two cooperative procurements led by the City of Alexandria to purchase the equipment and services necessary for the installation, maintenance, and operation of Capital Bikeshare, including these two stations.

ENCLOSED DOCUMENTS:

Attachment 1: Three Party Agreement

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT
Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, (FCDOT)
Adam Lind, Bicycle Program Coordinator, Capital Projects and Traffic Engineering, FCDOT
Joanna Faust, Assistant County Attorney, OCA

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

REAL ESTATE PERMIT

THIS REAL ESTATE PERMIT (hereinafter "**Permit**") is made and entered into this ____ day of _____, 2016 (hereinafter "**Effective Date**"), by and between the **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**, a body corporate and politic with principal offices at 600 Fifth Street, NW, Washington, DC 20001 (hereinafter "**WMATA**") and **MOTIVATE INTERNATIONAL, INC., d/b/a Capital Bikeshare**, a Delaware corporation authorized to do business in the District of Columbia, the State of Maryland, and the Commonwealth of Virginia, with offices at 6035 Blair Road, NW, Washington, DC 20011 ("**Motivate**") and **THE GOVERNMENT OF FAIRFAX COUNTY** acting by and through the **Fairfax County Department of Transportation** with offices at 4050 Legato Road, Suite 400, Fairfax, VA 22033 (hereinafter "the County"). Motivate and the County hereinafter jointly referred to as ("**Permittee**"). Permittee and WMATA are sometimes referred to herein jointly as the "**Parties**" or individually as a "**Party**."

WITNESSETH:

RECITAL 1, Permittee has requested permission from WMATA to enter upon and use a portion of WMATA's property at certain Metrorail Stations in Fairfax County, Virginia to install and operate Capital Bikeshare Stations (hereinafter "**Bicycle Stations**") and to perform the related work as more fully described in **Section 5** below; and

RECITAL 2, WMATA has agreed to allow Permittee and its contractor(s), subcontractor(s) and consultants (hereinafter "**Contractor**" and collectively with the Permittee "**Permitted Parties**" or individually a "**Permitted Party**") the right and privilege to enter upon and use WMATA property to perform the above-referenced work upon the terms and conditions specifically set forth in this Permit; and

NOW, THEREFORE, in consideration of the sum of **TEN DOLLARS** (\$10.00) and for the mutual covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Incorporation of Recitals.**
The Recitals set forth above and attached Exhibits are incorporated herein by reference and have the same force and effect as if fully hereinafter set forth.
2. **Permitted Premises.**
WMATA and Permittee have identified the Greensboro and Tysons Corner Metrorail Stations as the first two stations (hereinafter "**Permitted Premises**") on which Permittee may install Bicycle Stations. The Permitted Premises locations are individually identified in **Exhibits A and B**, attached hereto and made a part hereof.
3. **Use of Permitted Premises.**
In accordance with the terms and conditions of this Permit, WMATA grants unto Permitted Parties the right to access the Permitted Premises for the following purposes:

- 3.1 Permittee is authorized to install and operate Bicycle Stations in the location and of the dimensions indicated on Exhibits A and B in accordance with WMATA's prior written approval.
 - 3.2 In no event will Permitted Parties enter the bus bay areas and bus bay lanes of any Metrorail station at any time. In the event Permitted Parties enter any bus bay area or bus bay lane, such entry shall constitute an event of default under Section 10 hereunder and WMATA shall have the right to terminate this Permit in accordance with Section 10.
 - 3.3 Permitted Parties may only advertise its services on the Bicycle Stations. No other commercial advertising is allowed on the Permitted Premises or on any WMATA property or facility of any kind.
4. **Additional Bicycle Stations**
Over the term of this Permit, with the prior written approval of WMATA in the form of a fully executed amendment to the Permit, Permittee may install and operate additional Bicycle Stations at other Metrorail stations.
- 4.1 The additional Bicycle Stations will be added as additional Permitted Premises by an amendment, the form of which is attached hereto as **Exhibit C** and made a part hereof.
 - 4.2 Permittee shall not install any additional Bicycle Stations on any WMATA property without a fully executed amendment by the Parties.
5. **Conditions on Use.**
- 5.1 This Permit may only be exercised by Permitted Parties upon WMATA's review and written approval of the Bicycle Station location and installation schedules to be submitted prior to or at the pre-construction meeting required in Section 5.8 below. Locations shall not block pedestrian or vehicle access to WMATA services or facilities, including but not limited to bus bays, bus loading areas and rail transit stations.
 - 5.2 All work shall be planned and performed in accordance with the direction of WMATA's Joint Development and Adjacent Construction (JDAC) field staff.
 - 5.3 Permitted Parties shall submit at least five (5) copies of all product specifications for review and approval at the pre-construction meeting or within 30 business days of execution of this Permit to WMATA's Office of Parking, Attention: Pedestrian and Bicycle Project Manager, Room 6F-07, 600 Fifth Street, NW, Washington, DC 20001.
 - 5.4 WMATA will review and provide written comments or approval on the above submittals to Permitted Parties within thirty (30) business days after receipt of the documents. If approval is denied, a re-submittal for approval with all comments resolved shall be made to WMATA. This action shall be repeated until WMATA

conveys final written approval. The document submittal approved by WMATA shall constitute the Approved Construction Drawings and Specifications (hereinafter "**Approved Drawings and Specifications**"). No work on the Permitted Premises shall commence until Approved Drawings and Specifications are finalized. Permittee must complete installation of all Bicycle Stations within fifteen (15) calendar days of WMATA final approval or the date agreed to by JDAC staff in the pre-construction meeting, whichever occurs first.

- 5.5. No changes may be made to the Approved Drawings and Specifications without the prior written approval of JDAC and WMATA's Pedestrian and Bicycle Project Manager (see **Subsection 5.8** below).
- 5.6. The safety and traffic maintenance plans, operation sequences and equipment positioning plans must ensure adequate safety for WMATA employees and the general public entering/exiting WMATA facilities by car, on foot, riding on WMATA trains and buses and on bicycles and must be approved by WMATA in writing prior to the start of any work.
- 5.7. WMATA's approval of the Drawings and Specifications is solely for WMATA's own purposes and benefit, does not constitute review or approval thereof for any other purpose or for Permitted Parties' or any third party's benefit, and may not be relied on for any such other purpose or benefit. WMATA accepts no liability and waives none of its rights under this Permit solely by reason of its approval of any drawings or specifications and including the Approved Bicycle Station location.
- 5.8. Permitted Parties shall contact Mr. Tom Majestic at (202) 494-5537 to schedule a pre-construction meeting. This request shall be made at least ten (10) business days prior to any planned start of work on the Permitted Premises. At this meeting, Mr. Majestic will provide contact information for the day-to-day WMATA operational contact.
- 5.9. Upon written approval from WMATA, Permitted Parties may conduct the necessary exploration or tests to determine the location of WMATA's existing facilities, if applicable.
- 5.10. Swinging a crane and suspended loads over WMATA property/facilities is strictly prohibited except with WMATA's written approval. If WMATA authorizes construction activities which involve swinging a crane and suspended loads over WMATA property/facilities, such work shall be performed only during the time agreed to by Mr. Tom Majestic at the pre-construction meeting. Due to WMATA's operating requirements, crane work will be scheduled at WMATA's sole discretion. Crane certification/inspection paperwork must be submitted to WMATA's Construction Inspection Facilitator assigned by Mr. Majestic. Attached to the crane certification must be: (i) the crane operation plans; and (ii) a description of the crane work plan and time frames. All construction equipment used in the work shall be oriented in accordance with the instructions of WMATA's Construction Inspection Facilitator.

- 5.11.** If in the future, Permittee requires utilities during the term of this Permit a new construction plan must be submitted to WMATA for approval at that time. All utilities and structures must be located by Permitted Parties in advance of work by using WMATA As-Built Drawings and Miss Utility information and must be protected from any damage. Permitted Parties should be aware that WMATA As-Built Drawings may not reflect current site conditions and WMATA will not be responsible for any damage caused by such inaccuracies. Any excavation in the vicinity of WMATA or any power company power feeders to the Metrorail system or other underground utilities within the Permitted Premises shall be through hand excavation.
- 5.12.** Permitted Parties accept the Permitted Premises and adjacent areas in an “as is” condition, including any possible concrete over-pours, sheeting and shoring which remain in place, inaccurate location of utilities or portions of the facilities and similar conditions. It shall be Permitted Parties’ responsibility to verify the actual location of existing facilities, structures and utilities on the Permitted Premises and Permitted Parties shall perform a pre-construction survey and provide WMATA with a copy. Permitted Parties agree that the existence of any unknown or inaccurately portrayed facility will not be the subject of a claim against WMATA.
- 5.13.** Flammable liquids shall not be stored within twenty-five (25) feet horizontally or vertically, regardless of topographic or man-made barriers, of WMATA underground facilities, except in the tanks of automobiles. If a flammable liquid storage container of any kind is to be installed between twenty-five (25) and one hundred (100) feet of WMATA underground facilities, protective encasement of the storage container will be required in accordance with NFPA STD 130. Existing underground tanks located within one hundred (100) feet of WMATA facilities and scheduled to be abandoned are to be disposed of in accordance with Appendix C of NFPA STD 130.
- 5.14.** WMATA reserves the right to inspect the Permitted Premises at any time. Additionally, WMATA reserves the right to inspect, at reasonable times, Permittee’s activities for conformance with the Approved Construction Drawings and Specifications and Occupational Safety and Health Administration safety requirements to ensure that WMATA’s interests (and operations) are not impeded at any time. WMATA’s designated representative(s) shall have full access to the Permitted Premises for the purpose of determining the safety of the work and the impact on WMATA operations, and such person(s) shall have the absolute authority to stop all work if, in WMATA’s sole opinion, Permitted Parties are acting in a manner that is unsafe for WMATA operations, the work is not in full compliance with the Approved Bicycle Station location and Approved Drawings and Specifications or is interfering with efficient WMATA operations.
- 5.15.** WMATA reserves the right to require the relocation of the bicycle stations installed under this Agreement at its sole discretion, from time to time as deemed necessary. Permittee will be provided not less than thirty (30) days-notice and shall mobilize Permitted Parties to complete the relocation at the sole cost and expense of Motivate International, Inc. or Fairfax County.

- 5.16. Permittee shall furnish WMATA with copies of Contractor's claims, change orders and schedule updates.
- 5.17. Permittee's obligations under this Permit shall survive until WMATA's written acceptance of site restoration as further described in Section 13 herein.
- 5.18. If WMATA determines that directional signs are required at any location on WMATA property to safely direct and notify bicyclists, pedestrians, cars, and other vehicles of the route to the Bicycle Station, Permittee shall construct and install such signs with the prior written approval of WMATA.
- 5.19. Permittee's service vehicles may only park in the spot designated on the attached Exhibits entitled Bicycle Station Location and Access Plan, if designated, when servicing the Permitted Premises.
- 5.20. Permitted Parties shall maintain the Permitted Premises in a clean and presentable manner.
6. **Term of Agreement.**
This Permit commences on the Effective Date and terminates on June 30, 2018 (hereinafter "**Term**") unless terminated as provided in Section 9 and Section 10 herein. The Term of this Permit shall be the same as the term of the contract between Motivate International, Inc. and Fairfax County (hereinafter "**Contract**"). A copy of the Contract is attached as **Exhibit D**. The Contract is identified as Contract Number 4400007032 and includes three (3) one-year renewal option periods beyond the June 30, 2018 expiration date.
7. **Extension Option.**
The Parties may mutually agree in writing to extend the Term of this Permit. Permittee shall request an extension of the Term in writing at least thirty (30) calendar days prior to the expiration of this Permit and the Contract. Said written notice shall include the new Motivate International, Inc. contract number and contract term expiration as stated in Section 6 above, as well as a copy of the new or extended contract. WMATA's decision to grant or not grant an extension shall be in WMATA's sole and absolute discretion.
8. **Assignment.**
This Permit is not assignable or transferable by Permittee in any way. The rights, privileges, duties and obligations extended to or assumed by Motivate or the County are personal to Motivate and the County, their officers, employees, agents and contractors only.
9. **Suspension/Termination.**
9.1. WMATA may suspend this Permit, in whole or in part, at its sole option and discretion at any time, if any condition created by Permitted Parties on or about the Permitted Premises threatens the safety or security of the Permitted Premises, any WMATA operation or function, or the public, or is in violation of any applicable regulations, policies, instruction or directions by WMATA, or laws and rules whether federal, state, county or municipal, relating to this Permit and any Permitted Party's work

hereunder. If Permitted Parties do not correct the condition which serves as the basis for WMATA's suspension decision within ten (10) calendar days following receipt of written notice of such condition from WMATA, then WMATA may terminate this Permit, in whole or in part, by notice to Permittee without any further opportunity to cure such condition.

- 9.2. This Permit may also be terminated or revoked by WMATA, in whole or in part, at its sole option and discretion, at any time, if deemed necessary by WMATA for the purposes of safety, security, operational necessity or any overriding public requirement.
- 9.3. This Permit may be terminated at any time by Permittee by providing ten (10) calendar days prior written notice to WMATA.
- 9.4. Upon termination or earlier revocation of this Permit, all Permitted Parties shall remove their equipment and restore the Permitted Premises within fifteen (15) calendar days to be scheduled and approved by JDAC staff in accordance with Section 13 below at the sole cost of Permittee. All obligations and liabilities of Permitted Parties under this Permit shall survive the termination of this Permit pursuant to this Section or the expiration of the Permit pursuant to Sections 6 and, if applicable, 7 above.

10. Default/Termination.

- 10.1. Permittee shall be deemed to be in default of this Permit if any Permitted Party shall fail to observe or perform any of the provisions, covenants, conditions, or agreements contained herein and such failure shall continue for a period of ten (10) calendar days after written notice is given by WMATA. If an event of default shall have occurred and be continuing, WMATA, at its option, may at once, or at any time thereafter, terminate this Permit by written notice to Permittee, whereupon this Permit shall end and all rights of Permitted Parties hereunder (but not their liabilities) shall expire and terminate. Upon such termination by WMATA, and without in any way limiting the remedies available to WMATA at law, in equity or under the terms of this Permit, Permittee shall at once remove all Permitted Parties, their persons and equipment from the Permitted Premises, and restore the Permitted Premises in accordance with Section 9.4 and Section 13 herein.
- 10.2. Upon the expiration or early termination of the Permit, the Parties agree as follows:
 - 10.2.1. Motivate International, Inc. shall immediately comply with the removal and restoration provisions of this Permit.
 - 10.2.2. In the event that Motivate International, Inc. fails to comply with the removal and restoration provisions of this Permit, Fairfax County shall have the obligation to undertake the removal and restoration requirements.
 - 10.2.3. In the event that neither Motivate International, Inc. nor Fairfax County has promptly complied with the removal and restoration provisions contain

herein, WMATA may undertake the requirements on behalf of the Permitted Parties and may seek to recover its costs as allowed by law and equity.

- 10.3. Upon expiration or early termination of this Permit, WMATA may enter into or repossess the Permitted Premises either by force, by summary proceeding or otherwise. WMATA shall have no liability by reason of any such reentry, repossession or removal. Nothing in this Section 10 shall be deemed to limit in any way WMATA's independent right under Section 9 above to suspend or terminate this Permit.

11. **Conduct of Work.**

- 11.1. In the conduct of work undertaken herein, Permitted Parties shall require all parties working on the Permitted Premises to exercise all normal and reasonable safety precautions.

- 11.2. WMATA requires that all persons working within twenty-five (25) feet of WMATA's operating tracks undergo WMATA Roadway Worker Protection Training (hereinafter "**RWPT**").

- 11.3. WMATA requires that all work under this Permit be performed by persons possessing a Metro SmarTrip® Contractor Badge (hereinafter "**Contractor ID**"). To obtain a Contractor ID, a criminal background inquiry is required. Permittee/Contractor/Applicant personnel must complete the following two (2) forms found at the JDAC website:

www.wmata.com/business/joint_development_opportunities/adjacent_const_ruction_information.cfm

- 11.3.1. "*Acknowledgement and Authorization for Background Screening*" (hereinafter "**Release Form**") and

- 11.3.2. "*Certification for Issuance of Metro SmarTrip® Contractor Badge*" (hereinafter "**Certification Form**")

- 11.3.3. These forms must be completed and signed by Applicant and returned with a clear copy of Applicant's driver's license to WMATA's Pedestrian and Bicycle Project Manager for signature and subsequent transmittal to the Metro ID Card Office for processing.

- 11.3.4. Seven (7) business days after the process described in Section 11.3.3. herein has been completed, Applicant must email wmata_id_office@wmata.com to determine if the background investigation is complete. If so, Applicant will then go to that office at the address below between the hours of 8:00 am and 3:30 pm, Monday to Friday for Applicant photo and for Applicant Contractor ID to be issued. The receptionist in the lobby will direct applicant to the office:

Metro ID Card Office
Washington Metropolitan Area Transit Authority
Lobby Level
600 Fifth Street, NW
Washington, DC 20001

12. **Employee and Public Safety.**
Barricades, fences, signs, lanterns and other suitable devices necessary for employee and public safety shall be provided and adequately maintained by Permitted Parties at their sole cost and expense.
13. **Restoration.**
Upon the first to occur of the expiration or termination of this Permit, Permitted Parties shall remove all of their equipment, and restore the Permitted Premises to its previous condition, reasonable wear and tear accepted, or in accordance with the pre-approved plans and specifications and to WMATA's satisfaction.
14. **Responsibility for Licenses and Permits.**
Permitted Parties shall be responsible for obtaining any necessary licenses and permits for the work authorized under this Permit, including transportation and disposal of materials.
15. **Compliance with Orders and Directions of WMATA.**
With respect to all work authorized under this Permit, Permitted Parties shall at all times conform with and abide by the reasonable orders and directions of WMATA officials or their duly authorized representatives, regardless of whether such orders and directions are oral or written.
16. **Non-Interference with WMATA Activities.**
Pursuant to the terms of this Permit, Permitted Parties may only use the Permitted Premises in such manner and at such times as not to interfere with the use, construction, maintenance, repair and operations of WMATA. Without limiting the foregoing, Permitted Parties must comply with any "maintenance of traffic" plan required by WMATA and/or the applicable jurisdictional Department of Transportation.
17. **Damage to WMATA Property.**
Motivate shall be responsible for, and must make good at its own expense, all damage to WMATA property caused in whole or in part by the acts or omissions of any Permitted Party and others acting on behalf of a Permitted Party in carrying out the operations authorized under this Permit. Motivate shall ensure that such repair or replacement is carried out within fifteen (15) business days of Permittee's receipt of notice from WMATA except in the case of an emergency as determined by WMATA in its sole discretion, in which event Motivate's obligation of repair or replacement shall be immediate upon receipt of notice from WMATA.
18. **Utility Charges.**
Permitted Parties shall not connect to any WMATA utilities at any time.

19. Indemnification.

- 19.1.** Motivate International, Inc. shall, and shall contractually require all Contractors working on the Permitted Premises to, indemnify, defend and hold harmless WMATA, its directors, officers, employees and agents from any and all claims, actions, proceedings, liabilities, losses, demands, damages, obligations, penalties, costs, charges and expenses (including reasonable attorney's fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, including employees of Permittee or any Permitted Party, and for loss or damage to any property, occurring to the extent caused by the acts, errors or omissions of Permittee or any Permitted Party, or any employee, agent or representative of Permittee or any Permitted Party in connection with this Permit. Motivate's indemnification and defense obligations in the preceding sentence shall not apply to the extent any loss arises out of the negligence of the party to be indemnified hereunder.
- 19.2.** Motivate International, Inc. shall, and shall contractually require all Contractors working on the Permitted Premises to, indemnify, defend and hold harmless WMATA, its directors, officers, employees and agents from any and all claims, actions, proceedings, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorney's fees, related to, arising from or attributable to any effluent or other hazardous waste or substance, toxic waste or substance, contaminant, pollutant, petroleum or petroleum-based product, asbestos, residue, contaminated soil or other similar material discharged from, removed from, or introduced on, about or under the Permitted Premises by Permitted Parties or anyone acting on their behalf.
- 19.3.** If any claim, demand, action or proceeding relating to the indemnification required by this Section 19 is brought against WMATA, then upon written notice from WMATA to Motivate International, Inc. it shall, at its expense, resist or defend such action or proceeding by counsel approved by WMATA in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. Motivate shall be jointly and severally liable with any Contractor directly responsible for any claim, demand, action, proceeding, liability, loss, damage, obligation, penalty, cost, charge or expense arising under this Permit, and nothing in this Permit shall be deemed to relieve Motivate from ultimate liability for any obligation of Motivate or the County under this Permit.
- 19.4.** Motivate International, Inc. understands and agrees that it is Motivate International, Inc.'s and all Contractors working in the Permitted Premises, responsibility to provide indemnification to WMATA pursuant to this Section 19. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of insurance to fully fund any indemnification shall not relieve Motivate International, Inc. and Contractors of any obligation assumed under this indemnification.

20. Insurance.

20.1. Motivate International, Inc. shall procure and cause all Contractors working on the Permitted Premises to procure, at their sole cost and expense, and maintain in force at all times during the Term of this Permit, the insurance marked by an "X" in Section 20.10 below. No work may proceed until evidence of insurance has been received and approved in writing by WMATA, and WMATA may suspend any work in progress if it determines that work is proceeding without such approved insurance in effect. All insurance companies must have an A.M. Best rating of "A-/VII" or better and be approved by WMATA. All required insurance policies must:

20.1.1. Be written in accordance with the requirements as applicable.

20.1.2. State or be endorsed to provide that the coverage afforded under the policies shall apply on a primary basis and not on an excess or contributing basis with any policies that may be available to WMATA.

20.1.3. Have self-insurance retentions or policy deductibles no greater than \$250,000, unless approved in writing by WMATA.

20.2. As may be required in any insurance policy carried by any Permitted Party, this Permit is understood and agreed to be a written contract or an Insured Contract between that Permitted Party and WMATA.

20.3. Motivate International, Inc. or Contractor shall give at least thirty (30) days prior written notice to WMATA's Office of Insurance if any required insurance policy is canceled, materially changed, or non-renewed, or if policy limits have been exhausted.

20.4. The insurance limits required herein may be met through primary and umbrella/excess policies. "Claims Made" insurance policies are not acceptable unless approved in advance by WMATA.

20.5. Motivate shall require each subcontractor working on the Permitted Premises, at all tiers, to provide evidence of insurance coverage specified herein and such evidence of coverage shall be provided to WMATA, or Motivate may, at its option, provide the coverage for any or all subcontractors, provided the evidence of insurance submitted to WMATA so stipulates.

20.6. The limits of liability included herein are minimum limits.

20.7. Motivate International, Inc. shall require Contractors to furnish evidence of all required insurance in the form of a certificate of insurance (hereinafter "**COI**"), including all applicable endorsements, at least three (3) business days prior to the start of any work on the Permitted Premises. However, if Railroad Protective Liability and/or Builder's Risk insurance is required, a copy of the entire policy shall be submitted to WMATA. WMATA reserves the right to receive copies of any other policies of required insurance as denoted below. If requested by WMATA, Permittee

shall have Permitted Parties deliver to WMATA, within ten (10) business days of the request, a copy of such policies, certified by the insurance carrier as being true and complete.

20.8. COIs provides by Motivate shall:

20.8.1. Disclose any deductible, sublimit, self-insured retention, aggregate limit or any exclusions to the policy that materially change the coverage.

20.8.2. Show WMATA as an Additional Insured for Commercial General Liability and Automobile Liability.

20.8.3. Reference this Permit by naming Motivate International, Inc. on the COI and "Real Estate Permit dated (enter Permit Effective Date).

20.8.4. Include as attachments all required endorsements.

20.8.5. Include policy numbers in all endorsements.

20.8.6. Show WMATA as the Certificate Holder.

20.9. At least three (3) days prior to the expiration of the policies, Motivate International, Inc. shall have Permitted Parties provide renewal COIs and all applicable endorsements to WMATA, with terms and limits no less favorable than the expiring insurance policies (including the complete Railroad Protective Liability Insurance policy, if applicable).

20.10. Evidence of insurance coverage shall be sent to:

Director
Office of Insurance
Washington Metropolitan Area Transit Authority
600 Fifth Street, NW, Room 8F
Washington, DC 20001

20.11. Required Insurance.

20.11.1. **Commercial General Liability Insurance** with minimum limits of \$2,000,000 per occurrence, written on an occurrence form. When the minimum contract amounts can only be met when applying the umbrella/excess policy, the umbrella/excess policy must follow the form of the underlying policy and be extended to "drop down" to become primary in the event the primary limits are reduced or aggregate limits are exhausted. The coverage shall include Terrorism coverage and Additional Insured Endorsement naming WMATA.

20.11.2. WMATA requires a copy of the additional insured endorsement(s) form(s) including ongoing and completed operations be attached to

the certificate of insurance. Acceptable forms are the ISO forms: CG 20 26 04 13 (or an equally acceptable endorsement). WMATA requires that contractual exclusion for work within 50 feet of railroad property (if one exists) is deleted from Permittee's General Liability Policy by way of ISO form CG 24 17.

20.11.3. Workers' Compensation Insurance meeting the statutory requirements of the jurisdiction where the work will be performed, including Employer's Liability coverage with minimum limits of \$1,000,000 each accident or disease.

20.11.4. Business Automobile Liability Insurance with minimum limits of \$2,000,000 per occurrence covering Permitted Parties against claims for bodily injury and property damage arising out of the ownership, maintenance or use of any owned, hired, or non-owned motor vehicle. WMATA shall be added as an Additional Insured on the policy.

21. Non-Liability of WMATA or the County.

WMATA shall have no liability for any injury or property damage whatsoever, unless the same arises from its own gross negligence or willful misconduct. Neither the grant of this right of entry, nor any provision thereof, shall impose upon WMATA any new or additional duty or liability or enlarge any existing duty or liability of WMATA. Nothing in this Permit shall be deemed to waive WMATA's immunity as a sovereign entity.

The County shall have no liability for any injury or property damage whatsoever, unless the same arises from its own willful misconduct. Nothing in this Permit shall be deemed to waive the County's immunity as a sovereign entity.

22. Non-Responsibility of WMATA.

WMATA shall have no responsibility for the operation and maintenance of Permittee's Bicycle Stations.

23. No Impairment of WMATA's Title.

This Permit constitutes a mere license, and nothing in this Permit and no action or inaction by WMATA shall be construed to mean that WMATA has granted Permittee or any other person or entity any legal or equitable estate in the Permitted Premises, or any right, power, or permission to do any act or make any agreement which may create, give rise to, or be the foundation for any right, title, interest, lien, charge, or other encumbrance upon the estate of WMATA in the Permitted Premises. In amplification and not in limitation of the foregoing, Permittee shall not allow any portion of the Permitted Premises to be used by any persons or entities in such manner as would likely impair WMATA's title or interest in the Permitted Premises or would result in a claim of adverse use, adverse possession, prescription, dedication or other similar claims with respect to the Permitted Premises or any part thereof.

24. Compliance with All Laws, Rules and Regulations.

Permitted Parties shall comply with all applicable laws, rules and regulations, policies, instructions and directives, whether federal or local, relating to this Permit and Permitted Parties' work hereunder. Should any Permitted Party's work involve use of, or create materials considered to be hazardous or toxic substances or waste which require special handling, Permittee shall ensure that disposal is made in accordance with applicable environmental laws and regulations including, but not limited to the *Resource Conservation Recovery Act* and the *Toxic Substances Control Act* and where required, shall include preparation and filing of reports and travel manifest documents. WMATA shall be provided with copies of all such reports and documents.

25. Notices.

Notices given in connection with this Permit shall be in writing and shall be sent by: (i) registered or certified mail, return receipt requested; (ii) hand delivery; (iii) a nationally recognized overnight courier service for next business day delivery; or (iv) any telecommunications device capable of creating a written record of such notice and its receipt. Notices and other communications shall be deemed to have been given on the date of actual receipt (refusal to accept delivery or inability to make delivery because the intended recipient has not provided a correct or current address shall constitute receipt as of the time of attempted delivery).

If to WMATA:

Director
Office of Station Area Planning
and Asset Management
WMATA
600 Fifth Street, NW
Washington, DC 20001

If to Permittee:

Eric Gilliland
Motivate International, Inc.
6035 Blair Road, NW
Washington, DC 20011

With a copy to:

Adam Lind
Bicycle Program Coordinator
Department of Transportation
Fairfax County
4050 Legato Road, Suite 400
Fairfax, VA 22033
(703) 877-5783 Fax (703) 877-5949
adam.lind@fairfaxcounty.gov

26. Officials Not To Benefit.

26.1 No member (i.e., Representative or Senator) of, or delegate to Congress, or any similar official, or resident commissioner, or any member of such person's family, shall be admitted to any share or part of this Permit, or to any benefit that may arise therefrom; but this provision shall not apply if this Permit is made with a corporation or other entity with which such official or family member has only a de minimis (in WMATA's sole opinion) contractual or ownership interest. Permittee warrants, represents and agrees that as of the date of this Permit, no person described in this

Subsection, nor any entity with which such person is affiliated, has any such interest in any Permitted Party. Permittee shall forthwith deliver written notice to WMATA of any breach of the foregoing warranty representation and agreement and shall make reasonable inquiries from time to time to determine whether any such breach has occurred.

- 26.2** No member, officer, or employee of WMATA or of a local public body during his/her tenure or one year thereafter shall have any interest, direct or indirect, in this Permit.

27. Gratuities.

In connection with this Permit, or any amendments or modifications thereto, the giving of, or offering to give, gratuities (in the form of entertainment, gifts or otherwise) by a Permitted Party or any agent, representative, or other person deemed to be acting on behalf of a Permitted Party, or any contractor, subcontractor or supplier furnishing material to or performing work under this Permit, to any director, officer or employee of WMATA, or to any director, officer, employee of any of WMATA's agents, consultants or representatives, with an intent to secure an agreement or favorable treatment or the making of any determinations with respect to performance under this Permit is expressly forbidden. The terms of this Section shall be broadly construed and strictly enforced in the event of violation hereto.

28. Governing Law.

This Permit shall be governed by the laws of the Commonwealth of Virginia, however, to the extent that such law conflicts with the WMATA Compact, (Public Law 89-774, 80 Stat 1324, as amended), WMATA shall be governed by the WMATA Compact.

29. Federal Transit Administration and Federal Interest.

29.1. Permitted Parties acknowledge that WMATA is a recipient of Federal grants through the Federal Transit Administration (hereinafter "**FTA**"), which funded, in part, the WMATA property. Permitted Parties further acknowledge that pursuant to FTA grant requirements, WMATA must demonstrate and retain satisfactory continuing control over the use of the WMATA property. Permitted Parties agree that it will not exercise any right permitted under this Permit in a manner which compromises or otherwise diminishes WMATA's obligation to retain satisfactory continuing control over the use of the WMATA property.

29.2. Permitted Parties acknowledge the Federal interest in the WMTA property and agree that it will take no action which compromises or otherwise diminishes such interest.

29.3. Permitted Parties acknowledge that WMATA must comply with all applicable Federal statutes, regulations, orders, certification and assurances or other Federal law (collectively referred to a "Federal laws"), including, but not limited to those set forth in the current Master Agreement governing transit projects supported with Federal assistance awarded through the FTA, Permitted Parties agree that it will take no action seeking compliance with non-Federal laws to the extent such laws conflict with applicable Federal laws.

30. **County's Financial Obligation.**

To the extent that there are any financial obligations incurred by the County under the terms of this Agreement, such financial obligations shall be subject to appropriations by the Fairfax County Board of Supervisors to satisfy payment of such obligations.

31. **Counterparts.**

The Parties hereto agree that this Permit may be executed in one or more identical counterparts, each of which shall be deemed to be an original thereof, and shall be enforceable against each of the Parties hereto.

32. **Authority.**

The Parties represent and warrant that they have the power and authority to enter into and perform their obligations under this Permit. Additionally, the signatories to this Permit represent and warrant that they have the legal authority to bind and commit the Party he/she represents.

33. **Entire Agreement.**

This Permit constitutes the entire agreement between the Parties. The Parties acknowledge that no representations or warranties have been made except as set forth herein. This Permit shall not be modified or amended in any manner except by an instrument in writing executed by the Parties as an amendment to this Permit.

IN WITNESS WHEREOF, the Parties have caused this Permit to be executed in two counterparts as of the date and year first written above.

WITNESS:

**WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY**

Name: _____

Anabela Talaia
Contracting Officer

WITNESS:

MOTIVATE INTERNATIONAL, INC.

Name: _____

Eric Gilliland
General Manager

WITNESS

FAIRFAX COUNTY GOVERNMENT

Name: _____

Name: _____
Title: _____

ACTION - 17

Establishment of a Police Civilian Review Panel, as Recommended by the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission

ISSUE:

Board of Supervisors approval of the recommendations of the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission to establish a Police Civilian Review Panel ("the Panel"), reporting to the Board of Supervisors ("Board"), for the purpose of building and maintaining public trust between the Police Department, the Board of the Supervisors and the public, and police legitimacy. The Civilian Review Panel will request and review completed Police Department internal administrative investigations of civilian complaints concerning allegations of abuse of authority and serious misconduct.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors establish a Civilian Review Panel based on recommendations of the Ad Hoc Police Practices Review Commission, as modified.

TIMING:

Board action is requested on December 6, 2016, so the Board can move forward with establishment and implementation.

BACKGROUND:

The Ad Hoc Police Practices Review Commission was created by Chairman Sharon Bulova and endorsed by the Board on March 3, 2015. The purpose of the Commission was to engage the community in an open and transparent process to recommend changes to help the Board and the Police Department achieve the goals of maintaining a safe community, ensuring a culture of public trust, providing for the fair and timely resolution of police-involved incidents and information release, and reviewing Crisis Intervention Training (CIT) and police responses for cases involving mental health.

On October 20, 2015, the Ad Hoc Police Practices Review Commission submitted its final report and recommendations to the Board of Supervisors. On November 17, 2015, the Board of Supervisors approved a process for assigning, prioritizing, reviewing, tracking, and considering the 202 Commission recommendations.

On November 17, 2015, the Board also directed an annual report and a final summary report on the status and implementation of all of the Commission's recommendations. The first annual report shall be presented to the Board by December 13, 2016.

This Action Item is specifically related to the implementation and furtherance of the recommendations of the Independent Oversight and Investigations Subcommittee for the establishment and scope of a police Civilian Review Panel, consistent with the presentations and discussion at the October 25, 2016, Public Safety Committee meeting and other meetings and presentations.

Fundamental to the recommendations of the Independent Oversight and Investigations Subcommittee is that the Board adopt recommended changes, consistent with the Code of the Commonwealth of Virginia and County policies, that will help the County achieve its goals of maintaining a safe community, enhancing a culture of public trust, and ensuring that policies provide for the fair and timely resolution of police-involved incidents. These recommendations are aimed at building and maintaining public trust in the Police Department and its officers by the establishment of a Police Civilian Review Panel, a function in line with the recommendations of the Final Report of the President's Task Force on 21st Century Policing, May 2015. Recommendation 2.8 of that report states, "Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community."

Commission Recommendation

In its final report, the Commission's Independent Oversight and Investigations Subcommittee made 24 overall recommendations. Seven of those recommendations, numbers 18 – 24 as in the Commission report, were specific to the establishment of the Police Civilian Review Panel and its scope and are listed below as presented in the report:

- 18) Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct.
 - a) Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel.
 - b) The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities.

- c) Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or criminal investigative experience, reputation in the community and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD).
- d) The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities.

19) An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor.

- a) "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures.
- b) The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint.
- c) Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation.

20) Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation.

- a) The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel.

b) Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested.

21) The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review.

a) If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration.

22) The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed.

23) The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work.

24) Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel.

25) The Board has the right to review the workload of the Citizen Review Panel and make any necessary adjustments.

These recommendations are also listed on the Ad Hoc Police Practices Review commission Report Recommendations Assignment and Tracking Spreadsheet (Attachment 1) as IOV&I (Independent Oversight & Investigations) 18 through 24, inclusive.

Recommended Action by the Board of Supervisors

Based on a review of the Commission recommendations, Board discussion, staff review, and legal review, it is recommended that the Board establish a Civilian Review Panel, based on the recommendations of the Ad Hoc Commission, with modifications as outlined in this Action Item.

a. Composition of the Panel (Recommendation 18)

Panel members shall be appointed by the Board of Supervisors for terms of three (3) years. Panel members will serve at the pleasure of the Board. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel, with the exception of the first Chair, who shall be appointed by the Board of Supervisors.

The Panel shall be composed of nine (9) members, and each should be a resident residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities.

The Board of Supervisors shall seek to create an independent and fair body for the Panel. The Board of Supervisors shall consider the following factors, among others it may choose, in appointing members of the Panel: community and civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current employee of Fairfax County, a current or former member of the Fairfax County Police Department or the Fairfax County Sheriff's Office, have a relative (i.e., an immediate or extended family member) who is a member of FCPD or FCSO, hold public office, or be a candidate for public office. At least one (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD).

In order to assist it in appointing a Panel representing the full diversity of Fairfax County, the Board of Supervisors shall invite organizations and individuals to nominate candidates for the Panel to the Board. The Board may ask business, civic, civil rights, legal, and other organizations to nominate candidates. The Board shall also accept into the pool of candidates self-nominated individuals.

The Board of Supervisors shall select Panel members from those nominated by considering those factors set forth in this Action Item, and any other factors that the Board deems appropriate.

The Office of the Police Auditor shall provide staff support to the Panel. Panel members shall complete recommended trainings to be determined.

b. Jurisdiction and Process (Recommendation 19)

The Panel shall have jurisdiction to review complaints of "abuse of authority" or "serious misconduct" by a Fairfax County Police Officer. The Panel shall define "abuse of authority" and "serious misconduct" in its bylaws, which will be subject to approval by the Board of Supervisors. There are two avenues by which a Complaint or Request for Review, concerning alleged abuse of authority or serious misconduct, could reach the Panel. First, an individual may file a Complaint with the Panel. Second, an individual may Request Review by the Panel of an already-completed internal FCPD investigation. If a Complaint or Request for Review within the jurisdiction of the Panel is filed with the Auditor to the Police, the Board of Supervisors, or other county agency outside of the FCPD, that agency shall forward it to the Panel. The Panel shall not review alleged misconduct that is subject to review by the Auditor.

- 1) "Abuse of authority" and "serious misconduct" shall be defined by the Panel in its bylaws and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures.
- 2) The Panel shall refer any Complaint within its scope that it receives to the FCPD for review and handling, including any necessary investigation.
- 3) The Panel shall not consider any Complaint filed more than one (1) year after the date of the incident that is the subject of the Complaint, nor regarding any incident that occurred prior to the passage of this Action Item establishing the Panel. The Panel shall not consider any Request for Review of any investigation of any incident that occurred prior to the passage of this Action Item.
- 4) Any Request for Review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation.

All Complaints to and Requests for Review by the Panel of a completed FCPD investigation shall be in writing. Requests for Review shall state the specific reason(s) for the request. Upon receiving a Complaint or Request for Review, the Panel shall determine if the Complaint or Request concerns matters which are the subject of pending criminal proceedings or pending or anticipated civil proceedings. If it does, then the Panel shall defer the matter pending resolution of the criminal or civil proceedings. The Panel shall notify the Complainant and the Board of Supervisors, in writing, of any such deferrals. The Panel may request the assistance of Counsel, the Auditor, or the Chief of Police, or the County Attorney in making its determination. The

Panel shall track any deferred matter and notify the complainant and the Board once the criminal or civil proceedings are closed and the request for review may proceed.

For any Complaint filed with the Panel and sent to the FCPD for investigation, the FCPD shall provide a report back to the Panel within sixty (60) days with respect to its review and handling of the complaint. The Panel shall provide an extension if requested by the Chief of Police in order to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice also provided to the complainant and the Board of Supervisors. Absent good cause provided by the Police Department for production of the report within a reasonable time period, the Panel may report any delay in the handling of the matter to the Board of Supervisors. The Board may direct the Chief of Police to ensure completion of the investigation, or to report on the reasons for delay and an expected completion date.

If the complainant is not satisfied with the Police Department's investigation or findings for any allegation made within the scope of the Panel, the complainant may then request a Panel review of the completed police department internal administrative investigation.

c. Timing and Meetings (Recommendation 20)

Absent good cause, for any request for review, within forty-five (45) days of receipt of the completed police department internal administrative investigation, the Panel may, at its discretion, schedule a public meeting to review the FCPD investigation. The Panel shall send notification of the date and time of the meeting to Panel members, Police Department Internal Affairs Office, the County Attorney's Office, and the complainant.

At any meeting held to review an investigation, the Panel shall not take testimony or receive factual evidence of the underlying matter that is the subject of the investigation. However, the complainant shall have the opportunity to state his or her reason(s) for the request for review. Upon completion of the complainant's statement, the Police Department representative(s) knowledgeable of the investigation shall present a description of its investigation including all findings of fact and a review of all evidence collected and received, including witness statements, subject to the following limitations:

1. The statement of any police officer required by the Department to give a statement under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967) shall not be disclosed in public. The Panel shall have confidential access to the entire statement for the purpose of its review. The Police Department representative(s) presenting information to the Panel may publicly state only that the officer admitted or denied the allegation, unless the officer consents to the public release of the entire statement.
2. The Panel may convene in private to deliberate; however, any deliberations by the Panel which do not address the alleged improper conduct or performance of duties of an officer shall be conducted in an

open public meeting. Neither the police department representative, nor any Panel member shall reveal the identity of any victim of sexual assault, unless authorized to do so by the victim, or of any juvenile.

The County Executive or his/her designee shall require the attendance of any County employee, other than the involved officer(s), whose appearance is requested by the Panel unless such required attendance violates any statutory or constitutional right of the employee. The County Executive shall also require the submission of any relevant documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel unless legal privilege to withhold exists and is not waived. At the Panel's discretion, further investigation by the Police Department may be requested and the Police Department shall conduct such further investigation and provide a supplemental public report to the Panel with respect to the further investigation.

During the Panel's review of a complaint where it is necessary for Panel members to review an officer's personnel record reflecting discipline or a Police Department internal administrative investigative case file, each Panel member who is provided the opportunity to review that record or case file shall be required to sign a Notice of Confidentiality, affirming that the file and case record is deemed a personnel record and shall not be disclosed nor shall copies be provided to the public. If a file contains information concerning an identifiable juvenile, the file shall first be forwarded to the County Attorney's Office, which shall redact information that identifies a juvenile in conformance with the requirements contained in Code of Virginia § 16.1-301, or any successor provision.

Panel review meetings shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition schedule.

The Panel shall draft Bylaws to govern more specifically its functions. Such bylaws, and any amendments thereto, must be approved by the Board of Supervisors before taking effect.

d. Panel findings (Recommendation 21)

The Panel review of the investigation shall be completed and a public written report issued within 60 days of the filing of a request for review unless good cause exists for an extension, such as a delay due to a pending criminal or internal administrative investigation or the unavailability of a key witness. A delay and the cause shall be reported to the Board of Supervisors.

Upon completion of its review, the Panel, in its findings, may:

1. Concur with the findings and determination of the Police Department investigation.

2. Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the Police Department and recommend further review and consideration by the Chief of Police.
3. Advise the Board of Supervisors that in its judgment the investigation is incomplete and recommend additional investigation.
4. Conclude that the complaint is not appropriate for review by the Panel.

Upon a finding by the Panel under provisions 2 and 3, the Board may direct the Chief of Police to take further action as it deems appropriate.

e. Panel reports (Recommendation 22)

The Panel shall issue an annual written report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors, Auditor, and the Chief of Police, including any recommendations for revisions to FCPD policies, training, and practices that the Panel concludes are needed. These annual reports shall be delivered to the Board through the Auditor and the Chair of the Board's Public Safety Committee, and then released to the public.

The Panel shall have the authority to conduct public meetings on issues within its jurisdiction and on law enforcement policies and practices to assist it in making recommendations for policy and practice changes to the Chief of Police and the Board of Supervisors. The Panel may meet periodically with the Independent Police Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide its view to the Board of Supervisors and the Chief of Police as to policy and practice changes that may be warranted.

FISCAL IMPACT:

The Civilian Review Panel will be supported primarily by staff of the Office of Independent Police Auditor. Other associated costs will primarily include as of yet undetermined Police Department and County Attorney's Office, independent counsel, staff time and any required materials and supplies for the Panel.

ENCLOSED DOCUMENTS:

Attachment 1: Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|------------------------|-------------|--|----------------------|---|--------------------------|--|--|
| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| COMMUNICATIONS SUBCOMMITTEE | | | | | | | | |
| COMM - 1 | Timely Info Disclosure | 46 | Provide accurate, timely and actionable information (good or bad) using redundant forms of communication. | Police Dept. (PD) | Office of Public Affairs (OPA) | PERF #70 | | Police Dept. (PD) |
| COMM - 2 | Timely Info Disclosure | 46 | Adopt a "predisposition to disclose" approach with public records presumed to be public and exceptions strictly and narrowly construed. | PD | Co. Atty's Office, OPA | PERF #70 | | Board of Supervisors (BOS) |
| COMM - 3 | Timely Info Disclosure | 46 | Share and regularly update details of all officer-involved shootings in multiple ways; disclose not only facts, but also procedures and timing. | PD | Co. Atty's Office, OPA | PERF #70 | | BOS |
| COMM - 3a | Timely Info Disclosure | 46 | Provide the name of the officer(s) as soon as possible but preferably within a week. If a decision is made not to release the name within a week, publicly share specific information that illustrates the reason the name is being withheld. | PD | Co. Atty's Office, Commonwealth's Attorney's Office (CWA) | | | PD |
| COMM - 3b | Timely Info Disclosure | 47 | In cases where a suspect is deceased as a result of an officer-involved shooting, make available immediately upon FOIA request all body-camera, in-dash camera or audio recordings of responding officers to an incident. | PD | Co. Atty's Office, CWA, OPA, Dept. of Information Technology (DIT) | | Yes | BOS |
| COMM - 3c | Timely Info Disclosure | 47 | In officer-involved shootings where a suspect is shot but not deceased, provide a citizens' committee (a communications advisory committee appointed by either the Board of Supervisors or the Chief of Police to carry out this function) access to the recordings for a recommendation on release which should balance public and private interest. This committee's recommendation would be submitted to the Chief of Police who would factor it into a final decision. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 3d | Timely Info Disclosure | 47 | All digital recordings in officer-involved shooting investigations should be carefully preserved, and investigations should end with the public release of all digital recordings within 6 months of the incident. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 4 | Timely Info Disclosure | 47 | Annually report on the demographics of the subjects in all use-of-force incidents including race, gender, age, whether mental health status was a factor, previous involvement with FCPD and any other data. | PD | OPA, CSB | PERF #70 | Yes | PD |
| COMM - 5 | Timely Info Disclosure | 47 | Devote more effort to sharing day-to-day information of police activity with the public. Facilitate unfettered access to blotter-type information, to include a list of every incident and call with the basic who/what/when/where/how information. | PD | OPA, DIT | PERF #70 | | PD |
| COMM - 6 | Timely Info Disclosure | 47 | Include incident based reporting (IBR) categories of statistical crime information broken down by district stations and provided quarterly in accessible, comprehensive online reports. Provide quarterly information by district for all use-of-force and officer involved shootings, CIT calls for service, traffic and pedestrian accidents. | PD | OPA, DIT | | Yes | PD |
| COMM - 7 | Community Engagement | 47 | Embrace and practice increased, proactive community engagement. | PD | OPA | | | PD |
| COMM - 7a | Community Engagement | 47 | Communicate with key community leaders as soon as bad news breaks. | PD | OPA | | | PD |
| COMM - 7b | Community Engagement | 47 | Hold community meetings early and often. | PD | OPA | | | PD |
| COMM - 7c | Community Engagement | 48 | Continue cross-district command meetings to increase situational awareness, spot trends and provide a centralized forum to identify and coordinate responses to emerging community issues. | PD | | | | PD |
| COMM - 7d | Community Engagement | 48 | Create a "Community Engagement Team" within FCPD to respond to community concerns and manage programs that create community trust and engagement. The team members should be fluent in the language and knowledgeable of the customs of the particular community they serve, and the team should reflect the diversity of Fairfax County in order to best serve as liaisons between the community and FCPD. | PD | DMB | | | BOS |
| COMM - 8 | Community Engagement | 48 | Continue supporting Citizen Advisory Committees (CAC); Chief's Citizens Advisory Council; and Citizen's Police Academy (CPA) classes. | PD | Citizen Advisory Committees (CAC), Citizens Police Academy (CPA), OPA | | | PD |
| COMM - 8a | Community Engagement | 48 | Expand promotion of these valuable public forums. | PD | CACs, OPA | | | PD |
| COMM - 8b | Community Engagement | 48 | Improve and expand CAC and Chief's Citizens Advisory Council succession planning and online information. | PD | CACs, OPA | | | PD |
| COMM - 8c | Community Engagement | 48 | Increase the meeting frequency of the Chief's Citizens Advisory Council from four meetings per year to 10 monthly meetings to be in line with the 10 monthly CAC meetings. | PD | CACs | | | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|----------------------------------|-------------|---|----------------------|-------------------------------------|--------------------------|--|--|
| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| COMM - 8d | Community Engagement | 48 | The structure of the eight CACs and the Chief's Citizens Advisory Council should facilitate a two-way flow of information about police services. | PD | CACs | | | PD |
| COMM - 8e | Community Engagement | 48 | Expand the CPA program by offering a compact, three-hour version in addition to the current 10-session program and include in the CPA training the best practices and reports discussed at meetings of the Ad Hoc Police Practices Review Commission and subcommittee meetings. | PD | CPA | | | PD |
| COMM - 8f | Community Engagement | 48 | The CPA should be designed and structured to be understood by all in the diverse communities of Fairfax County. | PD | OPA | | | PD |
| COMM - 9 | Policies, Procedures & Personnel | 48 | Hire a civilian public information officer (a professional communicator knowledgeable of best communication practices and experienced in the practice and ethics of media and journalism) to lead the FCPD public information office, and have that position and function report directly to the Police Chief. | PD | Dept. of Human Resources (DHR), OPA | PERF #70 | | PD |
| COMM - 10 | Policies, Procedures & Personnel | 48 | Fund and employ 24/7 PIO staff in the central Public Information Office with additional PIO staff assigned to each district station. | PD | DMB | PERF #70 | | BOS |
| COMM - 11 | Policies, Procedures & Personnel | 48 | The Chief of Police should be the official spokesperson for officer-involved shootings. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 12 | Policies, Procedures & Personnel | 48 | Develop a policy statement regarding FCPD PIO release of information for critical events to include the relationship with the Office of Public Affairs (OPA) and the process for a hand-off to OPA in certain situations. | PD | OPA, Co. Atty's Office | PERF #70 | | PD |
| COMM - 13 | Policies, Procedures & Personnel | 49 | FCPD should prioritize realignment of resources to ensure more transparency, and become the trusted and valued source of information for Fairfax County. | PD | | | | PD |
| COMM-14 | Policies, Procedures & Personnel | 49 | FCPD should develop a continuous process of information declassification, to ensure proactive information release for cases that are no longer active. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 15 | Policies, Procedures & Personnel | 49 | Current FCPD policies overemphasize the media, FCPD should use its own platforms and tools to share information directly with the public. Policies should reflect the communications paradigm by promoting more community engagement and direct information dissemination to the community. | PD | OPA | | | PD |
| COMM - 16 | Policies, Procedures & Personnel | 49 | Shorten the current 6-20 month timeframe to internally investigate and close officer-involved shooting cases; throughout the investigation be responsive to questions and concerns from the public, news media, and elected officials. <u>It is recommended the Board of Supervisors take an active approach throughout the investigative stage by periodically requesting and receiving updates on such incidents in a public forum.</u> | PD | Co. Atty's Office, CWA | PERF #70 | Yes | BOS |
| COMM - 17 | Policies, Procedures & Personnel | 49 | Update policies (with the assistance of FCPD Community Engagement Team members) and mandate usage of plain language that is culturally appropriate for the diverse communities in Fairfax County to eradicate any perceived biases. | PD | OPA | | | PD |
| COMM - 18 | F.O.I.A. | 49 | The Board of Supervisors should publicly adopt a resolution (and forward it to the County's delegation in the General Assembly) to revisit FOIA laws with an eye toward expanding instead of limiting the public release of information related to police-involved shootings and other police practices and procedures. | BOS | PD, Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 19 | F.O.I.A. | 49 | The County Executive should establish a countywide FOIA policy and procedure through issuance of a new procedural memorandum that would replace former County Executive Griffin's memo regarding FOIA compliance, which currently guides county staff. The new policy should encourage transparency and accountability by establishing a culture of disclosure. It should give guidance to all county staff custodians of public records to lean automatically toward releasing all public records upon request, changing the current practice of automatically withholding all exempt records. | Co. Atty's Office | County Executive's Office, OPA | | Yes | Co. Exec. |
| COMM - 20 | F.O.I.A. | 49 | Where possible, release police reports with redactions rather than creating a summary document. | PD | Co. Atty's Office, CWA, OPA | | Yes | PD |

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| COMM - 21 | F.O.I.A. | 50 | Develop FCPD administrative guidelines for FOIA, even in the absence of FOIA reform at the state level. | PD | Co. Atty's Office, OPA | | Yes | PD |
| COMM - 22 | F.O.I.A. | 50 | Move function and staff for responding to FOIA requests out of Internal Affairs and into the FCPD Public Information Office. | PD | Co. Atty's Office | | | PD |
| COMM - 23 | F.O.I.A. | 50 | Cease the blanket approach to FOIA requests; when records are withheld, an explanation should be provided without merely claiming exemption. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 24 | Transparency | 50 | With goal of becoming a transparent and highly accountable police department, the Department should make proactive statements to the community it serves, communicating with the public on all aspects of police procedure, policy, and actions, particularly in an officer-involved shooting or other high-profile incident involving use of force. The use of numerous communications channels should be utilized to explain what happened, what is known at the time, what is revealed over time, and lessons learned and perspective after the fact. | PD | Co. Atty's Office, OPA, | | | PD |
| COMM - 25 | Transparency | 50 | Fairfax County should adopt the type of progressive release of information practices and policies that govern most states as FCPD's current practices on releasing information is not aligned with agencies located <u>outside</u> the Commonwealth of Virginia. | PD | Co. Atty's Office, all County agencies | | Yes | BOS |
| COMM - 26 | Transparency | 50 | Create and utilize written standards and criteria for the day-to-day release of information from FCPD PIO to standardize information flow/release, and to enhance professional communications, transparency, and accountability. | PD | Co. Atty's Office, OPA | | | PD |
| COMM - 27 | Transparency | 50 | Get "buy-in" and cooperation from all levels of the FCPD to improve communications and expand information release. | PD | | | | PD |
| COMM - 28 | Transparency | 50-51 | Basic requests for information should be addressed in a timely manner by openly providing routine information about incidents, activities, calls, investigations (internal and external) with unfettered public access. | PD | | PERF #70 | | PD |
| COMM - 29 | Transparency | 51 | Endorse and implement the recommendations of the final report of The President's Task Force on 21st Century Policing, dated May 2015, that are related to communications, which call for such actions as making all Department policies available for public review, clearly stating what types of information will be released, when and in what situation after serious incidents; communicating swiftly, openly and neutrally while complying with legal requirements related to confidentiality. | PD | OPA | | | PD |
| COMM - 30 | Transparency | 51 | Create a change management process to change the FCPD culture and facilitate the successful implementation of the improved policies. | PD | DHR | PERF #71 | | PD |
| COMM - 31 | Transparency | 51 | Endorse and implement communications-related recommendations contained in the report of the U.S. Conference of Mayors' Working Group of Mayors and Police Chiefs, "Strengthening Police-Community Relations in America's Cities." | PD | OPA | | | PD |
| COMM - 32 | Transparency | 51 | Endorse and implement communications-related recommendations from PERF's use-of-force policy and practice review of FCPD. | PD | OPA | PERF #70 | | PD |
| COMM - 33 | Open Data | 51 | Develop an open data policy to improve transparency; this will reduce the cost of responding to FOIA requests, since data and reports will be published online making FCPD more efficient and serving community needs more effectively. | PD | Co. Atty's Office, OPA, DIT | | Yes | PD |
| COMM - 34 | Open Data | 51 | Provide more specificity and detail in crime stats and information released by the district stations. | PD | Co. Atty's Office, DIT | PERF #70 | | PD |
| COMM - 35 | Open Data | 51 | Make all department policies and procedures available for public review online, updating them as needed. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| COMM - 36 | Moving Forward | 52 | The Board of Supervisors should publicly set dates for community forums to revisit the recommendations of the Ad Hoc Police Practices Review Commission and the progress made toward their implementation. These reviews should take place in April 2016, October 2016, April 2017 and annually thereafter. Other methods should also be used to update the public, possibly an online 'report card' that is continually updated. | Dep. Co. Exec. for Public Safety | PD, CSB, Sheriff's Office (SO), CWA, OPA | | | BOS |

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| COMM - 37 | Moving Forward | 52 | Recommends that this subcommittee continue its service beyond presentation of its final report, in order to meet with the PERF contractors conducting an independent review of the county's communications practices and review and comment on the PERF report and recommendations when they are finally submitted. | Dep. Co. Exec. for Public Safety | | | | Dep. Co. Exec. for Public Safety |
| COMM - 38 | Moving Forward | 52 | Anticipating a proposal for an independent citizen oversight group emerging from the Investigations and Oversight Subcommittee, it is recommended that any group established be mandated to provide robust communications in a transparent process that keeps the community informed and ensures a culture of public trust. | Dep. Co. Exec. for Public Safety | PD, OPA | | Yes | BOS |
| RECRUITMENT, DIVERSITY AND VETTING SUBCOMMITTEE | | | | | | | | |
| RD&V - 1 | Recruitment | 58 | Provide a referral incentive for employees who are successful in recruiting personnel into the Department. | PD | DHR, Co. Atty's Office, DMB | | | BOS |
| RD&V - 2 | Recruitment | 58 | Develop and implement a marketing plan for all programs and vacancies to include e-mail blasts to interfaith organizations and School Career Centers. | PD | OPA, NCS/Community Interfaith Coordination, Faith Communities in Action (FCIA), Fairfax County Public Schools (FCPS) | | | PD |
| RD&V - 3 | Recruitment | 58 | Expand the Explorer and Cadet programs to include a diverse pool of participants. | PD | DHR, FCPS | | | PD |
| RD&V - 4 | Recruitment | 58 | Enter into a Recruitment Agreement with all Cadets to include reimbursement of educational expenses for breach of contract. | PD | Co. Atty's Office, DHR, DMB | | Yes | BOS |
| RD&V - 5 | Recruitment | 58 | Collaborate and build recruitment-oriented partnerships with key segments of the Fairfax County community to further diversify both the applicant pool and workforce to more closely reflect the community. | PD | DHR, FCPS, Faith Communities in Action (FCIA) | | | PD |
| RD&V - 6 | Recruitment | 58 | Identify ways to reduce the time from application to hiring (includes staffing resources). | PD | DHR, DMB | | | BOS |
| RD&V - 7 | Recruitment | 58 | Formalize the selection process by putting certain standards and processes into writing. | PD | DHR, Co. Atty's Office | PERF #1 | Yes | PD |
| RD&V - 8 | Recruitment | 58 | Ensure written directives are kept up to date. | PD | | PERF #2 | | PD |
| RD&V - 9 | Recruitment | 58 | Create a diverse Selection Review Committee that includes community leaders. | PD | DHR, Co. Atty's Office | PERF #3 | Yes | PD |
| RD&V - 10 | Diversity | 59 | Establish a diversity goal for each commander, making them responsible for enhancing the diversity within the department. The progress toward achieving that goal should be reflected in the performance management system. | PD | DHR | | | PD |
| RD&V - 11 | Diversity | 59 | Educate and train recruiting and selecting officers about implicit bias, which the current neuroscience research shows can occur even in people with no-prejudiced attitudes, and the impact on both individual and organizational selection decision. | PD | DHR | | | PD |
| RD&V - 12 | Vetting | 61 | Increase resources in order to reduce length of time it takes to conduct background investigations and polygraphs. | PD | DMB | | | BOS |

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| RD&V - 13 | Vetting | 61 | Formalize the officer selection process. | PD | DHR | PERF #1 | | PD |
| RD&V - 14 | Retention | 62 | The Board of Supervisors should continue to work with the Department's Pay and Benefits Committee to ensure competitive salaries and benefits to secure and maintain a diverse workforce. | PD | DHR, DMB | | | BOS |
| MENTAL HEALTH AND CIT SUBCOMMITTEE | | | | | | | | |
| MH-CIT - 1 | FCPD | 81 | Establish Memphis Model/Virginia CIT Essential Elements. FCPD should immediately establish the Memphis Model for Crisis Intervention Team training as adopted by the Virginia Essential Elements of CIT, ensuring each squad has a CIT trained officer and creating a specialty squad of selected CIT officers to work closely with CSB and Mobile Crisis units. | PD | CSB | PERF #58, 67, 68 | Yes | PD & BOS |
| MH-CIT - 2 | FCPD | 82 | Attract the right officers for CIT, FCPD should create incentives, such as flexible shift hours, to make serving on a Crisis Intervention Team attractive to potential volunteers | PD | DMB, CSB | | | PD |
| MH-CIT - 3 | FCPD | 82 | The subcommittee recommends that the FCPD create a uniform pin to identify Crisis Intervention Team Trained officers to the public. | PD | | | | PD |
| MH-CIT - 4 | FCPD | 82 | Make CIT a requirement for selected command assignments. The subcommittee recommends that FCPD leadership consider CIT training and experience in selections to certain command positions, for instance in the patrol division. | PD | DHR | PERF #57 | | PD |
| MH-CIT - 5 | FCPD | 82 | Form teams. The subcommittee recommends that officers detailed to Crisis Intervention Teams maintain their regular patrol duties, but also form partnerships with mental health workers and community partners trained and experienced in dealing with residents living with mental illness. These teams would be available to be dispatched to identified mental health calls. | PD | CSB | PERF #67 | | PD & Community Services Board (CSB) |
| MH-CIT - 6 | FCPD | 82 | Be proactive. The subcommittee recommends that Crisis Intervention Teams be empowered to work proactively to help mentally ill persons obtain treatment and take other steps to manage their illness, diverting them from the criminal justice system and the courts. | PD | CSB, Courts, CWA | | | PD |
| MH-CIT - 7 | FCPD | 83 | Integrate dispatch personnel. The subcommittee recommends 100% of all dispatchers continue to receive at least eight hours of CIT training. | Dept. of Public Safety Communications (DPSC) | PD, CSB | PERF #69 | | Dept. of Public Safety Communications (DPSC) |
| MH-CIT - 8 | FCSO & CSB | 84 | Implement "Stepping Up." The Board of Supervisors, the CSB, the Judiciary, State legislators, and the Sheriff's Office should collaborate to implement a community-wide system of care overhaul using the BOS-endorsed, national initiative known as "Stepping Up." | CSB | Multiple | | | BOS |
| MH-CIT - 9 | FCSO & CSB | 84 | Fully implement Diversion First. The subcommittee recommends Fairfax County develop a mechanism for oversight of systems of mental health/substance use/justice services — a diversion-oriented system of care collaborative stakeholder group now known as "Diversion First." | CSB | PD, SO | | Yes | BOS |
| MH-CIT - 10 | FCSO & CSB | 84 | Identify and collect pertinent data to establish metrics for success. The subcommittee strongly emphasizes the importance of data collection and its intimate linkage to measuring the progress and impact of CIT programs. | CSB | PD, SO, DIT | | | CSB |
| MH-CIT - 11 | FCSO & CSB | 85 | Increase language and cultural competency. The subcommittee recommends that Fairfax County increase services to special populations to include cultural competency to better serve non-English-speaking justice-involved individuals, as de-escalation and diversion require the ability to effectively communicate with persons. | CSB | PD, SO | | | BOS |

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| MH-CIT - 12 | FCSO & CSB | 85 | Provide CIT Training to jail and custodial personnel. The subcommittee recommends that the Sheriff's Office provide the forty-hour Crisis Intervention Team training course to deputies detailed to courtroom security and deputies working inside the Adult Detention Center. | SO | CSB, PD | | | SO |
| MH-CIT - 13 | FCSO & CSB | 85 | Establish strategically located CIT assessment sites. The subcommittee recommends that Fairfax County establish strategically located 24-hour assessment sites staffed and operated by CSB, FCPD, and the Sheriff's Office collaboratively. | CSB | PD, SO, DMB | | | BOS |
| MH-CIT - 14 | FCSO & CSB | 86 | Redeploy CSB to provide services when they are needed most. The subcommittee recommends that the CSB should redeploy both forensic and community-based teams to expand capacity to provide mental health services at each point in the criminal/community mental health continuum rather than incarcerate individuals. | CSB | PD, SO | | | CSB |
| MH-CIT - 15 | FCSO & CSB | 86 | Expand Mobile Crisis Unit (MCU) program to strategic locations in Fairfax County. MCU is an emergency mental health program of the Fairfax-Falls Church Community Services Board that provides on-scene evaluation, treatment, and crisis intervention in the community. The recommendation is to have MCUs by Jan. 1, 2017. | CSB | | | | BOS |
| MH-CIT - 16 | FCSO & CSB | 87 | CSB and Sheriff's Office to consider increasing behavioral health clinician staff hour availability inside the Adult Detention Center (ADC), to include not only on-site, but through technology. | CSB | SO, DIT | | | CSB & Sheriff's Office (SO) |
| MH-CIT - 17 | FCSO & CSB | 87 | Increase release planning to support successful reentry. The subcommittee recommends that more CSB staff resources be devoted to release planning inside the ADC. It is also recommended that Dept. of Family Services (DFS) make available resources to initiate benefit eligibility determination. | CSB | SO, Dept. of Family Services (DFS) | | | CSB |
| MH-CIT - 18 | FCSO & CSB | 87 | Review pharmacy policies inside the ADC. The subcommittee recommends that the CSB and ADC medical staff review policies, especially for psychotropic medications, to ensure that inmates receive the most effective treatment relative to their conditions and medical histories by January 1, 2016. | SO | CSB | | Yes | CSB & SO |
| MH-CIT - 19 | Judiciary & Mental Health Dockets | 88 | Implement Mental Health dockets. The subcommittee recommends that Fairfax County work with judges and the Clerk of the Court to establish a Mental Health Docket for both adults and juveniles by January 1, 2016. | Dep. Co. Exec. for Public Safety (preliminary) | Courts, Clerk of the Court, CWA, CSB, PD, SO | | Yes | BOS & Courts |
| MH-CIT - 20 | Judiciary & Mental Health Dockets | 88 | Encourage Mental Health Awareness training for the judiciary. The subcommittee recommends that appropriate mental health awareness training be developed and deployed for judges, magistrates, probation and parole officers, and other officials who may come into contact with people who are living with mental illness by January 1, 2016. | CSB | Courts, Magistrates, Probation & Parole, Others | | | CSB |
| MH-CIT - 21 | VA CIT Elements | 89 | Establish standing law enforcement Mental Health Units staffed by full-time police officers and deputies tasked with responding to individuals experiencing a mental health crisis. | PD & SO | CSB, DMB, Co. Atty's Office | | | BOS |
| MH-CIT - 22 | VA CIT Elements | 89 | Institute plainclothes Mental Health Unit officers. Mental Health Unit officers in Bexar County wear civilian clothing and use unmarked vehicles during the course of their duties to avoid unintentionally escalating a mental health crisis. | PD & SO | PD, CSB | | | PD & SO |
| MH-CIT - 23 | VA CIT Elements | 89 | Re-focus and develop a full range of mental health and disability awareness training at the Criminal Justice Academy. CIT is important, but other trainings are also vital. | PD | PD, CSB | | | PD & SO |
| MH-CIT - 24 | VA CIT Elements | 90 | Clarify mental health response protocols for first responders. The Fairfax County Fire and Rescue responds to more than 50,000 calls annually, and must transport some individuals without a medical condition to emergency rooms rather than a mental health facility as this is required by the Code of Virginia. Subcommittee recommends the Board of Supervisors consider supporting a bill that would allow first responders to transport individuals whose primary condition is a mental health issue directly to a mental health facility once medically cleared by an EMT. | Fire and Rescue Dept. (FRD) | Govt. Relations, CSB, Co. Atty's Office | | Yes | BOS |

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| MH-CIT - 25 | VA CIT Elements | 90 | Involve peers whenever and wherever possible. According to Virginia's Essential Elements program guide for CIT, dynamic community involvement should reflect the composition of the local community, with particular emphasis on the inclusion of persons with mental illness. | CSB | PD, SO | PERF #67 | | CSB |
| MH-CIT - 26 | Public Outreach | 91 | Develop a public outreach program. The subcommittee recommends that the FCPD work with the CSB to develop materials for delivery to the public, to increase awareness of steps that may be taken prior to the instance of a potential interaction. | CSB | PD, SO, OPA | | | CSB |
| USE OF FORCE SUBCOMMITTEE | | | | | | | | |
| UOF - 1 | Guiding Philosophy | 107 | Ensure that FCPD's philosophy, policies and orders promote treating persons respectfully and are protective of their dignity; maintain an appropriate balance between an officer's role as a guardian/warrior or peacemaker/fighter; reinforce a reverence for the sanctity of human life. | PD | | PERF #4, 5 | | PD |
| UOF - 2a | Guiding Philosophy | 107 | Adopt policies, programs and practices that require officers to identify themselves by their full name, rank, and command (as applicable) and provide that information, when practicable, on a business card to individuals they have stopped. | PD | | | | PD |
| UOF - 2b | Guiding Philosophy | 107 | Adopt policies, programs and practices that, for policing mass demonstrations, continue to employ a continuum of managed tactical resources designed to be protective of officer safety and promote de-escalation of tensions; minimize the appearance of a military operation; and avoid provocative tactics, equipment, and language that might heighten tensions. | PD | | | | PD |
| UOF - 2c | Guiding Philosophy | 108 | Adopt policies, programs and practices that continue and strengthen opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders. | PD | | | | PD |
| UOF - 2d | Guiding Philosophy | 108 | Adopt policies, programs and practices that reward officers for their efforts to engage members of the community and the partnerships they build and make this part of the performance evaluation process, placing an increased value on developing such partnerships. | PD | DHR | | | PD |
| UOF - 2e | Guiding Philosophy | 108 | Adopt policies, programs and practices that ensure deployment schedules provide sufficient time for patrol officers to participate in problem solving and community engagement activities. | PD | | | | PD |
| UOF - 2f | Guiding Philosophy | 108 | Adopt policies, programs and practices that infuse a renewed commitment to community policing throughout the FCPD culture and organizational structure. | PD | | | | PD |
| UOF - 3 | Guiding Philosophy | 108 | Commit and assure in G.O. 201.6 - PRESERVATION OF PEACE AND PROTECTION OF LIFE AND PROPERTY, that medical assistance will be provided to anyone who is injured, alleges an injury, or requests medical assistance, stating, as follows: <i>It shall be the duty of each sworn officer of the Department to: preserve the public peace; protect life and property; assure medical assistance; and enforce and uphold the laws of the Commonwealth of Virginia and the Ordinances of the County of Fairfax.</i> | PD | Co. Atty's Office | | Yes | PD |
| UOF - 4 | Guiding Philosophy | 108 | Review policies on use of physical control equipment and techniques to assure that they address any unique requirements of vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others deemed appropriate by the on-scene officer(s). | PD | Co. Atty's Office | PERF #7 | Yes | PD |
| UOF - 5 | PERF Recommended | 109 | Implement all PERF Use of Force report recommendations except #54, "termination of the use of PIT." FCPD should complete an analysis for approval by the Board of Supervisors on whether or not to maintain or restrict PIT use. Complete a publicly available and periodically updated action plan that assigns responsibility by name or position and target date for completion of all of the other recommendations. | PD | Co. Atty's Office | PERF #1 - 71 (except #54) | Yes | PD (BOS for PERF Recommendation #54) |
| UOF - 6 | Use of Force Policies | 110 | Establish a comprehensive and integrated policy on use of force to include training, investigations, prosecutions, data collection and information sharing. This policy must be clear, concise, and openly available for public inspection. | PD | Co. Atty's Office | PERF #13,14,16 | Yes | PD |
| UOF - 7 | Use of Force Policies | 110 | Consistent with the PERF Use of Force report, replace the current Department definition of use of force with a more comprehensive definition. Proposed new language: "Force means the following actions by a member of the department; any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. Force includes the use of firearms, Electronic Control Weapons (ECWs), chemical spray, bean bag shotgun, PepperBall gun and hard empty hands; the taking of a person to the ground; the use of vehicles; or the deployment of a canine; and excludes escorting or handcuffing a person who is exhibiting minimal or no resistance." | PD | Co. Atty's Office | PERF #12, 13, 30, 45, 46, 47 | Yes | PD |

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| UOF - 8a | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to Establish "sanctity of life" clearly and unambiguously as a philosophy and value system that remains paramount in the mind of every officer. | PD | Co. Atty's Office | PERF #4 | Yes | PD |
| UOF - 8b | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to maintain "objectively reasonable" as the standard to be followed by an officer when determining whether to use force and all references to "reasonable" must therefore be understood to mean "objectively reasonable." | PD | Co. Atty's Office | PERF#8 | Yes | PD |
| UOF - 8c | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to include as the definition of "reasonable: "...use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against his or her responsibility to protect public safety, as well as the suspect's civil liberties." | PD | Co. Atty's Office | PERF #8, 13 | Yes | PD |
| UOF - 8d | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to reword, II. POLICY as follows: "A police officer shall employ only such force in discharge of his or her duty as is objectively reasonable in all circumstances. The use of force is to be generally considered by an officer as a last resort after discussion, negotiation or persuasion have been found to be ineffective or inappropriate in light of the situation. While the use of force is occasionally unavoidable, every police officer will refrain from unwarranted infliction of pain or suffering and will never engage in cruel, degrading or inhumane physical or verbal treatment of any person." | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8e | Use of Force Policies | 111 | In revising the General Order, and while first and foremost meeting the criteria specified by the Supreme Court, consider the Customs and Border Patrol's definition with regard to "Objectively Reasonable and the Totality of Circumstances," which is as follows: i. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation. ii. In determining whether a use of force is "objectively reasonable" an officer must give careful attention to the totality of facts and circumstances of each particular case, including: 1. Whether the suspect poses an imminent threat to the safety of the officer/agent or others; 2. The severity of the crime at issue; 3. Whether the suspect is actively resisting seizure or attempting to evade arrest by flight; 4. Whether the circumstances are tense, uncertain and rapidly evolving; and 5. The foreseeable risk of injury to involved suspects and others. iii. Totality of circumstances refers to all factors existing in each individual case. In addition to those listed in subsection e.ii., these factors may include (but are not limited to) the: 1. training, mental attitude, age, size and strength of the officer; 2. training, mental attitude, age, size and perceived strength of the suspect; 3. weapon(s) involved; 4. presence of other officers, suspects or bystanders; and 5. environmental conditions. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8f | Use of Force Policies | 111 | Institute the following use of firearms requirements, by establishing or clarifying that: i. the act of a police officer placing his or her weapon "in a ready gun position" at a suspect will be a reportable action [NOTE: Un-holstering his or her weapon, pointing downward toward the ground next to an officer's leg, with finger on frame of weapon, is not to be a reportable action in the context of this policy as officers may do so when they reasonably believe or know suspects are nearby, i.e., entering a dark building, alley, other location of concern.]; ii. the "ready gun" position is defined as pointing the weapon, with finger on the frame of the weapon, so the officer can see the suspect's hands and waist.; iii. the officer must announce "Police!" after and not before attaining the "ready gun" position and if feasible followed by simple, specific and clear direction to the suspect; iv. the "ready gun" position will be utilized in the specific circumstance where it is necessary to establish control and gain compliance through the pointing of a firearm; v. the pointing of the firearm will be considered non-deadly use of force in this circumstance if the weapon is not aimed at center of mass, which is normally the chest; and vi. an officer's finger should be moved from the frame to the trigger of a weapon only if the use of deadly force is authorized under the objectively reasonable standard, which would exclude pointing a weapon at center of mass simply for control and compliance under the "ready gun" position addressed in iv. above. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8g | Use of Force Policies | 112 | Requirements for assuring medical assistance should be instituted consistent with the following: i. State in Section II that "[I]n all situations, medical assistance shall be provided promptly to any person who is obviously injured, alleges an injury, or requests medical assistance." ii. Incorporate a separate implementation section, including a requirement that an operational and implementation plan be created and incorporated in the General Order. iii. Assure that any such plan includes ECW (Taser) non-lethal incidents and specifies the officer's medical action requirements in the event that an ECW deployment is taken against a suspect. | PD | Co. Atty's Office | | Yes | PD |

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| UOF - 8h | Use of Force Policies | 112 | A requirement should be established with regard to the state of the officer at the time of an officer involved death or serious injury per the following: Drug and steroid testing will be conducted on police officers involved in incidents that result in death or serious injury as soon as possible after the incident but not longer than an amount of time as determined by medical experts to detect whether drugs or steroids were present in the officers at the time of the incident. | PD | DHR, Co. Atty's Office | | Yes | BOS |
| UOF - 9 | Use of Force Policies | 112 | Benchmark FCPD Use of Force policies and practices with those of five urban jurisdictions that are comparable in their economic base, population density, and population demographics to Fairfax County. | PD | | | | PD |
| UOF - 10 | Use of Force Policies | 112 | Restrict vehicle pursuit to only those situations where there is a reasonable suspicion that a violent felony has been committed and that there is a potential for imminent risk to public safety and/or injury to individuals if pursuit is not initiated. | PD | DPSC | PERF #52, 53, 54, 55 | Yes | PD |
| UOF - 11 | Use of Force Reporting | 113 | Engage in robust public reporting on the demographics of the suspects in all use of force incidents and in-custody deaths, including for each incident: race, gender, age; any indicators of homelessness and of mental illness and CIT response; any previous involvement with FCPD; the type of weapon, if any, in the suspect's possession; police use of force; and resulting death/injury. | PD | PD, Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 12 | Use of Force Reporting | 113 | Collect and publicly report online all uses of force that result in death or serious injury; specifically for purposes of determining (a) whether the actions taken or not taken conformed to FCPD policies and procedures; (b) prior instances of use of force by the officer(s) involved and determination of appropriateness; and (c) opportunities for officer, supervisor, and commander training. (Note: Release of use of force data does not necessarily have to include names of officers or victims until cases are concluded.) | PD | Co. Atty's Office, CWA | PERF # 65, 70 | Yes | PD |
| UOF - 13 | Use of Force Reporting | 114 | Annually report to the U.S. Department of Justice through the FBI's Uniform Crime Reporting System, all use of force and in-custody deaths, and disseminate such data to the public. | PD | OPA | PERF # 65, 70 | | PD |
| UOF - 14a | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include a narrative of the incidents and aftermath, updated in real time, including all UOF events that result in death or serious injury, not just shootings. | PD | OPA | PERF # 65, 70 | Yes | PD |
| UOF - 14b | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include the details available in all press releases, updates and other public information should be integrated into the summaries, including names suspects and officers and links to press releases and their updates provided. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14c | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include demographic information: race, age, gender, whether the call included concerns about a mental health crisis, whether the suspect was homeless. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14d | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include information on what special teams were involved, if any. | PD | | PERF # 65, 70 | Yes | PD |
| UOF - 14e | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include appropriate information about whether/what discipline was administered in cases with policy violations. | PD | Co. Atty's Office, DHR | PERF # 65, 70 | Yes | BOS |
| UOF - 14f | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include any changes of policy or training that result from review and lessons learned from the use of force incidents. | PD | Co. Atty's Office | PERF #65, 70 | Yes | PD |
| UOF - 15a | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the enactment of laws, policies, and procedures that protect individual privacy. | PD | Co. Atty's Office, DIT, CWA, Govt. Relations | | Yes | BOS |
| UOF - 15b | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the provision that police officers are consulted, with feedback provided as to how their concerns and recommendations were considered. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |

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| UOF - 15c | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the implementation of a training program not only for police officers, but the wide-ranging personnel who will oversee, process and manage the digital data, as well as for prosecutors who will use the data for criminal prosecutions. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |
| UOF - 16 | Tasers / ECW | 117 | Reclassify Electronic Control Weapons as "less-lethal weapons" rather than "non-deadly weapons" per the recommendation by the 2011 Electronic Control Weapons Guidelines and the PERF Report. | PD | Co. Atty's Office | PERF #30 | Yes | PD |
| UOF - 17 | Tasers / ECW | 117 | Mandate that all uniformed officers in enforcement units carry an ECW on their duty belt (or elsewhere on their person if necessary) when on patrol. The recommendation is contingent on police officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | PERF #32 | | BOS |
| UOF - 18 | Tasers / ECW | 118 | Mandate that all detectives and plainclothes officers, regardless of rank, carry an ECW in their vehicles when on duty; contingent on officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | | | BOS |
| UOF - 19 | Tasers / ECW | 118 | General Order 540.1, USE OF FORCE - replace all use of the term "excited delirium" with a more medically and physiologically descriptive term. | PD | Co. Atty's Office, CWA | PERF #18 | Yes | PD |
| UOF - 20 | Tasers / ECW | 118 | Prohibit use of an ECW on a handcuffed, or otherwise restrained individual, who is actively resisting, unless an objectively reasonable officer concludes that the resistance could result in serious injury to him or herself or others and less severe force alternatives have been ineffective or are deemed unacceptable for the situation. | PD | Co. Atty's Office | PERF #27 | Yes | PD |
| UOF - 21 | Tasers / ECW | 118 | Prohibit use of an ECW on a frail or elderly person, child or a pregnant woman unless deadly force would otherwise be justified, since they face an elevated risk. | PD | Co. Atty's Office | PERF #28 | Yes | PD |
| UOF - 22 | Tasers / ECW | 118 | Absent exigent circumstances, require supervisory approval for ECW use on a suspect in excess of three cycles. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 23 | Tasers / ECW | 118 | Treat each ECW cycle as an independent application of the device, thus requiring its own justification, since multiple or prolonged ECW shocks may increase the risk of adverse effects on the heart or respiratory system. | PD | Co. Atty's Office | PERF #33 | Yes | PD |
| UOF - 24 | SWAT | 119 | Employ SWAT and the use of other advanced tactics only in situations where there is a high risk of violence, resistance, or harm to the officers involved, the public or the suspect as defined by set of "high risk" factors that are captured in the recent modifications to the Risk Assessment Matrix. | PD | Co. Atty's Office | PERF #62, 63, 64 | | PD |
| UOF - 25 | SWAT | 119 | Consolidate FCPD policies and protocols, including threat assessment, supervisory approval, training and post-use review and lessons learned, for the use and documentation of SWAT and other advanced tactics. | PD | | PERF #66 | Yes | PD |
| UOF - 26 | SWAT | 119 | Require that all police divisions, most notably the Narcotics Division, employ the same risk assessment procedures as SWAT for planning any high-risk operation. | PD | | | | PD |
| UOF - 27 | SWAT | 119 | Ensure broad community understanding of FCPD SWAT capabilities and how and when SWAT can be deployed. | PD | | PERF #60 | | PD |
| UOF - 28 | SWAT | 119 | Ensure that SWAT SOPs and the recently updated threat assessment process are clear in their requirement for approval by a single designated command officer who will bear overall responsibility for each use of SWAT. | PD | | PERF #60, 62, 63, 64, 65, 66 | | PD |
| UOF - 29a | SWAT | 119 | Establish policies and practices that ensure SWAT is deployed proportional to the unique needs of each individual incident. | PD | | PERF #60 | | PD |

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| UOF - 29b | SWAT | 119 | Include a trained crisis negotiator with every SWAT deployment. | PD | | | | PD |
| UOF - 29c | SWAT | 119 | Require SWAT officers to wear body cams during every deployment. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 29d | SWAT | 119 | Require that every SWAT deployment results in a post-deployment report that documents the following, in a manner that allows for the data to be readily compiled and analyzed for lessons learned: i. the purpose of the deployment; ii. the specific reason for believing that the situation for which the SWAT team was being deployed presented an imminent threat to the lives or safety of civilians and/or police personnel; iii. whether forcible entry or a breach was conducted and, if so, the equipment used and for what purpose; iv. whether a distraction device was used and, if so, what type and for what purpose; v. whether an armored personnel carrier was used and, if so, for what purpose; vi. the race, sex, ethnicity and age of each individual encountered during the deployment, whether as a suspect or bystander; vii. whether any civilians, officers, or domestic animals sustained any injury or death; viii. a list of any controlled substances, weapons, contraband, or evidence of crime that is found on the premises or any individuals; and ix. a brief narrative statement describing any unusual circumstances or important data elements not captured in the list above. | PD | | PERF #66 | | PD |
| UOF - 30 | Mobile Crisis | 120 | Establish as a budget priority the 24-hour staffing of three additional Mobile Crisis Units, by directing the immediate funding of a second Mobile Crisis Unit, in support of the Mental Health Subcommittee recommendation 15; and over the appropriate budget cycles, but no later than January 1, 2017, fund of two additional Mobile Crisis Units, for a total of four units, one for each human services district. | CSB | PD, DMB | | | BOS |
| UOF - 31 | Oversight | 122 | Implement independent investigative oversight and civilian review of Use of Force incidents. Consistent with the findings of the White House Task Force and the recommendations of NACOLE, independent oversight and civilian review will provide public accountability, trust and confidence, education of both the public and the police, and a positive, ongoing feedback loop that would result in the reduction of both UOF incidents and complaints. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| UOF - 32 | Oversight | 122 | Establish a police legal advisor position within FCPD who would not only advise the department on legal issues but also ensure implementation of recommendations and timely implementation of policy changes. | PD | Co. Atty's Office, DMB | | Yes | BOS |
| UOF - 33 | Oversight | 122 | Collect data, and publish an annual statistical report, covering all stops, frisks, citations, arrests, and use-of force by district station and magisterial district - include the race, gender, and ethnicity of the individual involved and note whether the suspect is homeless and/or if a mental health crisis is a factor. The data should also include the race, gender and ethnicity of the FCPD officer involved and whether the interaction was initiated by FCPD or by the suspect. Document the outcome of each incident and regularly report the collected data to the BOS and the public and post the data online. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| UOF - 34 | Oversight | 122 | Reconstitute the FCPD Use of Force Committee to review selective use of force events, to include the decision to employ UOF, use of de-escalation and alternatives, compliance with law and regulations, as well as administrative, training, supervisory and tactical issues. | PD | Co. Atty's Office | | | PD |
| UOF - 34a | Oversight | 122 | The Use of Force Committee should receive and consider after action reports (AARs) on each selected use of force event, identify lessons learned, and make recommendations as to any needed changes in policy or practice. The Committee should meet on a regular basis (no less than semi-annually) with the Independent Auditor and the Civilian Review Panel to identify and address issues of concern arising out of use of force incidents and FCPD policies and practices. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34b | Oversight | 122 | At least two members of the public should be appointed to the Use of Force Committee to ensure that the police and public can mutually benefit from their respective views about a use of force situation and contribute to any lessons that might be learned in the process. The policies and procedures guiding the appointment and role of the civilian appointees should be developed with public review and input and should protect against real or perceived conflicts of interest and assure that they are bound by the level of confidentiality that will protect candid and honest assessments, which is at the core of an effective continuous improvement process, as well as related criminal investigations. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34c | Oversight | 123 | Experts and representatives from other law enforcement agencies should be invited to attend Use of Force Committee meetings to provide critical external perspective, insight and expertise on a permanent or ad hoc basis. | PD | | | | PD |

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| UOF - 35 | Oversight | 123 | The Board of Supervisors should review the Police Chief's determination in all lethal UOF cases and go on record with approval or disapproval of the action. | Co. Atty's Office | PD | | Yes | BOS |
| UOF - 36a | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the distinction in the use of "ready gun" and muzzle pointing in the conduct of a building search and room clearing. | PD | | PERF #58 | | PD |
| UOF - 36b | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to skill development in the use of de-escalation, tactical retreat and verbal interaction as alternatives to use of force. | PD | | PERF #41, 57, 58 | | PD |
| UOF - 36c | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the expected and effective use of Crisis Intervention Training. | PD | | PERF #67 | | PD |
| UOF - 36d | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to tactical and operational training on lethal and nonlethal use of force, with emphasis on de-escalation and tactical retreat skills. | PD | | PERF #56, 57, 58 | | PD |
| UOF - 37 | Workforce Practices | 124 | Establish a "hire-to-retain" focus on officer fitness to serve, particularly in relation to any propensity for being overly aggressive in the conduct of duty. This focus should be a key component in: vetting and selection; ensuring that the Early Identification System is monitoring officer-involved shootings, excessive use of force incidents, and complaints of abuse of power; monitoring each officer's known and understood risk factors to ensure that they maintain the right personality and temperament for policing; reinforcing the "duty-to-intervene"; providing services to assist officers who may need attention or treatment. | PD | Co. Atty's Office, DHR | PERF #1 | Yes | PD |
| UOF - 38 | Workforce Practices | 125 | Conduct a study of the relationship of the supervisor to the patrol officers, including the current ratio as a potential factor in strengthening the leadership direction provided to patrol officers in non-routine situations, particularly as it relates to the potential for use of force. | PD | DHR, DMB | | | BOS |
| UOF - 39 | Workforce Practices | 125 | Conduct a workforce climate survey and publish summary results on a biennial basis to monitor FCPD's operating culture, including officer attitudes about their work, leadership and equipment; or any perceived barriers to their ability to perform their duties consistent with FCPD's values, philosophy and policies. Use the detailed survey results broken down by organizational unit as a basis for dialogue between and among police officers, supervisors and the command structure. | PD | DHR | | | PD |
| UOF - 40 | UOF Sub-Committee | 126 | The charter for the UOF subcommittee should be extended beyond the completion of the Ad Hoc Commission's report and presentation to the Board of Supervisors to meet its charge to "...review the roles of and relationships between the FCPD, the Office of the County Attorney, and the Office of the Commonwealth's Attorney in connection with use of force and critical incident responses; follow up on open issues, such as the internal FCPD UOF Committee charter; and support implementation of any of the UOF recommendations for which UOF Subcommittee participation would be beneficial. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| INDEPENDENT OVERSIGHT AND INVESTIGATIONS COMMITTEE | | | | | | | | |
| IOV&I - 1 | Investigations | 180 | Criminal investigations of FCPD officers involved in incidents in which an individual is killed or seriously injured as defined in General Order 540.1 ("Death or Serious Injury Cases") should continue to be conducted by the FCPD Major Crimes Division. Exceptions could occur when the Chief of Police, in consultation with the Commonwealth's Attorney, determines that the criminal investigation should be conducted by investigators from another Northern Virginia jurisdiction police department or by the Virginia State Police. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2 | Investigations | 180 | Funds should be appropriated to the Commonwealth's Attorney's Office to allow for the fulltime employment of two independent criminal investigators who will report to and be used at the discretion of the Commonwealth's Attorney in connection with criminal investigations within the scope of the Independent Police Auditor. | CWA | Dep. Co. Exec. for Public Safety, DMB | | | BOS |
| IOV&I - 2a | Investigations | 181 | Such investigators shall participate in MCD criminal investigations of cases as the Commonwealth's Attorney may direct and may be used in connection with other criminal investigations, time permitting. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2b | Investigations | 181 | The Independent Police Auditor shall monitor MCD criminal investigations of cases and other criminal investigations within the scope of the responsibilities of the Independent Police Auditor. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office, PD | | Yes | BOS |

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| IOV&I - 3 | Investigations | 181 | FCPD Internal Affairs investigations should be conducted concurrently with the criminal investigation to the extent practicable, provided that the Constitutional and statutory rights of any potential subject of the criminal investigation are fully protected. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 4 | Investigations | 181 | The right of FCPD officers under the Virginia Law Enforcement Officers Procedural Guarantee Act to be "questioned at a reasonable time and place" shall continue to be preserved, but the questioning should commence as soon as reasonable, under all of the relevant facts and circumstances, as determined by the Commonwealth's Attorney in consultation with the Chief of Police. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 5 | Investigations | 181 | All FCPD officers shall be required to abstain from speaking to other officers involved or having witnessed any conduct subject to a MCD or IAB investigation within the scope of the responsibilities of the Independent Police Auditor, or to any third parties involved in or witnessing such conduct until advised by MCD or IAB that they may do so. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | PD |
| IOV&I - 6 | Prosecution | 181 | The prosecution, including the decision whether to charge an FCPD officer with a crime arising out of a death or serious injury case, or other case within the scope of the responsibilities of the Independent Police Auditor, should continue to be handled by the Commonwealth's Attorney for Fairfax County unless the Commonwealth's Attorney determines that the prosecution, including the decision to charge, should be handled by another Virginia Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, PD, Co. Atty's Office | | Yes | CWA |
| IOV&I - 7 | Prosecution | 181 | The Commonwealth's Attorney should be requested to issue timely and comprehensive public reports in any case involving death or serious injury when no criminal charges are filed. The reports should describe the investigation conducted by the FCPD, any additional investigation or consultation undertaken by the Commonwealth's Attorney, and the basis for the conclusions reached by the Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, Co. Atty's Office, PD, OPA | | Yes | CWA |
| IOV&I - 8 | Independent Auditor | 183 | The Fairfax County Board of Supervisors shall establish the Office of Independent Police Auditor ("Auditor"). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8a | Independent Auditor | 183 | The Auditor shall be appointed by and report directly to the Board of Supervisors. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8b | Independent Auditor | 183 | The Auditor shall have experience in public safety, public program auditing, the investigation of police operations and use of force incidents. In order to ensure the Independent Auditor is perceived as truly independent, the Auditor shall have never been employed by Fairfax County. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8c | Independent Auditor | 183 | The Auditor shall review (i) all investigations of death or serious injury cases conducted by the IAB; and (ii) all use of force investigations by IAB which are the subject of a public complaint made to the FCPD or the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA | | Yes | BOS |
| IOV&I - 8d | Independent Auditor | 183 | The Auditor shall have full access to the MCD criminal investigation file as well as full access to the IAB file, including any administrative action taken, for each investigation reviewed. The Auditor shall be entitled to receive copies of any portion(s) of such files. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA, | | Yes | BOS |
| IOV&I - 8e | Independent Auditor | 183 | The Auditor shall determine with respect to each such MCD and IAB investigation its thoroughness, completeness, accuracy, objectivity and impartiality. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8f | Independent Auditor | 183 | The Auditor shall be appointed by the Board of Supervisors for a term not less than 2 years and not more than 5 years, with a goal of maintaining continuity and independence, subject to dismissal only for good cause. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9 | Independent Auditor | 183 | The Auditor shall participate in and monitor IAB investigations within its scope of responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9a | Independent Auditor | 184 | The County Executive or his/her designee shall require, subject to discipline up to and including termination, the attendance and testimony of any Fairfax County employee, including all Fairfax County law enforcement officers, whose appearance at the interview is requested by the Auditor, and shall also require the production of any documents or other materials in the possession of the FCPD or other County offices and departments. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, DHR | | Yes | BOS |
| IOV&I - 10 | Independent Auditor | 184 | If the Auditor determines that an IAB investigation was deficient or that IAB's conclusions as to the relevant facts were incorrect or unsupported by the evidence, the Auditor may request further investigation by IAB or the Auditor may conduct such further investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 11 | Independent Auditor | 184 | Absent good cause, the Auditor shall issue a public report with respect to each reviewed investigation within sixty (60) days of the Auditor's access to the complete IAB file. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
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| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| IOV&I - 12 | Independent Auditor | 184 | The FCPD shall provide a public report quarterly to the Auditor on the disposition of all citizen complaints made against the FCPD. The Auditor shall be provided such additional information as the Auditor may deem necessary to enable him/her to determine that the FCPD is properly responding to and investigating complaints in a timely manner. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 13 | Independent Auditor | 184 | An individual may file a complaint concerning alleged misconduct by a Fairfax County law enforcement officer involving a death or serious injury case, the use of force, or the death of an individual with the FCPD for investigation or the citizen may instead file the complaint with the Auditor, who shall immediately forward the complaint to the FCPD for investigation, which will report on the disposition of the complaint within 30 days. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 14 | Independent Auditor | 184 | If the Auditor disagrees with the results or conclusions of an IAB investigation in a death or serious injury case, the Auditor shall advise the Chief of Police who shall resolve the disagreement and make the final decision. The Chairman of the Board of Supervisors shall be informed of the Auditor's disagreement and the ultimate resolution. The Chief's decision shall be made in a public statement that sets forth the basis for the Chief's resolution of the disagreement. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 15 | Independent Auditor | 184 | The Auditor shall make public recommendations to the Chief of Police, with copies to the Chairman of the Board of Supervisors, concerning the revision of FCPD policies, training, and practices based on the Auditor's reviews. The Auditor shall also issue a public report annually concerning the thoroughness, completeness, accuracy, objectivity and impartiality of the IAB investigations reviewed by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 16 | Independent Auditor | 184 | The Auditor shall have an adequate budget and a trained staff to meet his/her responsibilities. The Auditor's office shall be separate and apart (physically and administratively) from those of the FCPD and the Commonwealth's Attorney. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 17 | Independent Auditor | 184 | Any findings, recommendations and actions taken by the Auditor shall reflect the Auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the Auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18 | Civilian Review | 186 | Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18a | Civilian Review | 186 | Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18b | Civilian Review | 186 | The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18c | Civilian Review | 186 | Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or criminal investigative experience, reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18d | Civilian Review | 186 | The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19 | Civilian Review | 186 | An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19a | Civilian Review | 186 | "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19b | Civilian Review | 186 | The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19c | Civilian Review | 186 | Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|-----------------|-------------|---|----------------------------------|-------------------------------|--------------------------|--|--|
| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| IOV&I - 20 | Civilian Review | 186 | Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20a | Civilian Review | 186 | The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20b | Civilian Review | 186 | Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 21 | Civilian Review | 187 | The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review. If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 22 | Civilian Review | 187 | The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 23 | Civilian Review | 187 | The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 24 | Follow-Up | 187 | Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel. | Dep. Co. Exec. for Public Safety | PD | | Yes | BOS |
| | | | | | | | | |
| | | | | | | | | |

INFORMATION - 1

Fairfax-Falls Church Community Services Board Fee Schedule

Since its establishment in 1969, the Fairfax-Falls Church Community Services Board (CSB) has complied with Section 37.2-504 (A) (7) of the Code of Virginia, which states the CSB shall prescribe a reasonable schedule of fees for services provided by personnel or facilities under the jurisdiction or supervision of the CSB Board and establish procedures for the collection of the same.

The CSB ensures compliance with the Code of Virginia by: (1) conducting a review of fee-related materials by a Committee comprised of CSB Board members and CSB staff; (2) publicizing the proposed changes in English, Spanish, Vietnamese and Korean (e.g., on the www.fairfaxcounty.com/csb webpage and in CSB News); (3) posting a Notice of Public Comment and accepting written comments regarding proposed changes; and (4) accepting comments during a public CSB Board meeting.

In accordance with the CSB's Memorandum of Agreement with the Board of Supervisors as well as State regulations, on October 26, 2016, the CSB Board approved a Fee Schedule with revisions to selected service charges.

The services on the Fee Schedule include outpatient, residential, and ancillary services. Fees for Virginia Medicaid State Plan Option services are set at the Medicaid reimbursement rate. Fees for outpatient services are traditionally cost-based and recorded in increments that are consistent with Current Procedural Terminology (CPT) maintained by the American Medical Association to uniformly describe medical (including psychiatric), surgical, and diagnostic services. Fees for residential services are primarily income-based due to the extended length of stay for residential treatment or the permanency of a community-living setting for individuals with an intellectual disability. Ancillary charges include usual and customary fees such as those to cover administrative costs such as copying records or returned checks and as prescribed by Fairfax County Code and/or the Code of Virginia.

The current proposed changes to the CSB Fee Schedule are primarily attributable to adding new fees for new Developmental Disability Waiver services and revising Medicaid reimbursement rates for select services.

Unless otherwise directed by the Board of Supervisors, the County Executive will direct staff to proceed with the implementation of the revised Fee Schedule. Sufficient advance notice of fee changes must be given to consumers.

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FISCAL IMPACT:

The fee-related documents provide the CSB with uniform mechanisms to maximize revenues from clients, Medicaid and other health insurance plans. The FY 2017 adopted budget for the CSB includes \$18.1 million in estimated fee revenues. No material change is anticipated as a result of the proposed revisions.

ENCLOSED DOCUMENT:

Attachment 1 - CSB Fee Schedule

Attachment 2 - Summary of CSB Fee Related Changes

STAFF:

Patricia Harrison, Deputy County Executive

Tisha Deeghan, Executive Director, Fairfax-Falls Church CSB

G. Michael Lane, Deputy Director Administration Operations, Fairfax-Falls Church CSB

Valecia Witt, Senior Fiscal Officer, Fairfax-Falls Church CSB

| CSB Fee Schedule, effective Feb 1, 2017 | | | |
|---|--|--|--|
| Service | Subject to Ability to Pay Scale | Effective PRIOR to Feb 1, 2017 | Effective February 1, 2017 |
| Adolescent Day Treatment- MH | Yes | \$36.53 per unit | \$36.53 per unit |
| Adolescent Day Treatment - SA | Yes | \$4.80 per 15 minutes | \$4.80 per 15 minutes |
| Adult Day Treatment - MH | Yes | \$34.78 per unit | \$34.78 per unit |
| Adult Day Treatment- SA | Yes | \$4.80 per 15 minutes | \$4.80 per 15 minutes |
| A New Beginning Residential Treatment | Yes | \$238.30 per day | \$238.30 per day |
| GAP Case Management - Regular Intensity | Yes | \$195.90 per month | \$195.90 per month |
| GAP Case Management - High Intensity | Yes | \$220.90 per month | \$220.90 per month |
| Case Management - ID | Yes | \$326.50 per month | \$326.50 per month |
| Case Management - MH | Yes | \$326.50 per month | \$326.50 per month |
| Case Management - SA | Yes | \$16.50 per 15 minutes | \$16.50 per 15 minutes |
| Congregate Residential ID Waiver Services | No | \$17.71 per hour | \$17.71 per hour |
| Contracted Residential Treatment - Intermediate Rehabilitation/Reentry Services | Yes | \$163 per day | \$163 per day |
| Crisis Intervention | Yes | \$30.79 per 15 minutes | \$30.79 per 15 minutes |
| Crisis Stabilization - Adult Residential | Yes | \$89 per hour | \$89 per hour |
| Crossroads Adult Residential Treatment | Yes | \$186.52 per day | \$186.52 per day |
| Detoxification, Medical, Residential-setting | Yes | \$750 per day | \$750 per day |
| Detoxification, Social, Residential-setting | Yes | \$750 per day | \$750 per day |
| Drop-In Support Services, ID | Yes | Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour. | Rate set by vendor(s) but no less than \$2 per hour and for those with incomes above 150% of FPL, apply 20% liability (based on ATP Scale) of the CSB contracted negotiated rate. If below 150% of FPL, charge \$2 per hour. |
| Family Therapy | Yes | \$80.00 per hour | \$80.00 per hour |
| Group Therapy/Counseling | Yes | \$4.80 per 15 minutes | \$4.80 per 15 minutes |
| Head Start - Services to | No | \$25 per 15 minutes | \$25 per 15 minutes |
| Independent Evaluations | No | \$75 each | \$75 each |
| Individual Therapy/Counseling | Yes | \$80.00 per hour | \$80.00 per hour |
| Initial Evaluation/Assessment | Yes | \$150 per event | \$150 per event |
| Injection Procedure | Yes | \$20.00 | \$20.00 |
| Intensive Community Treatment | Yes | \$153 per hour | \$153 per hour |
| Intensive Outpatient - Individual or Group | Yes | \$4.80 per 15 minutes | \$4.80 per 15 minutes |

| CSB Fee Schedule, effective Feb 1, 2017 | | | |
|---|---------------------------------|---|---|
| Service | Subject to Ability to Pay Scale | Effective PRIOR to Feb 1, 2017 | Effective February 1, 2017 |
| Interactive Complexity* | Yes | \$15 add on to other clinic services when there is a factor that complicates the psychiatric service or increases the work intensity of the psychotherapy service | \$15 add on to other clinic services when there is a factor that complicates the psychiatric service or increases the work intensity of the psychotherapy service |
| Lab Tests | No | Actual Cost | Actual Cost |
| Late Cancellation or No Show | Yes | \$25.00 | \$25.00 |
| Legal Testimony | Yes | \$25 per 15 minutes | \$25 per 15 minutes |
| Mental Health Skill-building Service | Yes | \$91 per unit | \$91 per unit |
| Multi-Family Group Therapy | Yes | \$25 per event | \$25 per event |
| Neurological Testing | Yes | \$1168 per event | \$1168 per event |
| New Generations Residential Treatment | Yes | \$120 per day | \$120 per day |
| Nursing Subsequent Care | Yes | \$29 per event | \$29 per event |
| Physical Exam (Physician) | Yes | \$167 per event | \$167 per event |
| Psychiatric Evaluation | Yes | \$219 per event | \$219 per event |
| Psychiatric Evaluation & Management High Complexity | Yes | \$144 per event | \$144 per event |
| Psychiatric Evaluation & Management Low Complexity | Yes | \$54 per event | \$54 per event |
| Psychiatric Evaluation & Management Moderate Complexity | Yes | \$90 per event | \$90 per event |
| Psychological Testing | No | \$150 per event | \$150 per event |
| Psychological Testing Battery | Yes | \$851 per event | \$851 per event |
| Psychosocial Rehabilitation | Yes | \$24.23 per unit | \$24.23 per unit |
| Release of Information: Individual | No | 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs | 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs |
| Release of Information: Research | No | \$10.00 | \$10.00 |
| Release of Information: Third Party | No | \$10 admin fee 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs | \$10 admin fee 50¢ per pg up to 50 pgs; 25¢ per pg for > = 51 pgs |
| Release of Information: Worker's Compensation | No | \$15.00 | \$15.00 |
| Residential Fee ID Community Living Services | No | 75% of gross income | 75% of gross income |
| Residential Fee MH/SA Community Living Services | No | 30% of gross income | 30% of gross income |

| CSB Fee Schedule, effective Feb 1, 2017 | | | |
|--|--|---------------------------------------|--|
| Service | Subject to Ability to Pay Scale | Effective PRIOR to Feb 1, 2017 | Effective February 1, 2017 |
| Returned Check (due to insufficient funds or closed account) | No | \$50.00 | \$50.00 |
| Skilled Nursing Waiver LPN Services | No | \$7.82 per 15 min | \$7.99 per 15 min |
| Skilled Nursing Waiver RN Services | No | \$9.02 per 15 min | \$9.22 per 15 min |
| Telehealth Facility Fee | No | \$20.00 | \$20.00 |
| Transportation | No | \$100 per month | \$100 per month |
| Turning Point Program | Yes | \$285.71 per month | \$285.71 per month |
| Urine Collection & Drug Screening- Retests Only | Yes | \$25.00 | \$25.00 |
| Wraparound Fairfax | No | \$1230 per month | \$1270 per month |
| DDW Case Management | No | | \$242.73 per month |
| DDW Group Home Residential 5 person Tier 1 | No | | \$221.80 per day |
| DDW Group Home Residential 5 person Tier 2 | No | | \$249.07 per day |
| DDW Group Home Residential 5 person Tier 3 | No | | \$276.33 per day |
| DDW Group Home Residential 5 person Tier 4 | No | | \$325.40 per day |
| DDW Group Home Residential 6 person Tier 1 | No | | \$214.99 per day |
| DDW Group Home Residential 6 person Tier 2 | No | | \$238.84 per day |
| DDW Group Home Residential 6 person Tier 3 | No | | \$266.10 per day |
| DDW Group Home Residential 6 person Tier 4 | No | | \$316.88 per day |
| PERS Medication Monitoring | No | | \$58.41 |
| PERS Monitoring | No | | \$35.05 |
| PERS Installation | No | | \$58.41 |
| PERS Installation & Medication Monitoring | No | | \$87.62 |
| DDW Skilled Nursing, Registered Nurse | No | | \$11.28 per 15 min |
| DDW Skilled Nursing, Licensed Practicle Nurse | No | | \$9.78 per 15 min |
| DDW Transition Services | No | | Unit varies/\$5000 yearly limit |
| DDW Assistive Technology, Maintenance Costs Only | No | | Unit varies/\$5000 yearly limit |
| * Interactive Complexity factors may include: evidence or disclosure of sentinel event; manage maladaptive communication among participants that complicates delivery of care; and use of interpreter to overcome barriers to diagnostic or therapeutic interaction with a person who is not fluent in the same language or who has not developed or lost expressive or receptive language skills to use or understand typical language. | | | |

Summary of Changes to CSB 2016-2017 Fee Related Documents

Reimbursement for Services Policy 2120

- *No Updates at this time.*

Ability to Pay Scale

- **Synchronizes** the Ability to Pay Scale income levels with the Federal Poverty Levels published by the federal government every January.

Fee Schedule

- **Adds** new Developmental Disability Waiver related services as an unanticipated revision effective September 1, 2016
- **Updates** services paid by Comprehensive Services or Medicaid that had rate changes effective July 1, 2016

Fee and Subsidy Related Procedures Regulation 2120.1

Reduced Fees

- Add clarifying language about liability setting in reference to Virginia State Code § 37.2-511.
- Change the length of time a zero liability is set for an individual with out of state Medicaid, from six months to 90 days
- Delete words “for whatever reason” so the CSB can evaluate each individual’s unique financial situation
- Add additional types of income that can be considered when offering reduced fees and define documentation that is accepted as proof of income

Insurance

- Delete words “refused to disclose” and add the words “do not provide” to affirm an individual or parent’s right to choose self-pay rather than using their insurance
- Delete outdated language and distinguish between Medicaid fee-for service plans and Medicaid MCOs when assigning credentialed providers

Supplemental Subsidy

- Add the phrase “clinical team must approve reduction of service intensity” when an individual wants to consider alternative payment arrangement or subsidies.

Upcoming Implementation of Services and Treatment for Substance Use Disorder

In collaboration with the Virginia Department of Behavioral Health and Developmental Services, the Virginia Department of Medical Assistance Services will be expanding Medicaid reimbursement for substance use disorder (SUD) treatment through the addiction and recovery treatment services (ARTS). Part of this transformation will necessitate additional updates to the Fee Related Documents when these new benefits become available effective April 1, 2017. These updates will be treated as unanticipated revisions per the Fee Regulation.

INFORMATION - 2

Recognition and Awards for the County LiveWell Program

The Livewell program has been the recipient of several prestigious awards in the last few years.

For the last two years LiveWell has won the **Cigna Well-Being Award**. This award was created to recognize employers who impact the overall health and well-being of their employees and families. Cigna Well-Being Award recipients are evaluated based on workplace environment, program implementation, data collection, incentives and overall participation. The application process takes into consideration executive leadership and involvement, the size of the employee population, and the health plan offered. Our engagement is reflected in participation in events like Employee Field and Fitness Day, The Long Walk, on-site biometric screenings, flu shots, webinars, workshops, incentive programs, wellness challenges and more.

In 2016 LiveWell was recognized as one of **Washington Business Journal's Top 40 Healthiest Employers**, which ranks companies that show a great picture of health through active employees, comprehensive health care programs and initiatives that contribute to a healthy work environment. Fairfax County Government was #23 on the list, which is very respectable given the size and scope of some of other recipients. Other companies included Delta Air Lines, AOL, Kaiser Permanente and Quest Diagnostics to name a few.

Every year since 2012 LiveWell has been recognized as an **American Heart Association Gold Level Fit Friendly Worksite**. The American Heart Association recognizes employers who go above and beyond when it comes to employee health. It rewards organizations for their progressive leadership and concern for staff. In order to reach the gold standard recognition, worksites must fulfill criteria such as supporting employees' physical fitness activities, offering healthy eating options at work and promoting a wellness culture.

In 2016, LiveWell was named in the **Top 100 Healthiest Employers in the county by National Healthiest Employers Awards (H100)**. Fairfax County Government was ranked #46 on this list. The application process evaluated six critical dimensions of workplace wellness: culture and leadership commitment, foundational components,

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annual planning, communications and marketing, programming and interventions, and reporting and analysis.

In 2016, Fairfax County Government has been recognized as a **GOLD-Level Healthy Workplace by The Greater Reston Chamber of Commerce** based on the completion of their Healthy Workplace Initiative survey. This survey is designed to recognize businesses that understand the importance of having a healthy workplace and encourage the health & well-being of their employees.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

Catherine M. Spage, Director, Department of Human Resources (DHR)

Amanda Cohill, LiveWell Coordinator, DHR

Susan Kirkman, Senior Human Resources Consultant, DHR

INFORMATION - 3

Contract Award – Consulting Services for Route 1 Bus Rapid Transit System

The Department of Procurement and Material Management (DPMM) issued a Request for Proposal (RFP2000001937) on behalf of the Department of Transportation (DOT), to solicit proposals from consultants to provide Program Management Consulting (PMC) Services for the Route 1 Bus Rapid Transit (BRT) System. The overall scope of services to be performed by the PMC Team is to assist the County in defining and completing the numerous and varied activities that must be accomplished in order to implement a BRT system along Route 1. Under the initial term of the contract, the PMC shall provide services and/or assist the County in development of engineering criteria, designs and details; complete environmental permitting, develop program schedules and financial planning in sufficient detail to pursue funding opportunities for the final design and construction of the first two phases of the BRT System from the Huntington Metrorail Station to Fort Belvoir, to include management and implementation of the final design, construction, equipment procurement, maintenance and operations of Phases I and/or II. All activities shall be accomplished in compliance with all local, state, and federal regulations associated with obtaining federal funding for a portion of the total cost of the project. The initial contract term shall be for three (3) years with options for up to four (4) additional three-year renewal terms at the county's option and subject to satisfactory and demonstrated performance by the PMC Team.

The County received three proposals in response to the RFP. The Selection Advisory Committee (SAC), appointed by the Purchasing Agent, evaluated the proposals in accordance with the criteria established in the RFP. Following the initial ranking of the proposals, the SAC negotiated a successful contract with the top ranked offeror and recommends an award to Richmond Highway Bus Rapid Transit Partners, a joint venture between STV Incorporated dba STV Group Incorporated and Rummel, Klepper & Kahl, LLP (RK&K) for all services associated with Route 1 Bus Rapid Transit System.

The Richmond Highway Bus Rapid Transit Partners project team offers the necessary skills and experience to successfully implement the planning, design and implementation requirements of the program. Their project team consists of highly qualified engineers, planners, architects, financial planners and industry experts that will help the County deliver a successful project.

The Department of Tax Administration has verified that neither firm represented in the joint venture are required to have a Fairfax County Business, Professional, and Occupational License (BPOL).

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award a contract to Richmond Highway Bus Rapid Transit Partners, as negotiated.

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FISCAL IMPACT:

The total estimated cost for services provided through this contract are projected to be approximately \$25,000,000 over the term of the contract.

Total funding in the amount of \$7,100,000 is available in Project 2G40-114-000, Rt. 1 BRT NVTA 30, and Project 2G40-035-000, Rt. 1 BRT, in Fund 40010, County and Regional Transportation Projects. Of this total, \$4M is reimbursable through an FY 2016 Department of Rail and Public Transportation grant. Staff will seek funding for the balance of up to \$17.9 million, and capital costs associated with Route 1 BRT, through regional Northern Virginia Transportation Authority, Federal New Starts Program, State Smart Scale, and other local sources. There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1 - List of Offerors

STAFF:

Cathy A. Muse, Director, Department of Purchasing and Supply Management
Tom P. Biesiadny, Director, Department of Transportation

RFP 2000001937 List of Offerors

| Name | SWAM Status |
|----------------------------------|-------------|
| Jacobs Engineering Group | Large |
| Kimley-Horn & Associates | Large |
| STV Group/Rummel, Klepper & Kahl | Large |

INFORMATION – 4

Presentation of the Fiscal Year 2016 Comprehensive Annual Financial Report (CAFR)

Annually, pursuant to the *Code of Virginia* (Code), Section 15.2-2511, as amended, Fairfax County's financial statements are audited by an independent certified public accountant. This audit is conducted in accordance with auditing standards generally accepted in the United States; the standards applicable to financial audits contained in the Government Auditing Standards issued by the Comptroller General of the United States; and the Specifications for Audits of Counties, Cities, and Towns issued by the Auditor of Public Accounts of the Commonwealth of Virginia. The Code also requires that an independent certified public accountant present a detailed written report to the local governing body at a public session by December 31. The County's financial statements for fiscal year 2016 have been audited by Cherry Bekaert LLP (CB), and CB's unmodified opinion, with respect thereto, is presented on page 1 of the Financial Section of the County's CAFR. A representative from Cherry Bekaert is with us today.

In addition to meeting the requirements of the Code, the audit was designed to meet Federal regulations as outlined in the Code of Federal Regulations, Title 2 Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Known as the Single Audit, this is a special type of compliance audit applicable to specific federal grant programs. The requirements of the Single Audit are established by federal legislation and regulation and are very stringent. Cherry Bekaert's reports related specifically to this audit activity are included in a separate Single Audit report.

Auditing standards generally accepted in the United States require that the auditors communicate, in writing, to those charged with governance all significant deficiencies, including material weaknesses.

The CAFR presented today will be submitted for rigorous peer review by the Government Finance Officers Association of the United States and Canada (GFOA). The Fiscal Year 2015 CAFR for the County was awarded the GFOA's Certificate of Achievement for Excellence in Financial Reporting, the highest honor conferred by the GFOA, for the 38th time.

ENCLOSED DOCUMENTS:

A comprehensive package has been delivered directly to the offices of each member of the Board of Supervisors and includes:

- The Fiscal Year 2016 Comprehensive Annual Financial Report.
- Cherry Bekaert's required communications and reports addressed to the Board.
- Compliance reports.

In compliance with the Code, a copy of the Fiscal Year 2016 CAFR is being provided to the Clerk to the Board of Supervisors where it shall remain open to public inspection.

The CAFR will be made available on Fairfax County's web site at the conclusion of the December 6, 2016 Board of Supervisor meeting at:

<http://www.fairfaxcounty.gov/finance/cafr.htm>

STAFF:

Joseph M. Mondoro Chief Financial Officer, Department of Management and Budget

Christopher J. Pietsch, Director, Department of Finance

Deirdre M. Finneran, Deputy Director, Department of Finance

Richard M. Modie Jr., Chief, Financial Reporting Division, Department of Finance

Board Agenda Item
December 6, 2016

10:40 a.m.

Matters Presented by Board Members

11:30 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. *Harrison Neal v. Fairfax County Police Department and Colonel Edwin C. Roessler, Jr.*, Case No. CL-2015-0005902 (Fx. Co. Cir. Ct.)
 - 2. Verizon, Virginia, Inc., Audit of Cable Franchise Fees, and Coxcom, LLC, d/b/a Cox Communications, Audit of Cable Franchise Fees and Public, Educational and Governmental Access Grants
 - 3. *Board of Supervisors of Fairfax County, Virginia, and Inova Health Care Services v. Chevron USA Inc., and Reston Association*, Case No. CL-2016-0015384 (Fx. Co. Cir. Ct.) (Hunter Mill District)
 - 4. *United States of America v. Muna Osman Jama, Hinda Osman Dhirane, Fardowsa Jama Mohamed, Farhia Hassan, Barira Hassan Abdullahi*, Case No. 1:14-cr-230(AJT) (E.D. Va.) (Hunter Mill District)
 - 5. *Michael Evans v. Cigna Health and Life Insurance Company Health Insurance Plan and County of Fairfax*, Case No. CL-2016-0015035 (Fx. Co. Cir. Ct.)
 - 6. *Shirley A. Stewart v. Eric H. Holder (U.S. Dept. of Justice); Stephen Holl (Metropolitan Washington Airports Authority); Edwin C. Roessler (Fairfax County Police Department); Stacy Kincaid (Fairfax County Sheriff Dept.); Mark Chapman (Loudoun County Sheriff Department); Jeh Johnson (U.S. Homeland Security); John F. Kerry (U.S. Department of State); Sarah Saldana (Immigration and Customs Enforcement); and Thomas S. Winkowski (Custom and Border Protection)*, Case No. 1:15cv682 (E.D. Va.)
 - 7. *Cynthia Geoghagan v. Fairfax County and Victor Nardone*, Case No. GV16-020097 (Fx. Co. Gen. Dist. Ct.)

8. *Eric Todd Demoulin v. Detective Stephen M. Augustine*, Case No. 1:16-cv-01325 (U.S. Dist. Ct., E.D. Va.)
9. *Wahid Sajjid, by GEICO, Subrogee v. Stephen R. Wallace*, Case No. GV16-020533 (Fx. Co. Gen. Dist. Ct.)
10. *Mirsada Karalic-Loncarevic, by GEICO, Subrogee v. Jeffrey Dion Cox*, Case No. GV16-018480 (Fx. Co. Gen. Dist. Ct.)
11. *Sagres Construction Corp. v. County of Fairfax*, Case No. CL-2016-0007023 (Fx. Co. Cir. Ct.)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Larry M. Kirkpatrick*, Case Nos. GV16-012827 and GV16-012828 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Wayne F. Sandross and Lisa L. Sandross*, Case No. GV16-013872 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
14. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Tony Duy Ta and Huong Lan Thi Dao*, Case Nos. GV16-023469 and GV16-023468 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
15. *Leslie B. Johnson, Fairfax County Zoning Administrator and Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Hsing-Cheng Chen and Marina L. Chen*, Case No. CL-2016-0014720 (Fx. Co. Cir. Ct.) (Dranesville District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Mohammad Y. Sikder*, Case No. GV16-017407 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
17. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Deutsche Bank Trust Company Americas*, Case No. GV16-017138 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Herbert H. Becker*, Case No. GV16-0013871 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
19. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Michael F. Hughes, Jr., and Ann M. Hughes*, Case No. GV16-022738 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)

20. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Michael F. Hughes, Jr., and Ann M. Hughes*, Case No. GV16-022738 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
21. In Re: October 7, 2015, Decision of the Board of Zoning Appeals of the County of Fairfax, Case No. CL-2015-0014745 (Fx. Co. Cir. Ct.) (Hunter Mill District)
22. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Crystal Payne*, Case No. GV16-021911 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
23. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Smithrose Investments, LLC*, Case No. GV16-022800 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
24. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Larissa Omelchenko Taran*, Case No. GV16-023311 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Larissa Omelchenko Taran*, Case No. GV16-023308 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Luis Escalona and Lidia Escalona*, Case Nos. GV16-021650 and GV16-021651 (Fx. Co. Gen. Dist. Ct.) (Lee District)
27. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Michael L. Lewis and Sonja B. Lewis*, Case No. GV16-021912 (Fx. Co. Gen. Dist. Ct.) (Lee District)
28. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Maria E. Rivas and Jose E. Bolanos*, Case No. GV16-021956 (Fx. Co. Gen. Dist. Ct.) (Lee District)
29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Sandy Ying-Tang Cheng and Yuk Yee Cheng*, Case Nos. GV-16-011340, GV16-011341, GV16-011342, and GV16-011343 (Fx. Co. Gen. Dist. Ct.) (Lee District)
30. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Michael Ryabinky and Eugenia Ryabinky*, Case No. CL-2015-0017544 (Fx. Co. Cir. Ct.) (Mason District)
31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Pablo Garcia and Norka D. Garcia*, Case No. GV16-020364 (Fx. Co. Gen. Dist. Ct.) (Mason District)
32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Brian Lucas*, Case No. GV16-013184 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

33. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. A. Brian Bartlett*, Case No. CL-2015-0011709 (Fx. Co. Cir. Ct.) (Providence District)
34. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Darrell Davis Poe*, Case No. GV16-020746 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
35. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Chom Sun Cholihan*, Case No. CL-2013-0012453 (Fx. Co. Cir. Ct.) (Sully District)
36. *Board of Supervisors of Fairfax County v. Target Marble & Granite, LLC*, Case No. GV16-019559 (Fx. Co. Gen. Dist. Ct.) (Providence, Springfield, and Sully Districts)

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Board Agenda Item
December 6, 2016

3:00 p.m.

Public Hearing on RZ 2015-HM-011 (CESC Commerce Executive Park, LLC) to Rezone from I-3 to PDC to Permit Mixed-Use Development with an Overall Floor Area Ratio of 2.5 and Approval of a Conceptual Development Plan, Located on Approximately 11.58 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with SEA 94-H-049)

and

Public Hearing on SEA 94-H-049 (CESC Commerce Executive Park, LLC) to Amend SE 94-H-049, Previously Approved for an Increase in Floor Area Ratio to Permit Deletion of Land Area, Located on Approximately 11.58 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with RZ 2015-HM-011)

This property is located at 1850 Centennial Park Drive, 11400 and 11440 Commerce Park Drive, Reston, 20191. Tax Map 17-4 ((12)) 11 D4, 11 D5, and 11 D7.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 6, 2016, the Planning Commission voted 8-0-1 (Commissioner Hart abstained and Commissioners Hedetniemi, Lawrence, and Murphy were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 94-H-049;
- Approval of RZ 2015-HM-011, and the associated Conceptual Development Plan, subject to the execution of proffers consistent with those dated October 3, 2016;
- Approval of a modification of Paragraphs 1A and 1B of Section 2-414 of the Zoning Ordinance to allow residential structures within 200 feet and office structures within 75 feet of the combined Dulles International Airport Access Highway and Dulles Toll Road as shown on the CDP/FDP;
- Approval of a modification of Paragraph 5 of Section 6-206 of the Zoning Ordinance to allow an increase of dwellings as a secondary use over the 50 percent limitation as shown on the CDP/FDP;
- Approval of a modification of Section 11 -203 of the Zoning Ordinance of the minimum loading space requirements to permit the loading spaces as shown the CDP/FDP;

Board Agenda Item
December 6, 2016

- Approval of a modification of the minimum distance of 40 feet per Paragraph 4 of Section 11-202 of the Zoning Ordinance to permit the loading spaces as shown on the CDP/FDP;
- Approval of a waiver of Paragraph 2 of Section 11-302 of the Zoning Ordinance of the maximum length of private streets;
- Approval of a modification of Sections 13-304 and 13-305 of the Zoning Ordinance for the transitional screening and barrier requirements on the southern boundary line and between onsite uses to permit the landscaping as shown on the CDP/FDP;
- Approval of a waiver of Section 2-505 of the Zoning Ordinance to allow buildings to be constructed to the streetscape building zone line on corner lots on public streets and lots with private street easements which may create a corner lot configuration; and
- Approval of the Parking Reduction Request 24534-BKS-001-1, for an overall sixteen percent reduction for 194 fewer spaces of the required parking, pursuant to Paragraph 5A of Section 11-102 of the Zoning Ordinance based on the proximity to a Mass Transit Station.

In a related action, on Thursday, October 6, 2016, the Planning Commission voted 8-0-1 (Commissioner Hart abstained and Commissioners Hedetniemi, Lawrence, and Murphy were absent from the meeting) to approve FDP 2015-HM-011, subject to the proposed Final Development Plan Condition dated October 6, 2016, and the Board of Supervisors' approval of RZ 2015-HM-013 and the Conceptual Development Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

Board Agenda Item
December 6, 2016

3:00 p.m.

Public Hearing on SE 2016-SU-006 (Naseem Gul Bhatti) to Permit a Home Child Care Facility and an Increase in Fence Height, Located on Approximately 4,228 Square Feet of Land Zoned PDH-20, WS (Sully District)

This property is located at 4189 Week Place, Chantilly, 20151. Tax Map 44-2 ((23)) 37.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 6, 2016, the Planning Commission voted 9-0 (Commissioners Hedetniemi, Lawrence, and Murphy were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2016-SU-006, subject to the proposed Development Conditions dated September 21, 2016, with the following changes:

- Development Conditions 6 and 7 will include language to articulate that the Days of Operations are Monday through Friday.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

Board Agenda Item
December 6, 2016

3:00 p.m.

Public Hearing on RZ 2016-DR-001 (NVR, INC) to Rezone from PDC to PDH-30 to Permit Residential Development with an Overall Density of 25.7 Dwelling Units Per Acre Including Bonus Density and Approval of a Conceptual Plan, Located on Approximately 11.95 Acres of Land Zoned PDC (Dranesville District) (Concurrent with PCA 1999-HM-037 and SEA 97-H-070-03)

and

Public Hearing on PCA 1999-HM-037 (NVR, INC) to Amend the Proffers for RZ 1999-HM-037 Previously Approved for Office Use to Permit Deletion of Land Area, Located on Approximately 11.95 Acres of Land Zoned PDC (Dranesville District) (Concurrent with SEA 97-H-070-03 and RZ/FDP 2016-DR-001)

and

Public Hearing on SEA 97-H-070-03 (NVR, INC) to Amend SE 97-H-070 Previously Approved for Uses in a Flood Plain and Waiver of Certain Sign Regulations, to Permit Deletion of 11.95 Acres of Land Area, Located on Approximately 11.95 Acres of Land Zoned PDC (Dranesville District) (Concurrent with RZ/FDP 2016-DR-001 and PCA 1999-HM-037)

This property is located on the East side of Centreville Road and North Side of Woodland Park Road. Tax Map 16-3 ((1)) 29D and 29E; and 16-3 ((11))7

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 26, 2016, the Planning Commission voted 7-0 (Commissioners Hart and Strandlie recused themselves from the vote and Commissioners Hedetniemi, Lawrence, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 1999-HM-037;
- Approval of SEA 97-HM-070-03;
- Approval of RZ 2016-DR-01 and the Conceptual Development Plan subject to the execution of the proffers consistent with those dated October 7, 2016;
- Direct the Director of the Department of Public Works and Environmental Services to approve a modification of Zoning Ordinance Section 2-415, to allow uncovered stoops and steps to be located a minimum of 15 feet distance measured from the permanent water surface of any appropriately designed

Board Agenda Item
December 6, 2016

impoundment rather than 15 feet from the horizontal edge of the floodplain per Paragraph 1 of Section 2-415 of the Zoning Ordinance;

- Approval of a waiver of Paragraph 2 of Section 6-107 of the Zoning Ordinance, which requires a 200 square foot minimum privacy yard area for single family attached dwellings;
- Approval of a waiver of Paragraphs 1 and 12 of Section 11-102 of the Zoning Ordinance to allow tandem parking in the driveways of the two-over-two multi-family units;
- Approval of a modification of Section 11-203 of the Zoning Ordinance to provide two loading spaces;
- Approval of a waiver of Paragraph 2 of Section 11-302 of the Zoning Ordinance to allow a private street in excess of 600 feet in length;
- Approval of a waiver of Section 13-200 of the Zoning Ordinance for Interior Parking Lot Landscaping Requirements for a structured parking deck;
- Approval of a waiver of Paragraph 3 of Section 13-304 of the Zoning Ordinance for Transitional Screening and Barrier Requirements between the multi-family and single family attached units; and
- Approval of a deviation of the tree preservation requirement from Section 12-0508.3 of the Public Facilities Manual to permit the tree preservation as shown on the CDP/FDP.

In a related action, on Wednesday, October 26, 2016, the Planning Commission voted 7-0 (Commissioners Hart and Strandlie recused themselves from the vote and Commissioners Hedetniemi, Lawrence, and Sargeant were absent from the meeting) to approve FDP 2016-DR-001 subject to the Board of Supervisors' approval of RZ 2016-DR-001.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Laura Arseneau, Planner, DPZ

Board Agenda Item
December 6, 2016

3:00 p.m.

Public Hearing on SE 2016-LE-002 (PMG Mid Atlantic, LLC) to Permit a Service Station, Quick-Service Food Store, and a Car Wash in a Highway Corridor Overlay District, Located on Approximately 41,285 Square Feet of Land Zoned C-5, HC (Lee District) (Concurrent with RZ 2016-LE-006)

and

Public Hearing on RZ 2016-LE-006 (PMG Mid Atlantic, LLC) to Rezone from C-5, R-1, and R-2 to C-5, HC to Permit a Service Station, Quick-Service Food Store, and a Car Wash with an Overall Floor Area Ratio of 0.08, Located on Approximately 41,285 Square Feet of Land Zoned C-5, HC (Lee District) (Concurrent with SE 2016-LE-002)

This property is located at 6201 Franconia Road, Alexandria, 22310. Tax Map 81-3 ((5)) 6

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 26, 2016, the Planning Commission voted 9-0 (Commissioners Hedetniemi, Lawrence, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2016-LE-006 subject to the execution of Proffered Conditions dated October 11, 2016, with the amendment to Proffer Number 4 that would be made prior to the Board of Supervisors meeting to include language approved by the County Attorney related to the Interparcel Access Easement;
- Approval of SE 2016-LE-002, subject to Development Conditions dated October 25, 2016, with the removal of Development Condition Number 20;
- Approval of a waiver of the Tree Preservation Target Deviation in favor of the proposed vegetation shown on the GDP/SE Plat; and
- Denial of the modification of Paragraph 1 of Section 14-903 of the Zoning Ordinance to allow lighting to exceed 30 footcandles.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Casey Gresham, Planner, DPZ

Board Agenda Item
December 6, 2016

3:00 p.m.

Public Hearing on PCA 2009-SU-020-02 (Pender Professional Center, LLC) to Amend the Proffers, Conceptual Development Plan for RZ 2009-SU-020, Previously Approved for Office and Secondary Uses to Permit Additional Secondary Uses and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.22, Located on Approximately 18.07 Acres of Land Zoned PDC, WS and HC (Sully District)

This property is located on the North Side of Lee Jackson Memorial Highway, and West Side of Fair Ridge Drive. Tax Map 46-3 ((1)) 15 C and 15 A1

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 17, 2016, the Planning Commission voted 8-0 (Commissioner Sargeant recused himself from the vote and Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2009-SU-020-02, subject to proffers consistent with those dated November 1, 2016;
- Approval of a modification of Section 6-206 of the Zoning Ordinance to allow the maximum amount of secondary uses permitted in the PDC District (25 percent of the principal uses) to increase to a maximum of 60 percent of the development in accordance with the uses shown on the FDPA and the Proffers; and
- Reaffirmation of the previously approved waivers and modifications:
 - Modification of the transitional screening requirements to the west and south;
 - Modification of the barrier requirements to the south; and
 - Waiver of the service drive along Route 50

In a related action, on Thursday, November 17, 2016, the Planning Commission voted 8-0 (Commissioner Sargeant recused himself from the vote and Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to approve FDPA 2009-SU-020-02, subject to the Development Conditions dated November 2, 2016, and to the Board's approval of the associated Proffer Condition Amendment.

Board Agenda Item
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ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William O'Donnell, Planner, DPZ

Board Agenda Item
December 6, 2016

3:30 p.m.

Public Hearing on SEA 82-L-062-02 (6620 Backlick Road, LLC) to Amend SE 82-L-062, Previously Approved for a Service Station in a Highway Corridor Overlay District, to Permit Modifications to the Site Layout and Development Conditions and Associated Waivers and Modifications in a Commercial Revitalization District, Located on Approximately 28,771 Square Feet of Land Zoned C-5, CRD, SC, and HC (Lee District)

This property is located at 6620 Backlick Road, Springfield, 22150. Tax Map 90-2 ((2)) 231 and 232

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 16, 2016, the Planning Commission voted 9-0 (Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 82-L-062-02, subject to the proposed Development Conditions dated November 16, 2016;
- Approval of a waiver from the Loading Space Requirement per Section 11-203 of the Zoning Ordinance;
- Approval of a waiver of the Transitional Screening Requirement per Section 13-303 of the Zoning Ordinance along Calamo Street;
- Approval of a waiver of the Tree Preservation Target Deviation in favor of the proposed vegetation shown on the SEA plat; and
- Approval of a modification to the Springfield CRD streetscape in favor of the streetscape shown on the SEA Plat.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelly Posusney, Planner, DPZ

Board Agenda Item
December 6, 2016

3:30 p.m.

Public Hearing on RZ 2014-MA-014 (NOVUS Property Holdings, LLC) to Rezone from C-3, C-4, HC, SC, and CRD to PDC, CRD, HC, and SC to Permit Office, Multi-Family Residential, and Mixed-Use with an Overall Floor Area Ratio of 1.08 and Approval of the Conceptual Development Plan, Located on Approximately 3.68 Acres of Land (Mason District)

This property is located in the NorthWest quadrant of the intersection of Columbia Pike and Carlin Springs Road. Tax Map 62-1 ((1)) 7

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 17, 2016, the Planning Commission voted 9-0 (Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2014-MA-014 and the associated Conceptual Development Plan, subject to the execution of proffers consistent with those dated November 4, 2016;
- Approval of a modification of Paragraph 5 of Section 6-206 of the Zoning Ordinance to permit the gross floor area of dwellings as a secondary use in the PDC District to exceed 50 percent of the gross floor area of all principal uses;
- Approval of a modification of the loading requirement of five spaces, pursuant to Section 11-203 of the Zoning Ordinance, to permit two spaces;
- Approval of a modification of the requirement for dedication and construction of widening of roads, pursuant to Paragraph 4 of Section 17-201 of the Zoning Ordinance, to that shown on the CDP/FDP;
- Approval of a waiver of the requirement for a service drive, pursuant to Paragraph 3A of Section 17-201 of the Zoning Ordinance;
- Approval of a modification of the requirement for interparcel access, pursuant to Paragraph 3 of Section 17-201 of the Zoning Ordinance, as proffered and shown on the CDP/FDP;
- Approval of a modification of the transitional screening and barrier requirements, pursuant to Sections 13-303 and 304 of the Zoning Ordinance, to permit the existing and proposed landscaping as shown on the CDP/FDP; and

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December 6, 2016

- Approval of a parking reduction percent as permitted in a Commercial Revitalization District (CRD), pursuant to Section A7-209 of the Zoning Ordinance to allow 405 parking spaces instead of 450 (reduction of 45 spaces or 10%).

In a related action, on Thursday, November 17, 2016, the Planning Commission voted 9-0 (Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to approve FDP 2014-MA-014, subject to the Development Conditions dated November 2, 2016, and the Board of Supervisor's approval of RZ 2014-MA-014 and the associated Conceptual Development Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

Board Agenda Item
December 6, 2016

3:30 p.m.

Public Hearing on RZ 2016-BR-013 (MHI-Heritage, LLC & Bristow Shopping CTR LTD)
to Rezone from C-6 to PDC to Permit-Mixed Use Development with an Overall Floor
Area Ratio of 0.5, Approval of the Conceptual and Final Development Plan, and a
Waiver of the Minimum Privacy Yard Requirements for Single Family Attached Units,
Located on Approximately 11.0 Acres of Land (Braddock District)

This property is located on the West side of Heritage Drive, North of Rectory Lane. Tax
Map 70-2 ((1)) 1 D1, 2A, and 2C

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on November 30, 2016. The
Commission's recommendation will be forwarded to the Board of Supervisors
subsequent to that date.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

Board Agenda Item
December 6, 2016

3:30 p.m.

Public Hearing on SE 2016-DR-009 (Seneca Corner Associates, LLC) to Permit a Retail Sales Establishment with Drive-Through Pharmacy, Located on Approximately 3.37 Acres of Land Zoned C-8 and R-1 (Dranesville District)

This property is located at 1020 Seneca Road, Great Falls, 22066. Tax Map 6-4 ((3)) 1 and Seneca Road public right-of-way to be vacated and/or abandoned.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 2, 2016, the Planning Commission voted 8-0-2 (Commissioners Sargeant and Strandlie abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2016-DR-009, subject to the proposed Development Conditions dated November 1, 2016;
- Approval of a modification of the Transitional Screening Requirement per Section 13-303 of the Zoning Ordinance along the northern property line;
- Approval of a waiver of the Barrier Requirement per Section 13-304 of the Zoning Ordinance along the northeastern property line, adjacent to the proposed entrance;
- Approval of a waiver of the Transitional Screening and Barrier Requirement per Sections 13-303 and 13-304 of the Zoning Ordinance, along the eastern property line;
- Approval of a waiver of Paragraph 2 of Section 13-302 of the Zoning Ordinance to allow Transitional Screening and Barrier Requirements on the R-1 portion of the subject property;
- Approval of a waiver of Paragraph 8 of Section 11-102 of the Zoning Ordinance requiring a 10-foot minimum parking setback to a front lot line; and
- Approval of a waiver of Paragraph 2 of Section 13-203 of the Zoning Ordinance for peripheral parking lot landscaping.

Board Agenda Item
December 6, 2016

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelly Posusney, Planner, DPZ

Board Agenda Item
December 6, 2016

4:00 pm

Public Hearing on Proposed Plan Amendment 2015-I-J1, Located South of Arlington Boulevard and West of Graham Road (Mason District)

ISSUE:

The approximately 19.51-acre subject area of Plan Amendment (PA) 2015-I-J1 proposes to modify the Comprehensive Plan to consider an option for residential mixed-use at an intensity up to 0.50 floor area ratio (FAR) with conditions.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 20, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors adopt the staff recommendation for PA 2015-I-J1, as shown on Pages 9 through 11 of the Staff Report dated October 6, 2016. Attachment I contains the Planning Commission Verbatim and Recommendation.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation. The recommendation would add an option for residential mixed-use up to an overall intensity of 0.50 FAR with conditions related to consolidation, design, access and stormwater management for Tax Map parcels 50-3 ((1)) 5, 5A, 5E, and 5G.

TIMING:

Planning Commission public hearing – October 20, 2016
Board of Supervisors public hearing – December 6, 2016

BACKGROUND:

On January 27, 2015, the Fairfax County Board of Supervisors authorized PA 2015-I-J1 for the parcels located south of Arlington Boulevard (Route 50) and west of Graham Road [Tax Map parcels 50-3 ((1)) 5, 5A, 5E, and 5G] in the Jefferson Planning District. The adopted Plan for this area recommends community-serving retail uses up to 0.35 FAR. The authorization directed staff to consider a mixture of residential and nonresidential uses at an intensity up to 0.50 FAR. The Board also directed staff to pay

Board Agenda Item
December 6, 2016

attention to transportation while planning for a high quality design on the subject properties.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment I: Planning Commission Verbatim Excerpt

The Staff Report for Plan Amendment 2015-I-J1, revised October 20, 2015 has been previously furnished and is available at:
<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/planamendments.htm>

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne Gardner, Director, Planning Division (PD), DPZ
Meghan Van Dam, Branch Chief, Policy and Plan Development Branch (PPDB), PD, DPZ
Bernard S. Suchicital Planner III, PPDB, PD, DPZ

PA 2015-I-J1 – COMPREHENSIVE PLAN AMENDMENT (GRAHAM PARK/LOEHMANN'S PLAZA)

After Close of the Public Hearing

Chairman Murphy: Are there any other questions? If not, public hearing is closed. Recognize Ms. Strandlie.

Commissioner Strandlie: Okay, thank you. Mr. Chairman, I – again, thank you to everyone for coming out tonight. The Land Use Committee has approved – unanimously recommended this – and it's been through several reiterations in informational meetings and decision meetings for the Land Use Committee. And we appreciate the – the dialog that the developers have engaged with the community and we hope and expect that that will continue through the rezoning process. There are many challenges to this site. It's well worth working out. It's a great opportunity for the community and we look forward to continuing that dialog. With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT THE STAFF RECOMMENDATION FOR PA 2015-I-J1, AS SHOWN ON PAGES 9 THROUGH 11 OF THE STAFF REPORT DATED OCTOBER 6, 2016. THE RECOMMENDATION would recommend the Plan – WOULD AMEND THE PLAN TO ADD AN OPTION FOR RESIDENTIAL MIXED-USE UP TO AN OVERALL 0.50 FAR, WITH CONDITIONS ON TAX MAP PARCELS 50-3 ((1)) 5, 5A, 5E, AND 5G. THIS REDEVELOPMENT OPTION WOULD SUPPORT THE REVITALIZATION AND REINVESTMENT IN GRAHAM PARK PLAZA AND IMPROVE VEHICULAR AND PEDESTRIAN CIRCULATION. Thank you.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment 2015-I-J1, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

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(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

JLC

Board Agenda Item
December 6, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-II-F1, Located South of Arlington Boulevard Between Bear Branch and Barkley Drive (Providence District)

ISSUE:

Plan Amendment (PA) 2016-II-F1 proposes to amend the Comprehensive Plan guidance for an approximately 27-acre property, located south of Arlington Boulevard between Bear Branch and Barkley Drive, in the F2-Mantua Community Planning Sector. The subject area is currently planned for public facilities, governmental, and institutional uses, and private open space, and is developed with facilities owned and operated by the Kena Temple Shrine. The amendment will consider residential uses for the site, with a density range of 0.5 dwelling unit per acre to a maximum of 1 dwelling unit per acre.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 16, 2016, the Planning Commission voted 9-0 (Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the adoption of a Planning Commission alternative to the staff recommendation for Plan Amendment 2016-II-F1, as shown on the handout dated November 16, 2016.

RECOMMENDATION:

The County Executive recommends that the Board adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – November 16, 2016
Board of Supervisors' public hearing – December 6, 2016

BACKGROUND:

On July 12, 2016, the Board authorized PA 2016-II-F1 for Tax Map Parcel 48-4((1))42A to consider an amendment to the Comprehensive Plan guidance to consider residential uses for the site, with a density range of 0.5 dwelling unit per acre to a maximum of 1 dwelling unit per acre.

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FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim Excerpt

Attachment 2: Planning Commission Alternative to the Staff Recommendation

The Staff Report for 2016-II-F1 has been previously furnished and is available online at:

<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-ii-f1.pdf>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Leanna H. O'Donnell, Branch Chief, Planning Division (PD), DPZ

Mike D. Van Atta, Planner II, Policy and Plan Development Branch, PD, DPZ

County of Fairfax, Virginia
Planning Commission Meeting
November 16, 2016
Verbatim Excerpt

Attachment 1

PA 2016-II-F1 – KENA TEMPLE – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment concerns approx. 27 ac. generally located at 9001 Arlington Boulevard, Fairfax, on the south side of Arlington Boulevard between Bear Branch and Barkley Drive (Tax Map Parcel: 48-4((1))42A) in the Providence Supervisor District. The site is planned for private open space, public facilities, governmental, and institutional uses. The Amendment will consider residential use with a density range of 0.5-1 dwelling unit per acre. Recommendations relating to the transportation network may also be modified. PA #2016-II-F1 is concurrently under review with Rezoning application RZ 2016-PR-012. (Providence District)

Decision Only During Commission Matters
(Public Hearing held on November 2, 2016)

Commissioner Hart: Thank you, Mr. Chairman. Secondly, I have the decision only on the Kena Temple Plan Amendment. We had a public hearing on this on November the 2nd. I think we probably have a consensus that as we approach build-out, the parcels that are left – each have their own challenges. And this is going to be a challenging site to develop when we get to that point. We had a discussion regarding transportation primarily and after the public hearing, staff had reviewed it. We took another look at this and we decided to go with, essentially, what Commissioner de la Fe had suggested the night of the public hearing. And that language was included in the handout you should've gotten this week and a hard – another hardcopy tonight – referring to additional access points, which, I think – whether it's exactly what everybody wanted, it allows flexibility to consider multiple options at the time of rezoning – which, I think, is what everybody wants. I looked at Karen Drive. Supervisor Smith looked at Karen Drive. It's down in the RPA. It's in an area of archeological sites. It's in the portion of the site, also, that was planned to be conveyed to the Park Authority. So if and when we get there, I'm not sure Karen Drive is going to be the solution to anything, but this doesn't preclude that. It doesn't require it. It just – it leaves that issue open. There will be a rezoning, I think, coming before us before too long and we can evaluate those issues then. I want to thank, also, the folks that submitted written comments or came and spoke at the public hearing. I also want to thank Mike Van Atta for his considerable assistance on this, and also Mike Wing in Supervisor Smith's office. As staff indicated, the Amendment would modify the Plan language for Tax Map Parcel 48-4 ((1)) 42A to permit residential uses for the site with a density range of 0.5 to 1 dwelling unit per acre. The language distributed this evening with my motion dated November 16, 2016, includes changes to the staff recommendation that reflect additional input from the community. My proposed changes are noted in bold italics. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE TO THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2016-II-F1, AS SHOWN ON TONIGHT'S HANDOUT DATED NOVEMBER 16, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt PA 2016-II-F1, with the amendments articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Commissioner Hart: Thank you.

//

(The motion carried by a vote of 9-0. Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting.)

JLC

**MOTION
PLANNING COMMISSION**

Planning Commissioner James R. Hart
At-Large

**PLAN AMENDMENT 2016-II-F1
November 16, 2016**

Motion:

As staff indicated, the amendment would modify the Plan language for Tax Map Parcel 48-4 ((1)) 42A to permit residential uses for the site with a density range of 0.5 to 1 dwelling unit per acre. The language distributed with my motion dated November 16, 2016, includes changes to the staff recommendation that reflect additional input from the community.

My proposed changes are noted in bold italics. Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of a Planning Commission Alternative to the staff recommendation for Plan Amendment 2016-II-F1, as shown on the handout dated November 16, 2016.

End of Motion

**PLANNING COMMISSION ALTERNATIVE
PROPOSED PLAN LANGUAGE
Plan Amendment 2016-II-F1**

Recommended modifications to the Comprehensive Plan are shown as underlined for text to be added and as ~~strike through~~ as text to be deleted.

RECOMMENDATION

ADD: Fairfax County Comprehensive Plan, 2013 Edition, Area II, Fairfax Planning District, as amended through September 20, 2016, F2-Mantua Community Planning Sector, Recommendations, Land Use, new recommendation #11, page 37:

“11. Parcel 48-4((1))42A is planned for residential use at 0.5 – 1 dwelling unit per acre and private open space. Consideration should be given to ***additional access points, such as a right-in and/or right-out access point on Arlington Boulevard, a pedestrian connection to the stream valley trail in Eakin Park to the south, and dedication of the environmentally sensitive areas on the site that are adjacent to existing parkland to the Fairfax County Park Authority for public park purposes.***

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4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-CW-2CP, Planned Industrial Uses

ISSUE:

Plan Amendment (PA) 2016-CW-2CP proposes to add a new appendix entitled, “Guidelines for Higher Intensity within Areas Planned for Industrial Use” to the Policy Plan element of the Comprehensive Plan. The new appendix would provide guidance to consider intensity above the baseline recommendation for uses such as data centers and self-storage facilities (mini-warehouses), within areas planned for industrial use as shown on the Comprehensive Land Use Plan Map. The higher intensity option would be subject to performance criteria that address the following: transportation impacts, mitigation of noise and other impacts, building design, lot size and parcel consolidation and site design.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 2, 2016, the Planning Commission voted 10-0 (Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the adoption of the staff recommendation for Plan Amendment 2016-CW-2CP, as found in the Staff Report dated October 19, 2016.

RECOMMENDATION:

The County Executive recommends that the Board adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – November 2, 2016
Board of Supervisors’ public hearing – December 6, 2016

BACKGROUND:

On July 26, 2016 the Board of Supervisors authorized the consideration of PA 2016-CW-2CP that would support higher intensities for uses such as data centers and self-storage facilities in areas planned for industrial use if certain performance-based criteria are met.

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FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Planning Commission Verbatim Excerpt

The Staff Report for 2016-CW-2CP has been previously furnished and is available online at:
<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-cw-2cp.pdf>

STAFF:
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Leanna H. O'Donnell, Branch Chief, Planning Division (PD), DPZ
Katrina Z. Newton, Planner II, Policy and Plan Development Branch, PD, DPZ

PA 2016-CW-2CP – PLANNED INDUSTRIAL USES (HIGHER FAR FOR DATA CENTERS AND SELF-STORAGE FACILITIES)

After close of the public hearing.

Chairman Murphy: Public hearing is closed. Mr. Sargeant, please.

Commissioner Sargeant: Thank you, Mr. Chairman. Before I get to this motion, let me begin by thanking Leanna O'Donnell and Katrina Newton for their diligent work in preparing this Plan Amendment. They have carefully woven the proposed amendment into the fabric of our Comprehensive Plan. As staff indicated, the policy plat amendment will add a new appendix to the Policy Plan. The new appendix would provide guidance to consider intensity above the base line recommendation for uses such as data centers and self-storage facilities within areas planned for industrial use, as shown on the Comprehensive Land Use Plan Map. The higher intensity option would be subject to performance criteria that address transportation impacts, mitigation of noise and other impacts, building design, lot size and parcel consolidation, and site design. The proposed amendment will not eliminate the need for zoning approvals, per the Zoning Ordinance, including staff and including the public input. This amendment would also not allow for consideration of intensities above what the Zoning Ordinance currently allows. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2016-CW-2CP, AS FOUND IN THE STAFF REPORT DATED OCTOBER 19TH, 2016.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt PA 2016-CW-2CP as articulated by Mr. Sargeant, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

TMW

Board Agenda Item
December 6, 2016

4:00 p.m.

Public Hearing on Proposed Plan Amendment 2016-IV-MV1, Located East of Richmond Highway, North of Dart Drive (Mount Vernon District)

ISSUE:

Plan Amendment (PA) 2016-IV-MV1 proposes to amend the Comprehensive Plan guidance for an approximately 35-acre area located in the Richmond Highway Corridor. The subject area, which is owned by the Fairfax County Redevelopment and Housing Authority, is currently planned for a public park for passive recreational use. The amendment considers adding an option for residential use up to approximately 278 affordable multifamily units, 196 townhouses, limited community serving uses, with the retention of a significant portion of the subject area for public park use. The amendment is under review concurrently with Rezoning/Final Development Plan application RZ/FDP 2016-MV-014, which requests Planned Development Housing PDH-20 District zoning, to allow for 279 affordable multifamily units and 185 for-sale townhomes on the subject property, as of September 28, 2016.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 27, 2016, the Planning Commission voted 9-0-1 (Commissioner Hurley abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors adopt the Planning Commission Alternative for Plan Amendment 2016-IV-MV1, as described in the Planning Commission Verbatim and Recommendation (Attachment I) and the Planning Commission Handout dated October 27, 2016. The alternative supports the staff recommendation with minor modifications pertaining to community gathering spaces, and access to and size of the public park.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – October 27, 2016
Board of Supervisors' public hearing – December 6, 2016

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BACKGROUND:

On March 1, 2016, the Board of Supervisors authorized the consideration of PA 2016-IV-MV1 for the North Hill property (the northern portion of Tax Map Parcel 92-4 ((1)) 82A) The Board requested that staff consider a mix of approximately 278 multifamily units and 195 townhouses, as well as limited community serving uses, and approaches to provide affordable housing; mitigate transportation impacts; use building form, height and orientation to create a vibrant an active community; create a large public park; and address public facilities' needs and impacts to schools.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim and Recommendation for PA 2016-IV-MV1 – North Hill Site (Mount Vernon District), dated October 27, 2016

Attachment II: Planning Commission Handout, dated October 27, 2016.

The Staff Report for 2016-IV-MV1 has been previously furnished and is available online at: <http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/pa2016-iv-mv1.pdf>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Meghan D. Van Dam, Chief, Policy & Plan Development Branch (PPDB), PD, DPZ

Kenneth Sorenson, Planner II, PPDB, PD, DPZ

PA 2016-IV-MV1 – NORTH HILL SITE (Mount Vernon District)

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Thank you. As staff indicated, the Plan Amendment would modify the Plan language for the northern portion of the Tax Map Parcel 92-4 ((1)) 82A to support affordable and market-rate housing options and the creation of a large public park accessible to all members of the community. The Amendment would further revitalization goals of Richmond Highway and may increase future transit ridership along Richmond Highway corridor as well. Staff worked closely with the community and the property owner to identify issues and opportunities and the result of this effort is a project that both retains a portion of the site for a future public park and provides housing options at multiple points along the income spectrum. Subsequently, the planning, zoning, recreation, environment, and transportation committees of the Mount Vernon Council reviewed and unanimously supports the staff recommendations with the minor modifications that are now also acceptable to County staff, pertaining to community gathering spaces and access - and the scale of the public park. I agree with these minor modifications. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE FOR PLAN AMENDMENT 2015-IV-MV1, AS FOUND ON MY HANDOUT DATED OCTOBER 27, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? Ms. Hurley and then Mr. Migliaccio.

Commissioner Hurley: This Plan Amendment has many good elements, as was just encapsulated – revitalization, affordable senior housing – all to the good. However, I’m still looking – especially when it comes to the rezoning part – that that MP – MHP, Mobile Home Park, has some public/private partnership considerations of somewhere in this County to have that option still available so, although I won’t vote against this option, I will abstain. I won’t vote for it.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman, I appreciate this Plan Amendment and what we’re doing on this site. I will be supporting this Amendment this evening but, as I expressed during the public hearing, I do have great concern about the intersection of Lockheed Boulevard and Richmond Highway and general transportation issues – but that specific intersection. And when we get to the rezoning, that is what I’m going to be keying in on as we move forward. But tonight I am supporting this because this does need to move forward to the next phase. Thank you.

Chairman Murphy: Further discussion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes, thank you. I understand that there is some time pressure to voting on tonight's handout tonight. I wish we had time to edit the first new sentence in paragraph four and the second bullet following that along the lines of what I had suggested on the other one. And I hope that, between now and the Board, some of the clarity could be improved in those two sentences. Thank you.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes. I'd be happy to take that up with Supervisor Storck when this comes before the Board of Supervisors – before it comes before the Board of Supervisors – because I think your observations are valid.

Chairman Murphy: Further discussion? All those in favor of the motion on PA 2016-IV-MV1, to adopt the alternative as submitted and articulated by Mr. Flanagan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries.

Commissioner Hurley: Abstain.

Chairman Murphy: One abstention, Ms. Hurley.

//

(The motion carried by a vote of 9-0-1. Commissioner Hurley abstained. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

JLC

MOTION
October 27, 2016

Commissioner Earl Flanagan, Mount Vernon District
Planning Commission Public Hearing and Decision

Plan Amendment 2016-IV-MV1

Motion:

As staff indicated, the Plan amendment would modify the Plan language for the northern portion of Tax Map Parcel 92-4 ((1)) 82A to support affordable and market rate housing options and the creation of a large public park accessible to all members of the community. The amendment would further revitalization goals of Richmond Highway and may increase future transit ridership along the Richmond Highway Corridor.

Staff worked closely with the community and the property owner to identify issues and opportunities, and the result of this effort is a project that both retains a portion of the site for a future public park and provides housing options at multiple points along the income spectrum.

Subsequently, the planning/zoning, recreation/environment and transportation committees of the Mount Vernon Council reviewed and unanimously supports the staff recommendation with the minor modifications that are now also acceptable to county staff pertaining to community gathering spaces and the access and scale of the public park. I agree with these minor modifications.

Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of a Planning Commission alternative for Plan Amendment 2016-IV-MV1, as found on my handout dated October 27, 2016.

End of Motion

PLANNING COMMISSION ALTERNATIVE
Plan Amendment 2016-IV-MV1

Modifications to the Comprehensive Plan are shown as underlined for text to be added and as ~~strikethrough~~ as text to be deleted. Planning Commission modifications are indicated in double underline, double strikethrough, and yellow highlight.

ADD: Fairfax County Comprehensive Plan, 2013 Edition, Area IV, Mount Vernon Planning District, Richmond Highway Corridor Area, Suburban Neighborhood Area between Beacon/Groveton and Hybla Valley/Gum Springs CBCs, as amended through September 20, 2016, page 54:

“4. The North Hill, a part of the former Woodley Nightingale Redevelopment Area (approximately 33 acres) located on the eastern side of Richmond Highway north of the Hybla Valley/Gum Springs Community Business Center and the Woodley Hills Estates Mobile Home Park, is planned for public park for passive recreational use. As an option, the site may be appropriate for up to 279 workforce and affordable multifamily units, which may include affordable independent living units, and up to 196 townhomes with limited community serving uses with the retention of a significant, contiguous portion of approximately 11 acres of the site for a publicly accessible park. Any development should be supported by a geotechnical study that shows how slopes and problem soils will be addressed. In addition, the following conditions should be met:

- The residential development should be oriented to Richmond Highway and Dart Drive.
- Buildings facing Richmond Highway should provide pedestrian entrances and direct access to the Richmond Highway frontage to the extent feasible in consideration of site constraints, topography and/or the safety and welfare of residents. If parking structures are planned in the ground-floor of building, appropriate screening of parking should be achieved in order to avoid adverse impacts to the public realm.
- The walkability and multi-modal connectivity of the redevelopment should be enhanced through the addition of sidewalks, streetscape and bicycle facilities. Adequate right-of-way and streetscape improvements should be provided in line with the design guidance for the corridor, including secondary streets such as Dart Drive. Development should dedicate 89 feet from the centerline of Richmond Highway for planned transportation improvements. The right-of-way dedication along Dart Drive should be extended to the east property line to accommodate a future multimodal connection to Arlington Drive.
- On-site bicycle and pedestrian circulation should be provided and connect to off-site bicycle, pedestrian and transit facilities.
- ~~Several~~One or more points of physical access should be made to connect the public park with the planned community, and the existing surrounding neighborhoods.
- Planned development of the property should include clean-up and restoration efforts focused on the portion of the site to remain as a public park so that it is safe for park visitors.
- Residential development should provide vehicular access and parking to serve the public park and should provide an ADA accessible route from the parking into the park.
- In addition to the public park, ~~a~~ one or more well-designed, publicly accessible community gathering areas urban plaza should be included to create a sense of place and provide recreational opportunities for residents and visitors, per the guidance of the Urban Parks Framework. The southwest corner of the property is well-suited for a civic plaza that would serve as a community gathering space for

future residents and those waiting for a bus. Active recreation facilities should be provided onsite to meet the needs of future residents.

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4:30 p.m.

Public Hearing on Proposed Plan Amendments 2013-III-FC1(B) and 2016-III-FC1,
Fairfax Center Area (Braddock, Providence, Springfield, and Sully Districts)

ISSUE:

Plan Amendments (PA) 2013-III-FC1(B) and 2016-III-FC1 propose revisions to the Comprehensive Plan recommendations for the Fairfax Center Area. The Fairfax Center Area comprises the area generally extending west of the City of Fairfax to Stringfellow Road, from Lee-Jackson Memorial Highway (Route 50) to Lee Highway (Route 29). The revisions would ensure consistency with current countywide policy and practice, reflect implementation, and make editorial and organizational changes, including reorganizing the land units and illustrating the baseline land use recommendations on the Comprehensive Land Use Plan Map. The amendment also would revise the implementation strategy for the Fairfax Center Area to remove the Intermediate development level and incorporate the Development Elements into the Area-wide guidance. A number of site-specific land use and intensity recommendations are proposed to be amended within the Suburban Center portion of the Fairfax Center Area.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 16, 2016, the Planning Commission voted 8-0 (Commissioner Sargeant recused himself from the vote and Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend to the Board of Supervisors the adoption of the staff recommendations for the Fairfax Center Area Guidance, as shown on Pages 14 through 174 of the Staff Report, as modified by the working group shown in text boxes on Pages 61, 62, 103, and 105 of the Staff Report, and further modified by the Springfield Land Use Committee for the Centerpointe Church site in the proposed Sub-Unit A3. Attachment I contains the Planning Commission Verbatim and Recommendation dated November 16, 2016. The minor modification for Sub-Unit A3 is presented on Page 6 of the Planning Commission Handout (Attachment II) dated November 9, 2016. This recommendation to the Board of Supervisors would support the overall Vision, Policy Guidance, and Recommendation for the Fairfax Center Area developed by the working group and generally supported by staff. The recommendation would also support four site-specific land use and intensity changes in the Fairfax Center Area, to include:

- Adding an option for residential use up to 1.25 FAR on the Centerpointe Church site in proposed Sub-Unit A3 as shown on Page 84 of the Staff Report;

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- Adding an option for residential use at 8 to 12 dwelling units per acre on the Pender Professional site in proposed Sub-Unit C1 and shown on Page 92 of the Staff Report;
- Modifying the Overlay Level recommendation for residential use at 10 dwelling units and adding an option for residential use up to 12 dwelling units per acre as assisted living and independent living facilities on the site at the northwest corner of Lee Highway and Legato Road in proposed Land Unit A3, as shown on Pages 103 and 105 of the Staff Report; and
- Adding an option for residential use up to 8 dwelling units per acre for the Fair Oaks Church site along West Ox Road in proposed Sub-Unit H2 and shown at the top of Page 106 of the Staff Report.

The working group did not make a site-specific recommendation for the fifth site along Waples Mill Road. However, general recommendations for museums and/or cultural centers as an alternative in areas planned for office use can be found in the proposed Area-Wide Guidance on Page 33 of the Staff Report.

As a second recommendation, on Wednesday, November 16, 2016, the Planning Commission voted 8-0 (Commissioner Sargeant recused himself from the vote and Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to recommend to the Board of Supervisors that a third phase of the Fairfax Center Area Study, including the transportation analysis, be completed expeditiously in order to fully realize the core area vision established by the working group in this second phase.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – November 9, 2016

Planning Commission decision only – November 16, 2016

Board of Supervisors public hearing – December 6, 2016

BACKGROUND:

On July 9, 2013, the Board of Supervisors (Board) authorized PA 2013-III-FC1, the Fairfax Center Area Study, as part of the 2013 Pilot Comprehensive Plan Amendment Work Program. The second phase of the study, PA 2013-III-FC1(B) evaluates the Suburban Center and Area-wide Recommendations for the Fairfax Center Area. A

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citizen-led Fairfax Center Area Study – Phase II Working Group, appointed by the four Supervisors and supported by county staff, gathered input, discussed proposed Plan changes, and guided the evaluation and recommendations over the course of the 16-month study. The working group examined the 20-30 year vision for the Suburban Center to reinforce the goal that Fairfax Center is a premiere place to live, work, and play, with the greatest intensity focused around a central mixed-use core area, near a planned Metrorail Station in the median on Interstate-66 generally near the Fair Oaks Mall regional shopping center. The group expanded the Core Area and developed a set of guiding principles for the Fairfax Center Area. Based on these principles, the working group collaborated with staff to revise the Areawide guidance to incorporate current countywide policy and practice and developed recommendations for a number of land use and intensity changes on specific sites within the Suburban Center. The majority of the sites were identified through an open submission process at the beginning of study. One additional site-specific proposal was consolidated into the study through a Board-authorization on February 16, 2016 (PA 2016-III-FC1). The site-specific amendments are described on page 12 of the staff report dated October 26, 2016 and a table summarizing the proposed Plan changes based on the submissions presented as Attachment III.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim Excerpt

Attachment II: Planning Commission Handout, dated November 9, 2016.

Attachment III: Table of Proposed Site-Specific Land Use/Intensity Changes

Staff Report for PA 2013-III-FC1(B) and 2016-III-FC1, dated October 26, 2016 was previously furnished, is available at:

<http://www.fairfaxcounty.gov/dpz/comprehensiveplan/planamendments.htm>

STAFF:

Fred R. Selden, Director, Department of Planning and Zoning (DPZ)

Marianne R. Gardner, Director, Planning Division (PD), DPZ

Meghan Van Dam, Chief, Policy & Plan Development Branch (PPDB), PD, DPZ

Ken Sorenson, Planner II, PPDB, PD, DPZ

**County of Fairfax, Virginia
Planning Commission Meeting
November 16, 2016
Verbatim Excerpt**

PA 2016-III-FC1 – COMPREHENSIVE PLAN AMENDMENTS (FAIRFAX CENTER AREA LAND UNITS O, SUB UNIT 01) – *To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment propose revisions to Fairfax Center Area-wide and Land Unit guidance. The Fairfax Center Area comprises the area generally extending west of the City of Fairfax to Stringfellow Road, from Lee-Jackson Memorial Highway (Route 50) to Lee Highway (Route 29) in the Braddock, Providence, Springfield, and Sully Supervisor Districts. The area is planned for a mix of higher-density residential, office, retail, and government uses. The amendments will consider revisions to ensure consistency with current policy and practice, reflect implementation, and make editorial and organizational changes, including reorganizing the land units and illustrating the baseline land use recommendations on the Comprehensive Land Use Plan Map. The amendments also would revise the implementation strategy for the Fairfax Center Area to remove the intermediate development level and Development Elements. A number of site-specific land use and intensity recommendations are proposed to be amended within the Suburban Center portion of the Fairfax Center Area. Land use and intensity recommendations are proposed to be amended as follows. Tax Map parcel 56-1 ((1)) 11H (4531 and 4601 West Ox Rd) is currently planned for institutional use up to .15 FAR at the overlay level. The amendments will consider an option for residential use up to 8 du/ac. Tax Map parcels 46-3 ((1)) 15A1, 15C (3901 Fair Ridge Dr) are currently planned for office and institutional uses up to .25 FAR at the overlay level with an option for 100 units of elderly housing. The amendments will consider modifying the existing option up to 0.35 FAR and increasing the elderly housing up to 200 units, or residential use 8-12 du/ac. Tax Map parcels 46-4 ((1)) 33A, 33B (11244 Waples Mill Rd, 11244 A-J Waples Mill Rd) are currently planned for office use up to .50 FAR at the overlay level. The amendments will consider adding Plan guidance to allow for the addition of cultural resources, such as a museum. Tax Map parcel 46-3 ((1)) 45, 46, 47, 48, 49, 50 (4100-4108 Legato Rd) are currently planned for office use up to 1.0 FAR at the overlay level. The amendments will consider an option for residential use up to 2.5 FAR. Tax Map parcel 56-1 ((1)) 35 (12100 Lee Hwy) is currently planned for residential use at 6 du/ac at the intermediate level and is not recommended to develop at the overlay level. The amendments will consider modifying the overlay level for residential use up to 12 du/ac. Recommendations relating to the transportation network may also be modified. (Springfield District)*

PA 2013-III-FC1 (B) – COMPREHENSIVE PLAN AMENDMENTS (FAIRFAX CENTER AREA SUBURBAN CENTER STUDY, PHASE II) – *To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment propose revisions to Fairfax Center Area-wide and Land Unit guidance. The Fairfax Center Area comprises the area generally extending west of the City of Fairfax to Stringfellow Road, from Lee-Jackson Memorial Highway (Route 50) to Lee Highway (Route 29) in the Braddock, Providence, Springfield, and Sully Supervisor Districts. The area is planned for a mix of higher-density residential, office, retail, and government uses. The amendments will consider revisions to ensure consistency with current policy and practice, reflect implementation, and make editorial and organizational changes, including reorganizing the land units and illustrating the baseline land use recommendations on the Comprehensive Land Use Plan Map. The amendments also would revise the implementation strategy for the Fairfax Center Area to remove the intermediate development level and Development Elements. A*

number of site-specific land use and intensity recommendations are proposed to be amended within the Suburban Center portion of the Fairfax Center Area. Land use and intensity recommendations are proposed to be amended as follows. Tax Map parcel 56-1 ((1)) 11H (4531 and 4601 West Ox Rd) is currently planned for institutional use up to .15 FAR at the overlay level. The amendments will consider an option for residential use up to 8 du/ac. Tax Map parcels 46-3 ((1)) 15A1, 15C (3901 Fair Ridge Dr) are currently planned for office and institutional uses up to .25 FAR at the overlay level with an option for 100 units of elderly housing. The amendments will consider modifying the existing option up to 0.35 FAR and increasing the elderly housing up to 200 units, or residential use 8-12 du/ac. Tax Map parcels 46-4 ((1)) 33A, 33B (11244 Waples Mill Rd, 11244 A-J Waples Mill Rd) are currently planned for office use up to .50 FAR at the overlay level. The amendments will consider adding Plan guidance to allow for the addition of cultural resources, such as a museum. Tax Map parcel 46-3 ((1)) 45, 46, 47, 48, 49, 50 (4100-4108 Legato Rd) are currently planned for office use up to 1.0 FAR at the overlay level. The amendments will consider an option for residential use up to 2.5 FAR. Tax Map parcel 56-1 ((1)) 35 (12100 Lee Hwy) is currently planned for residential use at 6 du/ac at the intermediate level and is not recommended to develop at the overlay level. The amendments will consider modifying the overlay level for residential use up to 12 du/ac. Recommendations relating to the transportation network may also be modified. (Springfield District)

Decision Only During Commission Matters
(Public Hearing held on November 9, 2016)

Commissioner Murphy: Mr. Chairman, we had a public hearing recently on Plan Amendments 2013-III-FC1 (B) and 2016-III-FC1. These are all in the Fairfax Center Area and a part of the study that involved four districts – the Springfield District, the Providence District, the Sully District, and the Braddock District. First, I'd like to thank Kim Sorenson – Ken Sorenson, rather – Meghan Van Dam and Kimberly – Kim Rybold, the three staff members. Kim has departed Fairfax County and moved to other areas, but we want to thank those three staff members for the outstanding job they did. And also, I would like to thank personally Marlae Schnare from Supervisor Herrity's office, who always helps me very much so among my land use pursuits. So, Mr. Chairman, this is a joint motion and the other Commissioners in the other districts have agreed that I would make the motion so I will go on with it. But first, I'd like to enter into the record several documents. First is a letter that was sent by the staff to the property owners in the vicinity alerting them of – of what was going on in the Plan Amendments. Also, I would like to enter into the record the language that was posted on the site – on the sites – the various sites that – on the famous yellow sign – that alerted the citizens of the area of the Plan Amendments. Third, I would like to enter into the record a letter from Jeff Saxe, Chairman of the Springfield District Land Use Committee. This may already be in the record, but it's always good to do it twice for his input into the proposals. And, lastly, if we recall – and I'll mention this in the motion – we had testimony from NIAOP with some suggestions on page 61 regarding stormwater management and rather than reading it all, I have determined – and I'll say this in the motion – that we leave it as it is. And the staff has submitted a response to NIAOP's concerns, and it's a draft of the Fairfax Center Area stormwater text – staff response to concerns raised by NVBI – oh, it's NVBIA, I'm sorry, NIAOP – and I'd like to enter that document into the record.

Vice Chairman de la Fe: So ordered.

Commissioner Murphy: Mr. Chairman, Plan Amendments 2013-III-FC1 (B) and 2016-III-FC1 comprise the second phase of the Fairfax Center Area study, which considers the overall area-wide guidance of Fairfax Center and looks at a number of site-specific land-use changes in the Suburban Center portion of the area that do not trigger the state-level Chapter 870 transportation review. The study has been guided by a citizen-led, Joint Area-wide Working Group from each of the four districts affected by this study – Springfield, Braddock, Sully, and Providence. The group met monthly over a 16 – 16-month period. And, as I did when we had the public hearing, I'd like to thank from the Braddock District, Vince Picciano, who chaired the Working Groups – gave a lot of time and talent with all the members of this group to come up with what we're looking at tonight. The Working Group, in collaboration with staff, gathered input, discussed ideas, and developed a new vision and recommendations for the future of this area, proposed tonight as a new Plan guidance. This vision establishes Fairfax Center as a premier place to live, work, play, and shop with an emphasis on pedestrian and bicycle connectivity and, at its core, transit-oriented development surrounding a planned Metrorail station. The recommendations modernize the Fairfax Center Area guidance, last reviewed as a whole in the early 1980s, to include updating the Implementation Strategy and revising policies pertaining to the environment, transportation, and parks and recreation recommendations, consistent with policies in other mixed-use centers. The proposed text also restructures the land unit system to underscore the importance of the expanded core area, adds a new Mixed-Use Specific Performance Criteria, and revises the Comprehensive Land Use Map Plan to better reflect the land use recommendations in the area plans. In order to gain community insight on this vision, an open nomination period was used to help identify sites where land-use and intensity changes were desired. Five of the sites are being addressed tonight in addition to the new area-wide guidance. Three of these sites, located in the Springfield District, include the Centerpointe Church site on Legato Road near the Fair Oaks Mall, the Fair Oaks Church site at the intersection of West Ox Road and Post Forest Drive – excuse me – and the parcel at the northwest corner of Lee Highway and Legato Road. The fourth site, the Pender Professional Center, is in the Sully District off of Fair Ridge Drive, north of Route 50, and Planning Commissioner Keys – Ellen Keys-Gammara – Karen Keys-Gamarra, rather, concurs with what I'm about to do this evening. The final site is located in the Providence District along the east side of Waples Mill Road, generally across the intersection of Fairfax Ridge Road. And that was handled by Commissioner Hart, representing Commissioner Lawrence in the Providence District. Staff and Area-Wide Working Group reviewed the proposals and developed recommendations for these sites. The recommendations for the area-wide guidance and the land-use changes for the specific sites are presented as one recommendation for the Fairfax Center Area on pages 14 through 174 of the staff report dated October 26, 2016. There is general alignment between staff and the Working Group recommendations for the area-wide guidance and the specific sites. The difference between staff and the working group recommendations are noted in the text boxes within the report. I generally support the recommendations presented by staff and amended by the Working Group. The Springfield Land Use Committee has reviewed the staff and Working Group recommendations for three sites in the Springfield District and voted to support the Working Group recommendations for these sites on October 24th, 2016, with a slight modification for one of the sites – the Centerpointe Church sites – site in proposed Sub-Unit A3. For this site, the Land Use Committee voted to support the Working Group recommendation for the residential use option shown in a text box on Page 84 of the staff report, but to remove the word

“multifamily” and add “encourage urban-style design” to the recommendation. I support this modification by the Springfield Land Use Committee. I might add, parenthetically, that we had testimony from Dave Bishop, who represented the neighboring residential use, who requested that the FAR be brought down from 1.25 to 1. And I’m going to go along with the recommendations of the Committee for 1.25. I want to explain that the Plan will read “up to a density of 1.25” and that gives the applicant more flexibility to address, I think, more thoroughly some of the concerns that were raised by the community. And it is not guaranteed, a density of 1.25, but up to 1.25 and these final points will be discussed when the rezoning is filed. I have two motions this evening. The first relates to the Plan Amendments and the second supports the review of a third phase of the study, thus, completing the vision plan established by the Working Group to move forward with the review of the core area nominations that triggered the additional state-level transportation review.

Commissioner Sargeant: Mr. Chairman? Before you read the motions, just a reminder that I had recused myself during this public hearing and will do so with this vote this evening.

Vice Chairman de la Fe: Okay.

Commissioner Murphy: Okay. Thank you. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATIONS FOR THE FAIRFAX CENTER AREA GUIDANCE, AS SHOWN ON PAGES 14 THROUGH 174 OF THE STAFF REPORT, AS MODIFIED BY THE WORKING GROUP SHOWN IN TEXT BOXES ON PAGES 61, 62, 103, AND 105 OF THE STAFFREPORT, AND FURTHER MODIFIED BY THE SPRINGFIELD LAND USE COMMITTEE FOR THE CENTERPOINTE CHURCH SITE IN THE PROPOSED SUB-UNIT A3. THE MINOR MODIFICATION FOR SUB-UNIT A3 IS PRESENTED ON PAGE 6 OF MY HANDOUT DATED NOVEMBER 9TH, 2016. THIS RECOMMENDATION TO THE BOARD WOULD SUPPORT THE OVERALL VISION, POLICY GUIDANCE, AND RECOMMENDATION FOR THE FAIRFAX CENTER AREA DEVELOPED BY THE WORKING GROUP AND GENERALLY SUPPORTED BY STAFF. THE RECOMMENDATION WOULD ALSO SUPPORT FOUR SITE-SPECIFIC LAND USE AND INTENSITY CHANGES IN THE FAIRFAX CENTER AREA, TO INCLUDE:

- ONE, ADDING AN OPTION FOR RESIDENTIAL USE UP TO A POINT – OR 1.25 FAR ON THE CENTERPOINTE CHURCH SITE IN PROPOSED SUB-UNIT A3 AND SHOWN ON PAGE 84 OF THE STAFF REPORT;
- TWO, ADDING AN OPTION FOR RESIDENTIAL USE AT 8 TO 12 DWELLING UNITS PER ACRE ON THE PENDER PROFESSIONAL SITE IN PROPOSED SUB-UNIT C1 AND SHOWN ON PAGE 92 OF THE STAFF REPORT;
- THREE, MODIFYING THE OVERLAY LEVEL RECOMMENDATION FOR RESIDENTIAL USE AT 10 DWELLING UNITS AND ADDING AN OPTION FOR RESIDENTIAL USE UP TO 12 DWELLING UNITS PER ACRE AS AN ASSISTED LIVING AND INDEPENDENT LIVING FACILITY – FACILITIES ON THE SITE AT

THE NORTHWEST CORNER OF LEE HIGHWAY AND LEGATO ROAD IN
PROPOSED LAND UNIT A3, AS SHOWN ON PAGES 103 AND 105 OF THE STAFF
REPORT; AND

- FOUR, ADDING AN OPTION FOR RESIDENTIAL USE UP TO 8 DWELLING
UNITS PER ACRE FOR THE FAIR OAKS CHURCH SITE ALONG WEST OX ROAD
IN PROPOSED SUB-UNIT H2 AND SHOWN AT THE TOP OF PAGE 106 OF THE
STAFF REPORT.

THE WORKING GROUP DID NOT MAKE A SITE-SPECIFIC RECOMMENDATION FOR
THE FIFTH SITE ALONG WAPLES MILL ROAD. HOWEVER, GENERAL
RECOMMENDATIONS FOR MUSEUMS AND/OR CULTURAL CENTERS AS AN
ALTERNATIVE IN AREAS PLANNED FOR OFFICE USE CAN BE FOUND IN THE
PROPOSED AREA-WIDE GUIDANCE ON PAGE 33 OF THE STAFF REPORT, AND I SO
MOVE.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Is there any discussion? Hearing and seeing
none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Murphy: Second, Mr. Chairman, the evaluation of several land use and intensity
changes in the revised core area was not completed due to the need for the additional state-level
VDOT Chapter 870 transportation analysis. Therefore, I MOVE THAT THE PLANNING
COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT A THIRD
PHASE OF THE FAIRFAX CENTER AREA STUDY, INCLUDING THE TRANSPORTATION
ANALYSIS, BE COMPLETED EXPEDITIOUSLY IN ORDER TO FULLY REALIZE THE
CORE AREA VISION ESTABLISHED BY THE WORKING GROUP IN THIS SECOND
PHASE. AND I SO MOVE.

Commissioners Hart and Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Ms. Hedetniemi and Mr. Hart. Any discussion? Hearing
and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Is that it?

Commissioner Murphy: Thank you very much.

//

PA 2016-III-FC1 & PA 2013-III-FC1 (B)
COMPREHENSIVE PLAN AMENDMENTS
(FAIRFAX CENTER AREA, LAND UNITS O, SUB UNIT 01 AND
FAIRFAX CENTER AREA SUBURBAN CENTER STUDY, PHASE II)

Attachment 1
Page 6

(Each motion carried by a vote of 8-0. Commissioner Sargeant recused himself from the vote.
Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting.)

JLC

Planning Commission Handout

Plan Amendments 2013-III-FC1 (B) and 2016-III-FC1
Planning Commission

November 9, 2016

Chairman Peter Murphy, Springfield District
Commissioner Ellen J. Hurley (Braddock District)
Commissioner Karen Keys-Gamarra (Sully District)
Commissioner James R Hart (At-large)

Joint Motion

Mr. Chairman, Plan Amendments 2013-III-FC1(B) and 2016-III-FC1 comprise the second phase of the Fairfax Center Area study, which considers the overall area-wide guidance of Fairfax Center and looks at a number of site-specific land-use changes in the Suburban Center portion of the area that do not trigger the state-level Chapter 870 transportation review.

The study has been guided by a citizen-led, joint Area-wide Working Group representatives from each of the four districts affected by this study – Springfield, Braddock, Sully, and Providence.

This group met month over a 16-month period.

The working group, in collaboration with staff, gathered input, discussed ideas, and developed a new vision and recommendations for the future of this area, proposed tonight as new Plan guidance.

This vision establishes Fairfax Center as a premier place to live, work, play and shop, with an emphasis on pedestrian and bicycle connectivity and at its core, transit-oriented development surrounding a planned Metrorail station.

The recommendations modernize the Fairfax Center Area guidance, last reviewed as a whole in the early 1980s, to include updating the Implementation Strategy and revising policies pertaining to the environment, transportation, and parks and recreation recommendations consistent with policies in other mixed-use centers.

The proposed text also re-alphabetizes the land units to underscore the importance of the expanded core area, adds a new Mixed-Use Use-Specific Performance Criteria, and revises the Comprehensive Land Use Plan Map to better reflect the land use recommendations in the Area Plans.

In order to gain community insight on this vision, an open nomination period was used to help identify sites where land-use and intensity changes were desired

Five of the sites are being addressed tonight in addition to the new area-wide guidance.

Three of these sites, located in the Springfield District include the Centerpointe Church site on Legato Road near the Fair Oaks Mall; the Fair Oaks Church site at the intersection of West Ox Road and Post Forest Drive; and the parcel at the northwest corner of Lee Highway and Legato Road.

The fourth site, the Pender Professional Center, is in the Sully District off of Fair Ridge Drive, north of Route 50.

The final site is located in the Providence District along the east side of Waples Mill Road, generally across from the intersection of Fairfax Ridge Road.

Staff and the Area-wide Working Group reviewed these proposals and developed recommendations for the sites.

As staff mentioned, the recommendations for the area-wide guidance and the land use changes for the specific sites are presented as one recommendation for the Fairfax Center Area on pages 14 through 174 of the staff report dated October 26, 2016.

There is general alignment between staff and the working group recommendations for the area-wide guidance and the specific sites.

The differences between staff and the working group recommendations are noted as text boxes within the report.

I support the recommendations as presented by the working group.

The Springfield Land Use Committee has reviewed the staff and working group recommendations for the three sites in the Springfield District and voted to support the working group recommendations for these sites on October 24, 2016, with a slight modification for one of the sites – the Centerpointe Church site in proposed Subunit A3.

For this site, the land use committee voted to support the working group recommendation for the residential use option shown in a text box on Page 84 of the staff report but to remove the word “Multi-family” and add “encourage urban-style design” to the recommendation. I support this modification by the Springfield Land Use Committee.

I have two motions this evening.

The first relates to the plan amendments and the second supports the review of a third phase of the study, thus completing the vision plan established by the working group to move forward with the review of the core area nominations that triggered the additional state-level transportation review.

Therefore, Mr. Chairman, I move that the Planning Commission recommend to the Board of Supervisors the adoption of the staff

recommendations for the Fairfax Center Area guidance as shown on pages 14 through 174 of the staff report, as modified by the working group shown in text boxes on pages 61, 62, 103, and 105 of the staff report, and further modified by the Springfield Land Use Committee for the Centerpointe Church site in proposed Subunit A3.

The minor modification for Subunit A3 is presented on page 5-6 of my handout dated November 9, 2016.

This recommendation to the Board would support the overall vision, policy guidance, and recommendations for the Fairfax Center Area developed by the working group and generally supported by staff.

This recommendation also would support four site-specific land use and intensity changes in the Fairfax Center Area, to include:

- 1. Adding an option for residential use up to a 1.25 FAR on the Centerpointe Church site in proposed Subunit A3 and shown on page 84 of the staff report;**
- 2. Adding an option for residential use at 8-12 dwelling units per acre on the Pender Professional Center site in proposed Subunit C1 and shown on page 92 of the staff report;**
- 3. Modifying the Overlay level recommendation for residential use at 10 dwelling units and adding an option for residential use up to 12 dwelling units per acre as an assisted living/independent living facilities on the site at the northwest corner of Lee Highway and Legato Road in proposed Land Unit A3 as shown on pages 103 and 105 of the staff report; and,**
- 4. Adding an option for residential use up to 8 dwelling units per acre for the Fair Oaks Church site along West Ox Road in proposed Subunit H2 and shown at the top of page 106 of the staff report.**

The working group did not make a site-specific recommendation for the fifth site along Waples Mill Road; however, general recommendations for museums and/or cultural centers as an alternative in areas planned for office use can be found in the proposed Area-wide guidance on page 33 of the staff report.

***** [end of 1st motion] *****

Second, the evaluation of several land use and intensity changes in the revised core area was not completed due to the need for the additional state-level VDOT Chapter 870 transportation analysis.

Therefore, I move that the Planning Commission recommend to the Board of Supervisors that a third phase of the Fairfax Center Area Study, including the transportation analysis, be completed expeditiously in order to fully realize the core area vision established by the working group in this second phase.

***** [end of 2nd motion] *****

**PLANNING COMMISSION PROPOSED PLAN MODIFICATION
FOR SUBUNIT A3
Plan Amendment 2013-III-FC1 (B) and 2016-III-FC1
November 9, 2016**

Recommended modifications to the Staff and Working Group Recommendation are shown as underlined and highlighted in yellow for text to be modified or added, and ~~struck through~~ and highlighted in yellow for text to be deleted.

MODIFY: Staff and Working Group Recommendation, as presented in the Staff Report for PA 2013-II-FC1 (B) and 2016-III-FC1, page 84:

“Sub-unit A3

....

As an option at the overlay level, multifamily residential use up to 1.25 FAR may be considered if the applicable conditions for the overlay level are met. High quality, urban-style architecture, landscaping, and site design should be provided including publicly accessible urban park spaces and streetscape consistent with the development to the west along Legato Road. Architectural treatments and enhanced buffering and landscaping are strongly encouraged to lessen the visual impact of the buildings, including structured parking facilities, on the adjacent residential use. An urban-style design is encouraged. Construction of or contribution to pedestrian enhancements should be made on the Legato Road frontage along the eastern side of the sub-unit to improve connectivity to the Fair Oaks Mall and future planned transit station in Sub-unit A1 with any redevelopment.”

| Table of Proposed Site-Specific Land Use/Intensity Changes for Plan Amendment 2013-III-FC1(8)/2016-III-FC1 (Fairfax Center Area Study, Phase II): | | | | | | |
|--|-----------------------------------|--|---|--|-------------------|--------------------------|
| Site Name | Cross Street | Tax Map Parcels and Address | Current Plan Maximum | Proposed Change | Proposed Sub-Unit | Staff Report Page Number |
| Fair Oaks Church (Submission SS1) | West Ox Road/Post Forest Dr. | 56-1 ((1)) 11H (4531 and 4601 West Ox Rd) | Institutional use up to .15 floor area ratio (FAR) (overlay level) (Current Plan , Subunit O2, page 90) | Add option for residential use up to 8 dwelling units per acre (du/ac) | H2 | 106 |
| Pender Professional Center (Submission SS2) | Route 50/Fair Ridge Dr. | 46-3 ((1)) 15A1, 15C (3901 Fair Ridge Dr.) | Office and institutional uses up to .25 FAR (overlay level); Option for 100 units of elderly housing (Current Plan , Subunit A3, page 47) | Modify existing option to 0.35 FAR, increasing elderly housing to 200 units, or residential use 8-12 du/ac | C1 | 92 |
| NRA Museum (Submission SS3) | Waples Mill Rd./Fairfax Ridge Rd. | 46-4 ((1)) 33A, 33B (11244 Waples Mill Rd, 11244 A-J Waples Mill Rd) | Office use up to .50 FAR (overlay level) (Current Plan , Land Unit K, page 81-82) | Add Plan guidance to allow for the addition of cultural resources, such as a museum | K | 33 (Areawide Guidance) |
| Centerpointe Church (Submission SS4) | Legato Rd./Legato Rd. | 46-3 ((1)) 45, 46, 47, 48, 49, 50 (4100-4108 Legato Rd) | Office use up to 1.0 FAR (overlay level) (Current Plan , Subunit J3, page 73-74) | Add option for residential use up to 2.5 FAR | A3 | 84 |
| Warhurst-Williams (PA 2016-III-FC1) | Lee Highway/ Legato Rd. | 56-1 ((1)) 35 (12100 Lee Hwy) | Residential use at 6 du/ac (intermediate level); baseline and intermediate level is recommended without consolidation (Current Plan , Subunit O1, page 89-90) | Modify overlay level for residential use up to 12 du/ac | H1 | 103-105 |

Board Agenda Item
December 6, 2016

4:30 p.m.

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

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project ST-000036, County-Maintained Pedestrian Improvements, Kirby Road Sidewalk, Fund C30050, Transportation Improvements.

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 November 1, 2016, the Board authorized advertisement of a public hearing to be held on December 6, 2016, at 4:30 p.m.

BACKGROUND:

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

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

Negotiations are in progress with several owners of these properties; however, because resolution of these acquisitions is not imminent, it may become necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

Board Agenda Item
December 6, 2016

FISCAL IMPACT:

Funding is currently available in Project ST-000036, County-Maintained Pedestrian Improvements, Kirby Road Sidewalk, Fund C30050, Transportation Improvements. No additional funds are required at this time for land acquisition. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to FY 2026). No additional funding is being requested from the Board, and there is no General Fund Impact.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired

STAFF:

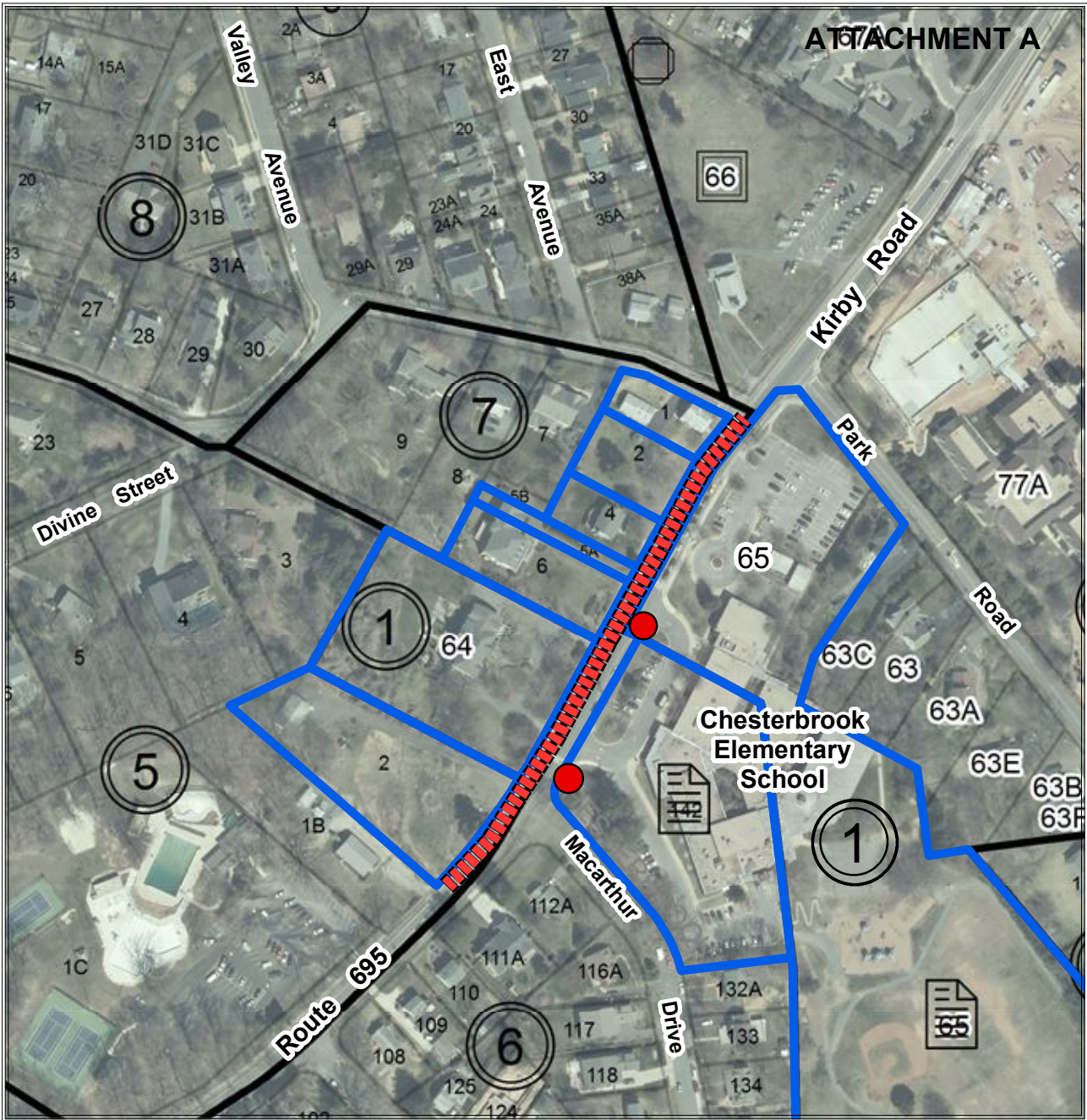
Robert A. Stalzer, Deputy County Executive

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

KIRBY ROAD SIDEWALK

ATTACHMENT A



Tax Map:31-3

Project
Dranesville District
ST-000036-002

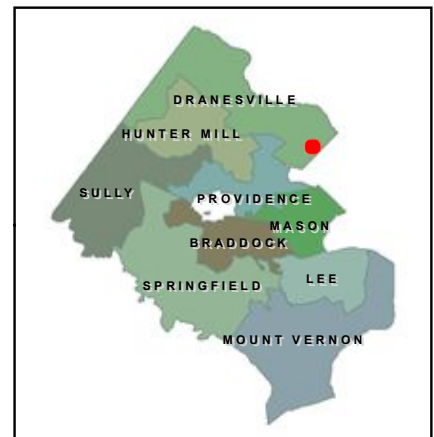
Affected Properties:

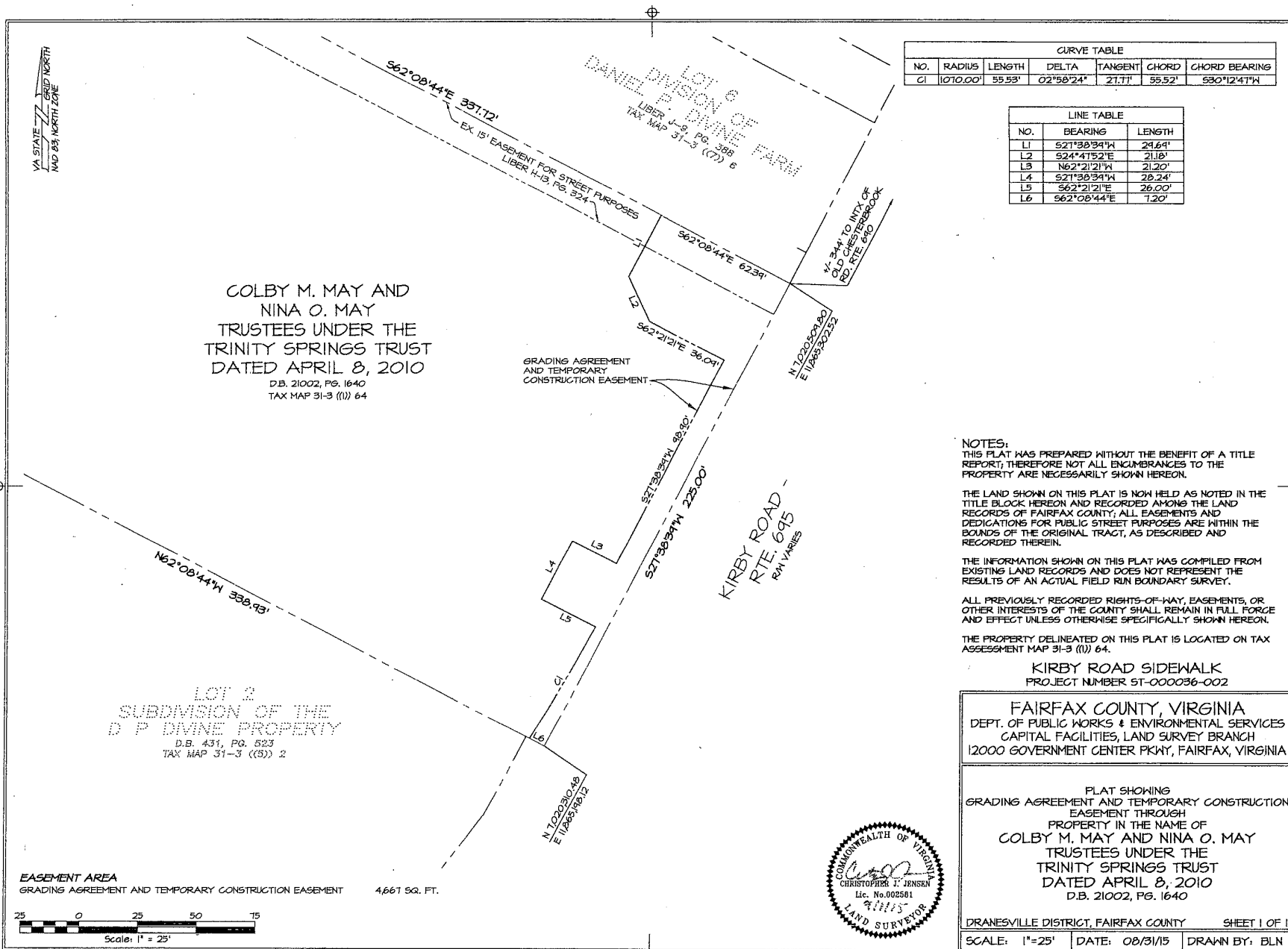


Proposed Improvements:

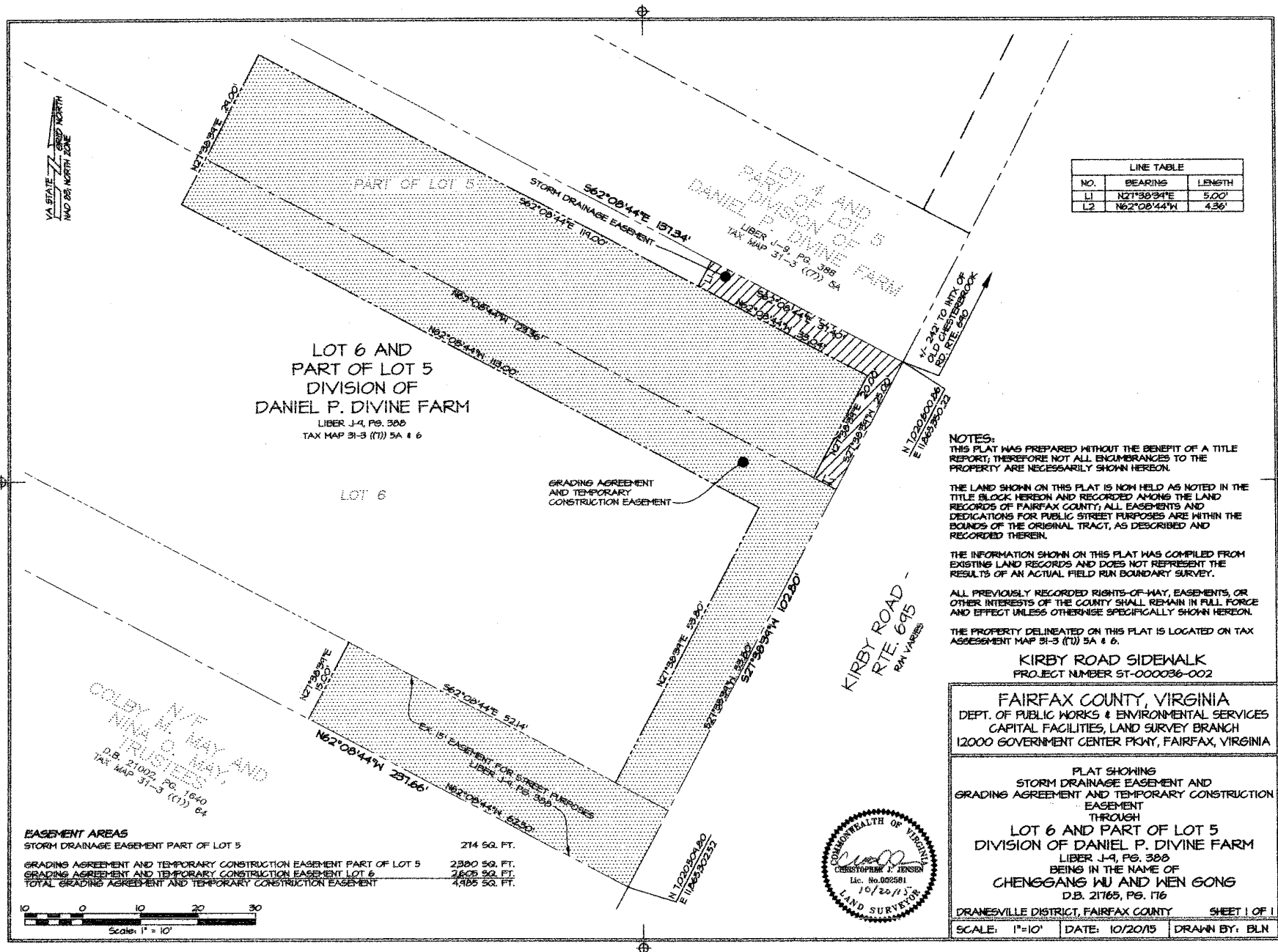


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ATTACHMENT 1-A



ATTACHMENT 2-A

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, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project ST-000036-002 - Kirby Road Sidewalk 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 December 9, 2016.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachments 1 through 2A 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 installing approximately 800 linear feet of concrete sidewalk, curb and gutter, pedestrian curb ramps, storm drainage pipes and structures, minor grading, and driveway reconstructions, as shown and described in the plans of Project ST-000036-002 - Kirby

Road Sidewalk 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 December 7, 2016, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

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

| <u>PROPERTY OWNER(S)</u> | <u>TAX MAP NUMBER</u> |
|---|-----------------------|
| 1. Colby M. May and Nina O. May, Trustees Address: 1770 Kirby Road McLean, VA 22101 | 031-3-01-0064 |

2. Chenggang Wu and
Wen Gong

031-3-07-0005-A and
031-3-07-0006

Address:
1762 Kirby Road
McLean, VA 22101

A Copy – Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 031-3-01-0064

Street Address: 1770 Kirby Road, McLean, VA 22101

OWNER(S): Colby M. May and Nina O. May, Trustees

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Grading Agreement and Temporary Construction Easement – 4,667 sq. ft.

VALUE

Estimated value of interests and damages:

FORTY-SEVEN THOUSAND DOLLARS (\$47,000.00)

ATTACHMENT 2

AFFECTED PROPERTY

Tax Map Numbers: 031-3-07-0005-A and 031-3-07-0006

Street Address: 1762 Kirby Road, McLean, VA 22101

OWNER(S): Chenggang Wu and Wen Gong

INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Storm Drainage Easement – 274 sq. ft.

Grading Agreement and Temporary Construction Easement – 4,985 sf. ft.

VALUE

Estimated value of interests and damages:

TWENTY-ONE THOUSAND NINE HUNDRED DOLLARS (\$21,900.00)

Board Agenda Item
December 6, 2016

4:30 p.m.

Public Hearing on Proposed Plan Amendment 2016-II-T2, Jermantown Road Bridge
Located Over Interstate 66 (Providence District)

ISSUE:

Plan Amendment (PA) 2016-II-T2 considers amending the Comprehensive Plan to show the Jermantown Road Bridge over Interstate 66 (I-66) as a four-lane facility.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 2, 2016, the Planning Commission voted 9-0-1 (Commissioner Keys-Gamarra abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend that the Board of Supervisors adopt Plan Amendment 2016-II-T2.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation.

TIMING:

Planning Commission public hearing – November 2, 2016
Board of Supervisors' public hearing – December 6, 2016

BACKGROUND:

The Transform 66 project will construct managed lanes in the median of I-66, which will require rebuilding a number of bridges crossing I-66 within the project area, from Route 15 to Interstate 495 (I-495). The improvements include rebuilding the Jermantown Road Bridge, located north of the City of Fairfax. The Virginia Department of Transportation (VDOT) intends to design the replacement Jermantown Road Bridge for an ultimate four lane width, but construct as a two-lane bridge, as no widening is currently shown on the Countywide Transportation Plan Map. On July 26, 2016, the Fairfax County Board of Supervisors (BOS) authorized Plan Amendment (PA) 2016-II-T2 to consider planning a four lane improvement for the existing Jermantown Road Bridge across I-66.

FISCAL IMPACT:

None

Board Agenda Item
December 6, 2016

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim Excerpt

The Staff Report for PA 2016-II-T2 has been previously furnished and is available online at: <http://www.fairfaxcounty.gov/dpz/comprehensiveplan/amendments/2016-ii-t2.pdf>.

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Gregg Steverson, Division Chief, Transportation Planning Division, FCDOT
Leonard Wolfenstein, Section Chief, Transportation Planning Division, FCDOT
Tom Burke, Transportation Planner IV, Transportation Planning Division, FCDOT
Alan Kessler, Transportation Planner II, Transportation Planning Division, FCDOT
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Marianne R. Gardner, Director, Planning Division (PD), DPZ
Meghan Van Dam, Branch Chief, Policy and Plan Development Branch (PPDB), Planning Division, PD, DPZ
Bernard Suchicital, Planner III, PPDB, PD, DPZ
Lilian Cerdeira, Planner II, PPDB, PD, DPZ

PA 2016-II-T2 – JERMANTOWN ROAD I-66 BRIDGE

After close of the public hearing.

Chairman Murphy: Without objection, the public hearing is closed. Recognize Mr. Hart.

Commissioner Hart: Yes, thank you, Mr. Chairman. On July – on July 26th, 2016, the Board of Supervisors authorized Plan Amendment 2016-II-T2. The authorization directed staff to consider planning a four-lane improvement for the existing Jermantown Road Bridge across I-66. In accordance with the recommendation of staff and in order to improve multimodal mobility along the Jermantown Road corridor relating to both the City of Fairfax and Fairfax County and to move – to improve mobility, consistent with the County’s enhanced public transportation corridor recommendation for the Transform I-66 Project that is recommending a bridge improvement that would not preclude any future upgrade managed lanes on I-66 underneath the Jermantown Road Bridge and the possible extension of Metro Rail in the I-66 median, also underneath the Jermantown Road Bridge. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS OF PLAN AMENDMENT 2016-II-T2.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve...I’m sorry?

Commissioner Keys-Gamarra: Now...

Chairman Murphy: Yes, okay, go ahead.

Commissioner Keys-Gamarra: I just have a question because they mention that there is a school farther down the road. I didn’t know whether this would also include some provisions in terms of how it would impact kids’ abilities to cross the street further down. Whether it would – would impact traffic further down Jermantown Road, which is – Providence Elementary is about a block further down.

Commissioner Hart: The amendment is dealing only with the bridge, but I’ll let Mr. Burke and Mr. Kessler address that.

Alan Kessler, Fairfax County Office of Transportation, Planning Division: The improvements on the Jermantown Road Bridge will have pedestrian amenities – will have on road bike lanes, like 10-foot trail and another 5-foot sidewalk on the other side. Basically, I don’t think that’ll impact what’s happening at the school down the road.

Commissioner Keys-Gamarra: You don’t think it will impact the amount of traffic going further toward – from between 123 and 50?

Mr. Kessler: Well, the plan amendment is for four lanes, but VDOT is going to come in and construct a two lane bridge, at this point in time. So the four lane construction will be at some time in the future...future date. And at the same time, the City of Fairfax is working on improving Jermantown Road, in that section you are talking about, sort of the gateway into the City of Fairfax. So, they will – may be adding one more lane to make it a four-lane road at some point also.

Commissioner Keys-Gamarra: I understand. My concern is there are a number of walkers in that neighborhood and right now the traffic is constrained to some extent. I'm wondering if opening it up would possibly make this - increase the speed, as well as impact their ability to walk to school?

Mr. Kessler: I think if the improvement, for the City of Fairfax, they are going to be working with Fairfax County and what not. So I would think that there would be some more pedestrian amenities in and around the school, if they can provide it.

Commissioner Keys-Gamarra: But to be clear, this particular amendment doesn't address those issues?

Mr. Kessler: No, it does not.

Thomas Burke, Fairfax County Office of Transportation, Planning Division: It's strictly the bridge.

Chairman Murphy: Further discussion of the – Mr. Hart?

Commissioner Migliaccio: Oh, I'm sorry.

Commissioner Hart: Mr. Chairman, I – I was going to ask if staff could confirm that nothing in the amendment is precluding pedestrian amenities by others elsewhere on the road. Is that right?

Mr. Burke: No, this is just strictly speaking to the bridge. This – there is nothing to say that we can't make improvements up or downstream.

Commissioner Hart: I think also that there is not – does school board have policies regarding walkers and not putting walkers on roads that don't meet certain criteria?

Mr. Kessler: I would hope so.

Mr. Burke: Safe rides to school, things like that.

Chairman Murphy: You are going to have to speak up because we can't hear the reply.

Mr. Burke: I'm not sure if there are policies in place to, but it's...it makes sense.

Chairman Murphy: Okay.

Commissioner Migliaccio: Mr. Chair?

Chairman Murphy: Yes, Mr. Migliaccio?

Commissioner Migliaccio: My question for staff – reading the conclusion in the plan amendment staff report and then hearing what you just said and – to answer Commissioner Keys-Gamarra’s question, the bridge is going to be planned for four lanes, yet only built for two lanes? As I read the conclusion in the staff report, it seems to implicate that it’s going to be four-lane because that would make the most sense to build the four lanes now with the Transform 66 Project. Is that not the case?

Mr. Burke: Currently, VDOT is planning to design a four-lane bridge, but construct a two-lane bridge. If we can get VDOT’s attention quick enough to change their current trajectory, hopeful...maybe we can get them to build a four-lane bridge, but I don’t think we are banking on that. But we still want the plan to reflect the four-lane so they can be.

Commissioner Migliaccio: Okay, I – I understand that. Just the wording in the staff report leaves me to believe that it’s going to be a four-lane bridge in the conclusion so that...

Mr. Burke: Be planned as a four-lane bridge.

Commissioner Migliaccio: And then the next sentence?

Mr. Burke: In the conclusion? Bridge should be shown as a four lane improvement in the Countywide Transportation Plan Map.

Mr. Kessler: We are looking forward – for the improvement in the future. What had happened was, VDOT looked at the study area and it’s basically two years before and the Comp Plan did not show an improvement. So they assumed that the bridge would not need an improvement in - in their study and so they sent out RFP’s to – to bring in consultants to design and construct the improvements. But that was two years ago so they didn’t realize that the possibility to turn around and provide a four-lane bridge would be part of the RFP’s – part of the contracts that are coming in for review.

Commissioner Migliaccio: Okay, I’m a little more confused than when we started. Then I can understand Commissioner Keys-Gamarra’s question about the additional traffic, thinking that we are going to have a four lane bridge there and that – that’s what I had thought. Reading the conclusion, if we put them in the Comp Plan and then with Transform 66 Project, I – I’m going to support the Plan Amendment, but I thought we were getting the four-lane bridge now because it makes little sense to go back and disrupt I-66 ten years from now – five years from now. Especially when we have Hot Lanes and other things going on there and it will impact not just that part of the county, but farther west. Thank you.

Chairman Murphy: Yes, Mr. Ulfelder? We are on verbatim.

Commissioner Ulfelder: We are?

Chairman Murphy: Go ahead.

Commissioner Ulfelder: Can I look – look at Figure 2, in the staff report? Typical Section. What I think we are discussing now is width; whereas, I think what the – what VDOTs trying to do is create a longer bridge in order to accommodate what they are going to be doing on 66 underneath this bridge. But, in reading – looking at Figure 2, Typical Section, I assume they are going to build it to 93 feet, 8 inches, but they are going to leave only operational to 51, whatever it is, feet that is shown on the left side of that figure. Is that correct?

Mr. Kessler: We don't know that. At this point, they could come across with two-spans, but the - the construction of the two-lane bridge will just, it will not preclude a four-lane bridge at a later time. So it could be two-spans. I'm not sure exactly how they are going to construct the four lane bridge at this time.

Commissioner Ulfelder: Okay.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan?

Commissioner Flanagan: I think I understand it. The Comprehensive Plan at the present time calls for a two lane bridge at this location.

Mr. Burke: There is – there is no improvement called for, so you would assume it.

Commissioner Flanagan: There is none at all?

Mr. Burke: There is none at all. So you would assume it would stay a two lane bridge.

Commissioner Flanagan: So, we're – at this particular time, we're planning for a four-lane. Although, VDOT is only planning to build a two lane there and your hope is to convince VDOT that they should go and build a four-lane at this particular time rather than a two-lane. And the reason why they are building a two lane is because of the reason that Commissioner Ulfelder just stated, that they have to have a new bridge. And, as long as they're going to build a two lane bridge, why not build a four lane bridge now? And having it in the Plan as a four lane bridge encourages them to do that and allows you to agitate for that, shall I say? Thank you.

Citizen: Mr. Chairman, can I just speak just to say...

Chairman Murphy: No, I'm sorry. We are passed that stage now, public hearing is closed. All right, further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve – or adopt Plan Amendment 2016-II-T2, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Keys-Gamarra: Mr. Chairman?

Chairman Murphy: Yeah?

Commissioner Keys-Gamarra: I abstain.

//

(The motions carried by a vote of 9-0-1. Commissioner Keys-Gamarra abstained.
Commissioners Hedetniemi and Lawrence were absent from the meeting.)

TMW

Board Agenda Item
December 6, 2016

4:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries

ISSUE:

The proposed Zoning Ordinance amendment includes changes that relate to the establishment of a new or the expansion of an existing farm winery, limited brewery, and/or limited distillery located on a farm in the Residential Conservation (R-C) District. The amendment does not seek to establish limitations on the normal operating characteristics of a farm winery, limited brewery, or limited distillery, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. The amendment proposes to amend the definition of agriculture and define farm winery, limited brewery, and limited distillery to include a minimum 20 acre lot size for such uses in all zoning districts where agriculture is permitted (R-A, R-C, R-P, R-E, R-1), except with respect to applications for an ABC Board license already pending prior to this amendment. The amendment establishes new special exception requirements for expansions of buildings, structures and the uses thereof for existing farm winery/brewery/distillery operations, including standards related to events/activities, minimum setbacks, and prohibited uses, among others. The proposed changes regarding the R-C District are necessary in order to comply with changes to Virginia law that were adopted in the 2016 Legislative Session and took effect on July 1, 2016.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on November 16, 2016, at which time the public hearing was deferred until November 30, 2016.

RECOMMENDATION:

The County Executive recommendation will be provided at the December 6, 2016 public hearing.

TIMING:

Board of Supervisors' authorization to advertise - October 18, 2016; Planning Commission public hearing – November 16, 2016, at 8:15 p.m. (deferred to November 30, 2016); Board of Supervisors (Board) public hearing – December 6, 2016, at 4:30 p.m.

BACKGROUND:

The proposed amendment is prompted by specific changes to Virginia law that relate to the establishment of a new or the enlargement of an existing farm winery, limited brewery, and/or limited distillery on land zoned Residential Conservation (R-C) District. (Note: in Fairfax County, the R-C District is the “residential conservation” zoning category specified in the applicable provisions of the Code of Virginia.)

The Code of Virginia changes, generally, provide that:

1. No new farm winery, limited brewery, or limited distillery is permitted on land zoned residential conservation (R-C), except for any such operation wherein an application for a license by the Virginia Alcoholic Beverage Control Board (ABC Board) was submitted by July 1, 2016, and such application is ultimately approved.
2. Any existing farm winery, limited brewery, or limited distillery on land zoned residential conservation (R-C) may continue to operate without special exception approval, but any expansion of the buildings, structures or the uses thereof shall be subject to approval of a special exception by the local jurisdiction.

The proposed amendment will prohibit any additional farm wineries, limited breweries, and limited distilleries in the R-C District and will establish a special exception requirement for the expansion of an existing operation and for the development of only those operations for which a license application was submitted to the ABC Board by July 1, 2016. Staff notes that there are two existing licensed wineries and five pending applications for licensure by the ABC Board as of July 1, 2016 on land zoned R-C.

Under staff’s proposal, a special exception would be required for any public or private events or activities, which are not directly related to the tasting, sale, and production of licensed alcoholic beverages, for more than 300 attendees more than twelve times per year, each for a duration of not more than two days (with advertised flexibility in these numbers.) The Board may impose conditions regarding the number of people, number of events, duration, hours of operation, days of operation, area of the site used for such events/activities, adequacy of water and sanitation services, use of lighting or amplified sound, adequacy of parking and other impacts caused by the proposed event/activity. Staff proposes to prohibit features such as helicopter rides, mechanized amusement rides, lodging, commercial restaurants, fireworks and similar high-impact uses at such events/activities. The proposed standards would also require new buildings/additions/loading spaces to be set back from the property line 50 feet and 100 feet from any adjacent principal structure. Further, new construction for buildings that allow access by the public would require submission of plans certified by a structural engineer and for the certification of framing and footers, once construction is complete.

Additionally, the amendment will create new definitions for farm winery, limited brewery, and limited distillery, to include requirements for a minimum lot size of 20 acres in order to establish a farm winery/limited brewery/limited distillery in the R-A, R-P, R-E and R-1 Districts, subject to an allowance for any agricultural lot of five acres or more where there was a pending application for a license by the Alcoholic Beverage Control Board as of the date of adoption of the amendment. The definitions provide that more than one farm winery/brewery/distillery can be located on a farm and that persons visiting the facility for tasting, promotion or purchasing of the alcoholic beverages are not included in the calculation of persons attending public or private events or activities. The proposed definitions also identify the aforementioned limitations on the hosting of public or private events and activities at such facilities with regard to the number of attendees, frequency and duration that are permitted without special exception approval. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 1.

REGULATORY IMPACT:

The proposed amendment will establish a new special exception process for the expansion of an existing farm winery, limited brewery, or limited distillery in the R-C District and for any new building or structure associated with a new farm winery, limited brewery, or limited distillery in the R-C District wherein the operator submitted a request for licensing of the establishment by the ABC Board by July 1, 2016. The changes do not require special exception approval for existing buildings, structures or uses thereof at a licensed farm winery/brewery/distillery as of July 1, 2016. Under the current regulations, such uses are permitted by right, so the proposed amendment will alter the regulatory process by which new farm wineries/breweries/distilleries can be established and existing operations can be expanded. The amendment also establishes a threshold for hosting public or private events and activities at any farm winery, limited brewery, or limited distillery, when such events and activities are not directly related to the tasting, sale and/or production of the licensed alcoholic beverages, and requires that any request for modification of those limits would require special exception approval. It is noted that there are only seven existing or proposed facilities in the R-C District that would be subject to the new special exception regulations, and, as of the date of publication of this report, there was only one additional facility (a proposed limited distillery) in the R-1 District that could potentially be subject the special exception process regarding the limits on events and festivals. As such, the regulatory impacts of this amendment are minimal, given the small number of facilities located or potentially locating in the County.

FISCAL IMPACT:

The proposed amendment will establish a new special exception application fee of \$8,180 for new or expanded farm wineries, limited breweries, or limited distilleries in the

Board Agenda Item
December 6, 2016

R-C District when the new or expanded building/structure/use result in more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area. A new special exception fee of \$4,090 is proposed for new or expanded buildings or structures of not more than 400 square feet of gross floor area and/or for land disturbances of not more than 2,500 square feet and/or for hosting public or private events and activities for more than 300 attendees more than twelve times per year and/or for a duration for more than two days (with advertised flexibility in the frequency and duration). And, lastly, the amendment proposes a fee of \$1,000 for a special exception application for an agricultural building that does not permit access by the public (such as an equipment shed). Whereas there are no more than seven such establishments in the R-C District that could possibly utilize this special exception process, and staff is aware of only one pending application for a limited distillery in the R-1 District, staff does not anticipate any significant fiscal impacts associated with staff time for the review of such proposals.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report available online at:

<http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/>

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred Selden, Director, Department of Planning and Zoning (DPZ)

Leslie B. Johnson, Zoning Administrator, DPZ

Donna Pesto, Deputy Zoning Administrator for Ordinance Administration Branch, DPZ

Board Agenda Item
December 6, 2016

5:00 p.m.

Public Hearing on SE 2016-LE-005 (Ruth Villanueva DBA The Little Home Daycare) to Permit a Home Child Care Facility, Located on Approximately 1,760 Square Feet of Land Zoned PDH-4, NR (Lee District)

This property is located at 6007 Southward Way, Alexandria, 22315. Tax Map 91-3 ((11)) ((21)) 106.

The Board of Supervisors deferred this public hearing at the November 1, 2016 meeting until December 6, 2016.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, October 5, 2016, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Lawrence, Murphy, and Sargeant were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2016-LE-005, subject to the proposed Development Conditions dated October 3, 2016.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelly Posusney, Planner, DPZ

Board Agenda Item
December 6, 2016

5:00 p.m.

Public Hearing on a Proposal to Abandon Part of Lee Road (Sully District)

ISSUE:

Public hearing on a proposal to abandon a portion of Lee Road.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached order for abandonment of the subject right-of-way

TIMING:

On November 1, 2016, the Board authorized the public hearing to consider the proposed abandonment for December 6, 2016, at 5:00 p.m.

BACKGROUND:

The applicant Southgate Owner III, LLC, is requesting that a portion of Lee Road be abandoned under §33.2-909 of the Code of Virginia. The subject right-of-way is located on the east side of Lee Road immediately adjacent to Penrose Place. While this right-of-way is not currently in use, it is still technically part of the Virginia Department of Transportation (VDOT) State Secondary System (Route 611).

The applicant has made the request per the requirements of the VDOT street acceptance process for the Lee Road culvert project. VDOT identified the subject right-of-way as a holdover from the original relocation of Lee Road, which was moved from the area occupied by the interchange of US Route 50 and Virginia Route 28 to the current alignment, and recommended to the applicant that the anomalous status of the subject right-of-way be corrected through an abandonment.

As the subject right-of-way is prescriptive, the effect of the abandonment will be to return the right-of-way to the applicant's property which holds the residual fee ownership.

Board Agenda Item
December 6, 2016

Traffic Circulation and Access

The abandonment will have no long-term impact on pedestrian, transit, or vehicle circulation and access. The area is not in use as a public road, and between them Lee Road and Penrose Place provide all necessary public street service.

Easements

No new public easement needs have been identified. Verizon has service lines within the candidate right-of-way that require an expanded easement. The applicants have provided an easement in a form acceptable to all parties. No other easement needs were identified; as the right-of-way is prescriptive, all the previously recorded easements are valid.

The proposal to abandon this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter
Attachment II: Notice of Intent
Attachment III: Order of Abandonment
Attachment IV: Abandonment Plat
Attachment V: Metes and Bounds Description
Attachment VI: Vicinity Map

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Donald Stephens, FCDOT



**WALSH COLUCCI
LUBELEY & WALSH PC**

H. Mark Goetzman
Phone: 703.528.4700 x5452
Fax: 703.528.6050
mgoetzman@thelandlawyers.com

February 3, 2016

BY OVERNIGHT DELIVERY

Donald Stephens
Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895

Re: Request for Proposed Abandonment of a Portion of existing Lee Road
right-of-way, Sully District, Fairfax County, Virginia

Dear Donald:

This letter constitutes a request and statement of justification to abandon a portion of what VDOT believes is prescriptive right-of-way that became obsolete upon the realignment of Penrose Place and Lee Road, located in the Sully District, Fairfax County, Virginia (the "Abandoned Area"). This request is made on behalf of Southgate Owner III, LLC (the "Applicant"), pursuant to Virginia Code Section 33.2-909. The Applicant is the owner of the property identified as Fairfax County Tax Map #034-3-01-0032, the property upon which the Abandoned Area is located.

The area to be abandoned is shown on the plat entitled "Plat Showing Abandonment of a Portion of Lee Road Route #661 on the Property of Southgate Owner III, LLC," prepared by Vika Virginia, LLC, dated January 8, 2016, and attached hereto. The total area to be abandoned is 16,329 square feet or 0.37486 acres.

The Abandoned Area is not improved and is not necessary for public right-of-way purposes because Lee Road and Penrose Place have been realigned. Following the abandonment, VDOT will be in a position to add the new alignment areas into state maintenance.

This is a clean-up matter. Therefore, I request your prompt review of this application and ask that the matter be scheduled for a public hearing before the Board of Supervisors as soon as possible. If you have any questions or require additional information, please do not hesitate to give me a call. Nadia Alphonse at VDOT is familiar with this matter.

Very truly yours,

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


H. Mark Goetzman

ATTORNEYS AT LAW

703 528 4700 • WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664

NOTICE OF INTENT TO ABANDON

A PORTION OF EXISTING LEE ROAD RIGHT-OF-WAY (ROUTE 611)
SULLY DISTRICT
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on December 6, 2016, at 5:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, to consider the proposed abandonment of a portion of the existing Lee Road right-of-way, pursuant to Virginia Code §33.2-909. That portion of the road, consisting of 16,329 square feet, is located on Tax Map 034-3-01-0032, and is described and shown on the metes and bounds schedule dated January 11, 2016, and on the plat dated January 8, 2016, each prepared by Vika Virginia, LLC, both of which are on file with the Fairfax County Department of Transportation, 4050 Legato Road, 4th Floor, Fairfax, Virginia 22033. Telephone No. (703) 877-5600.

SULLY DISTRICT
§33.2-909

ORDER OF ABANDONMENT OF

**A PORTION OF EXISTING LEE ROAD RIGHT-OF-WAY
SULLY DISTRICT
Fairfax County, Virginia**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this 6th day of December, 2016, it was duly moved and seconded that:

WHEREAS, after conducting a public hearing pursuant to notice as required by Virginia Code §32-909, and after giving due consideration to the historic value, if any, of such road, the Board has determined that no public necessity exists for continuance of this portion of the road as a public road, and that the safety and welfare of the public will be served best by an abandonment,

WHEREFORE, BE IT ORDERED:

That the portion of existing Lee Road Right-of-Way (Route 661) comprising a total area of 16, 329 square feet, located on Tax Map 034-3-01-0032 and shown on the plat dated January 8, 2016, and metes and bounds description dated January 11, 2016, each prepared by Vika Virginia, LLC, and attached hereto and incorporated herein, is hereby abandoned as a public road pursuant to Virginia Code §33.2-909.

This abandonment is subject to any right, privilege, permit, license or easement in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either currently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

§332-909

By: Catherine A. Chianese
Clerk to the Board



JANUARY 11, 2016

**DESCRIPTION OF
A PORTION OF
THE PROPERTY OF
SOUTHGATE OWNER III, LLC
DEED BOOK 21501 PAGE 511
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA**

Being a portion of the property of Southgate Owner III, LLC as recorded in Deed Book 21501 at Page 511 among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point marking the intersection between the southerly right of way line of Penrose Place – Route 911 (variable width row) and the easterly right of way line of Lee Road – Route 661 (variable with row); thence leaving said easterly right of way line of Lee Road – Route 661 (variable with row) and running with said southerly right of way line of Penrose Place – Route 911 (variable width row) the following two (2) courses and distances

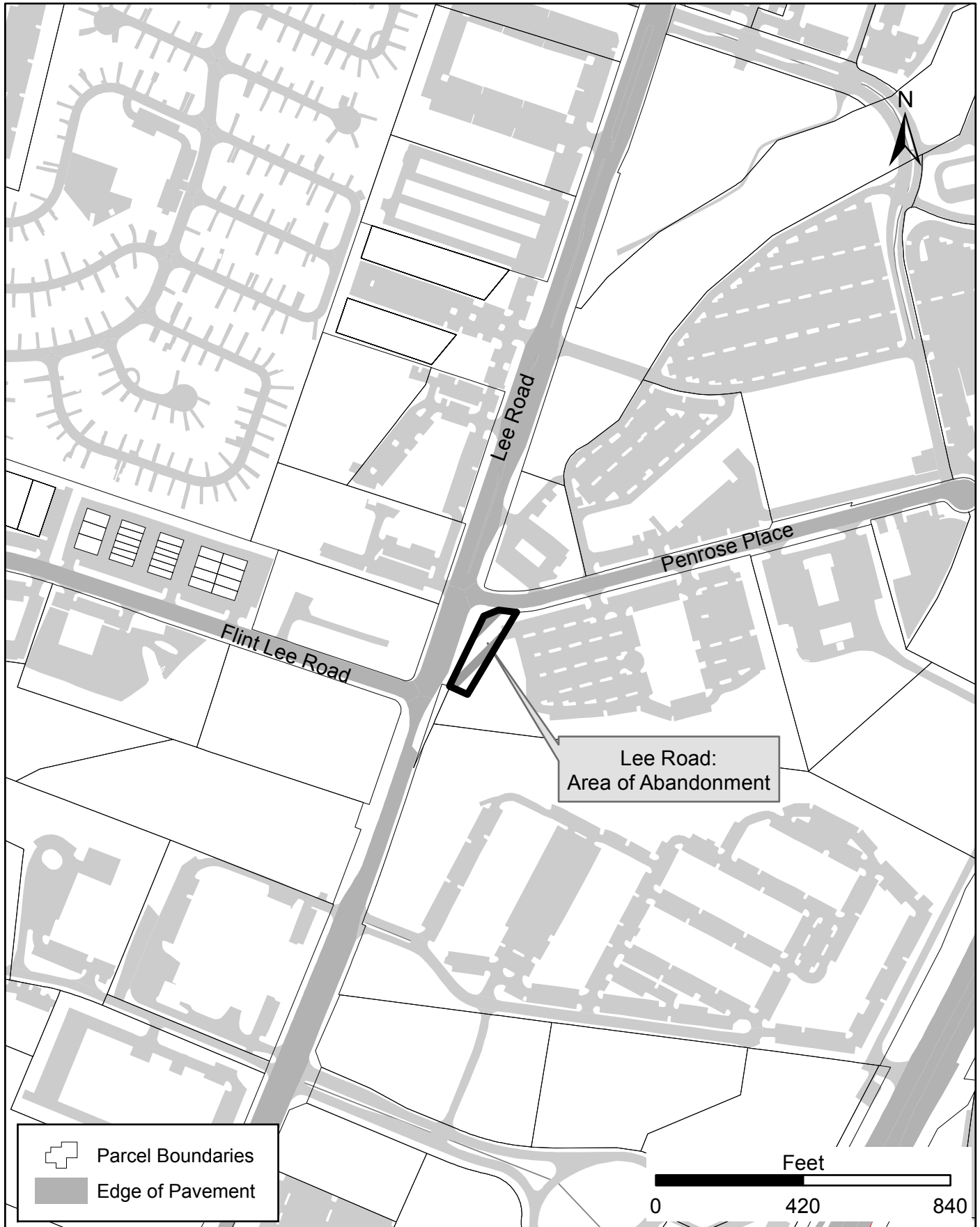
1. North 74°20'10" East, 44.36 feet to a point of curvature (non-tangent); thence
2. 53.63 feet along the arc of a curve to the left having a radius of 374.00 feet and a chord bearing and distance of South 88°16'08" East, 53.59 feet to a point; thence leaving the aforesaid southerly right of way line of Penrose Place – Route 911 (variable width row) and running so as to cross and include a portion of the aforesaid property of Southgate Owner III, LLC (DB 21501 Pg 511) the following two (2) courses and distances
3. South 31°29'42" West, 268.88 feet to a VDH Monument Found; thence
4. North 71°35'58" West, 51.42 feet to an Iron Pipe Found lying on the aforesaid easterly right of way line of Lee Road – Route 661 (variable with row); thence running with said easterly right of way line of Lee Road – Route 661 (variable with row)
5. North 24°38'42" East, 333.04 feet to the point of beginning containing 16,329 square feet or 0.37486 acres of land more or less and being more particularly shown on a plat entitled "Plat Showing Abandonment of a Portion of Lee Road Route #661, on the Property of Southgate Owner III, LLC" dated January 8, 2016 and prepared by VIK A Virginia, LLC.

X:\DATA\6000-6999\VV6333BB\DESCRIPTION\DESCRIPTION VDOT ABANDONMENT AREA.doc

VIKA Virginia, LLC

8180 Greensboro Drive, Suite 200 ✧ Tysons, Virginia 22102 ✧ 703.442.7800 Fax 703.761.2787
Tysons, VA ✧ Germantown, MD ✧ Washington, DC
www.vika.com

Vicinity Map - Tax Map 34-3



Board Agenda Item
December 6, 2016

5:00 p.m.

Public Hearing on a Proposal to Vacate Part of Eskridge Road (Providence District)

ISSUE:

Public hearing on a proposal to vacate a portion of Eskridge Road.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached ordinance for vacation of the subject right-of-way

TIMING:

On November 1, 2016, the Board authorized the public hearing to consider the proposed vacation and abandonment for December 6, 2016, at 5:00 p.m.

BACKGROUND:

The applicant, Eskridge LLC, is requesting that a portion of Eskridge Road be vacated under §15.2-2270 of the Code of Virginia. The subject right-of-way is located on the west side of Eskridge Road, south of Lee Highway, opposite the Merrifield Town Center entrance. The subject right-of-way is a portion of the formerly planned cul-de-sac for Eskridge Road and was never accepted into the Virginia Department of Transportation's (VDOT) Secondary State Highway System.

The applicant has made the request per the requirements of the VDOT street acceptance process for the Eskridge Road extension, for which they are responsible. With the extension, there is no longer a need for the cul-de-sac in this location. As part of the street acceptance process, VDOT generally requires that excess right-of-way be released whenever possible.

The right-of-way will not revert to the applicant, but to the Four Seasons Tennis Club of Merrifield. The applicant and recipient are aware of this result, and the Four Seasons Tennis Club has committed to executing the necessary easements and reservations.

Traffic Circulation and Access

The abandonment will have no long-term impact on pedestrian, transit, or vehicle circulation and access. With the extension of Eskridge Road, a turnaround will no

Board Agenda Item
December 6, 2016

longer be required in this location. Any need for right-of-way for a traffic signal at this location will be protected by a recorded reservation.

Easements

Public easement needs have been identified by the Department of Public Works and Environmental Services. A reservation of right-of-way for future signal hardware, if required for the intersection with the Merrifield Town Center entrance, has been identified by the Fairfax County Department of Transportation and the Department of Planning and Zoning. Dominion Virginia Power, Washington Gas, and Verizon have service lines within the candidate right-of-way. The Four Seasons Tennis Club, the recipient, has provided easements and reservations in a form acceptable to all parties. No other easement needs were identified.

The proposal to vacate this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these indicate any opposition to the proposal.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Application Letter
Attachment II: Notice of Intent
Attachment III: Ordinance of Vacation
Attachment IV: Vacation Plat
Attachment V: Metes and Bounds Description
Attachment VI: Vicinity Map

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Donald Stephens, FCDOT

O'Hara Law Firm, PLC

ATTORNEYS AT LAW

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Falls Church, Virginia 22046

Telephone: (703) 538-4990

Facsimile: (703) 538-4992

Charles J. O'Hara

Admitted in Virginia
& District of Columbia
cohara@oharalaw.net

December 28, 2012

Department of Transportation
County of Fairfax
Centerpointe 1 Office Building
4050 Legato Road, 4th Floor
Fairfax, Virginia 22033-2867

Re: Vacation of a portion of Eskridge Road

Dear Sir or Madam:

My client, Eskridge (E&A), LLC, is requesting the vacation of a portion of Eskridge Road adjacent to property owned by The Four Seasons Tennis Club of Merrifield, Limited Partnership under Virginia Code Section 15.2-2271. Enclosed are the following items:

- (1) Letter of Request and Justification (18 copies)
- (2) \$200.00 processing fee payable to the County of Fairfax
- (3) Recordable plat (18 copies) showing the location of all utilities within the subject area (where feasible), as well as overhead power lines, and County Assessment Map Reference Number.
- (4) Metes and bounds legal description of the area to be vacated (18 copies)
- (5) Notice of Public Hearing (original + 18 copies)
- (6) Order of Vacation (original + 18 copies)
- (7) Vicinity Map/Fairfax County Assessment Map (18 copies)
- (8) Applicable portions of the accompanying site plan/development plan (18 copies)

Please contact me with any questions or comments.

Very truly yours,

O'HARA LAW FIRM, PLC



Sara T. O'Hara

LETTER OF REQUEST AND JUSTIFICATION

December 28, 2012

Board of Supervisors of Fairfax County
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

The portion of Eskridge Road requested to be vacated is a part of the bulb of a cul-de-sac that was the end of the improved road when dedicated in 1995. Eskridge Road is now under a proposed County/VDOT roadway connection plan between Inova Hospital and the Dunn Loring Metro station so the cul-de-sac is no longer necessary.

NOTICE OF INTENT TO
ADOPT AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

ESKRIDGE ROAD

Providence District,
Fairfax County, Virginia

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on December 6, 2016, at 5:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204, to consider vacating a part of the plat of street dedication recorded in Deed Book 9338 at Page 301, on which is shown a bulb of Eskridge Road in the north east corner of Tax Map Number 49-3 ((1)) 90. The road is described and shown on the metes and bounds schedule and plat prepared by Dewberry Consultants LLC, dated November 9, 2015, and March 2008, respectively, both of which are on file in the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia, 22033, telephone number (703) 877-5600.

All persons wishing to speak on this subject may call the Office of the Clerk to the Board, (703) 324-3151, to be placed on the Speaker's List, or may appear and be heard.

PROVIDENCE DISTRICT.

§ 15.2-2270(2)

ADOPTION OF AN ORDINANCE VACATING
A PART OF A PLAT ON WHICH IS SHOWN

ESKRIDGE ROAD

Providence District,
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Governmental Center in Fairfax County, Virginia, on December 6, 2016, at which meeting a quorum was present and voting, the Board, after conducting a public hearing upon due notice given pursuant to Virginia Code Ann. §15.2-2204 and as otherwise required by law, adopted the following ordinance, to-wit:

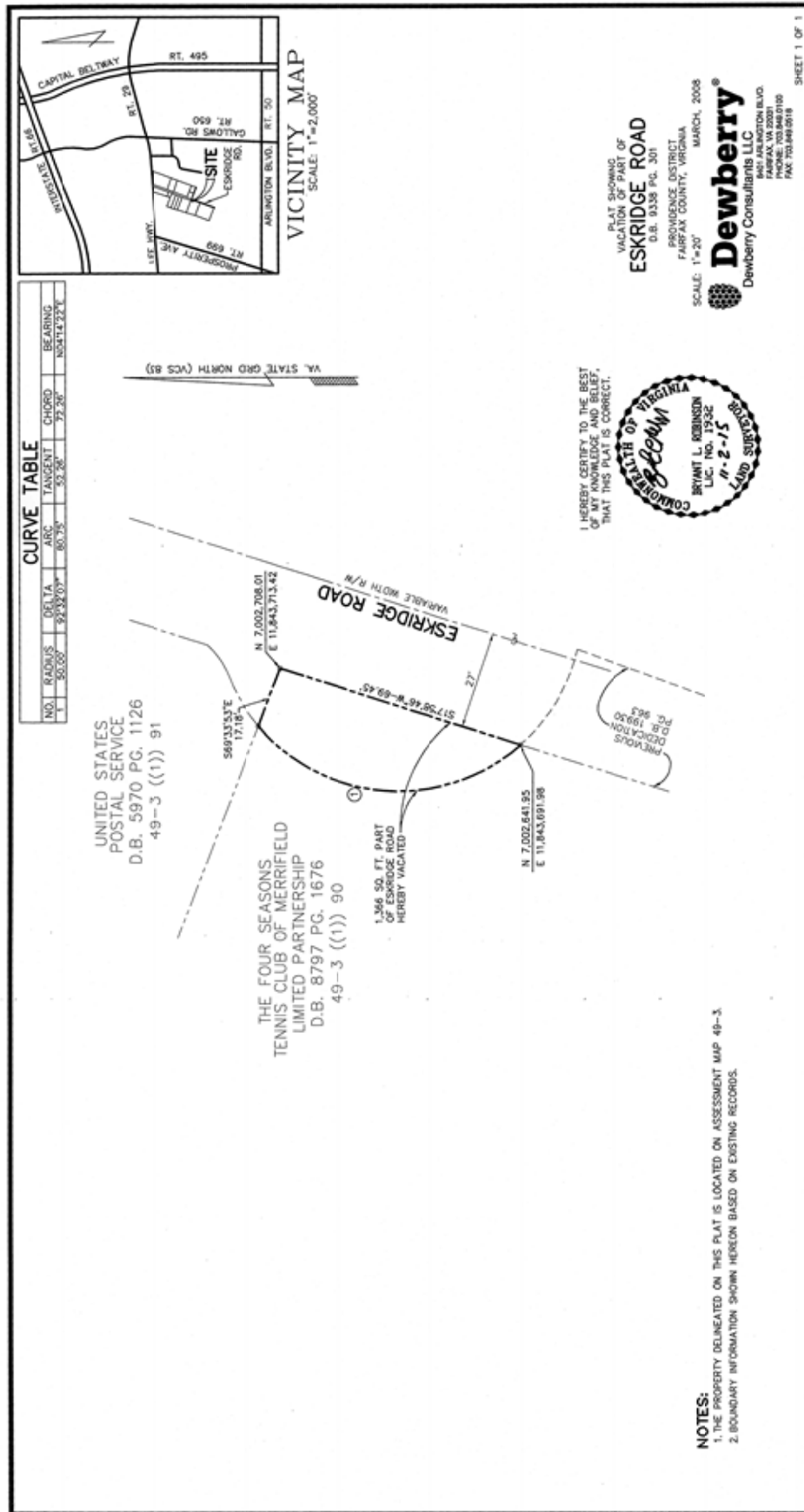
BE IT ORDAINED by the Board of Supervisors of Fairfax County, Virginia:
that Part of the Plat of Street Dedication and the Granting of a 15' Storm Drainage Easement recorded in Deed Book 9338 at Page 301, on which is shown a bulb of Eskridge Road in the north east corner of Tax Map 49-3 ((1)) 90, and described and shown on the metes and bounds schedule and plat prepared by Dewberry Consultants LLC, dated November 9, 2015, and March 2008, respectively, and attached hereto and incorporated herein, be and the same is hereby vacated, pursuant to Virginia Code Ann. §15.2-2270(2).

This vacation is subject to any right, privilege, permit, license, easement, in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either currently in use or of record, including the right to operate, maintain, replace, alter, extend, increase, or decrease in size any facilities in the vacated roadway, without any permission of the landowner.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

§15.2-2270(2)

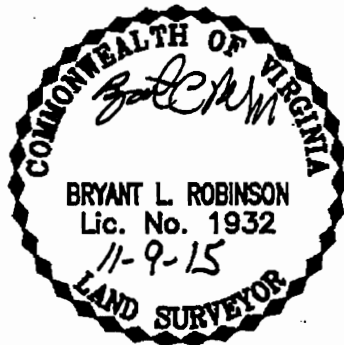


**DESCRIPTION OF
PART OF ESKRIDGE ROAD
(PROPOSED VACATION)
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA**

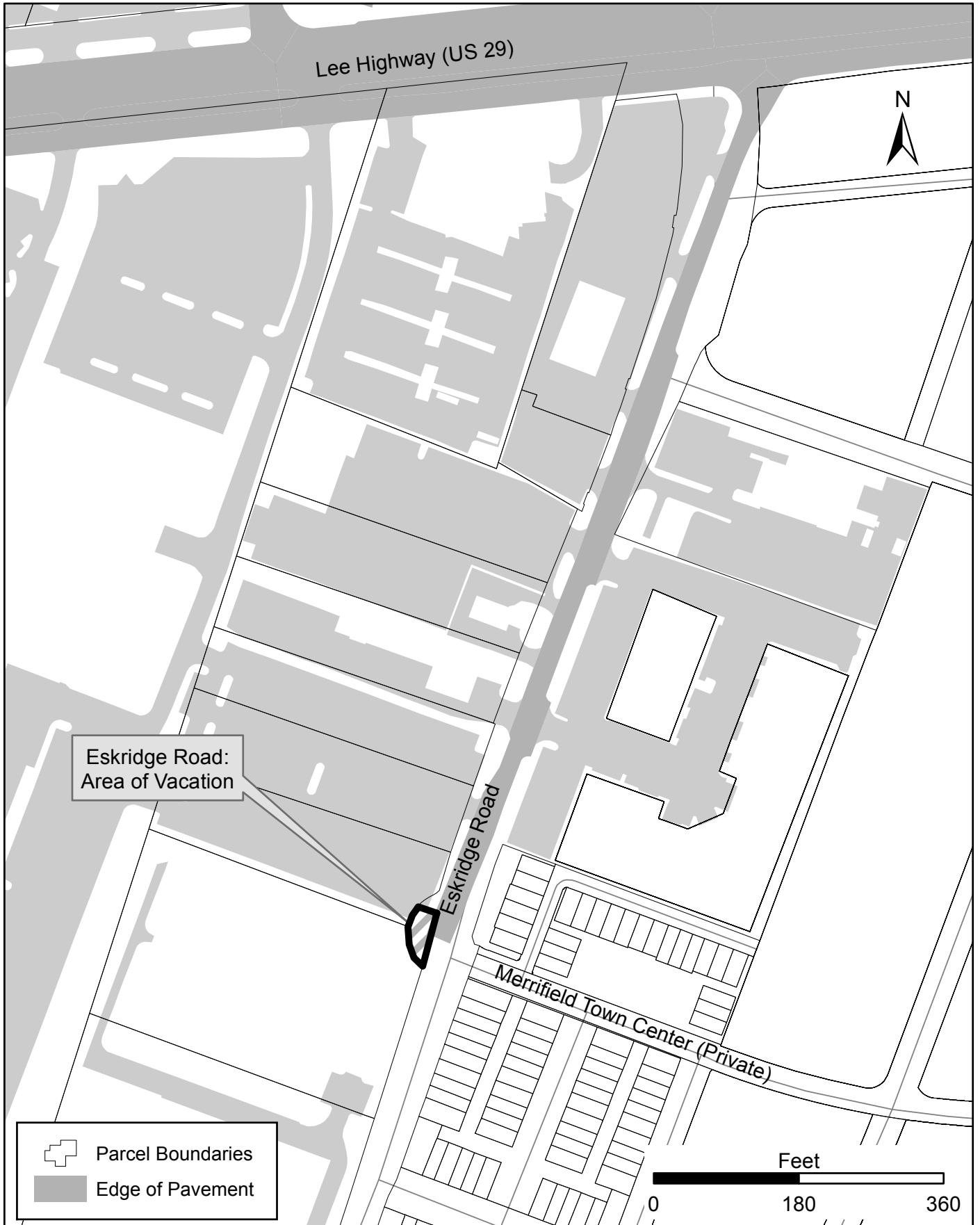
Beginning at a point on the westerly line of Eskridge Road, marking the common easterly corner to the United States Postal Service and The Four Seasons Tennis Club Of Merrifield Limited Partnership; thence through Eskridge Road S69°33'53"E, 17.18 feet and S17°58'46"W, 69.45 feet to a point marking an easterly corner to The Four Seasons Tennis Club Of Merrifield Limited Partnership; thence with the westerly line of Eskridge Road with a curve to the right whose radius is 50.00 feet and whose chord is N04°14'22"E, 72.26 feet, an arc distance of 80.75 feet to the point of beginning, containing 1,366 square feet of land.

All being more particularly described on a plat hereto attached and made a part hereof.

Given under my hand this 9th day of November 9, 2015



Vicinity Map - Tax Map 49-3



Board Agenda Item
December 6, 2016

5:00 p.m.

Public Hearing on Revisions to the Fairfax County Code, Chapter 84.1, Public Transportation, Regarding Taxicab Regulation

ISSUE:

Following a September 20, 2016, public hearing, the Consumer Protection Commission (CPC) approved recommendations to the Board to revise nine of the ten articles of Chapter 84.1, including provisions regarding authorization and licensing, operator and driver responsibilities, pricing, and requirements applicable to vehicles and equipment.

RECOMMENDATION:

The County Executive recommends that the Board accept the CPC recommendations to revise Chapter 84.1.

TIMING:

Board action is requested on December 6, 2016. The Board authorized advertisement of a public hearing on December 6, 2016, at 5:00 p.m., at its November 1, 2016 meeting.

BACKGROUND:

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

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

Given competitive pressures from TNCs, in late 2015 and early 2016 the county's taxicab drivers and operators requested revisions to Chapter 84.1, primarily regarding

Board Agenda Item
December 6, 2016

vehicles and equipment. At the same time, the Department of Cable and Consumer Services (DCCS) was reviewing all county taxicab regulations, including those regarding entry, pricing and procedure, in recognition of the rapidly-evolving transportation landscape.

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

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

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

DCCS presented an overview of the recommended revisions to Chapter 84.1 to the Board's Transportation Committee on October 4, 2016.

The recommended revisions to Chapter 84.1, including the CPC amendments, are explained on an article-by-article basis in Attachment 1.A and are shown in Attachments 1.B (clean version) and 1.C (track-changes version).

Board Agenda Item
December 6, 2016

ENCLOSED DOCUMENTS:

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

STAFF:

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

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

Department of Cable and Consumer Services
Public Utilities Branch
November 3, 2016

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INTRODUCTION

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

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

I. BACKGROUND

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

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

Given competitive pressures from TNC activity, in late 2015 and early 2016 the county's taxicab drivers and operators requested a number of revisions to Chapter 84.1, regarding taxicab regulation. Most of these revisions, if adopted, would reduce operator or driver costs and increase flexibility. At the same time these requests were received, the Department of Cable and Consumer Services (DCCS) was beginning its own review

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

of the county's Code provisions regulating taxicabs, in recognition of the rapidly-evolving transportation landscape. Other than periodic rate revisions, Chapter 84.1 was last updated in 2008.

II. OUTREACH

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

Beginning in March 2016, DCCS surveyed taxicab drivers and met with interested taxicab operators on an individual basis.² In May and June 2016, DCCS staff presented preliminary recommendations to the Transportation Advisory Commission and the Mobility and Transportation Committee of the Long Term Care Coordinating Council, respectively. In July 2016, DCCS convened a meeting of all certificated taxicab operators for discussion of proposed revisions to Chapter 84.1 and followed up on this meeting with individual conversations or email exchanges.

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

III. SPECIFIC REQUESTS AND RECOMMENDATIONS

A. Taxicab Drivers

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

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

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

B. Taxicab Operators

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

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

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

C. County Commissions and Committees

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

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

IV. SUMMARY OF SIGNIFICANT PROPOSED REVISIONS

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

A. Taxicab Operations

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

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

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

- *Pricing.* Staff recommends that mileage rates set forth in Sec. 84.1-6-3 be described as “maximum.” This revision provides the pricing flexibility requested by both operators and taxicab drivers and is an approach taken in numerous states, including California, Georgia, Maine and South Carolina.
- *Taximeters.* Staff recommends revising the definition of “taximeter” and taximeter inspection provisions to accommodate possible changes in state law that may allow for use of electronic GPS meters in the future.

B. The Regulatory Framework

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

- *Biennial Determination.* Consistent with the TAC’s May 2016 resolution, staff recommends deleting two related requirements in Sec. 84.1-2-5 regarding the “biennial determination” intended to control market entry. The first requirement obligates the Board to determine the number of taxicab certificates available to be awarded on a biennial basis – that is, to set a cap on the number of available certificates. The second requirement provides that applicants seeking certificates in excess of this number both provide evidence of demand for taxicab service and demonstrate that the award of requested certificates will enhance the public welfare.

When adopted in 1997, these provisions were designed as a mechanism to balance supply and demand in the market for on-demand for-hire transportation services. At that time, the county regulated the sole source of supply (taxicabs) and therefore could adjust supply by controlling entry. This is no longer the case. In 2015, the Commonwealth authorized a second source of supply – TNCs like UberX – that compete with taxicabs outside of local regulatory frameworks. As a result, the county can no longer regulate the number of providers operating in the county’s on-demand transportation market. Moreover, even if Fairfax County could regulate the supply of providers, staff can only assess demand for taxicab service in the county. It lacks the tools or data to assess the public’s demand for TNC and similar types of services.

- *Transfers of Control.* Staff recommends rewriting the transfer of control provisions in Sec. 84.1-2-10 to clarify that a prospective purchaser or transferee must apply for and be awarded its own taxicab certificates prior to providing service. This subsection was revised in 2000 to avoid automatic nullification of certificates in the event of a sale or transfer of a taxicab operator. Unfortunately, the revision inadvertently introduced several procedural ambiguities and could be construed to imply that an operator may enjoy a property right in taxicab certificates, contrary to other chapter provisions. Proposed Sec. 84.1-2-10 corrects these deficiencies and its approval process mirrors that of any other applicant for certificates. The proposed subsection includes provisions that allow for interim authority pending

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

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

C. Structural and Organizational Revisions

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

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

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

V. CONSUMER PROTECTION COMMISSION RECOMMENDATIONS

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

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

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

SUMMARY OF REVISIONS BY ARTICLE

Global Revisions throughout Chapter 84.1

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

Article 1, In General

Section 84.1-1-1, regarding Purpose of Chapter

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

Section 84.1-1-2, regarding Definitions

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

Article 2, Operator’s and Taxicab Certificates

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

Section 84.1-2-2, regarding Applications

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

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

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

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

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

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

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

Section 84.1-2-8, regarding Certificate Fees

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

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

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

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

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

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

Section 84.1-2-11, regarding Insurance Requirements

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

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

- Delete subsection (c), regarding revocation of operator authority, and address it in relettered paragraph (d). This change ensures that the operator is entitled to a hearing prior to revocation.
- Revise relettered paragraph (d) to address revocation only, to provide for notice to the operator via email rather than certified mail, and to eliminate the Director's duty to notify the Commission of revocation or suspension of operator authority.
- Require operators to return suspended or revoked certificates in two business days, rather than seven calendar days.
- *Section 84.1-2-13, regarding Vehicle Substitution*
 - Delete paragraph (d), regarding the fee, as it is addressed in Sec. 84.1-2-8.

Article 3, Taxicab Driver's License

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

Section 84.1-3-2, regarding Application

- Delete from paragraph (c) the requirement that a non-resident applicant must comply with his or her home state's taxicab driver licensing requirements as a condition of obtaining a Fairfax County taxicab license.
- Include age and driving experience (21 years and one year as a licensed driver within the U.S., respectively) among the minimum requirements for licensing. Age and driving experience are currently identified as grounds for refusal to issue a license under Section 84.1-3-4.
- Simplify testing requirements associated with county geography and locations and substitute the permissive "may" for the mandatory "will" so that testing requirements may be further simplified in the future without the need for a Code revision.

Section 84.1-3-3, regarding Applicant Investigation

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

Section 84.1-3-4, regarding License Issuance

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

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

Section 84.1-3-5, regarding License Fees

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

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

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

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

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

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

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

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

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

Article 4, Appeals

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

- Correct usage by referring to “Commission’s decision,” not “Commissioner’s order.”

Article 5, Records and Reports

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

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

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

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

Article 6, Rates and Charges

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

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

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

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

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

Article 7, Operations

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

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

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

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

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

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

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

Article 8, Taximeters, Equipment, Maintenance, and Inspections

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

Section 84.1-8-1, regarding Taximeters

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

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

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

Section 84.1-8-3, regarding Vehicles (formerly Section 84.1-8-5)

- Add several provisions to codify long-standing vehicle requirements enforced by DCCS but not currently specified. These provisions address vehicle registration and safety inspection (new paragraph (a)), windows and windshield wipers (new paragraph (e)), and the vehicle’s exterior lighting including headlights, brake lights and turn signals (new paragraph (f)).
- Extend the permissible vehicle age and mileage limits from six model years or 380,000 miles, whichever comes first, to ten model years or 500,000 miles, whichever comes first. Extending the permissible vehicle age and mileage reduces costs for both owner/operators and certificate holders, while alternating DMV and DCCS inspections help safeguard public safety. The vehicle age and mileage provision, formerly part of Sec. 84.1-8-5(m) is now set forth in Sec. 84.1-8-3(b).
- Delete age and mileage requirements applicable to vehicles placed into taxicab service, currently set forth in Sec. 84.1-8-5(m). Currently, a vehicle may not be placed into service as a taxicab unless it is two or less model years old and has fewer than 80,000 miles.
- With respect to tires, replace a reference to tread depth with a reference to the condition and tread depth requirements specified in the Virginia Motor Vehicle Safety Inspection Rules and Regulations. Additionally, because manufacturers are increasingly providing alternatives to a spare tire, revise the requirement that each taxicab carry a fully-inflated spare tire.
- Require that upholstery and carpet be washable but not necessarily nonabsorbent. Reasons supporting this change include cost savings, significant improvements in the washability of seat and floor coverings since these requirements were adopted, the possibility that non-standard seat coverings may impair deployment of rear-seat airbags, and continuing inspection requirements, which safeguard against the operation of unsanitary taxicabs.
- Revise current Sec. 84.1-8-5(i) to focus on safety matters. Revisions include (1) listing safety equipment that is currently inspected (e.g., seat belts, mirrors and horn); (2) deleting language regarding state inspection, which is now addressed in new paragraph (a); (3) deleting language regarding correction of defects, as this topic is currently addressed in Section 84.1-8-6, regarding vehicle inspections;

and (4) moving language regarding painting to relettered paragraph (o), regarding vehicle condition.

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

Section 84.1-8-4, regarding Vehicle Inspections

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

- Delete language regarding the cleaning of taxicabs, as this requirement is addressed in revised Sec. 84.1-8-3(o).

Article 9, Penalties

No changes.

Article 10, Jurisdictional Reciprocity and Sightseeing Operations

Section 84.1-10-1, regarding Jurisdictional Reciprocity

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

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

Draft of October 11, 2016

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

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

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

CHAPTER 84.1 - Public Transportation.

ARTICLE 1. - In General.

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

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

Section 84.1-1-2. - Definitions.

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

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

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

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

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

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

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

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

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

Fairfax County and County mean jurisdictional boundaries of Fairfax County.

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

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

9 Passenger means a person transported in consideration of a fare.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Each driver association will notify the Department within 30 calendar days after beginning activities within the County, and that date will be the earliest date upon which an association had at least 10 members and the organization was qualified to do business in the Commonwealth of Virginia.
- (b) Each driver association will file an annual notification with the Department no later than January 31 of each year. Each such notification will include the name of the organization, the business address of the organization, the officers of the organization, and a list of members of the organization. (4-00-84.1; 56-08-84.1.)

ARTICLE 2. - Operator's and Taxicab Certificates.

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

- (a) No person will operate or permit to be operated a taxicab or taxicabs in the County without having been granted authority by the Board to operate taxicabs. Each individual numbered taxicab certificate associated with the operator's grant of authority must be carried in the taxicab to which it pertains at all times during operation and must be presented, upon request, to any Taxicab Inspector or duly sworn law enforcement officer.
- (b) The driver of a taxicab which is duly authorized as a taxicab in any other jurisdiction of this State or in any other state may convey into and discharge within the County a passenger or passengers; and, if required by the passenger or passengers, the taxicab driver who conveyed the passenger or passengers into the County may wait for the passenger or passengers and convey the passenger to his or her ultimate destination. The driver of a taxicab registered in any other jurisdiction will not otherwise convey, pick up, wait for or solicit a passenger or passengers within this County, except as permitted in Article 10. (4-00-84.1; 56-08-84.1.)

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

- (a) Applications for operator's certificates or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder will be accepted by the Director on an annual basis by 4:00 p.m. June 30.
- (b) Application for operator's certificates, or for an increase in the number of individual taxicab certificates authorized to be issued to a certificate holder will be made upon forms provided and in the format requested by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. The Director may require full disclosure of all corporate, financial, and business interests of the applicant and of all corporate, financial and business interests of persons having a corporate, financial or business interest in the applicant. Information required on the application will be related to the considerations of the Commission in its investigation of the public convenience and necessity of additional certificates as stated in Section 84.1-2-6(b).
- (c) The fee for processing applications will be \$100.00 for each taxicab certificate that the applicant requests. This application processing fee is nonrefundable, and it will be paid by check or money order upon submission of the application to the Director.
- (d) In order to carry out the purposes of this Chapter, the Department, the Commission, or the Board may request that the applicant provide information in addition to that provided on the application.
- (e) An applicant for an operator's certificate, or a certificate holder applying for an increase in the number of taxicab certificates authorized to be issued to such certificate holder, will, within seven calendar days of such application, provide written notice of such application to all other certificate holders and to any driver association as defined herein. Such notice will be provided by certified mail to the regular place of business of other certificate holders and to the legal address of any driver association as defined herein. Notice will be sufficient if it describes the number of certificates sought, the area to be served, identification of the applicant, and the date of the application.

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

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

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

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

- (a) Following receipt of an application filed under Section 84.1-2-2, the Director will cause to be made a thorough investigation of the character, traffic, criminal record, financial status and service plan of the applicant or its officers, among other relevant factors. Upon completion of the investigation, the information obtained as a result of this investigation, together with all pertinent documents, will be submitted by the Director to the Commission.
- (b) The Director's report pertaining to all applications will be distributed to members of the Commission and will be made available to each applicant and the public not later than 10 calendar days before the scheduled hearing date. (4-00-84.1; 56-08-84.1.)

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

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

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

- (a) Upon the filing of applications under Section 84.1-2-2, the Commission will hold hearings as promptly as practical. The Commission will give the applicant, certificate holders, and any driver association as defined herein notice of the hearing at least 14 calendar days prior to the hearing date and will cause notice to be published once a week for two successive weeks in a newspaper published or circulated in the County.
- (b) The Commission will, upon holding public hearings and after such further investigation as it may deem advisable, make recommendations to the Board regarding the award of taxicab certificates. In making its recommendations, the Commission will consider the following:
- (1) Current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market;
 - (2) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis in those areas;
 - (3) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used;
 - (4) The adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;
 - (5) The financial status of the applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the service proposed in the application;
 - (6) The character, business experience and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;
 - (7) The investigative report of the Director and the applications of the applicants.

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

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

- (a) Upon the Board's award of taxicab certificates, the Director will issue such certificates upon receiving proof that each proposed vehicle is ready for service as set forth herein.
- (b) Each taxicab certificate will contain the following information:
- (1) Name, including trading as name if not the same as name, and business address of the certificate holder.
 - (2) The make, model, model year, vehicle identification number, seating capacity of the vehicle, and the lettering, marks and color scheme to be used on the taxicab authorized by the certificate to be operated.
 - (3) The date of issuance and expiration.
 - (4) A number assigned in a manner determined by the Director.
 - (5) Such other information as the Director determines may assist in carrying out the purpose of this Chapter.
- (c) Each taxicab certificate issued by the Director will remain the property of the Department, may not be copied and will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-2-12. (4-00-84.1; 56-08-84.1.)

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

- (a) The annual fee for each taxicab certificate will be \$150.00. The fee for each newly authorized taxicab certificate will be established on a pro rata basis from the date of initial issuance until December 31 of the calendar year in which the certificate was issued.
- (b) An annual taxicab inspection fee of \$20.00 will be paid for each taxicab certificate.
- (c) A vehicle substitution fee of \$25.00 will be paid for each vehicle substitution made in accordance with Section 84.1-2-13.
- (d) A replacement taxicab certificate fee of \$25.00 will be paid for each replacement taxicab certificate issued to an operator. (4-00-84.1; 56-08-84.1.)

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

- (a) No taxicab certificates will be issued under this Article nor continued in effect until all fees and taxes imposed by this Chapter or any other Chapter of this Code are paid, insofar as such fees relate to operation of a taxicab business within the County.
- (b) Such certificates will be nontransferable by sale, lease, or otherwise and will be valid from the date of issuance until relinquished or revoked as provided in this Chapter; provided, if any certificate holder will fail to place in operation, within 18 months of the date of authorization for new or additional taxicab certificates, any taxicabs so authorized for operation under a numbered certificate, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days.
- (c) In the event that a taxicab is permanently removed from service, the certificate holder may substitute a replacement vehicle on that numbered taxicab certificate, but any such replacement vehicle will meet the requirements of Section 84.1-8-3 and the holder will submit that replacement vehicle to Director for inspection prior to placement in service. If the replacement vehicle is not placed in service within 18 months, such unused certificates will become null and void, except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days. (4-00-84.1; 56-08-84.1.)

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

- (a) In the event of an agreement to sell or otherwise transfer control of a certificate holder, including, but not limited to, any form of lease-purchase or other long-term arrangement, the certificate holder must notify the Department of the agreement as soon as practicable, including the identity of the transferee or transferees and anticipated date on which control will transfer. Notification does not relieve the certificate holder of its obligations under Chapter 84.1. A transferee may not provide taxicab service in Fairfax County until authorized to do so on an interim basis by the Director or on a permanent basis by the Board.
- (b) Each transferee must submit an application for an operator's certificate to the Director to establish its ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation. That application will be made upon forms provided and in the format requested by the Department, and completed as required by Section 84.1-2-2(b).
- (c) A transferee that has submitted an application for an operator's certificate (hereinafter applicant) may request interim authority to provide taxicab service until such time as the Board can act upon its application.
 - (1) A written request for interim authority shall be submitted by the applicant to the Director no earlier than the submission of the application required by Section 84.1-2-10(b). The request for interim authority may be granted by the Director based upon the information provided in the application.
 - (2) If the Director grants interim authority, the transferor may cancel its insurance after the applicant files acceptable proof of insurance, files all other required documents, and the Director has advised the transferee in writing that it is authorized to begin operations.
 - (3) A grant of interim authority shall terminate no later than the date on which the Board takes action on the application. The interim authority shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.
- (d) Following submission of the application required by Section 84.1-2-10(b), either the certificate holder or applicant may submit a written request to the Director for a stay of the 18-month period provided in Section 84.1-2-9(b) and (c). A stay shall be effective upon the Department's receipt of the written request and shall terminate no later than the date on which the Board takes action on the application. The stay shall terminate if the application is withdrawn or if the Director determines that the applicant has not adequately responded to Director, Commission or Board inquiries regarding the application.
- (e) The Commission will hold a public hearing on the application, as provided in Section 84.1-2-6. Upon holding public hearings and after such further investigation as it may deem advisable, the Commission will make recommendations to the Board. In making its recommendations to the Board, the Commission will consider the provisions of Section 84.1-2-6(b), excluding Section 84.1-2-6(b)(1).
- (f) Upon Board approval of the applicant's request for operating authority and award of taxicab certificates, the Director will reassign the taxicab certificates from the transferor to a transferee in compliance with Section 84.1-2-7. (4-00-84.1; 56-08-84.1.)

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

- (a) Except as otherwise provided by Subsection (d) or (e) of this section, no taxicab certificates will be issued or continued in effect unless there is in full force and effect a public liability automobile insurance policy for each authorized taxicab in the amount of at least \$100,000.00 for bodily injury or death to any person, and in the amount of at least \$300,000.00 for injuries or death to more than one person sustained in the same accident, and in the amount of \$50,000.00 for property damages resulting from any one accident.
- (b) Such insurance policy will inure to the benefit of any person who may be injured or the estate in the event of death, or to the benefit of any persons sustaining damage to property for which the certificate holder may be liable.

- (c) Evidence of such insurance will be filed with the Director prior to the issuance of any taxicab certificates and will include provisions for notice by the insurance carrier to the Director prior to termination of such coverage. In the case where the certificate holder is not the vehicle owner, the certificate holder is fully responsible for providing evidence of insurance for all authorized taxicabs under his or her company, and for ensuring that all owner-operators maintain adequate insurance according to this Chapter. The certificate holder must notify the Director prior to termination of any owner-operator's insurance coverage. In the event an owner-operator's insurance has lapsed, and the owner-operator incurs a liability from an accident or other circumstance, the certificate holder's insurance must be so written that it will cover such liability up to the coverage levels prescribed in this Chapter.
- (d) If the minimum State automobile insurance requirements exceed the above rates, then the State minimum requirements will automatically apply.
- (e) The requirements of this Section may be met in part by a self-insurance certificate which has been adopted and approved by the Commonwealth of Virginia in accordance with Virginia Code, Section 46.2-368, as amended, and that such self-insurance certificate will be in full force and effect at all times and that evidence of such a policy will be filed with the Director prior to the issuance of any taxicab certificates and will include provision for notice by the Commonwealth of Virginia to the Director prior to termination of such coverage. If the minimum State insurance requirements do not equal or exceed the requirements of this Section, the certificate holder may self-insure up to the amount of \$100,000.00 and must carry an umbrella insurance policy against all risks specified above in an amount at least equal to the amounts specified in Subsection (a) above and further provided that the following requirements are met:
- (1) Application for approval to partially meet insurance requirements through self-insurance up to \$100,000.00 will be made by the certificate holder or duly authorized agent upon forms provided by the Department. The applicant will provide full answers to all questions on the application, and that information will be submitted under oath. In addition, the applicant must provide:
 - (A) Proof that all requirements for self-insurance established by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission have been met;
 - (B) Claims history for the company for the preceding four-year period.
 - (2) The certificate holder must file all documents and other materials required by the Virginia Department of Motor Vehicles and the Virginia State Corporation Commission with the Department simultaneously with the filing requirements established by the Virginia Department of Motor Vehicles and Virginia State Corporation Commission.
 - (3) The certificate holder must report its claims history and claims procedures as part of the filing required under Section 84.1-5-2. The report will be ordered and undertaken at the company's expense.
 - (4) If at any time it should appear that the certificate holder no longer meets the criteria required for approval as a self-insurer as set forth herein or fails to file any required documents, the certificate holder will be given written notice identifying the failure of criteria or filing default. The written notice will stipulate a reasonable date and time by which the certificate holder must furnish evidence, satisfactory to the Director, that the approval criteria are again met or the default cured. Failure to timely respond to the notice, failure to meet approval criteria or failure to cure a default will result in revocation of the right to self-insure. Nothing in this Subsection will preclude the suspension of a certificate holder's taxicab certificate(s) pursuant to Section 84.1-2-12(a)(4) for failure to maintain adequate insurance during the time a certificate holder fails to meet the criteria for approval as a self-insurer. (4-00-84.1; 56-08-84.1.)

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

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

- (1) Failure to maintain the taxicab(s) and/or meter(s) identified in such certificates in good order and repair, in accordance with Article 8 of this Chapter.
 - (2) Failure to pay any fees lawfully assessed upon the ownership or operation of any such vehicle(s), identified as taxicabs in such individual numbered taxicab certificates, under this Chapter.
 - (3) Failure to supply information required under Sections 84.1-2-11(c) and (e) and 84.1-5-2 of this Code pertinent to any taxicabs operated under such certificates.
 - (4) Failure to maintain proper insurance, as required by this Chapter, on any taxicab, including any taxicab operated by an owner-operator. The certificate holder's right to operate such taxicab will be suspended for as long as the required amount of insurance is not in effect.
 - (5) Failure to comply with the taxicab inspection requirements set forth in Section 84.1-8-4.
 - (6) Failure of drivers to respond to or pick up a fare.
- (b) A certificate holder's entire operating authority and all individual numbered taxicab certificates issued to the certificate holder may be suspended by the Director until proof of compliance is met to the satisfaction of the Director upon finding that the public safety and welfare so demands, or for any of the following reasons:
- (1) Discontinuance of service of the entire business of the certificate holder for more than five consecutive calendar days.
 - (2) Failure to pay all fees and taxes imposed by this Chapter or any other Chapter of this Code insofar as such fees relate to operation of a taxicab business within the County.
 - (3) Three or more violations by the certificate holder of any of the provisions of this Chapter within a twelve-month period.
- The Director's failure to suspend an individual numbered operator's certificate for any of the causes set forth in Subsection (a) of this Section will not impair the authority of the Director to suspend all certificates held by an operator based on such causes.
- (c) Written notice of any suspension pursuant to Section 84.1-2-12(a) or (b) will be given to the certificate holder by electronic mail. Such suspension will be effective upon receipt, unless a different effective date is specified.
 - (d) The Director, upon a determination that the certificate holder is not operating the authorized taxicabs in such a manner as to serve the public adequately, safely, efficiently or legally, may revoke the certificate holder's authority to operate a taxicab business and all individual numbered taxicab certificates issued thereunder. Such determination will be based upon the Director's consideration of evidence showing violation, by the certificate holder, of one or more of the provisions of this Chapter. Such revocation will only be taken after such certificate holder has been notified of such proposed action and given an opportunity for a hearing before the Commission.
 - (e) It will be unlawful for a person to operate or permit to be operated a taxicab in the County when the taxicab certificate under which the taxicab was placed in service is under suspension or revocation.
 - (f) A taxicab certificate that has been suspended or revoked will be returned to the Director within two business days from the effective date of the revocation or suspension. (4-00-84.1; 56-08-84.1.)

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

- (a) A certificate holder or its designated agent may at any time substitute a replacement vehicle for a vehicle that has an individual numbered taxicab certificate and is to be removed from service.
- (b) Such substituted vehicle will comply with all provisions of this Chapter, including Section 84.1-2-11. A taxicab certificate corresponding to the replacement vehicle will be issued upon receipt of vehicle data, proof of insurance, and written verification that the vehicle being removed from service has had all taxicab markings removed.

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

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

- (a) An applicant whose application for an operator's certificate has been denied or a certificate holder whose operating authority and all taxicab certificates has been revoked may not apply for certificates until the following open period specified in Section 84.1-2-2(a).
- (b) A certificate holder whose application for additional taxicab certificates has been denied may not apply for additional certificates until the following open period specified in Section 84.1-2-2(a). (4-00-84.1; 56-08-84.1.)

ARTICLE 3. - Taxicab Driver's License.

Section 84.1-3-1. - License required.

- (a) It will be unlawful for any person to drive a taxicab for hire from an origin within the County to a destination within or outside the County except as provided in Sections 84.1-2-1, 84.1-10-1 and 84.1-10-2, unless the driver has obtained and has in his possession a current County taxicab driver's license.
- (b) The taxicab driver's license is valid only while operating a taxicab which is duly authorized in Fairfax County with a taxicab certificate issued by the Director. This license is not valid while operating a taxicab authorized, licensed, or having a certificate issued from any other jurisdiction.
- (c) Each taxicab driver's license will remain the property of the Department, and it will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-3-7. (4-00-84.1; 56-08-84.1.)

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

- (a) Application for a taxicab driver's license, and for renewals thereof, will be made in person on forms provided by the Department and endorsed by a certificate holder. Such endorsement will be on the form provided by the Department and will indicate the certificate holder's consent to authorize the driver to operate a taxicab on the certificate holder's behalf. The applicant will provide full answers to all questions on the application under oath. Information required to be provided by the applicant will include, but not be limited to, pertinent personal data, description of physical characteristics, traffic and criminal history records, experience in operating motor vehicles, and experience in driving taxicabs for hire.
- (b) Each applicant is required to be fingerprinted by the Fairfax County Police Department.
- (c) Each applicant is required to have a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia which is recognized as a lawful license to drive a motor vehicle on the highways of the County by the Commonwealth of Virginia.
- (d) Each applicant must be at least 21 years of age and have at least one year's experience as a licensed driver of a motor vehicle within the United States.
- (e) Prior to submitting the initial application for a taxicab driver's license, an applicant may be required to successfully complete each part of a general examination that tests the applicant's knowledge of Chapter 84.1 of the Fairfax County Code, significant locations and major roadways within the County, and the applicant's ability to communicate orally with passengers in the English language concerning the trip, destination, fares, route, and related matters. (4-00-84.1; 56-08-84.1.)

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

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

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

- (a) If the Director determines that the applicant for a taxicab driver's license has complied with all provisions of this Chapter and, based upon the information supplied in Section 84.1-3-2 and the information obtained in accordance with Section 84.1-3-3, the Director further determines that there are no reasons for refusal pursuant to Section 84.1-3-4(c), the Director will issue a taxicab driver's license for a period of one year containing such information thereon as the Director deems pertinent.
- (b) The Director may issue an applicant a temporary taxicab driver's license for a period not to exceed 60 calendar days pending investigation and processing of the initial application. In deciding whether to issue a temporary license, the Director will conduct a preliminary review and consider the following:
 - (1) Applicant's score on a written exam;
 - (2) Applicant's traffic record; and
 - (3) Applicant's criminal history.
- (c) The Director may refuse to issue a taxicab driver's license to any applicant for any of the following reasons:
 - (1) Within the five-year period immediately preceding the date of the application, suspension or revocation of a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia. However, a financial responsibility suspension or revocation will not be grounds for denial if the applicant has presented proof of financial responsibility in accordance with the motor vehicle laws of this State.
 - (2) Within the five-year period immediately preceding the date of the application, conviction of any felony, any crime of violence or any law regulating sexual conduct or controlled substances.
 - (3) Within the three-year period immediately preceding the date of the application, conviction of any of the offenses of state law that would permit the Virginia Department of Motor Vehicles to revoke a driver's license to operate a motor vehicle on the highways of this State.
 - (4) Within the three-year period immediately preceding the date of the application, conviction in any jurisdiction of any of the offenses listed below regardless of how any such offense is styled, described, or labeled:
 - (A) Hit and run.
 - (B) Habitual offender.
 - (C) Driving while operator's license is revoked or suspended.
 - (D) Driving while intoxicated.
 - (E) Reckless driving.
 - (5) Within the 12-month period immediately preceding the date of the application, two or more violations, while operating a moving vehicle, of the motor vehicle laws of the Commonwealth of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.
 - (6) Applicant made a false statement of one or more material and relevant facts on an application for a taxicab driver's license.
 - (7) In the case of applications for renewal of a taxicab driver's license, any of the grounds for suspension or revocation of a taxicab driver's license under Section 84.1-3-7.

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

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

- (a) A nonrefundable examination fee of \$25.00 will be paid prior to taking the examination described in Section 84.1-3-2(e).
- (b) A nonrefundable application fee of \$40.00 will be paid for the initial taxicab driver's license and for each annual renewal of the taxicab driver's license. The applicant will bear the cost of obtaining traffic and criminal history reports.
- (c) A replacement fee of \$15.00 will be paid for a replacement taxicab driver's license. (4-00-84.1; 56-08-84.1.)

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

- (a) Every taxicab driver licensed under this Chapter will post their taxicab driver's license in such a place as to be in full view of any passenger seat, while the taxicab is for hire.
- (b) Each taxicab driver will complete a daily manifest. Each manifest shall be completed in a legible fashion. Paper manifests or the information contained in electronic manifests shall be provided to the operator by the taxicab driver as soon as practicable after the workday but no later than weekly.
- (c) The driver of a taxicab involved in any accident will, within seven calendar days from the date of the accident, report such accident to the Taxicab Inspector, giving such facts in the case as the Taxicab Inspector may reasonably require.
- (d) A taxicab driver will report to the Taxicab Inspector each arrest or summons issued for a traffic offense while operating a motor vehicle or any offense identified in Section 84.1-3-4(c), within seven calendar days of such arrest or receipt of such summons.
- (e) A taxicab driver shall provide written notice to the Taxicab Inspector of any change of affiliation with the certificate holder that endorsed the driver's most current application for a taxicab driver's license. Written notice shall be provided within 15 calendar days of any such change in affiliation. (4-00-84.1; 56-08-84.1.)

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

- (a) The Director may suspend a taxicab driver's license for a period extending from one to 30 calendar days, or until the reason for the suspension is resolved, for any of the following reasons:
- (1) Driving a taxicab determined by the Director to be unsafe or insufficiently insured.
 - (2) Any violations of any Articles of this Chapter which regulate driver duties.
 - (3) Repeated passenger complaints regarding the provision of taxicab service.
 - (4) Failure to pick up a person when requested to do so by the certificate holder or at any location, without justification stated in Section 84.1-7-2(a).
- (b) The Director may revoke a taxicab driver's license for any of the following reasons:
- (1) Occurrence of any of the grounds for refusal to issue a license listed in Section 84.1-3-4(c).
 - (2) Using or attempting to use a taxicab driver's license for the purpose of operating, within or outside the jurisdiction of Fairfax County, a taxicab not authorized to operate in Fairfax County.
 - (3) Withdrawal by the endorsing certificate holder of its consent for the driver to operate a taxicab on its behalf.
- (c) Written notice of any suspension or revocation under the above provisions of this Section will be given by the Director to the driver in person and to the endorsing certificate holder by electronic mail, effective upon receipt unless a different effective date is specified.

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

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

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

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

ARTICLE 4. - Appeals.

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

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

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

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

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

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

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

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

ARTICLE 5. - Records and Reports.

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

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

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

- 1 (2) Operating expenses, by category;
- 2 (3) Capital expenditures;
- 3 (4) Depreciation expenses, by category.
- 4 (b) A certificate holder will maintain records of the following in sufficient accuracy and detail to comply with
- 5 the filing requirements of this Chapter and requests that may be made by the Director:
- 6 (1) Requests for taxicab service received by the certificate holder and responses thereto, including
- 7 average wait-time for passengers after pick-up request.
- 8 (2) Number of taxicabs available for service and in operation on a daily basis;
- 9 (3) Maintenance and repair records of taxicabs and other equipment employed in operating the
- 10 certificate holder's taxicab business;
- 11 (4) Requests for wheelchair accessible taxicab service received by the certificate holders and
- 12 responses thereto, including average wait-time for passengers after pick-up request;
- 13 (5) Number of calls for wheelchair accessible taxicab service referred to other Fairfax County
- 14 operators;
- 15 (6) Daily manifests, completed by drivers as provided in Section 84.1-3-6(b);
- 16 (7) Taxicab meter data for each taxicab that at minimum identifies on a daily, weekly and monthly
- 17 basis the total miles driven, paid miles driven, and number of trips.
- 18 (c) A certificate holder will retain and preserve all of the records required by this Section to be maintained,
- 19 for a period of no less than three years. Such records may be kept in any reasonable form in ordinary
- 20 business practice; provided, manifests must be preserved as originally filed, although their contents
- 21 may be abstracted for other record or filing requirements.
- 22 (d) The books, records and data required to be maintained by a certificate holder under the provisions of
- 23 this Section will be made available, within a reasonable period of time not to exceed 30 calendar days
- 24 after request for inspection and examination by the Director. If it should become necessary for the
- 25 Director to remove manifests or other records from the certificate holder's offices, the certificate holder
- 26 will be given a receipt reasonably identifying the items so removed. (4-00-84.1; 56-08-84.1.)

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

- 28 (a) In order to accomplish the purpose of this Chapter, all certificate holders will file, under oath, to the
- 29 best of their knowledge, with the Department on a biennial basis (or more frequently if requested by
- 30 the Department), financial and statistical reports. Such reports will include data solely related to the
- 31 operations of Fairfax County authorized taxicabs. Such reports must be filed by May 1.
- 32 (b) The following information and data must be filed with the Department in every odd-numbered year, for
- 33 the preceding two calendar years; each separately stated, according to generally accepted accounting
- 34 principles:
- 35 (1) Certificate holder's balance sheet.
- 36 (2) Certificate holder's income statement.
- 37 (3) Copies of certificate holder's income tax returns that will remain confidential and for governmental
- 38 use only.
- 39 (4) Operating and service data, for each of the two preceding calendar years, will include: total meter
- 40 revenue; total wheelchair accessible taxicab meter revenue; number and types of cabs; number
- 41 of drivers affiliated with the company, including number of owner operators; miles operated,
- 42 including total, paid; number of trips; number of passengers; schedule of the company's lease
- 43 rates and stand dues; average number of cabs in service on weekdays; number of calls for service
- 44 referred to other Fairfax County operators; number of calls for wheelchair accessible service
- 45 referred to other Fairfax County operators; location of taxi stands; and such other data as may

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

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

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

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

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

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

- (a) Changes in any rule, regulation, rate, fare, charge, and or practice thereto, for taxicab services rendered by certificate holders, may be approved by the Board after notice and hearing held by the Commission or upon recommendation of the Director.
- (b) On an annual basis the Board may consider changes in rates, fares or charges, upon petition by a certificate holder or a driver association. Any petition filed by a certificate holder or driver association for changes in rates, fares or charges must be filed simultaneously with the Clerk to the Board and the Director by June 30. A copy of such requests must be sent by the Director to the Commission, certificate holders, and any driver association within seven calendar days of submission to the Clerk to the Board.
- (c) Any petition for a change in rates, fares or charges will contain the following:
- (1) The rates, fares or charges which are proposed for approval; and
 - (2) A sample billing analysis which will show the cost to riders for trips ranging from one mile to twenty miles in one-mile increments, using existing rates and proposed rates, including for each increment, the percent change.
- (d) Rate change petitions will be analyzed by the Director, using information submitted under Section 84.1-5-2 and other relevant data. The Director will use the following standard in consideration of whether the request is justified: the change in the Fairfax County Taxicab Industry Price Index since the last adoption of rates (plus or minus two percent). The Fairfax County Taxicab Industry Price Index is in the following form:

Fairfax County Taxicab Industry Price Index

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

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

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

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

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

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

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

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

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

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

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

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

(c) Taxicab rates and charges

(1) Maximum Mileage Rate

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

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

(2) Additional Passenger Rate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Any operator offering such a discount rate must notify the Director of the discount program no later than 30 calendar days prior to the offering and no later than 30 days prior to its modification or discontinuance.
- (2) Any such discount rate and the eligibility criteria for the discount rate must be posted by the operator offering the discount in each taxicab for which it holds a certificate.
- (3) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified. (4-00-84.1; 2-01-84.1; 24-05-84.1; 56-08-84.1; 30-12-84.1; 38-14-84.1.)

ARTICLE 7. - Operation.

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

- (a) Each certificate holder will maintain a place of business or office with telephone service within the County or within a jurisdiction that is adjacent to the County. The certificate holder or its agents must be available 24 hours per day to receive requests for service and dispatch taxicabs. If requests for service are received at a time when no taxicabs are available within one hour, the certificate holder or agent will so advise the requesting party and refer the caller to another Fairfax County certificate holder.
- (b) Each certificate holder will ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat all passengers, including persons with disabilities, in a respectful and courteous way. For drivers operating wheelchair accessible taxicabs, training shall include operation of ramps, lifts or other equipment necessary for the transport of persons who use wheelchairs and techniques to ensure that wheelchairs are appropriately secured or stowed.
- (c) Certificate holders will not discriminate against individuals with disabilities. Every certificate holder having authority to operate 25 or more taxicabs will have at least four (4) percent of those taxicabs which qualify as wheelchair accessible taxicabs. In the event that four (4) percent of the number of taxicabs in the certificate holder's fleet is not a whole number, then this requirement will be computed on the number of authorized taxicabs and rounded to the nearest whole number.
- (d) Certificate holders will comply with minimum fuel economy standards. Each certificate holder will ensure that 60 percent or more of the gasoline-fueled taxicabs added to its fleet each year has a minimum Environmental Protection Agency combined city/highway fuel economy rating of 25 miles per gallon. This fuel economy requirement does not apply to wheelchair accessible taxicabs.

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

- (a) Load refusal. No taxicab driver may refuse transportation to any orderly person except under the following conditions:
 - (1) Such vehicle is already engaged by another passenger;
 - (2) Such vehicle is in route to pick up a passenger, in which case a "not in service," "not for hire" or "on call" sign must be exhibited;
 - (3) Such vehicle is out of service because of the end of the driver's shift or for other reasons, in which case a "not in service," "not for hire" or "off duty" sign will be displayed.
 - (4) The driver reasonably believes that the driver's life or safety would be endangered by picking up a person who otherwise would be entitled to transportation.
 - (5) The passenger seeks transport outside Fairfax County.
- (b) Nondiscriminatory treatment of persons with disabilities. A taxicab driver shall not discriminate against persons with disabilities by actions including, but not limited to, refusing to provide service to such persons who can use taxi vehicles, refusing to assist with the stowing of mobility devices, or charging

- 1 higher fares or fees for transporting such persons and their equipment than are charged to other
2 persons.
- 3 (c) Passenger comfort. A taxicab driver shall ensure the passenger's comfort while transporting the
4 passenger by:
- 5 (1) Not smoking or using tobacco in the taxicab while it is occupied by one or more passengers;
- 6 (2) Not using a mobile phone, other mobile device, radio or other in-car entertainment system if the
7 passenger requests that the taxicab driver not do so. This subparagraph does not apply to the
8 methods of communications used to communicate with the dispatcher or law enforcement
9 personnel or used to obtain traffic information;
- 10 (3) Adjusting the heating, air conditioning or windows in the taxicab if requested to do so by a
11 passenger.
- 12 (d) Receiving and discharging passengers. No taxicab or part thereof will be stopped on the traveled
13 portion of any highway to take on or discharge passengers except where parking is permitted, and
14 when so permitted the taxicab will be parked in the manner prescribed by law.
- 15 (e) Maximum number of persons in taxicabs. No taxicab driver will permit more passengers in a taxicab
16 than the number authorized by the taxicab certificate issued for that vehicle, and no taxicab driver will
17 permit more persons in a taxicab than the number of seat belts which are available for use within the
18 vehicle.
- 19 (f) Front seat occupancy. No taxicab driver will permit more than one passenger in the front seat of any
20 taxicab.
- 21 (g) Additional passengers. When a taxicab is occupied by one or more passengers, the driver will not
22 accept additional passengers unless the taxicab driver has the concurrence of all passengers. No
23 charge will be made for this additional passenger except when the additional passenger rides beyond
24 the original destination, and then only for the additional distance traveled.
- 25 (h) Deception of passengers. It will be unlawful for a driver to deceive or attempt to deceive any passenger
26 as to the rate or fare to be charged or to take a longer route to a destination than necessary. The
27 taxicab driver may take a longer route when requested to do so by a passenger.
- 28 (i) Passenger receipts. The driver of any taxicab will, upon request of a passenger, give a receipt to the
29 passenger for any fare charged. All receipts will contain the name of the certificate holder, the amount
30 of fare charged, and the date of the trip. The name of the driver, the license number of the taxicab,
31 and the origin and destination of the trip shall be included on the receipt upon customer request.
- 32 (j) Advance payment. Any driver may, at his or her discretion, demand estimated payment in advance of
33 the rendering of any service. Adjustments will be made at the passenger's destination in accordance
34 with the rates and charges established by this Chapter.
- 35 (k) Acceptance of payment. Method(s) of payment acceptance for transportation fares and charges will
36 be at the discretion of the certificate holder. A payment acceptance notice listing all forms of electronic
37 payment accepted will be posted in such a manner as to be easily visible to all passengers inside the
38 taxicab and from the outside right side of the taxicab. If credit card(s) and debit card(s) are accepted,
39 logo sign(s) indicating which card(s) are accepted will be displayed both inside and to the outside right
40 side of the taxicab. Drivers must accept all forms of payment accepted by the certificate holder.
- 41 (l) Lost articles. Any article found in a taxicab will be returned with reasonable promptness to the owner
42 if known or the owner will be promptly notified of the whereabouts of the article so that the owner may
43 claim it. If the owner is not known, the driver will immediately inform the dispatcher and return the
44 article at the close of the taxicab driver's workday to the certificate holder's place of business. The
45 certificate holder will maintain the lost article in a safe place for at least 30 calendar days.
- 46 (m) Alcoholic beverages. It will be unlawful for a driver knowingly to transport alcoholic beverages in the
47 taxicab unless such beverages are in the lawful possession of a passenger.

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

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

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

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

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

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

ARTICLE 8. – Taximeters and Vehicles.

Section 84.1-8-1. - Taximeter requirements.

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

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

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

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

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

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

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

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

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

Section 84.1-8-3. – Vehicle requirements.

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

- 1 registration decals on the license plates, and a valid Virginia safety inspection sticker issued by a
2 certified Virginia state safety inspection facility.
- 3 (b) It shall be unlawful to operate as a taxicab in the County any vehicle that has a model-year age greater
4 than ten (10) years or that has more than 500,000 miles, whichever occurs first. Vehicle age shall be
5 calculated as if the vehicle was placed into service on December 31st of the vehicle year as shown on
6 its Virginia motor vehicle registration.
- 7 (c) Every taxicab will be equipped with at least two doors for the entrance and exit of passengers, in
8 addition to the front door located on the driver's side. All passenger doors will be so constructed that
9 they will remain securely fastened during normal operation but may be easily opened by a passenger
10 upon entering or exiting the vehicle or in an emergency.
- 11 (d) No taxicab will be operated with unsafe tires. Every taxicab will be equipped with tires whose condition
12 and tread depth comply with the requirements specified in the Virginia Motor Vehicle Safety Inspection
13 Rules and Regulations. Every taxicab will be equipped with a usable spare tire or the tire repair kit
14 identified in the vehicle owner's manual.
- 15 (e) All taxicab windows must be intact, reasonably clean and be able to be opened and closed as intended
16 by the manufacturer. No taxicab will be operated with a windshield that contains cracks or chips that
17 could interfere with the driver's vision. The taxicab will be equipped with adequate windshield wipers
18 maintained in good operating condition.
- 19 (f) Every taxicab will be equipped with headlights that are operable on both high and low beam and with
20 operable brake or rear lights, signal lights, a rear license plate light, and interior lights. All exterior lights
21 must be fitted with the appropriate type and color of lenses and bulbs.
- 22 (g) Every taxicab will be equipped with a properly installed speedometer and odometer, maintained in
23 working order, and exposed to view. If a taxicab is found to have a defective speedometer or odometer,
24 then the taxicab will not be operated until the speedometer or odometer is repaired. The certificate
25 holder will provide to the Director, within 15 calendar days of the odometer replacement, the date of
26 change, old odometer reading, reading on replacement odometer at the time of installation, and taxicab
27 number.
- 28 (h) The upholstery covering the interior lining of every taxicab will be of a washable material and not torn,
29 ripped or improperly repaired. No floor mat will be permitted in any taxicab, unless it will be made of a
30 washable material and easily removable, except that such floor covering material may be cemented
31 in place on the floor of a taxicab when the whole area of the floor is covered.
- 32 (i) Every taxicab will be so maintained as to provide for the safety of the public and for continuous and
33 satisfactory operation, and to reduce to a minimum, noise and vibration caused by operation. All
34 factory-installed safety equipment, including seat belts, mirrors and horn, will be in good working
35 condition at all times.
- 36 (j) Every taxicab will have rooftop lights mounted on the top of the taxicab in the forward portion thereof,
37 unless otherwise authorized by the Director. The dome light is to be of such a design as to identify the
38 vehicle as a taxicab. Drivers, when holding forth their cab for hire, will have the cruising light on from
39 sunset to sunrise. Each taxicab will also be equipped with two marker lights on either side of the dome
40 light. The marker lights will be connected to, and operated by, the meter such that when the meter is
41 on, these lights are off, and when the meter is off, these lights are on.
- 42 (k) The exterior of each taxicab will display the name of the taxicab company in letters not less than three
43 inches in height. The taxicab number will be permanently painted or otherwise permanently affixed to
44 each of the two front quarter panels of the taxicab and to the right and left side of the rear window in
45 lettering of no less than three inches in height. If a vehicle is taken out of service as a taxicab on a
46 permanent basis, the certificate holder will, within 72 hours, remove the taxicab markings along with
47 all other indications of the vehicle's use as a taxicab.
- 48 (l) Every wheelchair accessible taxicab will be plainly marked with a reflective six-inch by six-inch blue
49 with white markings international wheelchair symbol on each side of the vehicle and on the rear of the
50 vehicle. All wheelchair symbols will be above door handle height.

- 1 (m) Every taxicab will be equipped with heating and air conditioning to be maintained in good working
2 condition at all times.
- 3 (n) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from
4 outside the vehicle.
- 5 (o) Every taxicab interior will be kept in a clean and sanitary condition and be free of foreign matter, litter
6 and offensive odors. A taxicab exterior will be painted, contain no significant unrepaired dents or other
7 body damage, and be kept as clean as is reasonable considering existing weather conditions. A
8 certificate holder will be given reasonable time in which to clean a taxicab upon direction of the Taxicab
9 Inspector. (4-00-84.1; 56-08-84.1.)

10 **Section 84.1-8-4. – Vehicle Inspections.**

- 11 (a) During the initial and each subsequent taxicab inspection, the Taxicab Inspector will inspect and
12 evaluate the taxicab for compliance with Chapter requirements, including: taximeter operation and
13 accuracy; state registration, licensing and safety inspection requirements; vehicle age and mileage;
14 tires; windows and windshield wipers; exterior and interior lights; speedometer and odometer
15 operation; safety equipment including seat belts, mirrors, and horn; exterior lettering and other taxicab
16 markings; the condition of the vehicle's interior and exterior; and the display of materials provided by
17 the Department, including the rate card, complaint notice, and taxicab driver's license.
- 18 (b) Prior to the first use and operation of any vehicle under the provisions of this Chapter, the vehicle will
19 be inspected by the Taxicab Inspector as provided in Section 84.1-8-4(a). If the Taxicab Inspector
20 determines that the vehicle complies with applicable regulations, a taxicab certificate setting forth such
21 approval and stating the authorized seating capacity of the vehicle will be issued by the Director to the
22 certificate holder.
- 23 (c) Every certificate holder will permit all reasonable inspections by the Taxicab Inspector of taxicabs
24 licensed to operate under this Chapter and will cause each of its taxicabs to be inspected on a periodic
25 basis by the Taxicab Inspector. Taxicabs with a vehicle age of six or fewer model years will be
26 inspected by the Taxicab Inspector annually, with the inspection to occur six months from the month
27 shown on the Virginia Motor Vehicle Safety Inspection decal affixed to the vehicle. Taxicabs with a
28 vehicle age of seven or more model years will be inspected on a semi-annual basis by the Taxicab
29 Inspector at intervals of no longer than six months.
- 30 (d) If the Taxicab Inspector finds any taxicab unsafe for the transportation of passengers, or in an
31 unsanitary condition warranting removal from service, or its taximeter is not registering accurately,
32 then notice will be given to the taxicab driver and certificate holder and it will be unlawful to operate
33 the taxicab until the deficiencies have been corrected and the taxicab has been re-inspected and
34 approved for service.
- 35 (e) The individual numbered taxicab certificate, the current manifest, and the taxicab driver's license must
36 be presented to any Taxicab Inspector or duly sworn law enforcement officer upon request. (4-00-
37 84.1; 56-08-84.1.)

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

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

42 **ARTICLE 10. - Jurisdictional Reciprocity and Sightseeing Operations.**

43 **Section 84.1-10-1. - Jurisdictional reciprocity.**

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

Section 84.1-10-2. - Sightseeing operations.

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

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. All taxicab certificates awarded by the Board of Supervisors on or before February 11, 2014 are hereby re-authorized and re-awarded effective upon adoption of this ordinance without change to the allocation; notwithstanding the provisions of § 84.1-2-9 as it existed before the date of adoption of this ordinance, no taxicab certificate shall be null and void.

4. That the provisions of this ordinance shall take effect upon adoption.

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

Clerk to the Board of Supervisors

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

Draft of October 11, 2016

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

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

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

CHAPTER 84.1 - Public Transportation.

ARTICLE 1. - In General.

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

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

Section 84.1-1-2. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

8 Fairfax County and County mean jurisdictional boundaries of Fairfax County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ~~All driver associations will:~~

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

32 (b) ~~Each driver association will~~ File an annual notification with the Department no later than January 31
33 of each year. ~~All~~ Each such notifications will include the name of the organization, the business address
34 of the organization, the officers of the organization, and a list of members of the organization. (4-00-
35 84.1; 56-08-84.1.)

36 **ARTICLE 2. - Operator's and Taxicab Certificates.**

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

38 (a) No person will operate or permit to be operated a taxicab or taxicabs in the County without having
39 ~~been approved for and been issued operator's certificates by the County granted authority by the Board~~
40 ~~to operate taxicabs. The~~ Each individual numbered taxicab certificate, ~~issued by the Department,~~
41 associated with the operator's grant of authority must be carried in the taxicab to which it pertains at
42 all times during operation and must be presented, upon request, to any ~~†~~ Taxicab ~~i~~ Inspector or duly
43 sworn law enforcement officer.

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

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

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

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

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

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

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

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

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

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

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

- (a) ~~Upon the Director's determination that~~ Following receipt of an application filed under Section 84.1-2-2 of this Chapter is technically complete, the Director will cause to be made a thorough investigation of the character, traffic, criminal record, financial status and service plan of the applicant or its officers, among other relevant factors. Upon completion of the investigation, the information obtained as a result of this investigation, together with all pertinent documents, will be submitted by the Director to the Commission.
- (b) ~~The Director's report pertaining to all applications for certificates will be distributed to members of the Commission and will be made available to each applicant companies and the public not later than 10 calendar days before the scheduled hearing date. (4-00-84.1; 56-08-84.1.)~~

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

- (a) ~~The number of certificates that are available to be issued on a biennial basis, will be determined by the Board, based on public convenience and necessity, after considering any appropriate recommendations submitted by the Commission or the Director and such other information as the Board chooses to consider. That number will be reviewed and established by resolution of the Board after May 1 of each odd numbered year, but the Board reserves the right to revise that number by subsequent resolution as the Board deems appropriate. The burden will be upon the applicant to establish the existence of all facts and statements within the applicant's application and to provide such other information as is required or requested pursuant to this Chapter.~~
- (b) ~~If the applicant applies for certificates in excess of the number determined by the Board, based on public convenience and necessity, the burden of proof for the excess certificates shifts to the applicant. The applicant will then have the burden of establishing that public welfare will be enhanced by the award of the certificates of public convenience and necessity requested in the application. The applicant will be required to provide factual documented evidence indicating the demand and establishing public welfare.~~

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

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

- (a) ~~Upon the filing of applications for operator's certificates, or for any additions to the number of individually numbered certificates issued to an existing certificate holder under Section 84.1-2-2, the Commission will hold hearings as promptly as practical, prior to September 30 of each year, or as soon thereafter as the Commission conveniently may schedule the matter for hearing. The Commission will give the applicant, certificate holders, and any driver association as defined herein notice of the hearing at least 14 calendar days prior to the hearing date and will cause notice to be published once a week for two successive weeks in a newspaper published or circulated in the County. If the application is for an increase in the number of certificates, the applying certificate holder must conspicuously display notice of such application and the hearing date and place at the applicant's place of business at least 10 calendar days prior to the hearing date.~~
- (b) ~~The Commission will, upon holding public hearings and after such further investigation as it may deem advisable, make recommendations to the Board of Supervisors regarding the award the allocation of taxicab certificates among the certificate applicants, which have been designated by the Board for the given year. If an applicant meets the burden of proof for excess certificates as set forth in 84.1-2-5, the Consumer Protection Commission may recommend to the Board additional allocations. In making these its recommendations, the Commission will consider the following:~~
- (1) Current and potential levels of usage of taxicab and other passenger transportation services in the Fairfax County market as set forth in 84.1-2-5;

- (2) Areas of the County to be served, and the applicant's ability to provide service on a 24-hour basis
~~adequacy of existing public vehicle service, existing taxicab service, and other forms of passenger transportation in those areas;~~
 - (3) The kind, class, fuel efficiency, and other characteristics of the vehicles to be used,
~~and the adequacy of the proposed dispatch system;~~
 - (4) ~~The conformance of proposed operational facilities with zoning and other legal requirements~~
adequacy of the applicant's proposed dispatch and communications systems, and the applicant's ability to manage and support those systems;
 - (5) The financial status of the ~~certificate~~ applicant and its effect on permanence and quality of service, as demonstrated by the applicant's ability to provide, maintain, and operate the number of vehicles proposed in accordance with the ~~character of service~~ proposed in the application;
 - (6) The character, ~~and responsibility and related business experience~~ and proposed business plan of the applicant, including the applicant's plans regarding driver recruitment and retention;
 - (7) The investigative report of the Director and the applications of the applicants.
- (c) All parties ~~notified under Section 84.1-2-2(e)~~ will have the right to present comments when the Commission holds public hearings to investigate the public convenience and necessity of applied for certificates. (4-00-84.1; 56-08-84.1.)

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

- (a) Upon the ~~approval by the Board's award of operator's taxicab~~ certificates, the Director will issue such certificates upon receiving proof that each proposed vehicle is ready for service as set forth herein.
- (b) ~~All operators' Each taxicab~~ certificates ~~issued~~ will contain the following information:
 - (1) Name, including trading as name if not the same as name, and business address of the certificate holder.
 - (2) The make, model, model year, vehicle identification number, seating capacity of the vehicle, and the lettering, marks and color scheme to be used on the ~~vehicle taxicab~~ authorized by the certificate to be operated.
 - (3) The date of issuance and expiration.
 - (4) A number assigned in a manner determined by the Director.
 - (5) Such other information as the Director determines may assist in carrying out the purpose of this Chapter.
- (c) Each ~~operator's taxicab~~ certificate issued by the Director will remain the property of the ~~DCCCP Department~~, may not be copied, and will be returned to the Director in the event that it is revoked or suspended in accordance with Section 84.1-2-12. (4-00-84.1; 56-08-84.1.)

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

- (a) The annual fee for each taxicab certificate will be \$150.00. ~~However, if~~ The fee for each newly authorized taxicab certificates will be established on a pro rata basis from the date of initial issuance until December 31 of ~~that~~ calendar year in which the certificate was issued.
- (b) ~~An annual vehicle taxicab inspection fee of \$20.00 will be paid for each taxicab certificate owned by an operator. That annual inspection fee will be paid on a calendar year basis, and be received no later than January 31 of each calendar year.~~
- (c) ~~If a~~ vehicle substitution fee of \$25.00 will be paid for each vehicle substitution is made in accordance with Section 84.1-2-13, ~~the operator will pay a substitution fee of \$25.00.~~

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

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

- (a) ~~No operator's~~taxicab certificates will be issued under this Article nor continued in effect until all fees and taxes imposed by this Chapter ~~or any other Chapter of this of the County Code, as amended,~~ are paid, ~~insofar as such fees relate to operation of a taxicab business within the County.-~~
- (b) Such certificates will be nontransferable by sale, lease, or otherwise and will be valid from the date of issuance until relinquished or revoked as provided in this Chapter; provided, if any certificate holder will fail to place in operation, within ~~180 calendar days~~ 18 months of the date of authorization for new or additional taxicab certificates, any taxicabs so authorized for operation under a numbered certificate, such unused certificates will become null and void, ~~except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days and available for redistribution to other applicants in accordance with Section 84.1-2-2(a). If an operator faces extenuating circumstances which prohibit the operation of vehicles within 180 calendar days, an application for a one time 90 calendar day extension may be filed no later than 15 calendar days prior to the 180 calendar day deadline. Requests for extensions will be reviewed by the Director and granted based on the justification for non-compliance and planned corrective action.~~
- (c) In the event that a taxicab is permanently removed from service, the certificate holder may substitute a replacement vehicle on that numbered taxicab certificate, but any such replacement vehicle will meet the requirements of Section 84.1-8-~~53~~ and the holder will submit that replacement vehicle to Director for inspection prior to placement in service. If the replacement vehicle is not placed in service within ~~180 calendar days~~ 18 months, such unused certificates will become null and void, ~~except as provided in Section 84.1-2-10(d), and must be returned to the Department within two business days, and available for redistribution to other applicants in accordance with Section 84.1-2-2(a). If an operator faces extenuating circumstances which prohibit the operation of vehicles within 180 calendar days, an application for a one time 90 calendar day extension may be filed no later than 15 calendar days prior to the 180 calendar day deadline. Requests for extensions will be reviewed by the Director and granted based on the justification for non-compliance and corrective action planned.~~ (4-00-84.1; 56-08-84.1.)

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

- (a) ~~Within 45 calendar days of any~~In the event of an agreement to sell or ~~otherwise transfer~~ transfer control of a certificate holderany company holding taxicab operator's certificates hereunder, including, but not limited to, any form of lease-purchase, inheritance, or other long-term arrangements, the ~~owner or manager of the company authorized to operate taxicabs in Fairfax County~~certificate holder must notify the Department of the agreement as soon as practicable, including the identity of the transferee or transferees and anticipated date on which control will transfer~~seek the approval of the County for the sale or ownership transfer of company held certificates. Notification does not relieve the certificate holder of its obligations under Chapter 84.1. A transferee may not provide taxicab service in Fairfax County until authorized to do so on an interim basis by the Director or on a permanent basis by the Board. The prospective owner must submit appropriate information to the Director to establish the intended manager's or operator's ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation.~~
- (b) ~~The prospective owner~~Each transferee must submit appropriate information ~~an application for an operator's certificate to the Director to establish the intended manager's or operator's~~its ability to provide taxicab services consistent with requirements of this Chapter. Failure to do so, as herein required, may lead to certificate revocation. That application will be made upon forms provided and in the format requested by the Department, and completed as required by Section 84.1-2-2(b). ~~In the event any holder of Fairfax County taxicab operator's certificates enters into a contract or agreement with any person or company to operate the certificate holder's taxicab vehicles on the certificate~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Failure to maintain the taxicab(s) and/or meter(s) identified in such certificates in good order and repair, in accordance with Article 8 of this Chapter.
 - (2) Failure to pay any fees lawfully assessed upon the ownership or operation of any such vehicle(s), identified as taxicabs in such individual numbered taxicab certificates, under this Chapter.
 - (3) Failure to supply information required under Sections 84.1-2-11(c) and (e) and 84.1-5-2 of this Code pertinent to any taxicabs operated under such certificates.
 - (4) Failure to maintain proper insurance, as required by this Chapter, on any ~~vehicle-taxicab~~, including any ~~vehicle-taxicab~~ operated by an owner-operator. The certificate holder's right to operate such ~~vehicle-taxicab~~ will be suspended for as long as the required amount of insurance is not in effect.
 - (5) Failure to comply with the ~~vehicle-taxicab~~ inspection requirements set forth in Section 84.1-8-64.
 - (6) Failure of drivers to respond to or pick up a fare.
- (b) A certificate holder's entire operating authority and all individual numbered taxicab certificates issued to the certificate holder may be suspended by the Director until proof of compliance is met to the satisfaction of the Director upon finding that the public safety and welfare ~~are so impacted demands~~, or for any of the following reasons:
- (1) Discontinuance of service of the entire business of the certificate holder for more than five consecutive calendar days.
 - (2) Failure to pay all fees and taxes imposed by this Chapter or any other Chapter of this Code insofar as such fees relate to operation of a taxicab business within the County.
 - (3) Three or more violations by the certificate holder of any of the provisions of this Chapter within a twelve-month period.
- The Director's failure to suspend an individual numbered operator's certificate for any of the causes set forth in Subsection (a) of this Section will not impair the authority of the Director to suspend all certificates held by an operator based on such causes.
- ~~(c) A certificate holder's entire ability to operate within Fairfax County and all individual numbered certificates thereunder may be revoked by the Director for any of the following reasons:~~
- ~~(1) If the certificate holder makes or causes or allows to be made any false statement in writing for the purpose of procuring operator's certificates or any additions to an existing number of operator's certificates;~~
 - ~~(2) If the certificate holder makes or causes or allows to be made any false statement or entry on the records required to be kept by this Chapter; or~~
 - ~~(3) Operates or permits to be operated a taxicab in the County that the individual numbered operator's certificate under which the taxicab was placed in service is under suspension;~~
 - ~~(4) Operates or permits to be operated in the County any taxicab for which an individual numbered operator's certificate has not been issued.~~
- ~~(dc) Written notice of any suspension or revocation pursuant to Section 84.1-2-12(a), or (b), or (c) will be given to the certificate holder by certified mail by the Director electronic mail. Such suspension or revocation will be effective upon receipt, unless a different effective date is specified, seven calendar days after deposit in the mails of the notice of such action; except that no delayed effective date will be required for a suspension pursuant to Section 84.1-2-12(a)(4). The Director will notify the Commission of any revocation or suspension of any operator's certificate within seven calendar days of mailing the notice to the certificate holder.~~
- (ed) The Director, upon a determination that the certificate holder is not operating the authorized taxicabs in such a manner as to serve the public adequately, safely, efficiently or legally, may ~~suspend or revoke its grant of authority to~~ the certificate holder's authority to operate a taxicab business and all individual numbered taxicab certificates issued there-under. Such determination will be based upon the Director's

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

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

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

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

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

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

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

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

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

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

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

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

Section 84.1-3-1. - License required.

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

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

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

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

- (a) Application for a ~~hacker's~~taxicab driver's license, and for renewals thereof, will be made in person on forms provided by the Department and endorsed by a certificate holder. Such endorsement will be on the form provided by the Department and will indicate the certificate holder's ~~company's~~ consent to authorize the driver to operate a taxicab ~~under the certificate~~on the certificate holder's behalf. The applicant will provide full answers to all questions on the application under oath. Information required to be provided by the applicant will include, but not be limited to, pertinent personal data, description of physical characteristics, traffic and criminal history records, experience in operating motor vehicles, and experience in driving taxicabs for hire.
- (b) Each applicant is required to be fingerprinted by the Fairfax County Police Department.
- (c) Each applicant is required to have a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia which is recognized as a lawful license to drive a motor vehicle on the highways of the County by the Commonwealth of Virginia. ~~If the applicant's state of residence requires a classified license to operate a taxicab, then the applicant will be required to present such license. If the applicant's home state does not issue such a classified license, then the applicant must present a valid driver's license of the type that is required by that state from applicants for taxicab licenses.~~
- (d) ~~Each Applicant is less than~~Each applicant must be at least 21 years of age, and have at least ~~Applicant has less than one year's of driving experience as a licensed driver of a motor vehicle within the United States.~~
- (e) ~~Prior to submitting the~~Each applicant, upon initial application for a ~~hacker's~~taxicab driver's license, ~~an applicant will~~may be required to successfully ~~pass complete each part of a general examination which that tests the applicant's knowledge of Chapter 84.1 of the Fairfax County Code, significant locations and major landmarks, hospitals, clinics, airports, governmental centers, and shopping centers within the County and major airports near the boundaries of the County. The applicant must also show basic knowledge of map reading and the major roadways within the County, and~~—The Director may administer a test of the applicant's ability to communicate orally with passengers in the English language concerning the trip, destination, fares, route, and related matters. (4-00-84.1; 56-08-84.1.)

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

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

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

- (a) If the Director determines that the applicant for a ~~hacker's~~taxicab driver's license has complied with all provisions of this Chapter and, based upon the information supplied in Section 84.1-3-2 and the information obtained in accordance with Section 84.1-3-3, the Director further determines that there are no reasons for refusal pursuant to Section 84.1-3-4(c), the Director will issue a ~~hacker's~~taxicab driver's license for a period of one year containing such information thereon as the Director deems pertinent.
- (b) The Director may issue an applicant a temporary taxicab driver's license for a period not to exceed 60 calendar days pending investigation and processing of the initial application. In deciding whether to issue a temporary license, the Director will conduct a preliminary review and consider the following:
 - (1) Applicant's score on a written exam;
 - (2) Applicant's traffic record; and
 - (3) Applicant's criminal history.

- (c) The Director may refuse to issue a ~~hacker's~~taxicab driver's license to any applicant for any of the following reasons:
- (1) ~~Within the five-year period immediately preceding the date of the application, S~~suspension or revocation ~~within the preceding five years~~ of a valid driver's license issued by the Commonwealth of Virginia or a valid driver's license issued by another state or by the District of Columbia, ~~recognized by the Commonwealth of Virginia.~~ However, a financial responsibility suspension or revocation will not be grounds for denial if the applicant has presented proof of financial responsibility in accordance with the motor vehicle laws of this State.
 - (2) ~~Within the five-year period immediately preceding the date of the application, C~~conviction of any felony; ~~any crime of violence or moral turpitude; a violation of any law regulating sexual conduct or controlled substances; production, sale, possession, or use of alcohol or narcotics; gambling; or any crime of violence.~~
 - ~~(3) Applicant is less than 21 years of age.~~
 - ~~(4) Applicant has not been issued a driver's license by the Commonwealth of Virginia or by another state or by the District of Columbia recognized by the Commonwealth of Virginia.~~
 - ~~(5) Applicant has less than one year of driving experience within the United States.~~
 - ~~(6) Applicant made a false statement of material and relevant facts on an application for a hacker's license.~~
 - ~~(7)~~ (3) ~~Within the three-year period immediately preceding the date of the application, C~~conviction of any of the offenses of state law that would permit the Virginia Department of Motor Vehicles to revoke a driver's license to operate a motor vehicle on the highways of this State.
 - ~~(8) Persistent or repeated violations, while operating a moving vehicle, of the motor vehicle laws of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.~~
 - (94) ~~Within the three-year period immediately preceding the date of the application, C~~conviction in any jurisdiction of any of the offenses listed below regardless of how any such offense is styled, described, or labeled:
 - (A) Hit and run.
 - (B) Habitual offender.
 - (C) Driving while operator's license is revoked or suspended.
 - (D) Driving while intoxicated.
 - (E) Reckless driving.
 - ~~(85) Within the 12-month period immediately preceding the date of the application, two or more Persistent or repeated violations, while operating a moving vehicle, of the motor vehicle laws of the Commonwealth of Virginia, other states, or the enactments of local jurisdictions regulating traffic, and the operation of motor vehicles.~~
 - ~~(6) Applicant made a false statement of one or more material and relevant facts on an application for a hacker's taxicab driver's license.~~
 - ~~(10) Applicant is suffering from mental illness or physical condition which creates a threat to the safety of the public.~~
 - (447) In the case of applications for renewal of a ~~hacker's~~taxicab driver's license, any of the grounds for suspension or revocation of a ~~hacker's~~taxicab driver's license under Section 84.1-3-7.
- (d) In the event the Director denies a ~~hacker's~~taxicab driver's license application, the Director will notify the applicant in writing within seven calendar days of the action taken. (4-00-84.1; 56-08-84.1.)

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

- (a) ~~A nonrefundable examination application fee of \$25.00 will be payable each time an application is made for a hacker's license paid prior to taking the examination described in Section 84.1-3-2(e).~~
- (b) ~~A nonrefundable application fee of \$40.00 will be paid for the initial taxicab driver's license and for each issuance and the annual renewal of each the taxicab driver's license. The applicant will bear the cost of obtaining traffic and criminal history reports. A hacker's license will be valid for one year from the date of issuance.~~
- (c) ~~The Director may issue~~ A replacement fee of \$15.00 will be paid for a ~~hacker's licenses when appropriate, and persons who are issued a replacement~~ taxicab driver's license will be charged a replacement fee of \$15.00. (4-00-84.1; 56-08-84.1.)

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

- (a) Every taxicab driver licensed under this Chapter will post their ~~hacker's~~ taxicab driver's license in such a place as to be in full view of any passenger seat, while the taxicab is for hire-.
- (b) Each taxicab driver will complete a daily manifest. Each manifest shall completed in a legible fashion. Paper manifests or the information contained in electronic manifests shall be provided to the operator by the taxicab driver as soon as practicable after the workday but no later than weekly.
- (c) The driver of a taxicab involved in any accident will, within seven calendar days from the date of the accident, report such accident to the Taxicab Inspector, giving him such facts in the case as the Taxicab Inspector may reasonably require.
- (d) A taxicab driver licensed under this Chapter will report to the Taxicab Inspector each arrest or summons issued for a traffic offense while operating a motor vehicle or any offense identified in Section 84.1-3-4(c)(2), within seven calendar days of such arrest or receipt of such summons.
- (e) A taxicab driver shall provide written notice to the Taxicab Inspector of any change of affiliation with the certificate holder that endorsed the driver's most current application for a taxicab driver's license. Written notice shall be provided within 15 calendar days of any such change in affiliation. (4-00-84.1; 56-08-84.1.)

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

- (a) The Director may suspend a ~~hacker's~~ taxicab driver's license for a period extending from one to 60 ~~30~~ calendar days, or until the reason for the suspension is resolved. ~~In addition, the Director may suspend or revoke a hacker's license for any of the following reasons:~~
- (1) Driving an unsafe taxicab determined by the Director to be unsafe or insufficiently insured.
 - (2) Any violations of any Articles of this Chapter which regulate driver conduct and record-keeping duties.
 - ~~(3) Occurrence of any of the grounds for refusal to issue a license, listed in Section 84.1-3-4(c).~~
 - ~~(4) Conviction of a violation of the Code of Virginia, Section 46.2-852, as amended, or of any violation of state statute or local ordinance for reckless driving of a motor vehicle on any highway.~~
 - ~~(5) Using or attempting to use a County hacker's license for the purpose of operating, within or outside the jurisdiction of Fairfax County, a taxicab not authorized to operate in Fairfax County.~~
 - ~~(6) Failure to file a report prescribed by Section 84.1-3-7(d) or (e).~~
 - ~~(7) Failure to file a notice of change in affiliation prescribed by Section 84.1-3-9.~~
 - ~~(8) Driving of any taxicab not sufficiently covered by insurance.~~
 - (9) Repeated passenger complaints regarding the operation provision of taxicab service.

~~(404)~~ Failure to pick up a person when requested to do so by the certificate holder or at any location, without justification stated in Section 84.1-7-1~~(b)~~2(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **ARTICLE 4. - Appeals.**

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

- 3 (a) If the Director denies, suspends or revokes any ~~hacker's taxicab driver's~~ license or ~~revokes or suspends~~
 4 ~~or revokes~~ any or all ~~operator's taxicab~~ certificates, or denies or revokes a certificate holder's approval
 5 to self-insure, any party aggrieved thereby may appeal such decision to the Commission.
- 6 (b) Any appeal will be filed with the Department of ~~Cable Communications and Consumer Protection~~ by
 7 the appellant or by the legal representative of the appellant. Appeals will be in writing, and appeals will
 8 include a brief statement of the reasons thereof. Appeals will be filed within 45 calendar days of receipt
 9 of the notice of denial, suspension or revocation, and appeals will be signed by the appellant or the
 10 legal representative of the appellant.
- 11 (c) Upon receipt of any notice of appeal, the Commission will set a time and place for such hearing and
 12 will give the appellant or legal representative and the Director reasonable notice thereof. All hearings
 13 on appeals will be scheduled and determined as promptly as practicable and in no event more than
 14 60 calendar days from the date the notice of appeal is filed.
- 15 (d) The Commission will consider the case record as well as the statement offered by any interested party
 16 and will consider the matter de novo, and the Commission will, upon the basis of the record before it,
 17 affirm, modify or reverse the decision of the Director.
- 18 (e) If the Commission affirms the decision of the Director to suspend or revoke a ~~hacker's taxicab driver's~~
 19 license, any ~~operator's taxicab~~ certificates, or a certificate holder's approval to self-insure, then the
 20 suspension or revocation will be effective from the date of the Commissioner's ~~order~~ decision.
- 21 (f) If the Commission reverses the decision of the Director, ~~the~~ Director will issue or restore the
 22 ~~hacker's taxicab driver's~~ license, ~~operator's taxicab~~ certificate(s), or a certificate holder's approval to
 23 self-insure in accordance with the Commission's decision ~~its order~~.
- 24 (g) Except as otherwise provided in this Subsection, an appeal of the decision of the Director to suspend
 25 or revoke a ~~hacker's taxicab driver's~~ license under Section 84.1-3-7 ~~of this Chapter~~, or the suspension
 26 or revocation of any or all operator's certificates under Section 84.1-2-12 ~~of this Chapter~~ will stay the
 27 effective date of the suspension or revocation. However, if any suspension or revocation of any
 28 operator's certificates is based on ~~Paragraph (4) of Subsection (a) of Section 84.1-2-12(a)(4)~~, or if any
 29 suspension or revocation of any ~~hacker's taxicab driver's~~ license is based on Section 84.1-3-4(c)(2),
 30 ~~(5) or (6) or (8) or Section 84.1-3-7(a)(5)(b)(2)~~, then the ~~order~~ decision of the Director will remain in
 31 effect until the Commission has rendered its decision on the appeal. (4-00-84.1; 56-08-84.1.)

32 **ARTICLE 5. - Records and Reports.**

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

- 34 (a) A certificate holder will maintain books and records of its operations ~~under County certificates~~ to show
 35 the following in sufficient detail, consistent with generally accepted accounting procedures:
- 36 (1) Total revenues, by category of service and source derived;
- 37 (2) Operating expenses, by category;
- 38 (3) Capital expenditures;
- 39 (4) Depreciation expenses, by category.
- 40 (b) A certificate holder will maintain records of the following in sufficient accuracy and detail to comply with
 41 ~~information the filing requirements of this Chapter and requests that may be made by the Director:~~
- 42 (1) Requests for taxicab service received by the certificate holder and responses thereto, including
 43 ;(7) —Average wait-time for passengers after pick-up request.

- (2) Number of taxicabs available for service and in operation on a daily basis;
 - (3) Maintenance and repair records of taxicabs and other equipment employed in operating the certificate holder's taxicab business;
 - (4) Requests for wheelchair accessible taxicab service received by the certificate holders and responses thereto, including average wait-time for passengers after pick-up request;
 - (5) Number of calls for wheelchair accessible taxicab service referred to other Fairfax County operators;
 - (6) Daily manifests, completed by drivers as provided in Section 84.1-5-1(e)3-6(b);
 - (7) Taxicab meter data for each taxicab that at minimum identifies on a daily, weekly and monthly basis the total miles driven, paid miles driven, and number of trips.
 - ~~(7) Average wait time for passengers after pick-up request.~~
- (c) ~~Each driver will complete a daily manifest upon which the driver will record the following:~~
- ~~(1) The date and time of the day (stated as to a.m., p.m. or 24 hour clock) the driver began operation and stopped operation on the street.~~
 - ~~(2) The taxicab number and the driver's name.~~
 - ~~(3) All trips made each day, showing the time and place of origin, destination, time of arrival, number of passengers, and the amount of the fare for each trip, recorded at the beginning and end of each trip as required.~~
 - ~~(4) The taxicab meter readings of the following: total miles, paid miles, trips, units, and extras. These readings will be recorded on the driver's manifest at the beginning and end of each driver's tour of duty, and these readings will not be transferred from one taxicab to another if a driver changes taxicabs during a workday. A separate manifest will be maintained for each taxicab. Drivers of wheelchair accessible vehicles, will designate on the manifest the particular trips made by persons in wheelchairs.~~
 - ~~(5) The odometer reading at the beginning and end of each driver's workday in a given taxicab. All completed manifests will be returned to the certificate holder by the driver as soon as is practical after the end of the workday.~~
- (d) A certificate holder will retain and preserve all of the records required by this Section to be maintained, for a period of no less than three years. Such records may be kept in any reasonable form in ordinary business practice; provided, manifests must be preserved as originally filed, although their contents may be abstracted for other record or filing requirements.
- (e) ~~The books, and records and data required to be maintained by a certificate holder under the provisions of this Section will be made available, within a reasonable period of time not to exceed 30 calendar days after request for inspection and examination by the Department, Director except that manifests will be made available within seven calendar days after request for inspection. If it should become necessary for the Department Director to remove manifests or other records from the certificate holder's offices, the certificate holder will be given a receipt reasonably identifying the items so removed. (4-00-84.1; 56-08-84.1.)~~

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

- (a) In order to accomplish the purpose of this Chapter, all certificate holders will file, under oath, to the best of their knowledge, with the Department on a biennial basis (or more frequently if requested by the Department), financial and statistical reports. Such reports will include data solely related to the operations of Fairfax County authorized taxicabs. Such reports must be filed by ~~April 15~~ May 1.
- (b) The following ~~information and~~ data must be filed with the Department in every odd-numbered year, for the preceding two calendar years; each separately stated, according to generally accepted accounting principles:

- 1 (1) Certificate holder's balance sheet.
- 2 (2) Certificate holder's income statement.
- 3 (3) Copies of certificate holder's income tax returns that will remain confidential and for governmental
- 4 use only.
- 5 (4) Operating and service data, for each of the two preceding calendar years, will include: total meter
- 6 revenue; total wheelchair accessible taxicab meter revenue; number and types of cabs; number
- 7 of drivers affiliated with the company, including number of owner operators; miles operated,
- 8 including total, paid; number of trips; ~~number of units;~~ number of passengers; ~~copies of manifests;~~
- 9 schedule of the company's lease rates and stand dues; average number of cabs in service on
- 10 weekdays; number of calls for service referred to other Fairfax County operators; number of calls
- 11 for wheelchair accessible service referred to other Fairfax County operators; location of taxi
- 12 stands; and such other data as may reasonably be requested in furtherance of this Chapter. The
- 13 Director may provide forms or specify the format for the information to be collected and reported
- 14 by certificate holders. (4-00-84.1; 56-08-84.1.)
- 15 (5) For operators that have received approval to self-insure in whole or part pursuant to Section 84.1-
- 16 2-11(e), a report detailing the company's insurance claims procedures and claims history for the
- 17 preceding two calendar years.

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

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

20 In the exercise of its authority to regulate taxicab service, the Board will consider factors relevant to

21 the need to assure safe, economical, adequate, and reliable privately operated taxicab service for the riding

22 public. (4-00-84.1; 56-08-84.1.)

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

- 24 (a) Changes in any rule, regulation, rate, fare, charge, and or practice thereto, for taxicab services
- 25 rendered by certificate holders, may be approved by the Board after notice and hearing held by the
- 26 Commission or upon recommendation of the Director.
- 27 (b) On an annual basis the Board may consider changes in rates, fares or charges, upon petition by a
- 28 certificate holder or a driver association. Any petition filed by a certificate holder or driver association
- 29 for changes in rates, fares or charges must be filed simultaneously with the Clerk to the Board and the
- 30 Director by June 30. A copy of such requests must be sent by the Director to the Commission,
- 31 certificate holders, and any driver association within seven calendar days of submission to the Clerk
- 32 to the Board.
- 33 (c) Any petition for a change in rates, fares or charges will contain the following:
- 34 (1) The rates, fares or charges which are proposed for approval; and
- 35 (2) A sample billing analysis which will show the cost to riders for trips ranging from one mile to twenty
- 36 miles in one-mile increments, using existing rates and proposed rates, including for each
- 37 increment, the percent change.
- 38 (d) Rate change petitions will be analyzed by the Director, using information submitted under Section
- 39 ~~84.1-5-2, Subsection (c) of this Section,~~ and other relevant data. The Director will use the following
- 40 standard in consideration of whether the request is justified: ~~The change in the Fairfax County Taxicab~~
- 41 ~~Industry Price Index since the last adoption of rates (plus or minus two percent).~~ The Fairfax
- 42 County Taxicab Industry Price Index, which is in the following form:

43 Fairfax County Taxicab Industry Price Index

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

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

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

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

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

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

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

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

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

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

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

(c) Taxicab Rates and charges

(1) Maximum Mileage Rate

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

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

(2) Additional Passenger Rate

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

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

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

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

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

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

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

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

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

(5) All service animals and service animals in training will be transported and free of charge when accompanying an individual with a disability persons with disabilitiesNo Charge - All other Animals (other) will be transported only at the discretion of the driver and only if the passenger agrees to keep the animal under control. AThe charge to transport for each such animal will not exceed.....\$1.00

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

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

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

(7d) ~~A Cleaning Charge of \$25.00 will be imposed~~—If the taxicab is left in an unsanitary condition which requires the taxicab to be removed from service and cleaned immediately after completion of the trip, ~~.....\$4.00~~

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

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

(40f) ~~When a driver has taken into a taxicab a passenger for transportation and has actually begun the transportation of such passenger, no other person will be received by the driver into such taxicab until the destination is reached, without the consent of such original passenger; and except as otherwise provided herein, no~~ charge will be made for an additional passenger except when the additional passenger rides beyond the original passenger's destination, and then only for the additional distance traveled.

(44g) ~~Operators may offer to senior citizens and persons with disabilities discounts for taxicab service in an amount not to exceed 25 percent for all applicable rates and charges for transportation and other services.~~

(A1) Any operator offering such a discount rate must notify the Director of the discount program no later than 30 calendar days prior to the offering and no later than 30 days prior to its modification or discontinuance. ~~make the rate available to both senior citizens and individuals with disabilities.~~

(B2) Any such discount rate and the eligibility criteria for the discount rate must be posted by the operator offering the discount in each taxicab for which it holds a certificate.

(C3) Notice of any discontinuance or modification of a discount rate must be posted by the operator in each taxicab for which it holds a certificate 30 calendar days prior to being discontinued or modified.

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

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

ARTICLE 7. - Operation.

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

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

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

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

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

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

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

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

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

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

- (1) Such vehicle is already engaged by another passenger;
- (2) Such vehicle is en route to pick up a passenger ~~for service in response to an order for service received by telephone, radio or otherwise~~, in which case, a "not in service," "not for hire" or "on call" sign must be exhibited;
- (3) Such vehicle is out of service because of the end of the driver's shift or for other reasons, in which case a "not in service," "not for hire" or "off duty" sign will be displayed.
- (4) The driver reasonably believes that the driver's life or safety would be endangered by picking up a person who otherwise would be entitled to transportation.
- (5) The Ppassenger seeks transport outside Fairfax County.

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

- (c) ~~Use of tobacco, cell phone, sound system, and radio.~~ Passenger comfort. A taxicab driver shall ensure the passenger's comfort while transporting the passenger by:
- (1) ~~Not smoking or using tobacco in the taxicab while it is occupied by one or more passengers. No driver, while the taxicab is occupied by a passenger, will smoke,~~
 - (2) ~~Not using a use a cell mobile phone, other mobile device, radio or other in-car entertainment or play a sound system or radio if the passenger or passengers request requests that the taxicab driver not do so. This subparagraph does not apply to the methods of communications used to communicate with the dispatcher or law enforcement personnel or used to obtain traffic information.~~
 - (3) Adjusting the heating, air conditioning or windows in the taxicab if requested to do so by a passenger.
- (d) Receiving and discharging passengers. No taxicab or part thereof will be stopped on the traveled portion of any highway to take on or discharge passengers except where parking is permitted, and when so permitted the taxicab will be parked in the manner prescribed by law.
- (e) Maximum number of persons in taxicabs. No taxicab driver will permit more passengers in a taxicab than the number authorized by the ~~County taxicab~~ certificate issued for that vehicle, and no taxicab driver will permit more persons in a taxicab than the number of seat belts which are available for use within the vehicle.
- (f) Front seat occupancy. No taxicab driver will permit more than one passenger in the front seat of any taxicab, ~~and no taxicab driver will permit more passengers in the front seat than the number of seat belts which are available for use by passengers in the front seat.~~
- (g) Additional passengers. When a taxicab is occupied by one or more passengers, the driver will not accept additional passengers unless the taxicab driver has the concurrence of all passengers. No charge will be made for this additional passenger except when the additional passenger rides beyond the original destination, and then only for the additional distance traveled.
- (h) Deception of passengers. It will be unlawful for a driver to deceive or attempt to deceive any passenger as to the rate or fare to be charged or to take a longer route to a destination than necessary. The taxicab driver may take a longer route when, unless requested to do so by the a passenger.
- (i) Passenger receipts. The driver of any taxicab will, upon request of a passenger, give a receipt to the passenger for any fare charged. ~~If the passenger requests any of the following information, the receipt will include it: The name of the driver, the license number of the taxicab, the origin, and destination of the trip.~~ All receipts will contain the name of the certificate holder, the amount of fare charged, and the date of the trip. The name of the driver, the license number of the taxicab, and the origin and destination of the trip shall be included on the receipt upon customer request.
- (j) Advance payment. Any driver may, at his or her discretion, demand estimated payment in advance of the rendering of any service. Adjustments will be made at the passenger's destination in accordance with the rates and charges established by this Chapter.
- (k) Acceptance of payment. Method(s) of payment acceptance for transportation fares and charges will be at the discretion of the ~~operator~~ certificate holder. ~~The operator will post a~~ payment acceptance notice listing all forms of electronic payment accepted will be posted in such a manner as to be easily visible to all passengers inside the taxicab and from the outside right side of the taxicab. If credit card(s) and debit card(s) are accepted, logo sign(s) indicating which card(s) are accepted will be displayed both inside and to the outside right side of the taxicab. Drivers must accept all forms of payment accepted by the certificate holder.
- ~~(l) Refusal to pay fare. It will be unlawful for any person to refuse to pay the legal fare or to engage any taxicab with the intent to defraud the certificate holder or driver of the value of such service.~~
- (m) Lost articles. Any article found in a taxicab will be returned with reasonable promptness to the owner if known or the owner will be promptly notified of the whereabouts of the article so that the owner may claim it. If the owner is not known, the driver will immediately inform the dispatcher and return the

article at the close of the taxicab driver's workday to the certificate holder's base place of business. The certificate holder will maintain the lost article in a safe place for at least 30 calendar days. If the lost article is not claimed by its owner within 30 calendar days, the article will be turned over by the certificate holder to the Taxicab Inspector.

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

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

(~~p~~) Notice of any change in residence or business address. Notice of any change in residence or business address will be furnished by any driver or certificate holder to the Taxicab Inspector within 15 calendar days of any such change of address.

(~~q~~) Use of licenses and certificates. It will be unlawful for any person to lend to or knowingly permit the use of, by one not entitled thereto, any hacker's license or operator's certificate, and it will be unlawful for any person to display or represent as their own any hacker's license or operator's certificate not issued to the person or vehicle displaying the same.

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

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

(~~t~~) Training requirements. Each certificate holder will ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

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

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

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

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

ARTICLE 8. – Taximeters and Vehicles, Equipment, Maintenance, and Inspections.

Section 84.1-8-1. - Taximeter requirements.

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

(~~b~~) Taximeters must register on visual counters that display or provide for use by the Taxicab Inspector, at a minimum, the following information: total miles, paid miles, number of units, and number of trips, and number of extras.

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

Section 84.1-8-2. — Taximeter inspections and approval prior to use.

(a) Prior to being used in passenger service, the taximeter required by Section 84.1-8-1 will be calibrated by a Virginia certified Weights & Measures technician indicated by a Placed In Service Report and a tamper-proof seal affixed and sealed as required by the laws of the Commonwealth of Virginia. Within 30 calendar days of the date of the Placed In Service Report, the taximeter will be inspected for accuracy by the Taxicab Inspector before the taxicab is placed in service. (4-00-84.1; 56-08-84.1.)

Section 84.1-8-3. — Tampering prohibited.

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

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

Section 84.1-8-4. — Inspection generally.

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

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

(a1) It will be unlawful for any person to ~~Tamper with any taximeter required by Section 84.1-8-1, or to in any manner change or cause to be changed any part of any taximeter or any part of any vehicle to which such taximeter is attached, directly, or indirectly, which may alter the accuracy of such meter.~~

(b2) It will be unlawful for any person to ~~Operate or permit to be operated any taxicab for hire if such taxicab's meter has not been properly sealed in accordance with Section 84.1-8-2(a) or to operate or permit to be operated a taxicab for hire with knowledge of a violation of Subsection 84.1-8-2(a) of this Section. (4-00-84.1; 56-08-84.1.)~~

Section 84.1-8-5. — Vehicle s and contents requirements.

(a) ~~All Any vehicles authorized to transport passengers under this Chapter will be a taxicab. Every taxicab will be titled and registered as a for-hire vehicle in Virginia and will display Virginia taxi license plates, valid registration decals on the license plates, and a valid Virginia safety inspection sticker issued by a certified Virginia state safety inspection facility. Every taxicab will be of passenger car design, carry no more than six passengers, and will be equipped with at least two doors for the entrance and exit of passengers, in addition to the front door located on the driver's side. All passenger doors will be constructed that they will remain securely fastened during normal operation but may be easily opened by a passenger in an emergency. Every taxicab will be equipped with tires having at least two thirty seconds of an inch of tread, and no taxicab will be operated with unsafe tires. Every taxicab will be equipped with a properly inflated spare tire mounted on the appropriate rim.~~

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

- (c) ~~Every taxicab will be of passenger car design, carry no more than six passengers, and will be equipped with at least two doors for the entrance and exit of passengers, in addition to the front door located on the driver's side. All passenger doors will be so constructed that they will remain securely fastened during normal operation but may be easily opened by a passenger upon entering or exiting the vehicle or in an emergency.~~
- (d) ~~No taxicab will be operated with unsafe tires. Every taxicab will be equipped with tires whose condition and tread depth comply with the requirements specified in the Virginia Motor Vehicle Safety Inspection Rules and Regulations, having at least two thirty-seconds of an inch of tread, and no taxicab will be operated with unsafe tires. Every taxicab will be equipped with a properly inflated usable spare tire mounted on the appropriate rim or the tire repair kit identified in the vehicle owner's manual.~~
- ~~(b) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from outside the vehicle.~~
- (ee) All taxicab windows must be intact, reasonably clean and be able to be opened and closed as intended by the manufacturer. No taxicab will be operated with a windshield that contains cracks or chips that could interfere with the driver's vision. The taxicab will be equipped with adequate windshield wipers maintained in good operating condition.
- (f) Every taxicab will be equipped with headlights that are operable on both high and low beam and with operable brake or rear lights, signal lights, a rear license plate light, and interior lights. All exterior lights must be fitted with the appropriate type and color of lenses and bulbs.
- (g) Every taxicab in service will be equipped with a properly installed speedometer and odometer, maintained in working order, and exposed to view. If a taxicab is found to have a defective speedometer or odometer, then the taxicab will not be operated until the speedometer or odometer is repaired. The Certificate holder will provide to the Director, within 15 calendar days of the odometer replacement, the date of change, old odometer reading, reading on replacement odometer at the time of installation, and taxicab number.
- ~~(dh) The upholstery covering the interior lining of every taxicab will be of a nonabsorbent, washable material and not torn, ripped or improperly repaired, with the exception of a "kick" strip not exceeding a reasonable height at the bottom of the doors. The rear cushion will be removable. No floor mat will be permitted in any taxicab, unless it will be made of some nonabsorbent, washable material and easily removable, except that such floor covering material may be cemented in place on the floor of a taxicab when the whole area of the floor is covered.~~
- (ei) Every taxicab will be so constructed and maintained as to provide for the safety of the public and for continuous and satisfactory operation, and to reduce to a minimum, noise and vibration caused by operation. Every taxicab will be structurally sound and will pass state inspection. All factory-installed safety equipment, including seat belts, mirrors and horn, will be in good working condition at all times. A certificate holder will be given a reasonable time to effect needed repairs, except in cases where the defect affects the safety of the taxicab and/or the passengers therein. In such cases the taxicab will not be operated until the defect has been corrected. Every taxicab will be painted to give reasonable protection to all exposed surfaces from the elements, and all identifying marks will be clearly legible at all times.
- (fj) Every taxicab will have cruising rooftop lights mounted on the top of the taxicab in the forward portion thereof, unless otherwise authorized by the Director. The dome light is to be of such a design as to identify the vehicle as a taxicab. Drivers, when holding forth their cab for hire, will have the cruising light on from sunset to sunrise. Each taxicab will also be equipped with two marker lights on either side of the cruising dome lights. The marker lights will be connected to, and operated by, the meter such that when the meter is on, these lights are off, and when the meter is off, these lights are on.
- (gk) All identifying marks on taxicabs will be plainly distinguishable in letters not less than three inches in height. The exterior of each taxicab will display the name of the taxicab company in letters not less than three inches in height. The taxicab number will not be less than four inches in height, permanently painted or otherwise permanently affixed to each of the two front quarter panels of the taxicab and to the right and left side of the rear window in lettering of no less than three inches in height. The lettering

- 1 ~~will show the name of the taxicab company. If a vehicle is taken out of service as a taxicab on a~~
 2 ~~permanent basis, the certificate holder will, within 72 hours, remove the taxicab markings along with~~
 3 ~~all other indications of the vehicle's use as a taxicab.~~
- 4 (h) Every wheelchair accessible taxicab will be plainly marked with a reflective six-inch by six-inch blue
 5 with white markings international wheelchair symbol on each side of the vehicle and on the rear of the
 6 vehicle. All wheelchair symbols will be above door handle height. A reflective four-inch by four-inch
 7 international wheelchair symbol will be placed on the top center of the front windshield.
- 8 ~~(i) If a vehicle is taken out of service as a taxicab on a permanent basis, the certificate holder will, within~~
 9 ~~72 hours, remove the taxicab markings along with all other indications of the vehicle's use as a taxicab.~~
 10 ~~A replacement operator's certificate will not be reissued until the certificate holder provides written~~
 11 ~~verification that the vehicle being removed from service has had all taxicab markings removed.~~
- 12 ~~(j) Every taxicab will be equipped with a light capable of illuminating the interior of the taxicab and~~
 13 ~~controlled by the operation of the doors or manually controlled by the driver.~~
- 14 ~~(k) Every taxicab will be equipped with heating and air conditioning to be maintained in good working~~
 15 ~~condition at all times and to be turned on by the driver at the passenger's request.~~
- 16 ~~(l) No taxicab will be equipped in such a way as to shield the occupants or driver from observation from~~
 17 ~~outside the vehicle.~~
- 18 ~~(m) Every taxicab interior will be kept in as clean and sanitary a condition and be free of foreign matter,~~
 19 ~~litter and offensive odors. A taxicab exterior will be painted, contain no significant unrepaired dents or~~
 20 ~~other body damage, and be kept as clean as is reasonably possible considering existing weather~~
 21 ~~conditions. A certificate holder will be given reasonable time in which to clean a taxicab upon direction~~
 22 ~~of the Taxicab Inspector.~~
- 23 ~~(n) Every taxicab will be equipped with a taximeter as prescribed by this Chapter.~~
- 24 (m) ~~Used vehicles~~
- 25 (1) ~~Other than wheelchair accessible taxicabs. A used vehicle may be placed in service as a taxicab~~
 26 ~~in the County that is two or less model years old, has fewer than 80,000 miles, and the Director~~
 27 ~~is satisfied that the vehicle meets all the requirements of this Chapter. It will be unlawful to operate~~
 28 ~~as a taxicab in the County any vehicle that is older than six model years or that has more than~~
 29 ~~380,000 miles, whichever occurs first. For example, in determining and applying this vehicle~~
 30 ~~model year requirement, all vehicles of a manufacturer's model year 2006 will be replaced by~~
 31 ~~December 31, 2012.~~
- 32 (2) ~~Wheelchair accessible taxicabs. A used vehicle may be placed in service as a wheelchair~~
 33 ~~accessible taxicab in the County that is four or less model years old, has fewer than 125,000~~
 34 ~~miles, and the Director is satisfied that the vehicle meets all the requirements of this Chapter. It~~
 35 ~~will be unlawful to operate as a wheelchair accessible taxicab in the County any vehicle that is~~
 36 ~~older than seven model years or that has more than 450,000 miles, whichever occurs first. For~~
 37 ~~example, in determining and applying this vehicle model year requirement, all wheelchair~~
 38 ~~accessible vehicles of a manufacturer's model year 2006 will be replaced by December 31, 2013.~~
- 39 ~~(n) Every taxicab will be equipped with heating and air conditioning to be maintained in good working~~
 40 ~~condition at all times and to be turned on by the driver at the passenger's request.~~
- 41 ~~(o) Every operator having authority to operate 25 or more taxicabs will have at least 4 percent of those~~
 42 ~~taxicabs which qualify as wheelchair accessible taxicabs. In the event that 4 percent of the number of~~
 43 ~~taxicabs in any operator's fleet is not a whole number, then this requirement will be computed on the~~
 44 ~~number of authorized taxicabs and rounded to the nearest whole number. For example, an operator~~
 45 ~~having authority to operate 60 taxicabs will have at least two wheelchair accessible taxicab, 60×0.04~~
 46 ~~$= 2.4$ which is rounded to 2.0 vehicles, but an operator having 65 taxicabs will have at least three~~
 47 ~~wheelchair accessible taxicabs, $65 \times 0.04 = 2.6$ which is rounded to 3.0.~~
- 48 ~~(p) Fuel efficiency requirements will be applicable for additional or replacement vehicles placed in service~~
 49 ~~each year by a Fairfax County operator effective~~

- (i) ~~July 1, 2010 and if~~
- A. ~~primarily fueled by gasoline 50% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 21 miles per gallon or~~
- B. ~~primarily fueled by a clean special fuel that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~
- (ii) ~~July 1, 2012 and if~~
- A. ~~primarily fueled by gasoline 55% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 23 miles per gallon or~~
- B. ~~primarily fueled by a clean special fuel that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~
- (iii) ~~July 1, 2014 and if~~
- A. ~~primarily fueled by gasoline 60% or more of those vehicles must have a minimum Environmental Protection Agency (EPA) combined city/highway miles per gallon (mpg) rating of 25 miles per gallon or~~
- B. ~~primarily fueled by a clean special fuel that fuel must be recognized as a clean special fuel by the Virginia Department of Motor Vehicles.~~
- (iv) ~~Wheelchair accessible vehicles are excluded from the requirements of Section 84.1-8-5(p). (4-00-84.1; 56-08-84.1.)~~

Section 84.1-8-64. -- Vehicle Inspections of vehicles.

- (a) During the initial and each subsequent taxicab inspection, the Taxicab Inspector will inspect and evaluate the taxicab for compliance with Chapter requirements, including: taximeter operation and accuracy; state registration, licensing and safety inspection requirements; vehicle age and mileage; tires; windows and windshield wipers; exterior and interior lights; speedometer and odometer operation; safety equipment including seat belts, mirrors, and horn; exterior lettering and other taxicab markings; the condition of the vehicle's interior and exterior; and the display of materials provided by the Department, including the rate card, complaint notice, and taxicab driver's license.
- (b) Prior to the first use and operation of any vehicle under the provisions of this Chapter, the vehicle will be inspected by the Taxicab Inspector and found to comply with the provisions of as provided in Section 84.1-8-5-4(a) and the current motor vehicle laws adopted by the State Commissioner of Motor Vehicles. If the Taxicab Inspector determines that the vehicle complies with applicable such vehicle is approved as complying with such regulations, a taxicab certificate setting forth such approval and stating the authorized seating capacity of the vehicle will be issued by the Director to the applicant certificate holder. The certificate holder of the vehicle will cause the same to be inspected as required in this Chapter at intervals of no longer than six months.
- (b) Every certificate holder will permit all reasonable inspections by the Taxicab Inspector of taxicabs licensed to operate under this Chapter and will cause each of its taxicabs to be inspected on a periodic basis by the Taxicab Inspector. Taxicabs with a vehicle age of six or fewer model years will be inspected by the Taxicab Inspector annually, with the inspection to occur six months from the month shown on the Virginia Motor Vehicle Safety Inspection decal affixed to the vehicle. Taxicabs with a vehicle age of seven or more model years will be inspected on a semi-annual basis by the Taxicab Inspector at intervals of no longer than six months.
- (d) The Director will, from time to time, order the inspection of all licensed taxicabs by the Taxicab Inspector finds. If any taxicab will be found unsafe for the transportation of passengers, or in an unsanitary condition warranting removal from service, or its taximeter is not registering accurately, then notice will be given to the taxicab driver and certificate holder; and it will be unlawful to operate the taxicab until the deficiencies have been corrected and the taxicab has been and re-inspected; and

approved for such service. ~~A certificate holder, however, will be given a reasonable time, considering the existing weather conditions, to clean a taxicab unless the interior of the taxicab is in such an unsanitary state as to be unfit for the transportation of passengers, in which event the taxicab will not be placed in service until the condition is corrected.~~

(de) The individual numbered ~~vehicle taxicab~~ certificate issued by the Department, the current manifest, and the ~~taxicab driver's hacker's~~ license must be presented to any ~~taxicab~~ inspector or duly sworn law enforcement officer upon request. (4-00-84.1; 56-08-84.1.)

ARTICLE 9. - Penalties.

Section 84.1-9-1. - General penalties.

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

ARTICLE 10. - Jurisdictional Reciprocity and Sightseeing Operations.

Section 84.1-10-1. - Jurisdictional reciprocity.

Notwithstanding the provisions of Section 84.1-2-1 ~~respecting the obtaining of an operator's certificate, a certificate holder or a taxicab driver duly licensed in Fairfax County~~ will be required to abide by any current reciprocity agreement. (4-00-84.1; 56-08-84.1.)

Section 84.1-10-2. - Sightseeing operations.

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

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. All taxicab certificates awarded by the Board of Supervisors on or before February 11, 2014 are hereby re-authorized and re-awarded effective upon adoption of this ordinance without change to the allocation; notwithstanding the provisions of § 84.1-2-9 as it existed before the date of adoption of this ordinance, no taxicab certificate shall be null and void.

4. That the provisions of this ordinance shall take effect upon adoption.

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

Clerk to the Board of Supervisors

Board Agenda Item
December 6, 2016

5:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the
Rehabilitation of the Difficult Run Force Main (Hunter Mill and Dranesville Districts)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project WW-000008-003, Difficult Run Force Main Rehabilitation, Fund 69300, Sewer Construction Improvements.

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 November 1, 2016, the Board authorized advertisement of a public hearing to be held on December 6, 2016, at 5:00 p.m.

BACKGROUND:

This project consists of rehabilitating the 5.7-mile, 36-inch Difficult Run Force Main (DRFM). Rehabilitation of the DRFM is critical to the County's wastewater program, as it will allow millions of gallons of County wastewater per day to be treated at the Noman M. Cole, Jr. Pollution Control Plant (NCPCP) rather than at the DC Water Blue Plains Treatment Plant (Blue Plains), where the County is approaching its capacity limit. The DRFM will allow the County to immediately reduce the flow of wastewater to Blue Plains and will allow for cost-optimized treatment options between NCPCP and Blue Plains in the future. The DRFM and the Difficult Run Pump Station (DRPS), which it serves, were placed into service in 1981, but were taken out of service in 1995 due to problems with the DRFM, odor concerns, and the economics of keeping the DRPS in operation. Improvements to Difficult Run Force Main include lining, pipe replacement, point repairs, and the installation of access vaults for periodic cleaning and maintenance. The DRPS is currently being rehabilitated but cannot come back online (scheduled for late summer 2017) until rehabilitation is completed.

Board Agenda Item
December 6, 2016

Land rights for these improvements are required on two (2) properties consisting of a 34,442 square-foot Maintenance Access Easement.

Negotiations are in progress with the affected owners, however, because resolution of the acquisition is not imminent, it may become necessary for the Board to utilize quick-take eminent domain powers to commence construction of this project on schedule. These powers are conferred upon the Board by statute, namely, Va. Code Ann. Sections 15.2-1903 through 15.2-1905 (as amended). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

FISCAL IMPACT:

Funding is available in Project WW-000008, Force Main Rehabilitation, Fund 69300, Sewer Construction Improvements. This project is included in the FY 2017 – FY 2021 Adopted Capital Improvement Program (with Future Fiscal Years to 2026). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheets on the affected parcels with plats showing interests to be acquired (Attachment 1-1A).

STAFF:

James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

DIFFICULT RUN FORCE MAIN

ATTACHMENT A



Tax Map: 27-2

Project WW-000008-003
Hunter Mill District

Affected Properties:



Proposed Maintenance
Access Easement:



0 0.045 0.09 0.18
Miles



ATTACHMENT B

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, December 6, 2016, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, certain Project WW-000008-003, Difficult Run Force Main Rehabilitation 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 December 9, 2016.

NOW THEREFORE BE IT RESOLVED, that the Director, Land Acquisition Division, in cooperation with the County Attorney, is directed to acquire the property interests listed in Attachment 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 rehabilitating the 5.7-mile, 36-inch Difficult Run Force Main (DRFM) as shown and described in the plans of Project WW-000008-003, Difficult Run Force Main Rehabilitation 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 December 7, 2016, unless the required interests are sooner acquired, to execute and cause to be recorded and indexed among the land records of this County, on behalf of this Board, the appropriate certificates in accordance with the requirements of the Code of Virginia as to the property owners, the indicated estimate of fair market value of the property and property interests and/or damages, if any, to the residue of the affected parcels relating to the certificates; and be it further

RESOLVED, that the County Attorney is hereby directed to institute the necessary legal proceedings to acquire indefeasible title to the property and property interests identified in the said certificates by condemnation proceedings, if necessary.

LISTING OF AFFECTED PROPERTIES
Project WW-000008-003
Difficult Run Force Main Rehabilitation
(Hunter Mill and Dranesville Districts)

PROPERTY OWNER(S)

TAX MAP NUMBER

1. McDiarmid Land Trust

027-2-01-0008A
027-2-01-0010

Address:
9942 Meadowlark Rd., Vienna, VA 22182

A Copy – Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

AFFECTED PROPERTY

Tax Map Number: 027-2-01-0008A
027-2-01-0010

Street Address: 9942 Meadowlark Rd., Vienna, VA 22182

OWNER(S): McDiarmid Land Trust

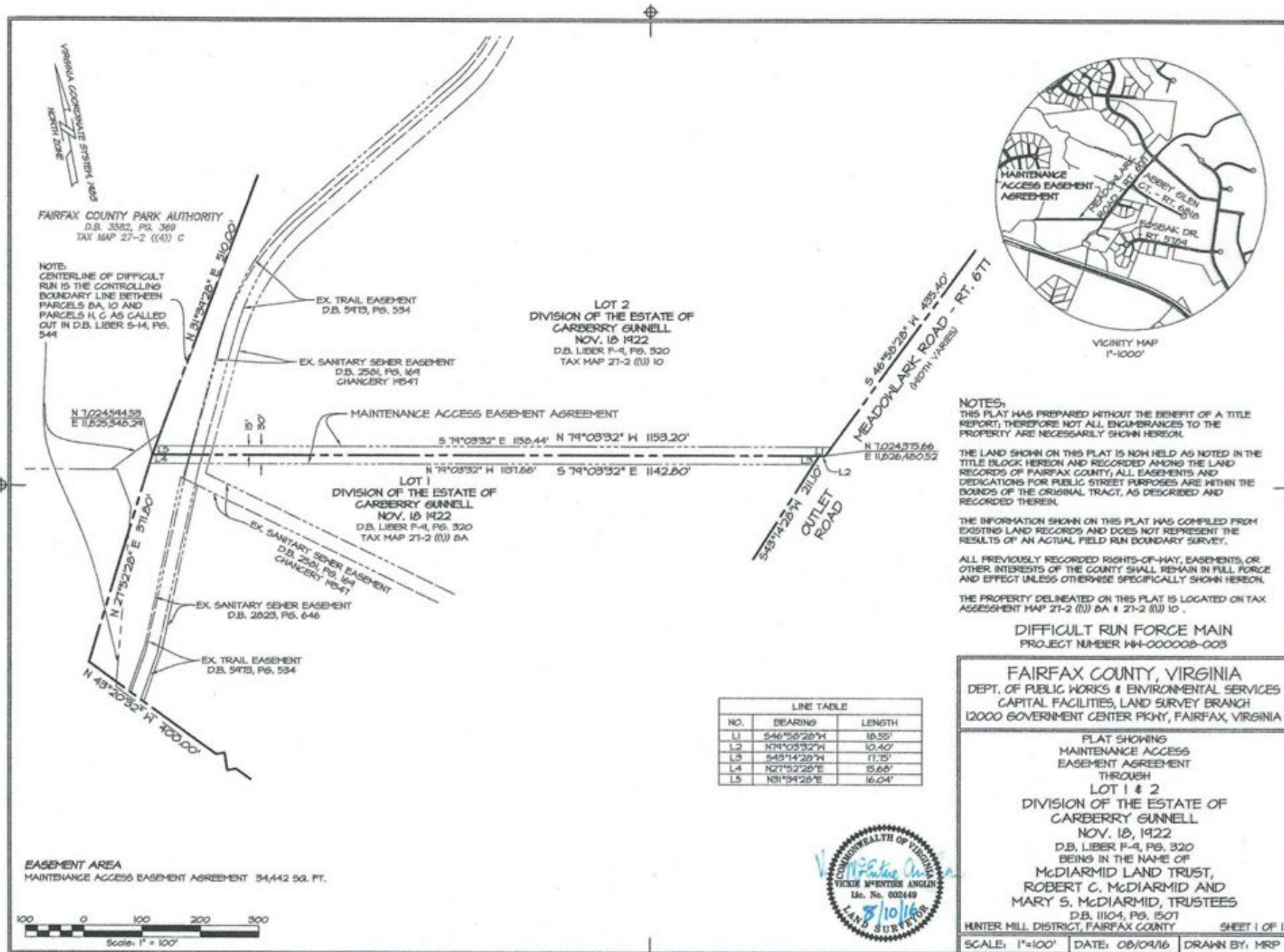
INTEREST(S) REQUIRED: (As shown on attached plat/plan)

Maintenance Access Easement Agreement – 34,442 sq. ft.

VALUE

Estimated value of interests and damages:

ONE HUNDRED TEN THOUSAND TWO HUNDRED DOLLARS (\$110,200)



Board Agenda Item
December 6, 2016

5:30 p.m.

Public Hearing on SE 2016-MV-010 (Marc Anthony Mussoline) to Permit Provisions for Uses in a Flood Plain, Located on Approximately 7,150 Square Feet of Land Zoned R-3 (Mount Vernon District)

This property is located at 1212 Olde Towne Road, Alexandria, 22307. Tax Map 83-4 ((2)) (40) 501

PLANNING COMMISSION RECOMMENDATION:

On Thursday, October 27, 2016, the Planning Commission voted 8-0-1 (Commissioner Hurley abstained; Commissioner Murphy was not present for the vote; and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2016-MV-010, subject to the Development Conditions dated September 28, 2016.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Angelica Gonzalez, Planner, DPZ

Board Agenda Item
December 6, 2016

| |
|--|
| TO BE INDEFINITELY DEFERRED |
|--|

5:30 p.m.

Public Hearing on SE 2016-HM-017 (Milestone Tower Limited Partnership III) to Permit a Telecommunications Facility (Monopine), Located on Approximately 14.20 Acres of Land Zoned R-2 (Cluster) (Hunter Mill District)

This property is located at 2791 Fox Mill Road, Herndon, VA 20171. Tax Map 36-1 ((10)) G.

This public hearing was deferred by the Board at the November 1, 2016 meeting until December 6, 2016, at 5:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing was held on September 28, 2016, and the decision was deferred to October 19, 2016. On October 19, 2016, the Planning Commission deferred decision to November 16, 2016. On November 16, 2016, the Planning Commission deferred decision indefinitely.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Joe Gorney, Planner, DPZ

Board Agenda Item
December 6, 2016

5:30 p.m.

Public Hearing on RZ 2015-HM-013 (Wiehle Station Ventures, LLC) to Rezone from I-3 to PRM to Permit Mixed Use Development with an Overall Floor Area Ratio of 2.5 and Approval of the Conceptual Development Plan, Located on Approximately 3.34 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with SEA 94-H-049-02)

and

Public Hearing on SEA 94-H-049-02 (Wiehle Station Ventures, LLC) to Amend SE 94-H-049 Previously Approved for an Increase in FAR to Permit Deletion of Land Area, Located on Approximately 3.34 Acres of Land Zoned I-3 (Hunter Mill District) (Concurrent with RZ 2015-HM-013)

This property is located at 11490 Commerce Park Drive, and 1913 Association Drive, Reston, 20191. Tax Map 17-4 ((12)) 11B and 11 D9 (part); 17-4 ((33)) C; and 17-4 ((33)) 110-535.

The Board of Supervisors deferred this public hearing from the November 1, 2016 meeting.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, September 29, 2016, the Planning Commission voted 8-0-2 (Commissioners Keys-Gamarra and Sargeant abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 94-H-049-02;
- Approval of RZ 2015-HM-013 and the associated Conceptual Development Plan (CDP), subject to the execution of proffers consistent with those now dated September 28, 2016;
- Approval of a waiver of Section 2-505 (2) of the Zoning Ordinance for the Use Limitations on corner lots;
- Approval of a modification of Paragraph 4 of Section 11-202 of the Zoning Ordinance to reduce the Off-Street Loading Required Minimum Site Distance from 40 feet to 16 feet;

Board Agenda Item
December 6, 2016

- Approval of a modification of Section 11-203 of the Zoning Ordinance to reduce the number of Required Loading Spaces from three to one for residential buildings and from four spaces to two spaces for the office buildings;
- Approval of a waiver of Section 13-203 of the Zoning Ordinance for Peripheral Parking Lot Landscaping;
- Approval of a modification of Sections 13-303 and 13-304 of the Zoning Ordinance of the Transitional Screening and Barrier Requirements to permit the landscaping as shown on the CDP/FDP/SEA; and
- Approval a parking reduction of up to 18.8 percent, 78 fewer spaces, for the proposed residential use, pursuant to Paragraph 5.A of Section 11-102 of the Zoning Ordinance, subject to the conditions outlined in Appendix 17 of the staff report.

In a related action, the Planning Commission voted 8-0-2 (Commissioners Keys-Gamarra and Sargeant abstained and Commissioners Hedetniemi and Lawrence were absent from the meeting) to approve FDP 2015-HM-013, subject to the proposed Final Development Plan conditions dated September 21, 2016, and the Board of Supervisors' approval of RZ 2015-HM-013 and the Conceptual Development Plan.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Laura Arseneau, Planner, DPZ

Board Agenda Item
December 6, 2016

6:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**ADDENDUM
AGENDA**

ACTION ITEMS

- | | |
|----|---|
| 17 | Establishment of a Police Civilian Review Panel, as Recommended by the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission |
|----|---|

**PUBLIC
HEARINGS**

- | | |
|------|--|
| 3:30 | Public Hearing on RZ 2016-BR-013 (MHI-Heritage, LLC & Bristow Shopping CTR LTD) (Braddock District) |
| 4:30 | Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries |

ACTION – 17

Establishment of a Police Civilian Review Panel, as Recommended by the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission

ISSUE:

Board of Supervisors approval of the recommendations of the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission to establish a Police Civilian Review Panel (“the Panel”), reporting to the Board of Supervisors (“Board”), for the purpose of building and maintaining public trust between the Police Department, the Board of the Supervisors and the public, and police legitimacy. The Civilian Review Panel will request and review completed Police Department internal administrative investigations of civilian complaints concerning allegations of abuse of authority and serious misconduct.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors establish a Civilian Review Panel based on recommendations of the Ad Hoc Police Practices Review Commission, as modified.

TIMING:

Board action is requested on December 6, 2016, so the Board can move forward with establishment and implementation.

BACKGROUND:

The Ad Hoc Police Practices Review Commission was created by Chairman Sharon Bulova and endorsed by the Board on March 3, 2015. The purpose of the Commission was to engage the community in an open and transparent process to recommend changes to help the Board and the Police Department achieve the goals of maintaining a safe community, ensuring a culture of public trust, providing for the fair and timely resolution of police-involved incidents and information release, and reviewing Crisis Intervention Training (CIT) and police responses for cases involving mental health.

On October 20, 2015, the Ad Hoc Police Practices Review Commission submitted its final report and recommendations to the Board of Supervisors. On November 17, 2015, the Board of Supervisors approved a process for assigning, prioritizing, reviewing, tracking, and considering the 202 Commission recommendations.

On November 17, 2015, the Board also directed an annual report and a final summary report on the status and implementation of all of the Commission's recommendations. The first annual report shall be presented to the Board by December 13, 2016.

This Action Item is specifically related to the implementation and furtherance of the recommendations of the Independence Oversight and Investigations Subcommittee for the establishment and scope of a police Civilian Review Panel, consistent with the presentations and discussion at the October 25, 2016, Public Safety Committee meeting and other meetings and presentations.

Fundamental to the recommendations of the Independent Oversight and Investigations Subcommittee is that the Board adopt recommended changes, consistent with the Code of the Commonwealth of Virginia and County policies, that will help the County achieve its goals of maintaining a safe community, enhancing a culture of public trust, and ensuring that policies provide for the fair and timely resolution of police-involved incidents. These recommendations are aimed at building and maintaining public trust in the Police Department and its officers by the establishment of a Police Civilian Review Panel, a function in line with the recommendations of the Final Report of the President's Task Force on 21st Century Policing, May 2015. Recommendation 2.8 of that report states, "Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community."

Commission Recommendation

In its final report, the Commission's Independent Oversight and Investigations Subcommittee made 24 overall recommendations. Seven of those recommendations, numbers 18 – 24 as in the Commission report, were specific to the establishment of the Police Civilian Review Panel and its scope and are listed below as presented in the report:

- 18) Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct.
 - a) Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel.
 - b) The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities.
 - c) Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or

criminal investigative experience, reputation in the community and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD).

d) The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities.

19) An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor.

a) "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures.

b) The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint.

c) Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation.

20) Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation.

a) The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel.

b) Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested.

- 21) The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review.
 - a) If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration.
- 22) The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed.
- 23) The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work.
- 24) Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel.
- 25) The Board has the right to review the workload of the Citizen Review Panel and make any necessary adjustments.

These recommendations are also listed on the Ad Hoc Police Practices Review commission Report Recommendations Assignment and Tracking Spreadsheet (Attachment 1) as IOV&I (Independent Oversight & Investigations) 18 through 24, inclusive.

Recommended Action by the Board of Supervisors

Based on a review of the Commission recommendations, Board discussion, staff review, and legal review, it is recommended that the Board establish a Civilian Review Panel, based on the recommendations of the Ad Hoc Commission, with modifications as outlined in this Action Item.

a. Composition of the Panel (Recommendation 18)

Panel members shall be appointed by the Board of Supervisors for terms of three (3) years. Panel members will serve at the pleasure of the Board. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel, with the exception of the first Chair, who shall be appointed by the Board of Supervisors.

The Panel shall be composed of nine (9) members, and each should be a resident residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities.

The Board of Supervisors shall seek to create an independent and fair body for the Panel. The Board of Supervisors shall consider the following factors, among others it may choose, in appointing members of the Panel: community and civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current employee of Fairfax County, a current or former member of the Fairfax County Police Department or the Fairfax County Sheriff's Office, have a relative (i.e., an immediate or extended family member) who is a member of FCPD or FCSO, hold public office, or be a candidate for public office. At least one (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD or FSO).

In order to assist it in appointing a Panel representing the full diversity of Fairfax County, the Board of Supervisors shall invite organizations and individuals to nominate candidates for the Panel to the Board. The Board may ask business, civic, civil rights, legal, and other organizations to nominate candidates. The Board shall also accept into the pool of candidates self-nominated individuals.

The Board of Supervisors shall select Panel members from those nominated by considering those factors set forth in this Action Item, and any other factors that the Board deems appropriate.

The Office of the Police Auditor shall provide staff support to the Panel. Panel members shall complete recommended trainings to be determined.

b. Jurisdiction and Process (Recommendation 19)

The Panel shall have jurisdiction to review complaints of "abuse of authority" or "serious misconduct" by a Fairfax County Police Officer. The Panel shall define "abuse of authority" and "serious misconduct" in its bylaws, which will be subject to approval by the Board of Supervisors. There are two avenues by which a Complaint or Request for Review, concerning alleged abuse of authority or serious misconduct, could reach the Panel. First, an individual may file a Complaint with the Panel. Second, an individual may Request Review by the Panel of an already-completed internal FCPD investigation. If a Complaint or Request for Review within the jurisdiction of the Panel is filed with the Auditor to the Police, the Board of Supervisors, or other county agency outside of the FCPD, that agency shall forward it to the Panel. The Panel shall not review alleged misconduct that is subject to review by the Auditor.

- 1) "Abuse of authority" and "serious misconduct" shall be defined by the Panel in its bylaws and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures.
- 2) The Panel shall refer any Complaint within its scope that it receives to the FCPD for review and handling, including any necessary investigation.
- 3) **Absent good cause**, the Panel shall not consider any Complaint filed more than one (1) year after the date of the incident that is the subject of the Complaint, nor regarding any incident that occurred prior to the passage of this Action Item establishing the Panel. The Panel shall not consider any Request for Review of any investigation of any incident that occurred prior to the passage of this Action Item.
- 4) Any Request for Review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation.

All Complaints to and Requests for Review by the Panel of a completed FCPD investigation shall be in writing. Requests for Review shall state the specific reason(s) for the request. Upon receiving a Complaint or Request for Review, the Panel shall determine if the Complaint or Request concerns matters which are the subject of pending criminal proceedings or pending or anticipated civil proceedings. If it does, then the Panel shall defer the matter pending resolution of the criminal or civil proceedings. The Panel shall notify the Complainant and the Board of Supervisors, in writing, of any such deferrals. The Panel may request the assistance of Counsel, the Auditor, or the Chief of Police, or the County Attorney in making its determination. The Panel shall track any deferred matter and notify the complainant and the Board once the criminal or civil proceedings are closed and the request for review may proceed.

For any Complaint filed with the Panel and sent to the FCPD for investigation, the FCPD shall provide a report back to the Panel within sixty (60) days with respect to its review and handling of the complaint. The Panel shall provide an extension if requested by the Chief of Police in order to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice also provided to the complainant and the Board of Supervisors. Absent good cause provided by the Police Department for production of the report within a reasonable time period, the Panel may report any delay in the handling of the matter to the Board of Supervisors. The Board may direct the Chief of Police to ensure completion of the investigation, or to report on the reasons for delay and an expected completion date.

If the complainant is not satisfied with the Police Department's investigation or findings for any allegation made within the scope of the Panel, the complainant may then request a Panel review of the completed Police Department internal administrative investigation.

c. Timing and Meetings (Recommendation 20)

Absent good cause, for any request for review, within forty-five (45) days of receipt of the complete police department internal administrative investigation, the Panel may, at its discretion, schedule a public meeting to review the FCPD investigation. The Panel shall send notification of the date and time of the meeting to Panel members, Police Department Internal Affairs Office, the County Attorney's Office, and the complainant.

At any meeting held to review an investigation, the Panel shall not take testimony or receive factual evidence of the underlying matter that is the subject of the investigation. However, the complainant shall have the opportunity to state his or her reason(s) for the request for review, **and the Panel may ask questions of the complainant as to those reasons.** Upon completion of the complainant's statement, the Police Department representative(s) knowledgeable of the investigation shall **review and answer questions from the Panel about its investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not** ~~present a description of its investigation including all findings of fact and a review of all evidence collected and received, including witness statements~~, subject to the following limitations:

1. The statement of any police officer required by the Department to give a statement under the provisions of Garrity v. New Jersey, 385 U.S. 493 (1967) shall not be disclosed in public. The Panel shall have confidential access to the entire statement for the purpose of its review. The Police Department representative(s) presenting information to the Panel may publicly state only that the officer admitted or denied the allegation, unless the officer consents to the public release of the entire statement.
2. The Panel may convene in private to deliberate; however, any deliberations by the Panel which do not address the alleged improper conduct or performance of duties of an officer shall be conducted in an open public meeting. Neither the police department representative, nor any Panel member shall reveal the identity of any victim of sexual assault, unless authorized to do so by the victim, or of any juvenile.

The County Executive or his/her designee shall require the attendance of any County employee, other than the involved officer(s), whose appearance is requested by the Panel unless such required attendance violates any statutory or constitutional right of the employee. The County Executive shall also require the submission of any relevant documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel, **including the full FCPD internal administrative investigative case file**, unless legal privilege to withhold exists and is not waived. At the Panel's discretion, further investigation by the Police Department may be requested and the Police Department shall

conduct such further investigation and provide a supplemental public report to the Panel with respect to the further investigation.

During the Panel's review of a ~~completed FDPD investigation complaint~~ where it is necessary for Panel members to review an officer's personnel record reflecting discipline or a Police Department internal administrative investigative case file, each Panel member who is provided the opportunity to review that record or case file shall be required to sign a Notice of Confidentiality, affirming that the file and case record is deemed a personnel record and shall not be disclosed nor shall copies be provided to the public. If a file contains information concerning an identifiable juvenile, the file shall first be forwarded to the County Attorney's Office, which shall redact information that identifies a juvenile in conformance with the requirements contained in Code of Virginia § 16.1-301, or any successor provision.

Panel review meetings shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition schedule.

The Panel shall draft Bylaws to govern more specifically its functions. Such bylaws, and any amendments thereto, must be approved by the Board of Supervisors before taking effect.

d. Panel findings (Recommendation 21)

The Panel review of the investigation shall be completed and a public written report issued within 60 days of the filing of a request for review unless good cause exists for an extension, such as a delay due to a pending criminal or internal administrative investigation or the unavailability of a key witness. A delay and the cause shall be reported to the Board of Supervisors.

Upon completion of its review, the Panel, in its findings, may:

1. Concur with the findings and determination of the Police Department investigation.
2. Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the Police Department and recommend further review and consideration by the Chief of Police.
3. Advise the Board of Supervisors that in its judgment the investigation is incomplete and recommend additional investigation.
4. Conclude that the complaint is not appropriate for review by the Panel.

Upon a finding by the Panel under provisions 2 and 3, the Board may direct the Chief of Police to take further action as it deems appropriate.

e. Panel reports (Recommendation 22)

The Panel shall issue an annual written report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors, Auditor, and the Chief of Police, including any recommendations for revisions to FCPD policies, training, and practices that the Panel concludes are needed. These annual reports shall be delivered to

the Board through the Auditor and the Chair of the Board's Public Safety Committee, and then released to the public.

The Panel shall have the authority to conduct public meetings on issues within its jurisdiction and on law enforcement policies and practices to assist it in making recommendations for policy and practice changes to the Chief of Police and the Board of Supervisors. The Panel may meet periodically with the Independent Police Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide its view to the Board of Supervisors and the Chief of Police as to policy and practice changes that may be warranted.

FISCAL IMPACT:

The Civilian Review Panel will be supported primarily by staff of the Office of Independent Police Auditor. Other associated costs will primarily include as of yet undetermined Police Department and County Attorney's Office, independent counsel, staff time and any required materials and supplies for the Panel.

ENCLOSED:

Attachment 1: Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|------------------------|-------------|--|----------------------|---|--------------------------|--|--|
| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| COMMUNICATIONS SUBCOMMITTEE | | | | | | | | |
| COMM - 1 | Timely Info Disclosure | 46 | Provide accurate, timely and actionable information (good or bad) using redundant forms of communication. | Police Dept. (PD) | Office of Public Affairs (OPA) | PERF #70 | | Police Dept. (PD) |
| COMM - 2 | Timely Info Disclosure | 46 | Adopt a "predisposition to disclose" approach with public records presumed to be public and exceptions strictly and narrowly construed. | PD | Co. Atty's Office, OPA | PERF #70 | | Board of Supervisors (BOS) |
| COMM - 3 | Timely Info Disclosure | 46 | Share and regularly update details of all officer-involved shootings in multiple ways; disclose not only facts, but also procedures and timing. | PD | Co. Atty's Office, OPA | PERF #70 | | BOS |
| COMM - 3a | Timely Info Disclosure | 46 | Provide the name of the officer(s) as soon as possible but preferably within a week. If a decision is made not to release the name within a week, publicly share specific information that illustrates the reason the name is being withheld. | PD | Co. Atty's Office, Commonwealth's Attorney's Office (CWA) | | | PD |
| COMM - 3b | Timely Info Disclosure | 47 | In cases where a suspect is deceased as a result of an officer-involved shooting, make available immediately upon FOIA request all body-camera, in-dash camera or audio recordings of responding officers to an incident. | PD | Co. Atty's Office, CWA, OPA, Dept. of Information Technology (DIT) | | Yes | BOS |
| COMM - 3c | Timely Info Disclosure | 47 | In officer-involved shootings where a suspect is shot but not deceased, provide a citizens' committee (a communications advisory committee appointed by either the Board of Supervisors or the Chief of Police to carry out this function) access to the recordings for a recommendation on release which should balance public and private interest. This committee's recommendation would be submitted to the Chief of Police who would factor it into a final decision. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 3d | Timely Info Disclosure | 47 | All digital recordings in officer-involved shooting investigations should be carefully preserved, and investigations should end with the public release of all digital recordings within 6 months of the incident. | PD | Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 4 | Timely Info Disclosure | 47 | Annually report on the demographics of the subjects in all use-of-force incidents including race, gender, age, whether mental health status was a factor, previous involvement with FCPD and any other data. | PD | OPA, CSB | PERF #70 | Yes | PD |
| COMM - 5 | Timely Info Disclosure | 47 | Devote more effort to sharing day-to-day information of police activity with the public. Facilitate unfettered access to blotter-type information, to include a list of every incident and call with the basic who/what/when/where/how information. | PD | OPA, DIT | PERF #70 | | PD |
| COMM - 6 | Timely Info Disclosure | 47 | Include incident based reporting (IBR) categories of statistical crime information broken down by district stations and provided quarterly in accessible, comprehensive online reports. Provide quarterly information by district for all use-of-force and officer involved shootings, CIT calls for service, traffic and pedestrian accidents. | PD | OPA, DIT | | Yes | PD |
| COMM - 7 | Community Engagement | 47 | Embrace and practice increased, proactive community engagement. | PD | OPA | | | PD |
| COMM - 7a | Community Engagement | 47 | Communicate with key community leaders as soon as bad news breaks. | PD | OPA | | | PD |
| COMM - 7b | Community Engagement | 47 | Hold community meetings early and often. | PD | OPA | | | PD |
| COMM - 7c | Community Engagement | 48 | Continue cross-district command meetings to increase situational awareness, spot trends and provide a centralized forum to identify and coordinate responses to emerging community issues. | PD | | | | PD |
| COMM - 7d | Community Engagement | 48 | Create a "Community Engagement Team" within FCPD to respond to community concerns and manage programs that create community trust and engagement. The team members should be fluent in the language and knowledgeable of the customs of the particular community they serve, and the team should reflect the diversity of Fairfax County in order to best serve as liaisons between the community and FCPD. | PD | DMB | | | BOS |
| COMM - 8 | Community Engagement | 48 | Continue supporting Citizen Advisory Committees (CAC); Chief's Citizens Advisory Council; and Citizen's Police Academy (CPA) classes. | PD | Citizen Advisory Committees (CAC), Citizens Police Academy (CPA), OPA | | | PD |
| COMM - 8a | Community Engagement | 48 | Expand promotion of these valuable public forums. | PD | CACs, OPA | | | PD |
| COMM - 8b | Community Engagement | 48 | Improve and expand CAC and Chief's Citizens Advisory Council succession planning and online information. | PD | CACs, OPA | | | PD |
| COMM - 8c | Community Engagement | 48 | Increase the meeting frequency of the Chief's Citizens Advisory Council from four meetings per year to 10 monthly meetings to be in line with the 10 monthly CAC meetings. | PD | CACs | | | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|----------------------------------|-------------|---|----------------------|-------------------------------------|--------------------------|--|--|
| NUMBER (original or assigned) | TOPIC | REPORT PAGE | RECOMMENDATION NARRATIVE | LEAD AGENCY / ENTITY | OTHER AGENCIES / STAKEHOLDERS | LINK PERF REPORT / CALEA | POTENTIAL LEGAL REVIEW / LEGISLATIVE CHANGE REQUIRED | APPROVING AUTHORITY (i.e., BOS, PD, CSB, etc.) |
| COMM - 8d | Community Engagement | 48 | The structure of the eight CACs and the Chief's Citizens Advisory Council should facilitate a two-way flow of information about police services. | PD | CACs | | | PD |
| COMM - 8e | Community Engagement | 48 | Expand the CPA program by offering a compact, three-hour version in addition to the current 10-session program and include in the CPA training the best practices and reports discussed at meetings of the Ad Hoc Police Practices Review Commission and subcommittee meetings. | PD | CPA | | | PD |
| COMM - 8f | Community Engagement | 48 | The CPA should be designed and structured to be understood by all in the diverse communities of Fairfax County. | PD | OPA | | | PD |
| COMM - 9 | Policies, Procedures & Personnel | 48 | Hire a civilian public information officer (a professional communicator knowledgeable of best communication practices and experienced in the practice and ethics of media and journalism) to lead the FCPD public information office, and have that position and function report directly to the Police Chief. | PD | Dept. of Human Resources (DHR), OPA | PERF #70 | | PD |
| COMM - 10 | Policies, Procedures & Personnel | 48 | Fund and employ 24/7 PIO staff in the central Public Information Office with additional PIO staff assigned to each district station. | PD | DMB | PERF #70 | | BOS |
| COMM - 11 | Policies, Procedures & Personnel | 48 | The Chief of Police should be the official spokesperson for officer-involved shootings. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 12 | Policies, Procedures & Personnel | 48 | Develop a policy statement regarding FCPD PIO release of information for critical events to include the relationship with the Office of Public Affairs (OPA) and the process for a hand-off to OPA in certain situations. | PD | OPA, Co. Atty's Office | PERF #70 | | PD |
| COMM - 13 | Policies, Procedures & Personnel | 49 | FCPD should prioritize realignment of resources to ensure more transparency, and become the trusted and valued source of information for Fairfax County. | PD | | | | PD |
| COMM-14 | Policies, Procedures & Personnel | 49 | FCPD should develop a continuous process of information declassification, to ensure proactive information release for cases that are no longer active. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 15 | Policies, Procedures & Personnel | 49 | Current FCPD policies overemphasize the media, FCPD should use its own platforms and tools to share information directly with the public. Policies should reflect the communications paradigm by promoting more community engagement and direct information dissemination to the community. | PD | OPA | | | PD |
| COMM - 16 | Policies, Procedures & Personnel | 49 | Shorten the current 6-20 month timeframe to internally investigate and close officer-involved shooting cases; throughout the investigation be responsive to questions and concerns from the public, news media, and elected officials. <u>It is recommended the Board of Supervisors take an active approach throughout the investigative stage by periodically requesting and receiving updates on such incidents in a public forum.</u> | PD | Co. Atty's Office, CWA | PERF #70 | Yes | BOS |
| COMM - 17 | Policies, Procedures & Personnel | 49 | Update policies (with the assistance of FCPD Community Engagement Team members) and mandate usage of plain language that is culturally appropriate for the diverse communities in Fairfax County to eradicate any perceived biases. | PD | OPA | | | PD |
| COMM - 18 | F.O.I.A. | 49 | The Board of Supervisors should publicly adopt a resolution (and forward it to the County's delegation in the General Assembly) to revisit FOIA laws with an eye toward expanding instead of limiting the public release of information related to police-involved shootings and other police practices and procedures. | BOS | PD, Co. Atty's Office, CWA, OPA | | Yes | BOS |
| COMM - 19 | F.O.I.A. | 49 | The County Executive should establish a countywide FOIA policy and procedure through issuance of a new procedural memorandum that would replace former County Executive Griffin's memo regarding FOIA compliance, which currently guides county staff. The new policy should encourage transparency and accountability by establishing a culture of disclosure. It should give guidance to all county staff custodians of public records to lean automatically toward releasing all public records upon request, changing the current practice of automatically withholding all exempt records. | Co. Atty's Office | County Executive's Office, OPA | | Yes | Co. Exec. |
| COMM - 20 | F.O.I.A. | 49 | Where possible, release police reports with redactions rather than creating a summary document. | PD | Co. Atty's Office, CWA, OPA | | Yes | PD |

| AD HOC POLICE PRACTICES REVIEW COMMISSION REPORT RECOMMENDATIONS ASSIGNMENT AND TRACKING SPREADSHEET | | | | | | | | |
|--|----------------|-------------|--|----------------------------------|--|--------------------------|--|--|
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| COMM - 21 | F.O.I.A. | 50 | Develop FCPD administrative guidelines for FOIA, even in the absence of FOIA reform at the state level. | PD | Co. Atty's Office, OPA | | Yes | PD |
| COMM - 22 | F.O.I.A. | 50 | Move function and staff for responding to FOIA requests out of Internal Affairs and into the FCPD Public Information Office. | PD | Co. Atty's Office | | | PD |
| COMM - 23 | F.O.I.A. | 50 | Cease the blanket approach to FOIA requests; when records are withheld, an explanation should be provided without merely claiming exemption. | PD | Co. Atty's Office | | Yes | PD |
| COMM - 24 | Transparency | 50 | With goal of becoming a transparent and highly accountable police department, the Department should make proactive statements to the community it serves, communicating with the public on all aspects of police procedure, policy, and actions, particularly in an officer-involved shooting or other high-profile incident involving use of force. The use of numerous communications channels should be utilized to explain what happened, what is known at the time, what is revealed over time, and lessons learned and perspective after the fact. | PD | Co. Atty's Office, OPA, | | | PD |
| COMM - 25 | Transparency | 50 | Fairfax County should adopt the type of progressive release of information practices and policies that govern most states as FCPD's current practices on releasing information is not aligned with agencies located <u>outside</u> the Commonwealth of Virginia. | PD | Co. Atty's Office, all County agencies | | Yes | BOS |
| COMM - 26 | Transparency | 50 | Create and utilize written standards and criteria for the day-to-day release of information from FCPD PIO to standardize information flow/release, and to enhance professional communications, transparency, and accountability. | PD | Co. Atty's Office, OPA | | | PD |
| COMM - 27 | Transparency | 50 | Get "buy-in" and cooperation from all levels of the FCPD to improve communications and expand information release. | PD | | | | PD |
| COMM - 28 | Transparency | 50-51 | Basic requests for information should be addressed in a timely manner by openly providing routine information about incidents, activities, calls, investigations (internal and external) with unfettered public access. | PD | | PERF #70 | | PD |
| COMM - 29 | Transparency | 51 | Endorse and implement the recommendations of the final report of The President's Task Force on 21st Century Policing, dated May 2015, that are related to communications, which call for such actions as making all Department policies available for public review, clearly stating what types of information will be released, when and in what situation after serious incidents; communicating swiftly, openly and neutrally while complying with legal requirements related to confidentiality. | PD | OPA | | | PD |
| COMM - 30 | Transparency | 51 | Create a change management process to change the FCPD culture and facilitate the successful implementation of the improved policies. | PD | DHR | PERF #71 | | PD |
| COMM - 31 | Transparency | 51 | Endorse and implement communications-related recommendations contained in the report of the U.S. Conference of Mayors' Working Group of Mayors and Police Chiefs, "Strengthening Police-Community Relations in America's Cities." | PD | OPA | | | PD |
| COMM - 32 | Transparency | 51 | Endorse and implement communications-related recommendations from PERF's use-of-force policy and practice review of FCPD. | PD | OPA | PERF #70 | | PD |
| COMM - 33 | Open Data | 51 | Develop an open data policy to improve transparency; this will reduce the cost of responding to FOIA requests, since data and reports will be published online making FCPD more efficient and serving community needs more effectively. | PD | Co. Atty's Office, OPA, DIT | | Yes | PD |
| COMM - 34 | Open Data | 51 | Provide more specificity and detail in crime stats and information released by the district stations. | PD | Co. Atty's Office, DIT | PERF #70 | | PD |
| COMM - 35 | Open Data | 51 | Make all department policies and procedures available for public review online, updating them as needed. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| COMM - 36 | Moving Forward | 52 | The Board of Supervisors should publicly set dates for community forums to revisit the recommendations of the Ad Hoc Police Practices Review Commission and the progress made toward their implementation. These reviews should take place in April 2016, October 2016, April 2017 and annually thereafter. Other methods should also be used to update the public, possibly an online 'report card' that is continually updated. | Dep. Co. Exec. for Public Safety | PD, CSB, Sheriff's Office (SO), CWA, OPA | | | BOS |

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| COMM - 37 | Moving Forward | 52 | Recommends that this subcommittee continue its service beyond presentation of its final report, in order to meet with the PERF contractors conducting an independent review of the county's communications practices and review and comment on the PERF report and recommendations when they are finally submitted. | Dep. Co. Exec. for Public Safety | | | | Dep. Co. Exec. for Public Safety |
| COMM - 38 | Moving Forward | 52 | Anticipating a proposal for an independent citizen oversight group emerging from the Investigations and Oversight Subcommittee, it is recommended that any group established be mandated to provide robust communications in a transparent process that keeps the community informed and ensures a culture of public trust. | Dep. Co. Exec. for Public Safety | PD, OPA | | Yes | BOS |
| RECRUITMENT, DIVERSITY AND VETTING SUBCOMMITTEE | | | | | | | | |
| RD&V - 1 | Recruitment | 58 | Provide a referral incentive for employees who are successful in recruiting personnel into the Department. | PD | DHR, Co. Atty's Office, DMB | | | BOS |
| RD&V - 2 | Recruitment | 58 | Develop and implement a marketing plan for all programs and vacancies to include e-mail blasts to interfaith organizations and School Career Centers. | PD | OPA, NCS/Community Interfaith Coordination, Faith Communities in Action (FCIA), Fairfax County Public Schools (FCPS) | | | PD |
| RD&V - 3 | Recruitment | 58 | Expand the Explorer and Cadet programs to include a diverse pool of participants. | PD | DHR, FCPS | | | PD |
| RD&V - 4 | Recruitment | 58 | Enter into a Recruitment Agreement with all Cadets to include reimbursement of educational expenses for breach of contract. | PD | Co. Atty's Office, DHR, DMB | | Yes | BOS |
| RD&V - 5 | Recruitment | 58 | Collaborate and build recruitment-oriented partnerships with key segments of the Fairfax County community to further diversify both the applicant pool and workforce to more closely reflect the community. | PD | DHR, FCPS, Faith Communities in Action (FCIA) | | | PD |
| RD&V - 6 | Recruitment | 58 | Identify ways to reduce the time from application to hiring (includes staffing resources). | PD | DHR, DMB | | | BOS |
| RD&V - 7 | Recruitment | 58 | Formalize the selection process by putting certain standards and processes into writing. | PD | DHR, Co. Atty's Office | PERF #1 | Yes | PD |
| RD&V - 8 | Recruitment | 58 | Ensure written directives are kept up to date. | PD | | PERF #2 | | PD |
| RD&V - 9 | Recruitment | 58 | Create a diverse Selection Review Committee that includes community leaders. | PD | DHR, Co. Atty's Office | PERF #3 | Yes | PD |
| RD&V - 10 | Diversity | 59 | Establish a diversity goal for each commander, making them responsible for enhancing the diversity within the department. The progress toward achieving that goal should be reflected in the performance management system. | PD | DHR | | | PD |
| RD&V - 11 | Diversity | 59 | Educate and train recruiting and selecting officers about implicit bias, which the current neuroscience research shows can occur even in people with no-prejudiced attitudes, and the impact on both individual and organizational selection decision. | PD | DHR | | | PD |
| RD&V - 12 | Vetting | 61 | Increase resources in order to reduce length of time it takes to conduct background investigations and polygraphs. | PD | DMB | | | BOS |

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| RD&V - 13 | Vetting | 61 | Formalize the officer selection process. | PD | DHR | PERF #1 | | PD |
| RD&V - 14 | Retention | 62 | The Board of Supervisors should continue to work with the Department's Pay and Benefits Committee to ensure competitive salaries and benefits to secure and maintain a diverse workforce. | PD | DHR, DMB | | | BOS |
| MENTAL HEALTH AND CIT SUBCOMMITTEE | | | | | | | | |
| MH-CIT - 1 | FCPD | 81 | Establish Memphis Model/Virginia CIT Essential Elements. FCPD should immediately establish the Memphis Model for Crisis Intervention Team training as adopted by the Virginia Essential Elements of CIT, ensuring each squad has a CIT trained officer and creating a specialty squad of selected CIT officers to work closely with CSB and Mobile Crisis units. | PD | CSB | PERF #58, 67, 68 | Yes | PD & BOS |
| MH-CIT - 2 | FCPD | 82 | Attract the right officers for CIT, FCPD should create incentives, such as flexible shift hours, to make serving on a Crisis Intervention Team attractive to potential volunteers | PD | DMB, CSB | | | PD |
| MH-CIT - 3 | FCPD | 82 | The subcommittee recommends that the FCPD create a uniform pin to identify Crisis Intervention Team Trained officers to the public. | PD | | | | PD |
| MH-CIT - 4 | FCPD | 82 | Make CIT a requirement for selected command assignments. The subcommittee recommends that FCPD leadership consider CIT training and experience in selections to certain command positions, for instance in the patrol division. | PD | DHR | PERF #57 | | PD |
| MH-CIT - 5 | FCPD | 82 | Form teams. The subcommittee recommends that officers detailed to Crisis Intervention Teams maintain their regular patrol duties, but also form partnerships with mental health workers and community partners trained and experienced in dealing with residents living with mental illness. These teams would be available to be dispatched to identified mental health calls. | PD | CSB | PERF #67 | | PD & Community Services Board (CSB) |
| MH-CIT - 6 | FCPD | 82 | Be proactive. The subcommittee recommends that Crisis Intervention Teams be empowered to work proactively to help mentally ill persons obtain treatment and take other steps to manage their illness, diverting them from the criminal justice system and the courts. | PD | CSB, Courts, CWA | | | PD |
| MH-CIT - 7 | FCPD | 83 | Integrate dispatch personnel. The subcommittee recommends 100% of all dispatchers continue to receive at least eight hours of CIT training. | Dept. of Public Safety Communications (DPSC) | PD, CSB | PERF #69 | | Dept. of Public Safety Communications (DPSC) |
| MH-CIT - 8 | FCSO & CSB | 84 | Implement "Stepping Up." The Board of Supervisors, the CSB, the Judiciary, State legislators, and the Sheriff's Office should collaborate to implement a community-wide system of care overhaul using the BOS-endorsed, national initiative known as "Stepping Up." | CSB | Multiple | | | BOS |
| MH-CIT - 9 | FCSO & CSB | 84 | Fully implement Diversion First. The subcommittee recommends Fairfax County develop a mechanism for oversight of systems of mental health/substance use/justice services — a diversion-oriented system of care collaborative stakeholder group now known as "Diversion First." | CSB | PD, SO | | Yes | BOS |
| MH-CIT - 10 | FCSO & CSB | 84 | Identify and collect pertinent data to establish metrics for success. The subcommittee strongly emphasizes the importance of data collection and its intimate linkage to measuring the progress and impact of CIT programs. | CSB | PD, SO, DIT | | | CSB |
| MH-CIT - 11 | FCSO & CSB | 85 | Increase language and cultural competency. The subcommittee recommends that Fairfax County increase services to special populations to include cultural competency to better serve non-English-speaking justice-involved individuals, as de-escalation and diversion require the ability to effectively communicate with persons. | CSB | PD, SO | | | BOS |

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| MH-CIT - 12 | FCSO & CSB | 85 | Provide CIT Training to jail and custodial personnel. The subcommittee recommends that the Sheriff's Office provide the forty-hour Crisis Intervention Team training course to deputies detailed to courtroom security and deputies working inside the Adult Detention Center. | SO | CSB, PD | | | SO |
| MH-CIT - 13 | FCSO & CSB | 85 | Establish strategically located CIT assessment sites. The subcommittee recommends that Fairfax County establish strategically located 24-hour assessment sites staffed and operated by CSB, FCPD, and the Sheriff's Office collaboratively. | CSB | PD, SO, DMB | | | BOS |
| MH-CIT - 14 | FCSO & CSB | 86 | Redeploy CSB to provide services when they are needed most. The subcommittee recommends that the CSB should redeploy both forensic and community-based teams to expand capacity to provide mental health services at each point in the criminal/community mental health continuum rather than incarcerate individuals. | CSB | PD, SO | | | CSB |
| MH-CIT - 15 | FCSO & CSB | 86 | Expand Mobile Crisis Unit (MCU) program to strategic locations in Fairfax County. MCU is an emergency mental health program of the Fairfax-Falls Church Community Services Board that provides on-scene evaluation, treatment, and crisis intervention in the community. The recommendation is to have MCUs by Jan. 1, 2017. | CSB | | | | BOS |
| MH-CIT - 16 | FCSO & CSB | 87 | CSB and Sheriff's Office to consider increasing behavioral health clinician staff hour availability inside the Adult Detention Center (ADC), to include not only on-site, but through technology. | CSB | SO, DIT | | | CSB & Sheriff's Office (SO) |
| MH-CIT - 17 | FCSO & CSB | 87 | Increase release planning to support successful reentry. The subcommittee recommends that more CSB staff resources be devoted to release planning inside the ADC. It is also recommended that Dept. of Family Services (DFS) make available resources to initiate benefit eligibility determination. | CSB | SO, Dept. of Family Services (DFS) | | | CSB |
| MH-CIT - 18 | FCSO & CSB | 87 | Review pharmacy policies inside the ADC. The subcommittee recommends that the CSB and ADC medical staff review policies, especially for psychotropic medications, to ensure that inmates receive the most effective treatment relative to their conditions and medical histories by January 1, 2016. | SO | CSB | | Yes | CSB & SO |
| MH-CIT - 19 | Judiciary & Mental Health Dockets | 88 | Implement Mental Health dockets. The subcommittee recommends that Fairfax County work with judges and the Clerk of the Court to establish a Mental Health Docket for both adults and juveniles by January 1, 2016. | Dep. Co. Exec. for Public Safety (preliminary) | Courts, Clerk of the Court, CWA, CSB, PD, SO | | Yes | BOS & Courts |
| MH-CIT - 20 | Judiciary & Mental Health Dockets | 88 | Encourage Mental Health Awareness training for the judiciary. The subcommittee recommends that appropriate mental health awareness training be developed and deployed for judges, magistrates, probation and parole officers, and other officials who may come into contact with people who are living with mental illness by January 1, 2016. | CSB | Courts, Magistrates, Probation & Parole, Others | | | CSB |
| MH-CIT - 21 | VA CIT Elements | 89 | Establish standing law enforcement Mental Health Units staffed by full-time police officers and deputies tasked with responding to individuals experiencing a mental health crisis. | PD & SO | CSB, DMB, Co. Atty's Office | | | BOS |
| MH-CIT - 22 | VA CIT Elements | 89 | Institute plainclothes Mental Health Unit officers. Mental Health Unit officers in Bexar County wear civilian clothing and use unmarked vehicles during the course of their duties to avoid unintentionally escalating a mental health crisis. | PD & SO | PD, CSB | | | PD & SO |
| MH-CIT - 23 | VA CIT Elements | 89 | Re-focus and develop a full range of mental health and disability awareness training at the Criminal Justice Academy. CIT is important, but other trainings are also vital. | PD | PD, CSB | | | PD & SO |
| MH-CIT - 24 | VA CIT Elements | 90 | Clarify mental health response protocols for first responders. The Fairfax County Fire and Rescue responds to more than 50,000 calls annually, and must transport some individuals without a medical condition to emergency rooms rather than a mental health facility as this is required by the Code of Virginia. Subcommittee recommends the Board of Supervisors consider supporting a bill that would allow first responders to transport individuals whose primary condition is a mental health issue directly to a mental health facility once medically cleared by an EMT. | Fire and Rescue Dept. (FRD) | Govt. Relations, CSB, Co. Atty's Office | | Yes | BOS |

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| MH-CIT - 25 | VA CIT Elements | 90 | Involve peers whenever and wherever possible. According to Virginia's Essential Elements program guide for CIT, dynamic community involvement should reflect the composition of the local community, with particular emphasis on the inclusion of persons with mental illness. | CSB | PD, SO | PERF #67 | | CSB |
| MH-CIT - 26 | Public Outreach | 91 | Develop a public outreach program. The subcommittee recommends that the FCPD work with the CSB to develop materials for delivery to the public, to increase awareness of steps that may be taken prior to the instance of a potential interaction. | CSB | PD, SO, OPA | | | CSB |
| USE OF FORCE SUBCOMMITTEE | | | | | | | | |
| UOF - 1 | Guiding Philosophy | 107 | Ensure that FCPD's philosophy, policies and orders promote treating persons respectfully and are protective of their dignity; maintain an appropriate balance between an officer's role as a guardian/warrior or peacemaker/fighter; reinforce a reverence for the sanctity of human life. | PD | | PERF #4, 5 | | PD |
| UOF - 2a | Guiding Philosophy | 107 | Adopt policies, programs and practices that require officers to identify themselves by their full name, rank, and command (as applicable) and provide that information, when practicable, on a business card to individuals they have stopped. | PD | | | | PD |
| UOF - 2b | Guiding Philosophy | 107 | Adopt policies, programs and practices that, for policing mass demonstrations, continue to employ a continuum of managed tactical resources designed to be protective of officer safety and promote de-escalation of tensions; minimize the appearance of a military operation; and avoid provocative tactics, equipment, and language that might heighten tensions. | PD | | | | PD |
| UOF - 2c | Guiding Philosophy | 108 | Adopt policies, programs and practices that continue and strengthen opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders. | PD | | | | PD |
| UOF - 2d | Guiding Philosophy | 108 | Adopt policies, programs and practices that reward officers for their efforts to engage members of the community and the partnerships they build and make this part of the performance evaluation process, placing an increased value on developing such partnerships. | PD | DHR | | | PD |
| UOF - 2e | Guiding Philosophy | 108 | Adopt policies, programs and practices that ensure deployment schedules provide sufficient time for patrol officers to participate in problem solving and community engagement activities. | PD | | | | PD |
| UOF - 2f | Guiding Philosophy | 108 | Adopt policies, programs and practices that infuse a renewed commitment to community policing throughout the FCPD culture and organizational structure. | PD | | | | PD |
| UOF - 3 | Guiding Philosophy | 108 | Commit and assure in G.O. 201.6 - PRESERVATION OF PEACE AND PROTECTION OF LIFE AND PROPERTY, that medical assistance will be provided to anyone who is injured, alleges an injury, or requests medical assistance, stating, as follows: <i>It shall be the duty of each sworn officer of the Department to: preserve the public peace; protect life and property; assure medical assistance; and enforce and uphold the laws of the Commonwealth of Virginia and the Ordinances of the County of Fairfax.</i> | PD | Co. Atty's Office | | Yes | PD |
| UOF - 4 | Guiding Philosophy | 108 | Review policies on use of physical control equipment and techniques to assure that they address any unique requirements of vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others deemed appropriate by the on-scene officer(s). | PD | Co. Atty's Office | PERF #7 | Yes | PD |
| UOF - 5 | PERF Recommended | 109 | Implement all PERF Use of Force report recommendations except #54, "termination of the use of PIT." FCPD should complete an analysis for approval by the Board of Supervisors on whether or not to maintain or restrict PIT use. Complete a publicly available and periodically updated action plan that assigns responsibility by name or position and target date for completion of all of the other recommendations. | PD | Co. Atty's Office | PERF #1 - 71 (except #54) | Yes | PD (BOS for PERF Recommendation #54) |
| UOF - 6 | Use of Force Policies | 110 | Establish a comprehensive and integrated policy on use of force to include training, investigations, prosecutions, data collection and information sharing. This policy must be clear, concise, and openly available for public inspection. | PD | Co. Atty's Office | PERF #13,14,16 | Yes | PD |
| UOF - 7 | Use of Force Policies | 110 | Consistent with the PERF Use of Force report, replace the current Department definition of use of force with a more comprehensive definition. Proposed new language: "Force means the following actions by a member of the department; any physical strike or instrumental contact with a person, or any significant physical contact that restricts movement of a person. Force includes the use of firearms, Electronic Control Weapons (ECWs), chemical spray, bean bag shotgun, PepperBall gun and hard empty hands; the taking of a person to the ground; the use of vehicles; or the deployment of a canine; and excludes escorting or handcuffing a person who is exhibiting minimal or no resistance." | PD | Co. Atty's Office | PERF #12, 13, 30, 45, 46, 47 | Yes | PD |

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| UOF - 8a | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to Establish "sanctity of life" clearly and unambiguously as a philosophy and value system that remains paramount in the mind of every officer. | PD | Co. Atty's Office | PERF #4 | Yes | PD |
| UOF - 8b | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to maintain "objectively reasonable" as the standard to be followed by an officer when determining whether to use force and all references to "reasonable" must therefore be understood to mean "objectively reasonable." | PD | Co. Atty's Office | PERF#8 | Yes | PD |
| UOF - 8c | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to include as the definition of "reasonable: "...use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against his or her responsibility to protect public safety, as well as the suspect's civil liberties." | PD | Co. Atty's Office | PERF #8, 13 | Yes | PD |
| UOF - 8d | Use of Force Policies | 110 | Amend General Order 540.1, USE OF FORCE, to reword, II. POLICY as follows: "A police officer shall employ only such force in discharge of his or her duty as is objectively reasonable in all circumstances. The use of force is to be generally considered by an officer as a last resort after discussion, negotiation or persuasion have been found to be ineffective or inappropriate in light of the situation. While the use of force is occasionally unavoidable, every police officer will refrain from unwarranted infliction of pain or suffering and will never engage in cruel, degrading or inhumane physical or verbal treatment of any person." | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8e | Use of Force Policies | 111 | In revising the General Order, and while first and foremost meeting the criteria specified by the Supreme Court, consider the Customs and Border Patrol's definition with regard to "Objectively Reasonable and the Totality of Circumstances," which is as follows: i. The reasonableness inquiry for an application of force is an objective one: the question is whether the officer's actions are objectively reasonable in light of the totality of facts and circumstances confronting him or her, without regard to underlying intent or motivation. ii. In determining whether a use of force is "objectively reasonable" an officer must give careful attention to the totality of facts and circumstances of each particular case, including: 1. Whether the suspect poses an imminent threat to the safety of the officer/agent or others; 2. The severity of the crime at issue; 3. Whether the suspect is actively resisting seizure or attempting to evade arrest by flight; 4. Whether the circumstances are tense, uncertain and rapidly evolving; and 5. The foreseeable risk of injury to involved suspects and others. iii. Totality of circumstances refers to all factors existing in each individual case. In addition to those listed in subsection e.ii., these factors may include (but are not limited to) the: 1. training, mental attitude, age, size and strength of the officer; 2. training, mental attitude, age, size and perceived strength of the suspect; 3. weapon(s) involved; 4. presence of other officers, suspects or bystanders; and 5. environmental conditions. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8f | Use of Force Policies | 111 | Institute the following use of firearms requirements, by establishing or clarifying that: i. the act of a police officer placing his or her weapon "in a ready gun position" at a suspect will be a reportable action [NOTE: Un-holstering his or her weapon, pointing downward toward the ground next to an officer's leg, with finger on frame of weapon, is not to be a reportable action in the context of this policy as officers may do so when they reasonably believe or know suspects are nearby, i.e., entering a dark building, alley, other location of concern.]; ii. the "ready gun" position is defined as pointing the weapon, with finger on the frame of the weapon, so the officer can see the suspect's hands and waist.; iii. the officer must announce "Police!" after and not before attaining the "ready gun" position and if feasible followed by simple, specific and clear direction to the suspect; iv. the "ready gun" position will be utilized in the specific circumstance where it is necessary to establish control and gain compliance through the pointing of a firearm; v. the pointing of the firearm will be considered non-deadly use of force in this circumstance if the weapon is not aimed at center of mass, which is normally the chest; and vi. an officer's finger should be moved from the frame to the trigger of a weapon only if the use of deadly force is authorized under the objectively reasonable standard, which would exclude pointing a weapon at center of mass simply for control and compliance under the "ready gun" position addressed in iv. above. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 8g | Use of Force Policies | 112 | Requirements for assuring medical assistance should be instituted consistent with the following: i. State in Section II that "[I]n all situations, medical assistance shall be provided promptly to any person who is obviously injured, alleges an injury, or requests medical assistance." ii. Incorporate a separate implementation section, including a requirement that an operational and implementation plan be created and incorporated in the General Order. iii. Assure that any such plan includes ECW (Taser) non-lethal incidents and specifies the officer's medical action requirements in the event that an ECW deployment is taken against a suspect. | PD | Co. Atty's Office | | Yes | PD |

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| UOF - 8h | Use of Force Policies | 112 | A requirement should be established with regard to the state of the officer at the time of an officer involved death or serious injury per the following: Drug and steroid testing will be conducted on police officers involved in incidents that result in death or serious injury as soon as possible after the incident but not longer than an amount of time as determined by medical experts to detect whether drugs or steroids were present in the officers at the time of the incident. | PD | DHR, Co. Atty's Office | | Yes | BOS |
| UOF - 9 | Use of Force Policies | 112 | Benchmark FCPD Use of Force policies and practices with those of five urban jurisdictions that are comparable in their economic base, population density, and population demographics to Fairfax County. | PD | | | | PD |
| UOF - 10 | Use of Force Policies | 112 | Restrict vehicle pursuit to only those situations where there is a reasonable suspicion that a violent felony has been committed and that there is a potential for imminent risk to public safety and/or injury to individuals if pursuit is not initiated. | PD | DPSC | PERF #52, 53, 54, 55 | Yes | PD |
| UOF - 11 | Use of Force Reporting | 113 | Engage in robust public reporting on the demographics of the suspects in all use of force incidents and in-custody deaths, including for each incident: race, gender, age; any indicators of homelessness and of mental illness and CIT response; any previous involvement with FCPD; the type of weapon, if any, in the suspect's possession; police use of force; and resulting death/injury. | PD | PD, Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 12 | Use of Force Reporting | 113 | Collect and publicly report online all uses of force that result in death or serious injury; specifically for purposes of determining (a) whether the actions taken or not taken conformed to FCPD policies and procedures; (b) prior instances of use of force by the officer(s) involved and determination of appropriateness; and (c) opportunities for officer, supervisor, and commander training. (Note: Release of use of force data does not necessarily have to include names of officers or victims until cases are concluded.) | PD | Co. Atty's Office, CWA | PERF # 65, 70 | Yes | PD |
| UOF - 13 | Use of Force Reporting | 114 | Annually report to the U.S. Department of Justice through the FBI's Uniform Crime Reporting System, all use of force and in-custody deaths, and disseminate such data to the public. | PD | OPA | PERF # 65, 70 | | PD |
| UOF - 14a | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include a narrative of the incidents and aftermath, updated in real time, including all UOF events that result in death or serious injury, not just shootings. | PD | OPA | PERF # 65, 70 | Yes | PD |
| UOF - 14b | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include the details available in all press releases, updates and other public information should be integrated into the summaries, including names suspects and officers and links to press releases and their updates provided. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14c | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include demographic information: race, age, gender, whether the call included concerns about a mental health crisis, whether the suspect was homeless. | PD | Co. Atty's Office | PERF # 65, 70 | Yes | PD |
| UOF - 14d | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include information on what special teams were involved, if any. | PD | | PERF # 65, 70 | Yes | PD |
| UOF - 14e | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include appropriate information about whether/what discipline was administered in cases with policy violations. | PD | Co. Atty's Office, DHR | PERF # 65, 70 | Yes | BOS |
| UOF - 14f | Use of Force Reporting | 114 | Assure timely and consistent information is presented for all officer involved shootings and lethal incidents within 72 hours, to include any changes of policy or training that result from review and lessons learned from the use of force incidents. | PD | Co. Atty's Office | PERF #65, 70 | Yes | PD |
| UOF - 15a | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the enactment of laws, policies, and procedures that protect individual privacy. | PD | Co. Atty's Office, DIT, CWA, Govt. Relations | | Yes | BOS |
| UOF - 15b | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the provision that police officers are consulted, with feedback provided as to how their concerns and recommendations were considered. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |

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| UOF - 15c | Body Cameras | 116 | Mandate that FCPD police patrol officers employ body cameras to record all interactions with members of the public, contingent on the implementation of a training program not only for police officers, but the wide-ranging personnel who will oversee, process and manage the digital data, as well as for prosecutors who will use the data for criminal prosecutions. | PD | Co. Atty's Office, DIT, CWA | | Yes | BOS |
| UOF - 16 | Tasers / ECW | 117 | Reclassify Electronic Control Weapons as "less-lethal weapons" rather than "non-deadly weapons" per the recommendation by the 2011 Electronic Control Weapons Guidelines and the PERF Report. | PD | Co. Atty's Office | PERF #30 | Yes | PD |
| UOF - 17 | Tasers / ECW | 117 | Mandate that all uniformed officers in enforcement units carry an ECW on their duty belt (or elsewhere on their person if necessary) when on patrol. The recommendation is contingent on police officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | PERF #32 | | BOS |
| UOF - 18 | Tasers / ECW | 118 | Mandate that all detectives and plainclothes officers, regardless of rank, carry an ECW in their vehicles when on duty; contingent on officers being consulted on how best to implement the all-carry requirement and that feedback be provided to them as to how their concerns and recommendations were considered. | PD | DMB | | | BOS |
| UOF - 19 | Tasers / ECW | 118 | General Order 540.1, USE OF FORCE - replace all use of the term "excited delirium" with a more medically and physiologically descriptive term. | PD | Co. Atty's Office, CWA | PERF #18 | Yes | PD |
| UOF - 20 | Tasers / ECW | 118 | Prohibit use of an ECW on a handcuffed, or otherwise restrained individual, who is actively resisting, unless an objectively reasonable officer concludes that the resistance could result in serious injury to him or herself or others and less severe force alternatives have been ineffective or are deemed unacceptable for the situation. | PD | Co. Atty's Office | PERF #27 | Yes | PD |
| UOF - 21 | Tasers / ECW | 118 | Prohibit use of an ECW on a frail or elderly person, child or a pregnant woman unless deadly force would otherwise be justified, since they face an elevated risk. | PD | Co. Atty's Office | PERF #28 | Yes | PD |
| UOF - 22 | Tasers / ECW | 118 | Absent exigent circumstances, require supervisory approval for ECW use on a suspect in excess of three cycles. | PD | Co. Atty's Office | | Yes | PD |
| UOF - 23 | Tasers / ECW | 118 | Treat each ECW cycle as an independent application of the device, thus requiring its own justification, since multiple or prolonged ECW shocks may increase the risk of adverse effects on the heart or respiratory system. | PD | Co. Atty's Office | PERF #33 | Yes | PD |
| UOF - 24 | SWAT | 119 | Employ SWAT and the use of other advanced tactics only in situations where there is a high risk of violence, resistance, or harm to the officers involved, the public or the suspect as defined by set of "high risk" factors that are captured in the recent modifications to the Risk Assessment Matrix. | PD | Co. Atty's Office | PERF #62, 63, 64 | | PD |
| UOF - 25 | SWAT | 119 | Consolidate FCPD policies and protocols, including threat assessment, supervisory approval, training and post-use review and lessons learned, for the use and documentation of SWAT and other advanced tactics. | PD | | PERF #66 | Yes | PD |
| UOF - 26 | SWAT | 119 | Require that all police divisions, most notably the Narcotics Division, employ the same risk assessment procedures as SWAT for planning any high-risk operation. | PD | | | | PD |
| UOF - 27 | SWAT | 119 | Ensure broad community understanding of FCPD SWAT capabilities and how and when SWAT can be deployed. | PD | | PERF #60 | | PD |
| UOF - 28 | SWAT | 119 | Ensure that SWAT SOPs and the recently updated threat assessment process are clear in their requirement for approval by a single designated command officer who will bear overall responsibility for each use of SWAT. | PD | | PERF #60, 62, 63, 64, 65, 66 | | PD |
| UOF - 29a | SWAT | 119 | Establish policies and practices that ensure SWAT is deployed proportional to the unique needs of each individual incident. | PD | | PERF #60 | | PD |

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| UOF - 29b | SWAT | 119 | Include a trained crisis negotiator with every SWAT deployment. | PD | | | | PD |
| UOF - 29c | SWAT | 119 | Require SWAT officers to wear body cams during every deployment. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 29d | SWAT | 119 | Require that every SWAT deployment results in a post-deployment report that documents the following, in a manner that allows for the data to be readily compiled and analyzed for lessons learned: i. the purpose of the deployment; ii. the specific reason for believing that the situation for which the SWAT team was being deployed presented an imminent threat to the lives or safety of civilians and/or police personnel; iii. whether forcible entry or a breach was conducted and, if so, the equipment used and for what purpose; iv. whether a distraction device was used and, if so, what type and for what purpose; v. whether an armored personnel carrier was used and, if so, for what purpose; vi. the race, sex, ethnicity and age of each individual encountered during the deployment, whether as a suspect or bystander; vii. whether any civilians, officers, or domestic animals sustained any injury or death; viii. a list of any controlled substances, weapons, contraband, or evidence of crime that is found on the premises or any individuals; and ix. a brief narrative statement describing any unusual circumstances or important data elements not captured in the list above. | PD | | PERF #66 | | PD |
| UOF - 30 | Mobile Crisis | 120 | Establish as a budget priority the 24-hour staffing of three additional Mobile Crisis Units, by directing the immediate funding of a second Mobile Crisis Unit, in support of the Mental Health Subcommittee recommendation 15; and over the appropriate budget cycles, but no later than January 1, 2017, fund of two additional Mobile Crisis Units, for a total of four units, one for each human services district. | CSB | PD, DMB | | | BOS |
| UOF - 31 | Oversight | 122 | Implement independent investigative oversight and civilian review of Use of Force incidents. Consistent with the findings of the White House Task Force and the recommendations of NACOLE, independent oversight and civilian review will provide public accountability, trust and confidence, education of both the public and the police, and a positive, ongoing feedback loop that would result in the reduction of both UOF incidents and complaints. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| UOF - 32 | Oversight | 122 | Establish a police legal advisor position within FCPD who would not only advise the department on legal issues but also ensure implementation of recommendations and timely implementation of policy changes. | PD | Co. Atty's Office, DMB | | Yes | BOS |
| UOF - 33 | Oversight | 122 | Collect data, and publish an annual statistical report, covering all stops, frisks, citations, arrests, and use-of force by district station and magisterial district - include the race, gender, and ethnicity of the individual involved and note whether the suspect is homeless and/or if a mental health crisis is a factor. The data should also include the race, gender and ethnicity of the FCPD officer involved and whether the interaction was initiated by FCPD or by the suspect. Document the outcome of each incident and regularly report the collected data to the BOS and the public and post the data online. | PD | Co. Atty's Office | PERF #70 | Yes | PD |
| UOF - 34 | Oversight | 122 | Reconstitute the FCPD Use of Force Committee to review selective use of force events, to include the decision to employ UOF, use of de-escalation and alternatives, compliance with law and regulations, as well as administrative, training, supervisory and tactical issues. | PD | Co. Atty's Office | | | PD |
| UOF - 34a | Oversight | 122 | The Use of Force Committee should receive and consider after action reports (AARs) on each selected use of force event, identify lessons learned, and make recommendations as to any needed changes in policy or practice. The Committee should meet on a regular basis (no less than semi-annually) with the Independent Auditor and the Civilian Review Panel to identify and address issues of concern arising out of use of force incidents and FCPD policies and practices. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34b | Oversight | 122 | At least two members of the public should be appointed to the Use of Force Committee to ensure that the police and public can mutually benefit from their respective views about a use of force situation and contribute to any lessons that might be learned in the process. The policies and procedures guiding the appointment and role of the civilian appointees should be developed with public review and input and should protect against real or perceived conflicts of interest and assure that they are bound by the level of confidentiality that will protect candid and honest assessments, which is at the core of an effective continuous improvement process, as well as related criminal investigations. | PD | Co. Atty's Office | | Yes | BOS |
| UOF - 34c | Oversight | 123 | Experts and representatives from other law enforcement agencies should be invited to attend Use of Force Committee meetings to provide critical external perspective, insight and expertise on a permanent or ad hoc basis. | PD | | | | PD |

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| UOF - 35 | Oversight | 123 | The Board of Supervisors should review the Police Chief's determination in all lethal UOF cases and go on record with approval or disapproval of the action. | Co. Atty's Office | PD | | Yes | BOS |
| UOF - 36a | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the distinction in the use of "ready gun" and muzzle pointing in the conduct of a building search and room clearing. | PD | | PERF #58 | | PD |
| UOF - 36b | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to skill development in the use of de-escalation, tactical retreat and verbal interaction as alternatives to use of force. | PD | | PERF #41, 57, 58 | | PD |
| UOF - 36c | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to the expected and effective use of Crisis Intervention Training. | PD | | PERF #67 | | PD |
| UOF - 36d | Workforce Practices | 124 | Give emphasis in police officer basic and in-service training to tactical and operational training on lethal and nonlethal use of force, with emphasis on de-escalation and tactical retreat skills. | PD | | PERF #56, 57, 58 | | PD |
| UOF - 37 | Workforce Practices | 124 | Establish a "hire-to-retain" focus on officer fitness to serve, particularly in relation to any propensity for being overly aggressive in the conduct of duty. This focus should be a key component in: vetting and selection; ensuring that the Early Identification System is monitoring officer-involved shootings, excessive use of force incidents, and complaints of abuse of power; monitoring each officer's known and understood risk factors to ensure that they maintain the right personality and temperament for policing; reinforcing the "duty-to-intervene"; providing services to assist officers who may need attention or treatment. | PD | Co. Atty's Office, DHR | PERF #1 | Yes | PD |
| UOF - 38 | Workforce Practices | 125 | Conduct a study of the relationship of the supervisor to the patrol officers, including the current ratio as a potential factor in strengthening the leadership direction provided to patrol officers in non-routine situations, particularly as it relates to the potential for use of force. | PD | DHR, DMB | | | BOS |
| UOF - 39 | Workforce Practices | 125 | Conduct a workforce climate survey and publish summary results on a biennial basis to monitor FCPD's operating culture, including officer attitudes about their work, leadership and equipment; or any perceived barriers to their ability to perform their duties consistent with FCPD's values, philosophy and policies. Use the detailed survey results broken down by organizational unit as a basis for dialogue between and among police officers, supervisors and the command structure. | PD | DHR | | | PD |
| UOF - 40 | UOF Sub-Committee | 126 | The charter for the UOF subcommittee should be extended beyond the completion of the Ad Hoc Commission's report and presentation to the Board of Supervisors to meet its charge to "...review the roles of and relationships between the FCPD, the Office of the County Attorney, and the Office of the Commonwealth's Attorney in connection with use of force and critical incident responses; follow up on open issues, such as the internal FCPD UOF Committee charter; and support implementation of any of the UOF recommendations for which UOF Subcommittee participation would be beneficial. | Dep. Co. Exec. for Public Safety | PD, Co. Atty's Office, CWA | | Yes | BOS |
| INDEPENDENT OVERSIGHT AND INVESTIGATIONS COMMITTEE | | | | | | | | |
| IOV&I - 1 | Investigations | 180 | Criminal investigations of FCPD officers involved in incidents in which an individual is killed or seriously injured as defined in General Order 540.1 ("Death or Serious Injury Cases") should continue to be conducted by the FCPD Major Crimes Division. Exceptions could occur when the Chief of Police, in consultation with the Commonwealth's Attorney, determines that the criminal investigation should be conducted by investigators from another Northern Virginia jurisdiction police department or by the Virginia State Police. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2 | Investigations | 180 | Funds should be appropriated to the Commonwealth's Attorney's Office to allow for the fulltime employment of two independent criminal investigators who will report to and be used at the discretion of the Commonwealth's Attorney in connection with criminal investigations within the scope of the Independent Police Auditor. | CWA | Dep. Co. Exec. for Public Safety, DMB | | | BOS |
| IOV&I - 2a | Investigations | 181 | Such investigators shall participate in MCD criminal investigations of cases as the Commonwealth's Attorney may direct and may be used in connection with other criminal investigations, time permitting. | PD & CWA | Co. Atty's Office | | Yes | PD & CWA |
| IOV&I - 2b | Investigations | 181 | The Independent Police Auditor shall monitor MCD criminal investigations of cases and other criminal investigations within the scope of the responsibilities of the Independent Police Auditor. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office, PD | | Yes | BOS |

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| IOV&I - 3 | Investigations | 181 | FCPD Internal Affairs investigations should be conducted concurrently with the criminal investigation to the extent practicable, provided that the Constitutional and statutory rights of any potential subject of the criminal investigation are fully protected. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 4 | Investigations | 181 | The right of FCPD officers under the Virginia Law Enforcement Officers Procedural Guarantee Act to be "questioned at a reasonable time and place" shall continue to be preserved, but the questioning should commence as soon as reasonable, under all of the relevant facts and circumstances, as determined by the Commonwealth's Attorney in consultation with the Chief of Police. | Dep. Co. Exec. for Public Safety | CWA, Co. Atty's Office | | Yes | BOS & CWA |
| IOV&I - 5 | Investigations | 181 | All FCPD officers shall be required to abstain from speaking to other officers involved or having witnessed any conduct subject to a MCD or IAB investigation within the scope of the responsibilities of the Independent Police Auditor, or to any third parties involved in or witnessing such conduct until advised by MCD or IAB that they may do so. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | PD |
| IOV&I - 6 | Prosecution | 181 | The prosecution, including the decision whether to charge an FCPD officer with a crime arising out of a death or serious injury case, or other case within the scope of the responsibilities of the Independent Police Auditor, should continue to be handled by the Commonwealth's Attorney for Fairfax County unless the Commonwealth's Attorney determines that the prosecution, including the decision to charge, should be handled by another Virginia Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, PD, Co. Atty's Office | | Yes | CWA |
| IOV&I - 7 | Prosecution | 181 | The Commonwealth's Attorney should be requested to issue timely and comprehensive public reports in any case involving death or serious injury when no criminal charges are filed. The reports should describe the investigation conducted by the FCPD, any additional investigation or consultation undertaken by the Commonwealth's Attorney, and the basis for the conclusions reached by the Commonwealth's Attorney. | CWA | Dep. Co. Exec. for Public Safety, Co. Atty's Office, PD, OPA | | Yes | CWA |
| IOV&I - 8 | Independent Auditor | 183 | The Fairfax County Board of Supervisors shall establish the Office of Independent Police Auditor ("Auditor"). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8a | Independent Auditor | 183 | The Auditor shall be appointed by and report directly to the Board of Supervisors. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8b | Independent Auditor | 183 | The Auditor shall have experience in public safety, public program auditing, the investigation of police operations and use of force incidents. In order to ensure the Independent Auditor is perceived as truly independent, the Auditor shall have never been employed by Fairfax County. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8c | Independent Auditor | 183 | The Auditor shall review (i) all investigations of death or serious injury cases conducted by the IAB; and (ii) all use of force investigations by IAB which are the subject of a public complaint made to the FCPD or the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA | | Yes | BOS |
| IOV&I - 8d | Independent Auditor | 183 | The Auditor shall have full access to the MCD criminal investigation file as well as full access to the IAB file, including any administrative action taken, for each investigation reviewed. The Auditor shall be entitled to receive copies of any portion(s) of such files. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, CWA, | | Yes | BOS |
| IOV&I - 8e | Independent Auditor | 183 | The Auditor shall determine with respect to each such MCD and IAB investigation its thoroughness, completeness, accuracy, objectivity and impartiality. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 8f | Independent Auditor | 183 | The Auditor shall be appointed by the Board of Supervisors for a term not less than 2 years and not more than 5 years, with a goal of maintaining continuity and independence, subject to dismissal only for good cause. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9 | Independent Auditor | 183 | The Auditor shall participate in and monitor IAB investigations within its scope of responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 9a | Independent Auditor | 184 | The County Executive or his/her designee shall require, subject to discipline up to and including termination, the attendance and testimony of any Fairfax County employee, including all Fairfax County law enforcement officers, whose appearance at the interview is requested by the Auditor, and shall also require the production of any documents or other materials in the possession of the FCPD or other County offices and departments. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, DHR | | Yes | BOS |
| IOV&I - 10 | Independent Auditor | 184 | If the Auditor determines that an IAB investigation was deficient or that IAB's conclusions as to the relevant facts were incorrect or unsupported by the evidence, the Auditor may request further investigation by IAB or the Auditor may conduct such further investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 11 | Independent Auditor | 184 | Absent good cause, the Auditor shall issue a public report with respect to each reviewed investigation within sixty (60) days of the Auditor's access to the complete IAB file. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |

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| IOV&I - 12 | Independent Auditor | 184 | The FCPD shall provide a public report quarterly to the Auditor on the disposition of all citizen complaints made against the FCPD. The Auditor shall be provided such additional information as the Auditor may deem necessary to enable him/her to determine that the FCPD is properly responding to and investigating complaints in a timely manner. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 13 | Independent Auditor | 184 | An individual may file a complaint concerning alleged misconduct by a Fairfax County law enforcement officer involving a death or serious injury case, the use of force, or the death of an individual with the FCPD for investigation or the citizen may instead file the complaint with the Auditor, who shall immediately forward the complaint to the FCPD for investigation, which will report on the disposition of the complaint within 30 days. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 14 | Independent Auditor | 184 | If the Auditor disagrees with the results or conclusions of an IAB investigation in a death or serious injury case, the Auditor shall advise the Chief of Police who shall resolve the disagreement and make the final decision. The Chairman of the Board of Supervisors shall be informed of the Auditor's disagreement and the ultimate resolution. The Chief's decision shall be made in a public statement that sets forth the basis for the Chief's resolution of the disagreement. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 15 | Independent Auditor | 184 | The Auditor shall make public recommendations to the Chief of Police, with copies to the Chairman of the Board of Supervisors, concerning the revision of FCPD policies, training, and practices based on the Auditor's reviews. The Auditor shall also issue a public report annually concerning the thoroughness, completeness, accuracy, objectivity and impartiality of the IAB investigations reviewed by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 16 | Independent Auditor | 184 | The Auditor shall have an adequate budget and a trained staff to meet his/her responsibilities. The Auditor's office shall be separate and apart (physically and administratively) from those of the FCPD and the Commonwealth's Attorney. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 17 | Independent Auditor | 184 | Any findings, recommendations and actions taken by the Auditor shall reflect the Auditor's independent judgment. No person shall use his/her political or administrative position to attempt to unduly influence or undermine the independence of the Auditor, or his/her staff or agent, in the performance of his/her duties and responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18 | Civilian Review | 186 | Fairfax County shall establish a Civilian Review Panel ("Panel") to review complaints concerning alleged FCPD misconduct. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18a | Civilian Review | 186 | Panel members shall be appointed by the Chairman of the Board of Supervisors, with the approval of the Board, for a term of three (3) years, subject to dismissal only for good cause. A Panel member may be appointed to no more than two (2) consecutive terms. The terms of the Panel members shall be staggered. The Panel members shall elect one of their members to serve as Chair of the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18b | Civilian Review | 186 | The Panel shall be composed of seven (7) citizens and two (2) alternates residing in Fairfax County with expertise and experience relevant to the Panel's responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18c | Civilian Review | 186 | Factors to be considered in appointing Panel members include: community and civic involvement; diversity; law enforcement and/or criminal investigative experience, reputation in the community; and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One (1) of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD). | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 18d | Civilian Review | 186 | The Panel shall be authorized to retain a criminal investigative consultant to assist it with the fulfillment of its responsibilities. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19 | Civilian Review | 186 | An individual may file a complaint with or request a review of a completed internal FCPD investigation by the Panel concerning an alleged "abuse of authority" or "serious misconduct" by a Fairfax County police officer. The Panel shall not review alleged misconduct that is subject to review by the Auditor. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19a | Civilian Review | 186 | "Abuse of authority" and "serious misconduct" shall be defined by the Panel and may include, the use of abusive, racial, ethnic or sexual language; harassment or discrimination based on race, color, sex, religion, national origin, marital status, age, familial status, or disability; the reckless endangerment of a detainee or person in custody; and serious violations of Fairfax County or FCPD policies or procedures. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19b | Civilian Review | 186 | The Panel shall refer any complaint within its scope that it receives to the FCPD for review and handling. Absent good cause, the FCPD shall provide a public report to the Panel within sixty (60) days after receipt of the complaint with respect to its review and handling of the complaint. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 19c | Civilian Review | 186 | Any request for review of a completed FCPD investigation shall be filed, absent good cause as determined by the Panel, within sixty (60) days of the requester being notified of the completion of the internal FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |

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| IOV&I - 20 | Civilian Review | 186 | Absent good cause, within forty-five (45) days of receipt of the FCPD investigation report (if any) relating to the alleged misconduct or within forty-five (45) days of the receipt of the FCPD report if there was no IAB investigation, the Panel may schedule a public hearing to review the FCPD investigation. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20a | Civilian Review | 186 | The complainant and the FCPD (including the involved FCPD officers) shall be afforded the opportunity to personally present evidence, statements, and arguments to the Panel. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 20b | Civilian Review | 186 | Command staff and IAB investigators shall appear before the Panel upon request to answer any questions from the Panel as to the investigation and action taken or not taken. The County Executive or his/her designee shall produce any documents or other materials in the possession of the FCPD or other County offices and departments as requested by the Panel. At the Panel's discretion, further investigation by IAB may be requested. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 21 | Civilian Review | 187 | The Panel review of the investigation shall be completed and a public report issued within 60 days of the filing of a request for review. If the Panel disagrees with the findings of the investigation, the Panel shall publicly advise the Chairman of the Board of Supervisors who shall refer the Panel's conclusion to the Chief of Police for further consideration. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD | | Yes | BOS |
| IOV&I - 22 | Civilian Review | 187 | The Panel shall issue an annual report to the public describing its activities for the reporting year, including recommendations to the Board of Supervisors and the Chief of Police, including revisions to FCPD policies, training, and practices that the Panel concludes are needed. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 23 | Civilian Review | 187 | The Auditor shall make quarterly reports on its review of IAB investigations and its other work during the preceding quarter, and meet with the Panel at the Panel's request for further review of the Auditor's report and work. | Dep. Co. Exec. for Public Safety | Co. Atty's Office, PD, OPA | | Yes | BOS |
| IOV&I - 24 | Follow-Up | 187 | Fairfax County should establish an Ad Hoc Police Practices Review Commission every 5 years to review and, as needed, make recommendations concerning FCPD policies and practices, and those of the Independent Police Auditor and the Civilian Review Panel. | Dep. Co. Exec. for Public Safety | PD | | Yes | BOS |
| | | | | | | | | |
| | | | | | | | | |

3:30 p.m.

Public Hearing on RZ 2016-BR-013 (MHI-Heritage, LLC & Bristow Shopping CTR LTD) to Rezone from C-6 to PDC to Permit-Mixed Use Development with an Overall Floor Area Ratio of 0.5, Approval of the Conceptual and Final Development Plan, and a Waiver of the Minimum Privacy Yard Requirements for Single Family Attached Units, Located on Approximately 11.0 Acres of Land (Braddock District)

This property is located on the West side of Heritage Drive, North of Rectory Lane. Tax Map 70-2 ((1)) 1 D1, 2A, and 2C

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, November 30, 2016, the Planning Commission voted 9-0-1 (Commissioner Strandlie abstained from the vote and Commissioners Keys-Gamarra and Lawrence were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2016-BR-013 and the associated Conceptual Development Plan, subject to the execution of proffers consistent with those dated November 30, 2016;
- Approval of a modification of Paragraph 5 of Section 6-206 of the Zoning Ordinance to permit the gross floor area of dwellings as a secondary use in the PDC District to exceed 50 percent of the gross floor area of all principal uses;
- Approval of a modification of the loading requirement of 5 spaces, pursuant to Section 11-203 of the Zoning Ordinance, to permit 3 spaces;
- Approval of a modification of the transitional screening and barrier requirements between the proposed single family attached dwellings and the existing commercial uses, pursuant to Sections 13-303 and 13-304 of the Zoning Ordinance, to permit the proposed landscaping as shown on the CDP/FDP;
- Approval of a modification of Section 11-302 of the Zoning Ordinance to permit private streets to exceed 600 feet in length;
- Approval of a waiver of the 200 square foot minimum privacy yard requirement for single family attached dwellings in favor of the open space shown on the CDP/FDP;

- Approval of a modification of the geometric design of private streets, pursuant to Section 7.0502.1A of the Public Facilities Manual to permit the pavement widths as shown on the CDP/FDP;
- Approval of a modification of the minimum planting width of 8 feet, pursuant to Section 12-0510.4E(5) of the Public Facilities Manual (PFM), to permit the planting areas as shown on the CDP/FDP, and with planting areas provided as per Section 12-0601.1B of the PFM; and
- Approval of a waiver of the minimum setback offset for single family attached dwellings, pursuant to the definition of a single family attached dwelling in Article 20 of the Zoning Ordinance.

In a related action, on Wednesday, November 30, 2016, the Planning Commission voted 9-0-1 (Commissioner Strandlie abstained from the vote and Commissioners Keys-Gamarra and Lawrence were absent from the meeting) to approve FDP 2016-BR-013, subject to the Development Conditions dated November 16, 2016, and the Board of Supervisors' approval of RZ 2016-BR-013.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

4:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Articles 3, 9, 18 and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries

ISSUE:

The proposed Zoning Ordinance amendment includes changes that relate to the establishment of a new or the expansion of an existing farm winery, limited brewery, and/or limited distillery located on a farm in the Residential Conservation (R-C) District. The amendment does not seek to establish limitations on the normal operating characteristics of a farm winery, limited brewery, or limited distillery, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. The amendment proposes to amend the definition of agriculture and define farm winery, limited brewery, and limited distillery to include a minimum 20 acre lot size for such uses in all zoning districts where agriculture is permitted (R-A, R-C, R-P, R-E, R-1), except with respect to applications for an ABC Board license already pending prior to this amendment. The amendment establishes new special exception requirements for expansions of buildings, structures and the uses thereof for existing farm winery/brewery/distillery operations, including standards related to events/activities, minimum setbacks, and prohibited uses, among others. The proposed changes regarding the R-C District are necessary in order to comply with changes to Virginia law that were adopted in the 2016 Legislative Session and took effect on July 1, 2016.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing was held on November 16, 2016. The Planning Commission deferred the decision on the proposed Zoning Ordinance Amendment until November 30, 2016. On November 30, 2016, the Planning Commission voted unanimously (Commissioners Lawrence and Keys-Gamarra absent from the meeting) to recommend to the Board approval of the Zoning Ordinance amendment regarding farm wineries, limited breweries and limited distilleries, as set forth in the Staff Report dated October 18, 2016, and as amended in the handout dated November 30, 2016.

The Planning Commission also voted unanimously (Commissioners Lawrence and Keys-Gamarra absent from the meeting) to recommend that the Board direct the Zoning Administrator to evaluate the phrase "Events and Activities" in the context of the upcoming Zoning Ordinance Amendment on the topic of Agriculture, which amendment is already approved on the 2016 Zoning Ordinance Amendment Work Program.

The Planning Commission Report from the November 16, 2016 Public Hearing, the Planning Commission Report from the November 30, 2016 Decision Only, and the November 30, 2016 Handout are set forth as Attachment 1.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation.

TIMING:

Board of Supervisors' authorization to advertise- October 18, 2016; Planning Commission public hearing – November 16, 2016, at 8:15 p.m.; Planning Commission deferral of decision to November 30, 2016; Board of Supervisors (Board) public hearing- December 6, 2016, at 4:30 p.m.

BACKGROUND:

The proposed amendment is prompted by specific changes to Virginia law that relate to the establishment of a new or the enlargement of an existing farm winery, limited brewery, and/or limited distillery on land zoned Residential Conservation (R-C) District. (Note: in Fairfax County, the R-C District is the "residential conservation" zoning category specified in the applicable provisions of the Code of Virginia.)

The Code of Virginia changes, generally, provide that:

1. No new farm winery, limited brewery, or limited distillery is permitted on land zoned residential conservation (R-C), except for any such operation wherein an application for a license by the Virginia Alcoholic Beverage Control Board (ABC Board) was submitted by July 1, 2016, and such application is ultimately approved.
2. Any existing farm winery, limited brewery, or limited distillery on land zoned residential conservation (R-C) may continue to operate without special exception approval, but any expansion of the buildings, structures or the uses thereof shall be subject to approval of a special exception by the local jurisdiction.

The proposed amendment will prohibit any additional farm wineries, limited breweries, and limited distilleries in the R-C District and will establish a special exception requirement for the expansion of an existing operation and for the development of only those operations for which a license application was submitted to the ABC Board by July 1, 2016. Staff notes that there are two existing licensed wineries and five pending applications for licensure by the ABC Board as of July 1, 2016 on land zoned R-C.

Under staff's proposal, a special exception would be required for any public or private events or activities, which are not directly related to the tasting, sale, and production of

licensed alcoholic beverages, for more than 300 attendees more than one time per month for a duration of more than two days (with advertised flexibility in these numbers.) The Board may impose conditions regarding the number of people, number of events, duration, hours of operation, days of operation, area of the site used for such events/activities, adequacy of water and sanitation services, use of lighting or amplified sound, adequacy of parking and other impacts caused by the proposed event/activity. Staff proposes to prohibit features such as helicopter rides, mechanized amusement rides, lodging, commercial restaurants, fireworks and similar high-impact uses at such events/activities. The proposed standards would also require new buildings/additions/loading spaces to be set back from the property line 50 feet and 100 feet from any adjacent principal structure. Further, new construction for buildings that allow access by the public would require submission of plans certified by a structural engineer and for the certification of framing and footers, once construction is complete.

Additionally, the amendment will create new definitions for farm winery, limited brewery, and limited distillery, to include requirements for a minimum lot size of 20 acres in order to establish a farm winery/limited brewery/limited distillery in the R-A, R-P, R-E and R-1 Districts, subject to an allowance for any agricultural lot of five acres or more where there was a pending application for a license by the Alcoholic Beverage Control Board as of the date of adoption of the amendment. The proposed definitions also identify the aforementioned limitations on the hosting of public or private events and activities at such facilities with regard to the number of attendees, frequency and duration that are permitted without special exception approval. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

The proposed amendment will establish a new special exception process for the expansion of an existing farm winery, limited brewery, or limited distillery in the R-C District and for any new building or structure associated with a new farm winery, limited brewery, or limited distillery in the R-C District wherein the operator submitted a request for licensing of the establishment by the ABC Board by July 1, 2016. The changes do not require special exception approval for existing buildings, structures or uses thereof at a licensed farm winery/brewery/distillery as of July 1, 2016. Under the current regulations, such uses are permitted by right, so the proposed amendment will alter the regulatory process by which new farm wineries/breweries/distilleries can be established and existing operations can be expanded. The amendment also establishes a threshold for hosting public or private events and activities at any farm winery, limited brewery, or limited distillery, when such events and activities are not directly related to the tasting, sale and/or production of the licensed alcoholic beverages, and requires that any request for modification of those limits would require special exception approval. It is noted that there are only seven existing or proposed facilities in the R-C District that

would be subject to the new special exception regulations, and, as of the date of publication of this report, there was only one additional facility (a proposed limited distillery) in the R-1 District that could potentially be subject the special exception process regarding the limits on events and festivals. As such, the regulatory impacts of this amendment are minimal, given the small number of facilities located or potentially locating in the County.

FISCAL IMPACT:

The proposed amendment will establish a new special exception application fee of \$8,180 for new or expanded farm wineries, limited breweries, or limited distilleries in the R-C District when the new or expanded building/structure/use result in more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area. A new special exception fee of \$4,090 is proposed for new or expanded buildings or structures of not more than 400 square feet of gross floor area and/or for land disturbances of not more than 2,500 square feet and/or for hosting public or private events and activities for more than 300 attendees more than once per month and/or for a duration for more than two days (with advertised flexibility in the frequency and duration). And, lastly, the amendment proposes a fee of \$1,000 for a special exception application for an agricultural building that does not permit access by the public (such as an equipment shed). Whereas there are no more than seven such establishments in the R-C District that could possibly utilize this special exception process, and staff is aware of only one pending application for a limited distillery in the R-1 District, staff does not anticipate any significant fiscal impacts associated with staff time for the review of such proposals.

ENCLOSED DOCUMENT:

Attachment 1 – Planning Commission Verbatim Excerpt for November 16, 2016,
Planning Commission Verbatim Excerpt dated November 30, 2016, and Recommended
Changes Handout dated November 30, 2016

Attachment 2 – Staff Report; also available on-line at

<http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/farmwineries.pdf>

STAFF:

Robert A. Stalzer, Deputy County Executive

Fred Selden, Director, Department of Planning and Zoning (DPZ)

Leslie B. Johnson, Zoning Administrator, DPZ

Donna Pesto, Senior Assistant to the Zoning Administrator, DPZ



County of Fairfax, Virginia

MEMORANDUM

November 22, 2016

TO: Donna Pesto, Zoning Administration (ZAD)
Department of Planning and Zoning (DPZ)

FROM: Jill Cooper, Executive Director *jc*
Planning Commission Office

**SUBJECT: ZONING ORDINANCE AMENDMENT – ARTICLES 3, 9, 18 AND 20
REGARDING FARM WINERIES, LIMITED BREWERIES, AND
LIMITED DISTILLERIES
Countywide**

At its November 16, 2016 meeting, the Planning Commission voted 9-0 (Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting) to **DEFER THE DECISION ONLY** of the above-referenced amendment to a date certain of November 30, 2016. A copy of the verbatim transcript is attached.

Attachment (a/s)

cc: James R. Hart, Planning Commissioner, At-Large
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of
Supervisors, County Executive Office
Homaira Amin, PD, DPZ
November 16, 2016 date file



**County of Fairfax, Virginia
Planning Commission Meeting
November 16, 2016
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – ARTICLES 3, 9, 18, AND 20 REGARDING FARM WINERIES, LIMITED BREWERIES, AND LIMITED DISTILLERIES – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: 1) Modify the definition of Agriculture to clarify the activities permitted and precluded under such use; establish new definitions for Farm Winery, Limited Brewery, and Limited Distillery (“farm winery/brewery/distillery”) consistent with such uses as set forth in the Code of Virginia; establish a 20 acre minimum lot size for operation of a farm winery/brewery/distillery in the R-A, R-C, R-P, R-E and R-1 Districts (NOTE: advertised to permit the Board to consider any acreage from 5-50 acres); allow for establishment of more than one farm winery/brewery/distillery on one farm; allow a lot in the R-A, R-P, R-E and R-1 Districts of 5 or more acres to operate a farm winery/brewery/distillery only if such lot was subject to a pending application for licensing by the ABC Board as of the date of adoption of this amendment; and limit attendees at public or private events/activities in new or expanded buildings or structures to 300 people per event/activity, and allow twelve events/activities per year of not more than 2 days for more than 300 people; and establish that persons visiting farm winery/brewery/distillery for tasting/promotion/purchase of agricultural products are not included in maximum number of persons attending public or private event/activity. (NOTE: advertised to permit the Board to consider any number of people from 150-500, any number of events/activities from 12-24 per year and any duration from 2-8 days per event/activity.) 2) Prohibit the establishment of a new farm winery/brewery/distillery on land zoned R-C, with the exception of those facilities with a pending application for licensure by the Virginia Alcoholic Beverage Control Board (ABC Board) as of July 1, 2016, and such license is ultimately granted. 3) In the R-C District, special exception approval shall not be required for buildings, structures and the uses thereof existing as of July 1, 2016. However, the amendment will: (a) establish a requirement for special exception approval for any new or expanded buildings, structures or the uses thereof and for any structural alteration of any existing building or structure for any existing farm winery/brewery/distillery as of July 1, 2016; (b) establish a requirement special exception approval for any new buildings, structures and uses for a farm winery/brewery/distillery for which an ABC Board license was pending as of July 1, 2016 and such license is ultimately granted; (c) require any such new or expanded building, structure or truck loading/unloading area to maintain a minimum distance from property lines of 50 feet and a minimum of 100 feet from principal structures on adjacent properties; and (d) require, among other things, the submission of plans certified by a structural engineer for any new or expanded building that allow for access by the public and will require such structural engineer to certify the structural integrity of the building, upon construction. (NOTE: see advertised flexibility in these limits noted in Par. 1 above) 4) In the R-C, R-A, R-P, R-E and R-1 Districts, special exception approval shall be required for the hosting of public or private events/activities, not related to the tasting, sale or production of the licensed alcoholic beverages, in excess of the limitations set forth in the definitions of farm winery/brewery/distillery, except as may otherwise be permitted due to the existing use as of July 1, 2016. The Board may impose conditions on any such special exception, to include land area for the event/activity, adequacy of water/sanitation, number of attendees, days/hours of event/activity, lighting, noise, parking or other criteria and no event/activity shall include helicopter rides, fireworks display, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement park rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant requiring approval by the Health Department and/or any other use determined by the Zoning Administrator to have a substantial impact on the health, safety and

ZONING ORDINANCE AMENDMENT
ARTICLES 3, 9, 18 AND 20 REGARDING FARM WINERIES,
LIMITED BREWERIES, AND LIMITED DISTILLERIES

welfare of the public, except that such conditions will not constrain uses already in existence as of July 1, 2016 and music accompaniment/entertainment accessory to farm winery/brewery/distillery sales and tastings as part of the regular course of business shall not be deemed to be a public or private event/activity. Any such special exception may be approved only when it is determined that the resulting uses, buildings and/or structures will be in harmony with the policies of the comprehensive plan and where the resultant operation will not have a deleterious effect on existing or planned development of adjacent properties or area roadways; must be accompanied by a copy of the valid farm winery/brewery/distillery ABC Board license or application for licensure; and operation/construction shall be subject to standards/requirements/statutes/ordinances/rules/regulations of all applicable local, State or Federal agencies governing agriculture, agritourism and the specific farm winery/brewery/distillery uses. 5) Pursuant to authority granted by Virginia Code Section 15.2-2286(A)(6) the amendment proposes to establish the filing fees for different types of special exceptions for farm winery, limited brewery, or limited distillery buildings, structures and/or uses thereof depending on the extent of the expansion, construction, use and/or events and activities. The fee structure shall be advertised to allow the Board to consider a range of fees from \$1,000 to \$16,375 that may apply to such special exceptions, depending on the type. (Countywide)

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I have to say, candidly, I was very apprehensive about tonight – not just because we had seven cases scheduled and this too – but, I think, I was pleasantly surprised at the quality of the comments that we got and I think we have some issues still to think about and material to digest. I want to thank all the folks who came out tonight or submitted written comments and emails. And we still have some - some work to do on this. Mr. Chairman, on – I lost it here – ON THE PROPOSED ZONING ORDINANCE AMENDMENT FOR ARTICLES 3, 9, 18, AND 20 REGARDING FARM WINERIES, LIMITED BREWERIES, AND LIMITED DISTILLERIES, I MOVE THAT WE DEFER THE DECISION TO A DATE CERTAIN OF NOVEMBER THE 30TH, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to defer the Zoning Ordinance Amendment to a date certain of November 30th, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

ZONING ORDINANCE AMENDMENT
ARTICLES 3, 9, 18 AND 20 REGARDING FARM WINERIES,
LIMITED BREWERIES, AND LIMITED DISTILLERIES

(The motion carried by a vote of 9-0. Commissioners Flanagan, Keys-Gamarra, and Lawrence were absent from the meeting.)

JLC

**County of Fairfax, Virginia
Planning Commission Meeting
November 30, 2016
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – FARM WINERIES – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: 1) Modify the definition of Agriculture to clarify the activities permitted and precluded under such use; establish new definitions for Farm Winery, Limited Brewery, and Limited Distillery (“farm winery/brewery/distillery”) consistent with such uses as set forth in the Code of Virginia; establish a 20 acre minimum lot size for operation of a farm winery/brewery/distillery in the R-A, R-C, R-P, R-E and R-I Districts (NOTE: advertised to permit the Board to consider any acreage from 5-50 acres); allow for establishment of more than one farm winery/brewery/distillery on one farm; allow a lot in the R-A, R-P, R-E and R-I Districts of 5 or more acres to operate a farm winery/brewery/distillery only if such lot was subject to a pending application for licensing by the ABC Board as of the date of adoption of this amendment; and limit attendees at public or private events/activities in new or expanded buildings or structures to 300 people per event/activity, and allow twelve events/activities per year of not more than 2 days for more than 300 people; and establish that persons visiting farm winery/brewery/distillery for tasting/promotion/purchase of agricultural products are not included in maximum number of persons attending public or private event/activity. (NOTE: advertised to permit the Board to consider any number of people from 150-500, any number of events/activities from 12-24 per year and any duration from 2-8 days per event/activity.) 2) Prohibit the establishment of a new farm winery/brewery/distillery on land zoned R-C, with the exception of those facilities with a pending application for licensure by the Virginia Alcoholic Beverage Control Board (ABC Board) as of July 1, 2016, and such license is ultimately granted. 3) In the R-C District, special exception approval shall not be required for buildings, structures and the uses thereof existing as of July 1, 2016. However, the amendment will: (a) establish a requirement for special exception approval for any new or expanded buildings, structures or the uses thereof and for any structural alteration of any existing building or structure for any existing farm winery/brewery/distillery as of July 1, 2016; (b) establish a requirement special exception approval for any new buildings, structures and uses for a farm winery/brewery/distillery for which an ABC Board license was pending as of July 1, 2016 and such license is ultimately granted; (c) require any such new or expanded building, structure or truck loading/unloading area to maintain a minimum distance from property lines of 50 feet and a minimum of 100 feet from principal structures on adjacent properties; and (d) require, among other things, the submission of plans certified by a structural engineer for any new or expanded building that allow for access by the public and will require such structural engineer to certify the structural integrity of the building, upon construction. (NOTE: see advertised flexibility in these limits noted in Par. 1 above) 4) In the R-C, R-A, R-P, R-E and R-I Districts, special exception approval shall be required for the hosting of public or private events/activities, not related to the tasting, sale or production of the licensed alcoholic beverages, in excess of the limitations set forth in the definitions of farm winery/brewery/distillery, except as may otherwise be permitted due to the existing use as of July 1, 2016. The Board may impose conditions on any such special exception, to include land area for the event/activity, adequacy of water/sanitation, number of attendees, days/hours of event/activity, lighting, noise, parking or other criteria and no event/activity shall include helicopter rides, fireworks display, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement park rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant requiring approval by the Health Department and/or any other use determined by the Zoning Administrator to have a substantial impact on the health, safety and

welfare of the public, except that such conditions will not constrain uses already in existence as of July 1, 2016 and music accompaniment/entertainment accessory to farm winery/brewery/distillery sales and tastings as part of the regular course of business shall not be deemed to be a public or private event/activity. Any such special exception may be approved only when it is determined that the resulting uses, buildings and/or structures will be in harmony with the policies of the comprehensive plan and where the resultant operation will not have a deleterious effect on existing or planned development of adjacent properties or area roadways; must be accompanied by a copy of the valid farm winery/brewery/distillery ABC Board license or application for licensure; and operation/construction shall be subject to standards/requirements/statutes/ordinances/rules/ regulations of all applicable local, State or Federal agencies governing agriculture, agritourism and the specific farm winery/brewery/distillery uses. 5) Pursuant to authority granted by Virginia Code Section 15.2-2286(A)(6) the amendment proposes to establish the filing fees for different types of special exceptions for farm winery, limited brewery, or limited distillery buildings, structures and/or uses thereof depending on the extent of the expansion, construction, use and/or events and activities. The fee structure shall be advertised to allow the Board to consider a range of fees from \$1,000 to \$16,375 that may apply to such special exceptions, depending on the type. (Countywide)

Decision Only During Commission Matters
(Public Hearing held on November 16, 2016)

Commissioner Hart: Thank you, Mr. Chairman. Before we go on the verbatim for the winery Amendment, staff is going to, I believe, answer three more questions.

Donna Pesto, Zoning Administration Division, Department of Planning and Zoning: Yeah, thank you very much. I'm Donna Pesto with Zoning Administration Division. At the public hearing on the 16th, the Commission asked a number of questions related to the winery Amendment proposed – well, what we're calling the winery, but it's wineries, breweries, and distilleries Amendment. Specifically, one of the questions were are there any uses that count some of the people in attendance, but not all of the people as part of the occupancy limits? And the quick answer is "no." The longer answer is that the – the official rated capacity is a very complicated methodology. It determines occupancy for floor-area based on how that floor-area is being used and, also, based on what obstructions, like tables or chairs or whatever, might be within that floor-area. So space is used for different things like storage areas or, maybe, a commercial kitchen, or a banquet area – things like that. They all have different rated capacities. There – there also can be – for an area that can be used differently – like, maybe, you have a banquet area and at sometimes it's used for standing room only type events. That's one rated capacity. And if it's a seated – maybe sit-down dinner event – that's a different rated capacity. For wineries, breweries, and distilleries, on the other hand, they aren't subject to that rating system cause they aren't subject to the building code, but if they were, a place like a tasting room could very easily have two different rated capacities, one for, you know, maybe just the day-to-day tasting where people are standing at a – at a bar or a table and others if there was an event there that had, maybe, a sit-down wedding with a served meal and tables and chairs. So it – it could be different. But one thing that we did learn is that it – it doesn't matter why the people are there. So if the people are coming for a wedding versus coming for a tasting, they would've all been included, so it isn't differentiated on those – on that factor. So that's sort of the building code/fire

code type perspective. But from a Zoning Ordinance Amendment perspective, we are differentiating because that's the only thing the State Code lets us do. It says we're allowed to establish a threshold for the special activities and events, but we are specifically precluded from establishing a limit for people who are there for tasting/purchasing of – of the – whichever alcoholic beverage they're producing. Another question came up about whether or not the proposed buildings for these kinds of uses are identified on the ABC license for a farmery and that is a resounding “no” answer. They are not identified in the ABC license. The initial application, in fact, only has to designate the property on which the use is going to locate. From that point, the ABC Board gives the local jurisdiction – the County – thirty days to register an objection. So, essentially, our – our objecting to a proposal is based on only knowing where it's going to locate and we would not have any knowledge about the scale of the buildings, the scale of the use, the location of those buildings, or really any other land use information that we would typically like to know. Breweries and distilleries are treated differently than wineries in the State Code for some reason. They are required, at some point – not with the initial application – but at some point, breweries and distilleries are required to submit a sketch plan that shows a layout of those buildings. And, again, the local jurisdictions give them thirty days to issue an objection if we choose to. That is – that is the closest we get to anything that would resemble a site plan, or a building plan, or even a survey of the property and those would only – those would not be applicable to wineries, just to the other uses. And then the last question was, does an ABC license allow wine that is made elsewhere to be brought in and sampled and sold. And that answer is “yes.” A farm winery license allows a winery to locate on a farm and they can manufacture wine, offer samplings and tastings, and they can sell wine by the glass, bottle, or case. I'm told by the ABC agent that most farm wineries also have an additional license that allows them to purchase wine from other licensed wine-makers. And they're also then allowed to sample that – allow for tastings of that and they can sell it by the bottle, glass, or case. And they can also get what's called a general winery license, which allows them to manufacture wine from grapes that are not grown in the State of Virginia. And they can also provide samples and tastings of that and sell it by the glass, bottle, or case. So the answer is definitely “yes.” When you get these permits, you can essentially offer those alcoholic beverages at will. So those were the specific questions that came at the last – at the public hearing, but I'd be happy to answer anything that you have tonight.

Chairman Murphy: Any other questions? Mr. Ulfelder, please.

Commissioner Ulfelder: Just on the last point. They can't solely operate by bringing in wines that are produced elsewhere...

Ms. Pesto: No.

Commissioner Ulfelder: ...and sell them. They still have to do some production and sale of – of – on – from their particular farm.

Ms. Pesto: Absolutely. They have to have the farm winery license first, which means that they have to actually grow some volume of grapes. There's no threshold limit for how much they have to grow, but they do have to have some agricultural production on-site. They also have to manufacture on-site. In order to be able to do the other things, they have to do that first.

Chairman Murphy: Okay. Are there any other questions before we go on verbatim? Mr. Flanagan.

Commissioner Flanagan: Yes. Thank you, Mr. Chairman. It came to my attention during the interim period between the public hearing and the decision tonight that there's a substantial amount of R-C zoned land in the Mount Vernon District, particularly in the lower Potomac area. It's basically concentrated in the parcels that were of the former DC – District of Columbia – Prison. And there's also the landfill – the I-95 landfill – and the Workhouse Arts Center that's now on Lorton Road. And I have taken – been gone over all of that during the interim period and I'm satisfied that these changes that we're making tonight will not in any way, you know, prove to be a burden on any of the applications that might come forward from that area, particularly since most of them are over 20-acre sites, so it's going to be a very – I'm in favor of this Amendment.

Ms. Pesto: This Amendment will actually affect the R-C zoned property. The state law changed on – on July 1st to specify that no additional wineries, breweries, or distilleries – farm wineries, breweries, or distilleries – can locate on R-C zoned land. So if, indeed, something that's zoned R-C today wanted to do that, there isn't a – there isn't an opportunity to do that under the R-C zoning. It would have to be rezoned to something else. I'm not saying a rezoning would be approved, but I'm just saying it could not happen under the rezoning – under the R-C zoning category.

Commissioner Flanagan: Yes, well there's a lot of interest in the future, you know, of – of beautification and particularly of the landfill areas that we have out there and so, consequently, I think this is going to work out very – very nicely in that regard.

Chairman Murphy: Are there any other comments? All right. Go on verbatim. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. On November 16, 2016, the Planning Commission held a public hearing on the proposed Zoning Ordinance Amendment entitled "Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries." The Commission deferred action on the proposed Amendment until tonight, with the record kept open for written and electronic comments, of which there have been many. Those comments have been reviewed by the Commission and staff and entered into the record. I have also worked with staff to address many issues raised, both at the public hearing and in the written comments, and will be suggesting some changes. I want to thank the many citizens and industry representatives who participated in the process and submitted comments for our consideration. These are very difficult issues and we appreciate very much the input we have received. I also want to thank staff very much, particularly Donna Pesto, the staff coordinator, Leslie Johnson, the Zoning Administrator, and Laura Gori in the County Attorney's office for all their fine work on another very difficult case. Fairfax County wants to remain a business-friendly jurisdiction and recognizes the importance of the alcohol industry, including wineries and other potential uses, to tourism and economic development. We also have a long tradition of carefully reviewing applications for non-residential uses in residential districts and evaluating development conditions to mitigate those impacts with citizen involvement. The General Assembly chose several years ago to make certain agritourism uses by-right and take away most local zoning authority over those uses. Earlier this year, it modified those provisions to allow limited local

regulation, which the pending Amendment is intended to implement. While many of the site-specific comments we have received are not directly germane to the Zoning Ordinance Amendment under review, at least at this phase of the land use process, or are outside the scope of the advertised Amendment, they may be much more pertinent in the context of any site-specific application. We are only establishing the framework for applications to be evaluated, not approving any particular use at any specific location. We also are not changing the adopted Comprehensive Plan criteria, which provide additional guidance regarding approval of non-residential uses in residential areas. For example, the adopted Comprehensive Plan text, for many areas in the R-C District, provides that not only will applications for non-residential uses be rigorously reviewed, that they also be of a size and scale compatible with the rural character of the area, that they be designed to mitigate impacts on the Occoquan Reservoir, and that they be oriented to an arterial roadway. Evaluation of any future application in those areas will be done in the context of these existing criteria. Throughout the comments we have received, many citizens have advocated the concept of balance, which I agree can be important, but balance is a more appropriate consideration in the context of evaluating a specific application, rather than a “one-size-fits-all” approach countywide. If the ABC board grants any licenses and if any future applications materialize, they can be vetted by staff and come through the public hearing process and I am confident they will be rigorously reviewed. It is important to recognize also that there is a significant difference between the two existing winery uses and the uses that will be regulated by this Amendment. The two existing wineries have certain vested rights and their level of activity remains unaffected by this Amendment. The General Assembly has forbidden Fairfax County from regulating these established agritourism uses, but going forward, future wineries, breweries, and distilleries will be subject to the ordinance provisions, whether in the R-C District, if the ABC Board grants any of the five pending applications, or in other districts within the scope of this Amendment. Some of the conditions or regulations that citizens have requested in the name of balance are aimed at the two existing wineries and do not account for the vesting provisions that the General Assembly included in its recent legislation. Specifically, there has been particular interest in the existing and future winery uses in the R-C District. I reside in the R-C District and have always been concerned about the mitigation of impacts from non-residential uses on this environmentally sensitive area, as well as the Board’s paramount objective of protecting water quality in the Occoquan Reservoir. Going forward, I am confident that with the County’s 34-year history of rigorous review of non-residential applications in the R-C District and the consistent application of the criteria in the adopted Comprehensive Plan that this Amendment is not opening up the R-C to unwanted uses in inappropriate locations. To the contrary, this Amendment allows the county to review and regulate a category of use otherwise prohibited by the General Assembly and allows for citizen input through the public hearing process, rather than allowing the uses by-right without opportunity for comment or imposition of development conditions. The Amendment also establishes thresholds for triggering special exception review in other residential districts which allow agriculture. As I mentioned, however, the State legislation did create vested rights in the existing wineries uses in the R-C District and the pending Amendment. Before making the motions, I want to review a number of conclusions and recommendations:

- Number one, with regard to all of the references in the proposed text to events and activities, I agree that concept should be addressed more specifically. But rather than delay then this Amendment for re-advertising, I will have a follow-on motion to the effect that the Planning Commission recommend to the Board that a definition of such events

and activities should be more specifically clarified in the forthcoming Amendment that will deal with agriculture and related uses in a broader context than this farm winery, brewery, distillery Amendment;

- Second, with regard to traffic issues and, specifically, Paragraph 1D of Section 9-630, I will propose to add additional language regarding trip-generation, as shown in the revised handout from staff, to provide additional clarity as to mitigation of impacts;
- Third, with regard to fees, and, specifically, the proposed changes to Article 18, I will move that the Planning Commission recommend the fees proposed by staff, as set forth in the staff report. I believe the staff recommendations are appropriate and consistent with fees for analogous non-residential uses in these districts;
- Fourth, with regard to the definitions of farm winery, limited brewery and limited distillery, I generally agree with the staff recommendations, but also am persuaded by our experience to date and by testimony and comments submitted for the record that event attendance over – event attendance above 150 people, which is in addition to unlimited attendance for tastings, has a substantial impact on health, safety, and welfare. I am persuaded that the special exception process is appropriate and necessary to mitigate those impacts, which can be substantial. The threshold of 150 people, in my judgment, should trigger a case-by-case special exception review and is within the range advertised. The Board of Supervisors can determine site-by-site after input from industry and the community, whether more people should be allowed after a full public hearing process and consideration of appropriate development conditions. Therefore, I will suggest that the Planning Commission recommend approval of the following limitations in each of these three definitions:
 - That the minimum land area of a farm on which such uses could be established is 20 acres, which is consistent with our Agricultural/Forestal District standards;
 - That the maximum number of guests, invitees, or participants be established at 150 people, for the reasons stated;
 - That larger events or activities for over 150 people may be permitted by-right not more than 12 days per year for not more than 2 days in duration for each larger event or activity; and
 - That any events or activities for more people, more times per year, or longer duration shall require special exception approval.
- Fifth, for lots of less than 20 acres in the R-P, R-A, R-E, and R-1 Districts, which are 5 acres or greater in size and for which a license application is pending before the Alcoholic Beverage Control Board prior to the effective date of this Amendment, I will also recommend that the Planning Commission recommend to the Board of Supervisors that such lot would be able to establish a farm winery, limited brewery, or limited

distillery on such property if the ABC license is ultimately granted, even though such lot does not meet the 20-acre minimum farm size.

These recommendations, after careful review, are supported by staff and I believe represent our wisest recommendations to the Board, given the limitations of the State legislation and our limited authority in this area. Therefore, Mr. Chairman, I FIRST MOVE THAT THE COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT, AS SET FORTH IN THE STAFF REPORT DATED OCTOBER 18, 2016, AND AS AMENDED IN THE HANDOUT DATED NOVEMBER 30, 2016, DISTRIBUTED EARLIER TODAY TO THE COMMISSION.

Commissioners Sargeant and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Sargeant. Is there a discussion of the motion? All those in favor – yes, Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I seconded this. I'm supporting it. I'm particularly pleased about the recommendation for the events with 150 people. I represent Dranesville. When you look at the exhibit that staff gave us at the public hearing on zoning classifications, you can see a sea of R-E and R-1 in the Dranesville District, as well as some small R-A. So I'm not as concerned with the R-C because that is not in the Dranesville District, but I am focused on the other points. And the fact is that, particularly in parts of Great Falls and even McLean, there are areas of low-density residential. The Comprehensive Plan recognizes that and recommends it, in part, because of the environmental sensitivity of that area. And I think that it would be important to protect some of the existing surrounding areas that have been subdivided in the past under the R-E classification from the potential problems that may occur in connection of an operation with a too large of a group. The area is not served by public water. It's not served by public sewer. And the roads are country roads in northern Great Falls. They're windy, they're narrow, they have very limited shoulders for parking, and I think that the – it's important to use the special exception process when someone wishes to establish a facility such as this, like a farm winery, in order to make certain that it is protective of the – of the neighborhoods and of the community up there in connection with any – anyone who wishes to come in with this type of facility. So I think it's extremely important to look at the number and that – that that helps establish a proper threshold to make sure that we're protecting the health, safety, and environment in that area.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve Articles 3, 9, 18, and 20 regarding farm wineries, limited breweries, and limited distilleries based on the motion made by Mr. Hart this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Yes, thank you, Mr. Chairman. Secondly, I MOVE THAT THE COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE CONSIDERATION OF A DEFINITION OF THE PHRASE "EVENTS AND ACTIVITIES" BE

ZONING ORDINANCE AMENDMENT
ARTICLES 3, 9, 18 AND 20 REGARDING FARM WINERIES,
LIMITED BREWERIES, AND LIMITED DISTILLERIES

Attachment 1
Page 8

EVALUATED BY STAFF IN THE CONTEXT OF THE UPCOMING ZONING ORDINANCE AMENDMENT ON THE TOPIC OF AGRICULTURE, ALREADY ON THE APPROVED WORK PROGRAM.

Commissioners Sargeant and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Sargeant. Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

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(Each motion carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.)

JLC

**Planning Commission Recommended Changes to the
Proposed Zoning Ordinance Amendment Regarding Farm Wineries,
Limited Breweries, and Limited Distilleries
November 30, 2016**

Revise proposed Paragraphs 1.D. and 2.B. of Sect. 9-630, Provisions for Expansion of an Existing or Development of a New Farm Winery, Limited Brewery, or Limited Distillery in the R-C District and for Certain Events and Activities Associated with Such Uses When Located in the R-A, R-P, R-E and R-1 Districts, to read as follows: *(new text highlighted)*

1. In the R-C District, the Board may approve a special exception to allow for the expansion or development of a farm winery, limited brewery, or limited distillery. For the purposes of this provision, a farm winery, limited brewery, or limited distillery located in the R-C District shall only include (1) any establishment that was issued a valid license for such use from the Virginia Alcoholic Beverage Control Board prior to July 1, 2016, and (2) any such establishment for which a license application was filed with the Virginia Alcoholic Beverage Control Board prior to July 1, 2016 and was subsequently approved prior to approval of a special exception. An expansion or development shall include new or expanded buildings, structures and uses that may be approved by special exception in accordance with the following:
 - D. An expansion may be approved only when it is determined by the Board that the resulting use, buildings and/or structures will be in harmony with the policies set forth in the adopted comprehensive plan and where the resultant operation will not have a deleterious effect on the existing or planned development of adjacent properties or on area roadways, to include consideration of the impacts of additional trip generation on roads serving the proposed operation and driver/pedestrian safety. The applicant shall demonstrate to the Board's satisfaction that any potential impacts and cumulative effects of an expansion of buildings or uses, including, without limitation, the hosting of public or private events not specifically allowed under the definition of farm winery, limited brewery, or limited distillery shall be adequately mitigated.
2. In the R-A, R-P, R-E and R-1 Districts the Board may approve a special exception to allow for the hosting of certain events and activities beyond that which is specified in the definitions of a farm winery, limited brewery, or limited distillery in accordance with the following:
 - B. A special exception may be approved only when it is determined by the Board that the proposed events and activities will be in harmony with the policies set forth in the adopted comprehensive plan and where the resultant operation will not have a deleterious effect on the existing or planned development of adjacent properties or on area roadways, to include consideration of the impacts of additional trip generation on roads serving the proposed operation and driver/pedestrian safety. The applicant shall demonstrate to the Board's satisfaction that any potential impacts and cumulative effects of the hosting of public or private events not specifically allowed under the definition of farm winery,

limited brewery, or limited distillery shall be adequately mitigated. Any application for a special exception shall include a copy of the farm winery, limited brewery, or limited distillery license issued or pending issuance by the Virginia Alcoholic Beverage Control Board.

Recommend the following limits under the proposed definition of FARM WINERY, LIMITED BREWERY, and LIMITED DISTILLERY set forth in Article 20, Ordinance Structure, Interpretations and Definitions, as follows: *(changes and recommendations highlighted)*

FARM WINERY: An establishment located on a farm with a producing vineyard, orchard or similar growing area and with facilities for fermenting and bottling wine and/or cider on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing not less than **twenty (20)** *(advertised at 5-50)* acres under common ownership wherein such land is used for AGRICULTURE or any lot not less than five (5) acres in size for which an ABC Board license was pending for the operation of a farm winery before *[effective date of this amendment]* where such license is ultimately approved and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined herein.

Any such establishment in operation prior to July 1, 2016, may continue its then existing or more restricted uses; however, the construction or expansion after July 1, 2016, of any new or existing farm winery building or structure in the R-C District shall be subject to the provisions of Part 6 of Article 9. Where permitted and to the extent authorized by this Ordinance, any new farm winery building or structure constructed after July 1, 2016, or the expansion of any farm winery building or structure after July 1, 2016, may be used for alcohol production, sales and tastings and, in addition, for the hosting of public or private events or activities for up to **150 300** *(advertised at 150-500)* guests, invitees or participants; however, events or activities for more than **150 300** *(advertised at 150-500)* guests, invitees or participants shall be limited to **twelve (12)** per calendar year *(advertised for 12-24)* and shall not exceed **two (2)** *(advertised at 2-8)* days in duration, unless a special exception is approved by the Board. Persons visiting the farm winery for purposes related to tasting, promotion or purchasing of agricultural products available on site shall not be included in the maximum number of persons attending such public or private events or activities.

LIMITED BREWERY: An establishment located on a farm wherein agricultural products, including barley, hops, other grains and/or fruit used by such limited brewery in the manufacture of beer are grown, processed and containerized on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing not less than **twenty (20)** *(advertised at 5-50)* acres under common ownership wherein such land is used for AGRICULTURE or any lot of five (5) acres or more for which an ABC Board license was pending for the operation of a limited brewery before *[effective date of this amendment]*

where such license is ultimately approved and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined herein.

Where permitted and to the extent authorized by this Ordinance, any new or expanded limited brewery building or structure constructed after July 1, 2016, may be used for alcohol production, sales and tastings. In addition to such production, sales and tastings, any limited brewery building or structure may be used for the hosting of public or private events or activities for up to ~~150 300~~ (advertised at 150-500) guests, invitees or participants; however, events or activities for more than ~~150 300~~ (advertised at 150-500) guests, invitees or participants shall be limited to ~~twelve (12)~~ per calendar year (advertised for 12-24) and shall not exceed ~~two (2)~~ (advertised at 2-8) days in duration, unless a special exception is approved by the Board. Persons visiting the limited brewery for purposes related to tasting, promotion or purchasing of agricultural products available on site shall not be included in the maximum number of persons attending such public or private events or activities.

LIMITED DISTILLERY: An establishment located on a farm wherein agricultural products used in the manufacture of alcoholic beverages other than wine, cider and beer are grown, processed and containerized on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing not less than ~~twenty (20)~~ acres under common ownership wherein such land is used for AGRICULTURE or any lot of five acres or more for which an ABC Board license was pending for the operation of a limited distillery before [effective date of this amendment] where such license is ultimately approved and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined herein.

Where permitted and to the extent authorized by this Ordinance, any new or expanded limited distillery building or structure constructed after July 1, 2016, may be used for alcohol production, sales and tastings. In addition to such production, sales and tastings, any limited distillery building or structure may be used for the hosting of public or private events or activities for up to ~~150 300~~ (advertised at 150-500) guests, invitees or participants; however, events or activities for more than ~~150 300~~ (advertised at 150-500) guests, invitees or participants shall be limited to ~~twelve (12)~~ per calendar year (advertised for 12-24) and shall not exceed ~~two (2)~~ (advertised at 2-8) days in duration, unless a special exception is approved by the Board. Persons visiting the limited distillery for purposes related to tasting, promotion or purchasing of agricultural products available on site shall not be included in the maximum number of persons attending such public or private events or activities.



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

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| <p>Articles 3, 9, 18 and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries</p> |
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PUBLIC HEARING DATES

Planning Commission

November 16, 2016 at 8:15 p.m.

Board of Supervisors

December 6, 2016 at 4:30 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314**

October 18, 2016

DP



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

Background

The proposed amendment addresses the operation of a farm winery, limited brewery and/or limited distillery (farm winery/brewery/distillery) located in the Residential-Conservation (R-C) District, as such uses are specifically set forth in the Code of Virginia, and addresses the events and activities permitted at such establishments located in the Rural-Agricultural (R-A), Residential-Preservation (R-P), Residential-Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. This amendment is limited in scope and is in specific response to changes made to the law during the 2016 Session of the General Assembly. Attachment 1 includes the definitions/descriptions of farm winery, limited brewery and limited distillery from the Code of Virginia. Under the 2016 changes to the Code of Virginia and the Acts of Assembly, a new farm winery/brewery/distillery may not be granted a license from the Virginia Alcoholic Beverage Control Board (ABC Board) for operation on any land zoned as a residential conservation district if the application for such license was submitted after July 1, 2016. In Fairfax County, the R-C District is the “residential conservation district” specified in these provisions. Additionally, any existing farm winery/ brewery/distillery already approved in a residential conservation district and any proposed farm winery/brewery/distillery in a residential conservation district with a pending application for licensure by the ABC Board prior to July 1, 2016 (and such license is ultimately approved) shall require special exception approval for any new or expanded building, structure or the uses thereof. This amendment will establish the necessary special exception process in the Zoning Ordinance for these farm winery/brewery/ distillery uses located in the R-C District and for certain events and activities at such establishments located in the R-A, R-P, R-E and R-1 Districts.

Staff notes that the 2016 Zoning Ordinance Amendment Work Program (ZOAWP) includes an item to address “agricultural districts and uses” as a Priority 1 item. This proposed amendment is one component of that ZOAWP item; however, staff envisions that a subsequent amendment will provide for a more comprehensive assessment of current and future farming/agriculture/ agritourism uses in the county, including the regulations related to activities and events that can be permitted in association with a farm to determine what, if any, additional regulations are needed to ensure compatibility with surrounding areas, the continued viability of agriculture and agritourism uses in the county, the protection of the health, safety and welfare of the public and other land use considerations. Such subsequent assessment will also consider uses such as pick-your-own farms, farm markets/wayside stands, seasonal public activities/events, public/community gardens, farming of a more industrial/business nature, urban agriculture, agriculture as a re-use of a building or property and other agriculture-related activities.

Farm Wineries/Breweries/Distilleries in Fairfax County

As of July 1, 2016, the date on which the changes to the Code of Virginia became effective, there were two licensed farm wineries operating in Fairfax County. Both of the current farm winery operations are located on land zoned R-C. Additionally, prior to July 1, 2016, application was

made by the prospective operators of three additional farm wineries and two limited brewery operations to be located on land that is also zoned R-C. Staff notes that each of the two existing farm winery operators are also the applicants for one new farm winery and one new limited brewery each, to be located on the existing farm winery sites or on an adjacent property. The other additional farm winery application is not affiliated with either of the currently operating farm wineries in the county. If these additional farm wineries and limited breweries are ultimately granted a license by the ABC Board, then they would be licensed to operate a farm winery in the R-C District, but any new or expanded buildings or structures associated with the use would require special exception approval. At the time of preparation of this amendment, the ABC Board had not taken action on any of the pending farm winery or limited brewery applications, so it is unknown if such licenses will be granted. Nevertheless, the proposed special exception for farm wineries/breweries/distilleries in the R-C District will effectively only ever impact these two existing or five potential operations countywide.

Code of Virginia

The Code of Virginia contains myriad references to agriculture, farming, wineries, breweries, distilleries and agritourism. Under the provisions of Title 15.2, Counties, Cities and Towns, Chapter 22 identifies the state laws regarding Planning, Subdivision of Land and Zoning. Section 15.2-2288.6(A) provides that no locality shall regulate the carrying out of an agritourism activity, unless there is a substantial impact on the health, safety, or general welfare of the public and any local restriction shall be reasonable and shall take into account the economic impact of the restriction. Agritourism activity is defined in Section 3.2-6400 of the Code of Virginia as:

Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities or other natural activities and attractions.

Additionally, Sections 15.2-2288.3, 15.2-2288.3:1 and 15.2-2288.3:2 provide that local restriction upon activities and events at licensed farm wineries/breweries/distilleries to market and sell their products shall be reasonable and take into account the economic impact of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such farm wineries/breweries/distilleries throughout the Commonwealth. As specified in the Code of Virginia, usual and customary activities and events shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. These provisions further specify that no locality shall regulate any of the following activities of a licensed farm winery/brewery/distillery:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of licensed alcoholic beverages;
2. The on-premises sale, tasting, or consumption of licensed alcoholic beverages during regular business hours within the normal course of business of the licensed facility;
3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;

4. The sale and shipment of licensed alcoholic beverages to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of licensed alcoholic beverages in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of alcohol-related items that are incidental to the sale of licensed alcoholic beverages.

As such, it is outside the regulatory authority of the Zoning Ordinance to place limits on the activities addressed in the numbered paragraphs above, henceforth referred to as the normal operating characteristics of the farm winery/brewery/distillery. The Code of Virginia further prevents a locality from treating private personal gatherings held by the owner of the licensed farm winery/brewery/distillery who resides at the facility or on adjacent property differently from private personal gatherings by other citizens. Copies of the relevant provisions of the Code of Virginia are enclosed as Attachment 2.

Notwithstanding the above-referenced provisions of the Code of Virginia that restrict a locality's ability to regulate agricultural and agritourism uses, regardless of whether such activities are occurring in an agricultural district or classification, during the 2016 Session of the Virginia General Assembly, three separate bills were introduced and ultimately adopted that address the ABC Board licensing requirements for farm wineries/breweries/distilleries operating on a farm in the Commonwealth, set forth in Title 4.1, Alcoholic Beverage Control Act. The relevant 2016 bills are:

1. Farm Winery, which includes the manufacture of hard cider (ref. 2016 H879)
2. Limited Brewery operating on a farm (ref. 2016 S578)
3. Limited Distillery operating on a farm (ref 2016 S579)

Copies of the approved legislation are provided as Attachment 3. The relevant changes include that farm wineries/breweries/distilleries may be issued a license when such establishment is located on a farm on land zoned agricultural and that "land zoned agricultural" means "(1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for a farm winery use." The changes further specify that "land zoned agricultural" shall not include land zoned "residential conservation" and, as noted above, that any new building or structure or the expansion of an existing building, structure or the use thereof for any licensed or pending operation shall require approval of a special exception from the locality.

The new requirements, although they were codified in the provisions related to the limits on the Alcoholic Beverage Control licensing authority, effectively preclude the establishment of a new winery/brewery/distillery on a farm in the R-C District and require the approval of a special exception by the locality for an expansion of a building, structures and/or the uses thereof for the two existing farm wineries and for any establishment for which there was a pending application for a winery/brewery/distillery in the R-C District as of July 1, 2016. The proposed changes to the Zoning Ordinance are necessary in order to comply with the ABC Board licensing provisions enacted by the General Assembly that mandate a special exception process for farm wineries/breweries/distilleries in the R-C District.

Current Zoning Ordinance Provisions

The Zoning Ordinance currently allows agriculture as a permitted use in the Rural Agricultural (R-A), Residential-Preservation (R-P), Residential-Conservation (R-C), Residential Estate (R-E) and Residential District, One Dwelling Unit/Acre (R-1) Districts. Agriculture is defined in Article 20 of the Zoning Ordinance as:

AGRICULTURE: The use of a tract of land not less than five (5) acres in size for (a) the tilling of the soil; (b) the growing of crops, nursery stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e) dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale sales of any of the foregoing products.

The term 'agriculture' shall not include the following uses: (a) the maintenance and operation of plant nurseries; (b) the feeding of garbage to animals; (c) the raising of fur-bearing animals as a principal use; (d) the operation or maintenance of a commercial stockyard or feed yard; (e) the retail sales of agricultural products except in accordance with the provisions of Sect. 10-102; or (f) the operation of landscape contracting services. However, the definition of agriculture shall not be deemed to preclude: (a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect. 2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.

The Zoning Ordinance does not currently provide for farm wineries/breweries/distilleries as specific uses and, as such, does not currently require a special exception for any of these uses which are part of an agricultural operation in any district. Additionally, the Zoning Ordinance does not specifically define agritourism activities and events that would be allowed as accessory and in association with an agricultural use or with a farm winery/brewery/distillery. Staff notes that, while there are no provisions specifically addressing accessory uses associated with farm wineries/ breweries/distilleries, the current Zoning Ordinance does define accessory uses. By definition, an accessory use is a use or building that *(1) is clearly subordinate to, customarily found in association with, and serves the principal use; and (2) is subordinate in purpose, area or extent to the principal use served; and (3) contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and (4) is located on the same lot as the principal use, except that any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.* Through this general definition of an accessory use and the associated regulations in Article 10 regarding specific accessory uses and their limitations, the Zoning Administrator can make case-by-case determinations as to the “accessory” nature of a proposed use or building.

In light of the applicable provisions of the Code of Virginia and the Zoning Ordinance, it is current practice to permit agriculture by-right on lots of five or more acres in the R-A, R-P, R-C, R-E and R-1 Districts and to allow agritourism uses, such as farm wineries and seasonal activities/events/festivals, as accessory uses to the principal use of agriculture in those districts.

Proposed Amendment

The proposed amendment does not seek to establish limitations on the normal operating characteristics of any existing (as of July 1, 2016) farm winery/brewery/distillery in the R-C District, as such characteristics, including tasting, sales and production, are set forth in the Code of Virginia and are specifically excluded from local regulation. However, to the extent that the 2016 amendments to the law require special exception approval for new or expanded buildings, structures and the uses thereof, the land use impacts of a new or expanded facility, as a whole, will be subject to evaluation. As such, the amendment will:

- Modify the definition of agriculture and create new definitions for a farm winery, limited brewery, and limited distillery to specifically identify such uses in relation to the ABC Board regulations and establish certain limits on events and activities associated with such uses
- Preclude the establishment of any future farm winery/brewery/distillery in the R-C District, unless such establishment had a pending ABC Board license as of July 1, 2016 and such license is ultimately approved
- Create a new special exception for any new or expanded buildings, structures or the use thereof for the existing and pending farm winery/brewery/distillery operations in the R-C District, which have an approved or pending ABC license application prior to July 1, 2016, and for certain events and activities at a farm winery/brewery/distillery in the R-A, R-P, R-E and R-1 Districts, with an appropriate application fee for the special exception

Proposed Definitions

With regard to the proposed definitions of farm winery, limited brewery, and limited distillery, staff is recommending that the Zoning Ordinance include a general description of each of these uses and the inclusion of a reference to the Code of Virginia provisions for further description. Staff notes that the Code of Virginia makes multiple references to the term “farm” however, such term is not defined by the Zoning Ordinance. Staff is proposing to include within the definition of each of these uses, a reference to the term “farm” and a qualifier that, for the purposes of establishing any future farm winery/brewery/distillery, such “farm” must consist of an area of contiguous land containing not less than twenty acres under common ownership when such land is principally used for agriculture. At the time of publication of the staff report, staff was aware of one pending ABC Board license application for the operation of a farm winery/brewery/distillery in a zoning district other than R-C. That proposal is for a limited distillery on a parcel of approximately 12.7 acres zoned R-1 and located in the Mount Vernon District. The amendment includes a provision that would allow a farm winery/brewery/distillery on a lot of five acres or more (other than in the R-C District) when the lot is primarily used for agriculture and the property was subject to a pending application for an ABC Board licenses as of the date of adoption of this amendment. This provision would accommodate the known limited distillery application and any other farm winery/brewery/distillery (other than in the R-C District) that meets the current five acre minimum lot size, but would not meet the proposed twenty acre minimum lot size, subject to the approval of the pending ABC Board license. Subsequent to adoption of this amendment, any

new ABC Board license application for a farm winery/brewery/distillery in any district would require a minimum lot size of twenty acres. *(NOTE: Staff notes that, within the scope of the advertisement, the Board can consider any minimum acreage requirement from the current five acre required for an agricultural use up to fifty acres.)*

Staff recommends a twenty acre minimum lot size in consideration of the potential impacts of such uses on adjacent and nearby properties. Additionally, staff notes that in order to participate in the County's local Agricultural and Forestal (A&F) District Program, there is a minimum lot size of twenty acres, which requirement cannot be waived. And lastly, as noted previously, the amendment proposes a "grandfathering" allowance for a lot less than twenty acres for a proposed farm winery/brewery/distillery operation with a pending ABC Board license application as of the date of adoption of this amendment, provided such lot meets the minimum acreage requirement for an agricultural use. The amendment does not propose an increase in the minimum required lot area of five acres to establish an agricultural use, but rather, proposes a minimum lot area of twenty acres if an agricultural lot is intended to be used for a farm winery/ brewery/distillery.

Also included in the definition of farm winery, limited brewery, and limited distillery is the threshold for the size and duration of public or private events and activities that can occur at such establishments as a permitted use. Events and activities over this threshold would require special exception approval. Staff notes that the definition includes a statement that persons visiting the operation for purposes of tasting, promotion or purchasing of agricultural products available on site are not included in the maximum number of persons attending a public or private event or activity. These functions are part of the primary operating characteristics of the farm winery/ brewery/distillery and are not deemed to be an event or activity. Based on information obtained from the operators of the two existing wineries in the County and a review of the event facilities offered by other wineries in Virginia, it appears events and activities not directly related to the tasting, marketing and sale of the licensed alcoholic beverages, such as weddings and corporate events, typically accommodate seating space for 200 attendees, plus additional area for dancing. Because the provisions adopted by the General Assembly require Fairfax County to establish a special exception for an expansion of buildings, structures or the **uses thereof**, it is necessary to establish a threshold limit on the current operations at the two existing wineries in order to make a determination as to what constitutes an expansion of the use of existing buildings and structures. Staff is proposing a 300 person limit for public or private events and activities, and permits up to twelve events per year for a duration of not more than two days for more than 300 attendees as part of the farm winery/brewery/distillery use. Any event or activity that would provide for more than 300 people, more than twelve times per year for a duration of more than two days would require approval of a special exception. Staff believes this accommodates the current operating characteristics of the existing wineries, which were developed by-right as agriculture and agritourism uses, and establishes an appropriate threshold for determining what would constitute an expansion of the use. *(NOTE: the amendment is advertised to allow the Board to consider any number of attendees from 150 to 500, the number of events per year from 12 to 24 and the duration from 2 to 8 days, with staff recommending 300 people, 12 event/year for a duration of not more than 2 days.)*

The proposed definitions also include a provision that allows for more than one farm winery/ brewery/distillery to be located on a farm, defined as consisting of an agriculturally-used property

of at least twenty acres. Staff believes these uses can successfully co-locate on a parcel of this size to accommodate more than one ABC-licensed label of alcoholic beverages and/or to allow for different types of alcoholic beverages to be produced and sold on-site.

Proposed Special Exception Provisions

Staff is proposing to create a new Category 6 Special Exception Use, for an “Expansion of an existing or development of a new farm winery, limited brewery, and limited distillery in the R-C District and for certain events and activities associated with such uses when located in the R-A, R-P; R-E and R-1 Districts” and to establish the appropriate limitations for such expansions in a new Sect. 9-630.

With regard to such uses in the R-C District, staff is proposing the following limitations:

- Special exception approval shall not be required for the existing buildings and structures or the uses thereof (as of July 1, 2016) at the two existing farm wineries.
- Special exception approval shall be required for and subject to:
 - Any new building or structure or the uses thereof and for the addition to or structural alteration of any existing building or structure
 - Public or private events not specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar use determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public.
 - Minimum building and loading/unloading area setbacks of 50 feet from lot lines and 100 feet from principal structures on adjacent properties.
 - The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion
 - Submission of a copy of the issued or pending license from the ABC Board and certified plans prepared by a structural engineer.

With regard to such uses in the R-A, R-P, R-E or R-1 Districts, staff is proposing the following limitations:

- Public or private events in excess of that which is specifically allowed under the definitions, with prohibitions on helicopter rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle tracks, mechanized amusement rides, hot air balloons, lodging, spa services, the operation of a commercial restaurant and/or any other similar uses determined by the Zoning Administrator to have a substantial impact on the health, safety and welfare of the public. .
- The Board must make a finding that the proposal is in harmony with the policies in the comprehensive plan and provides for mitigation of potential impacts of any such expansion

Staff recognizes the valuable contributions that farm winery/brewery/distillery uses can have on the agritourism economy of the county. It is also recognized that there can be land use impacts associated with these agricultural/production/tourism uses when located in low density rural areas.

Staff believes a balance of these interests is critical. In order to determine what constitutes an expansion of the two existing winery operations, it is necessary to establish a benchmark of buildings, structures and uses thereof. Since agricultural related buildings do not require a building permit, site plan or other approvals, staff has worked with the property owners to catalogue the buildings, structures and uses thereof for the two existing farm winery properties. Staff will create a property record of the existing conditions at the two operating wineries to be used for making a determination as to what constitutes an expansion of buildings, structures and the uses thereof.

With regard to the public or private activities and events currently conducted at the two existing wineries that are not considered part of the tastings, sales and production characteristics of the wine-making facility, information provided by the operators and on the respective websites indicate that activities and events include the hosting of weddings and other celebrations, live music events, hosting of corporate and other business events/training, hosting of activities including sports/games (bocce), art (paint night), history and fitness activities (yoga/meditation), and seasonal activities and events, among others. In terms of the scale of events, the winery operators have indicated that the largest of these events could potentially have up to 350 attendees. As noted, in order to accommodate the current events and activities occurring at the two existing farm wineries, staff is proposing that any event or activity for up to 300 people and only one event or activity per month for more than 300 people one time per month for a duration of not more than two days would be permitted without special exception approval in the R-C District and by-right in the R-A, R-E, R-P and R-1 Districts. Additionally, regardless of the zoning district in which the farm winery/brewery/distillery is located, any increase in the number of events or activities for more than 300 attendees or the duration of such activities will require approval of a special exception, except that special exception approval shall not be required for the continuation of uses in the R-C District in existence on July 1, 2016. *(NOTE: as noted previously, the amendment is advertised to allow the Board to adopt any maximum number of permitted event/activity attendees between 150 and 500, with staff recommending a 300 person maximum. The amendment advertisement also includes flexibility for the Board to consider in the frequency and duration of the events/activities.)*

Application Fees

Pursuant to authority granted by Code of Virginia Section 15.2-2286(A)(6) the amendment proposes an application fee of \$8,180 for a Category 6 Special Exception to permit the expansion of an existing farm winery when the new construction includes more than 400 square feet of gross floor area and/or more than 2,500 square feet of disturbed area and also for the establishment of a new farm winery/brewery/distillery in the R-C District, limited to those operations with a pending ABC Board license as of July 1, 2016 (when such license is ultimately approved.) For any such construction in the R-C District that includes not more than 400 square feet of gross floor area and/or not more than 2,500 square feet of disturbed area, staff is recommending one half of that fee, or \$4,090. For all farm winery/brewery/distillery uses in the R-A, R-C, R-P, R-E and R-1 Districts, when the applicant requests modifications to limitations on the events and activities set forth in the definitions, staff is also proposing an application fee of \$4,090. And, lastly, for any agricultural structure that does not permit access by the public, guests and/or any attendees at a public or private event or activity, staff is proposing an application fee of \$1,000.

Staff believes that the proposed \$8,180 fee is consistent with the fee structure for other special permit or special exception uses that would require a similar depth of review, such as the current \$8,180 fee for riding and boarding stables, shape factor modifications and yard reductions for lots other than single family. The recommendation for a lower application fee, \$4,090, for a small addition or new building/structure, limited land disturbance and for the modification of the limits associated with events/activities recognizes that agricultural operations may require some additional buildings, of a smaller scale, that are needed to conduct the farming operations and do not necessarily increase the operating capacity of the farm winery/brewery/distillery. Additionally, staff believes that even if the additional floor area is to accommodate additional visitors, the 400 square foot size limit would have a lesser impact on the overall operation of the facility. Regarding the modifications on the limits on events/activities, such review will not include new buildings or structures, so staff supports the proposed lower application fee for these types of requests, as well.

For structures that are purely agricultural in nature, such as a farm equipment building, tractor shed, barn for animals and similar structure that provide for absolutely no access by the public, whether patrons of the winery/brewery/distillery, guests of the operators and/or attendees at a public or private event or activity, staff is proposing an application fee of \$1,000. Staff notes that, prior to the amendment to the State Code regarding farm wineries/breweries/distilleries in the R-C District, there would be no requirement for a special exception for these structures and, in fact, there would be no requirement for site plan, building permit or any of the trade permits for the agriculture structure as such uses and buildings are exempt from the requirements of the Building Code. Such uses should involve less staff time for review and processing because they would not generate additional visitors to the farm winery/brewery/distillery and therefore should not result in a significant impact on the nearby properties. As such, staff believes a lower fee is appropriate.

(Note: the amendment has been advertised to allow the Board to consider any fee for structures/disturbances/modifications for events and activities between \$1,000 and \$16,375, to include the establishment for additional pricing levels for different sized structures and/or land disturbances.)

Conclusion

The proposed amendment specifically addresses changes made to the Code of Virginia regarding the operation of farm wineries/breweries/distilleries in the R-C District and establishes limitations on the operation of such uses in other districts that allow agriculture as a permitted use. Staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption, to include staff's recommendation that any proposed operation with a pending application for licensure by the ABC Board for the operation of a farm winery/brewery/ distillery in the R-A, R-P, R-E and R-1 Districts shall be subject to the current five acre minimum lot size requirement, provided such application is ultimately approved.

Attachments:

- Attachment 1 – Code of Virginia Section Re: Farm Winery/Brewery/Distillery
- Attachment 2 – Code of Virginia Sections Re: to Agriculture, ABC Board, Agritourism
- Attachment 3 – 2016 General Assembly Bills Re: Farm Winery/Brewery/Distillery

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of October 18, 2016 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, as other amendments may be adopted prior to action on this amendment. In the case of such an event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 Amend Article 3, Residential District Regulations, by amending Part C, R-C Residential
2 Conservation District, as follows:

3
4 - Amend Sect. 3-C02, Permitted Uses, by amending Par. 2, as follows:

- 5
6 2. Agriculture, as defined in Article 20, but not to include a limited brewery, limited
7 distillery, or a farm winery that was not licensed by the state and operational prior to
8 July 1, 2016; provided, however, that the expansion of existing structures, buildings
9 and/or uses and construction of new buildings or structures associated with any state-
10 licensed farm winery in operation before July 1, 2016 shall be subject to the
11 provisions of Part 6 of Article 9. The development, including construction of new
12 buildings or structures, of any new farm winery, limited brewery, or limited distillery
13 pursuant to a state license that was pending before July 1, 2016, which license must
14 be issued before a special exception may be approved, shall also be subject to the
15 provisions of Part 6 of Article 9.
16
17

18 Amend Article 9, Special Exceptions, as follows:

19
20 - Amend Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors'
21 Approval, as follows:

22
23 - Amend Sect. 9-601, Category 6 Special Exception Uses, by adding a new Par. 27, as
24 follows:

25
26 Category 6 special exceptions consist of those miscellaneous provisions set forth in
27 various Articles of this Ordinance, which require special approval or authorization from
28 the Board.

- 29
30 27. Expansion of an existing or development of a new farm winery, limited brewery, and
31 limited distillery in the R-C District and for certain events and activities associated
32 with such uses when located in the R-A, R-P, R-E and R-1 Districts.
33

- 1 - Establish a new Sect. 9-630, Provisions for the Expansion of an Existing or
 2 Development of a New Farm Winery, Brewery or Distillery in the R-C District and
 3 for Certain Events and Activities Associated with Such Uses When Located in the
 4 R-A, R-P, R-E and R-1 Districts, as follows:

5
 6 **9-630 Provisions for Expansion of an Existing or Development of a New Farm**
 7 **Winery, Limited Brewery, or Limited Distillery in the R-C District and for**
 8 **Certain Events and Activities Associated with Such Uses When Located in**
 9 **the R-A, R-P, R-E and R-1 Districts**

- 10
 11 1. In the R-C District, the Board may approve a special exception to allow for
 12 the expansion or development of a farm winery, limited brewery, or limited
 13 distillery. For the purposes of this provision, a farm winery, limited brewery,
 14 or limited distillery located in the R-C District shall only include (1) any
 15 establishment that was issued a valid license for such use from the Virginia
 16 Alcoholic Beverage Control Board prior to July 1, 2016, and (2) any such
 17 establishment for which a license application was filed with the Virginia
 18 Alcoholic Beverage Control Board prior to July 1, 2016 and was subsequently
 19 approved prior to approval of a special exception. An expansion or
 20 development shall include new or expanded buildings, structures and uses that
 21 may be approved by special exception in accordance with the following:
 22
 23 A. Special exception approval shall not be required for the continuation, after
 24 July 1, 2016, of then existing uses of buildings and structures, provided
 25 that such use or activity does not cease for any reason for a continuous
 26 period of two (2) years or more.
 27
 28 B. Special exception approval shall be required for the expansion after July 1,
 29 2016, of any existing buildings or structures or the uses thereof, as
 30 determined by the Zoning Administrator and as provided for in Par. 2 of
 31 Sect. 15-101 or the structural alteration of any existing building or
 32 structure that results in the expansion of such building or structure or the
 33 uses thereof. Special exception approval shall also be required for any
 34 new building or structure.
 35
 36 C. For public or private events and activities which exceed the number of
 37 attendees, frequency or duration as set forth under the definition of a farm
 38 winery, limited brewery, or limited distillery, if not otherwise permitted
 39 under Par. 1A, above, the Board may impose conditions on such events
 40 and activities, including, but not limited to: the type and number of
 41 allowable activities; the area of the site devoted to such activities; the
 42 adequacy of water and sanitation services to accommodate the anticipated
 43 number of attendees; the days and hours of such activities; the use of
 44 lighting or amplified sound systems; and the amount of parking available
 45 to accommodate the activity. Any such events and activities shall be
 46 subject to compliance with the noise standards set forth in Chapter 108.1

1 of The Code and the outdoor lighting standards set forth in Article 14 of
 2 this Ordinance. No such public or private event or activities shall include
 3 any of the following: helicopter rides, fireworks displays, antique/flea
 4 markets, go-cart/all-terrain vehicle tracks, mechanized amusement park
 5 rides, hot air balloons, lodging, spa services, the operation of a
 6 commercial restaurant requiring approval by the Health Department and/or
 7 any other similar use determined by the Board to have a substantial impact
 8 on the health, safety and welfare of the public. Musical accompaniment or
 9 entertainment that is accessory to farm winery, limited brewery, and/or
 10 limited distillery sales and tastings as part of the regular course of business
 11 shall not be deemed to be a public or private event or activity.
 12

- 13 D. An expansion may be approved only when it is determined by the Board
 14 that the resulting use, buildings and/or structures will be in harmony with
 15 the policies set forth in the adopted comprehensive plan and where the
 16 resultant operation will not have a deleterious effect on the existing or
 17 planned development of adjacent properties or on area roadways. The
 18 applicant shall demonstrate to the Board's satisfaction that any potential
 19 impacts of an expansion of buildings or uses, including, without
 20 limitation, the hosting of public or private events not specifically allowed
 21 under the definition of farm winery, limited brewery, or limited distillery
 22 shall be adequately mitigated.
 23
- 24 E. Any expansion of an existing building or structure, the construction of a
 25 new building or structure or the establishment or expansion of any area for
 26 the loading/unloading of trucks shall be located at least fifty (50) feet to
 27 any lot line and one hundred (100) feet to any principal structure on
 28 adjacent properties, unless modified by the Board. All loading/unloading
 29 areas shall be screened from view of any adjacent dwelling.
 30
- 31 F. Any application for a special exception shall include a copy of the farm
 32 winery, limited brewery, or limited distillery license issued or pending
 33 issuance by the Virginia Alcoholic Beverage Control Board.
 34
- 35 G. For any new or expanded buildings or structures which would allow for
 36 access by the public, the owner or applicant shall submit plans certified by
 37 a structural engineer and such structural engineer shall also certify to the
 38 structural integrity of the building, once such construction is complete.
 39 Such certified plans shall be made available for review upon request.
 40
- 41 H. The operation and construction of a farm winery, limited brewery or
 42 limited distillery shall be further subject to all other applicable federal,
 43 state or local statutes, ordinances, rules or regulations, which may include,
 44 without limitation, the Chesapeake Bay Preservation Act, the Stormwater
 45 Management Act, and the Americans With Disabilities Act.
 46

- 1 2. In the R-A, R-P, R-E and R-1 Districts the Board may approve a special
2 exception to allow for the hosting of certain events and activities beyond that
3 which is specified in the definitions of a farm winery, limited brewery, or
4 limited distillery in accordance with the following:
5
6 A. For public or private events and activities which exceed the number of
7 attendees, frequency or duration as set forth under the definition of a farm
8 winery, limited brewery, or limited distillery, the Board may impose
9 conditions on such events and activities, including, but not limited to: the
10 type and number of allowable activities; the area of the site devoted to
11 such activities; the adequacy of water and sanitation services to
12 accommodate the anticipated number of attendees; the days and hours of
13 such activities; the use of lighting or amplified sound systems; and the
14 amount of parking available to accommodate the activity. Any such
15 events and activities shall be subject to compliance with the noise
16 standards set forth in Chapter 108.1 of The Code and the outdoor lighting
17 standards set forth in Article 14 of this Ordinance. No such public or
18 private event or activities shall include any of the following: helicopter
19 rides, fireworks displays, antique/flea markets, go-cart/all-terrain vehicle
20 tracks, mechanized amusement park rides, hot air balloons, lodging, spa
21 services, the operation of a commercial restaurant requiring approval by
22 the Health Department and/or any other similar use determined by the
23 Board to have a substantial impact on the health, safety and welfare of the
24 public.
25
26 B. A special exception may be approved only when it is determined by the
27 Board that the proposed events and activities will be in harmony with the
28 policies set forth in the adopted comprehensive plan and where the
29 resultant operation will not have a deleterious effect on the existing or
30 planned development of adjacent properties or on area roadways. The
31 applicant shall demonstrate to the Board's satisfaction that any potential
32 impacts of the hosting of public or private events not specifically allowed
33 under the definition of farm winery, limited brewery, or limited distillery
34 shall be adequately mitigated. Any application for a special exception
35 shall include a copy of the farm winery, limited brewery, or limited
36 distillery license issued or pending issuance by the Virginia Alcoholic
37 Beverage Control Board.
38
39 C. Any application for a special exception shall include a copy of the farm
40 winery, limited brewery, or limited distillery license issued or pending
41 issuance by the Virginia Alcoholic Beverage Control Board.
42
43 D. The operation and construction of a farm winery, limited brewery, or
44 limited distillery shall be further subject to all other applicable federal,
45 state or local statutes, ordinances, rules or regulations, which may include

without limitation, the Chesapeake Bay Preservation Act, the Stormwater Management Act, and the Americans With Disabilities Act.

Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Section 18-106, Application and Zoning Compliance Letter Fees, to add Farm Wineries, Limited Breweries and Limited Distilleries to the Category 6 special exception application fee, as follows:

Category 6 special exception

| | |
|--|---------------|
| Reduction of yard requirements for the reconsideration of certain single family detached dwellings that are destroyed by casualty | \$0 |
| Modification of minimum yard requirements for certain existing structures and uses; modification of grade for single family detached dwellings | \$910 |
| <u>Expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District for any agricultural building or structure that does not permit access by any member of the public, whether a customer, guest, or attendee at a public or private event or activity</u> | <u>\$1000</u> |
| <u>Expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District with no construction of buildings or structures over 400 square feet in gross floor area or no land disturbance over 2,500 square feet; or modification of the number of attendees, frequency and/or duration of events or activities at a farm winery, limited brewery or limited distillery in the R-A, R-P, R-C R-E and R-1 District</u> | <u>\$4090</u> |
| Modification of shape factor limitations; waiver of minimum lot width requirements in a residential district; <u>expansion of an existing or establishment of a new farm winery, limited brewery, or limited distillery in an R-C District with construction of buildings or structures over 400 square feet in gross floor area or land disturbance over 2,500 square feet</u> | \$8180 |
| All other uses | \$16375 |

(Note: the amendment is advertised to allow the Board to consider any application fee from \$1,000 to \$16,375, with staff recommending \$1,000 for agricultural buildings that do not allow

access by the public, \$4,090 for smaller buildings/uses and events/activities and \$8,180 for larger buildings/uses, to include the ability to establish additional fee tiers for different size structures and/or land disturbances.)

Amend Article 20, Ordinance Structure, Interpretations and Definitions, by amending Part 3, Definitions, to modify the definition of AGRICULTURE and to add FARM WINERY, LIMITED BREWERY, and LIMITED DISTILLERY in alphabetical order, as follows:

20-300 DEFINITIONS

The following definitions shall be used in the interpretation and administration of this Ordinance. The definitions of various terms as presented herein do not necessarily represent the same definitions as may be found for the same terms in other Chapters of The Code.

AGRICULTURE: The use of a farm or other tract of land not less than five (5) acres in size as a business engaged in the production of crops, nursery stock or plant growth of any kind and/or the raising of livestock, aquatic life or other animals to produce products such as food and fiber and the wholesale sale of the foregoing plant and animal products. Agriculture may also include the operation of agritourism uses, as set forth in the Code of Virginia, and a licensed farm winery, limited brewery or limited distillery, but only as those uses are defined in this Ordinance and only in accordance with the provisions of Part 6 of Article 9, when a special exception is required. for (a) the tilling of the soil; (b) the growing of crops, nursery stock, or plant growth of any kind, including forestry; (c) pasturage; (d) horticulture; (e) dairying; (f) floriculture; or (g) the raising of poultry and livestock; and (h) the wholesale sales of any of the foregoing products.

The term 'agriculture' shall not include the following uses: (a) the maintenance and operation of plant nurseries; (b) ~~the feeding of garbage to animals;~~ (c) ~~the raising of fur-bearing animals as a principal use;~~ (d) the operation or maintenance of a commercial stockyard or feed yard; (e ~~c~~) the retail sales of agricultural products except ~~in accordance with the provisions of Sect. 10-102 as an accessory use;~~ or (f ~~d~~) the operation of landscape contracting services. However, the definition of agriculture shall not be deemed to preclude: (a) the keeping of livestock on parcels of two (2) acres or more in size as permitted by Sect. 2-512; or (b) gardening, as permitted as an accessory use in Sect. 10-102.

FARM WINERY: An establishment located on a farm with a producing vineyard, orchard or similar growing area and with facilities for fermenting and bottling wine and/or cider on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing not less than twenty (20) (advertised at 5-50) acres under common ownership wherein such land is used for AGRICULTURE or any lot not less than five (5) acres in size for which an ABC Board license was pending for the operation of a farm winery before [effective date of this amendment] where such license is ultimately approved and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined herein.

Any such establishment in operation prior to July 1, 2016, may continue its then existing or more restricted uses; however, the construction or expansion after July 1, 2016, of any new or existing farm winery building or structure in the R-C District shall be subject to the provisions of Part 6 of Article 9. Where permitted and to the extent authorized by this Ordinance, any new farm winery building or structure constructed after July 1, 2016, or the expansion of any farm winery building or structure after July 1, 2016, may be used for alcohol production, sales and tastings and, in addition, for the hosting of public or private events or activities for up to 300 (*advertised at 150-500*) guests, invitees or participants; however, events or activities for more than 300 (*advertised at 150-500*) guests, invitees or participants shall be limited to twelve (12) per calendar year (*advertised for 12-24*) and shall not exceed two (2) (*advertised at 2-8*) days in duration, unless a special exception is approved by the Board. Persons visiting the farm winery for purposes related to tasting, promotion or purchasing of agricultural products available on site shall not be included in the maximum number of persons attending such public or private events or activities.

LIMITED BREWERY: An establishment located on a farm wherein agricultural products, including barley, hops, other grains and/or fruit used by such limited brewery in the manufacture of beer are grown, processed and containerized on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing not less than twenty (20) (*advertised at 5-50*) acres under common ownership wherein such land is used for AGRICULTURE or any lot of five (5) acres or more for which an ABC Board license was pending for the operation of a limited brewery before [effective date of this amendment] where such license is ultimately approved and such land is used for AGRICULTURE. Nothing herein shall preclude the establishment of more than one farm winery, limited brewery and/or limited distillery on a farm, as defined herein.

Where permitted and to the extent authorized by this Ordinance, any new or expanded limited brewery building or structure constructed after July 1, 2016, may be used for alcohol production, sales and tastings. In addition to such production, sales and tastings, any limited brewery building or structure may be used for the hosting of public or private events or activities for up to 300 (*advertised at 150-500*) guests, invitees or participants; however, events or activities for more than 300 (*advertised at 150-500*) guests, invitees or participants shall be limited to twelve (12) per calendar year (*advertised for 12-24*) and shall not exceed two (2) (*advertised at 2-8*) days in duration, unless a special exception is approved by the Board. Persons visiting the limited brewery for purposes related to tasting, promotion or purchasing of agricultural products available on site shall not be included in the maximum number of persons attending such public or private events or activities.

LIMITED DISTILLERY: An establishment located on a farm wherein agricultural products used in the manufacture of alcoholic beverages other than wine, cider and beer are grown, processed and containerized on the premises, and as specifically regulated and licensed by the provisions of the Virginia Alcoholic Beverage Control Board (ABC Board). For the purpose of this definition, a farm shall be deemed to be an area of contiguous land containing

1 not less than twenty (20) acres under common ownership wherein such land is used for
2 AGRICULTURE or any lot of five acres or more for which an ABC Board license was
3 pending for the operation of a limited distillery before [effective date of this amendment]
4 where such license is ultimately approved and such land is used for AGRICULTURE.
5 Nothing herein shall preclude the establishment of more than one farm winery, limited
6 brewery and/or limited distillery on a farm, as defined herein.

7 Where permitted and to the extent authorized by this Ordinance, any new or expanded
8 limited distillery building or structure constructed after July 1, 2016, may be used for alcohol
9 production, sales and tastings. In addition to such production, sales and tastings, any limited
10 distillery building or structure may be used for the hosting of public or private events or
11 activities for up to 300 (advertised at 150-500) guests, invitees or participants; however,
12 events or activities for more than 300 (advertised at 150-500) guests, invitees or participants
13 shall be limited to twelve (12) per calendar year (advertised for 12-24) and shall not exceed
14 two (2) (advertised at 2-8) days in duration, unless a special exception is approved by the
15 Board. Persons visiting the limited distillery for purposes related to tasting, promotion or
16 purchasing of agricultural products available on site shall not be included in the maximum
17 number of persons attending such public or private events or activities.

ATTACHMENT 1

VIRGINIA CODE

Title 4.1 – Alcoholic Beverage Control Act, Chapter 2 – Administration of Licenses

Section 4.1-206 – Alcoholic beverage licenses

Section 4.1-207 – Wine licenses

Section 4.1-208 – Beer licenses

Section 4.1-213 – Manufacture and sale of cider

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-206. Alcoholic beverage licenses.

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station

or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to

the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than

two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c. 200; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, c. 707; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1996, cc. 584, 596; 1998, c. 489; 1999, c. 325; 2005, c. 911; 2006, cc. 737, 826; 2007, c. 101; 2008, c. 198; 2013, c. 476; 2014, c. 510; 2015, cc. 348, 393, 412, 502, 503, 695; 2016, c. 644.

Code of Virginia

Title 4.1. Alcoholic Beverage Control Act

Chapter 2. Administration of Licenses

§ 4.1-207. Wine licenses.

The Board may grant the following licenses relating to wine:

1. Winery licenses, which shall authorize the licensee to manufacture wine and to sell and deliver or ship the wine, in accordance with Board regulations, in closed containers, to persons licensed to sell the wine so manufactured at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth. In addition, such license shall authorize the licensee to (i) operate distilling equipment on the premises of the licensee in the manufacture of spirits from fruit or fruit juices only, which shall be used only for the fortification of wine produced by the licensee; (ii) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (iii) store wine in bonded warehouses on or off the licensed premises upon permit issued by the Board.

2. Wholesale wine licenses, including those granted pursuant to § 4.1-207.1, which shall authorize the licensee to acquire and receive deliveries and shipments of wine and to sell and deliver or ship the wine from one or more premises identified in the license, in accordance with Board regulations, in closed containers, to (i) persons licensed to sell such wine in the Commonwealth, (ii) persons outside the Commonwealth for resale outside the Commonwealth, (iii) religious congregations for use only for sacramental purposes, and (iv) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state.

No wholesale wine licensee shall purchase wine for resale from a person outside the Commonwealth who does not hold a wine importer's license unless such wholesale wine licensee holds a wine importer's license and purchases wine for resale pursuant to the privileges of such wine importer's license.

3. Wine importers' licenses, which shall authorize persons located within or outside the Commonwealth to sell and deliver or ship wine, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell wine at wholesale for the purpose of resale, and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Retail off-premises winery licenses to persons holding winery licenses, which shall authorize the licensee to sell wine at the place of business designated in the winery license, in closed containers, for off-premises consumption.

5. Farm winery licenses, which shall authorize the licensee to manufacture wine containing 21 percent or less of alcohol by volume and to sell, deliver or ship the wine, in accordance with Board regulations, in closed containers, to (i) the Board, (ii) persons licensed to sell the wine so manufactured at wholesale for the purpose of resale; or (iii) persons outside the Commonwealth. In addition, the licensee may (a) acquire and receive deliveries and shipments of wine and sell and deliver or ship this wine, in accordance with Board regulations, to the Board, persons licensed to sell wine at wholesale for the purpose of resale, or persons outside the Commonwealth; (b) operate a contract winemaking facility on the premises of the licensee in accordance with Board regulations; and (c) store wine in bonded warehouses located on or off the licensed premises upon permits issued by the Board. For the purposes of this title, a farm winery license shall be designated either as a Class A or Class B farm winery license in accordance with the limitations set forth in § 4.1-219. A farm winery may enter into an agreement in accordance with Board regulations with a winery or farm winery licensee operating a contract winemaking facility.

Such licenses shall also authorize the licensee to sell wine at retail at the places of business designated in the licenses, which may include no more than five additional retail establishments of the licensee. Wine may be sold at these business places for on-premises consumption and in closed containers for off-premises consumption. In addition, wine may be pre-mixed by the licensee to be served and sold for on-premises consumption at these business places.

6. Internet wine retailer license, which shall authorize persons located within or outside the Commonwealth to sell and ship wine, in accordance with § 4.1-209.1 and Board regulations, in closed containers to persons in the Commonwealth to whom wine may be lawfully sold for off-premises consumption. Such licensee shall not be required to comply with the monthly food sale requirement established by Board regulations.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 324, 526, 528, § 4-25.1; 1981, cc. 410, 412; 1982, c. 66; 1984, cc. 200, 559; 1985, c. 457; 1986, c. 190; 1987, c. 365; 1988, c. 893; 1989, c. 42; 1990, cc. 300, 390, 707, 810; 1991, c. 628; 1992, cc. 215, 350; 1993, c. 866; 1998, cc. 77, 208; 2000, cc. 786, 1037, 1052; 2003, cc. 564, 629, 1029, 1030; 2006, c. 845; 2007, cc. 558, 870, 932; 2008, c. 194; 2013, cc. 107, 117, 596; 2015, cc. 54, 288, 412.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-208. Beer licenses.

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board

may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this

subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar

disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

Code 1950, § 4-25; 1952, c. 535; 1956, c. 520; 1962, c. 532; 1964, c. 210; 1970, cc. 627, 723; 1972, c. 679; 1973, c. 343; 1974, c. 267; 1975, c. 408; 1976, cc. 134, 447, 496, 703; 1977, c. 439; 1978, c. 190; 1979, c. 258; 1980, cc. 526, 528; 1981, cc. 410, 412; 1982, c. 66; 1984, c.

Code of Virginia
Title 4.1. Alcoholic Beverage Control Act
Chapter 2. Administration of Licenses

§ 4.1-213. Manufacture and sale of cider.

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of

alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization.

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

Code 1950, § 4-27; 1978, c. 174; 1980, c. 324; 1992, c. 349; 1993, c. 866; 2011, cc. 265, 288; 2014, c. 787; 2015, c. 412.

ATTACHMENT 2

VIRGINIA CODE

Title 3.2 – Agriculture, Animal Care, and Food, Chapter 64 – Agritourism Activity Liability

Section 3.2-6400, Definitions

Section 3.2-6401, Liability limited; liability actions prohibited

Section 3.2-6402, Notice required

Title 15.2 – Counties, Cities and Towns, Chapter 22 Planning, Subdivision of Land and Zoning

Section 15.2-2288 – Localities may not require a special use permit for certain agricultural activities

Section 15.2-2288.3 – Licensed farm wineries; local regulation of certain activities

Section 15.2-2288.3.1 – Limited brewery license; local regulation of certain activities

Section 15.2-2288.3.2 – Limited distiller's license; local regulation of certain activities

Section 15.2-2288.6 – Agricultural operations, local regulation of certain activities

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agricultural products" means any livestock, aquaculture, poultry, horticultural, floricultural, viticulture, silvicultural, or other farm crops.

"Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

"Farm or ranch" means one or more areas of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

"Inherent risks of agritourism activity" mean those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

"Participant" means any person, other than an agritourism professional, who engages in an agritourism activity.

2006, c. 710, § 3.1-796.137; 2008, c. 860.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6401. Liability limited; liability actions prohibited.

A. Except as provided in subsection B, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in § 3.2-6402 is posted as required and, except as provided in subsection B, no participant or participant's representative is authorized to maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities; provided that in any action for damages against an agritourism professional for agritourism activity, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

B. Nothing in subsection A shall prevent or limit the liability of an agritourism professional if the agritourism professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;
2. Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant; or
3. Intentionally injures the participant.

C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

2006, c. 710, § 3.1-796.138; 2008, c. 860.

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 64. Agritourism Activity Liability

§ 3.2-6402. Notice required.

A. Every agritourism professional shall post and maintain signs that contain the notice specified in subsection B. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the notice specified in subsection B.

B. The signs and contracts described in subsection A shall contain the following notice: "WARNING" or "ATTENTION" followed by "Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

C. Failure to comply with the requirements concerning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by this chapter.

2006, c. 710, § 3.1-796.139; 2008, c. 860; 2016, c. 166.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288. Localities may not require a special use permit for certain agricultural activities.

A zoning ordinance shall not require that a special exception or special use permit be obtained for any production agriculture or silviculture activity in an area that is zoned as an agricultural district or classification. For the purposes of this section, production agriculture and silviculture is the bona fide production or harvesting of agricultural products as defined in § 3.2-6400, including silviculture products, but shall not include the processing of agricultural or silviculture products, the above ground application or storage of sewage sludge, or the storage or disposal of nonagricultural excavation material, waste and debris if the excavation material, waste and debris are not generated on the farm, subject to the provisions of the Virginia Waste Management Act. However, localities may adopt setback requirements, minimum area requirements and other requirements that apply to land used for agriculture or silviculture activity within the locality that is zoned as an agricultural district or classification. Nothing herein shall require agencies of the Commonwealth or its contractors to obtain a special exception or a special use permit under this section.

Code 1950, § 15-968.5; 1962, c. 407, § 15.1-491; 1964, c. 564; 1966, c. 455; 1968, cc. 543, 595; 1973, c. 286; 1974, c. 547; 1975, cc. 99, 575, 579, 582, 641; 1976, cc. 71, 409, 470, 683; 1977, c. 177; 1978, c. 543; 1979, c. 182; 1982, c. 44; 1983, c. 392; 1984, c. 238; 1987, c. 8; 1988, cc. 481, 856; 1989, cc. 359, 384; 1990, cc. 672, 868; 1992, c. 380; 1993, c. 672; 1994, c. 802; 1995, cc. 351, 475, 584, 603; 1996, c. 451; 1997, c. 587; 2012, c. 455; 2014, c. 435.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3. (Effective until July 1, 2018) Licensed farm wineries; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia wine industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth, and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and events of farm wineries licensed in accordance with Title 4.1 to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the locality shall consider the effect on adjacent property owners and nearby residents.

B, C. [Expired.]

D. No locality may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

E. No locality shall regulate any of the following activities of a farm winery licensed in accordance with subdivision 5 of § 4.1-207:

1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine;
2. The on-premises sale, tasting, or consumption of wine during regular business hours within the normal course of business of the licensed farm winery;

3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of wine-related items that are incidental to the sale of wine.

2006, c. 794; 2007, cc. 611, 657; 2009, cc. 416, 546.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

This section has more than one version with varying effective dates. To view a complete list of the versions of this section see Table of Contents.

§ 15.2-2288.3:1. (Effective until July 1, 2018) Limited brewery license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;

5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or

6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.3:2. Limited distiller's license; local regulation of certain activities.

A. Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.

B. No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206:

1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;
2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;
3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.

C. Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

2015, c. 695.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2288.6. Agricultural operations; local regulation of certain activities.

A. No locality shall regulate the carrying out of any of the following activities at an agricultural operation, as defined in § 3.2-300, unless there is a substantial impact on the health, safety, or general welfare of the public:

1. Agritourism activities as defined in § 3.2-6400;
2. The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation;
3. The preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; or
4. Other activities or events that are usual and customary at Virginia agricultural operations.

Any local restriction placed on an activity listed in this subsection shall be reasonable and shall take into account the economic impact of the restriction on the agricultural operation and the agricultural nature of the activity.

B. No locality shall require a special exception, administrative permit not required by state law, or special use permit for any activity listed in subsection A on property that is zoned as an agricultural district or classification unless there is a substantial impact on the health, safety, or general welfare of the public.

C. Except regarding the sound generated by outdoor amplified music, no local ordinance regulating the sound generated by any activity listed in subsection A shall be more restrictive than the general noise ordinance of the locality. In permitting outdoor amplified music at an agricultural operation, the locality shall consider the effect on adjoining property owners and nearby residents.

D. The provisions of this section shall not affect any entity licensed in accordance with Chapter 2 (§ 4.1-200 et seq.) of Title 4.1. Nothing in this section shall be construed to affect the provisions of Chapter 3 (§ 3.2-300 et seq.) of Title 3.2, to alter the provisions of § 15.2-2288.3, or to restrict the authority of any locality under Title 58.1.

2014, cc. 153, 494.

ATTACHMENT 3

Virginia Acts of Assembly – 2016 Session

House Bill H879

Senate Bill S578

Senate Bill S579

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 710

An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; farm wineries and limited brewery licenses; land zoned agricultural.

[H 879]

Approved April 6, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-208 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-100. (Effective until July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available

upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (i) (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-100. (Effective July 1, 2018) Definitions.

As used in this title unless the context requires a different meaning:

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for

products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons certified in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (i) (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for

fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume. "Farm winery" includes or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this sentence *clause (ii)* and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. *For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.*

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal

descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association

and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided *that* (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall

authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a farm winery or limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use, and (iii) subsequently is issued a license as a farm winery or limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 671

An Act to amend and reenact § 4.1-208 of the Code of Virginia, relating to alcoholic beverage control; limited brewery licenses.

[S 578]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-208 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-208. Beer licenses.

The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's

license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

2. That any limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on

land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited brewery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited brewery use, and (iii) subsequently is issued a license as a limited brewery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited brewery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited brewery on or after July 1, 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 644

An Act to amend and reenact § 4.1-206 of the Code of Virginia, relating to alcoholic beverage control; limited distiller's licenses.

[S 579]

Approved April 1, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-206 of the Code of Virginia is amended and reenacted as follows:

§ 4.1-206. Alcoholic beverage licenses.

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. *For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.*

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No

tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

2. That any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with Title 4.1 of the Code of Virginia and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016,

may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

3. That any person who, prior to July 1, 2016, (i) has a pending application with the Alcoholic Beverage Control Board (the Board) for a license as a limited distillery in accordance with Title 4.1 of the Code of Virginia, (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use, and (iii) subsequently is issued a license as a limited distillery shall be allowed to engage in such use as provided in § 15.2-2307 of the Code of Virginia, notwithstanding (a) the provisions of this act or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of Title 4.1 of the Code of Virginia and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
December 6, 2016**

**ADDENDUM
AGENDA**

**ADMINISTRATIVE
ITEMS**

16

Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia - Chapter 82 (Motor Vehicles and Traffic), Article 2 (Signs, Signals and Markers), to Add a New Section 82-2-8 Relating to the Authorization for the Fairfax County School Board to Install and Operate a Video Monitoring System to Enforce the Law Against Passing Stopped School Buses

ADMINISTRATIVE - 16

Authorization to Advertise a Public Hearing to Consider Amendment to The Code of the County of Fairfax, Virginia - Chapter 82 (Motor Vehicles and Traffic), Article 2 (Signs, Signals and Markers), to Add a New Section 82-2-8 Relating to the Authorization for the Fairfax County School Board to Install and Operate a Video Monitoring System to Enforce the Law Against Passing Stopped School Buses

ISSUE:

Authorization to advertise a public hearing to consider amendment to *The Code of the County of Fairfax*, Chapter 82, Article 2, to add a new section 82-2-8.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on January 24, 2017, at 4:30 p.m., to consider adoption of this ordinance.

TIMING:

Board action is requested on December 6, 2016, to provide sufficient time to advertise a January 24, 2017 public hearing on the proposed ordinance.

BACKGROUND:

Va. Code Section 46.2-844, which is incorporated into the Fairfax County Code, requires motorists who approach a school bus that has stopped to take on or discharge passengers to stop until the passengers are clear of the road (motorists do not need to stop when a physical barrier or unpaved area separates them from the bus). Violations subject drivers to a \$250 civil penalty. During the 2011 General Assembly, legislation was enacted to allow localities, by ordinance, to authorize the local school division to install and operate video-monitoring systems on school buses to catch violators. The ordinance could authorize the school division to install and operate such systems directly, or to contract with a private vendor to do so on its behalf. The 2011 legislation was similar in some respects to state statutes that authorize video monitoring to catch red light violators, drivers who fail to pay tolls, and drivers who violate the Dulles Access Road restrictions. However, there were also provisions that differed significantly from other photo monitoring statutes, making implementation of the school bus authority difficult for local governments. One of the most challenging differences was that other video-monitored offenses statutes allow for the mailing of summonses, while there was no such language in the school bus statute. Therefore, as enacted in 2011, the statute

required all photo school bus summonses to be personally served on the alleged violator.

A coalition of local governments, including Fairfax County, sought to address obstacles to implementation through legislation in the 2016 General Assembly. As a result of these efforts, which were also supported by Fairfax County Public Schools (FCPS), HB 168 (LaRock, Kory, Krizek)/SB 120 (Carrico, Favola, Wexton) were enacted, allowing summonses to be mailed.

Since the enactment of the 2016 legislation, staff has worked with key stakeholders, including representatives from the Fairfax County Schools to resolve other implementation issues not addressed in either the original legislation or the 2016 amendments. In July 2016, the Board sent a letter to the Executive Secretary of the Supreme Court of Virginia supporting an amendment to the Uniform Fine Schedule to allow pre-payment of violations. The Committee on District Courts met on September 8 and endorsed the County's recommendation, as did the Virginia Supreme Court, and the Uniform Fine Schedule was amended in September to allow violations to be pre-payable. In September 2016, another significant obstacle was removed when the Commissioner of the Virginia Department of Motor Vehicles (DMV) assured the Chairman of the Senate Transportation Committee that the DMV has the authority to allow a vendor to view DMV records for the purpose of mailing a summons for violations of the ordinance.

The stakeholders are continuing to work on implementation issues associated with the procedure for prosecuting violations of the ordinance, including those related to the program's cost. However, at the meeting of the Board's Legislative Committee on September 30, 2016, FCPS representatives stated that FCPS would not issue a Request for Proposals (RFP) until after the Board adopts an ordinance. Accordingly, the Legislative Committee directed staff to bring an ordinance to the full Board for its consideration as promptly as possible and to continue to work with the other stakeholders to iron out the final implementation issues. The ordinance as drafted allows the County the flexibility to continue to work with FCPS, the Clerk of the General District Court, and other stakeholders to address outstanding issues, while allowing FCPS to initiate the RFP process as soon as the ordinance is adopted.

FISCAL IMPACT:

Costs incurred by Fairfax County, including but not limited to those incurred by the Fairfax County Police Department (FCPD) for additional positions, program administration, verification of violations etc. are intended to be covered by fine-related revenue. Therefore, there is not anticipated to be any net fiscal impact to Fairfax County as part of this action; however, until all the specifics of the program are known, there are some uncertainties that may result in fine revenue not being sufficient to cover

all costs. This will be monitored closely and if any future budget adjustments are necessary, they will be made as part of a regularly scheduled budget review.

As noted in the ordinance, fines will be remitted from the General District Court to the Fairfax County Department of Finance. In accordance with a still-to-be written agreement between Fairfax County and the Fairfax County School Board, the Fairfax County Director of Finance shall deduct certain costs incurred by Fairfax County associated with the administration of this ordinance and then remit the remaining balance of the funds to the Fairfax County School Board.

~~Per the ordinance all expenses incurred by Fairfax County, including but not limited to those incurred by the Fairfax County Police Department (FCPD) for additional positions, program administration, verification of violations etc. are to be covered by fine-related revenue. Therefore, there is no net fiscal impact to Fairfax County anticipated as part of this action.~~

~~It should be noted that fines will be remitted from the General District Court to the Fairfax County Department of Finance, who will deduct all expenses incurred by Fairfax County as noted above, and then remit the remainder to FCPS. Whatever vendor is eventually chosen to administer the Photo School Bus program will only be remunerated through a to-be-determined percentage of violation fees. All remaining funds will belong to FCPS.~~

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to *The Code of the County of Fairfax*, Section 82-2-8.

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police
Daniel Robinson, Assistant County Attorney

AN ORDINANCE AMENDING
ARTICLE 2 OF CHAPTER 82 OF THE FAIRFAX COUNTY CODE, RELATING TO
THE AUTHORIZATION FOR THE FAIRFAX COUNTY SCHOOL BOARD TO
INSTALL AND OPERATE A VIDEO MONITORING SYSTEM TO ENFORCE LAW
AGAINST PASSING STOPPED SCHOOL BUSES

Draft of December 5, 2016

AN ORDINANCE to amend the Fairfax County Code by adding a new
section 82-2-8 relating to a video monitoring system on County school
buses.

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

1. That Section 82-2-8 is adopted as follows:

Chapter 82 – Motor Vehicles and Traffic.

Article 2. – Signs, Signals and Markers.

**Section 82-2-8. Authorization of School Board to Install and Operate a Video Monitoring
System to Enforce Law Against Passing Stopped School Buses; enforcement; and penalty.**

(a) The Fairfax County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board, or it may contract with a private vendor to do so on its behalf for the purpose of recording violations of subsection A of Virginia Code § 46.2-844, incorporated by reference into the Fairfax County Code pursuant to Section 82-1-6.

(b) “Video-monitoring system” has the same meaning as the definition set forth in Virginia Code § 46.2-844(B).

(c) The driver of a vehicle that is found to have failed to comply with Virginia Code § 46.2-859, as evidenced by information obtained from a video-monitoring system, shall be liable for a monetary civil penalty of \$250 imposed in accordance with this ordinance.

(d) In any prosecution for which a summons charging a violation of this ordinance was issued within 10 days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 of Subtitle II of Title 46.2 of the Virginia Code, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner

ATTACHMENT 1 REVISED

1 of the vehicle files an affidavit by regular mail with the clerk of the general district court that
2 he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies
3 in open court under oath that he was not the operator of the vehicle at the time of the alleged
4 violation, or (iii) a certified copy of a police report showing that the vehicle had been reported
5 to the police as stolen prior to the time of the alleged violation of this section is presented prior
6 to the return date established on the summons issued pursuant to this section to the court
7 adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise
8 admissible evidence.

9
10 (e) Any person who receives a summons pursuant to this ordinance may waive his right to appear
11 and be formally tried for the offense pursuant to Virginia Code § 16.1-69.40:1.B. The waiver
12 shall be effective when the person pays the civil penalty of \$250.00 and all applicable court
13 costs and processing fees to the Clerk of the General District Court.

14
15 (f) The Clerk of the General District Court shall at month end, in addition to remittance of all
16 other local cost and fee monies, transmit to the Fairfax County Director of Finance all funds
17 received from a civil penalty imposed pursuant to this Section. In accordance with a written
18 agreement between Fairfax County and the Fairfax County School Board, the Fairfax
19 County Director of Finance shall deduct certain ,after first deducting all of the costs incurred
20 by Fairfax County associated with the administration of this ordinance and then, including the
21 costs incurred by the police department in connection with its review of violations, shall remit
22 the remaining balance of these the funds to the Fairfax County School Board.

23
24 **2. That the provisions of this ordinance are severable, and if any provision of this**
25 **ordinance or any application thereof is held invalid, that invalidity shall not affect the other**
26 **provisions or applications of this ordinance that can be given effect without the invalid**
27 **provision or application.**

28
29 **3. That this Ordinance is effective upon adoption.**
30

31
32 GIVEN under my hand this _____ day of _____, 2016
33

34 _____
35 Clerk for the Board of Supervisors
36