

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 20, 2017**

AGENDA

8:30	Held	Reception for the Health Department's 100 Year Anniversary, J. Lambert Conference Center, Conference Rooms 4/5
8:30	Held	Reception for the A. Heath Onthank Awardees, J. Lambert Conference Center, Reception Area
8:30	Held	Reception for the Community Council on Land Use Engagement, J. Lambert Conference Center, Conference Rooms 9/10
9:30	Done	Presentations
10:30	Done	Presentation of the A. Heath Onthank Awards
10:40	Report accepted and referred to staff	Presentation of the Final Report from the Community Council on Land Use Engagement
10:50	Done	Board Appointments
11:00	Done	Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

1	Approved	Authorization for the Fairfax County Fire and Rescue Department to Apply for Grant Funding from the U.S. Department of Homeland Security for the Port Security Grant Program (PSGP)
2	Approved	Appointment of Members to the Fairfax-Falls Church Community Policy and Management Team
3	Approved	Street into the Secondary System (Mount Vernon District)
4	Approved	Extension of Review Period for 2232 Application (Providence District)
5	Approved	Authorization to Advertise a Public Hearing on an Amendment to the Code of the County of Fairfax, Chapter 126 (NOVA Arts and Cultural District)

ACTION ITEMS

1	Approved	Approval of the Northern Virginia Active Violence Incident Plan (2016) Addendum to the Northern Virginia Law Enforcement Mutual Aid Agreement of 2013
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**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 20, 2017**

**ACTION ITEMS
(Continued)**

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| 2 | Approved | Approval of Head Start/Early Head Start Policy Council Bylaws, Self-Assessment Report and Memorandum of Understanding Between Policy Council and Board of Supervisors |
| 3 | Approved | Adoption of the Board of Supervisors Environmental Vision |
| 4 | Approved | Approval of the Consolidated Community Funding Advisory Committee Recommendations for the FY 2019 and FY 2020 Funding Priorities for the Consolidated Community Funding Pool |
| 5 | Approved | Approval of the Consumer Protection Commission Recommendation on the Number of Taxicab Certificates to be Authorized in 2017 |
| 6 | Approved | Approval of the 2017 Zoning Ordinance Amendment Work Program |
| 7 | Approved | Approval of Changes to the Fairfax County Purchasing Resolution |
| 8 | Approved | Approval of the Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Increase |
| 9 | Approved | Approval of a One Year Extension to the Washington Metropolitan Area Transit Authority's (WMATA) Capital Funding Agreement for FY 2018 |
| 10 | Approved | Endorsement of Design Plans for the Scotts Run Trail (Providence District) |

**CONSIDERATION
ITEMS**

- | | | |
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| 1 | Approved | Revision to Bylaws of the Fairfax-Falls Church Community Policy and Management Team (CPMT) |
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**INFORMATION
ITEMS**

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| 1 | Noted | Contract Award - Legislative Consultant Services |
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**FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 20, 2017**

11:10	Done	Matters Presented by Board Members
12:00	Done	Closed Session
PUBLIC HEARINGS		
3:00	Approved	Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2018 through 2023 and FY 2018 Budget
3:30	Approved	Public Hearing on Proposed Modifications to the Comprehensive Plan Amendment Process
3:30	Approved	Public Hearing on RZ 2016-MA-026 (Stanley Martin Companies, LLC) (Mason District)
3:30	Approved	Public Hearing on PCA 2000-MA-055 (Stanley Martin Companies, LLC) (Mason District)
4:00	Approved	Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic
4:00	Approved	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Planned Development District Recreational Facilities
4:00	Approved	Public Hearing to Lease County-Owned Property at 4100 Chain Bridge Road to Southwestern Bell Mobile Services, LLC (Providence District)
4:00	Approved	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Public Facilities and Modifications to Existing Wireless Towers or Base Stations
4:00	Approved	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Small Cell Facilities
4:00	Held	Public Comment

REVISED



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Tuesday
June 20, 2017

9:30 a.m.

REPORT AND RESOLUTION TO RECOGNIZE THE 100th ANNIVERSARY
OF THE FAIRFAX COUNTY HEALTH DEPARTMENT

PRESENTATIONS

- CERTIFICATE – To recognize the McNair Elementary School Chess team for its accomplishments. Requested by Supervisor Hudgins.
- CERTIFICATE – To recognize the South County High School Indoor Drumline for placing highest of the Virginia schools in the Winter Guard International World Championships Scholastic Open Class competition. Requested by Supervisor Storck.
- CERTIFICATE – To recognize the McLean High School newsmagazine staff for winning a Gold Crown at the Columbia Scholastic Press Association journalism convention at Columbia University. Requested by Supervisor Foust.

— more —

Board Agenda Item
June 20, 2017

- CERTIFICATE – To recognize the Chantilly High School Theater program for winning the Virginia High School League one-act play competition. Requested by Supervisors Smith and Herrity.
- CERTIFICATE – To recognize the W. T. Woodson High School Boys Basketball team for winning the Virginia High School League 6A state championship. Requested by Supervisor Cook.

STAFF:

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

Board Agenda Item
June 20, 2017

10:30 a.m.

Presentation of the A. Heath Onthank Awards

ENCLOSED DOCUMENTS:

None

PRESENTED BY:

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

Board Agenda Item
June 20, 2017

10:40 a.m.

Presentation of the Final Report from the Community Council on Land Use Engagement

ENCLOSED DOCUMENTS:

None. Available online at:

<http://www.fairfaxcounty.gov/chairman/pdf/Community.Council.Final.Report-6.8.17.pdf>

PRESENTED BY:

Walter Alcorn, Council Chair

Board Agenda Item
June 20, 2017

10:50 a.m.

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

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard June 20, 2017
(An updated list will be distributed at the Board meeting.)

STAFF:

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

FINAL COPY

APPOINTMENTS TO BE HEARD JUNE 20, 2017
(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 2, 2017)
 (Unless otherwise noted, members are eligible for reappointment)

A. HEATH ONTHANK MEMORIAL 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 Christopher Moeller; appointed 3/16 by Storck) Term exp. 1/17 <i>Resigned</i>	Mount Vernon District Representative		Storck	Mount Vernon

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>
Gregory H. Brandon (Appointed 6/11-9/13 by Foust) Term exp. 9/17 <i>Resignation eff.</i> <i>6/30/17</i>	Dranesville District Representative	Alison C. Balzer	Foust	Dranesville
VACANT (Formerly held by Virginia L. Peters; appointed 10/14 by Hyland) Term exp. 9/16 <i>Resigned</i>	Mount Vernon District Representative	Alisha Keirstead	Storck	Mount Vernon

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>
Richard Rose (Appointed 7/97-4/01 by Hanley; 9/05-5/06 by Connolly; 6/13 by Bulova) Term exp. 5/17	Builder (Multi- Family) Representative	Richard Rose (Bulova)	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

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>
Edward Robichaud (Appointed 2/11-1/14 by Hudgins) Term exp. 1/17	Hunter Mill District Representative		Hudgins	Hunter Mill
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

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

ARCHITECTURAL REVIEW BOARD (3 years)

<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

ATHLETIC COUNCIL (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Harold Leff (Appointed 3/93-2/99 by Dix; 2/01-3/15 by Hudgins) Term exp. 3/17	Hunter Mill District Principal Representative	James R. Elder	Hudgins	Hunter Mill
James R. Elder (Appointed 7/07-3/15 by Hudgins) Term exp. 3/17	Hunter Mill District Alternate Representative	Harold Leff	Hudgins	Hunter Mill
Terry Adams (Appointed 11/11-7/13 by Gross) Term exp. 6/15	Mason District Alternate Representative		Gross	Mason
VACANT (Formerly held by Keith Salisbury; appointed 2/15 by Hyland) Term exp. 3/17 <i>Resigned</i>	Mount Vernon District Alternate Representative	Paul J. Dean	Storck	Mount Vernon

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Ken Balbuena (Appointed 9/11-6/16 by Bulova) Term exp. 6/17	At-Large Chairman's Representative	Ken Balbuena	Bulova	At-Large Chairman's
Andrew R. Miller (Appointed 1/15-6/16 by Cook) Term exp. 6/17	Braddock District Representative		Cook	Braddock

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BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year) continued
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Barbara Glakas (Appointed 1/12-6/16 by Foust) Term exp. 6/17	Dranesville District Representative	Barbara Glakas	Foust	Dranesville
Therese Martin (Appointed 2/13-6/16 by Hudgins)	Hunter Mill District Representative	Therese Martin	Hudgins	Hunter Mill
Linda J. Waller (Appointed 9/16 by McKay) Term exp. 6/16	Lee District Representative	Linda J. Waller	McKay	Lee
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
Emilie F. Miller (Appointed 7/05-7/16 by Smyth) Term exp. 6/17	Providence District Representative		L. Smyth	Providence
Joshua D. Foley (Appointed 9/13-6/16 by Herrity) Term exp. 6/17	Springfield District Representative		Herrity	Springfield
Olga Hernandez (Appointed 9/04-6/15 by Frey; 7/16 by K. Smith) Term exp. 6/17	Sully District Representative		K. Smith	Sully

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

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

<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
David A. Beale (Appointed 1/10-2/13 by Bulova) Term exp. 2/17	Design Professional #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
VACANT (Formerly held by David Schnare; appointed 12/08 by McConnell; 11/10-9/15 by Herrity) Term exp. 9/19 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

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>
VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 <i>Resigned</i>	Mount Vernon District Representative	Scott Stroh	Storck	Mount Vernon
VACANT (Formerly held by Hugh Mac Cannon; appointed 12/09-9/14 by Herrity) Term exp. 9/16 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield
Gita D'Souza Kumar (Appointed 7/12-3/15 by Frey) Term exp. 2/17	Sully District Representative	Gita D'Souza Kumar	K. Smith	Sully

COMMISSION ON AGING (2 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Thomas Bash (Appointed 5/11-7/15 by Herrity) Term exp. 5/17	Springfield District Representative		Herrity	Springfield

<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 Susan V. Infeld; appointed 9/15 by Hudgins) Term exp. 1/17 <i>Resigned</i>	At-Large Representative	Kathleen T. Jones (Hudgins)	By Any Supervisor	At-Large
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 Adrienne M. Walters; appointed 3/14 By L. Smyth) Term exp. 1/17 <i>Resigned</i>	Providence District Representative		L. Smyth	Providence
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
Rosalind Gold (Appointed 12/05 by Gross; 11/10-2/13 by Hudgins) Term exp. 1/17	Religious Community Representative	Rosalind Gold (Hudgins)	By Any Supervisor	At-Large

**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

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Linnie Haynesworth (Appointed 7/16 by Bulova) Term exp. 7/1/17	At-Large #5 Citizen Representative		By Any Supervisor	At-Large
Catherine Lange (Appointed 11/09-6/13 by Bulova) Term exp. 7/1/17	At-Large #7 Citizen Representative	Catherine Lange (Bulova)	By Any Supervisor	At-Large

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

CONFIRMATION NEEDED:

- Ms. Anna Nguyen as the Student Representative

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>
Jacqueline Browne (Appointed 9/08-12/11 by Gross) Term exp. 11/14	Mason District Representative		Gross	Mason
VACANT (Formerly held by Donald Kissinger; appointed 7/10-1/16 by Herrity) Term exp. 11/18 <i>Resigned</i>	Springfield District Representative		Herrity	Springfield

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

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Marion Myers (Appointed 6/15 by Hudgins) Term exp. 6/17	Hunter Mill District Representative	Marion Myers	Hudgins	Hunter Mill
Theresa L. Fox (Appointed 1/06-5/14 by Gross) Term exp. 6/17	Mason District Representative		Gross	Mason
Robert H. Maurer (Appointed 7/13-5/14 by L. Smyth) Term exp. 6/17	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>
Gary Ambrose (Appointed 3/13-6/14 by Bulova) Term exp. 6/17	At-Large #3 Representative	Gary Ambrose (Bulova) <i>(Nomination announced on May 16, 2017)</i>	By Any Supervisor	At-Large
Willard K. Garnes (Appointed 11/12-7/14 by Bulova) Term exp. 6/17	At-Large #4 Representative	Willard K. Garnes (Bulova) <i>(Nomination announced on May 16, 2017)</i>	By Any Supervisor	At-Large
Katherine C. Kehoe (Appointed 6/15 by Foust) Term exp. 6/17	Dranesville District Representative	Jennifer Adeli <i>(Nomination announced on May 16, 2017)</i>	Foust	Dranesville
VACANT (Formerly held by Jeffrey M. Wisoff; appointed 6/13-6/14 by Smyth) Term exp. 6/17 Resigned	Providence District Representative		L. Smyth	Providence
Lori Stillman (Appointed 10/05 by McConnell; 6/08-6/14 by Herrity) Term exp. 6/17 <i>(Not eligible for reappointment need 1 year break)</i>	Springfield District Representative		Herrity	Springfield

CONFIRMATION NEEDED:

- Captain Bassilio “Sonny” Cachuela as the Sheriff’s Office Representative

HEALTH CARE ADVISORY BOARD
(4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Rosanne L. Rodilosso (Appointed 06/99-5/01 by Mrdelsohn; 6/05 by DuBois; 7/09-6/13 by Foust) Term exp. 6/17	Dranesville District Representative		Foust	Dranesville
Rose C. Chu (Appointed 3/87-6/89 by Davis; 6/93 by Trapnell; 5/97-7/13 by Gross) Term exp. 6/17	Mason District Representative	Rose C. Chu	Gross	Mason
Francine Jupiter (Appointed 7/07-6/13 by Hyland) Term exp. 6/17	Mount Vernon District Representative	Francine Jupiter	Storck	Mount Vernon

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>
Richard T. Hartman (Appointed 2/14 by Bulova) Term exp. 6/17	Consumer #1 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Phil Tobey; appointed 6/11-5/14 by Hudgins) Term exp. 6/17 <i>Resigned</i>	Consumer #2 Representative	Jacqueline Hixson (Hudgins)	By Any Supervisor	At-Large

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

Continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Birgit M. Retson (Appointed 2/16 by K. Smith) Term exp. 6/17	Consumer #6 Representative	Birgit M. Retson (K. Smith)	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 - 0	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>
VACANT (Formerly held by Naomi D. Zeavin; appointed 1/95 by Trapnell; 1/96-11/13 by Gross) Term exp. 12/16 <i>Mason District Resident Resigned</i>	Historian #1 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>
VACANT (Formerly held by Jack Dobbyn; appointed 2/13 by Hyland) Term exp. 7/16 <i>Resigned</i>	Mount Vernon District #1 Representative	Emily B. Donaldson	Storck	Mount Vernon

JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL (2 years)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
John W. Herold (Appointed 11/13-1/15 by Bulova) Term exp. 1/17	At-Large Chairman's Representative		Bulova	At-Large Chairman's

NORTHERN VIRGINIA COMMUNITY COLLEGE BOARD (4 years – limited to 2 full terms)
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<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Todd W. Rowley (Appointed 7/13 by Bulova) Term exp. 6/17	Fairfax County #3 Representative	Todd W. Rowley (Bulova)	By Any Supervisor	At-Large

OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

***On May 2, 2017, the Board of Supervisors authorized the renaming of this committee to the Oversight Committee on Distracted and Impaired Driving.**

Appointments are to be made at a later date.

<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 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
Kyle D. Green (Appointed 2/14 by Frey) Term exp. 6/17	Sully District Representative		K. Smith	Sully

REDEVELOPMENT AND HOUSING AUTHORITY (4 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Helen C. Kyle (Appointed 5/00-3/01 by Hanley; 4/05 by Connolly; 4/09-6/13 by Bulova) Term exp. 4/17	At-Large #2 Representative		Bulova	At-Large

**RESTON TRANSPORTATION SERVICE
DISTRICT ADVISORY BOARD**

The Board of Supervisors established the advisory board on April 4, 2017
There will be a total of 14 members on this advisory board. The appointees would serve
for 4 year terms from April 4, 2017

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Dranesville District Representative		Foust	Dranesville
NEW POSITION	Hunter Mill District #1 Representative		Hudgins	Hunter Mill
NEW POSITION	Hunter Mill District #2 Representative		Hudgins	Hunter Mill
NEW POSITION	Residential Owners and HOA/Civic Association #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #2 Representative		Foust or Hudgins	At-Large
NEW POSITION	Residential Owners and HOA/Civic Association #3 Representative		Foust or Hudgins	At-Large

Continue on next page

RESTON TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD

The Board of Supervisors established the advisory board on April 4, 2017

There will be a total of 14 members on this advisory board. The appointees would serve for 4 year terms from April 4, 2017

continued

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
NEW POSITION	Apartment or Rental Owner Association Representative		Foust or Hudgins	At-Large
NEW POSITION	Commercial or Retail Ownership #1 Representative		Foust or Hudgins	At-Large
NEW POSITION	Commercial or Retail Ownership #2 Representative		Foust or Hudgins	At-Large
NEW POSITION	Commercial or Retail Ownership #3 Representative		Foust or Hudgins	At-Large
NEW POSITION	Reston Chamber of Commerce lessees of Non-Residential Space Representative		Hudgins	At-Large
NEW POSITION	Reston Association Representative		Hudgins	At-Large
NEW POSITION	Reston Town Center Association Representative		Hudgins	At-Large
NEW POSITION	Homeowner Member from Reston Town Center Association Representative		Hudgins	At-Large

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
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

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (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 Beatrice Malone; appointed 11/05-11/14 by Hudgins) Term exp. 12/17 <i>Deceased</i>	Hunter Mill District Representative		Hudgins	Hunter Mill

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (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 Ram Singh; appointed 5/06-3/16 by Hudgins) Term exp. 3/18 <i>Resigned</i>	Fairfax County #6 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

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 Michael Congleton; appointed 7/13-2/17 by Herrity) Term exp. 1/20 <i>Resigned</i>	Citizen Member #1 Representative		By Any Supervisor	At-Large
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

**TYSONS TRANSPORTATION SERVICE DISTRICT ADVISORY BOARD
(2 YEARS)**

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Cory Scott (Appointed 1/16 by L. Smyth) Term exp. 2/17	Commercial or Retail Ownership Representative #2		By Any Supervisor	At-Large
VACANT (Formerly held by Molly Peacock; appointed 2/13-1/15 by L. Smyth) Term exp. 2/17 <i>Resigned</i>	Providence District Representative #2		L. Smyth	Providence

WATER AUTHORITY (3 years)

<u>Incumbent History</u>	<u>Requirement</u>	<u>Nominee</u>	<u>Supervisor</u>	<u>District</u>
Harry F. Day (Appointed 6/87-6/90 by Davis; 7/93 by Trapnell; 5/96-5/14 by Gross) Term exp. 6/17	Mason District Representative	Harry F. Day	Gross	Mason
Joseph Cammarata (Appointed 10/12- 6/14 by Hyland) Term exp. 6/17	Mount Vernon District Representative	Joseph Cammarata	Storck	Mount Vernon
Burton Jay Rubin (Appointed 5/84-6/05 by McConnell; 6/08- 5/14 by Herrity) Term exp. 6/17	Springfield District Representative		Herrity	Springfield

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

Board Agenda Item
June 20, 2017

11:00 a.m.

Items Presented by the County Executive

ADMINISTRATIVE - 1

Authorization for the Fairfax County Fire and Rescue Department to Apply for Grant Funding from the U.S. Department of Homeland Security for the Port Security Grant Program (PSGP)

ISSUE:

Board of Supervisors' authorization is requested for the Fairfax County Fire and Rescue Department (FRD) to apply for grant funding from the Department of Homeland Security, Port Security Grant Program in the amount of \$1,500,000, including \$375,000 in Local Cash Match. Funding will be used to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device (CBRNE/IED) All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security, law enforcement, and public safety capabilities. The FRD anticipates that the awards will be issued by September 2017, and the grant period is 36 months from the date of award. There are no positions associated with this award. The 25 percent Local Cash Match requirement of \$375,000 has not been specifically identified in either FRD or the Federal-State Grant fund. If the County is awarded funding, then County resources will need to be identified and staff will submit another item to accept the award. If however, no County resources are identified, the County may elect to decline the award.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the FRD to apply for grant funding from the Department of Homeland Security, Port Security Grant Program. Funding in the amount of \$1,500,000, including \$375,000 in Local Cash Match, will be used to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security, law enforcement, and public safety capabilities. There are no positions associated with this grant.

TIMING:

Board action is requested on June 20, 2017.

BACKGROUND:

The Department of Homeland Security Port Security Grant Program (PSGP) plays an important role in the implementation of the National Preparedness System by

Board Agenda Item
June 20, 2017

supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. PSGP funds are available to state, local, and private sector maritime industry partners to improve port-wide maritime security training and exercises; and to maintain or re-establish maritime security mitigation protocols that support port recovery and resiliency capabilities. PSGP investments must address the U.S. Coast Guard (USCG) and Area Maritime Security Committee identified vulnerabilities in port security and support the prevention, protection, response, and recovery attacks involving IED and other non-conventional weapons.

Since the 1980's, FRD's Special Operations Division has operated a Marine Operations Branch. Marine Operations members are trained and certified by the United States Coast Guard (USCG), Commonwealth of Virginia's Department of Fire Programs. FRD's Fire Boat was scheduled to be replaced in FY 2015 but as part of the heavy apparatus replacement fund, FRD deferred replacement. Presently, the boat is slated for replacement in FY 2020, but only if the heavy apparatus fund is stabilized by that fiscal year to support this large expense. If awarded, this grant will allow FRD the opportunity to fund the boat replacement with grant funds. The proposed replacement fire boat is a CBRNE/IED All-Hazard Rapid Response Vessel that meets NFPA 1925, and is equipped for response, high flow fire suppression, advanced life support, patient transport, hazmat and environmental response, search and rescue, day/night surveillance, and various other law enforcement and homeland security functions.

FRD will use existing staffing 24/7/365 to ensure the vessel is ready for rapid deployment within the National Capital Region. Possessing extreme maneuverability, speed capability of at least 40 miles per hour and a response range of 200 miles (without refueling), this vessel will be capable of serving the ports throughout the National Capital Region (NCR), and all locations within Sector Maryland. This vessel will also include interoperable communications equipment that will allow secure communications with the USCG and other Federal, State, and local agencies. This state-of-the-art CBRNE Fire/Rescue All-Hazard Rapid Response Vessel will augment and enhance the overall capability of Sector Maryland's maritime law enforcement and first responder vessels and equipment, improving response times and expanding coverage area. In addition to CBRNE detection equipment, the proposed vessel will be equipped with modern night vision equipment, which will be made available to law enforcement agencies to improve nighttime domain awareness.

As the Board may recall, the FRD applied for Department of Homeland Security, Port Security Grant Program funding in April 2016 for the same purpose. The County was not awarded funding as part of that solicitation.

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FISCAL IMPACT:

Grant funding in the amount of \$1,500,000, including \$375,000 in Local Cash Match is being requested to purchase a Chemical, Biological, Radiological, Nuclear, and Explosives/Improvised Explosive Device (CBRNE/IED) All-Hazard Rapid Response Vessel for the Marine Operations Team to augment homeland security, law enforcement, and public safety capabilities. The 25 percent Local Cash Match requirement of \$375,000 has not been specifically identified in either FRD or the Federal-State Grant fund. If the County is awarded funding, then resources will need to be identified and staff will submit another item to accept the award. If however, no County resources are identified, the County may elect to decline the award. This grant does allow the recovery of indirect costs; however because this funding opportunity is highly competitive, the FRD has elected to omit the inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1- Summary of Grant Proposal

STAFF:

David M. Rohrer, Deputy County Executive
Fire Chief Richard R. Bowers, Fire and Rescue Department
Assistant Chief John J. Caussin, Jr., Fire and Rescue Department
Assistant Chief Reginald T. Johnson, Fire and Rescue Department
Assistant Chief Charles W. Ryan, III, Fire and Rescue Department
Chinaka A. Barbour, Grants Coordinator, Fire and Rescue Department

PORT SECURITY GRANT PROGRAM (PSGP) SUMMARY OF GRANT PROPOSAL

Grant Title:	<u>Port Security Grant Program (PSGP)</u>
Funding Agency:	U.S. Department of Homeland Security
Applicant:	Fairfax County Fire and Rescue Department (FRD)
Purpose of Grant:	This grant will fund the replacement of the current Fire Boat with a CBRNE/IED All-Hazard Rapid Response Vessel. The current boat was scheduled for replacement in FY 2015, but was delayed until FY 2020. Without stabilization of the heavy apparatus fund, replacement in FY 2020 will not be possible. This grant funding will cover the costs of the new vessel and ensure that the current boat is replaced in a timely manner.
Funding Amount:	\$1,500,000, including \$375,000 in Local Cash Match.
Proposed Use of Funds:	Funding will be used to purchase a CBRNE/IED All-Hazard Rapid Response Vessel that will enhance homeland security, law enforcement, and public safety capabilities. This purchase is necessary to ensure the FRD continues to meet NFPA 1925, and is equipped for response for high flow fire suppression, advanced life support, patient transport, hazmat and environmental scenarios, search and rescue, day/night surveillance, and other functions.
Target Population:	Residents and visitors of Fairfax County and Fairfax County Fire and Rescue Department personnel, and National Capital Region (NCR). This initiative will enhance FRD's capability of responding to emergent maritime incidents in Fairfax County as well as the NCR.
Performance Measures:	<p>The success of this project will be based on three outcomes:</p> <ol style="list-style-type: none"> 1) Enhanced interoperable communications with U.S. Coast Guard and other local, state, and federal agencies. 2) Improved response times for maritime emergent incidents. 3) Continue to provide advanced service to Fairfax County and NCR.
Grant Period:	The FRD anticipates that all awards will be issued by September 2017. The performance period is 36 months from the date of the award.

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ADMINISTRATIVE – 2

Appointment of Members to the Fairfax-Falls Church Community Policy and Management Team

ISSUE:

In order to fulfill Virginia Code requirements, Fairfax-Falls Church Community Policy and Management Team (CPMT) Bylaws provide for two representatives of private organizations or associations of providers for children's or family services and four parent representatives, who are not employees of any public or private CSA provider of services, to be approved by the CPMT and the Board of Supervisors for terms of up to two years. Re-appointments may be made for additional consecutive terms upon approval of the CPMT and the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board appoint Deborah Evans of For Children's Sake for a term to expire on June 30, 2019 and re-appoint Rick Leichtweis of INOVA Kellar Center in Fairfax for a term to expire on June 30, 2018, as provider representative members of the CPMT. The County Executive recommends that the Board appoint Katherine Caffrey as a parent representative to the CPMT with her term to expire on June 30, 2019.

TIMING:

Board action is requested on June 20, 2017.

BACKGROUND:

As required under the Virginia Children's Services Act (CSA), the Fairfax County Board of Supervisors and the Fairfax and Falls Church City Councils established a joint Community Policy and Management Team and appointed original members in October 1992. Members include the Deputy County Executive for Human Services, one representative each from the Cities of Fairfax and Falls Church, The Directors of the Community Services Board, Juvenile and Domestic Relations District Court, Department of Health, Family Services, Neighborhood and Community Services, Administration for Human Services, three representatives of the Fairfax County Public Schools, one representative of the Falls Church City Public Schools, two

Board Agenda Item
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representatives of private providers of children's and family's services, one community representative and four parent representatives.

The CPMT nominated to the Board of Supervisors Ms. Evans (see attached resume), Mrs. Caffrey (see below) for appointment as private provider representative and parent representative, respectively and Dr. Leichtweis for re-appointment as private provider representative.

Katherine Caffrey has teenagers who struggle with mental illness and their needs led to the family's involvement with CSA, which continues at this time. She has worked closely with both FCPS and the CSB to find the right services for her children and Katherine is very interested in sharing their experiences in an effort to both assist other families as well as to help shape policies and procedures that will affect families moving forward. Katherine is an educator at a local elementary school and has training in both Adult and Youth Mental Health First Aid.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Resume: Deb Evans

STAFF:
Patricia Harrison, Deputy County Executive
Janet Bessmer, Program Manager, Children's Services Act

**Northern Virginia Coalition of Private Provider Associations
for at Risk Youth and Families
NOVACO**

8000 Forbes Place, Suite 102, Springfield, Virginia 22151
(703) 321-9091 FAX (703) 321-9017

Declaration of Interest

To be nominated by NOVACO to serve on a FAPT or CPMT, the following information must be provided. Please complete this declaration, attach a current resume, and forward both documents to the NOVACO Chair at the address above.

1. Name of jurisdiction(s) you wish to serve: _____
FAPT _____ and/or CPMT X _____ (please check one or both)

2. Name: Deborah K. Evans

3. Agency information:

Name: For Children's Sake of VA (FCSVA)

Address: 14900 Bogle Drive Suite 200
Chantilly, VA 20151

Phone: 703-817-9890 FAX: 703-817-9860 Email: devans@fcsva.org

Association affiliation: FFTA

4. Current position: CEO

Length of time at current agency: 19 Years

5. Why do you wish to serve on a FAPT or CPMT?

I have with Fairfax county for over 25 years and understand the CPMT and CSA process as it pertains to a myriad of programs such as those at FCSVA. I would be able to contribute to the CPMT team as a seasoned private provider who has also worked for the county of Fairfax in the past. I believe it is a duty of private providers to work with the counties they serve in workgroups and on teams This will be my first time working as part of the CPMT team.

Family Service Council of Virginia, Foster Family-Based Treatment Association – Virginia, Intensive In-Home Providers of Northern Virginia, Virginia Association of Children's Homes, Virginia Association for Family Preservation, Virginia Association of Independent Specialized Education Facilities, Virginia Association of Licensed Child Placing Agencies, Virginia Network of Private Providers

6. How did you acquire your knowledge of the Comprehensive Services Act?
(Please describe your experience including prior team membership, services to CSA funded children, etc.)

I have served on a number of workgroups and served on the Prince William County Admin FAPT for 2 years. I have served CSA funded children in our former RTC, therapeutic foster care as well as community based behavioral health services and in the ICC program. In the past I worked with Fairfax county as a counselor in their emergency residential program and in the school system.

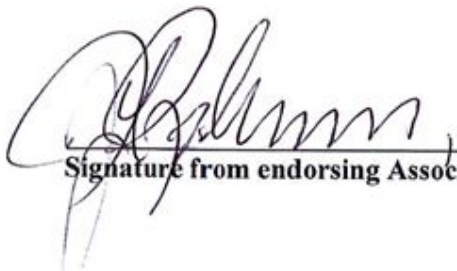
7. Please note any other qualifying information that was not noted above nor included in your resume.

All pertinent information is in my resume

Before submitting this declaration, please consider the commitment involved. The time commitment varies with the different locales and there is no reimbursement for expenses. The only remuneration is the knowledge that you have provided a valuable service by sharing your knowledge and experience.

In signing this document, I verify that I have the flexibility in my current position to fulfill the responsibilities of the FAPT or CPMT membership. I agree to represent the interests of the provider community at large. I also agree that if I become a CPMT member, I will communicate at least monthly with a NOVACO representative.


Signature

 NOVACO
CHAIR
Signature from endorsing Association

DEBORAH K. EVANS, LCSW, BCD
10540 Poagues Battery Drive
Bristow, VA 20136
(703) 472-6056

PROFESSIONAL EXPERIENCE:

FOR CHILDREN'S SAKE OF VIRGINIA (FCSVA)

Chantilly, Fairfax, Woodbridge, VA

8/1998 – Present

Executive Director/CEO: Provide oversight of all administrative and clinical processes of the FCSVA operations for Foster Care, Outpatient, Intensive Home Based, Mentor, Visitation and Residential services. Oversee billing, program budgets, accounting, risk management, payroll, HR, IT, facility management, contract and audit services of FCSVA agency operations. Provide briefings and complex case studies for court services, state and local agencies as well as provide inspection reports and correspondence for national, state and local associations. Serve nationally, statewide and locally on Boards of Directors, work groups and executive committees to ensure clients and private providers have a voice in the development of strategies, assessment tools, programs and regulations that affect all interested parties. Provide a collaborative environment for all public and private agencies that request assistance in developing programs and completing needs assessments. Serve as a volunteer inspection team member to assist national accrediting body (Council on Accreditation (COA)) in providing inspection and complex reports of regulatory compliance for programs and services requesting accreditation or re-accreditation to COA.

Designed, created and developed cutting edge services and programs such as the short-term Emergency Diagnostic inpatient Residential Treatment Center (EDC) licensed by the State and located in a community based home for abused and neglected children ages 5-12 years old. The program was designed to assess and stabilize children before returning them home or to a step down living situation such as treatment foster care. Services included psychiatric and psychological evaluation, developmental assessment and services such as speech and OT, therapy and visitation services for the child and their family, treatment and aftercare reports and case management, medical services as needed, socialization and recreation services. The program design included an on-site privately licensed school through the Virginia Board of Education with specialized education services.

Designed, created and developed a supervised visitation community based program located in a local community home in order to provide children and their families a warm, encouraging, home like environment to visit and work toward reunification or on-going family relationships. Services are utilized by local social service agencies, attorney referred families experiencing divorce and private pay clients. This is the first home of this kind in the area and collaboration with public and private providers is essential to the on-going success of the program.

Created an ICC program in conjunction with a Family Support Partner program to provide on-going support of families in crisis and in danger of out of home placements. The program offers families support and encourages natural community support to ensure the family reaches their goals on as many levels as possible to allow the family independence.

Provide clinical supervision to licensed clinicians as well as clinicians preparing for licensure. Oversee all reporting for client mental health and family foster care, residential, home based and outpatient treatment services and ensure all documentation is in compliance with National, State and local regulations and requirements. Work closely with National (Council on Accreditation), State (Medicaid, Departments of Social Services, Departments of Mental Health, Department of Education and Intensive In-Home Regulators) and local (Human Rights Board, Departments of Social Services (foster care, adoption, child protective services, etc.), and County contract offices) regulatory bodies to ensure services are community focused and that clients are receiving the highest quality of care. Develop collaborative working relationships with area private providers (therapists, psychologists, psychiatrists, education specialists, child development specialists, schools, hospitals and clinics) to ensure wrap around services are available for clients and their families. Provide training for

clients, therapeutic foster families as well as FCSVA staff in specialty areas such as attachment disorder, family therapy dynamics, suicide prevention, parenting, effective communication, discipline, working with teens, addiction and many others. Oversee 24 hour on-call services,

PRIVATE PRACTICE

Centreville and Manassas, VA

5/1994 - 7/2006

Owner: Provided individual, child, adolescent, couples and family therapy in a thriving private practice. Assessed client needs and developed treatment plans and after care plans for all clients in care. Worked all billing issues (initial billing, collections and oversight) for clients and the practice.

ALTERNATIVE HOUSE-OUTREACH, APARTMENT PROGRAM AND TEEN CENTER

Vienna, Culmore, VA

4/1998 - 9/1998

Executive Director: Adolescent apartment, outreach program and teen center. Created, staffed and developed a new outreach program in Culmore area of Virginia designed to work with homeless teens. Supervised a staff of 12 counselors and support employees. Expanded the program to include a 10 bed therapeutic residential facility for 16-21 year old homeless adolescents incorporating a comprehensive independent living program endorsed by the local county departments of social service and school system who referred youth to the program. The program included counselor and therapist support in the form of individual and supportive and psychoeducational group sessions. Educational support was provided through advocacy by counselors who also provided on-going living support and limited living supervision. Clients were assisted in learning job skills i.e., interview techniques, dressing for success, money management as well as social skills and effective communication skills.

Designed, created and developed a drop in Teen Center designed to reduce gang involvement and increase teen productivity and socialization within the Culmore, VA community. Program included a computer bank to assist with homework completion and development of computer skills. Recreational and educational activities were included to reduce teen pregnancy, drug abuse, school drop-out and gang involvement. Counselors and paraprofessionals assisted in the provision of groups and individual work with the clients.

ALTERNATIVE HOUSE-KALEIDOSCOPE

Vienna, VA

4/1997 - 4/1998

Clinical Supervisor: 8 bed child residential facility. Responsible for the overall clinical program including efficacy, quality and accountability. Trained and supervised counseling staff. Provided individual/group/family counseling; and served as chief liaison among program, client, community service providers and departments of social services. Recommended child's post-residential placement, transition plans, discharge planning, mental health testing needs and support services. Provided clinical supervision to program staff. Developed clinical reports for county referral agencies and the court system.

NORTHWEST COMMUNITY MENTAL HEALTH CENTER- ROCK HILL CRISIS FACILITY:

Centreville, VA

1/1997 - 6/2003

Relief counselor: chronically mentally ill adults. Provided medication management, individual therapy and psycho educational groups for clients undergoing severe mental health crisis in an eight-bed facility, providing a community based alternative to hospitalization. Developed treatment plans, discharge and aftercare plans as well as assisted clients with connecting to community services to ensure on-going support after discharge.

FAMILY ADVOCACY SERVICES OF NORTHERN VIRGINIA:

Alexandria, VA

2/1995 - 8/1996

Clinical Therapist Therapeutic foster care. Supervised therapeutic clinical team of case managers in the delivery of all clinical and case management services. Provided therapy for adolescents and their foster/biological families. Assessed substance abuse/dependence and ensured treatment of adolescents within

county services. Provided crisis intervention to adolescents and their families. Led and co-led client and foster parent psycho educational groups.

MT. VERNON CRISIS CARE - GREGORY HOUSE:

3/1994 - 2/1995

Alexandria, VA

Clinical Therapist: Provided medication management, individual therapy and psycho educational groups for clients undergoing severe mental health crisis in an eight-bed facility which provided a community based, short term alternative to hospitalization. Developed treatment plans, discharge and aftercare plans and assisted clients with connecting to community services to ensure on-going support after discharge.

FAIRFAX COUNTY PRESCHOOL DIAGNOSTIC CENTER:

(1/1994 - 7/1994)

Fairfax, VA

Consultant: Conducted social-cultural assessments, in both Spanish and English to assist parents and their preschool/school aged children in finding and connecting to services which addressed developmental, testing and psychological needs. Prepared detailed assessment reports for the school system, psychologists and psychiatrist.

FAIRFAX COUNTY SCHOOL SYSTEM:

Northern VA

(2/1994 - 9/1994)

Consultant: Conducted triennial social-cultural assessments for ongoing child placement in special education services and programs.

PROFESSIONAL LICENSES, ACCREDITATIONS AND MEMBERSHIPS:

LCSW	State of Virginia
BCD	Board Certified Diplomate, American Board of Examiners
APA	American Psychotherapy Association Diplomate
NAFC	National Association of Forensic Counselors
NBAE	National Board of Addiction Examiners
NATH	National Association of Transpersonal Hypnotherapists
NBCCH	National Board of Certified Clinical Hypnotherapists
DCJS	VA Department of Criminal Justice Services- Private Investigator

Evidence Based Models: Parent Educator Training Trainer, High Fidelity Wraparound, High Fidelity Wraparound supervisor, Play Therapy, Trauma-Focused Cognitive Behavior Therapy

Committee/ Association Member:

American College of Certified Forensic Counselors
American Psychotherapy Association
George Mason University Social Work Field Instructor
FFTA: Foster Family Treatment Association
NOVACO: Northern Virginia Coalition of Private Providers
Associations
VALCPA: Virginia Alliance of Licensed Child Placing Agencies
VCOPPA: Virginia Coalition of Private Provider Associations
VAFP: Virginia Association for Family Preservation
VSPEC: Virginia State Wide Parent Education Coalition

Peer Reviewer: Council on Accreditation (COA), National Foster Care and After School Initiative
Reviewer

EDUCATION:

Present	PhD Candidate, Clinical Hypnotherapy American Pacific University, Honolulu, HI
July 2007	Non-Profit Management Executive Certificate Program Georgetown University, Washington, DC
7/1993-9/1993	Foreign Language Institute (Spanish) University of Virginia, Charlottesville, VA
8/1992-5/1993	MSW, Clinical Social Work (Advanced Standing Program) Catholic University of America, Washington, DC
8/1991-5/1992	BSW, Social Work George Mason University, Fairfax, VA

Board Agenda Item
June 20, 2017

ADMINISTRATIVE – 3

Street into the Secondary System (Mount Vernon 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>
Spring Hill Senior Campus Phase 1 (Fairfax County BOS)	Mount Vernon	White Spruce Way

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: 1183-SP-012 SUBDIVISION PLAT NAME: Spring Hill Senior Campus Phase 1 (Fairfax County BOS) COUNTY MAGISTERIAL DISTRICT: Mount Vernon	
ENGINEERING MANAGER: Imad A. Salous, P.E. BY: <u>Nadine Alphonse</u>		FOR OFFICIAL USE ONLY DATE OF VDOT INSPECTION APPROVAL: <u>03/30/2017</u>	
STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
White Spruce Way	CL Silverbrook Road (Route 600) - 1,260' SE CL Laurel Crest Drive (Route 1914)	329' SW to End of Cul-de-Sac	0.06
TOTALS:			0.06
NOTES:			
White Spruce Way: 5' Concrete Sidewalk on the South Side to be maintained by VDOT.			

Board Agenda Item
June 20, 2017

ADMINISTRATIVE – 4

Extension of Review Period for 2232 Application (Providence 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: 2232A-P14-4-1

TIMING:

Board action is required June 20, 2017, to extend the review period of the application noted above before its expiration date.

BACKGROUND:

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

The review period for the following application should be extended:

2232A-P14-4-1 Dominion Virginia Power
7701 Shreve Road
Falls Church, VA
Providence District
Accepted May 8, 2017
Extend to January 7, 2018

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 – 5

Authorization to Advertise a Public Hearing on an Amendment to the Code of the County of Fairfax, Chapter 126 (NOVA Arts and Cultural District)

ISSUE:

The proposed amendment is in response to requests by the Workhouse Arts Center, the Town of Occoquan, and Occoquan Regional Park for the formation of an interjurisdictional arts and cultural district, due to the recent amendment of Virginia Code § 15.2-1129.1, effective July 1, 2017, allowing localities to establish multi-jurisdictional Arts and Cultural Districts.

RECOMMENDATION:

The County Executive recommends the authorization of the advertisement of a public hearing on the proposed ordinance amending the County Code and establishing the NOVA Arts and Cultural District, a draft of which is set forth in Attachment 1.

TIMING:

Board action is requested on June 20, 2017, to provide sufficient time to advertise the proposed Board of Supervisors public hearing on the ordinance for July 11, 2017, at 4:00 p.m.

BACKGROUND:

The proposed amendment would add a provision creating an arts and cultural district to foster a cohesive regional identity for the area that includes the Workhouse Arts Center, the Town of Occoquan Historic District, and Occoquan Regional Park operated by the Northern Virginia Regional Park Authority. The amendment takes advantage of the General Assembly's recent amendment to Virginia Code § 15.2-1129.1, effective July 1, 2017, permitting any combination of localities to establish, by substantially similar ordinance, one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture. The proposed NOVA Arts and Cultural District will serve as a catalyst for partnership and cooperation among the adjacent jurisdictions to brand the area for regional tourism, commerce, and cultural leisure activities, a key element of place-making initiatives.

All the land encompassing the proposed district lies within either Fairfax County or the Town of Occoquan. The creation of the proposed district is anticipated to be endorsed, as a goodwill gesture of support, by the Prince William County Board of County

Supervisors during a public meeting in June, 2017. A substantially similar ordinance is to be considered by the Town Council of the Town of Occoquan at an upcoming public hearing, as is required to form this interjurisdictional arts and cultural district under the revised statute.

REGULATORY IMPACT:

The proposed amendment aligns with the Strategic Plan for Economic Success place-making initiative to expand activities to market and brand unique, culturally diverse communities in a manner similar to marketing efforts on behalf of other urban neighborhoods and places. Enactment of this amendment would allow for coordinated marketing and support among Workhouse Arts Center, Fairfax County, the Town of Occoquan, Prince William County, and the Northern Virginia Regional Park Authority to promote and celebrate the arts, cultural, commercial, leisure activities, and associated programming within the district.

To increase awareness and support for arts and culture, existing authority under Va. Code § 15.2-1129.1 permits any locality to establish one or more arts or cultural districts within its boundaries. The amended statute will permit any combination of localities to establish, by substantially similar ordinance, an arts and cultural district. For such districts, a locality is further authorized to grant one or more of the following:

- 1) Local incentives for the support and creation of arts and cultural venues;
- 2) Local tax incentives; and
- 3) Local regulatory flexibility.

Establishment of the district therefore lays a foundation for future tax, regulatory, or other incentives lasting up to 10 years. At this time, however, staff recommends that the ordinance merely establish the NOVA Arts and Cultural District.

FISCAL IMPACT:

Tax and other incentives are not proposed with this amendment to establish the NOVA Arts and Cultural District. Any direct marketing expenses of the NOVA Arts and Cultural District will be incurred by the Workhouse Arts Center, the Town of Occoquan, and the Northern Virginia Regional Park Authority. County staff resources to support the marketing and branding efforts of the multi-jurisdictional district will be required.

ENCLOSED DOCUMENTS:

Attachment 1 – Draft Ordinance

Attachment 2 – Senate Bill - Chapter 217 of the 2017 Acts of Assembly

Attachment 3 – NOVA Arts & Cultural District Map

Board Agenda Item
June 20, 2017

STAFF:

Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Regina Coyle, Special Projects Coordinator, DPZ

ASSIGNED COUNSEL:

Christopher A. Costa, Assistant County Attorney
Martin Desjardins, Assistant County Attorney

*The proposed amendment adds a new Chapter, Chapter 126, Arts and Cultural Districts, to **The Code of the County of Fairfax, Virginia***

The proposed amendment establishes the NOVA Arts and Cultural District in combination with the Town of Occoquan and encompassing property within Fairfax County and the Town of Occoquan for the purpose of increasing awareness and support for the arts and culture in the locality.

The new Chapter 126 proposes the following:

- *Creation of the NOVA Arts and Cultural District.*
- *Explanation of Authority;*
- *Purpose of the District.*
- *General Provisions and Powers.*
- *Map of the District.*

Amend the Code of the County of Fairfax, Virginia by adding new Chapter 126 Arts and Cultural District Ordinance to read as follows:

CHAPTER 126.

Arts and Cultural District Ordinance

Article 1. NOVA Arts and Cultural District.

126-1-1. Creation of the NOVA Arts and Cultural District

126-1-2. Authority

126-1-3. Purpose of the District

126-1-4. General Provisions and Powers

126-1-5. Map of the NOVA Arts and Cultural District

Section 126-1-1. Creation of the NOVA Arts and Cultural District.

The Board of Supervisors of Fairfax County, Virginia, (the "Board") hereby creates an arts and cultural district encompassing real property within Fairfax County and the Town of Occoquan, which shall be known as the NOVA Arts and Cultural District (the "District"), which will be fully established by passage of a substantially similar ordinance by the Town of Occoquan. The District shall include the area shown on the attached map, which is incorporated in and made part of this Ordinance.

Section 126-1-2. Authority.

This ordinance to establish the NOVA Arts and Cultural District is enacted pursuant to Virginia Code Ann. § 15.2-1129.1 (Supp. 2017), as amended.

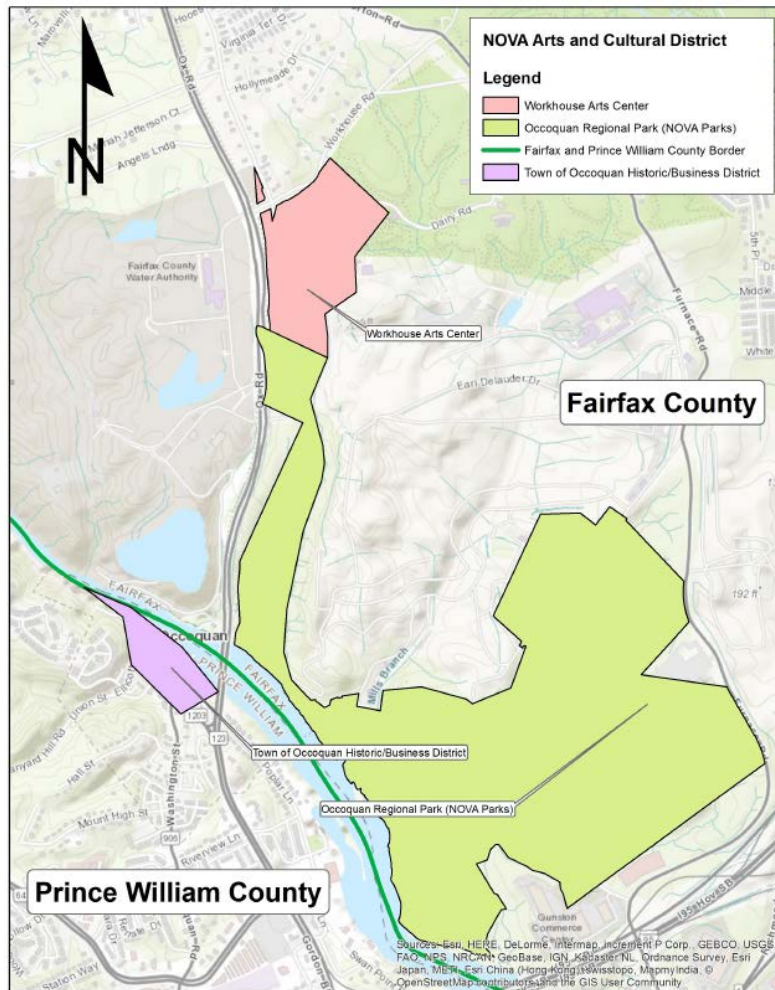
Section 126-1-3. Purpose of the District.

The District is created for the purpose of increasing awareness and support for the arts and culture in the locality.

Section 126-1-4. General Provisions and Powers.

With respect to that portion of the District lying within Fairfax County, the Board may exercise any of the powers and duties as to arts and cultural districts permitted under Va. Code § 15.2-1129.1, as amended.

Section 126-1-5. Map of the NOVA Arts and Cultural District



1) This ordinance shall take effect upon adoption.

Given under my hand this _____ day of _____, 2017.

Catherine A. Chianese

Clerk to the Board of Supervisors

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 217

An Act to amend and reenact § 15.2-1129.1 of the Code of Virginia, relating to arts and cultural districts.

[S 1225]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

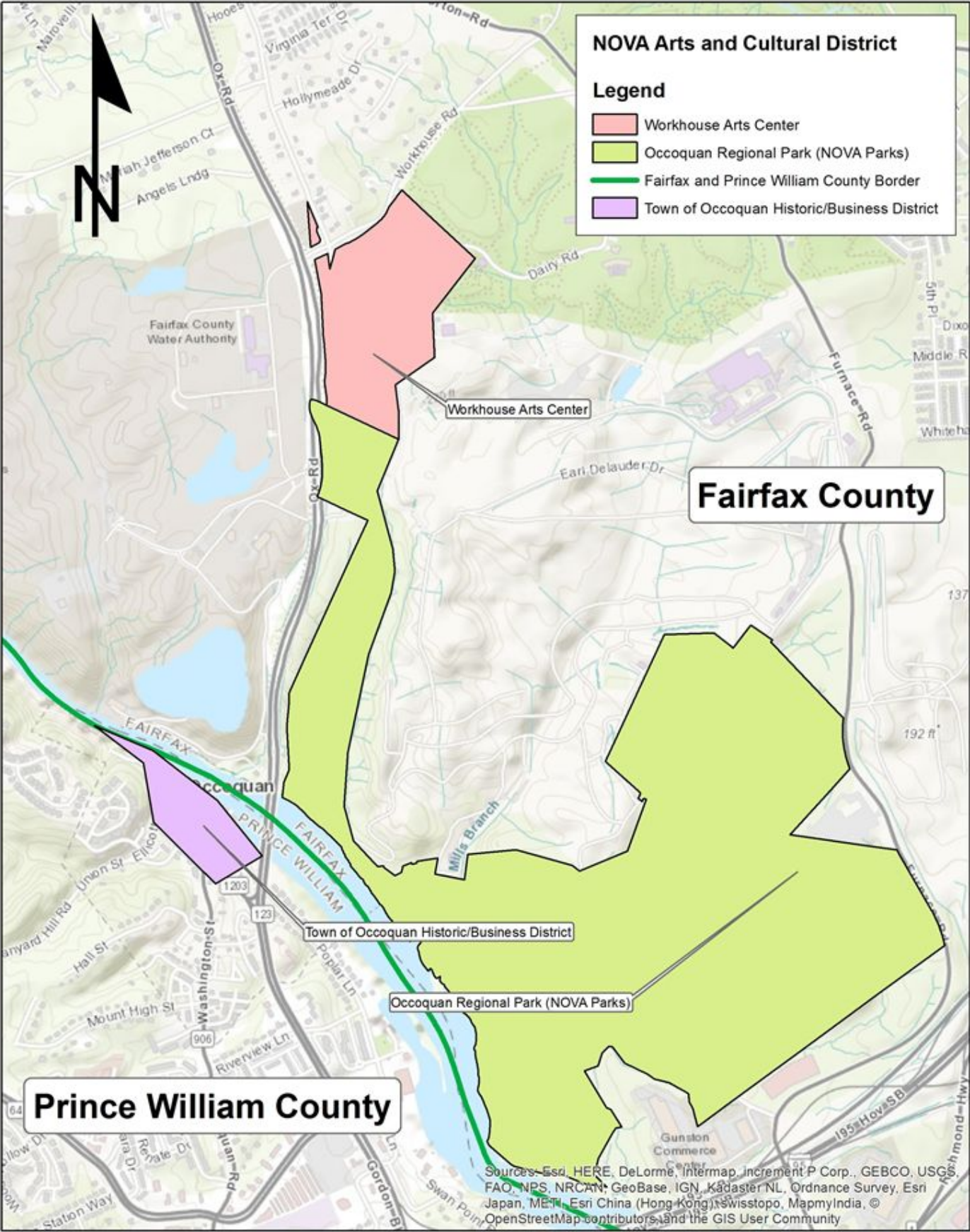
1. That § 15.2-1129.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1129.1. Creation of arts and cultural districts.

A. Any locality, *or combination of localities*, may by ordinance, *or in the case of multiple localities by substantially similar ordinances*, establish within ~~its~~ *the* boundaries of such localities one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture in the locality. The locality may provide incentives for the support and creation of arts and cultural venues in each district. The locality may also grant tax incentives and provide certain regulatory flexibility in each arts and cultural district.

B. The tax incentives for each district may be provided for up to 10 years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of any type of gross receipts tax; and (iv) rebate of real estate property taxes. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in each district that may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.



Board Agenda Item
June 20, 2017

ACTION - 1

Approval of the Northern Virginia Active Violence Incident Plan (2016) Addendum to the Northern Virginia Law Enforcement Mutual Aid Agreement of 2013

ISSUE:

Board of Supervisors' approval of the Northern Virginia Active Violence Incident Plan (2016) Addendum to the Northern Virginia Law Enforcement Mutual Aid Agreement of 2013. The purpose of this plan is to get as many on-duty patrol resources to an Active Violence Incident (AVI) in an affected Northern Virginia jurisdiction as quickly as possible through a more flexible implementation of mutual aid by way of a prearranged patrol response plan. This plan does not replace any existing mutual aid agreements between agencies but acts as an addendum to the Northern Virginia Mutual Aid Plan.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the signing of the Northern Virginia Active Violence Incident Plan (2016) Addendum to the Northern Virginia Law Enforcement Mutual Aid Agreement of 2013.

TIMING:

Board action is requested on June 20, 2017.

BACKGROUND:

The Northern Virginia Law Enforcement Mutual Aid Agreement was originally signed on May 1991 and was last approved by the Board on March 19, 2013. The Northern Virginia Law Enforcement Mutual Aid Agreement of 2013 between the Fairfax County Police Department and various other law enforcement agencies in the Northern Virginia area is to provide police aid across jurisdictional boundaries in certain emergencies, thereby increasing the ability of local governments to promote public safety and protect the general welfare of the citizens.

The purpose of the AVI plan is to get as many on-duty patrol resources to an active violence incident in an affected Northern Virginia jurisdiction as quickly as possible by way of a prearranged patrol response plan. This plan does not replace any existing mutual aid agreements between agencies but acts as an addendum to the Northern Virginia Mutual Aid Plan.

Board Agenda Item
June 20, 2017

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 - Northern Virginia Law Enforcement Mutual Aid Agreement of 2013
Attachment 2 - Northern Virginia Active Violence Incident Plan (2016) Addendum to the
Northern Virginia Law Enforcement Mutual Aid Agreement of 2013.

STAFF:
David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:
Karen L. Gibbons, Deputy County Attorney

**NORTHERN VIRGINIA
LAW ENFORCEMENT MUTUAL AID AGREEMENT**

Of
2013

By virtue of the authority conferred by Sections 15.2-1724 and 15.2-1726 of the Code of Virginia (1950), as amended, the local governments within Northern Virginia signatory hereto, hereby adopt this Northern Virginia Law Enforcement Mutual Aid Agreement of 2010, this 1st day of March 2013.

Hereafter, this agreement shall be known as the Northern Virginia Law Enforcement Mutual Aid Agreement of 2013.

WITNESS:

WHEREAS, certain local governments in Northern Virginia have determined that providing police aid across jurisdictional boundaries in certain emergencies will increase the ability of the local governments to promote the public safety and protect the general welfare of the citizens; and

WHEREAS, these same local governments agree that it is to their mutual benefit to cooperate in the enforcement of the laws designed to control or prohibit the use or sale of controlled drugs as defined in Section 54.1-3401 or laws contained in Article 3 (Section 18.2-344 et seq.) of Chapter 8 of Title 18.2, as well as laws designed to curb gang activity as contained in Chapter 6 of Title 18.2, Code of Virginia (1950), as amended.

NOW, THEREFORE, the parties hereto jointly resolve and agree to the following provisions:

1. Law enforcement assistance may be requested in order to respond to:
 - a) Any law-enforcement emergency involving any immediate threat to life or public safety, during any emergency resulting from the existence of a state of war, act of terrorism, internal disorder, fire, flood, epidemic or other public disaster.
 - b) The need for cooperative law enforcement efforts regarding:

- 1) The illegal use and sale of controlled drugs.
 - 2) Sexual offenses and prostitution.
 - 3) Gang activity.
2. It is the intent and purpose of this mutual aid agreement that there be the fullest cooperation among the local law enforcement agencies in the Northern Virginia area to ensure the maintenance of good order and law enforcement during an emergency situation or other law enforcement matter which requires assistance beyond the capacity of a signatory jurisdiction.
3. The Chief Executive Officer (CEO) or their then acting second in command, of any signatory law enforcement agency is authorized to determine the need for additional law enforcement assistance and/or equipment when an emergency or need exists.
4. If the CEO, or then acting second in command, determines that they need assistance from any jurisdiction that is party to this agreement, they shall communicate their request to the CEO, or their then acting second in command, of the law enforcement agency from which assistance is desired. Such request will include the following:
 - a) The name and title of the official making the request, and the agency they represent.
 - b) A summary of the circumstances initiating the action and a description of the assistance needed.
 - c) The name, title, and location of the official to whom assisting personnel shall report.
5. Upon receipt of a request for assistance, the CEO or then acting second in command receiving the request shall consider the circumstances in the requesting jurisdiction. The receiving CEO or then acting second in command shall evaluate the disposition and availability of their own resources and the capacity of their agency to provide the requested assistance. If the receiving CEO or then acting second in command concurs in the existence of a need for law enforcement assistance, assistance shall be provided as requested within the limits of the receiving agency's resources.
6. For the purposes of this agreement, the police of the Metropolitan Washington Airports Authority may be sent only to the Counties of Arlington, Fairfax, and Loudoun, including signatory towns, in response to requests for assistance. In addition, the Metropolitan Washington Airports Authority may only summon the

law enforcement agencies of these same counties and towns for the purpose of obtaining police assistance within its grounds and facilities.

7. For the purpose of providing law enforcement assistance under this agreement, the police of a state-supported institution of higher learning may be sent only to a county, city or town whose boundaries are contiguous with the county or city in which such institution is located.
8. Nothing contained in this agreement shall compel any party hereto to respond to a request for law enforcement assistance when in the opinion of the agency's CEO, or their then acting second in command, its own personnel are needed or are being used within the boundaries of their own jurisdiction. No party actually providing assistance pursuant to this agreement shall be compelled to continue with such assistance, if in the opinion of the agency's CEO, or their then acting second in command, their personnel and/or equipment are needed for other duties within their own jurisdictional boundaries.
9. During the period assistance is provided, personnel of the assisting agency shall operate in the requesting jurisdiction with the same powers, rights, benefits, privileges and immunities as are enjoyed by the members of the requesting agency. Each law enforcement officer who enters the jurisdiction of the requesting agency pursuant to this agreement shall have the same police powers as the personnel of the requesting agency. This specifically includes the authority of law enforcement officers to make arrests. For the purposes of this agreement, it is understood that the assisting party is considered to be rendering aid once it has entered the jurisdictional boundaries of the party receiving assistance.
10. CEO or their then acting second in command of any agency receiving assistance under this agreement shall be responsible for directing the activities of other officers, agents, or employees coming into their jurisdiction.
11. Subject to the terms of this agreement, and without limiting in any way the other circumstances or conditions in which mutual aid may be requested and provided under this agreement, the parties hereto agree to provide assistance to the requesting jurisdiction in situations requiring mass processing of arrestees and transportation of the same. The parties to this document further agree to assist the requesting jurisdiction with security and operation of temporary detention facilities.
12. Throughout the duration of any response for assistance, the requesting agency shall provide for adequate radio communications so that personnel from the assisting agency can communicate with personnel of the requesting agency. This may be in the form of allowing responding agencies permission to program their radios with the requesting agency's assigned radio frequencies, by providing access to agency-owned radios, through radio interoperability, or by the use of radios available from the National Capitol Region (NCR) Radio Cache. (NOTE:

As of the date of this document 03/01/13 the NCR Radio Cache for NOVA is managed by Fairfax County).

13. Any jurisdiction, which receives aid under this agreement, shall provide for the release of assisting personnel as soon as is practicable.
14. Services performed and expenditures made as a result of this agreement shall be deemed conclusively to be for public and governmental purpose. As such, all of the immunities from liability enjoyed by a signatory jurisdiction within its territorial limits shall be enjoyed by it to the same extent when it is providing assistance outside its boundaries pursuant to this agreement.
15. The law enforcement officers, agents, and employees of an assisting agency, when acting beyond its territorial limits, shall have all the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief, disability, workers' compensation and other benefits enjoyed by them while performing their respective duties within the territorial limits of their own jurisdiction.
16. The parties shall not be liable to each other regarding reimbursement for injuries to personnel or damage to equipment incurred when going to or returning from another jurisdiction. The parties shall not be accountable to each other for the salaries or expenses of their personnel, vehicles and equipment used in association with, or arising out of, the rendering of assistance pursuant to this agreement.
17. **The Standard Operating Procedure For A Coordinated Tactical Response To Multiple Active Shooter/Terrorist Incidents In Northern Virginia was approved September 1, 2011 to define roles, responsibilities and initial command and control for critical incidents requiring more than one specialized team (SWAT) in the Northern Virginia Region.**
18. This document, upon adoption, supersedes and replaces the Northern Virginia Law Enforcement Mutual Aid Agreement of July 1, 2002.
19. If any part, section, sub-section, sentence, clause, or phrase of this agreement is, for any reason, declared invalid, such decision shall not affect the validity of the remaining portions of the agreement.
20. This agreement shall remain in effect until terminated by all parties hereto upon written notice setting forth the date of such termination. Withdrawal from this agreement by one party hereto, shall be made by thirty (30) days written notice to all other parties, but shall not terminate the agreement among the remaining parties. This document shall remain with full force and effect notwithstanding the continued tenure of any of the representatives whose signatures appear hereon.

21. A listing of resources available from parties signatory hereto is attached and made a part of this agreement. This list will be updated on an annual basis with the information disseminated to all participating jurisdictions. The Chair of the Northern Virginia Chiefs Group will be responsible for the update process.
22. Any revision to this agreement, except the annual updating of available resources, shall be proposed in writing. All participating jurisdictions will be provided with a copy of the proposal by the initiating agency. Within sixty (60) days of receipt, each jurisdiction will return its comments concerning agreement or disagreement with the revision to the initiating agency. All signatory jurisdictions must agree with any proposed change, and execute an appropriate revision, in order for it to be adopted. Any approved revision will be made part of this agreement as an addendum.

IN WITNESS THEREOF, the parties hereto have executed this agreement.

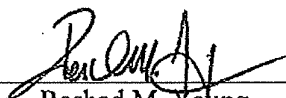
Northern Virginia
Law Enforcement Mutual Fund Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement.

On Behalf

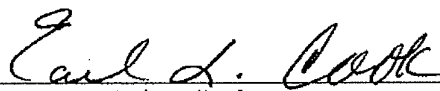
Of the

City of Alexandria Police Department, Virginia



Rashad M. Young
City Manager



3/18/13
Date



Earl L. Cook
Chief of Police

02/26/13
Date

APPROVED AS TO FORM:


~~James L. Banks, Jr.~~
Assistant City Attorney 


03-11-13
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

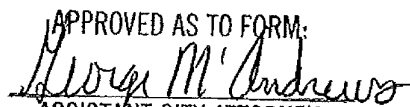
Alexandria Sheriff's Office


Dana Lawhorne, Sheriff

2/25/13
Date


Rashad Young, City Manager

4/23/13
Date

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

Arlington County, Virginia

(Name of Agency)

Barbara M. Donnellan
Barbara Donnellan
County Manager

1-30-2013
Date

M. Douglas Scott
M. Douglas Scott
Chief of Police

1-29-2013
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

Arlington County Sheriff's Office

(Name of Agency)

Beth Ault

1/30/13

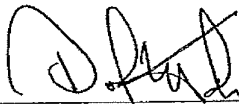
Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

Town of Dumfries

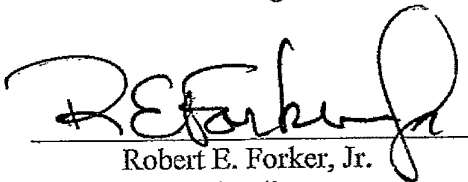
(Name of Agency)



Daniel E. Taber
Town Manager

4-23-13

Date



Robert E. Forker, Jr.
Chief of Police

4/23/2013

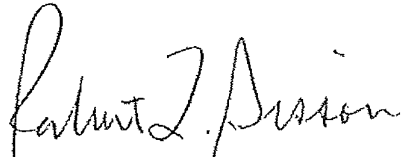
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

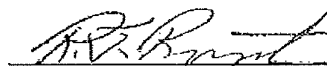
*On Behalf
Of the*

City of Fairfax Police Department



Robert L. Sisson, City Manager

1/22/13
Date



Richard J. Rappoport, Chief of Police

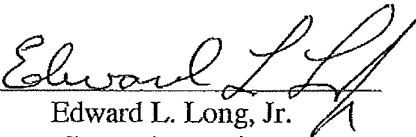
1/22/13
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

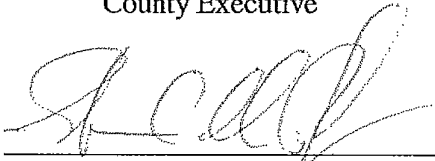
*On Behalf
Of the*

Fairfax County Police Department, Virginia



Edward L. Long, Jr.
County Executive

6/18/2013
Date



Edwin C. Roessler Jr.
Acting Chief of Police


6.14.2013
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013


IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*


City of Falls Church Police Department
(Name of Agency)



Mary Gavin
Chief of Police



Wyatt Shields
City Manager

 Jan 14, 2013

Date

Jan. 14. 2013

Date

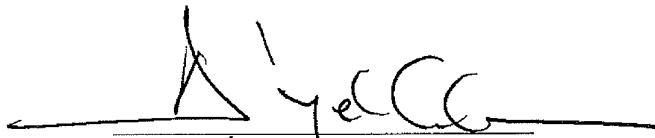
Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

GEORGE MASON UNIVERSITY POLICE DEPARTMENT

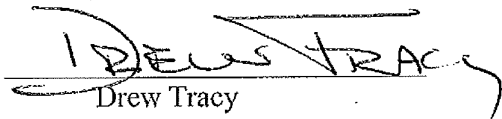
(Name of Agency)



Ángel Cabrera
President

2.27.2013

Date



Drew Tracy
Interim Chief of Police

2-26-2013

Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

Haymarket Police Department
(Name of Agency)

James Rapp

3-6-13

Chief of Police


3/6/13

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013


IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

Town of Herndon Police Department, Virginia


Arthur A. Anselene
Town Manager

3/28/13
Date


Maggie A. DeBoard
Chief of Police

3-27-13
Date

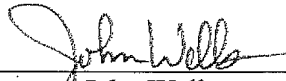
Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

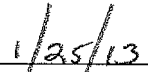
*On Behalf
Of the*

Town of Leesburg Police Department, Virginia

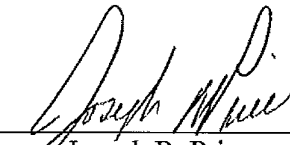
(Name of Agency)



John Wells
Town Manager



Date



Joseph R. Price
Chief of Police



Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf

Of the

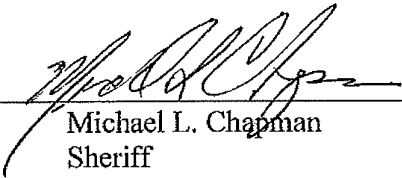
Loudoun County Sheriff's Office, Virginia



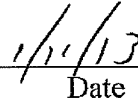
Tim Hemstreet
County Administrator



Date



Michael L. Chapman
Sheriff



Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

Manassas City Police Department

(Name of Agency)

[Signature]
City Manager

1/28/13

[Signature]
Chief of Police

1/28/13

**Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013**

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

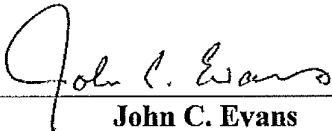
City of Manassas Park Police Department, Virginia
(Name of Agency)



**Frank Jones
Mayor**

2/19/13

Date



**John C. Evans
Chief of Police**

2/19/13

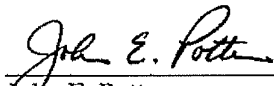
Date

22. Any revision to this agreement, except the annual updating of available resources, shall be proposed in writing. All participating jurisdictions will be provided with a copy of the proposal by the initiating agency. Within sixty (60) days of receipt, each jurisdiction will return its comments concerning agreement or disagreement with the revision to the initiating agency. All signatory jurisdictions must agree with any proposed change, and execute an appropriate revision, in order for it to be adopted. Any approved revision will be made part of this agreement as an addendum.

IN WITNESS THEREOF, the parties hereto have executed this agreement

*on Behalf
of the*

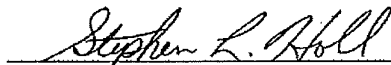
Metropolitan Washington Airports Authority Police Department



John E. Potter

President and Chief Executive Officer

4/29/13
Date



Stephen L. Holl

Chief of Police

4/26/13
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

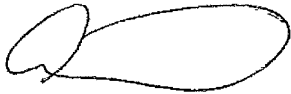
*On Behalf
Of the*

Middleburg Police Department



Martha M. Semmes, Town Administrator

1/16/13
Date



Anthony J. Panebianco, Chief of Police

1/16/13
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

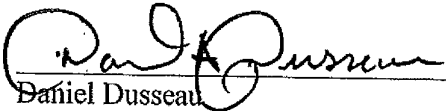
Northern Virginia Community College Police Department
(Name of Agency)



Tony Bansal
Vice President and Chief Administrative Officer
Northern Virginia Community College

1-31-13

Date



Daniel Dusseau
Chief of Police
Northern Virginia Community College

1/25/13

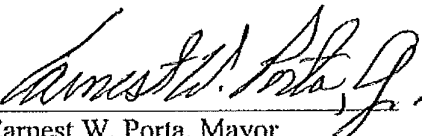
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

TOWN OF OCCOQUAN


Earnest W. Porta, Mayor

4/8/13
Date


Sheldon E. Levi, Town Sergeant

04/09/2013
Date

Approved as to form:


Martin R. Crim, Town Attorney

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013


IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

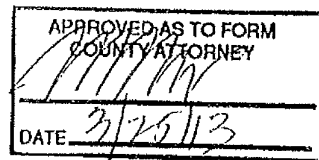
(Prince William County Police Department, Virginia)

 4-26-13

Melissa S. Peacor
County Executive



Stephan M. Hudson
Chief of Police



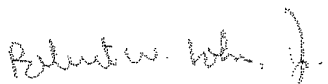
Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

Town of Purcellville Police Department

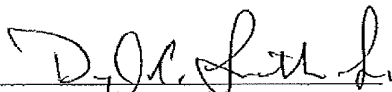
(Name of Agency)



Robert W. Lohr Jr.
Town Manager

4/2/13

Date



Darryl C. Smith Sr.
Chief of Police

4-2-13

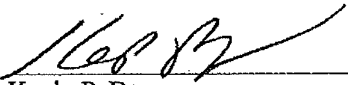
Date

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013


IN WITNESS THEREOF, the parties hereto have executed this agreement

*On Behalf
Of the*

The Town of Quantico Police Department
(Name of Agency)


Kevin P. Brown
Mayor, Town of Quantico, Virginia

April 10, 2013


John P. Clair
Chief of Police, Town of Quantico Police Department

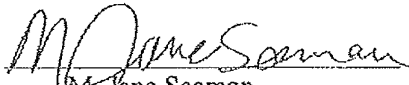
APRIL 4TH, 2013

Northern Virginia
Law Enforcement Mutual Aid Agreement
Of
2013

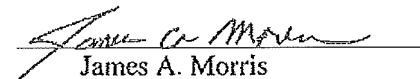
IN WITNESS THEREOF, the parties hereto have executed this agreement

On Behalf
Of the

Town of Vienna Police Department, Virginia
(Name of Agency)


M. Jane Seeman
Mayor

3-29-13
Date


James A. Morris
Chief of Police

3-29-13
Date

Northern Virginia Active Violence Incident Plan (2016) Addendum to the Northern Virginia Mutual Aid Plan

I. Purpose

The purpose of this plan is to get as many on-duty patrol resources to an Active Violence Incident (AVI) in an affected Northern Virginia jurisdiction as quickly as possible through a more flexible implementation of mutual aid by way of a prearranged patrol response plan. This plan does not replace any existing mutual aid agreements between agencies but acts as an addendum to the Northern Virginia Mutual Aid Plan.

II. Definition

- A. Active Violence Incident (AVI) – One or more individuals actively engaged in killing or attempting to kill people in a confined and/or populated area. The overriding objective is mass murder. The situation is not contained and is very dynamic in nature.
- B. Everbridge – Provider of software as service based platforms that are used to send emergency or critical communications to individuals or groups using lists, locations, and visual intelligence.
- C. Metropolitan Washington Council of Governments (COG) - The Metropolitan Washington Council of Governments (COG) is an independent, nonprofit association that brings area leaders together to address major regional issues in the District of Columbia, suburban Maryland, and Northern Virginia. COG's membership is comprised of 300 elected officials from 23 local governments, the Maryland and Virginia state legislatures, and U.S. Congress.
- D. Northern Virginia - City of Alexandria, Arlington County, Town of Dumfries, City of Fairfax, Fairfax County, City of Falls Church, Town of Herndon, Town of Leesburg, Loudoun County, City of Manassas, City of Manassas Park, Town of Middleburg, Prince William County, Town of Purcellville, and the Town of Vienna.

III. AVI Call Type

- A. In order to get the appropriate resources to the affected jurisdiction, a new call type was created. When a jurisdiction decides that an immediate, outside assistance is needed due to an AVI, the affected jurisdiction will notify its communication center and an "AVI" call type will be pushed out to the other participating jurisdictions.

- B. The communication center will inform the participating agencies that an “AVI” has been initiated and the appropriate information will be conveyed.
- C. Once the “AVI” has been relayed, the agreed upon staffing will immediately deploy to the affected jurisdiction.
- D. The AVI Call Type will contain five critical pieces of information:
 - 1. Active Violence Incident
 - 2. Location of AVI
 - 3. Brief Description of Situation
 - 4. Reporting Location (Staging Area)
 - 5. Specific Person to Report to

IV. Communications

- A. Each agency should pre-identify the agencies that border or are located within their jurisdiction as well as those agencies that are within a 30-minute response and create an AVI Response template in Everbridge.
- B. In the event of an AVI response, the communications center from the affected agency will:
 - 1. Notify the pre-identified agencies through Everbridge that an AVI is occurring. The notification should include the five items identified as the AVI Call Type:
 - a. Active Violence Incident
 - b. Location of AVI
 - c. Brief Description of Situation
 - d. Reporting Location (Staging Area)
 - e. Specific Person to Report to
 - 2. The affected agency shall follow-up telephonically with the pre-identified agencies that an AVI is occurring. This is for redundancy to ensure all agencies are notified and to clarify any questions and/or supply additional information as needed.
 - 3. The affected agency should then notify all of Northern Virginia and COG through Everbridge that an AVI is occurring. This notification is for informational purposes so that those agencies not affected by the AVI, can reposition their resources in order to be prepared for a possible secondary AVI.

V. Response

- A. The response to an AVI demands an immediate and large scale response of personnel and equipment and will be based upon many factors, including but not limited to: situation, time of day, location, type of attack, etc. Upon notification of an AVI, the listed agencies will make every effort to provide the following patrol resources to the affected agency within 15 minutes, if available.

Jurisdiction	Number of Officers/Supervisors
Airport Police (MWAA)	4/1
Alexandria Police	4/1
Arlington Police	4/1
Falls Church Police	Subject to Staffing Levels
Fairfax City Police	Subject to Staffing Levels
Fairfax County Police	4/1
George Mason Police	Subject to Staffing Levels
Herndon Police	Subject to Staffing Levels
Leesburg Police	Subject to Staffing Levels
Loudoun County Sheriff	3/1
Manassas City Police	Subject to Staffing Levels
Manassas Park Police	Subject to Staffing Levels
Middleburg Police	Subject to Staffing Levels
NVCC Police	Subject to Staffing Levels
Pentagon Police (PFPA)	Subject to Staffing Levels
Prince William Police	4/1
Purcellville Police	Subject to Staffing Levels
Vienna Police	Subject to Staffing Levels
Virginia State Police	4/1

- B. Agencies bordering the affected agency or located within the County of the affected agency will respond, if staffing levels permit and they are able, to the active violence incident.
- C. Agencies within a 30-minute response to the affected agency can be added to the initial communication for assistance.
- D. Agencies outside a 30-minute response will not be expected to respond to the affected agency or included in the initial call for assistance.
- E. Each agency is responsible for identifying the agencies that will respond to assist if an AVI occurs in its jurisdiction.

VI. Initial Response

- A. Each agency that can provide assistance, will identify those officers/supervisors for the initial response to assist the requesting agency and will authorize an emergency response.
- B. The responding officers will report to the identified staging area. Every effort should be made to ensure that responding officers wearing plain clothes are clearly marked and readily identifiable as law enforcement officers.
- C. Responding officers are to assist the requesting agency as a:
 - 1. Contact Team
 - 2. Scene Security
 - 3. Traffic Control
 - 4. As needed
- D. Responding officers will stay on scene to assist until the requesting agency has sufficient resources on hand to handle the incident, at which point, the responding officers will be released in order to return to their home jurisdictions.
- E. If a jurisdiction cannot provide personnel because of staffing or that jurisdiction is itself responding to an incident, or other similar circumstances, the jurisdiction is not required/obligated to provide personnel to support this plan.

VII. AVI Expectations - The expectation for all participating agencies is:

- A. While there is always a concern of multiple or multi-prong attacks or incidents occurring simultaneously in different jurisdictions, the sharing of patrol resources in order to address an on-going AVI must take precedence over an individual Department's desire to harden its local targets.
- B. Once the deployment of officers to a neighboring jurisdiction has been initiated, those officers who remain should be deployed to possible secondary targets within their home jurisdictions.
- C. All signatory agencies agree to ensure minimal training and/or notification to their line officers regarding the content of this agreement.

This plan shall remain in effect until terminated in writing by all parties notwithstanding the continued tenure of any of the representatives who approved its adoption.

Board Agenda Item
June 20, 2017

ACTION - 2

Approval of Head Start/Early Head Start Policy Council Bylaws, Self-Assessment Report and Memorandum of Understanding Between Policy Council and Board of Supervisors

ISSUE:

Board approval of the Head Start/Early Head Start Policy Council Bylaws, Self-Assessment Report and Memorandum of Understanding between Policy Council and Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board approve the Head Start/Early Head Start Policy Council Bylaws, Self-Assessment Report and Memorandum of Understanding between Policy Council and Board of Supervisors.

TIMING:

Board action is requested on June 20, 2017, to meet federal Head Start Program Performance Standards.

BACKGROUND:

Existing rules and regulations require that the Board of Supervisors, as the County's governing body, review and approve the composition of the Head Start Parent Policy Council and the procedures by which members are chosen; the Head Start program's annual Self-Assessment Report, including actions that are being taken by the program as a result of the self-assessment review; and the Memorandum of Understanding between Policy Council and Board of Supervisors. Board approval of the following attachments will satisfy these compliance requirements: 1) Policy Council Bylaws, 2) Self-Assessment Report and 3) Memorandum of Understanding between Policy Council and Board of Supervisors.

1. Policy Council Bylaws

The Head Start Parent Policy Council provides a formal structure of shared governance through which parents can participate in policy making and other decisions about the program. The Bylaws of the Policy Council were developed based on the federal Head Start Program Performance Standards on program governance and outline the

composition and selection criteria to ensure equal representation for all programs and that at least 51 percent of Policy Council members are parents of currently enrolled children, as required.

The Board of Supervisors most recently approved the Policy Council Bylaws on June 7, 2016. Changes to the Bylaws as highlighted in the attached Document 1 have been made for clarity and to reflect the new Head Start Program Performance Standards, which became effective November 5, 2016. The Office of the County Attorney has reviewed the Bylaws.

2. Self-Assessment Report

The Fairfax County Head Start/Early Head Start program conducts an annual self-assessment of its effectiveness and progress in meeting program goals and objectives and in implementing federal regulations every year, as required by federal Head Start Program Performance Standards. The results are included in the attached Self-Assessment Report, which outlines strengths and areas to be addressed, as well as any actions being taken to address them.

3. Memorandum of Understanding

The Memorandum of Understanding between the Board of Supervisors, as the County's governing body, and the Policy Council, as the primary vehicle for involving parents in decision-making about the Head Start program, documents current practices and procedures regarding how the two bodies implement shared decision-making, as required by federal Head Start Program Performance Standards. The Memorandum of Understanding outlines the roles and responsibilities of each group, the interactions between the two, the joint communications they receive, and the approvals both groups provide. The Memorandum of Understanding was first developed in 2011 and is renewed every three years; the language of the Memorandum of Understanding has been updated to reflect the newly revised Head Start Program Performance Standards which became effective November 2016. The Office of the County Attorney has reviewed the Memorandum of Understanding as well.

FISCAL IMPACT:
None

Board Agenda Item
June 20, 2017

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Office for Children Head Start/Early Head Start Policy Council Bylaws

Attachment 2 – Fairfax County Head Start/Early Head Start 2017 Self-Assessment Report

Attachment 3 – Memorandum of Understanding between Policy Council and Board of Supervisors

STAFF:

Patricia D. Harrison, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie D. Twohie, Director, Office for Children

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

ARTICLE I. NAME

The name of the organization shall be the Policy Council of the Fairfax County Head Start/Early Head Start Program.

ARTICLE II. PURPOSE

The purpose of the Fairfax County Head Start/Early Head Start Policy Council shall be to: provide direction for the Head Start/Early Head Start program in compliance with Federal Head Start Program Performance Standards (45 CFR Chapter XIII, Subchapter B) and the Head Start Act as amended December 12, 2007. Specifically, 45 CFR 1301.3 (a) states each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the grantee agency level, and a policy committee at the delegate level. The Policy Council is responsible for providing direction on program design and operation, long- and short-term planning goals and objectives. This direction must take into consideration results from the annual community-wide strategic planning and needs assessment and self-assessment (Head Start Act section 642(c)(2)(A)).

The specific objectives and purpose of this Policy Council shall be to approve and submit to the governing body, Fairfax County Board of Supervisors, decisions on each of the following activities (Head Start Act section 642(c)(2)(D)(i) through (viii) and 45 CFR 1301.3(c)(2)):

- A) Activities that support the active involvement of parents in supporting program operations, including policies to ensure Fairfax County Head Start/Early Head Start program is responsive to community and parent needs.~~Encourage maximum participation of parents and community representatives in the planning, operation and evaluation of Fairfax County Head Start/Early Head Start Programs.~~
- B) Program recruitment, selection, and enrollment priorities.~~Serve as a link with local programs, the grantee agency — Fairfax County Board of Supervisors Office for Children (OFC), public and private agencies and the community.~~
- C) Applications for funding and amendments to applications for funding for Fairfax County Head Start/Early Head Start program.~~Approve grant applications and service area plans for the grantee agency.~~
- D) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.~~Initiate suggestions and ideas for program improvements.~~
- E) Bylaws for the operation of the policy council.~~Establish a procedure for hearing complaints against the Fairfax County Head Start/Early Head Start Program.~~
- F) Program and personnel decisions regarding the recommendation of hiring program staff.~~Carry out specific duties and responsibilities in compliance with Performance Standard~~

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

~~45 CFR 1304.50(a) Policy Council, Policy Committee, and Parent Committee Structure.~~

~~(1) Grantee and delegate agencies must establish and maintain a formal structure of shared governance through which parents can participate in policy making or in other decisions about the program.~~

G) Ongoing monitoring results, data on school readiness goals and status reports of program operations.

H) Developing procedures for how members of the Policy Council will be elected.

F)) Recommendations on the selection of delegate agencies and the service areas for such agencies.

ARTICLE III. MEMBERSHIP

Policy Council members should be committed to being representatives for the total Fairfax County Head Start/Early Head Start Program. They should be team players, be willing to learn the duties and responsibilities of the Policy Council and represent the Council in a positive and supportive manner at all times and in all places.

Section 1. The Fairfax County Head Start/Early Head Start Policy Council shall consist of six (6) parent representatives from the grantee program and six (6) parent representatives from each of the delegate programs. The parent representatives must have children currently enrolled in the each Head Start /Early Head Start program. The grantee program includes : the Grantee program, which includes the Greater Mount Vernon Community Head Start (GMVCHS), Family Child Care (FCC) Partnership and EHS Expansion programs ; ~~as well as t~~I the delegate programs are Fairfax County Public Schools (FCPS) and Higher Horizons (HiHo). In addition to the parent representatives, there must also be All program options must be represented. There must also be at least two (2) community representatives, who must be residents of/or employed in Fairfax County. All program options must be represented.

Section 2. Parent representatives of currently enrolled children shall be elected to the Policy Council at the grantee and delegate program level by the program's respective policy or parent committee. ~~Community representatives shall be recruited by the Head Start Director and the Policy Council Chairperson and elected by the Policy Council.~~

Section 3. Community representatives may include representation from other child care programs, neighborhood community groups (public and private), higher education institutions, program boards, and community or professional organizations which have a concern for children and families in the Head Start/Early Head Start Program and can contribute to the directiondevelopment of the program. Community representatives are nominated by the Head Start Division Director and

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

the Policy Council Executive Committee and must be elected by parent representatives of the Council to serve.

- Section 4. Voting members must resign from the Policy Council if they or an immediate family member (as defined by Virginia Code § 2.2-3101) become employed, temporarily (for sixty (60) days or more) or permanently, by the Fairfax County Head Start/Early Head Start Program. Voting members may substitute occasionally (as defined by each program) in the Fairfax County Head Start/Early Head Start Program.
- Section 5. Policy Council members shall be elected to serve a one (1) year term and may not serve more than three (3) years. Members may voluntarily terminate their membership at any time by giving written notice to the Council. The respective policy or parent committee will be responsible for recruiting and electing a new member to the Council within one month of resignation or termination of the member. In the event of termination or resignation of a community representative, the Head Start Director and the Policy Council Chairperson will recruit a replacement. Election of a new community representative shall take place within one month of resignation or termination of the member.
- Section 6. Any member who misses two (2) consecutive meetings without notifying the Office for Children Head Start Program Administrative Office, neglects responsibility, and/or abuses the privilege of office may be terminated by the Policy Council with a majority vote of the quorum. Written notification will be sent to the terminated member under signature of the Policy Council Chairperson.

ARTICLE IV. MEETINGS

- Section 1. Fairfax County Head Start/Early Head Start Policy Council meetings shall be held on the fourth (4th) Thursday of each month with dinner being served at 6:00 p.m. and call to order at 6:30 p.m. If the fourth (4th) Thursday is a legal holiday, the meeting may be rescheduled to the third Thursday of the month.
- Section 2. All meetings shall be conducted in compliance with the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 – 2.2-3714 (“VFOIA”), and except for closed sessions, all meetings shall be open to the public. Pursuant to Virginia Code § 2.2-3701, “meeting” or “meetings” means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or § 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. As required by VFOIA, the public will be given notice of the date, time, and location of the meetings at least three working days before each Policy Council meeting, except in case of an emergency. Notice,

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

reasonable under the circumstances of emergency meetings, shall be given contemporaneously with the notice provided to members. The Head Start administrative staff and/or Chairperson will provide the information to the County's Office of Public Affairs so that it can provide the public notice. All meetings shall be held in places that are accessible to persons with disabilities, and all meetings shall be conducted in public buildings whenever practical.

Except as otherwise provided by Virginia law or by these bylaws, all meetings shall be conducted in accordance with Roberts's Rules of Order, Newly Revised, and except as specifically authorized by VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Copies of meeting agendas and other materials that are given to members shall be made available to the public at the same time, unless VFOIA allows otherwise. Anyone may photograph, film, or record meetings, so long as they do not interfere with any of the proceedings.

The Secretary shall keep meeting minutes, which shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. The minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The minutes from the previous meeting shall be sent to members at least seven (7) calendar days prior to the regular meeting.

Section 3. Special call meetings can be called by the Chairperson and the Head Start Director and scheduled when deemed necessary. Public notice will be given as required by VFOIA and members will be informed in writing and/or via telephone simultaneous with or prior to public notice.

Section 4. Policy Council members who are voted to represent the Council at conferences must meet the following criteria:

- 1) Be an active participant in good standing with their Parent/Policy Committee for at least 2 consecutive meetings.
- 2) Have served on the Policy Council for a minimum of one year.
- 3) Be able to give either an oral summary or submit a written report (whether still a member or not) at the next regularly scheduled meeting.

Section 5. In the event of inclement weather Policy Council will adhere to the Fairfax County Public Schools closure schedule. The Head Start administrative staff and/or Chairperson will contact members regarding a rescheduled date and will comply with the public notice requirements above.

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

ARTICLE V. OFFICERS

- Section 1. The Officers of the Policy Council shall be: Chairperson, Vice-Chairperson, Secretary, Treasurer, and Parliamentarian. These officers shall perform the duties prescribed by the Federal Head Start Program Performance Standards, and the Head Start Act, by these Bylaws and by the current Roberts Rules of Order, adopted by the Policy Council.
- Section 2. Election of officers will take place at the December meeting. Members can nominate themselves or be nominated by another Policy Council member.
- Section 3. The officers shall serve a one (1) year election term or until their successors are elected. Their term of office shall begin at the close of the Council meeting at which they are elected.
- Section 4. No member shall hold more than one (1) office at a time, and no member shall be eligible to serve more than three (3) terms.
- Section 5. Should the Chair position become vacant, the Vice-Chairperson shall become the Chairperson for the remainder of the term. The Council shall elect a replacement for Vice-Chairperson at its next regular meeting to serve the balance of the term.
- In the absence of the Chairperson and Vice-Chairperson, responsibilities of the Chair are assumed by the Treasurer and the Parliamentarian will maintain order. The Policy Council Secretary continues to record minutes.
- Section 6. The duties of officers are as follows:
- 1) Chairperson – Presides at all Policy Council and Executive Committee meetings; may act as a spokesperson for the Council in events concerning the Head Start program.
 - 2) Vice-Chairperson – Assumes the duties of the Chairperson in the absence of the Policy Council Chairperson; performs other duties as assigned by the Chairperson.
 - 3) Secretary – Records minutes of the Policy Council meetings with assistance from ~~g~~Grantee staff; makes the appropriate corrections to meeting minutes as directed; compiles and keeps current list of all voting members and records their attendance; keeps on file all minutes of the Policy Council; reads minutes and other correspondence at meetings, calls members about absence from meetings, reminds members about meetings and training and tabulates votes.
 - 4) Treasurer – Maintains the Council's financial records, prepares Treasurer's report and balances the checkbook; serves on the Budget Subcommittee; prepares for signature and distributes reimbursements, stipends, and payment of invoices; coordinates out-of-town travel funds for Policy Council members, who would be assisted by the grantee staff.

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

- 5) Parliamentary – Keeps order during the meetings in accordance with the Policy Council Bylaws and in accordance with the current edition of Roberts' Rules of Order.

ARTICLE VI. ~~EXECUTIVE COMMITTEES~~

Section 1. Executive Committee. Officers of the Policy Council shall constitute the Executive Committee. The Executive Officers will meet one week prior to the regular Policy Council meetings on an as-needed basis. The purpose for meeting is to establish agenda items and agree upon recommendations to present to the full Policy Council of items needing approval/disapproval. Meetings of the Executive Committee are public meetings and shall comply with VFOIA, including the meeting notice requirements set forth in Article IV, Sections 2 and 3.

Section 2. The Policy Council may create other committees as needed to carry out its duties (i.e. finance, self-assessment). Meetings of these other committees are also public meetings and shall comply with VFOIA, including the meeting notice requirements set forth in Article IV, Sections 2 and 3.

Section 3. Policy Council members may be nominated by the Head Start Division Director to serve on other Fairfax County Boards, Commissions or Committees and/or private agencies and community boards. Policy Council members will represent the Fairfax County Head Start/Early Head Start program on these boards.

ARTICLE VII. GRIEVANCES

Section 1. A standard grievance procedure to hear and resolve parent and community complaints about Head Start is approved annually by the Policy Council and will be used to address complaints not resolved at the center level and at the grantee agency.

ARTICLE VIII. PARLIAMENTARY AUTHORITY

Section 1. The rules contained in the current edition of Roberts' Rules of Order Newly Revised shall govern the Policy Council in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules or order the organization may adopt.

ARTICLE IX. AMENDMENT OF BYLAWS

Section 1. These Bylaws shall be reviewed annually and recommendations presented to the Council for approval. The Policy Council will be given thirty (30) days to review recommendations.

**FAIRFAX COUNTY OFFICE FOR CHILDREN
HEAD START/EARLY HEAD START POLICY COUNCIL
BYLAWS**

- Section 2. The Bylaws may be amended at any regular meeting of the Policy Council or at a special meeting called for such purpose by majority vote of the Council members present, provided that representatives from each delegate agency are present and voting.
- Section 3. Amendments to the Bylaws will be presented to the Fairfax County Board of Supervisors for approval, and will become effective upon approval by the Board of Supervisors.

ARTICLE X. VOTING

- Section 1. All matters shall be decided on by vote of the members. The vote of a majority of the quorum is needed to authorize any action. Seven (7) Council members (with at least two (2) representatives from each program and one (1) community representative) constitute a quorum. All votes shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. Voting may be by aye/nay, show of hands. Approved matters must be recorded in the minutes of the meeting. The Policy Council Secretary tabulates the votes, along with a designated staff/Policy Council member.

ARTICLE XI. TRAINING

- Section 1. The Council and its officers shall receive annual training (45 CFR 1301.5) which includes: Head Start Program Performance Standards, Head Start Act, Roberts' Rules of Order, VFOIA, roles and responsibilities of members and officers, subcommittee functions, budget and finance, personnel procedures and conference travel procedures.

ARTICLE XII. ACTIONS

- Section 1. A motion must be made when the Council is required to take action and/or make decisions.

ARTICLE XIII. STIPENDS

- Section 1. Stipends in the amount of \$15.00 will be given to voting members except for community representatives at regularly scheduled Policy Council meetings.



PROGRAM SELF-ASSESSMENT SUMMARY 2017

Fairfax County Head Start/Early Head Start program conducted its required annual self-assessment during February and March 2017. Annual self-assessment of programs is a requirement of the Head Start Program Performance Standards 45 CFR 1302.102(b)(2)(i). All Fairfax County Head Start/Early Head Start programs, including those operated directly by Fairfax County Office for Children—Greater Mount Vernon Community Head Start (GMVCHS) center—and those operated contractually by family child care programs and by delegate agencies—Higher Horizons Day Care Center, Inc. and Fairfax County Public Schools (FCPS)—and all options (i.e. center based, home-based, family child care and child care partnerships) were reviewed using a locally designed protocol based upon the Head Start Program Performance Standards (HSPPS). The self-assessment supports the continuous improvement of program plans and service delivery, providing an opportunity for engaging parents and community stakeholders.

PROGRAM DESIGN – Organizational Structure, Eligibility, Recruitment, Selection, Enrollment and Attendance (ERSEA), Facilities, Materials, Equipment and Transportation

Service area found in compliance.

Identified strengths:

- Organizational structure and support.
- There is strong coordination between grantee program and delegates during recruitment and selection of participants.

Recommendation for improvement:

- Complete implementation of procedures regarding attendance follow-up as described in the HSPPS.

MANAGEMENT SYSTEMS - Program Governance, Planning, Communication, Record-keeping and Reporting, Ongoing Monitoring, Human Resources

Service area found in compliance.

Identified strengths:

- Parents who serve on the Policy Council are very knowledgeable and are actively providing oversight of the program. Two of the board members serve as representatives on county-wide advisory groups and have been commended for their contributions.
- A system was created with FCPS to assign FCPS IDs as well as state testing IDs for all children enrolled in the program. This allows the program to track all children enrolled in Early Head Start/Head Start throughout their tenure in FCPS.

FISCAL - Financial Management Systems, Reporting, Procurement, Compensation, Cost Principles, Facilities and Property

Service area found in compliance.

Identified strengths:

- There are sound fiscal systems in place that meet or exceed federal standards for financial reporting, accounting records, internal control, budget control, compliance with cost principles, cash management and administrative cost. Monthly desk reviews and quarterly fiscal monitoring systems provide a strong system of controls to ensure that delegate agencies are using HS/EHS grant funds in compliance with federal rules and regulations.
- The grantee identified a need for additional fiscal staff to support the EHS Child Care Partnership grant requirements regarding family child care partners' fiscal monitoring. Grant funding for a position was secured.

CHILD DEVELOPMENT - Individualization, Disabilities Services, Curriculum and Assessment

Service area found in compliance.

Identified strength:

- There is strong support for children with disabilities and a variety of modifications and accommodations are provided to ensure full access to curricula.

Recommendation for improvement:

- Develop coaching models that support professional development for staff and family child care partners and supports the full implementation of curricula.

HEALTH & SAFETY - Child health status and care, follow-ups, child nutrition, mental health, safety practices

Area of non-compliance:

One area of non-compliance was identified related to obtaining dental exams and follow-up for children needing treatment. As of March 2017, it was found that 75 percent of children program-wide had up-to-date dental exams. HSPPS 45 CFR 1302.42b(i)(ii); c(1)(2)(3) state that programs must obtain determinations from oral health care professionals as to whether the child is up-to-date on a schedule of age-appropriate preventive and primary oral health care and program staff are to help parents continue to follow recommended schedules.

To comply with dental exam requirements, the program has already begun implementing a corrective action plan which include the following:

- Increase awareness/education for parents on the importance of oral health and the impact it has on school readiness.
- Form new partnerships with community dental organizations to provide dental screenings and education to children and parents.
- Host dental education events with local dentists and scheduling health fairs with dentists who will provide on-site dental exams and dental health education for families.
- Participate in organizations such as the Virginia Oral Health Coalition Steering Committee and Early Dental Home Work Group and Smile Connect for additional dental health resources and services.

Identified strengths:

- There is strong support for children diagnosed with disabilities and/or 504 medical needs.
- A strong daily and monthly monitoring system is in place for healthy and safe environments.
- The program consistently provides safe classroom and family child care environments to the children it serves. All service areas are committed to creating and providing a Culture of Safety.

FAMILY AND COMMUNITY PARTNERSHIPS - Family Partnership Building, Parent Involvement, Community and Child Care Partnerships

Service area found in compliance.

Identified strength:

- The program is diverse and serves families from many different backgrounds. Staff demographics are reflective of this diversity and staff speak many of the families' home languages.

Recommendation for improvement:

- Enhance self-monitoring tool and provide additional training on documentation of services in the family services area.

MEMORANDUM OF UNDERSTANDING

THIS Memorandum of Understanding is entered into by and between the Fairfax County Board of Supervisors (hereafter called the “**Board**”) and the Policy Council of the Fairfax County Head Start/Early Head Start Program (hereafter called the “**Council**”).

In accordance with P.L. 110-134 Improving Head Start for School Readiness Act of 2007 (Head Start Act) CFR 1304.50 (d)(1)(ii), this MOU describes the processes and procedures regarding how the Board, its designee agency Department of Family Services Office for Children (OFC), and the Council implement and share decision-making for the Fairfax County Head Start/Early Head Start program.

The period of this agreement will be for three years from the date of approval by the Board.

THE PARTIES TO THIS UNDERSTANDING ARE MUTUALLY AGREED THAT:

1. SHARED GOVERNANCE

- a. Definition – Shared governance is an established working partnership between the Board of Supervisors, Policy Council, Policy Committees, Parent Committees, Delegate Boards, and key OFC management staff to develop, review, and approve or disapprove Head Start/Early Head Start policies and procedures.
- b. Roles/Responsibilities
 - i. Board of Supervisors – As the grantee, the Board assumes the overall legal and fiduciary responsibility to ensure that the county’s Head Start/Early Head Start program operates in compliance with the Federal Head Start Program Performance Standards and other applicable laws, regulations, and policy requirements. The Board has established a system of committees of Board members to help manage its oversight responsibilities. The Board’s Health, Housing and Human Services Committee is responsible for oversight of all County human services programs which, including Head Start/Early Head Start. In compliance with section 642(c)(1)(E)(iv)(XI) of the act, the, and the Board assigns the chairperson of the Health, Housing and Human Services Committee as its liaison to Policy Council and OFC to oversee key responsibilities related to program governance and improvement of Head Start.
 - ii. Department of Family Services Office for Children – The Board delegates the administrative operations of the Head Start/Early Head Start program to OFC, who works closely with the Board liaison and the Policy Council.
 - iii. Policy Council – The Council provides a formal structure through which Head Start/Early Head Start parents and community representatives are responsible for

the direction of the Head Start program (45 CFR 1301.3(a)) in partnership with the Board. ~~parents can participate in policy making and other decisions about the program.~~ The Council's roles and responsibilities are governed by its Bylaws, which are reviewed and approved by the Board.

- c. Interaction – The Board and Council have open meetings for reciprocal attendance at any time and the Council has standing invitations for the Board liaison to conduct the annual swearing in of new officers and to deliver acknowledgements during the end of the year recognition ceremony. The Board liaison and Head Start director meet on a quarterly basis, or more often as needed, to exchange information and the Policy Council Chairperson has a standing invitation to attend such meetings.
- d. Joint Communications – As required by the Head Start Act section 642(d)(2), b~~B~~ Both the Board, through its assigned liaison, and the Policy Council receive regular reports from OFC related to program planning, policies and overall Head Start operations. These reports ~~to~~ include the following information:
 - A) Monthly financial statements, including credit card expenditures;
 - B) Monthly program information summaries;
 - C) Program enrollment reports including attendance reports for children whose care is partially subsidized by another agency;
 - D) Monthly reports of meals and snacks provided through the United States Department of Agriculture (USDA) Child and Adult Care Food Program;
 - E) Annual financial audit;
 - F) Annual self-assessment including any findings related to such assessment;
 - G) Community-wide strategic planning and needs assessment which includes any applicable updates;
 - H) Communication and guidance from the federal government;
 - I) Program Information Reports (PIR).

The Board liaison shall share information from these reports with the Board at scheduled meetings of its Health, Housing and Human Services Committee.

- e. Joint Approval – The two governing bodies, the Fairfax County Board of Supervisors and the Head Start/Early Head Start Policy Council, as partners in the governance of the program, both approve the following items:
 - A) Applications for funding and amendments to applications for funding (Board approval governed by Fairfax County's Grants Board Item Policy effective September 1, 2004)
 - B) Head Start program's annual S~~self-A~~assessment R~~r~~eport, including actions that may result from the self-assessment review, ~~-or~~ responses to findings from Federal monitoring reviews
 - C) Policy Council Bylaws

ACCEPTED BY:

Sharon Bulova, Chairman	Date
Date	
Fairfax County Board of Supervisors	

Alicia Doe <u>Rubi Colchao</u> , Chairperson
Fairfax County Head Start/Early Head Start Policy Council

Board Agenda Item
June 20, 2017

ACTION - 3

Adoption of the Board of Supervisors Environmental Vision

ISSUE:

Board adoption of the updated Board of Supervisors Environmental Vision.

RECOMMENDATION:

The County Executive recommends that the Board adopt the updated Board of Supervisors Environmental Vision, which is provided as Attachment 1.

TIMING:

Board action is requested on June 20, 2017, as requested by the Board of Supervisors Environmental Committee at its May 23, 2017 meeting.

BACKGROUND:

The Board of Supervisors (Board) adopted its Environmental Excellence 20-Year Vision Plan (Environmental Vision) on June 21, 2004. The Environmental Vision is organized into six major themes: growth and land use, air quality and transportation, water quality, solid waste, parks/trails/open space, and environmental stewardship. The Environmental Vision was revised in March 2007 to include tree policies and actions that were interspersed throughout the six major theme areas.

On October 6, 2015, the Board tasked staff to examine the Environmental Vision in light of new techniques and opportunities, changed regulations and budget requirements. Specifically, the Board directed the County Executive to review the existing Environmental Vision and report back to the Board with suggestions and a timeline for community and Board involvement.

On May 24, 2016, at a regularly scheduled meeting of the Board's Environmental Committee, the Environmental Coordinator presented a detailed proposal to update the Environmental Vision. The proposal included a twelve month timeline with actions and both community and Board involvement. At the conclusion of the presentation, the members of the Environmental Committee endorsed the proposed update process and committed to bringing the matter up at the June 7, 2016 Board meeting.

Board Agenda Item
June 20, 2017

At its regularly scheduled meeting on June 7, 2016, the Board directed the County Executive to proceed with the proposed Environmental Vision update process as outlined and presented at the May 24 Board of Supervisors Environmental Committee meeting.

At a regularly scheduled meeting of the Board's Environmental Committee on May 23, 2017, the Environmental Coordinator presented the final draft of the updated Environmental Vision. At the conclusion of the presentation, and per discussion that took place between committee members and staff, the Environmental Committee requested that additional language be included in the Parks and Ecological Resources, Waste Management and Climate and Energy sections and that the language be circulated to the Board prior to the June 20, 2017 meeting. The Environmental Committee then directed staff to bring forward the revised document (the revised document is provided as Attachment 1) for Board adoption at its June 20, 2017 meeting.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 – Fairfax County Environmental Vision

STAFF:
David J. Molchany, Deputy County Executive
Kambiz Agazi, Environmental Coordinator
Susan Hafeli, Chief, Utility Branch, Department of Cable and Consumer Services

Fairfax County Environmental Vision

June 2017



FAIRFAX COUNTY BOARD OF SUPERVISORS

Sharon Bulova, Chairman.....At-Large
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(From left to right: Daniel Storck, John Cook, Cathy Hudgins, Jeff McKay, Sharon Bulova, Penny Gross, John Foust, Kathy Smith, Linda Smyth, Pat Herrity)

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Preface

Environmental quality is both a key responsibility and a critical legacy of any elected public body. Fairfax County's environment is resilient, but not indestructible. It is the county's overarching vision to attain a quality environment that provides for a high quality of life and is sustainable for future generations. These aspects of a quality environment are essential for everyone living and working in Fairfax County. No matter what income, age, gender, ethnicity, or address, everyone has a need and right to breathe clean air, to drink clean water, and to live and work in a quality environment.

A healthy environment enhances our quality of life and preserves the vitality that makes Fairfax County a special place to live and work. As such, the county government has a responsibility to be an environmental steward through its operational practices and to establish and implement policies and programs that will foster broader environmental protection and stewardship efforts throughout the community and in the broader region.

Good stewardship and prudent management of our natural and manmade environment are not merely "add-ons," or afterthoughts, but rather are essential and fundamental responsibilities that must be given fullest consideration at all times. The environmental impact of every decision the county makes must be carefully and purposefully evaluated. The Board of Supervisors is elected to represent the citizens of the county and is the principal source of creative decision-making and leadership in providing the best environment possible.

The Board of Supervisors Environmental Vision provides an overview of the visions and supporting objectives of the board in support of environmental sustainability across seven major core service areas. It is not a set of specific actions but sets the framework for the identification and implementation of activities needed to achieve the visions and supporting objectives. While this document does not address every environmental issue relevant to county operations and/or policy, it does provide guidance on all issues through the major environmental themes addressed. There are many other environmental issues for which the county has pursued programmatic and/or policy directions; the lack of explicit recognition in this document of any particular issue does not mean that the issue is not important to the board.

Cooperation with this vision among county residents, employees, employers, land developers and managers and government leadership and agencies is required to effect lasting solutions to the environmental challenges we face. While we have made great strides, we can and must do more. The board and I hope that you will take up the challenge and work with us to further support the county's Environmental Vision.

Fairfax County Board of Supervisors
Sharon Bulova, Chairman

Environmental Vision Summary

The Board of Supervisors Environmental Vision was first adopted in 2004 and later updated in 2017 to take into account new policies, techniques and opportunities, changed regulations, budget requirements and changes to county operations that had taken place since 2004.

The Board of Supervisors has shaped its vision to protect and enhance the environment around two principles: 1) conservation of our limited natural resources must be interwoven into all government decisions; and 2) the Board must be committed to provide the necessary resources to protect and improve our environment for quality of life now and for future generations.

The vision is divided into three sections. The first section describes a record of commitment along with notable awards and recognitions. This commitment is documented in the county's *Sustainability Initiatives* document, available at www.fairfaxcounty.gov/living/environment/sustainability/.

Section 2 demonstrates the county's leadership to protect and enhance the environment across seven core service areas: land use; transportation; water; waste management; parks and ecological resources; climate and energy; and environmental stewardship. Each of the service area describes existing and past county efforts followed by an area vision and supporting objectives.

Section 3 provides concluding remarks regarding the vision and reiterates the guiding principles identified above.

Section 1

Fairfax County: A Record of Commitment

Fairfax County has a long tradition of commitment to environmental stewardship. Building on previous environmental initiatives (e.g., Environmental Quality Corridor policy; Occoquan zoning initiatives; etc.) the adoption of the Fairfax County Environmental Vision in 2004 cemented that commitment into official policy, but was just one step in a long line of important environmental initiatives. The county's *Sustainability Initiatives* document at www.fairfaxcounty.gov/living/environment/sustainability/ describes many of the county's innovative approaches to achieving its environmental and energy objectives that support Board policy. The following list highlights some of the important awards and recognitions the county has received:

2004 *Chesapeake Bay Program, Gold Chesapeake Bay Partner Community.* Launched in 1997, the Bay Partner Community Program recognizes local governments in the Chesapeake Bay watershed for their commitment to protecting and restoring the Bay and its tributaries. Fairfax County was first designated as a Gold Chesapeake Bay Partner Community in 1997 and recertified in 2004.

2006 *U.S. Environmental Protection Agency Landfill Methane Outreach Program (LMOP) Community Partner of the Year.* The LMOP helps to reduce methane emissions from landfills by encouraging the recovery and beneficial use of landfill gas (LFG) as an energy resource. The LMOP honored Fairfax County as a Community Partner of the Year for its use of LFG to produce electricity, dry sludge at its wastewater treatment plant, and heat the county's facilities using infrared heaters.

2007 *Solid Waste Association of North America (SWANA) Bronze Excellence Award, Integrated Solid Waste Management Program category.* The Excellence Awards recognize outstanding solid waste programs and facilities that are environmentally and fiscally responsible, advance worker and community health and safety, and implement successful public education and outreach programs.

2007 *U.S. Environmental Protection Agency ENERGYSTAR Partner.* Partners team with ENERGYSTAR to save energy through energy-efficient products and practices.

2010 *National Recreation and Park Association (NRPA) Gold Medal Award, Class 1 Category (population 250,000 and over).* The Fairfax County Park Authority was awarded the NRPA Gold Medal for demonstrating excellence in long-range planning, resource management, and agency recognition.

Board of Supervisors Environmental Vision

2011 *American Planning Association (APA) Daniel Burnham Award.* This award, which recognizes advancement of the science and art of planning, is granted to only one urban plan in the nation each year. In 2011, the APA honored the Comprehensive Plan for the Tysons Corner Urban Center for its approach to density that is focused around four transit stations, incentives to reserve 20 percent of new housing units for moderate-income households, and innovative stormwater management strategies designed to retain at least the first inch of rainfall on site.



2013 *National Association of Counties (NACO) Best in Category Achievement Award, Category of Environment Protection and Energy.* The NACO award honored the county's Government Center stream restoration project, an innovative water quality project that included a stream restoration and pond retrofits on county property.



2016 *Public Technology Institute (PTI) Sustainability Solutions Significant Achievement Award – Smart Irrigation Systems.* Fairfax County Park Authority was recognized for an energy and water conservation initiative that involved the replacement of existing irrigation controllers with smart web-based irrigation control systems that use local weather data to automatically adjust watering times and are capable of detecting leaks and sending notifications.

Section 2 Protecting and Enhancing our Environment

A. Land Use

Introduction:

Fairfax County has more than 1.1 million people, a population larger than that of eight states. Between 2000 and 2010, Fairfax County grew by over 11 percent. It is projected to grow another seven percent between 2010 and 2020, and yet another eight to nine percent between 2020 and 2030. Between 2015 and 2045, the Washington-Maryland-Virginia region will add more than 1.5 million people and 1.1 million jobs.¹ Between 2015 and 2045, the county is forecast to have nearly 280,000 new residents (a nearly 25 percent increase), 121,000 new households (a 30 percent increase) and 244,000 new jobs (a 37 percent increase). This growth will continue to present challenges to meet the needs of schools, transportation, air quality, water quality, recreation and public facilities and services. How we continue to accommodate growth through land use policy while providing for a quality environment will be one of the biggest challenges we face as a community.

Environmental protection, improvement and restoration are compatible with, and serve to support, the county's economic success. The Board's Strategic Plan to Facilitate the Economic Success of Fairfax County emphasizes a continuing commitment to growth in mixed-use, livable, walkable activity centers, to revitalization and redevelopment and to "protect[ion of] the environment and enhance[ment of] public health by preserving air and water quality, minimizing energy use and having a broad range of open space and recreational amenities to support the needs of our residents and employees." The county's growth and land use policies have been, and will continue to be, supportive of this goal and are intended to further both the county's economic and environmental success.



Mosaic District

There is no simple solution to the challenge of accommodating anticipated growth. We need to consider a wide range of options. One option, mixed-use development, can promote a vibrant, town-like community by combining housing, employment, shopping and entertainment into a master plan.

A complete mixed-use development encourages non-motorized transportation and fewer motor vehicle trips to obtain

¹According to Intermediate Round 9.0 Cooperative Forecasts adopted by the Metropolitan Washington Council of Governments.

goods and services and therefore can provide considerable environmental benefits. The concentration and orientation of such development around transit facilities can further reduce reliance on motor vehicle trips and can therefore reduce the associated adverse environmental impacts.

A related option, that of redevelopment within existing commercial activity centers, provides opportunities for environmental enhancements through the careful integration of environmentally-beneficial site design strategies (e.g., stormwater management, provision of tree canopy, pedestrian and bicycle connectivity) in areas where attention to such measures was previously lacking.

Opportunities for high-intensity, urban scale mixed-use, transit-oriented development within Fairfax County's "downtown" of Tysons have never been stronger, with the opening of four Metrorail stations within Tysons. The extension of Metrorail from Tysons to Reston, Herndon and Dulles Airport provides similar opportunities within new Transit Station Areas, and transit stations elsewhere in the county can also attract environmentally-beneficial redevelopment opportunities. Environmental enhancements through development design can also be pursued within these and other activity centers and revitalization areas, and concentration of the county's anticipated growth in the county's activity centers can have further environmental benefits by reducing development pressures in lower density areas.

Within lower density areas, another development option, that of clustering of residential development, allows several homes to be built close together with the remaining acreage left as open space in perpetuity. The challenge to clustering is building public trust that the open space will remain open.

At the site/development project-specific scale, the pursuit of low impact development (LID – also referred to as green stormwater infrastructure, or GSI), green building design, tree preservation and planting and sustainable site design practices (e.g., the use of native species in landscaping) can have energy conservation, water conservation, stormwater runoff, air quality and other environmental benefits.

LID concepts encourage ways to keep stormwater as close to the source as possible. LID techniques include placing homes closer to the street to reduce impervious surfaces, grassed swales to collect rain water, infiltration measures such as rain gardens, filter strips, porous pavers in less-used parking areas, infiltration of parking lot runoff and storage, green roofs and reuse of stormwater runoff.

Green building design provides a holistic approach to the location, design, construction, operation and, where applicable, dismantling of buildings and their associated landscapes in an environmentally responsible manner to minimize negative impacts on the environment, provide positive ecological benefits and provide positive health benefits to building occupants. For

example, green building design approaches that have been applied in several county library renovation and expansion projects are expected to result in 20 percent or greater reductions in annual energy use and 30 percent or greater reductions in annual water use compared to similarly-sized conventionally-designed facilities.

Policies supporting the application of LID and green building practices have been adopted within the county's Comprehensive Plan and are applied in the reviews of zoning proposals. Support for higher levels of environmental commitment (e.g., green building design, stormwater management) have been included within a number of Plan amendments addressing development and redevelopment in specific mixed-use centers in recognition of the opportunities that development and redevelopment projects in these areas provide.

A challenge faces us as older communities are transformed by teardown construction, both for new housing and to expand existing homes. In these cases and in general, new developments may not blend well with their neighbors – in size, appearance or architecture.

Another important effect of growth is the challenge it presents to low-income workers trying to find affordable housing opportunities in the county. We need to provide opportunities for all members of the community to live and work in the county. In 2007, the Board adopted a Policy Plan Amendment to support the provision of workforce housing through agreements that would be negotiated with applicants during the zoning process.

The goals that have been adopted for Fairfax County by the Board of Supervisors, as presented in the Comprehensive Plan, include the following guidance for managing new growth: “. . .



Growth should take place in accordance with criteria and standards designed to preserve, enhance, and protect an orderly and aesthetic mix of residential, commercial/industrial facilities, and open space without compromising existing residential development. . . .”

The Board has also adopted Fairfax County Vision Elements, Priorities and Goals that support a full range of environmental considerations, and numerous supporting initiatives have been pursued by the county. Notable efforts have included, but are not limited to: the adoption and revision of a Comprehensive Plan green building policy in 2007 and 2014, respectively (resulting in commitments during the zoning process to specific levels of green building performance); the adoption by the Board in 2008 of a new Tree Conservation Ordinance (strengthening tree preservation and landscape requirements during development); the development of Urban Design Guidelines

for Tysons and other mixed-use centers (resulting in commitments to high quality development designs serving to optimize relationships among buildings, streets, transit facilities, open spaces, pathways and landscaping); and the revision of Development Criteria found in the Policy Plan volume of the adopted Comprehensive Plan for both residential and non-residential development (providing guidelines for county staff during the zoning process related to density, location and amenities, etc.).

Since the Board's initial adoption of the Environmental Excellence 20-Year Vision Plan in 2004, the county's growth and land use policies have increasingly emphasized growth in mixed-use, transit-oriented centers. There has also been an increasing focus on strategic redevelopment and investment opportunities within the older and transforming commercial activity centers of the county. Guidelines addressing transit-oriented mixed-use development (TOD) were incorporated into the Policy Plan volume of the Comprehensive Plan in 2007, and numerous Area Plan amendments supporting TOD and/or mixed-use development concepts have been adopted since that time, including amendments addressing Tysons, Annandale, Baileys Crossroads, Seven Corners, Franconia-Springfield, Lake Anne Village Center, the Fairfax Center Area, areas near Fort Belvoir and future rail station areas in Reston and Herndon. The Richmond Highway corridor is being planned to allow for transit-supportive land uses, in anticipation of Bus Rapid Transit and a Metrorail extension. The establishment of the county's Office of Community Revitalization in 2007 highlights the importance and prioritization that the Board has placed on ensuring the long term viability of its older commercial areas, and numerous and substantial redevelopment projects continue to transform these areas into vibrant employment, residential, retail and entertainment destinations.

The Board's Environmental Vision:

The county will continue to refine and implement land use policies and regulations that accommodate anticipated growth and change in an economically, socially and environmentally sustainable and equitable manner while revitalizing older commercial centers, protecting existing stable neighborhoods, supporting sustainability and supporting a high quality of life. The development priority will be mixed use, pedestrian and bicycle-friendly transit-oriented development in activity centers. Policies and regulations will result, throughout the county, in the development and enhancement of vibrant and vital pedestrian and bicycle-friendly places where people want to live, work, shop, play, learn and thrive in a healthy environment, ensuring the protection, enhancement and restoration of natural resources, and the provision, in building and site designs, for the efficient use of resources.

Supporting Objectives:

- Use clustering and mixed-use development when appropriate to utilize space efficiently and provide perpetual open space.
- Promote walkable and bikeable communities using mixed-use development and village-style neighborhoods.
- Support development projects that promote human health and well-being.

Board of Supervisors Environmental Vision

- Pursue opportunities to revitalize the county's older commercial activity centers.
- Pursue opportunities to improve environmental conditions through redevelopment.
- Explore opportunities to repurpose empty or obsolete commercial spaces.
- Maximize mixed-use development near transit stops.
- Make employment centers, such as Tysons, self-contained vibrant places to live and work by ensuring mixed-use, pedestrian friendly, transit-oriented development.
- Support a mix of housing types to accommodate a range of ages, household sizes and incomes and provide for affordable housing opportunities in livable, walkable, transit-accessible communities.
- Pursue equitability in provision of access to environmental resources.
- Apply environmentally-sensitive, sustainable site design and green building practices for development and redevelopment.
 - Apply high quality site design principles in activity centers, including landscaping and open space that will increase tree canopy and reduce stormwater runoff.
 - Apply low impact development concepts and techniques (also referred to as green stormwater infrastructure, or GSI) in new residential and commercial areas, and seek opportunities for retrofitting established areas.
 - Apply energy and water efficiency measures in building and site designs.
 - Ensure that proposals for development and redevelopment that require zoning approval will be pursued in an environmentally-sensitive manner consistent with county environmental policies, including policies addressing the protection, enhancement and restoration of the county's natural resources.
 - Address adverse environmental impacts that may result from by-right development.
 - Improve energy conservation, air quality, water quality and stormwater management through tree conservation policies and practices.
 - Emphasize the use of native plant species for landscaping, particularly species that provide food and shelter for wildlife.
 - Increase tree conservation in land development by:
 - Ensuring that all tree preservation commitments for development projects are honored.
 - Optimizing tree preservation and planting efforts associated with by-right development.
 - Enforcing the county's tree conservation requirements.
 - Optimizing tree preservation and planting efforts in the design and construction of public facilities.
- Support accessible and universal design efforts for an aging population.
- Evaluate urban agriculture opportunities and efforts that could be pursued in support of such opportunities.
- Continue to monitor and evaluate green building practices and rating systems and to explore related opportunities to strengthen green building policy guidance.
- Plan and implement appropriate mitigation and adaptation strategies for impacts associated with global climate change as they may affect land use.

Board of Supervisors Environmental Vision

- Pursue state enabling legislation to ensure adequate infrastructure is in place for new developments and to provide more flexibility to ensure harmonious and compatible development. Work toward ensuring that new and renovated homes are compatible with established neighborhoods.
- Locate noise-sensitive uses away from high levels of transportation-generated noise and/or provide measures to reduce noise impacts, and protect sensitive land uses from stationary noise sources.
- Design and install lighting fixtures to minimize adverse light impacts.
- Use our land and other resources wisely by
 - Concentrating employment and multi-family housing near transit services.
 - Integrating pedestrian-oriented neighborhood commerce (markets, restaurants, services) into new residential neighborhoods.
 - Providing pedestrian and bicycling amenities whenever possible, such as sidewalks and trails; traffic calming; street furniture in shopping areas; transit shelters; bicycle parking and support facilities and urban building design.

For more information about the county's land use efforts, see Fairfax County's *Sustainability Initiatives* at <http://www.fairfaxcounty.gov/living/environment/sustainability/>.

Section 2 Protecting and Enhancing our Environment

B. Transportation

Introduction:

Fairfax County's transportation network connects our communities internally and regionally through an extensive system of roadways, Metrorail, managed lanes, pedestrian walkways, bicycle facilities, and local, regional, and express bus routes. The dominant mode of travel in Fairfax County is single-occupancy vehicle (SOV) trips. The prevalence of these trips causes congestion on our roadways and releases harmful emissions from the combustion of fossil fuels into the air. Fairfax County is committed to reducing the dependence and impact of SOV trips by supporting efficient land use patterns and an improved transportation network which accommodates all modes of travel. In doing this, the county can offer residents and other stakeholders more transportation options, less congestion, cleaner air and water, positive health impacts, and more livable communities.

Efficient land use patterns integrate land use and transportation planning to reduce vehicle trips and support walking, bicycling and transit as viable transportation choices. Communities which have a mix of uses and robust multimodal transportation network provide greater opportunities for travelers to shorten or reduced their vehicle trips. Fairfax County has adopted a number of land use strategies to encourage this holistic planning and will continue to do so in the future.

Efficiency in the transportation network means utilizing the existing capacity of our transportation infrastructure by distributing trips across alternative modes and away from the



peak travel times, which in turn, reduces vehicle congestion and emissions. The county's Transportation Demand Management (TDM) guidelines set a framework for negotiating trip reduction goals based on the type of development and proximity to transit. TDM programs increase transportation efficiency by incentivizing alternative modes, ridesharing, teleworking, and other strategies to reduce peak-hour SOV trips.

Intelligent Transportation Systems convey information on the status of roadways and other transportation systems to users in real time and have the potential to decrease congestion, reduce

vehicle emissions, and improve the safety of our roadways. High-Occupancy Vehicle (HOV)¹ lanes move vehicles more efficiently by incentivize car sharing and diversion of trips from the peak hour. In the future, autonomous vehicles and other technological advancements will shape the future of our transportation system and will provide opportunities to increase efficiency. Fairfax County will continue to leverage technology to improve transportation.

Expanding the use of transit, walking, and bicycling as means of transportation requires an investment in the necessary infrastructure and maintenance of facilities such as bus stops, transit centers, sidewalks, crosswalks, bike lanes, trails, and more to support the safe and convenient use of alternative modes. The county's Trails Master Plan and Bicycle Master Plan identify the countywide network of trail and bicycle facilities to support multi-modal transportation goals. These plans give county officials, developers, and other stakeholders a guide to implementing these needed improvements. In 2016, Capital Bikeshare launched in Tysons and Reston, signifying the county's commitment to providing a multimodal transportation system.



Transportation planning in the Washington metropolitan region is heavily influenced by air quality planning. Under Section 174 of the Clean Air Act Amendments, the governors of Maryland and Virginia and the mayor of the District of Columbia certified the Metropolitan Washington Air Quality Committee (MWAQC) to develop specific recommendations for a regional air quality plan in the Washington, DC-MD-VA nonattainment area.

The Metropolitan Washington Council of Governments (COG), in close cooperation with state air quality and transportation agencies, provides technical support to MWAQC. Staff from the local counties and cities provide additional technical support. MWAQC with support from COG tests transportation plans to ensure that the projects in the plan, when considered collectively, contribute to air quality improvement goals. Although tremendous progress has been made over the past several years in meeting clean air standards, transportation remains an area of concern to regulatory agencies and to the general public because of its contribution to air pollutants and greenhouse gas emissions, and the resultant impact on human and environmental health. Fairfax County will continue to support transportation policies which strengthen the region's ability to ensure that the region complies with air quality improvement goals.

¹ High-Occupancy Vehicle (HOV) lanes include managed lanes, also known as High Occupancy Toll (HOT) lanes. HOT lanes function as HOV lanes but also allow toll-paying users with fewer passengers in the vehicle.



Fairfax County maintains the largest municipal fleet in Virginia and the ninth largest school bus fleet in the nation. The county owns and maintains a large variety of vehicles and equipment ranging from sedans, police package vehicles and motorcycles to dump trucks, fire apparatus and ambulances, and off-road and miscellaneous equipment (i.e. loaders, dozers, trailers, snow plow blades).

The Department of Vehicle Services provides management and maintenance services to the county's vehicle fleet and strives for economically responsible environmental stewardship by working to achieve increased fuel efficiency, reduced emissions, and reduced petroleum consumption in vehicle procurement and through best practices for maintenance of the existing fleet. Diesel Exhaust Fluid (DEF) stations are located at three heavily used fueling sites owned by Fairfax County for diesel vehicles. DEF is a non-hazardous solution that breaks down dangerous NOx emissions. As plug-in hybrids and electric vehicles continue to come to market, the county plans to continue its practice to procure alternative fuel vehicles when practical.

The Board's Environmental Vision:

A dependable, safe, efficient, accessible, and multi-modal transportation network is necessary to support the travel needs of Fairfax County residents now and into the future. The county will continue to develop policies and strategies that reduce the dependence on single-occupancy vehicle trips through smart development, efficient use of the transportation system, and by expanding the county's bicycle, pedestrian and transit infrastructure. The county will pursue transportation strategies in support of regional attainment of air quality standards.

Supporting Objectives:

- Provide a safe and convenient multi-modal transportation network which meets the needs of local and regional trips, reduces congestion, and improves air quality. Encourage the inclusion of pedestrian and bicycle mobility in major road projects and projects which fill in gaps within the existing network.
- Strengthen transportation policies which reduce the dependence on single-occupancy vehicle trips and are supportive of land use policies that include transit oriented development and mixed-use development.
- Improve pedestrian and bicycle mobility and connectivity. Maintain existing infrastructure.
- Increase public transit use and enhance the economic viability of public transit by:

Board of Supervisors Environmental Vision

- Maintaining the quality, reliability, and convenience of transit service including WMATA's Metrorail System.
 - Supporting plans for a high-quality transit network that includes the extension of Metrorail, Light Rail Transit, Bus Rapid Transit, and express bus service.
 - Coordinating public transit service to facilitate intermodal transfers, including convenient and safe bicycle and pedestrian access to transit, and secure bicycle storage in public places and stations.
- Continue to support TDM strategies to promote transit, alternative work schedules, teleworking, car-pooling, and use of other modes to reduce congestion and improve air quality.
- Promote the use of fuel efficient vehicles and travel decisions which reduce greenhouse gas emissions from single-occupancy vehicle trips. For example, where practicable, give parking preference to multiple-occupancy vehicles or alternative fuel vehicles over single-occupancy vehicles. Encourage electric vehicle charging stations in parking garages.
- Be on the forefront of integrating new/emerging best practices and/or technology to improve vehicle efficiency.
- Continue coordinating with the Metropolitan Washington Council of Governments to meet and remain in compliance with air quality standards. Support policies that strengthen the region's ability to meet current and future air quality standards.
- Minimize the environmental impact of the county's transportation fleet and facilities through:
 - The purchase of alternative fuel or fuel-efficient vehicles, and by following best practices for maintenance and vehicle efficiency;
 - Minimizing adverse impacts of storm water runoff from roads and other transportation facilities.

For more information about the county's transportation efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/.

Section 2 Protecting and Enhancing our Environment

C. Water

Introduction:

Water is the essence of life - without it, life on our planet would not exist. The availability of clean water and presence of functioning aquatic systems are fundamental to sustaining viable ecosystems and human societies. Fairfax County's natural aquatic resources are vast; its 30 watersheds encompass myriads of wetlands, tidal marshes, lakes, ponds and reservoirs – and include well over 1,000 miles of streams and associated riparian corridors. Fairfax County highly values water as an essential part of our ecosystem through protecting and restoring the natural environment, helping provide safe drinking water, and preserving the aesthetic and recreational opportunities these natural resources provide for county residents. This commitment to the value of water is supported by the many awards the county has received from various organizations which include National Association of Counties, National Association of Clean Water Agencies, North American Lake Management Society, Virginia Department of Conservation and Recreation, Virginia Department of Environmental Quality and Virginia Lakes and Watershed Association, to name just a few.

There are three major program areas focused on water in the county: 1) supply, treatment and distribution of drinking water; 2) collection, treatment and return of reclaimed wastewater back to the environment; and 3) collection, treatment and conveyance of stormwater to our streams (which includes managing the water quality and ecological health of these receiving streams). Although these are three distinct and separate operating systems, they use the same water which recycles from one system or purpose to the next. Once drinking water leaves the faucet and enters the drain, it becomes wastewater. Once wastewater is treated, it is returned to the natural environment in waterways, helps to recharge groundwater and again is made available as supply for drinking water or to evaporate into the atmosphere and eventually return to the land surface as precipitation, where it can become stormwater runoff. Drinking water supply can also come from groundwater sources through groundwater wells and wastewater from homes can be treated by onsite sewage disposal (septic) systems which primarily discharge back into groundwater. Proper management of both stormwater and wastewater are essential to preserving the ecological health of our streams and surface waters and to protecting drinking water sources, whether supplied from surface waters or groundwater. This “one water” concept envisions water as a resource regardless of its location or condition in any one system and is the lens through which water is viewed in this section.



Solar powered water circulator

In Fairfax County the drinking water system is operated by Fairfax Water, a water utility governed by a board of ten members who are appointed by the Board of Supervisors of Fairfax County. Fairfax Water withdraws raw water from the Potomac River and the Occoquan Reservoir. The water is then treated at either the James J. Corbalis Jr. Treatment Plant or the Frederick P. Griffith Jr. Treatment Plant, respectively. The treated water is then distributed through an underground pipe network to

individual homes, schools, businesses and others. On an average day, 163 million gallons of water are treated and distributed to nearly two million people in Northern Virginia in the communities of Fairfax, Loudoun, Prince William, Fort Belvoir, Herndon, Vienna, Alexandria, Falls Church and Fairfax City. Fairfax Water is also a participant in regional planning efforts for the Metropolitan Washington Area to address water supply and drought issues. As part of these efforts, the focus is on a year-round wise water use program for conservation and drought awareness and response.

Once the water is used, most of it then enters the wastewater system. Fairfax County's Department of Public Works and Environmental Services houses the wastewater management program. The county owns and maintains over 3,300 miles of wastewater collection pipes which deliver an average of 100 million gallons per day of wastewater to the seven regional wastewater plants that provide service to the county. Once treated, the water is then released back into the natural environment. In the case of the Upper Occoquan Service Authority (UOSA), the treated water enters Bull Run, several miles upstream of the Occoquan Reservoir, and is available for reuse as drinking water after advanced treatment at the Frederick P. Griffith Jr. Water Treatment Plant.

The county's wastewater program operations must also comply with the Clean Water Act-mandated requirements of the National Pollutant Discharge and Elimination System (NPDES) permit. This permit specifies the minimum levels of treatment which have been routinely exceeded by employing advanced treatment techniques at county wastewater treatment plants.

In Fairfax County there are over 14,000 private wells that serve individual residences or businesses for drinking water and/or irrigational purposes. There are over 21,500 onsite sewage disposal (septic) systems located in the county. The mission of the Fairfax County Health Department (HD), Division of Environmental Health, is to protect the public's health by

ensuring the proper installation and use of private groundwater wells and onsite sewage disposal systems. The HD is responsible for permitting, inspections, sampling, investigation of complaints and enforcement of regulations for groundwater wells and onsite sewage disposal systems and also provides the owners with education/outreach on the proper maintenance of these systems. The HD administers the compliance for all Alternative Onsite Sewage Disposal System in the county as specified in Virginia Department of Health's Chapter 613 of Regulations that were adopted December 7, 2011 for these systems. The HD also enforces provisions of the Chesapeake Bay Preservation Act and Chapter 68.1 of the Fairfax County Code requiring all onsite sewage disposal systems to be pumped out at least every five years.

Stormwater is the water that runs off surfaces during and after rain and snow events. Stormwater runoff is sometimes collected in catch basins and piped either to a stormwater management facility for treatment or directly to local streams. As the county has developed, natural landscapes like forests and meadows have been replaced by developed land that includes impervious surfaces such as roofs and pavement. Since rainwater or snow melt can no longer percolate into the ground through these surfaces, both the volume and velocity of water running off the surface have increased. Prior to the 1970's, stormwater was typically routed to an open water body as quickly as possible with no treatment. This resulted in local streams as well as downstream water bodies, such as the Potomac River and Chesapeake Bay, being negatively impacted by both the quantity and quality of stormwater running off impervious surfaces.

The stormwater management program is administered through several county agencies and has two facets – regulatory and operational. The regulatory program focuses on new and redevelopment land development activities and is instrumental in the adoption and implementation of standards through the Public Facilities Manual and the Stormwater Management Ordinance (Chapter 124) adopted in 2014. The operational program focuses on: 1) the maintenance of the stormwater infrastructure; 2) retrofitting of existing development (by implementing stormwater management practices and techniques to address both the quantity and quality of water entering local streams); and 3) the



Wetland-enhanced stormwater pond retrofit

protection and restoration of natural receiving waters such as stream corridors, wetlands, lakes, tidal embayments, etc.

The county completed the development of watershed plans for all 30 of its watersheds in 2011. These plans now serve as a framework to document changing conditions and identify actions needed to preserve and restore the ecological health of local streams. The implementation of recommended actions from the plans are well underway as part of our annual capital improvement program. A significant part of this effort also relies on the implementation of the Tree Action Plan (adopted in 2006) to promote conservation of trees and the Chesapeake Bay Preservation Ordinance (first adopted in the early 1990s) which protects trees, wetlands and wildlife habitat by establishing buffers along more than 800 miles of perennial streams. There are also several state regulations and the County Ordinance that regulate activities in wetlands – these are valuable natural resources which help to prevent flooding, improve water quality and provide natural habitat. The county’s Tree Conservation Ordinance, adopted in 2009, which mandates tree preservation and planting during the development process, is also instrumental in providing tree canopy that improves water quality and contributes to the county meeting water quality regulatory requirements.



The ever-growing stormwater management infrastructure consists of over 6,500 stormwater management treatment facilities and over 1,300 miles of storm drain pipes and associated appurtenances. There are several large impoundments or lakes within the county that serve as flood and sediment control and/or recreational amenities that must comply with applicable state dam safety regulations for maintaining safe operations. The county’s stormwater program operations must

also comply with the Clean Water Act-mandated requirements of a state-issued municipal separate storm sewer system (MS4) permit which requires pollution prevention, infrastructure maintenance and monitoring programs and also defines pollutant reductions mandated by the Chesapeake Bay restoration efforts to address local stream impairments.

Stormwater management in Fairfax County also includes an advanced floodplain management program and flood response program. Fairfax County has participated in the National Flood Insurance Program (NFIP) since 1978 and has adopted floodplain regulations and development standards that have led to the vital protection of its residents and developments from flooding impacts. Fairfax County has also implemented floodplain development standards that exceed the

NFIP requirements. As a result, county residents are given a 20 percent discount in flood insurance premiums.

There are a number of older communities in Fairfax County that were developed before the creation of the NFIP, and were built in floodplains or flood prone areas. Fairfax County has implemented a comprehensive flood response plan that coordinates the actions of first responders to provide a level of safety to these communities. The goal of this plan is to provide early warnings to residents, and facilitate the speedy evacuation of affected residents to safer locations. The county also develops flood mitigation projects to reduce flooding impacts in some of these communities.

Although each water system (drinking, wastewater, and stormwater) operates independently with different technologies, they have a common goal of providing safe and healthy water for humans and wildlife.

The Board's Environmental Vision:

Fairfax County considers the protection, restoration and enhancement of environmental quality through the sustainable management of its water resources to be one of its highest priorities. Through its policies, regulations, and outreach to the community, the county will implement the best available technology, including advanced and innovative practices to protect and restore streams, wetlands and associated aquatic resources, promote water conservation and ensure the most effective stormwater management, advanced wastewater treatment, and the safest, most reliable drinking water supply for future generations.

Supporting Objectives:

In the interest of the health, safety and welfare of Fairfax County residents, it is the policy of Fairfax County government to promote the following measures in order to protect, conserve and manage our water resources to support an adequate drinking water supply and a healthy natural ecosystem:

- Increasing the capital reinvestment, based on demonstrated needs, for the infrastructure supporting drinking water, wastewater and stormwater. Keeping plans and strategies constantly updated to ensure an adequate water supply for future generations. Strategies may include the reuse of treated wastewater for drinking water (such as the effluent from the UOSA recharging the Occoquan reservoir) and irrigation, the capture and reuse of stormwater for irrigation and cooling water, or using quarries to supplement and protect the availability of our drinking water supplies.
- Improving wastewater and stormwater treatment where possible to maintain healthy recreational and aesthetic water bodies and restoring impaired stream ecosystems and other water bodies. Gunston Cove is one example of an aquatic ecosystem that has significantly improved as a result of the county's continued efforts to improve wastewater treatment.

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- Recognizing that stormwater runoff and treated wastewater are valuable assets when properly managed.
- Minimizing the energy associated with the treatment and conveyance of stormwater, wastewater and drinking water by optimizing the use of more advanced and efficient processes and equipment (and synergizing these water operations when possible).
- Managing land use and development standards to protect and enhance existing water resources, to protect properties from flooding, and to better adapt to the emerging impacts of climate change and sea level rise.
- Continuing to identify the need for protection and improvement of the ecological health of our aquatic resources through the implementation of watershed plan recommendations, stream monitoring, tree conservation and applicable stormwater management policies/regulations.
- Incorporating tree planting and tree preservation in county stormwater management policies and practices and to help meet water quality regulatory requirements.
- Promoting the capture and treatment of stormwater runoff at the source whenever possible, which may involve education/outreach efforts to change behaviors and achieve a cultural shift.
- Enhancing the use and maintenance of all onsite sewage disposal systems by providing residents with information on state-of-the-art installation and best maintenance practices.
- Optimizing the latest information technology resources in order to provide cost-effective solutions and disseminate information on our programs in the most efficient and transparent manner.
- Continuing to work collaboratively with other agencies and jurisdictions to manage water resources more effectively and support regional planning efforts.
- Continuing to work with regional partners and organizations to increase outreach and awareness on vital issues such as water pollution prevention, water conservation, flooding prevention, drought response, watershed health and other environmental issues.

For more information about the county's water efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/.

Section 2 Protecting and Enhancing our Environment

D. Waste Management

Introduction:

The Fairfax County Solid Waste Management Program (SWMP) focuses on waste management, waste reduction, and pollution prevention activities, managing disposal and recycling services for Fairfax County residents and businesses since 1950. The county operates two complexes that manage solid waste, recyclables, household hazardous waste, electronics, and more. Fairfax County code requires that residents recycle paper and cardboard, plastic, metal, glass, and yard waste while businesses are required to recycle paper and cardboard. All haulers are required to provide curbside collection of recyclables along with trash collection. Since 1999, more than eight million tons of materials have been recycled rather than disposed of in Fairfax County. This equates to long-term, sustained pollution prevention and resource conservation for the county.

The Fairfax County Solid Waste Management Program does not rely on taxpayer funding to operate the waste-to-energy facility, transfer station, the regional ash landfill, and the closed landfills located within the county. The program also collects waste and recycling from about ten percent of the county residences, and many county facilities. The majority of households and all businesses receive service from the many private haulers operating in the county. The SWMP is focused on recycling as much solid waste as possible to minimize the need for disposal. In addition, the SWMP is focused on increasing the actual beneficial use of recycled materials. Where practical, recycling of materials from waste-to-energy ash is also encouraged.

The Department of Public Works and Environmental Services (DPWES) has also undertaken innovative measures to achieve energy savings in many of its industrial plant processes. The SWMP manages a regional ash landfill and two closed landfills in the county, using landfill gas collection systems at the two closed sites. The county's wastewater treatment plant, the Noman M. Cole, Jr. Pollution Control Plant, uses methane gas from a county landfill



in its sludge-burning process, thereby avoiding the purchase of natural gas and recovering methane, which has a global warming potential that is 21 times that of carbon dioxide. DPWES is also using solar energy equipment to power nine remote wastewater flow-monitoring sites and to assist in treating wastewater; its use of solar mixers at the treatment plant is saving about \$40,000 a year in energy costs.



DPWES has also undertaken a Water Reuse Project to use approximately 580 million gallons of reclaimed water from the plant for process and irrigation purposes, respectively; this project avoids the energy use and costs associated with treating the water. This project will reduce consumption of potable water at the waste-to-energy facility through the reuse of wastewater treatment plant effluent as a substitute. This action will provide a cost savings of up to 25 percent per year over the cost of potable water. Efforts to expand water reuse are encouraged.

More information about these programs and initiatives is available at www.fairfaxcounty.gov/living/recycling/,

www.fairfaxcounty.gov/dpwes/wastewater/noman_cole.htm and www.fairfaxcounty.gov/dpwes/wastewater/water_reuse/.

The Board's Environmental Vision:

Fairfax County will use integrated waste management principles to ensure future waste management system capacity and sustainability. The county will promote policies and practices that maximize resource conservation and pollution prevention. The objective is an increase in waste reuse, diversion and recycling. Furthermore, the county will strive to decrease the amount of material disposed of; reduce greenhouse gas emissions by managing landfill gas; encourage the development of renewable energy and alternative fuels for buildings and vehicles; and preserve open space, green space, and wildlife habitats.

Supporting Objectives:

The Fairfax County Solid Waste Management Program is responsible for providing solid waste management services in an efficient and cost-effective manner while complying with federal and state environmental regulations. Supporting objectives for county operations:

- Ensure and act where possible to create a business environment that treats waste more like an asset than a liability, so that materials are directed to the highest and best use depending on current market conditions and technology.
- Promote the use of the best available technology and practices for recyclables, organics, and solid waste.
- Enhance educational programs with local schools to promote recycling, resource conservation and waste prevention.
- Track actual recycling of county waste to determine additional actions that could be taken to improve diversion rates.
- Recycle county resources (such as wastewater and collected glass) where practical.
- Utilize alternative energy sources, which may include landfill gas, wind, solar, and other emerging technologies, where practical.

Board of Supervisors Environmental Vision

- Rebrand solid waste complexes into resource recovery facilities to underscore the county's commitment to sustainable infrastructure. This will be accomplished by managing many different types of waste (household hazardous, electronics, yard waste, refuse, and recyclables) at one location with daily public access.
- Expand support for green initiatives including environmentally preferable purchasing, source reduction strategies, organics management (including food waste composting), waste-to-energy, landfill gas collection and use, wastewater reuse, and renewable energy generation at landfills.

Supporting objectives for the community at-large:

- Encourage pollution prevention, source reduction, and waste minimization through public outreach and infrastructure.
- Work with all sectors – residential, commercial, and institutional – to divert as much material as possible from the waste stream. This will include encouraging construction and demolition debris (CDD) recycling and green building principles.
- Promote policies that make recycling as convenient as disposal for all residents, particularly in the schools and in public spaces.
- Continue to work with regional partners and organizations to increase outreach and awareness on vital issues such as pollution prevention, resource conservation, and other environmental issues.

For more information about the county's waste management efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/ and the official Fairfax County 20-year (2015-2035) Solid Waste Management Plan, available at www.fairfaxcounty.gov/dpwes/swmp/.



Section 2 Protecting and Enhancing our Environment

E. Parks and Ecological Resources

Introduction:

Over 50,000 acres, or almost 20 percent, of the county is owned as open space by government and partnering organizations. Almost half of this open space is owned by the Fairfax County Park Authority and provides outdoor recreational opportunities that are utilized by 87 percent of county households, improves the well-being of county citizens, and protects vital ecological resources and the environment. The most important function that county park organizations and partners can perform is preservation of these resources for the holistic benefit of county residents.



The vast majority of the county's open space hosts ecological resources. Ecological resources are considered natural capital. This capital consists of various elements: living organisms; non-living components such as air, water and soil; the ecosystems they form; and the environmental services they provide, including cleaning air and water, supporting wildlife and contributing to quality of life. Natural capital is not self-sustaining; instead, deliberate care and investment are required for its preservation, enhancement, and restoration.

Many county agencies manage ecological resources in Fairfax County. These agencies include the Park Authority, the Stormwater Management Divisions of the Department of Public Works and Environmental Services, the Police Department, and the Northern Virginia Soil and Water Conservation District. Additionally, many partners including nonprofit organizations such as the Audubon Society of Northern Virginia, Earth Sangha, Fairfax ReLeaf, the

Fairfax Chapter of Virginia Master Naturalists, Northern Virginia Conservation Trust, and others are engaged in ecological resource management and stewardship activities.

In addition to management by agencies and partners, county regulations play a key role in the protection of ecological resources. They include the Chesapeake Bay Preservation Ordinance, the Floodplain Regulations of the county's Zoning Ordinance, the Tree Conservation Ordinance, the Wetlands Zoning Ordinance, and others identified in this document. The Comprehensive Plan policy also plays a key role.

The Board's Environmental Vision:

Parks, trails, and green space provide habitat and other ecological resources that promote the physical and mental well-being of residents through supporting healthy lifestyles and allowing for interaction with our natural environment. A comprehensive county trails system, such as the Cross-County and W&OD Trails, can provide means for environmentally responsible transportation. Ecological resources that include the soil, water, air, plants, animals, ecosystems and the services they provide are considered natural capital and green infrastructure. The public, or ecosystem, services provided by this green infrastructure are often more cost-effective than the engineered alternatives, and thus are managed as any other infrastructure or capital asset through deliberate inventory, planning, maintenance, enhancement, and restoration to ensure healthy, high functioning, and resilient ecosystems and environment. Maintaining healthy, natural ecosystems is a priority of Fairfax County.

Supporting Objectives:

- Create more parks, trails, and green spaces that are equitable, accessible, safe, efficient, environmentally responsible, and ecologically valuable.
- Create more community parks for active and passive recreation – green spaces with native vegetation to sustain local wildlife and to create areas for walking, meditating, bird watching, community gardening, outdoor play, and other passive uses.
- Plan, implement, maintain, and support a comprehensive interconnected trails system throughout the county and region for nature appreciation, recreation, and non-motorized transportation.
- Continue to create a network of green space corridors and hubs, through direct purchase or conservation easements, to connect people, wildlife such as pollinators, and their ecological resources.
- Continue to encourage conservation easements for open space and trails either to private organizations, such as the Northern Virginia Conservation Trust and The Potomac Conservancy, or to government agencies like the Fairfax County Park Authority or the Northern Virginia Regional Park Authority.
- Provide adequate resources to maintain and manage healthy native forests and ecosystems, and outdoor recreational opportunities.
- Preserve, protect, maintain, enhance, and restore healthy native trees, forests, waterbodies, and ecosystems to promote natural capital, ecological services such as carbon sequestration, and green infrastructure.
- Actively manage urban ecological stressors such as overabundant white-tailed deer, non-native invasive vegetation, forest pests, urban stormwater flows, soil compaction and erosion, and others.
- Conserve the rare, threatened, endangered, and unique natural heritage and biodiversity of the county; and integrate with its cultural landscape, where appropriate.
- Inventory and monitor ecological resources, parks, and trails to inform citizens and integrate with all county decision-making.
- Educate communities about environmental stewardship, partner with diverse groups to

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achieve common goals, and provide opportunities for citizen science.

For more information about the county's parks and ecological resource efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/.

Section 2

Protecting and Enhancing our Environment

F. Climate and Energy

Introduction:

Fairfax County government has long been proactive in its environmental actions. In the mid-2000s, it recognized the unique role that local jurisdictions play in the challenge of addressing climate change given their regional cooperation and influence on major environmental factors like air quality, land use planning, transportation planning, forest preservation and water conservation. The county therefore led a national effort, “Cool Counties,” that encourages counties nationwide to reduce greenhouse gas (GHG) emissions. Participating counties commit to halting the growth in their operational GHG emissions by 2010 and moving toward the goal of reducing these emissions regionally by 80 percent below today’s levels by 2050. The Board of Supervisors signed the Cool Counties Climate Stabilization Declaration on July 16, 2007. The Declaration, as well as more information about Cool Counties, is available at www.fairfaxcounty.gov/living/environment/coolcounties/.



Building on the principle that emissions reductions require combined efforts, Cool Counties signatories like Fairfax County commit to act locally, regionally, and nationally to reduce GHG emissions. As required under Cool Counties, the county has inventoried the GHG emissions associated with its own operations, both to determine a baseline and to assess policy or program changes that may be made, within existing authority and resources, to further reduce the emissions we produce. This inventory, which was published in 2013 for the years 2006-2010, demonstrated that energy consumption and more specifically electricity accounted for the majority of the county’s GHG emissions. The inventory also confirmed that the county had achieved its Cool Counties initial goal of halting emissions growth by 2010. Additionally, the county continues to reduce its operational emissions through measures including energy efficiency, conservation and education. Local government efforts to reduce GHG emissions and energy consumption within the community include education and outreach through the county’s Energy Action Fairfax program to both residents and businesses and the implementation of policies and programs that help reduce energy use and corresponding emissions, including transit-oriented mixed-use development and green building. Regionally, the county has teamed with its partners at the Metropolitan Washington Council of Governments (COG) to create an inventory of GHG emissions on a regional scale, to develop regional emissions reduction targets, and to develop a regional action plan. In 2010, the county and other COG members executed the

“Region Forward Compact,” which included the region’s first official regional GHG emissions reductions targets. Nationally, the county has worked with its counterparts to reach out to federal leaders, urging them to support proposals, including incentives for limiting and reducing GHG emissions and setting more rigorous Corporate Average Fuel Economy standards.

While Cool Counties is directly related to climate change, other county goals, objectives and policies provide strategic direction and commitment to achieve environmental and energy goals, including those set forth in the 2009 Energy Policy and the county’s Comprehensive Plan. A key implementation mechanism to address and support these goals, objectives, and policies is the county’s Environmental Improvement Program. Two collaborative inter-agency committees – the Environmental Coordinating Committee and the Energy Efficiency and Conservation Coordinating Committee – are vital to implementation, as they help ensure that cross-cutting action is coordinated across county agencies, authorities, and schools. The county’s *Sustainability Initiatives* document, available at www.fairfaxcounty.gov/living/environment/sustainability/, describes many of the county’s innovative approaches to achieving its environmental and energy goals, as well as some of the awards it has earned for those efforts and achievements.

The Board’s Environmental Vision:

The county will continue its leadership and commitment to promote and encourage energy efficiency and conservation efforts and renewable energy initiatives by employees, employers and residents. The county will work with local authorities, businesses, and residents to encourage sustainable reductions of the county’s geographical emissions that will contribute to achieving the targets as identified by the Cool Counties Climate Stabilization Declaration and the Metropolitan Washington Council of Governments. The county also will continue to support attainment of air quality through regional planning and action.

Supporting Objectives:

Supporting objectives at the local level:

- Advocate for new laws that encourage and incentivize businesses and residents to implement energy efficiency and clean energy strategies.
- Educate employees, employers and residents on the importance of energy efficiency and conservation, and promote and encourage energy efficiency and conservation efforts and renewable energy initiatives by employees, employers, and residents.
- Implement policies, programs and operations to achieve significant, measurable and sustainable reductions in operational GHG emissions.
- Ensure that cost-effective energy efficiency is an integral part of county operations, capital improvement, and capital renovation projects.
- Seek opportunities to incorporate cost-effective renewable energy generation at county facilities.
- Consider life-cycle energy costs when making procurement decisions.

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- Achieve climate and energy benefits by implementing urban forest management policies and practices to increase tree canopy.
- Identify climate change impacts likely to affect the county and its population, engage in resilience planning to prepare for these impacts, and implement appropriate adaptation actions.

Supporting objectives at the regional, state and federal levels:

- Building on its successes in halting emissions growth and reducing emissions levels, continue to participate in regional efforts to achieve reductions in county geographical GHG emissions of 20 percent below 2005 levels by 2020 and of 80 percent below 2005 levels by 2050.
- Participate in the development and implementation of a regional plan that establishes short-, mid-, and long-term GHG reduction targets and identifies the actions needed to reach these targets.
- Participate in regional and state efforts to identify and address climate change impacts, including sea level rise, localized flooding and expected extreme weather events.
- To secure long-term energy savings, encourage prompt state adoption of updated commercial and residential building energy codes and work to ensure local enforcement and compliance.
- Continue to advocate for changes in state law that would allow all classes of electric customers to benefit from on-site or community renewable energy systems.
- Ensure Fairfax County's cooperation in regional compliance with federal primary and secondary national air quality standards.
- Urge Congress and the Administration to enact a multi-sector national program of requirements, market-based limits, and incentives for reducing GHG emissions to 80 percent below 2005 levels by 2050.

For more information about the county's climate and energy efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/.

Section 2 Protecting and Enhancing our Environment

G. Environmental Stewardship

Introduction:

The county government and its residents have a responsibility to respect and manage our finite natural resources. Together, residents, communities, governments and private entities need to make informed decisions that will conserve and improve our environment and minimize impacts on our ecosystems. The county also has a responsibility to be an environmental steward through its operational practices. As ecosystems are rarely defined by jurisdictional boundaries, the county recognizes that how it carries out its responsibility for environmental stewardship will have effects on a regional and even global scale.

Through coordinated planning efforts (including the Tree Action Plan and Watershed Management Plans), the county promotes the conservation of trees and identifies strategies for the protection, restoration or enhancement of water resources entrusted to its care. The county supports regional planning initiatives to improve air quality. The Fairfax County Park Authority demonstrates stewardship through its natural and cultural resource management programs and coordinates opportunities for park visitors to care for these shared resources.



The county and its partners work together to inform its citizens, communities, governments, and private entities who make decisions that conserve and improve our environment and minimize impacts on our shared ecosystems. The county demonstrates or partners with other organizations to provide formal and informal educational and engagement opportunities, which are featured extensively in the county's *Sustainability*

Initiatives document and promoted through the Fairfax County Environmental webpages and in social media outlets.

Surveys conducted by the Northern Virginia Clean Water Partners, a regional stormwater education campaign managed by the Northern Virginia Regional Commission, found that over 90 percent of Fairfax County respondents would change their own behaviors once they learned that certain activities were sources of pollution to local streams and rivers.

Board of Supervisors Environmental Vision

To promote personal stewardship, the county partners with organizations (such as the National Park Service, Fairfax County Park Authority, the Virginia Cooperative Extension Service, the Northern Virginia Soil and Water Conservation District, the Northern Virginia Conservation Trust, Fairfax ReLeaf, the Fairfax County Restoration Project, Earth Sangha, the Audubon Naturalist Society, Master Naturalists, Master Gardeners, faith-based communities, and civic groups, among others) to educate people on environmental protection. These organizations are also included in county-initiated projects and programs for the betterment of our environment. Businesses are often part of this effort, as well.



The county partners with the Fairfax County Public School system to support the Get2Green program; this program enriches school grounds with outdoor learning labs, and supplements K-12 learning with engaging programs developed with a local focus to meet Virginia Standards of Learning requirements. Teaching environmental stewardship to youngsters at an early age is an investment in future years of responsible behavior and decision-making.

Vision Statement:

An informed community works together with Fairfax County and its partners to care for and responsibly manage our treasured natural resources. In partnership, Fairfax County will continue to coordinate and promote education and outreach programs that encourage personal stewardship and promote initiatives at a countywide level.

Supporting Objectives:

- Promote the successes and lessons-learned of county demonstration projects.
- Provide forums for communities of learning to share local efforts by and between individuals and communities.
- Encourage affordable personal stewardship through the promotion of incentive-based or build-your-own programs.
- Encourage organizations (for example, those that work on stream monitoring, stream valley restoration, and habitat protection or enhancement) to involve schools, community groups, and individuals of all ages in their work.
- Encourage environmental stewardship groups and help them to work with all stakeholders to protect, enhance and improve the natural resources, and hence, the quality of life in their communities.

Board of Supervisors Environmental Vision

- Provide and promote opportunities for community service by students and involve children in projects that respect, protect and enhance the environment.
- Establish a support network for community groups which adopt natural areas such as parks, trails, and stream valleys and promote watershed awareness.
- Commit that county operations will be pursued in an environmentally-sensitive manner, supporting local, regional, and global environmental protection and improvement.
- Foster an appreciation for our urban forest and inspire county residents to protect plants and manage trees and forest stands on public and private lands.
- Promote ways county constituents can limit contributions to air and noise pollution in their day-to-day lives.
- Recognize excellence and models of environmental stewards.

For more information about the county's environmental stewardship efforts, see Fairfax County's *Sustainability Initiatives* at www.fairfaxcounty.gov/living/environment/sustainability/.



A publication of the County of Fairfax, Virginia

Publication Date: June 2017

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The County of Fairfax is committed to a policy of nondiscrimination in all County programs, services and activities and will provide reasonable accommodations upon request.

Board Agenda Item
June 20, 2017

ACTION – 4

Approval of the Consolidated Community Funding Advisory Committee
Recommendations for the FY 2019 and FY 2020 Funding Priorities for the Consolidated
Community Funding Pool

ISSUE:

Board of Supervisors' approval of the FY 2019 and FY 2020 Funding Priorities for the Consolidated Community Funding Pool, as recommended by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the FY 2019 and FY 2020 Funding Priorities for the Consolidated Community Funding Pool (CCFP) as recommended by the CCFAC.

TIMING:

The decision on the funding priorities for CCFP funding is requested in June to allow staff time to prepare the next Request for Proposals for the CCFP for release in the fall of 2017.

BACKGROUND:

The Board of Supervisors has charged the CCFAC with the responsibility for overseeing the Consolidated Community Funding Pool. As part of that responsibility, the CCFAC recommends funding priorities for the funding pool for each two-year cycle. For the FY 2017-2018 funding cycle, the CCFAC designed a new element in the CCFP priorities framework that identified targeted focus areas that represented key areas of need within the human services system. The table below outlines the specific outcome statements and targeted focus areas within each priority.

Priority	Outcome Statement	Targeted Focus Areas
I. PREVENTION	Families and individuals remain independent and have the tools and resources to prevent future dependence. Communities increase their ability to support their members in preventing dependence.	Behavioral health services for youth and older adults, including suicide prevention Early childhood development services
II. CRISIS INTERVENTION	Individuals, families, or communities in crisis overcome short-term problems (generally not more than three months) and quickly move back to independence.	Domestic violence services, particularly those that provide housing opportunities for families affected by domestic violence Food assistance for families with children Emergency rental and utility assistance
III. SELF-SUFFICIENCY	Families, individuals, neighborhoods, and communities attain self-sufficiency over a period of three months to three years.	Healthcare affordability and accessibility services, particularly behavioral health services Housing needs identified in the Fairfax County Housing Blueprint English proficiency services
IV. LONG-TERM SUPPORTIVE SERVICES	Individuals who have continuing long-term needs and who therefore may not become self-sufficient, achieve and/or maintain healthy, safe, and independent lives to the maximum extent possible.	Affordable and accessible housing with supportive social services for very low-income individuals with disabilities and very low-income older adults

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The Board approved a total of \$12.5 million in awards to successful programs for the two fiscal years FY 2017 and FY 2018. All awards, assuming successful performance, are through June 30, 2018.

The CCFAC utilizes a consistent process for gathering community input and evaluating data throughout the year to inform decisions on which funding and priority recommendations are developed. Throughout the CCFP's history, the CCFAC has strategically adjusted the priorities to meet the county's changing needs and to recognize the changing nature of community-based providers. This adjustment may also be reflective in the approach for how the priorities are developed.

Staff met with the CCFAC to present a recommendation for the approach of the CCFP priorities for the upcoming funding cycle (FY 2019-2020). This recommended approach entailed the continuation of utilizing the targeted focus areas to identify geographic or population-based areas of need through the analysis of demographic and programmatic data –and identifying strategies to expand community engagement efforts. The CCFAC appreciated the recommended approach, but viewed the targeted focus areas more as a stopgap measure than an ongoing strategy for the priorities. The CCFAC elected to completely revamp the priority setting process – which included developing recommendations for a new approach for the CCFP priority setting process and identifying strategies to expand community engagement efforts.

Several specific activities influenced and shaped the development of the priority recommendations this cycle. These included the following:

- CCFAC Subcommittee Meetings: A subcommittee of CCFAC members and staff convened to develop recommendations for the approach for the CCFP priority setting process for FY 2019-2020. Staff-prepared reports and analyses (relative to awarded programs in the current funding cycle – FY 2017-2018) and reviewed the 2014 CCFP Steering Committee Report, the 2016 Fairfax County Human Services Needs Assessment, and other pertinent human services data to support developing the recommendations. CCFAC subcommittee members and staff concurred that the recommended approach for the FY 2019-2020 priority setting process should align with existing human services focus areas and be reflective of community input. The basis for this approach was also noted as a recommendation by the CCFP Steering Committee.
- Community Engagement Efforts: CCFAC subcommittee members and staff identified a hybrid strategy for public participation utilizing both traditional (community engagement sessions) and technological (online and social media) methods. From October 2016 – March 2017, Neighborhood and Community Services (NCS) staff conducted various sessions across the county with diverse groups in efforts to gather input about the priorities as well as emerging needs.

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NCS also developed a webpage to capture online feedback and utilized social media outlets to drive followers to this webpage. The feedback that emerged from these community engagement efforts were summarized and presented to CCFAC subcommittee members through a visual report. In addition to these efforts, staff also posted a public notice of the draft priorities on the Fairfax County website and in local newspapers (including minority newspapers) and distributed the public notice and an information flyer to community stakeholders and residents.

- Discussion of *Draft* Priorities at the CCFAC meeting on May 9, 2017: Community input captured at the public comment meeting on these *Draft* Priorities was considered in making the final recommendation to the Board of Supervisors.

The CCFAC recommends that the Funding Pool continue its historic focus on the provision of direct human services. Some institutional activities to support direct services such as organizational development, professional development, case management, public education, outreach, and networking will be appropriate components of a CCFP proposal as in the previous cycles. The CCFAC also explicitly recognizes the value of human services that emphasize neighborhoods (geographically defined) and communities (shared interests, not bound to one location), as well as those for individuals and families. It is recognized that the CCFP funds programs and is not to be considered as a general source of funding for organizations.

As the CCFP focuses on measurable outcomes for individuals, families, neighborhoods, and communities, the CCFAC is recommending new outcome-focused priorities which reflect a critical continuum of stability, connectedness, well-being, and self-sufficiency opportunities based on the need, condition, and potential among those being served. The CCFAC believes that these outcome-focused priorities will support a number of Board and human services system initiatives and will strengthen efforts to preclude conditions or behaviors that undermine health, stability, connectedness and engagement, growth and development, or independent living in the community.

The table below and the attached document outline the new priorities and their respective outcome statements. These new priorities represent the existing and emerging needs identified by the community and align with human services determinants that will result in positive and equitable outcomes.

Priority	Outcome Statement
I. HOUSING	<p>Families and individuals of all ages and abilities – including those at risk of homelessness, people with disabilities, older adults, and individuals in the local workforce – can afford safe, stable, healthy, and accessible living accommodations along with other basic necessities and will have access to affordable, accessible housing with the supportive services necessary to live as independently as possible in a community setting.</p>
II. LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT	<p>Families and individuals of all ages and abilities will have the ability to read, write, and speak English effectively, manage finances, and attain employment goals through academic and vocational achievement. Children and youth will have access to quality early care and education and supports to develop employment and independent living skills.</p>
III. FINANCIAL STABILITY (Financial Assistance to Financial Empowerment)	<p>Families and individuals of all ages and abilities will have the ability to possess and maintain sufficient income to consistently meet their basic needs – with no or minimal financial assistance or subsidies from private or public organizations.</p>
IV. HEALTH	<p>Families and individuals of all ages and abilities will have access to primary, specialty, oral, and behavioral, and long term health care, particularly prevention services. Families and individuals of all ages and abilities will develop the knowledge and resources to practice healthy behaviors and to take action to prevent and manage disease and adverse health conditions. Children will have access to supplemental food year-round, seven days a week.</p>

V. SUPPORT/COMMUNITY/ SOCIAL NETWORKS	Families and individuals of all ages, abilities, and income levels will have access to local services, including community-based transportation and childcare and the ability to establish and maintain communal and social relationships.
VI. POSITIVE BEHAVIORS AND HEALTHY RELATIONSHIPS	Families and individuals of all ages, abilities, and income levels will develop positive behaviors and healthy relationships that are safe and free from abuse, neglect and trauma and promote physical, emotional, mental, and social well-being.

CCFAC Recommendation

Based on the review and analysis of community input, supportive data, and human services outcome information, the CCFAC recommends that the Board of Supervisors approve the six priorities as shown above and in the attachment for FY 2019 and FY 2020.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Recommended Priorities for the Consolidated Community Funding Pool for Fiscal Years 2019-2020

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ATTACHMENT 1

**Draft PRIORITIES FOR THE
CONSOLIDATED COMMUNITY FUNDING POOL (CCFP)
for Fiscal Years 2019-2020**

Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL (CCFP)

for Fiscal Years 2019-2020

This document presents the Consolidated Community Funding Advisory Committee's (CCFAC) recommendations on priorities for the Consolidated Community Funding Pool (CCFP) for the two-year funding cycle beginning in Fiscal Year 2019 (July 1, 2018). The recommendations were developed by the CCFAC, the citizen group established by the Fairfax County Board of Supervisors and charged with the responsibility to recommend CCFP priorities based on community input, data and existing human services efforts. Members of the CCFAC are appointed by the County Executive and represent various public and private citizen advisory or administrative boards, councils, and committees within the county.

Throughout the CCFP's history, the CCFAC have strategically adjusted the priorities to meet the county's changing needs and to recognize the changing nature of community-based providers. For FY2019-2020, the CCFAC decided to revamp the priority setting process to ensure that the approach was more aligned with existing human services efforts and reflected community input. This decision to overhaul the priority setting process also supports the recommendations of the CCFP Steering Committee. In order to achieve this, Fairfax County staff hosted various community engagement sessions throughout the county to gather input about the priorities as well as emerging needs. Based on the community feedback, supportive data, and human services outcome information provided by staff, CCFAC identified and developed new CCFP priority "categories" and outcomes statements. These new priorities represent the existing and emerging needs noted by the community and align with human services determinants that will result in positive and equitable outcomes and **are not** in any specific priority or ranking order. CCFAC recommends that Fairfax County respond to them by specifically seeking CCFP projects that have a focus on these priorities.

Described below are the new six recommended priorities, the outcome statements to be achieved and service examples. For more insight about the community back and supportive data, please refer to the Appendix starting on page 5 of this document.

I. PRIORITY: HOUSING

Outcome Statement: Families and individuals of all ages and abilities – including those at risk of homelessness, people with disabilities, older adults, and individuals in the local workforce – can afford safe, stable, healthy, and accessible living accommodations along with other basic necessities and will have access to affordable, accessible housing with the supportive services necessary to live as independently as possible in a community setting.

Service Examples (may include some of the following examples, but are not limited to):

- Housing modifications for ADA accommodations, enable seniors to age-in place and other housing rehabilitation projects
- Provision of temporary or emergency shelter and supportive services to homeless individuals and families, including homeless youth
- Services to support housing stability and to maximize tenants ability to live independently (e.g., case management, mental health, alcohol and substance abuse, independent living, home health visits, vocational, health, furniture and other household goods, peer support and social activities)
- Acquisition, preservation, rehabilitation, and construction of affordable, accessible, safe, healthy, and stable housing with accessible supportive social services
- Services to assist individuals transitioning from institutional to home or community-based care
- Services to assist individuals and families to locate housing

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
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II. PRIORITY: LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT

Outcome Statement: Families and individuals of all ages and abilities will have the ability to read, write, and speak English effectively, manage finances, and attain employment goals through academic and vocational achievement. Children and youth will have access to quality early care and education and supports to develop employment and independent living skills.

Service Examples (may include some of the following examples, but are not limited to):

- Early child development services
- Employment training/job skills/awareness of economic opportunities
- Adult education
- English proficiency services
- Supportive employment

III. PRIORITY: FINANCIAL STABILITY (Financial Assistance to Financial Empowerment)

Outcome Statement: Families and individuals of all ages and abilities will have the ability to possess and maintain sufficient income to consistently meet their basic needs – with no or minimal financial assistance or subsidies from private or public organizations.

Service Examples (may include some of the following examples, but are not limited to):

- Financial literacy/management training and counseling to foresee and prevent financial crises
- Utility payments
- Rental assistance
- Financial counseling
- Financial asset formation

IV. PRIORITY: HEALTH

Outcome Statement: Families and individuals of all ages and abilities will have access to primary, specialty, oral, and behavioral, and long term health care, particularly prevention services. Families and individuals of all ages and abilities will develop the knowledge and resources to practice healthy behaviors and to take action to prevent and manage disease and adverse health conditions. Children will have access to supplemental food year-round, seven days a week.

Service Examples (may include some of the following examples, but are not limited to):

- Healthcare affordability and accessibility services, particularly oral and behavioral services
- Health fairs and health screening clinics, dental clinics, inoculations, nutrition education
- Primary medical/dental services
- Healthy choices programs
- Emergency and/or supplemental food programs (weekend backpack programs)
- Nutrition education programs

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
(CCFP)**

for Fiscal Years 2019-2020

V. PRIORITY: SUPPORT/COMMUNITY/SOCIAL NETWORKS

Outcome Statement: Families and individuals of all ages, abilities, and income levels will have access to local services, including community-based transportation and childcare and the ability to establish and maintain communal and social relationships.

Service Examples (may include some of the following examples, but are not limited to):

- Courses that teach language or culture to help groups interact positively
- Mentoring programs for youth, adults, and families
- Language and cross-cultural assistance
- Transportation to provide access to existing programs, services and/or medical appointments
- Social environments for isolated individuals
- Respite services to help caregivers
- Childcare to help parents stay employed

VI. PRIORITY: POSITIVE BEHAVIORS AND HEALTHY RELATIONSHIPS

Outcome Statement: Families and individuals of all ages, abilities, and income levels will develop positive behaviors and healthy relationships that are safe and free from abuse, neglect and trauma and promote physical, emotional, mental, and social well-being.

Service Examples (may include some of the following examples, but are not limited to):

- Counseling services for individuals and families
- Conflict resolution and anger management training and counseling
- After-school or other programs that provide positive alternatives to risky behavior
- Services to victims of domestic violence and their families
- Services to assist with trauma recovery

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
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APPENDIX

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I. HOUSING

Feedback Theme(s): Housing Acquisition, Housing Support Services, Aging in Place

Supportive Data:

- **Housing Acquisition**
 - There are substantial shortages in the number of rental units in Fairfax County that are affordable for low- and moderate- income households. There is a shortage of approximately 31, 360 rental units affordable to households earning \$68,000 or less. Population density and the limited amount of land available for development have contributed to the demand and high cost of housing in Fairfax County. (Source: 2016 Fairfax County Human Services Needs Assessment)
- **Housing Support Services/Aging in Place**
 - The older adult population is increasing and so will the number of adults who live alone. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - The demand for supportive services is on the rise. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Facility-based care is more expensive than community-based services. Costs are high for supportive services for independent living, even though the benefits are vast. If older adults are unable to access supportive services through the Medicaid waiver program, they will seek them through the public or private markets. The number of individuals in Fairfax County on the statewide Medicaid Intellectual Disability Waiver waitlist has grown 308% from 2005 to 2016. This growth demonstrates a clear unmet need for supportive services to assist individuals in their own home, their families' homes, shared living settings, group homes, and other community living settings. (Source: 2016 Fairfax County Human Services Needs Assessment)

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
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II. LITERACY/EDUCATIONAL DEVELOPMENT/ATTAINMENT

Feedback Theme(s): Language/Cultural Literacy, Workforce Development, Affordable and Accessible Childcare

Supportive Data:

- **Language/Cultural Literacy**
 - Individuals with limited English proficiency are often precluded from fully participating in the labor market with written and oral communication skills as a key component to work place success. Although these individuals may not necessarily be linguistically isolated, there is a strong connection between English proficiency and poverty. (Source: 2016 Fairfax County Human Services Needs Assessment)
- **Workforce Development**
 - Disparities exist within the county when viewing the unemployment rate by race and ethnicity. Those that identify themselves as non-white residents have higher unemployment rates than white residents. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Job recovery since the recession has been unequal among low-, middle-, and high-wage professions. While job loss during the recession impacted lower wage jobs and most of these low wage jobs have recovered since, they are generally paying lower wages than in the past. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Currently, there is no collective effort throughout Fairfax County (in both the public and private sectors) to systematically identify the skills needed by employers. This limits the ability to effectively and efficiently meet the training and skill levels needed for high-growth, high-demand opportunities. Source: Economic Self-Sufficiency Report Card, March 2016)
 - There is also a lack of a cohesive system to help individuals build “stackable” and portable credentials aligned with the labor market. Many training programs are not short-term in nature, requiring substantial time commitments from participants. This type of commitment can be difficult for some individuals, who need to balance the need to immediately work in order to improve their economic situation versus acquiring skills which may benefit their career over the long-term.(Source: Economic Self-Sufficiency Report Card, March 2016)
- **Affordable and Accessible Childcare**
 - Childcare costs are the second-highest expense for families following housing expenses. In Fairfax County, the cost of center-based childcare for an infant can range from \$15,800 to more than \$18,000/year. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Childcare is a key work support for many families in Fairfax County. Families earning low-incomes pay a significantly higher share of their income towards childcare than families with higher incomes. (Source: 2016 Fairfax County Human Services Needs Assessment)

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- While state and locally funded childcare subsidies can provide families with needed support, there is often a waiting list for those seeking subsidies. While rates that are paid to childcare programs have increased, these rates sometimes do not fully cover the cost of care for families. (Source: 2016 Fairfax County Human Services Needs Assessment)

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
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for Fiscal Years 2019-2020

III. FINANCIAL STABILITY

Feedback Theme(s): Financial Empowerment

Supportive Data:

- **Financial Empowerment (Assistance through Empowerment)**
 - The Council for Community and Economic Research estimated in 2015 that living in the Washington metro area was nearly one and one half times more expensive than the US as a whole, ranking it the seventh most expensive area to live.
 - With over 1.1 million people living in Fairfax County and the median household income at \$112, 552, 7.2% of the households make less than \$25,000 per year and 11% make between \$25,000 and \$49,000 per year. (Source: American Community Survey, 2011-2015).
 - For one nonprofit, a typical client is a single parent working two jobs, supports two children and earns an average of \$28,000 per year. (Source: Britepaths FY2017-2018 RFP)
 - According to the MIT Living Wage Calculator a family of four would need a minimum of \$43,149 to meet their expenses (Source: State of the Poor, the Fairfax County Community Action Advisory Board, 2014)
 - Many clients live paycheck to paycheck and consequently do not have the resources needed to survive financial crises. (Source: Britepaths FY2017-2018)
 - The daily budget for financial assistance is exhausted by 10 am and have approximately 10 clients on our food program waiting list regularly. (Source: Britepaths, FY2017-2018)
 - The need for financial literacy education is evidenced by how many of our clients have fallen into an economic crisis that might have been averted with better financial planning, budgeting and credit skills. Providing mentoring for financial skills – as well as workforce and life skills – can help families avoid falling further into crisis and dependency. (Source: Britepaths, FY2017-2018 RFP)

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IV. HEALTH

Feedback Theme(s): Supplemental Food Programs, Fresh Food Accessibility, Health Literacy, Healthcare Services

Supportive Data:

- **Supplement Food Programs**
 - There are various nonprofits, community- and faith-based organizations that provide supplemental food programs throughout Fairfax County. One such program is the Weekend Backpack Program. A collaborative effort between nonprofits, community- and faith-based organizations and Fairfax County Public Schools, this program provides healthy meals, drinks, and snacks over the weekend to children who receive free or reduced-price meals during school days. For many children, these are the only meals they receive during the weekend. (Source: Fairfax Food Council 2015 Community Food Assessment)
 - Food for Others is one of many nonprofits in Fairfax County that manages a Weekend Supplemental Program. Their Power Pack Program (P3) provides children with a “pack of food” that consists of a gallon sized Ziploc bag with the following items: (2) breakfast items; (2) lunch items; (2) snack items; (2) dinner items; and (2) drink items. Source: Nikki Clifford, Volunteer and Operations Manager, Food for Others)
 - In FY 2016, Food for Others served 1,980 students per week (this is an unduplicated number). Source: Nikki Clifford, Volunteer and Operations Manager, Food for Others)
 - From the 29 schools they serve on a regular basis (they have three (3) that reach out to them when they are in need), an additional 3,144 packs of food have been requested. This request would fulfill the needs of students for the remaining 12 weeks of school. Source: Nikki Clifford, Volunteer and Operations Manager, Food for Others)
 - Food for Others budgeted to distribute 67,000 packs for the 2016-2017 school year and would need additional funding to increase their distributions with the requested 3,144 (which would cost \$12,576). (Source: Nikki Clifford, Volunteer and Operations Manager, Food for Others)
- **Fresh Food Accessibility**
 - Fresh fruits and vegetables are expensive and often limited in supply at local food pantries. In addition, direct sources for these items at farmers markets are viewed as pricey. Those struggling with finances cannot afford to have food spoil, so shelf life is a consideration when making food choices.
 - Fresh fruits and vegetables are limited in supply and highly valued. Donated items often come in the form of processed and canned items that can be easily stored. Many of the pantries have limited space for storage as well as refrigeration. While some of the pantries are able to glean items from local farmers markets or accept fresh vegetables from garden plots, this is primarily available from May to November. Most of the donations from supermarkets are in the form of breads, pastries, and canned food. There can be challenges with supermarkets donating fresh vegetables and fruit to local pantries.

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- While some farmers markets participate in the SNAP double dollar program in the targeted areas, participation is low according to stakeholder interviews. Only six percent of households making \$50K or less indicated that they shop for food at a farmers market. According to stakeholder interviews, many perceive a farmers market as a high-end option for food. Time and transportation may also be factors.
- There still appears to be a demand for affordable produce in the targeted areas even with the efforts of the non-profit and faith community to distribute additional produce. The Capital Area Food Bank's (2015) Hunger Heat Map helps illustrate the need through an interactive map which highlights the gaps in unmet food pounds needed in food insecure areas of the community. While it provides a broad overview of all food donated and the many gaps to be met, it is clear that the produce gap is especially large due to the challenges in securing and distributing fresh fruits and vegetables. (Source: Fairfax Food Council 2015 Community Food Assessment)
- **Health Literacy**
 - More than 75% of all US health care costs are attributable to preventable health conditions related to factors that can be modified (i.e., nutrition, smoking, weight, and physical activity). A key components in promoting overall health is ensuring health literacy, which is the ability of individuals to obtain, process and understand basic health information to make appropriate decisions. Overall, individuals with low health literacy levels are a greater risk for hospitalization, use more health care services, and tend to use more expensive medical services such as emergency care. (Source: Healthy People Report Card, July 2016)
- **Healthcare Services**
 - Access to affordable health insurance is an important factor in accessing preventive and treatment services. In 2014, Fairfax County had an estimated 30,300 adults without health insurance who were between the ages of 18 and 64 and lived in households with incomes under 138% of the Federal Poverty Level. (Source: 2016 Fairfax County Human Services Needs Assessment)

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
(CCFP)**

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V. SUPPORT/COMMUNITY/SOCIAL NETWORKS

Feedback Theme(s): Community Leadership Development, Language/Cultural Literacy, Community-Based Transportation Networks, Supportive Services for Caregivers

Supportive Data:

- **Community Leadership Development:** Unfortunately, there wasn't any immediate resources with data to support the need for Community Leadership Development programs/services.
- **Language/Cultural Literacy**
 - A significant number of residents have a limited ability to read, speak, and write or understand the English language. Of all the households in Fairfax County in 2014, 7% (26,389 households) were linguistically isolated. This means that no members of the household ages 14 or older spoke English "very well". (Source: 2016 Fairfax County Human Services Needs Assessment)
- **Community-Based Transportation Networks**
 - Transportation is costly. The estimated cost of transportation for Fairfax County residents is approximately \$11,000/year for a family with two working adults and three children. Public transportation is also expensive. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Lower income workers – particularly those 150% below the Federal Poverty Level – are more likely to use public transportation or carpool than drive. Some households do not have access to bus routes or metro stations, which can lead to increased time and money spent getting to transportation hubs. Lower wage worker spend more time and money commuting and transferring across transportation systems – resulting in less take home pay. This is true for those that don't live near their jobs or work multiple jobs to make ends meet. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Limited off peak operating hours. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - The system is not set up to accommodate simple errands – which can be challenging to residents to use public transportation. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Residents with limited English proficiency face additional challenges and are further deterred from using public transportation and accessing resources within the county. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - Limited strategic efforts to coordinate transportation systems and programs inside the county and across jurisdictional lines, including those operated by the faith community, businesses, nonprofits and government. (Source: 2016 Fairfax County Human Services Needs Assessment)
 - There is a recognized need for mobility managers who can help promote the coordination of transportation systems and information to improve services for residents. (Source: 2016 Fairfax County Human Services Needs Assessment)

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
(CCFP)**

for Fiscal Years 2019-2020

- Individuals with disabilities and older adults are particularly affected by public transportation issues. A main challenge for this group is commonly referred to as the “first-and last mile – gap”. Using public transportation requires an individual to get from their location point to the transportation hub. This may include using several modes of transportation – which can prove to be challenging for individuals with disabilities and older adults. (Source: 2016 Fairfax County Human Services Needs Assessment)
- **Supportive Services for Caregivers**
 - Family caregiving today is more complex, costly, stressful, and demanding than at any time in human history.
 - There is growing awareness that many family caregivers do much more than assist older people and adults with disabilities to carry out daily activities.
 - The majority of family caregivers (60%) caring for adults in 2014 were employed either full time or part time, placing competing demands on the caregiver’s time.
 - Family caregiving can be especially overwhelming and stressful when caring for someone with dementia.
 - There is now greater recognition among policymakers, researchers, and health and social service professionals that family caregiving is a central part of healthcare and long-term services and supports in the US today. (Source: “Valuing the Invaluable: 2015 Update – Undeniable Progress, but Big Gaps Remain,” AARP Public Policy Institute, July 2015)

**Draft PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL
(CCFP)**

for Fiscal Years 2019-2020

VI. POSITIVE BEHAVIORS & HEALTHY RELATIONSHIPS

Feedback Theme(s): Youth Development

Supportive Data:

- **Youth Development:**
 - There are over 9,000 “disconnected youth” (individuals ages 16 to 24 who are neither in school nor employed) in Fairfax County; nearly half of them are Hispanic. The Equitable Growth Profile recommended economic development strategies that included better workforce preparation. (Source: Live Healthy Fairfax website)
 - Healthy relationships with caring adults serve as an important protective factor against a wide array of negative outcomes and problem behaviors among youth. But only 41% of 8th, 10th, and 12th grade FCPS students believe “there are lots of adults in my neighborhood I could talk to about something important.” (Source: Fairfax County Youth Survey)
 - Among FCPS 8th, 10th, and 12th graders, 26% report signs of depression and 36% report high levels of stress. These students are at significantly higher risk for suicidal ideation and behavior. (Source: Fairfax County Youth Survey)
 - Engagement in community service is an important protective factor against a wide array of negative outcomes and problem behaviors among youth. While 44% of FCPS 8th, 10th, and 12th graders report engaging in community service at least monthly, 35% haven’t done so in the past year or ever. (Source: Fairfax County Youth Survey)
 - While 90% of kindergarten students do not require reading intervention, there are significant disparities. Only 80% of Hispanic students, 79% of low income students, and 80% of English language learners meet literacy benchmarks. (Source: Live Healthy Fairfax website)
 - Among FCPS 8th, 10th, and 12th graders, 18% report being bullied by others, 11% report being cyberbullied, and 49% report that someone said something bad about their race or culture. Over 20% reported being bullied, taunted, ridiculed, or teased by a parent or adult. (Source: Fairfax County Youth Survey)

ACTION - 5

Approval of the Consumer Protection Commission Recommendation on the Number of Taxicab Certificates to be Authorized in 2017

ISSUE:

Board approval of the number of new taxicab certificates available to be awarded in 2017.

RECOMMENDATION:

The County Executive recommends that the Board authorize no new taxicab certificates in 2017.

TIMING:

Board action is requested on June 20, 2017, so that the number of authorized taxicab certificates will be established prior to the June 30, 2017, deadline for submission of applications for taxicab certificates.

BACKGROUND:

Section 84.1-2-5 of the County Code provides that in each odd-numbered year the Board will determine the number of taxicab certificates that are available to be issued. A copy of this section is provided in Attachment 1. The county has awarded a total of 654 taxicab certificates to five taxicab operators.

Since 1998, the taxicab demand formula has been the primary analytical tool used to assess the demand for taxicab certificates. This formula calculates the weighted growth over time in criteria that contribute to demand for taxicab service, specifically: (1) the average number of taxicab trips per certificate (45%); (2) mass transit and tourism indicators (30%); (3) population (20%); and (4) number of households without a car (5%). The formula also provides for a discretionary adjustment of up to 10% to reflect qualitative factors.

As shown on Attachment 2, the unadjusted results of the 2017 demand analysis yield a total weighted change of -15.22 percent, indicating a decline in demand and that no additional certificates are needed.

Declining demand for taxicab service was first observed in the 2015 biennial determination, when the results of staff's demand analysis showed a decline of approximately 3.5 percent over the two-year period 2013-2014. Declining demand appears due primarily to continued competition from drivers affiliated with transportation network companies (TNCs) like Uber and Lyft. The Virginia Department of Motor

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Vehicles reports 15,796 active TNC registrations in Fairfax County as of December 31, 2016 – nearly 25 times more TNC partners than authorized taxicabs.

On May 16, 2017, staff presented the results of its taxicab demand analysis to the Consumer Protection Commission (CPC). As part of its presentation, staff explained that the weighted outcome of -15.22 percent suggests that the industry would be able to meet demand for taxicab service even with 99 fewer certificates, as shown on Attachment 2. Following the staff presentation and public comment, the CPC voted unanimously (9-0) to recommend that the Board authorize no additional taxicab certificates in 2017.

Neither the public nor industry requested that additional taxicab certificates be authorized in 2017. A page on the county website soliciting public comment on the matter received no responses. Staff's presentation was provided to the Transportation Advisory Commission, which had no comments.

Applications for taxicab certificates must be filed by June 30, 2017. If any such applications are filed, the CPC will consider them over the next several months and its recommendations regarding the allocation of certificates among applicants will be brought to the Board.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 – Fairfax County Code Section 84.1-2-5
Attachment 2 – Results of 2017 Taxicab Demand Formula Analysis

STAFF:
David J. Molchany, Deputy County Executive
Michael S. Liberman, Director, Department of Cable and Consumer Services
Susan Hafeli, Senior Utilities Analyst, Public Utilities Branch

ASSIGNED COUNSEL:
John Burton, Assistant County Attorney

FAIRFAX COUNTY CODE
CHAPTER 84.1, *Public Transportation*
ARTICLE 2, *Operator's and Taxicab Certificates*

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.

RESULTS OF 2017 TAXICAB DEMAND FORMULA ANALYSIS

<i>Review Period 2013-2016</i>					
<i>Demand Criteria</i>	<i>Percent Change</i>		<i>Formula Weight</i>		<i>Weighted Change</i>
Growth in average trips per certificate	-37.60%	x	45%	=	-16.92%
Mass transit/tourism composite growth rate	2.70%	x	30%	=	0.81%
Population growth rate	1.91%	x	20%	=	0.38%
Growth in percent of households without a vehicle	10.20%	x	5%	=	0.51%
<i>Total Weighted Change</i>			100%	=	-15.22%
Weighted Outcome: Current certificates (654) x total weighted change (-.152%) = -99 certificates					

Note: The formula evaluates changes in the demand criteria for the period beginning with the last full calendar year prior to an increase in certificates (2013) through the most recent full calendar year (2016).

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June 20, 2017

ACTION – 6

Approval of the 2017 Zoning Ordinance Amendment Work Program

ISSUE:

Approval of the 2017 Zoning Ordinance Amendment Work Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) approve the 2017 Zoning Ordinance Amendment Work Program.

TIMING:

Board action is requested on June 20, 2017.

BACKGROUND:

The Zoning Ordinance Amendment Work Program (ZOAWP) is approved by the Board on an annual basis and contains requests for amendments to the Zoning Ordinance generated from the Board, the Planning Commission, the Board of Zoning Appeals, staff, citizens, and industry representatives. The Work Program is comprised of two lists: Priority 1 and Priority 2. The Priority 1 list includes those items to be addressed in the up-coming year and the Priority 2 list includes items to be retained for future Priority 1 consideration. New for 2017 is an additional category for the Zoning Ordinance Modernization Project, or zMOD.

zMOD is a parallel effort being undertaken to modernize the Zoning Ordinance and was endorsed by the Board's Development Process Committee on March 28, 2017. zMOD will be integrated with, but not replace the ZOAWP. zMOD includes three major components: 1) re-formatting/restructuring the Zoning Ordinance to include more tables, illustrations and graphics and to make the provisions more reader and technology friendly; 2) processing of prioritized amendments of county-wide priority to address changes related to new concepts and uses, provide added flexibility in the minor modification provisions, implement building repositioning/repurposing recommendations, update the sign provisions and PDH District regulations; and 3) implementing process improvements related to processing of amendments. zMOD also contemplates the use of consultant services to assist staff with the reformatting and restructuring of the Zoning Ordinance and for certain topic specific amendments.

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The 2017 Priority 1 ZOAWP reflects both the priorities for zMOD and for the other prioritized amendments identified in the ZOAWP. The 2017 ZOAWP contains 14 main subject areas with a total of 41 amendment topics under these subject areas. Historically, the ZOAWP has included timing recommendations in terms of specific months or quarters. In light of the dual track of zMOD and the 2017 ZOAWP, staff is proposing a “First Tier” and “Second Tier” timing recommendation this year. The First Tier items are those amendments that staff believes can be brought forward for authorization during the first half of the fiscal year and the Second Tier items will be considered in the second half. The editorial and minor revisions amendments would be brought forward as time permits and may be included at the same time as a main subject area amendment or with several editorial/minor revisions bundled together. As staff moves forward on the items listed on the 2017 ZOAWP specific schedules with identified milestones will be developed.

On April 26, 2017, the Planning Commission’s Policy and Procedures Committee reviewed the proposed 2017 ZOAWP and on May 4, 2017 the ZOAWP was endorsed by the full Planning Commission.

On May 9, 2017, staff provided a status update of items on the 2016 Priority 1 ZOAWP and presented the proposed 2017 ZOAWP to the Board’s Development Process Committee for review and consideration. Staff noted that of the 33 amendment items listed on the 2016 ZOAWP, 14 amendments were adopted, 2 additional amendments have been authorized and 17 amendments have been carried over to the 2017 ZOAWP. Seven of the carryover amendments have been incorporated into zMOD (see Attachment 1).

Staff also highlighted the three major amendments on the 2017 ZOAWP that would likely be brought forward first for the Board’s consideration, to include changes related to agriculture/agritourism, continuing care communities, and short term rentals (State Code Change). There was also a brief presentation on a proposed amendment to implement SB 1282 enacted during the 2017 General Assembly to allow localities to establish a zoning permit process for small cell wireless facilities and a proposed amendment to establish review fees for Public Facility reviews under §15.2-2232 of the *Code of Virginia* and under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). These two amendments have been added to the ZOAWP as individual topics under Item #8 State Code Changes and Item #10 Application Fees. The Development Process Committee recommended that the proposed 2017 ZOAWP be brought to the full Board for approval.

FISCAL IMPACT:

The 2017 Work Program can be addressed using existing staff and resources.

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ENCLOSED DOCUMENTS:

Attachment 1 – Status Table for the 2016 Priority 1 ZOAWP
Attachment 2 – Proposed 2017 Priority 1 ZOAWP Summary Table
Attachment 3 – Proposed 2017 Priority 1 ZOAWP Narrative
Attachment 4 – New Amendment Requests Since Adoption of 2016 ZOAWP
Attachment 5 – Proposed 2017 Priority 2 ZOAWP
Attachment 6 – Planning Commission Recommendation Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator

2016 Priority 1 Zoning Ordinance Amendment Work Program Status

Adopted Amendments	Authorized Amendments	Amendments Being Researched	Grouping
Agricultural Districts and Uses (farm winery/brewery/distillery uses) - <i>Adopted 12/6/2016</i>	P-District Recreation Fees (4)* (Authorized May 2, 2017 and to be Adopted June 20, 2017)	Accessory Structure Size (9)	Second
Building Height - <i>Adopted 9/20/2016</i>		Adult Day Health Care (2)	First
Citations for Nursery Schools, Child Care Centers, Veterinary Hospitals - <i>Adopted 10/18/2016</i>	New - PRM District-Final Development Plan (6)* (Authorized May 16, 2017)	Agricultural Districts and Uses (1)	First/Second
New - Commercial Recreation Uses in PDH - <i>Adopted 2/28/2017</i>		Application Fees (10)	Second
Commercial Vehicles in Residential Districts <i>Adopted 4/4/2017</i>		Building Repositioning Initiative (zMOD)	zMOD Project
Food and Beverage Processing and Production (craft beverages) <i>Adopted 2/28/2017</i>		College/University (zMOD)	zMOD Project
Minor Lot Line Adjustments - <i>Adopted 9/20/2016</i>		Commercial Revitalization (zMOD)	zMOD Project
PTC District Amendments - <i>Adopted 3/14/2017</i>		Review Certain SE Uses as By-Right	
Public Use Definition - <i>Adopted 10/18/2016</i>		Laurel Hill Historic Overlay District (11)	Second
Riding Lessons as a Home Occupation - <i>Adopted 2/14/2017</i>		Minor Modification Provisions (zMOD)	zMOD Project
Shape Factor in the R-C District - <i>Adopted 9/20/2016</i>		Older Adult Housing (2)	First/Second
Special Permit Submission Requirements <i>Adopted 10/18/2016</i>		Outdoor Lighting (12)	Second
State Code - Variance Provisions - <i>Adopted 10/18/2016</i>		Parking (3) Reduction Process; Parking Reductions/ Maximums Outside of Tysons; Other Parking- Related Provisions	First/Second
State Code –Telecom Facilities: Monopoles/Towers <i>Adopted 6/21/2016</i>		PRC District Density (5)	First
		Rear Yard Coverage (7)	First
		Retail Initiative (zMOD)	zMOD Project
		Sign Ordinance (zMOD) Phase 1- content neutrality Phase 2- size, height, location and design	zMOD Project
		Zoning Ordinance Diagnostic (zMOD)	zMOD Project
Total Adopted: 14	Authorized: 2	Total Outstanding: 17	

- Highlighted items indicated amendments added after endorsement of the 2016 ZOAWP
- Number in parentheses indicates item number on DRAFT 2017 ZOAWP Priority 1

PROPOSED PRIORITY 1 2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM

ZONING ORDINANCE MODERNIZATION (zMOD) PROJECT INITIATIVES			
Origin	#	Amendment Topic	
New	1	Re-format and restructure provisions	
2016 ZOAWP and New	2	Minor Modification Provisions	
New	3	Use Categories	
New	4	PDH District Regulations	
2016 ZOAWP	5	Sign Ordinance	
2016 ZOAWP	6	Additional Building Repositioning/Repurposing Recommendations	
2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM <i>NOTE: Under the Grouping column, “First” is a timing reference that indicates an intent to seek authorization by the Board within the first half of Fiscal Year (FY) 2018 and “Second” would occur in the second half of FY2018 For a detailed description of each amendment, See ZOAWP Priority 1 Narrative</i>			
Origin	#	Amendment Topic	Tier
2016 ZOAWP	1	Agricultural Districts and Uses (2017 adds new topic specificity)	First/Second
2016 ZOAWP and New	2	Older Adult Accommodations and Services (2017 adds new topic specificity to include Continuing Care Community, adult day health care, and other changes identified in the 50+ Plan)	First/Second
2016 ZOAWP	3	Parking – Parking Maximums or Reduced Requirements Outside of Tysons; Parking Reduction Process; Other Parking Provisions (LDS Initiative)	First/Second
2016 ZOAWP	4	P District Recreation Fees (Authorized May 16, 2017)	First
2016 ZOAWP	5	PRC District Density	First
New	6	PRM District – Final Development Plan (Authorized May 16, 2017)	First
2016 ZOAWP	7	Rear Yard Coverage	First
New	8	State Code Changes: short term rentals, small cell facilities and other possible changes (Small cell facilities authorized May 16, 2017)	First
2016 ZOAWP	9	Accessory Structure Size	Second
2016 ZOAWP and New	10	Application Fees: Fees for review of Public Facilities under 15.2-2232 and modifications to existing wireless facilities under Sect. 6409 of Spectrum Act (Authorized May 16, 2017); Other zoning application fees	First/Second
2016 ZOAWP	11	Laurel Hill Historic Overlay District	Second
2016 ZOAWP	12	Outdoor Lighting	Second
New	13	Site Plan Provisions (LDS Initiative)	Second
New	14	Editorial and Minor Revisions (itemized in Priority 1 Narrative)	Timing TBD

**PROPOSED 2017 PRIORITY 1
ZONING ORDINANCE AMENDMENT WORK PROGRAM
Narrative and Recommended Timing**

Below is an alphabetical list and description of the amendments proposed to be evaluated as part of the Priority 1 amendments identified in the 2017 Zoning Ordinance Amendment Work Program (ZOAWP). Timing for consideration of the proposed amendments is identified as either “First Tier”, “Second Tier” or “To Be Determined (TBD).” The First Tier amendments are anticipated to be reviewed and brought forward for discussion/authorization within the first six months of the Fiscal Year 2018 covered by this 2017 ZOAWP. The items identified as Second Tier would be considered in the second half of the fiscal year and those identified as “TBD” would be included with other items or brought forward throughout the term of the 2017 ZOAWP. Highlighted items are new amendments on the Priority 1 list and the remainder are carry-over items from the 2016 ZOAWP. Amendments to be considered as part of the Zoning Ordinance Modernization (zMOD) Project are identified at the end of this document.

Priority 1 ZOAWP – First Tier (Except as Noted)

1. **Agricultural Districts and Uses** (2016 Priority 1, with added specificity) – Review zoning districts in which agricultural activities are permitted; address trends to include more community-based and urban agricultural forms; address agritourism uses as set forth in the State Code; and review provisions allowing for the sale of agricultural/garden products.
 - a. Community Gardens/Urban Agriculture
 - b. Sales/distribution of Garden/Farm Products (including wayside stands, farm markets, open air produce stands, farmers’ markets)
 - c. Agritourism Uses
 - d. Industrial, Commercial and Container Agriculture (**Second Tier**)
 - e. Residential Gardening as an Accessory Use (**Second Tier**)
 - f. Industrial Composting (**Second Tier**)
2. **Older Adult Accommodations and Services** – (Fairfax 50+ 2016 Priority 1)
 - a. **Continuing Care Communities (NEW)**
Develop a new district or use that would accommodate a spectrum of institutional uses, accommodations, and associated convenience/service uses in a single development. This district/use would be in addition to the existing uses of Independent Living Facility, Assisted Living Facility, Congregate Living, Medical Care Facility and other associated uses.
 - b. **Adult Day Health Care** (2016 Priority 1)
Consider adding adult day care as a new use subject to use limitation and determine if the use should be permitted by-right or subject to a special exception. Staff will

consider this item in the context of the Continuing Care Communities amendment.

- c. Other changes identified by the 50+ Plan initiatives **(Second Tier)**
May include such factors as: updated terminology to describe uses; review of existing parking regulations; review of minimum acreage requirements for certain uses; composition/timing/scope of involvement of the Health Care Advisory Board; and opportunities for expansion of the use of accessory dwelling units for older adults.

3. Parking (2016 Priority 1 and Economic Success)

- a. Consider eliminating reductions for proffered transportation demand management programs.
- b. Consider administrative approval for certain shared parking agreements.
- c. Consider other changes that would streamline the parking reduction process.
- d. Consider applying parking maximums and/or reductions of the minimum parking requirements in transit oriented areas outside Tysons. **(Second Tier)**

4. P-District Recreation Fees (2016 Priority 1)

Consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts.

5. Planned Residential Community (PRC) District Density (2016 Priority 1)

Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District to facilitate the implementation of the Reston Master Plan.

6. Planned Residential Mixed Use (PRM) District - Final Development Plan (New – Economic Success)

Consider allowing a final development plan to be submitted on a portion of the property subject to conceptual development plan approval in conjunction with a PRM District Rezoning.

7. Rear Yard Coverage (2016 Priority 1)

- a. Clarify how the 30% coverage limitation within the minimum required rear yard is calculated.
- b. Consider increasing the percentage of coverage permitted and/or eliminating the requirement for certain sized lots.

- c. consider allowing modifications of the maximum lot coverage requirement in a rear yard to be approved by the BZA as a special permit.

8. State Code Changes (New)

- a. Short-term/homestay rentals (Board Request)
Initiate an analysis of short-term/homestay rental business models in residential areas and develop regulations that balance the interests of entrepreneurs with those of the community, safeguard local revenue sources and mitigate land use impacts. The State Code changes grant considerable flexibility to allow localities to establish regulations for short-term/homestay rental business models.
- b. Small cell wireless facilities
Consider creating a zoning permit approval process for the installation of a small cell facility on an existing structure to implement Senate Bill 1282.
- c. Other Possible State Code changes that would necessitate a change to applicable zoning provisions.

Priority 1 ZOAWP – Second Tier

9. Accessory Structure Size (2016 Priority 1)

Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA.

10. Application Fees (2016 Priority 1 and New)

- a. Consider adding fees for review of Public Facilities under §15.2-2232 and fees for modifications to existing wireless facilities under Sect. 6409 of the Spectrum Act.
- b. Evaluate zoning application fees in conjunction with the next budget cycle to determine if adjustments are warranted.

11. Laurel Hill Historic Overlay District (2016 Priority 1)

Establish a Laurel Hill Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax County and the federal government for the former Lorton Correctional Complex.

12. Outdoor Lighting (2016 Priority 1)

Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and automatic teller machines to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review

of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs.

13. Site Plan Provisions (New – Economic Success)

Clarify the qualification criteria for site plan exemptions.

Priority 1 ZOAWP – Timing To Be Determined

14. Editorial and Minor Revisions (New)

- a. Accessory Dwelling Units – clarify Special Permit provisions to specify the minimum standards for a unit to be deemed to be fully within a principal dwelling on lots of less than two acres.
- b. Children’s Play Structures – delete the 100 sq.ft. size limit and treat these structures similar to other accessory structures in terms of purpose, area and extent
- c. Definitions
 - (1) Lot Line – consider revising the definition so that measurements for curved lot lines are no longer based on the chord of the arc.
 - (2) Lot Width – consider allowing lot width to be measured along any street on a through lot and clarify that lot width is measured from the local street on a reverse frontage lot.
- d. Editorial - Delete “Par. 1 through 5” reference in Par. 5 of Sect. 16-401 (Conceptual Development Plan) – this is simply an editorial change.
- e. Keeping of Animals – delete the provision regarding animals kept on a property prior to October 11, 1977, as the provision is no longer valid.
- f. Nonconformities – clarify the time limit in which a discontinued use that had been permitted by right under previous provisions, but which requires special exception or special permit approval under the current provisions, may be re-established.
- g. Planning Commission Membership – change “freeholder” reference to “landowner.”
- h. Private/Fraternal Clubs – clarify parking requirement to reflect the number of people in attendance is based on maximum number attending at any one time rather than the total number of members of the club.
- i. Revisions to Department Name –change references to “Director” from Department of

Public Works and Environmental Services to Land Development Services.

- j. Temporary Mobile and Land Based Telecommunications Testing Facilities – delete this use, as technology has rendered it obsolete.
- k. Temporary Special Permits (TSP) – delete the \$100 cash escrow requirement for certain TSP uses.
- l. Yard Sales - clarify the type of household items that are permitted to be sold at yard sales associated with a dwelling.

Zoning Ordinance Modernization (zMOD) Initiatives

- 1. Re-Format and Restructure Provisions** - to include use of tables, illustrations and web-enabled links/content, to create streamlined, user-friendly document that is usable on multiple electronic platforms
- 2. Minor Modification Provisions** - allow more flexibility in administrative approval by staff of minor modifications for approved RZs, SEs and SPs, as well as administrative approval by the Board of limited minor changes, for example, allowing additional FAR caused by building façade changes or accommodating new uses when allowed in the district.
- 3. Use Categories** - to include combining uses into more generic categories to accommodate emerging trends, reduce need for determinations and to more accurately reflect current/future changes in the industry. The first phase of this item will include the retail/restaurant/fast food/quick service food store/and other similar uses.
- 4. PDH District Regulations** - to include review of the Purpose and Intent provisions, as well as yards, uses, processes and issues impacting homeowners, particularly related to small-scale PDH developments, including HOA maintenance and other topics.
- 5. Sign Ordinance** – in two parts: First, content neutrality; Second, size, height and location considerations and Comprehensive Sign Plan review process.
- 6. Building Repositioning/Repurposing** – amendments to facilitate building repositioning, repurposing, and emerging trends such as office-to-residential/mixed use conversions, flex units, maker spaces, and additional repurposing and repositioning recommendations.

NEW ZONING ORDINANCE AMENDMENT PROPOSALS SINCE THE ADOPTION OF THE 2016 ZONING ORDINANCE AMENDMENT WORK PROGRAM (ZOAWP)

1. **Application Fees** – establish fees for review of public facilities under §15.2-2232 of the Virginia Code and for modifications to existing wireless facilities under Sect. 6409 of the Spectrum Act. [2017 ZOAWP #10a]
2. **Commercial Recreation Uses in PDH District** – consider adding the category of “indoor firing ranges, archery ranges, fencing and other similar indoor recreation uses” as a secondary use in a PDH District to accommodate certain indoor play/recreation businesses in the commercial areas of a PDH District. (Board) [Adopted 2/28/2017]
3. **Continuing Care Community District/Use** – create new district or use to accommodate developments with independent living and medical care uses. (Board) [2017 ZOAWP #8]
4. **Density Credit for Public Uses** – consider allowing floor area dedicated through a rezoning for public purposes to be excluded from density calculations. (Economic Success Plan) [2017 ZOAWP Priority 2]
5. **Editorial and Minor Revisions** – these recommendations are based on identification of errors, clarifications and outdated regulations within the ZO that should be modified: [2017 ZOAWP #6 and Priority 2]
 - a. Accessory Dwelling Units – clarify Special Permit provisions to specify the minimum standards for a unit to be deemed to be fully within a principal dwelling on lots of less than two acres.
 - b. Children’s Play Structures – delete the 100 sq.ft. size limit and treat these structures similar to other accessory structures in terms of purpose, area and extent
 - c. Definitions
 - (1) Lot Line – consider revising the definition so that measurements for curved lot lines are no longer based on the chord of the arc.
 - (2) Lot Width – consider allowing lot width to be measured along any street on a through lot and clarify that lot width is measured from the local street on a reverse frontage lot.
 - d. Editorial - Delete “Par. 1 through 5” reference in Par. 5 of Sect. 16-401 (Conceptual Development Plan) – this is simply an editorial change.
 - e. Keeping of Animals – delete the provision regarding animals kept on a property prior to October 11, 1977, as the provision is no longer valid.
 - f. Nonconformities – clarify the time limit in which a discontinued use that had been

permitted by right under previous provisions, but which requires special exception or special permit approval under the current provisions, may be re-established.

- g. Planning Commission Membership – change “freeholder” reference to “landowner.”
 - h. Private/Fraternal Clubs – clarify parking requirement to reflect the number of people in attendance is based on maximum number attending at any one time rather than the total number of members of the club.
 - i. Revisions to Department Name – change references to “Director” from Department of Public Works and Environmental Services to Land Development Services.
 - j. Temporary Mobile and Land Based Telecommunications Testing Facilities – delete this use, as technology has rendered it obsolete.
 - k. Temporary Special Permits (TSP) – delete the \$100 cash escrow requirement for certain TSP uses.
 - l. Yard Sales - clarify the type of household items that are permitted to be sold at yard sales associated with a dwelling.
6. **Food and Beverage Production in the I-4 District** – consider limiting large-scale food/beverage production in I-4 Districts. (Board) [2017 ZOAWP Priority 2]
 7. **Minor Modifications** – consider allowing administrative approval to accommodate new uses and other minor changes that are deemed to be in substantial conformance with an approved rezoning, special exception or special permit, without requiring BOS/PC/BZA approval. (Board) [zMOD Project]
 8. **Off-Leash Dog Parks** – Consider adding use limitations for off leash dog parks, including minimum setbacks, installation requirements, and requiring special exception approval in or near residentially developed areas. (Citizen) [2017 ZOAWP Priority 2]
 9. **Parking** – limit the maximum size of personal vehicles that may park on subdivision streets. (Citizen) [2017 ZOAWP Priority 2]
 10. **PDH District** – review purpose and intent of district, yards, uses, processes and issues impacting homeowners, as well as address issues related to small-scale PDH developments, including HOA maintenance issues regarding private streets, retaining walls, trails and other community features. (Board) [zMOD Project]
 11. **PRM District- Final Development Plan** – consider allowing a final development plan to be submitted on a portion of the property subject to conceptual development plan approval in conjunction with a PRM District rezoning. (Economic Success Plan) [2017 ZOAWP #11]

12. **State Code Changes** (2017 General Assembly) [2017 ZOAWP #16]
 - a. Short-term/homestay rentals in dwellings
 - b. Small cell facilities
 - c. Other possible changes to Code provisions
13. **Site Plan Provisions** – clarify the qualification criteria for site plan exemptions. (Staff)
[2017 ZOAWP #15]

**PROPOSED PRIORITY 2
2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM**

The Following Abbreviations are used in this document:

ARB - Architectural Review Board
 BOS - Board of Supervisors
 BZA -Board of Zoning Appeals
 BPR - Business Process Redesign
 DPWES - Department of Public Works and Environmental Services
 EIP - Environmental Improvement Program
 EAC - Fairfax County Economic Advisory Commission
 HCAB - Fairfax County Health Care Advisory Board
 PC - Planning Commission

TOPIC	SOURCE
<u>ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS</u>	
1. Comprehensive review of accessory uses and structures, to include consideration of issues such as: NOTE: These items may be considered as part of a future phase of zMOD project.	BOS/PC/BZA/ Staff/Industry
(a) The establishment of a maximum height limitation.	BOS/PC/BZA/ Staff/Industry
(b) Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses.	BOS/PC/BZA/ Staff/Industry
(c) Establishment of a side yard requirement for accessory structures in the PRC District.	BOS/PC/BZA/ Staff/Industry
(d) Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same.	BOS/PC/BZA/ Staff/Industry
(e) Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines.	BOS
(f) Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts.	BOS
(g) Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects.	BOS
(h) Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height.	Citizen

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
(i) Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway.	Citizen
(j) Consider establishing a minimum distance a fence can be located from a pipestem driveway.	Citizen
(k) Consider permitting electric fences on lots less than 2 acres as a deer management tool.	Citizen
2. Consider revisions to the accessory service use provisions to include: NOTE: These items may be considered as part of a future phase of zMOD project.	
(a) A clearer distinction between accessory service uses and accessory uses.	BZA/PC
(b) The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval.	BZA/PC
3. Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit. NOTE: These items may be considered as part of a future phase of zMOD project.	Citizen
<u>ADMINISTRATION</u>	
4. Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property.	Staff/General Assembly
5. Consider revising the cluster provisions to delete the bonus density option.	General Assembly
<u>BOARDS, COMMISSIONS, COMMITTEES</u>	
6. Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals.	Staff
7. Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval.	ARB
<u>COMMERCIAL ZONING DISTRICTS</u>	
8. Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use	Staff

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
<u>DEFINITIONS AND USE LIMITATIONS</u>	
9. Review the following definitions: NOTE: Some of these items may be considered as part of a future phase of zMOD project.	Staff/BZA
(a) Commonly Accepted Pets	BOS
(b) Congregate Living Facilities	BOS
(c) Contractors' offices and shops	Staff/BZA
(d) Junk yard	Staff/BZA
(e) Riding and boarding stables	Staff/BZA
(f) Private schools	Staff/BZA
(g) Storage yard	Staff/BZA
(h) Streets	Staff/BZA
10. Add the following definitions NOTE: Some of these items may be considered as part of a future phase of zMOD project.	
(a) Establishment for production, processing, etc.	Staff/BPR/BZA
(b) Place of worship	Staff/BPR/BZA
(c) Storage	Staff/BPR/BZA
(d) NEW: Off-leash dog parks	Citizen
11. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards. NOTE: This issue may be considered as part of the zMOD project analysis of homeowner-related issues, particularly for P-Districts, but also for R-Districts.	Staff
12. Clarify the meaning of "transient" in the hotel/motel definition NOTE: May be considered as part of short-term rental analysis.	BZA
13. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff.	BOS /DPWES
14. Consider revising the contractors' office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes.	BZA
15. Fast Food Restaurants—Clarify the square footage and percentage use limitations for by right fast food restaurants in the commercial retail districts.	Staff

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
NOTE: This item is currently being considered as part of the Use Categories item in zMOD	
16. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met.	Staff
17. Review the definition of gross floor as to how it is calculated outside of the PDC, PRM and PTC Districts	Staff
<u>GENERAL REGULATIONS</u>	
18. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area.	BOS
19. NEW: Exempt floor area used for a public use from the density calculations on a property	Economic Success Plan
20. Qualifying Lot and Yard Regulations – Consider the following:	
(a) Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses.	BPR
(b) Review pipestem lot and yard requirements, to include possible addition of illustrations.	BPR
(c) Revise provisions of lots contiguous to pipestem driveways to remove the language “serving more than one pipestem lot.”	Citizen
(d) Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards.	Staff
(e) Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located	Staff
(f) Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding.	BOS’s Environmental Committee
(g) Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way.	Infill Study
(h) In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums.	BOS
21. Qualifying Use and Structure Regulations - Consider the following:	

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
(a) Consider revising the maximum number of horses that may be maintained on a lot.	No. Va. Soil & Water Conservation District
(b) Consider allowing chickens to be permitted on lots less than two acres in size in certain situations.	Citizen
<u>HOUSING</u>	
22. Consider the following revisions to the ADU program:	
(a) Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent.	Staff
(b) Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units.	Staff
(c) Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less.	Staff
(d) For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance.	Staff
(e) Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions.	Staff
(f) Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities.	Staff
(g) Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff
(h) Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff
23. Review the Board of Supervisors' accessory dwelling unit policy in Appendix 5 to determine whether updates are necessary.	Staff
24. Residential Studios – Establish a new use and associated use limitations for an affordable housing product generally designed for one person per unit.	Board
<u>ILLUSTRATIONS</u>	
25. Add illustrations to clarify certain provisions such as the sight distance triangle	Staff

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
and permitted encroachments into minimum required yards. NOTE: This item will be considered as part of the zMOD project re-formatting and restructuring of the Zoning Ordinance.	
<u>INDUSTRIAL ZONING DISTRICTS</u>	
26. Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment.	BOS
27. Clarify use limitations in the I-5 and I-6 Districts which allow vehicle light service establishments by right. Also consider allowing this use by right in other C and I Districts.	BPR
28. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations.	Staff
29. NEW Consider limitations on the size of a food and beverage production facility in the I-4 District.	BOS
<u>LANDSCAPING & SCREENING</u>	
30. Comprehensive review of landscaping and screening provisions to include:	
(a) Appropriateness of modification provisions.	BPR/Staff/ Industry
(b) Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD and public schools.	Staff/EIP
(c) Increase the parking lot landscaping requirements.	Tree Action Plan/EIP
(d) Include street tree preservation and planting requirements.	Tree Action Plan
(e) Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway.	BOS
31. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices.	Tree Action Plan
<u>NONCONFORMITIES – ARTICLE 15</u>	
32. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies.	Staff/BPR

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
<u>OPEN SPACE</u>	
33. Review of the open space provisions to include:	
(a) Consider the establishment of minimum sizes/dimensions for required open space areas.	Infill Study/EIP/ Staff
(b) Exempt either all or part of stormwater management dry pond facilities from the open space calculations.	Infill Study/EIP/ Staff
(c) Provide open space credit for innovative BMPs but not for non-innovative BMPs	Infill Study/EIP/ Staff
(d) Allow open space credit only for usable open space.	Infill Study/EIP/ Staff
(e) Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.	Infill Study/EIP/ Staff
(f) Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.	Infill Study/EIP/ Staff
<u>OVERLAY DISTRICTS</u>	
34. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield	BOS
35. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:	
(a) Requiring all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit.	History Commission
(b) Establish an historic overlay district for Mason Neck.	BOS
<u>PARKING REQUIREMENTS</u>	
<u>NOTE: Some items may be considered as part of a future phase of the zMOD project.</u>	
36. Study parking requirements for:	BOS /Staff
(a) Funeral homes	
(b) Places of worship	
(c) Child care centers and nursery schools	

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
37. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit.	Industry
38. Consider the following revisions to vehicle parking on lots with single family detached dwellings:	
(a) Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts.	Citizen
(b) Limit parking for all vehicles or trailers to the front yard and only on a paved surface.	Citizen
39. Clarify the meaning of “permanent availability” in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot.	Staff
40. NEW: Regulate the maximum size of personal vehicles that are permitted to park in a residential district.	Citizen
<u>PERFORMANCE STANDARDS</u>	
41. Review the earthborn vibration performance standards.	Staff
<u>PLANNED DEVELOPMENT DISTRICTS</u>	
42. Consider the following revisions to the Planned Development Districts:	
Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum lot size and open space requirements, the CDP/FDP submission requirements, and density credit for RPAs, streams and floodplains; Review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts; allow the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals; and (NEW) consider revising the 600 foot limit on private streets.	Infill Study/EIP/ EAC/PC/Staff
<u>RESIDENTIAL ZONING DISTRICTS</u>	
43. Establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception and public uses in the Occoquan.	New Millennium Occoquan Task Force/EAC

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
<u>SITE PLANS</u>	
44. For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements.	Staff
<u>SPECIAL EXCEPTIONS</u>	
45. Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right.	BPR
46. Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses.	Staff
47. Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment. NOTE: this item may be reviewed as part of a future phase of the zMOD project.	BOS
<u>SPECIAL PERMITS</u>	
48. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots.	BPR
49. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.	Staff
50. Allow BZA to modify special permit additional standards.	BPR
51. Group 1 Extraction and Excavation Uses - Consider expanding the number of property owners requiring notification for the renewal of a special permit for a quarry and revise the blasting vibration maximum resultant peak particle velocity to be consistent with state regulation 4VAC25-40-880.	BOS /PC
52. Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval.	Staff/BPR
53. Group 5 Commercial Recreation Uses – Consider clarifying types of uses included in “any other similar commercial recreation use.”	Staff
54. Group 9 Uses Requiring Special Regulations – Consider the following:	
(a) Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure.	BOS /PC

2017 Proposed Priority 2 ZOAWP

TOPIC	SOURCE
(b) Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations.	BOS
(c) Increase the minimum 55 year age requirement for accessory dwelling units.	BZA
<u>STATE CODE CHANGES</u>	
55. Incorporate the new requirement for Development in dam break inundation zones.	General Assembly
<u>SUBMISSION REQUIREMENTS</u>	
56. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts.	BOS/Plan
57. Consider adding specificity to the submission requirements for Comprehensive Sign applications.	Staff
58. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.	General Assembly
59. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees.	Tree Action Plan/EIP
60. Review regulations related to:	
(a) Adult video stores	Staff/BOS
(b) “Doggie” day care	Staff/BOS
(c) Sports arenas, stadiums	Staff/BOS
61. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions.	Staff
62. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use.	Staff

**County of Fairfax, Virginia
Planning Commission Meeting
May 4, 2017
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT 2017 WORK PROGRAM

During Commission Matters

Commissioner Hurley: Thank you Mr. Chairman. On April 26th, 2017, the Zoning Administrator presented the proposed 2017 Zoning Ordinance Amendment Work Program to the Policies and Procedures Committee for review and discussion. The committee voted to recommend that the 2017 Work Program be brought to the full Planning Commission for endorsement. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO BOARD OF SUPERVISOR ITS ENDORSEMENT OF THE PROPOSED 2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM, AS PRESENTED BY STAFF ON APRIL 26TH, 2017.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Strandlie: Mr. Chairman, I'd like to abstain. I missed that meeting.

Chairman Murphy: Okay. Ms. Strandlie abstains.

The motion carried by a vote of 11-0-1. Commissioner Strandlie abstained from the vote.

JLC

ACTION - 7

Approval of Changes to the Fairfax County Purchasing Resolution

ISSUE:

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

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the changes outlined below to the Fairfax County Purchasing Resolution, to become effective on July 1, 2017.

TIMING:

Routine.

BACKGROUND:

The Board of Supervisors adopted the current version of the Fairfax County Purchasing Resolution on June 21, 2016. During the 2017 session of the General Assembly, twelve bills were approved relating to procurement and/or contracts. Three successful bills contained a change that modified a mandatory section of the Virginia Public Procurement Act (VPPA);

The state legislators continue to focus on methods, processes, and controls for construction contracting and many of the failed bills are expected to be re-introduced during the 2018 General Assembly session. The changes to the VPPA that are proposed for inclusion in the Purchasing Resolution are listed below under the heading "Code Change."

This year, staff recommends seven administrative amendments to the Purchasing Resolution, which can be found under the heading "Administrative Changes." These amendments are clarifications and technical corrections to the Resolution.

Code Change

1. House Bill 2366, Code of Virginia §§2.2-4305, 2.2-4343, 2.2-4301, 2.2-4303, 2.2-4345; Modifies requirements for the procurement of construction using the construction management and design-build procurement methods and the conditions under which such methods may be used. See Attachment I at pages 1,6,39, 41-43.

Board Agenda Item
June 20, 2017

2. House Bill 2017; Code of Virginia §§2.2-4336 and 2.2-4337; Amends requirements for bid, performance, and payment bonds. See Attachment I at pages 48 and 49.
3. Senate Bill 1548; Code of Virginia §2.2-4304, Establishes cooperative procurement authority to purchase from a contract from the Virginia Sheriffs' Association. See Attachment I at page 5.

Administrative Changes

1. Construction Contracting Authority, Department of Housing and Community Development: Add consultant services related to capital construction as provided in the 1985 Memorandum of Understanding between the Board of Supervisors and the Fairfax County Housing and Redevelopment Authority. See Attachment I at pages 3-4
2. Cooperative Procurement: Add authority to purchase from a contract from the National Association of Counties, reference 2007 Virginia Acts of Assembly 330. See Attachment I at page 5.
3. Definitions: Add debar and suspension and modify definition of ineligibility to be consistent with the VPPA. See Attachment I at pages 7, 8, and 11.
4. Exceptions: Add exception to the requirement for competitive procurement for Finance Board Investments as provided in Code of Virginia §15.2-1548. See Attachment I at page 24.
5. Disclosure of Information: Correct reference to Prequalification procedures. See Attachment I at page 30.
6. Ineligibility: Modifies appeals period in response to a Notice of Debarment from 30 days to 10 days as provided in the Code of Virginia, §2.2-4357. See Attachment I at page 54.
7. Ineligibility: Modifies criteria and time periods for debarment or suspension for consistency. See Attachment I at pages 53-55.
8. Protest of Award or Decision to Award: Adds text to prohibit the challenge of the validity of the terms or conditions of the solicitation as provided in the Code of Virginia, §2.2-4360. See Attachment I at page 57.
9. Code of Virginia citations have been updated throughout the document where necessary.

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

Board Agenda Item
June 20, 2017

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I - Revised Fairfax County Purchasing Resolution

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

ASSIGNED COUNSEL:
Patricia McCay, County Attorney

FAIRFAX COUNTY

PURCHASING RESOLUTION



July 1, 2017

FAIRFAX COUNTY PURCHASING RESOLUTION

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FAIRFAX COUNTY PURCHASING RESOLUTION

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

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

WHEREAS, the Code of Virginia, §2.2-4300 through ~~§2.2-4377-4383~~ (as amended), enunciate the public policies pertaining to governmental procurement from nongovernmental sources by public bodies which may or may not result in monetary consideration for either party, which sections shall be known as the Virginia Public Procurement Act; and

Commented [MP1]: Code Amendment. HB 2366

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

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

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

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

Adopted by the Fairfax County Board of Supervisors on June ~~24~~20, 20162017; Effective July 1, 20162017

-1-

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 1

GENERAL PROVISIONS

Section 1. Title.

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

Section 2. Organization.

- A. The Department of Procurement and Material Management is a staff activity of the Fairfax County government, operating under the direction and supervision of the County Executive.
- B. The Director of the Department of Procurement and Material Management shall be the County Purchasing Agent who shall have general supervision of the ~~Department~~ DPMM. The Purchasing Agent shall be appointed by the Board of County Supervisors upon recommendation of the County Executive.
- C. The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation, and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce.

Section 3. Exclusions from Duties

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

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1. The Department of Public Works and Environmental Services (DPWES), pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, is responsible for Fairfax County construction projects administered by DPWES and the architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.
2. The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.
3. The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.
4. The Department of Housing and Community Development shall be responsible for capital construction and ~~related architectural and engineering~~ [the architectural,](#)

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

5. The Department of Transportation, pursuant to § 33.2-338 of the Code of Virginia, and this Resolution, may be responsible for constructing or improving highways, including related architectural and engineering services. Highways may include curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience, which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.
 6. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.
- B. The procurement of goods and services for individual schools using funds generated from school activities for the Fairfax County Public Schools is excluded from the duties of the County Purchasing Agent. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.
 - C. The Fairfax County Sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates, in accordance with §53.1-127.1 Code of Virginia.
 - D. The Department of Administration for Human Services shall be responsible for procurement of goods and services for direct use by a recipient of County administered public assistance programs as defined by Code of Virginia §63.2-100, or the fuel

Commented [MP2]: Expanded authority consistent with the 1985 MOU between the County and FCHRA, “[p]rocurement will be coordinated through the County’s Department of Purchasing and Supply Management Agency except purchasing activities delegated to the Department of Housing and Community Development by the terms of the County resolution (in particular Authority capital construction and related architectural and engineering services).”

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

Section 4. Rules and Regulations.

- A. The County Purchasing Agent shall prepare and maintain the Fairfax County Purchasing Resolution and other rules and regulations consistent with the laws of the Commonwealth of Virginia governing the operations of the County purchasing and supply management system.
- B. The Agencies designated in Section 3 A – D shall prepare and maintain detailed rules and regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 5. Cooperative Procurement.

The County or any entity identified in Section 3 may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, ~~or the Metropolitan Washington Council of Governments,~~ the National Association of Counties, or the Virginia Sheriffs' Association (SB1548) for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for architectural and engineering services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

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

Commented [MP3]: Administrative Change pursuant to 2007 Va. Acts 330 and SB 1548.

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Section 6. Definitions.

1. Acquisition Function Closely Associated with Inherently Governmental Functions means supporting or providing advice or recommendations with regard to the following activities:
 - 1) Planning acquisitions.
 - 2) Determining what supplies or services are to be acquired by the County, including developing statements of work.
 - 3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.
 - 4) Evaluating bids or proposals.
 - 5) Awarding County contracts.
 - 6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).
 - 7) Terminating contracts.
 - 8) Determining whether contract costs are reasonable, allocable, and allowable.
2. Best Value, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.
3. Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a written Request for Proposals, public notice, evaluation based on the criteria set forth in the Request for Proposals, and allows negotiation with the top rated offeror or offerors (See Article 2, Section 2 B).
4. Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation to Bid, public notice, a public bid opening and evaluation based on the requirements set forth in the invitation (See Article 2, Section 2 A).
5. Complex Project means a construction project that includes one or more of the following significant components: difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.
- ~~5.6.~~ Construction shall mean building, altering, repairing, improving or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading or similar work upon real property.

Commented [MP4]: Code Amendment. HB 2366.

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~~6.7.~~ Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

~~7.8.~~ Consultant Services shall mean any type of services required by the County, but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of service required and at fair and reasonable compensation, rather than by competitive sealed bidding.

~~8.9.~~ Covered Employee means an individual who

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

~~9.10.~~ Debarment is an action taken by the County Purchasing Agent, a contracting officer, or their designee, within the scope of their procurement authority, to exclude prospective contractors from contracting with County agencies or organizations for particular types of supplies, services, insurance, or construction, for specified periods of time.

Commented [MP5]: Administrative change.

~~11.~~ Department means the Virginia Department of General Services

~~10.12.~~ Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

~~11.13.~~ DPMM shall mean the Department of Procurement and Material Management.

~~12.14.~~ Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential service.

~~13.15.~~ Employment Services Organization shall mean an organization that provides community based employment services to individuals and disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

~~14.16.~~ Excess Property shall mean that property which exceeds the requirement of the department to which the property is assigned.

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~~15-17.~~ FCPS shall mean Fairfax County Public Schools.

~~16-18.~~ Faith-Based Organization shall mean a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P. L. 104-193.

~~17-19.~~ Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to conduct business in the Commonwealth of Virginia; or any other individual, firm, partnership, corporation, association or other legal entity qualified to perform professional services, non-professional or consultant services.

~~18-20.~~ Fixed Asset shall mean a tangible item (not a component) which has an expected useful life of at least one year and a dollar value in excess of \$5,000.

~~19-21.~~ Goods shall mean all material, equipment, supplies, printing, and information technology hardware and software.

~~20-22.~~ Immediate Family shall mean a spouse, child, parent, brother, sister, and any other person living in the same household as the employee.

~~21-23.~~ Independent Contractor shall mean a worker over whom the employer has the right to control or direct the result of the work done, but not the means and methods of accomplishing the result.

~~22-24.~~ Ineligibility shall mean an action taken to suspend or debar ~~an individual or firm~~ prospective contractor from consideration for award of contracts. The suspension shall not be for a period exceeding ~~three (3)~~ twelve (12) ~~(reconcile with state/federal standard)~~ months and the debarment shall not be for a period exceeding three (3) years.

Commented [MP6]: Administrative change.

~~23-25.~~ Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

~~24-26.~~ Job Order Contracting is a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing.

~~25-27.~~ Non-public Government Information means any information that a covered employee gains by reason of work under a County contract and that the covered employee knows,

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or reasonably should know, has not been made public. It includes information that--

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

~~26-28.~~ Nonprofessional Services shall mean any service not specifically identified as a professional or consultant service.

~~27-29.~~ Official Responsibility shall mean administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any resulting claim.

~~28-30.~~ Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural, engineering and related consultant services for construction projects and the contracting for construction projects to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.

~~29-31.~~ Pecuniary Interest Arising from the Procurement shall mean a personal interest in a contract, as defined in the State and Local Government Conflict of Interests Act.

~~30-32.~~ Personal Conflict of Interest means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the County when performing under the contract.

Among the sources of personal conflicts of interest are--

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

Financial interests may arise from--

- a. Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
- b. Consulting relationships (including commercial and professional consulting and service arrangements, or serving as an expert witness in litigation);
- c. Services provided in exchange for honorariums or travel expense reimbursements;
- d. Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
- e. Real estate investments;

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- f. Patents, copyrights, and other intellectual property interests; or
- g. Business ownership and investment interests.

~~31-33.~~ Potential Bidder or Offeror shall mean a person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

~~32-34.~~ Procurement Transaction shall mean all functions that pertain to obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

~~33-35.~~ Professional services shall mean any type of service performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with this Resolution).

~~34-36.~~ Public Body shall mean any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this resolution. Public body shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

~~35-37.~~ Public Contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

~~36-38.~~ Public or County Employee shall mean any person employed by the County of Fairfax, including elected officials or appointed members of governing bodies.

~~37-39.~~ Responsible Bidder or Offeror shall mean an individual, company, firm, corporation, partnership or other organization who has the capability in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.

~~38-40.~~ Responsive Bidder or Offeror shall mean an individual, company, firm, corporation,

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partnership or other organization who has submitted a bid which conforms in all material respects to the Invitation to Bid or Request for Proposal.

~~39-41.~~ Reverse Auctioning shall mean a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services, but not construction or professional services, through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidder's prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

~~40-42.~~ SAC shall mean Selection Advisory Committee.

~~41-43.~~ Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

~~42-44.~~ Surplus Property shall mean that property which exceeds the requirement of the entire County.

~~43-45.~~ Suspension is a type of ineligibility based upon an immediate need when there is evidence that a prospective contractor has committed any of the grounds for debarment.

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Commented [MP7]: Administrative change.

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Article 2

PURCHASING POLICIES

Section 1. General

- A. Unless otherwise authorized by law, all Fairfax County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, construction, or construction management, shall be awarded after competitive sealed bidding or competitive negotiation, except as otherwise provided for in this Resolution or law.
- B. Professional services shall be procured using competitive negotiation, except as otherwise provided for in this Article.
- C. Consultant services may be procured using competitive negotiation, except as otherwise provided for in the Article.
- D. Certification of sufficient funds; orders and contracts in violation of Code of Virginia, §15.2-1238: - Except in emergency, no order for delivery on a contract or open market order for supplies, materials, equipment, professional and consultant services or contractual services for any County department or agency shall be awarded until the Director of Finance shall have certified that the unencumbered balance in the appropriation concerned, in excess of all unpaid obligations, is sufficient to defray the cost of such order. Whenever any department or agency of the County government shall purchase or contract for any supplies, materials, equipment or contractual services contrary to the provisions of §15.2-1238 of the Code of Virginia or the rules and regulations made thereunder, such order or contract shall be void and of no effect. The head of such department or agency shall be personally liable for the costs of such orders and contracts.
- E. Notwithstanding any other provision of law, the County may, as provided in the Code of Virginia, §2.2-4327, provide by resolution that in determining the award of any contract for time deposits or investment of its funds, the Director of Finance may consider, in addition to the typical criteria, the investment activities of qualifying institutions that enhance the supply of, or accessibility to, affordable housing within the jurisdiction. No more than fifty percent of the funds of the county, calculated on the basis of the average daily balance of the general fund during the previous fiscal year, may be deposited or invested by considering such investment activities as a factor in the award of a contract. A qualifying institution shall meet the provisions of the Virginia Security for Public

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Deposits Act (§2.2-4400 et seq.) and all local terms and conditions for security, liquidity and rate of return.

- F. Best value concepts may be considered when procuring goods, nonprofessional and consultant services, but not construction or professional services. The criteria, factors, and basis for consideration of best value and the process for the consideration of best value shall be as stated in the procurement solicitation.
- G. The County may enter into contracts with faith-based organizations on the same basis as any other nongovernmental source subject to the requirements of the Virginia Public Procurement Act (VPPA) §2.2-4343.1.

Section 2. Methods of Procurement.

- A. Competitive Sealed Bidding,- is a method of contractor selection which includes the following elements:
 - 1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the purchase. Unless the County has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, a solicitation may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.
 - 2. Public notice of the Invitation to Bid at least five days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of county wide circulation, or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, bids may be solicited directly from potential vendors.
 - 3. Public opening and posting of all bids received.
 - 4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential vendors, life cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

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5. Award to the lowest responsive and responsible bidder. Multiple awards may be made when so specified in the Invitation to Bid.
- B. Competitive Negotiation.- is a method of contractor selection which includes the following elements:
1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals.
 2. Public notice of the Request for Proposal at least five days prior to the date set for receipt of proposals by posting in a designated public area or by publication in a newspaper of county wide circulation or both. Public notice may also be published on a Fairfax County government web site and other appropriate web sites. In addition, proposals may be solicited directly from potential vendors.
 3. Competitive Negotiation – Consultant Services
 - a. Selection Advisory Committee
 1. When selecting a firm for consultant services where the compensation for such services is estimated to exceed \$100,000, the Director of DPMM or other Authorized Agency, or the FCPS Division Superintendent, or designee shall appoint a Selection Advisory Committee to recommend to the Director of DPMM or other Authorized Agency, those consultant services firms that are to be retained by the County. The SAC will be composed of three or more principal staff personnel and other such individuals as determined by the Purchasing Agent and a member of the DPMM or other authorized agency.
 2. When selecting a firm for consultant services, where the compensation for such consultant services is estimated to be less than \$100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head

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those consultant services firms that are to be retained by the County or an agency of the County.

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

b. Public Announcement

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

c. Selection, Negotiation and Approval Process.

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

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

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

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

4. Competitive Negotiation – Professional Services

a. Selection Advisory Committee.

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

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

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

b. Public Announcement and Qualifications for Professional Services.

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

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

c. Selection, Negotiation, and Approval Process

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

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

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

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

4. For all cost-plus-a-fixed-fee professional services contracts, the County shall require the firm receiving the award to execute a truth-in-negotiation certification stating that wage rates and other factual unit costs

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supporting the compensation are accurate, complete, and current at the time of contracting. Any professional services contract under which such a certificate is required shall contain a provision that the original contract price and any addition thereto shall be adjusted to exclude any significant sums where the County determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within three years following the end of the contract.

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

6. A contract for architectural or professional engineering services relating to construction projects may be negotiated by the County for multiple projects in accordance with the Virginia Public Procurement Act (VPPA), § 2.2-4303.1.

5. Competitive Negotiation – Non-Professional Services

a. Selection Advisory Committee

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

2. When selecting a firm for non-professional services, where the compensation is estimated to be less than \$100,000, the Director of the funded Agency or FCPS Department Head shall appoint a Selection Advisory

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Committee composed of three or more principal staff personnel to recommend to the Director of the funded Agency or FCPS Department Head those non-professional services firms that are to be retained by the County or an agency of the County.

b. Public Announcement

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

c. Selection, Negotiation and Approval Process.

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

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

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

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1. If an emergency occurs during regular County business hours, the head of the using agency shall immediately notify the County Purchasing Agent who shall either purchase the required goods or services or authorize the agency head to do so.
 2. If an emergency occurs at times other than regular County business hours, the using agency head may purchase the required goods or services directly. The agency head shall, however, when practical, secure competitive oral or written bids and order delivery to be made by the lowest responsive and responsible bidder. The agency head shall also, not later than the next regular County business day, submit to the County Purchasing Agent a requisition, a tabulation of the bids received, if any, a copy of the delivery record and a brief explanation of the circumstances of the emergency.
 3. The County Purchasing Agent shall maintain a record of all emergency purchases supporting the particular basis upon which the emergency purchase was made. Such records shall be available for public inspection during regular County business hours in the office of the County Purchasing Agent.
- D. **Informal Procurement.**- Any Fairfax County contract when the estimated cost is less than \$100,000 in value, shall be deemed an informal procurement and shall not be subject to the rules governing competitive sealed bidding or competitive negotiation. However, the County Purchasing Agent shall, wherever possible, solicit at least four written competitive bids on all informal procurements estimated to exceed \$10,000 in value; and solicit at least three oral or written quotes for purchase transactions estimated between \$5,000 - \$10,000. The rules and regulations adopted pursuant to Section 4 of Article 2 of this Resolution shall prescribe in detail the procedures to be observed in giving notice to prospective bidders, in tabulating and recording bids, in opening bids, in making purchases from the lowest responsive and responsible bidder, and in maintaining records of all informal procurements for public inspection.
- E. **Public Private Education Facilities and Infrastructure.**- The “Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA)” provides public entities an option for either approving an unsolicited proposal from a private entity or soliciting request for proposals or invitation for bids from private entities. Such projects are exempt from the Virginia Public Procurement Act. The County has developed procedures that are consistent with the principles of the PPEA and adopted by the Board of Supervisors.
- F. **Reverse Auctioning.**- The purchase of goods, consultant or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance,

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and aggregates shall not be made by reverse auctioning.

- G. **Small Purchase.**- Any purchase or lease of goods, professional, consultant, or nonprofessional services, or for the purchase of insurance, construction, or construction management, when the estimated cost is less than \$5,000, shall be deemed a small purchase and shall not be subject to the rules governing the formal competitive bidding process.
- H. **Sole Source.**- Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. A written record documenting the basis for this determination shall be included in the appropriate contract file or other records of the procurement. In addition, a notice shall be posted on the Department of Procurement and Material Management web site or other appropriate web sites on the day the County awards or announces its decision to award the contract in excess of \$100,000, whichever occurs first.

Section 3. Exceptions to the Requirement for Competitive Procurement.

- A. **Auction:** Upon a determination in writing by the County Purchasing Agent that the purchase of goods, products or commodities from a public auction sale is in the best interests of the County, such items may be purchased at the auction, including online public auctions. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.
- B. **Instructional Materials and Office Supplies:** Instructional materials and office supplies which are not stocked or purchased by the Fairfax County School Board pursuant to an existing County contract may be purchased by school principals designated by the School Board. Such purchases shall be conducted in accordance with rules and regulations adopted by the School Board pursuant to §22.1-122.1 of the Code of Virginia. With the exception of textbooks and instructional computer software that have been approved by the State Board of Education and the Fairfax County School Board, no single purchase may exceed the small purchase dollar level (as set forth in Article 2, Section 2. G.). The rules and regulations adopted by the School Board shall prescribe in detail the procedures to be observed in making purchases of instructional materials, establishing accounts for purchases, accounting for the receipt and disbursement of funds, and maintaining records of all transactions. The purchases authorized herein shall be made using funds from accounts established by the School Board solely for such purchases.
- C. **Insurance / Electric Utility Services:** As provided in the Code of Virginia, subdivision

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

- D. **Insurance:** As provided in § 2.2-4303(C), upon a written determination made in advance by the County Purchasing Agent that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in §2.2-4302.2(A)(3) of the Virginia Public Procurement Act.
- E. **Legal Services:** The County (or any public body that has adopted this Resolution) may enter into contracts without competition for (1) the purchase of legal services; and (2) expert witnesses or other services associated with litigation or regulatory proceedings. Any contract for Legal Services may be entered into upon terms established by the County Attorney.
- F. **Public Assistance Programs:** The County may procure goods or services without competition for direct use by a recipient of County administered public assistance programs as defined by §63.2-100 of the Code of Virginia, or the fuel assistance program, or community services board as defined in §37.2-100, or any public body purchasing services under the Children's Services Act for At-Risk Youth and Families (§2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§16.1-309.2 et seq.) provided such good or service is delivered by a vendor upon specific instructions from the appropriate employee of the County. Contracts for the bulk procurement of goods and services for use of recipients shall not be exempted from the requirements of competitive procurement.
- G. **Remedial Plan:** The purchase of goods and services when such purchases are made under a remedial plan established by the County Executive pursuant to Code of Virginia §15.2-965.1.
- H. **Workshops:** The County Purchasing Agent may enter into contracts without competition for the purchase of goods or services which are produced or performed by persons or in schools or workshops under the supervision of the Virginia Department for the Visually Handicapped; or which are produced or performed by employment services organizations which offer transitional or supported employment services serving individuals with disabilities, provided that the goods or services can be purchased within ten percent of their fair market value, will be of acceptable quality and can be produced in sufficient quantities and within the time required.

Adopted by the Fairfax County Board of Supervisors on June ~~21~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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- I. **Retirement Board Investments, Actuarial Services, Disability Determination Services:** The selection of services related to the management, purchase, or sale of authorized investments, actuarial services, and disability determination services shall be governed by the standard of care in Code of Virginia §51.1-124.302 and shall not be subject to the provisions of the Virginia Public Procurement Act.
- J. **Ballots and Elections Materials:** Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall not apply to contracts for equipment, software, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election, except as stated in §24.2-602. The provisions of Code of Virginia §24.2-602 shall apply to such contracts.
- K. **Other Special Exemptions:** Procurement for single or term contracts for goods and services not expected to exceed \$100,000 as identified by the Purchasing Agent.
- L. **Conference Planning:** Acquisition of the use of meeting rooms and lodging rooms in hotels or motels is considered to be short term rentals of portions of real property -real estate transactions. So long as the procurement involves only the use of the facilities, the competitive requirements of the Fairfax County Purchasing Resolution do not apply. However, if the procurement includes the provision of catered meals, audio visual equipment, or other related services, and the value of these other included services exceeds the \$5,000 level for which competition is required, the entire procurement, including the use of the space, shall be procured competitively as a package based on its anticipated value.
- M. **The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000.**
- N. **Finance Board Investments: Pursuant to Virginia Code Ann. § 15.2-1548, the selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, of the local finance board shall not be subject to the provisions of the Virginia Public Procurement Act.**

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Section 4. General Purchasing Provisions.

- A. **Competitive Solicitation Process.**
 - 1. The County Purchasing Agent shall solicit bids from all responsible prospective vendors who have registered their firm to be included on the County's vendor database and/or the Commonwealth of Virginia's "eVA" central vendor registration system for all solicitations using the competitive sealed bidding and

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competitive negotiation methods of procurement. Other potential vendors may be solicited at the discretion of the County Purchasing Agent.

2. The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or informal procurement methods of procurement. In submitting a bid or proposal each bidder shall, by virtue of submitting a bid, guarantee that the bidder has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor shall render the entire proceedings void and shall require readvertising for bids.
3. All solicitations shall include the following provisions:
 - a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
 - b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph a. has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
4. Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named: it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

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5. Prospective contractors may be prequalified for particular types of supplies, services, insurance, or construction, and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.
6. Prospective contractors may be debarred from contracting for particular types of goods, services, insurance, or construction, for specified periods of time. The debarment procedures are set forth under Article 4, Section 1.
7. The County shall establish procedures whereby comments concerning specifications or other provisions in Invitations to Bid or Requests for Proposal can be received and considered prior to the time set for receipt of bids or proposals or award of the contract.
8. Withdrawal of bids by a bidder.
 - a. A bidder for a contract other than for public construction may request withdrawal of their bid under the following circumstances:
 1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.
 2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.
 3. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
 4. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
 5. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other

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work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

6. If the County denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
7. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of Article 2, Section 4, Paragraph D.

B. Contract Award Process.-

1. The County Purchasing Agent shall have the authority to waive informalities in bids, reject all bids, parts of all bids, or all bids for any one or more good or service included in a solicitation when in his judgment the public interest is best served. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if none, to the resident Virginia tie bidder, or if none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services.
2. The County Purchasing Agent shall be responsible for determining the responsibility of a bidder. In determining responsibility, the following criteria will be considered:
 - a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;

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- d. The quality of performance of previous contracts or services;
 - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 - g. The quality, availability and adaptability of the goods or services to the particular use required;
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - i. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
 - j. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.
- 3. All contracts shall be approved as to form by the County Attorney or other qualified attorney and a copy of each long-term contract shall be filed with the Chief Financial Officer of the County.
 - 4. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the responsive bid from the lowest responsible bidder exceeds available funds, the County may negotiate with the apparent low bidder to obtain a contract price within available funds; however, such negotiations may be undertaken only under conditions and procedures described in writing and approved by the County prior to issuance of the Invitation to Bid.
 - 5. A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent of the amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Purchasing Agent. In no event may the amount of any contract, without adequate consideration, be increased for any

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purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.

6. Every contract in excess of \$100,000 shall contain the following: During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

C. Non Discrimination,-

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

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

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- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.
- d. The contractor will include the provisions of paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. Disclosure of Information.-

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

- 1. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- 2. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in 3. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- 3. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to Article 2, Section F shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon

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submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

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

E. Bonds,-

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

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

- a. the difference between the bid for which the bond was written and the next low bid, or
 - b. the face amount of the bid bond.
2. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.
 3. Actions on payment bonds:
 - a. Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.
 - b. Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond

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only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

- c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.
- d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

4. Alternative forms of security:

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

F. Prequalification –

- 1. Any prequalification of prospective contractor by the County shall be pursuant to a prequalification process.
 - a. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified.

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In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.

- b. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The prospective contractor may not institute legal action until all statutory requirements have been met. If, upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.
2. The County may deny prequalification to any contractor only if the County finds one of the following:
- a. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;
 - b. The contractor does not have appropriate experience to perform the project in question;
 - c. The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts;
 - d. The contractor has been in substantial noncompliance with the terms and conditions of prior contracts with the County without good cause. If the County has not contracted with a contractor in any prior contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior file and such information relating thereto given to the contractor at that time, with the opportunity to respond;
 - e. The contractor or any officer, director, owner, project manager, procurement

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

- f. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and
- g. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (a) through (f) of this subsection.

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

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

Section 6. Audit by the County.

All contracts and amendments in excess of \$10,000 shall include a provision permitting the County or its agent to have access to and the right to examine any books, documents, papers, and records of the contractor involving transactions related to the contract or compliance with any clauses thereunder, for a period of three (3) years after final payment. The contractor shall include these same provisions in all related subcontracts.

Section 7. HIPAA Compliance.

Fairfax County Government has designated certain health care components as covered by the Health Insurance Portability and Accountability Act of 1996. The successful vendor may be designated a business associate pursuant to 45 CFR part 164.504(e) and 164.308 (b) of those agencies identified as health care components of the County, including the Fairfax-Falls Church Community Services Board, upon award of contract. The successful vendor must

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adhere to all relevant federal, state, and local confidentiality and privacy laws, regulations, and contractual provisions of the Fairfax County Business Associate agreement. These laws and regulations include, but are not limited to: (1) HIPAA – 42 USC 201, et seq., and 45 CFR Parts 160 and 164; and (2) Code of Virginia – Title 32.1, Health, § 32.1-1 et seq. The vendor shall have in place appropriate administrative, technical, and physical safeguards to ensure the privacy and confidentiality of protected health information. Additional information may be obtained by going to the Fairfax County Web site at: <http://www.fairfaxcounty.gov/hipaa>.

Section 8. Immigration Reform and Control Act Compliance:

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

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

- A. The County shall include in every contract exceeding \$100,000 a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
- B. Pursuant to competitive sealed bidding or competitive negotiation, the County shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.
- C. Any bidder or offeror described in subsection B that fails to provide the required information may not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Purchasing Agent.
- D. Any business entity described in subsection A that enters into a contract with the County pursuant to this section shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required

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under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

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

Adopted by the Fairfax County Board of Supervisors on June ~~21~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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Article 3

CONSTRUCTION CONTRACTING

Section 1. Authority

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

- A. The Department of Public Works and Environmental Services (DPWES), pursuant to §15.2-834 of the Code of Virginia, the Board of Supervisors' Resolution dated September 18, 1968, and this Resolution, shall be responsible for Fairfax County construction projects administered by DPWES and the architectural, engineering and consultant services related to those projects. The Director, Department of Public Works and Environmental Services or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution. The Director, Department of Public Works and Environmental Services or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney
- B. The Fairfax County Public School Board shall be responsible for construction, related architectural and engineering services, related consulting services, maintenance, repair and related services in connection with building, furnishing equipping, renovating, maintaining, and operating the buildings and property of the school division in accordance with §22.1-79 of the Code of Virginia. The school division's Superintendent or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County School Board in accordance with the mandatory sections of the Code of Virginia.
- C. The Fairfax County Park Authority shall be responsible for Fairfax County Park Authority capital construction and related architectural and engineering services per §15.2-5704 of the Code of Virginia and Board of Supervisors' Resolution dated April 6, 1981, governing the relationship of the Fairfax County Park Authority and Fairfax County. The Director of the Park Authority or his designee shall have the same

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authority of as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Fairfax County Park Authority in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution. The Director, Department of the Park Authority or his designee shall have the authority to enter into agreements pursuant to Virginia Code Ann. § 2.2-4366 (2014). Any such agreements shall be approved by the County Attorney.

- D. The Department of Housing and Community Development shall be responsible for capital construction and related architectural and engineering services for all programs and projects administered by the Department on behalf of either the Redevelopment and Housing Authority per §36-19 of the Code of Virginia or the Fairfax County Board of Supervisors, including contracts per §36-49.1:1 to carry out blight abatement. The Director of the Department of Housing and Community Development or his designee shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution. Execution of contracts under this section shall be conducted under the rules and regulations established by the Department of Housing and Community Development in accordance with the mandatory sections of the Code of Virginia and applicable sections of this Resolution.
- E. The Department of Transportation, pursuant to §33.2-338 of the Code of Virginia, and this Resolution, may be responsible for constructing or improving highways, including related architectural and engineering services. Highways may include curbs, gutters, drainageways, sound barriers, sidewalks, and all other features or appurtenances conducive to the public safety and convenience which either have been or may be taken into the primary or secondary system of state highways. The Director, Department of Transportation or his designee, shall have the same authority as the County Purchasing Agent to execute and administer contracts and to make findings and address remedies as outlined in Article 4 of this Resolution regarding contracts assigned under this section in accordance with the mandatory sections of the Code of Virginia and the applicable sections of this Resolution.
- F. The Fairfax County Park Authority, the Department of Housing and Community Development, and the Department of Transportation, may by a Memorandum of Understanding (MOU) delegate construction authority as detailed in sections 3 – 5 above to the Department of Public Works and Environmental Services.

Section 2. Rules and Regulations

The Agencies designated in Section 1 above shall prepare and maintain detailed rules and

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regulations on the conduct of these contracting actions. Such rules and regulations shall be consistent with this Resolution and the laws of the Commonwealth of Virginia. Such rules and regulations shall be approved by the Purchasing Agent for County staff agencies or the administrative head of the respective public body involved.

Section 3. Definitions

- A. Construction shall mean building, altering, repairing, improving or demolishing any structure, building, or highway, and any draining, dredging, excavation, grading or similar work upon real property.
- B. Construction Management Contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.
- C. Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, ~~roadway, transportation project, or~~ other item specified in the contract.
- D. Other Authorized Agency is an Agency as designated by the Code of Virginia and the Board of Supervisors authorized to procure architectural and engineering design services to include public announcement, receipt of bids, recommending selection and award, negotiation, contract preparation and contract administration as more fully defined in Article 1, Section 3 of this Resolution.

Commented [MP11]: Administrative Change. See Va. Code Ann. § 33.2-269.

Section 4. Purchasing Policies

- A. Construction may be procured by competitive negotiation as set forth in the Code of Virginia, subsection D of §2.2-4303 for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.
- B. The Purchasing Agent may establish written purchase procedures not requiring competitive sealed bids or competition negotiation for single or term contracts for non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$100,000; and transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000. However, such small purchase procedures shall provide for competition wherever practicable.
- C. No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of \$50,000 or more in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan,

Adopted by the Fairfax County Board of Supervisors on June ~~21~~²⁰, ~~2016~~²⁰¹⁷; Effective July 1, ~~2016~~²⁰¹⁷

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are used or are to be used for all or part of the cost of construction shall be let except after competitive bidding or competitive negotiation as provided in this Resolution and law. The procedure for the advertising for bids and letting of the contract shall conform, mutatis mutandis, to the Virginia Public Procurement Act.

- D. A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract term is limited to one year and may be renewable for four additional one-year terms at the option of the County. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed \$6 million, (c) the project fee of any single project shall not exceed ~~\$2-2.5~~ million. Any unused amounts from the first contract term shall not be carried forward to the additional term(s). Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the Request for Proposal so states and (2) the County has established procedures for distributing multiple projects among the selected contractors during the contract term.

Commented [MP12]: Administrative change.

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

- ~~1.~~ Subsection D shall not be construed to render void any provision of a County construction contract that:

~~1.~~

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

~~a.~~

- ~~b.~~ Requires notice of any delay by the party claiming the delay;

~~b.~~

- ~~c.~~ Provides for liquidated damages for delay; or

~~c.~~

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

2. A contractor making a claim against the County for costs or damages due to the alleged delaying of the contractor in the performance of its work under any County

Adopted by the Fairfax County Board of Supervisors on June ~~24~~20, 20162017; Effective July 1, 20162017

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construction contract shall be liable to the County and shall pay the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

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

Section 5. Methods of Procurement

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

Commented [MP13]: Code Amendment, HB 2306

1. Prior to making a determination as to the use of construction management or design-build for a specific construction project, the County shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the County regarding the use of construction management or design-build for that project and (ii) assist the County with the preparation of the Request for Proposal and the evaluation of such proposals.
2. A written determination shall be made in advance by the County that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.
3. Procedures adopted by the County for construction management pursuant to this article shall include the following requirements:
 - a. Construction management contracts may be utilized for projects where the project cost is expected to be more than \$10 million;
 - b. Construction management may be utilized on projects where the project cost is expected to be less than \$10 million, provided that (i) the project is a complex project and (ii) the project procurement

Adopted by the Fairfax County Board of Supervisors on June 24²⁰, 2016²⁰¹⁷; Effective July 1, 2016²⁰¹⁷

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method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

c. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

d. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

e. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the County may consider the experience of each contractor on comparable projects;

f. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable;

g. The procedures allow for a two-step competitive negotiation process; and

h. Price is a critical basis for award of the contract.

4. Procedures adopted by the County for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

5. The County shall report by no later than November 1 of each year to the Director of the Department on all completed capital projects in excess of \$2 million, which report shall include at a minimum (i) the procurement method utilized; (ii) the project budget; (iii) the actual project cost; (iv) the expected timeline; (v) the actual completion time; and (vi) any post-project issues.

~~Competitive Negotiation Construction Management / Design Build Services~~

~~Prior to making a determination as to the use of design-build or construction management for a specific construction project, the County shall have in its employ or under contract a licensed architect or engineer with professional competence~~

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~~appropriate to the project who shall advise the public body regarding the use of design-build or construction management for that project and who shall assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals.~~

~~0. Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the County shall:~~

~~a. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation and award of design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require Requests for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications; and may define such other requirements as the public body determines appropriate for that particular construction project. Such procedures for:~~

~~— Design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department of General Services for state agencies.~~

~~— Construction management projects shall include selection procedures and required construction management contract terms consistent with the procedures as adopted by the Secretary of Administration.~~

~~0. Have documented in writing that for a specific construction project (i) a design-build or construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.~~

~~The contract shall be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal.~~

C. Job order contracting; limitations. Where the method for procurement of job order construction is professional services through competitive negotiation is used, the following shall apply:

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1. A job order contract may be awarded by the County for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first.
2. Such contracts may be renewable for two additional one-year terms at the option of the County. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed \$5 million. Individual job orders shall not exceed \$500,000.
3. For the purposes of this section, any unused amounts from one contract term shall not be carried forward to any additional term.
4. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subsection 2 is prohibited.
5. No job order contract shall be issued solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Article 1, Section 6. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.

Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass.

Section 6. Prequalification, Bonds, Escrow Accounts

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

- A. Any prequalification of prospective contractors for construction by the County shall be pursuant to a prequalification process for construction projects as outlined below.
 1. The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall

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request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information pursuant to Article 2, Section 4, Paragraph D.

2. In all instances in which the County requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this subsection to be accomplished.
3. At least thirty days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing, each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons.
4. A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the prospective contractor appeals the decision in writing within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. If upon appeal, it is determined that the action taken was arbitrary or capricious, or not in accordance with the Fairfax County Purchasing Resolution, the sole relief shall be restoration of eligibility.

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

1. The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;
2. The contractor does not have appropriate experience to perform the construction project in question;
3. The contractor or any officer, director or owner thereof has had judgments entered

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against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;

4. The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction file and such information relating thereto given to the contractor at that time, with the opportunity to respond;
5. The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, violation of Article 6 of the Virginia Public Procurement Act (§2.2-4367 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), Chapter 42 (§59.1-68.6 et seq.) of Title 59, or any substantially similar law of the United States or another state;
6. The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and
7. The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions (1) through (7) of this subsection.
 - a. If the County has a prequalification ordinance that provides for minority participation in municipal construction contracts, that public body may also deny prequalification based on minority participation criteria, provided, however, that nothing herein shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the Commonwealth.

C. Withdrawal of bids by a bidder.

1. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein,

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provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

2. The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. No bid shall be withdrawn when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent. The lowest remaining bid shall be deemed to be the low bid. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
3. The County shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the County denies the withdrawal of a bid, it shall state in such notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the County shall return all work papers and copies thereof that have been submitted by the bidder.

D. Progress Payments.

1. In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with not more than five percent being retained to be included in the final payment. Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.

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E. Bonds.-

1. Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of \$500,000 or transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 that are in excess of \$ ~~350,000~~ 250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

Commented [IP14]: Administrative correction.

For nontransportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with §2.2-4317 of the Code of Virginia. The County may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of \$100,000 but less than \$300,000 upon a written determination made in advance by the County that waiving the requirement is in the best interests of the County. The county shall not enter into more than 10 such contracts per year.

Commented [MP15]: Code Amendment: See HB 2017

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

- a. the difference between the bid for which the bond was written and the next low bid, or
- b. the face amount of the bid bond.

Nothing in this section shall preclude the County from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$500,000 for nontransportation-related projects or \$350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.

2. Performance and payment bonds:
 - a. Upon the award of any (i) public construction contract exceeding \$500,000 awarded to any prime contractor, (ii) construction contract exceeding \$500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body, or (iii) transportation-related projects exceeding \$350,000 that are partially or wholly funded by the

Adopted by the Fairfax County Board of Supervisors on June ~~21~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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Commonwealth, or (iv) construction contract exceeding \$500,000 in which the performance of labor of the furnishing of materials will be paid with public funds, the contractor shall furnish to the County the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2, such bond shall be in a form and amount satisfactory to the public body.
2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors in the prosecution furtherance of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material¹ furnished or labor supplied or performed in the prosecution furtherance of the work. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body. As used in this subdivision, "Labor or materials" shall include includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

Commented [MP16]: Code Amendment. See HB 2017

- b. For non-transportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the performance and payment bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with §2.2-4317. However, the locality may waive the requirement for prequalification of a contractor with a current Class A contractor license for contracts in excess of \$100,00 but less than \$300,000 upon a written determination in advance by the local governing body that waiving the requirement is in the best interest of the County. The County shall not enter into more than 10 such contracts per year.

Commented [MP17]: Code Amendment. See HB 2017

- b-c. Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.
- e-d. Such bonds shall be payable to the County of Fairfax and filed with the County or a designated office or official.

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- d-e. Nothing in this section shall preclude the County from requiring payment or performance bonds for construction contracts below \$500,000 for nontransportation-related projects or \$350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.
- e-f. Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.
- f-g. The performance and payment bond requirements above for transportation-related projects that are valued in excess of \$250,000 but less than \$350,000 may only be waived by the County if the bidder provides evidence, satisfactory to the County, that a surety company has declined an application from the contractor for a performance or payment bond.
3. Action on performance bond - No action against the surety on a performance bond shall be brought unless within one year after (1) completion of the contract, including the expiration of all warranties and guarantees or (2) discovery of the defect or breach of warranty, if the action be for such, in all other cases.
4. Actions on payment bonds:
- Subject to the provisions of subsection (b) hereof, any claimant who has performed labor or furnished material in accordance with the contract documents in the prosecution of the work provided in any contract for which a payment bond has been given, and who has not been paid in full therefore before the expiration of ninety days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.
 - Any claimant who has a direct contractual relationship with any subcontractor but who has no contractual relationship, express or implied, with the contractor, may bring an action on the contractor's payment bond only if he has given written notice to the contractor within 180 days from the day on which the claimant performed the last of the labor or furnished the

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last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished, shall not be subject to the time limitations stated in this subsection.

- c. Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.
- d. Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

5. Alternative forms of security:

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

F. Escrow Accounts,-

- 1. The County, when contracting directly with contractors for public contracts of \$200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations, where portions of the contract price are to be retained, shall include an option in the bid or proposal for the contractor to use an Escrow account procedure for utilization of the County's retainage funds by so indicating in the space provided in the bid or proposal documents and executing the Escrow Agreement form provided by the County. In the event the contractor elects to use

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the Escrow account procedure, the Escrow Agreement form shall be executed and submitted to the County within fifteen days after receipt of notification of contract award by the contractor.

2. The executed Escrow Agreement Form shall be submitted to the Office designated in the bid or proposal documents. If the Escrow Agreement Form is not submitted to the designated office within the fifteen day period, the contractor shall forfeit his rights to the use of the Escrow account procedure.
3. The Purchasing Agent shall promulgate escrow regulations. In order to have retained funds paid to an escrow agent, the contractor, the escrow agent and the surety shall execute the Escrow Agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the Commonwealth and shall satisfy escrow agent qualifications promulgated by the Purchasing Agent.
4. This subsection E. shall not apply to public contracts for construction for railroads, public transit systems, runways, dams, foundations, installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter, the installation or maintenance of telephone, telegraph or signal systems for public utilities and the construction or maintenance of solid waste or recycling facilities and treatment plants.
5. Any such public contract for construction with the County which includes payment of interest on retained funds, may include a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.
6. Any subcontract for such public project that provides for similar progress payments shall be subject to the provisions of this section.

This subsection E. shall apply to contracts as provided in the Code of Virginia, §2.2-4334.

FAIRFAX COUNTY PURCHASING RESOLUTION

Article 4

BIDDER/CONTRACTOR REMEDIES

Section 1. Ineligibility.

- A. Debarment as used in this section means any action taken by the County Purchasing Agent to exclude individuals or entities from contracting with County agencies or organizations for particular types of goods for a specified period of time. A prospective contractor may be suspended from participating in County procurements if there is evidence that the prospective contractor has committed an act that would be the basis of a debarment and immediate action is needed to protect the County's interests. Debarment or suspension do not relieve the contractor of responsibility for its existing obligations.
- B. The County Purchasing Agent shall have the authority to suspend or debar a prospective contractor from contracting for particular types of supplies, services, insurance on construction, for specified periods of time for the causes stated below:
1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;
 4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - a. failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to

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perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;

5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;

6. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project.;

7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.

C. Ineligibility Period. Debarment shall be for a period of ninety (90) days to three (3) years, at the discretion of the County Purchasing Agent. The period of Suspension shall not exceed one year.

A debarment or suspension may be lifted or stayed at any time if the County Purchasing Agent determines that doing so is in the best interests of the County.

A.D. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.

1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within ~~thirty-ten (3010)~~ days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.

2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within ~~thirty (30)~~-ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.

~~A. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract a prospective contractor from contracting for particular types of supplies, services, insurance on construction, for specified periods of time for the causes stated below:~~

~~2. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;~~

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~~3. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;~~

~~3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;~~

~~3. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:~~

~~— failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or~~

~~— a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;~~

~~3. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;~~

~~3. The contractor has abandoned performance, been terminated for default on a Fairfax County project, or has taken any actions that inure to the detriment of Fairfax County or a Fairfax County project;~~

~~3. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.~~

B.E. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

Section 2. Appeal of Denial of Withdrawal of Bid.

- A. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt

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of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.

- B. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4A, paragraph 8, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- C. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation to Bid, the sole relief shall be withdrawal of the bid.

Section 3. Appeal of Determination of Nonresponsibility.

- A. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- B. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

Section 4. Protest of Award or Decision to Award.

- A. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such

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contract as provided in Article 2, Section 2. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4.D, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4.D, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia. Nothing in this section shall be construed to permit a bidder to challenge the validity of the terms or conditions of the Invitation for Bid or Request for Proposal.

- B. If, prior to award, it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.
- C. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- D. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

Section 5. Contractual Disputes.

- A. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy to the

Commented [MP18]: Administrative Change. See Va. Code Ann. § 2.2-4360

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contractor within ninety (90) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the County Purchasing Agent's decision on the claim, unless the County Purchasing Agent fails to render such decision within the time specified.

- B. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

Section 6. Legal Action.

- A. No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

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FAIRFAX COUNTY PURCHASING RESOLUTION

Article 5

ETHICS IN COUNTY CONTRACTING

Section 1. General.

- A. The provisions of this article supplement, but do not supersede, other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (§2.2-3100 et seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et seq.), and Articles 2 (§18.2-438 et seq.) and 3 (§18.2-446 et seq.) of Chapter 10 of Title 18.2. The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.
- B. No County employee having official responsibility for a procurement transaction (except as may be specifically allowed by subdivisions of A2, A3 and A4 of §2.2-3112) shall participate in that transaction on behalf of the County when the employee knows that:
1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or,
 2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror, or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or,
 3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or,
 4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 2. Solicitation or Acceptance of Gifts.

No County employee having official responsibility for a procurement transaction shall solicit, demand, accept or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or

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greater value is exchanged. The County may recover the value of anything conveyed in violation of this section.

Section 3. Disclosure of Subsequent Employment.

No County employee or former County employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the County employee or former County employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the County unless the County employee, or former County employee, provides written notification to the County prior to commencement of employment by that bidder, offeror or contractor.

Section 4. Gifts.

No bidder, offeror, contractor or subcontractor shall confer upon any County employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

Section 5. Kickbacks.

- A. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything present or promised, unless consideration of substantially equal or greater value is exchanged.
- B. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- C. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a County contract.
- D. If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.
- E. No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of the County shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the

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procurement which is not available to the public. However, the County may permit such person to submit a bid or proposal for that procurement or any portion thereof if the County determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the County.

Section 6. Purchase of Building Materials, etc., from Architect or Engineer Prohibited.

- A. No building materials, supplies or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person employed as an independent contractor by the County to furnish architectural or engineering services, but not construction, for such building or structure; or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in §2.2-3101 of the Code of Virginia.
- B. No building materials, supplies, or equipment for any building or structure constructed by or for the County shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies, or equipment to be used in such building or structure to the independent contractor employed by the County to furnish architectural or engineering services in which such person has a personal interest as defined in §2.2-3101 of the Code of Virginia.
- C. The provisions of this Section shall not apply in the case of emergency.

Section 7. Certification of Compliance; Penalty for False Statements.

- A. The County may require County employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this section.
- B. Any County employee required to submit a certification as provided in subsection a. of this section who knowingly makes a false statement in such certification shall be punished as provided in §2.2-4377 of the Code of Virginia.

Section 8. Misrepresentations.

No County employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

FAIRFAX COUNTY PURCHASING RESOLUTION

Section 9. Penalty for Violation.

The penalty for violations of any of the provisions under Article 5 of this Resolution is provided in the Code of Virginia, §2.2-4377.

Section 10. Personal Conflicts of Interest

It is County policy to require contractors to:

- 1) Identify and prevent personal conflicts of interest of their employees who perform an acquisition function closely associated with inherently governmental functions; and
- 2) Prohibit employees who have access to non-public County information from using such information for personal gain.

Failure to comply may result in suspension or debarment or termination for cause. The Purchasing Agent may waive, in exceptional circumstances, a personal conflict of interest or waive the requirement to prevent conflict of interest for a particular employee, if he determines in writing that such mitigation is in the best interest of the County.

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Adopted by the Fairfax County Board of Supervisors on June ~~21~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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Article 6

SUPPLY MANAGEMENT

The Director of the Department of Procurement and Material Management is responsible for the management of all Fairfax County and Fairfax County Public Schools (FCPS) supplies and equipment except as excluded by formal agreement between the County and other public bodies. This includes physical accountability of consumable supplies and accountable equipment, as well as, validation of the inventory and accountable equipment values reported in Fairfax County's Comprehensive Annual Financial Report. DPMM shall prescribe the procedures to be used by departments in the acquisition, receipt, storage and management, and issuance of consumable supplies and accountable equipment inventory, and disposition of excess and surplus County property.

Section 1. County Consolidated Warehouse

The Director of the Department of Procurement and Material Management is responsible for operation of the County Consolidated Warehouse which provides temporary storage and distribution of the supplies and equipment to all County departments. The Warehouse may be used as the storage point for goods on consignment from other departments. The Director of the Department of Procurement and Material Management is responsible for space management at the County Consolidated Warehouse.

Section 2. Inventory Accountability

Departments and Fairfax County Public Schools are required to establish and maintain accountability of consumable inventories and accountable equipment in their custody, and to conduct periodic physical inventories in accordance with schedules published by the Director of the Department of Procurement and Material Management.

Section 3. Consumable Inventory Management

- A. The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all consumable inventory warehouses and stockrooms.

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- B. The Director of the Department of Procurement and Material Management shall administer Fairfax County's perpetual inventory management system through FOCUS, and shall approve the management of perpetual inventories through any system other than FOCUS.

Section 4. Accountable Equipment Inventory Management

- A. The Director of the Department of Procurement and Material Management shall exercise oversight responsibility over all accountable equipment.
- B. The Director of the Department of Procurement and Material Management is responsible for defining items to be capitalized as accountable equipment, and administering the Accountable Equipment Program in accordance with State and County codes, as well as industry standards and best practices.

Section 6. Excess and Surplus Property and Inventory.

- A. The Director of the Department of Procurement and Material Management is responsible for redistribution of serviceable excess property and inventory, to include furniture, office equipment, repair parts, etc.
- B. The Director of the Department of Procurement and Material Management is responsible for the disposal of surplus property and inventory as applicable by law. Disposals will be evaluated in an effort to maximize financial returns to the County and / or minimize environmental impact.
- C. Confiscated or abandoned property in the hands of the police shall be disposed in accordance with Chapter 2, Article 2, Sections 2-2-1 through 2-2-3 of the County Code.
- D. Employees and members of their immediate family are not eligible to acquire property for personal use before such property has been declared surplus and has been made available to the general public. The County may, however, sell any dog specially trained for police work to the handler who was last in control of such dog, at a price deemed by the locality to be appropriate.

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Section 7. Donations

A. Accepting Donations:

1. Items \$5,000 or more:

The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services is responsible for approving the acceptance donated items or services with a fair market value of \$5,000 or more, and ensuring accepted items are properly accounted for.

2. Items under \$5,000:

Department Heads, Principals, or their equivalents may accept donated items or services with a fair market value under \$5,000.

B. Making Donations:

1. Items \$5,000 or more:

When the fair market value of an item exceeds \$5,000, the Board of County Supervisors or FCPS School Board, as appropriate and allowed by law, may offer surplus County or School property to charitable or non-profit organizations or public bodies for sale or donation, where appropriate. The Director of the Department of Procurement and Material Management or Assistant Superintendent of Financial Services shall coordinate all requests to donate items with their respective Board.

2. Items under \$5,000:

When the fair market value of a surplus item is less than \$5,000, the Director of the Department of Procurement and Material Management or FCPS Chief Financial Services may donate the item directly to charitable or nonprofit organizations as appropriate and allowed by law.

It is further resolved that this resolution shall be effective July 1, 2016.

A Copy Teste:

Catherine A. Chianese
Clerk to the Board of Supervisors

Adopted by the Fairfax County Board of Supervisors on June ~~24~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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Adopted by the Fairfax County Board of Supervisors on June ~~21~~20, ~~2016~~2017; Effective July 1, ~~2016~~2017

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ACTION – 8

Approval of the Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Increase

ISSUE:

Recipients of federal financial assistance (e.g., states, local governments, transit providers) are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the United States Department of Transportation's (USDOT) implementing regulations. Recipients must maintain a valid Title VI Plan that demonstrates how the recipient is complying with Title VI requirements, including prohibiting discrimination on the basis of race, color, or national origin.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve FCDOT's Fare Equity Analysis for the proposed FY 2018 Fairfax Connector fare increase which resulted in no disparate impacts on minority populations or disproportionate burdens on low-income populations (Attachment I – Fairfax Connector Title VI Fare Equity Analysis For June 2017 Fare Changes).

TIMING:

The Board of Supervisors is requested to act on this item on June 20, 2017, so that FCDOT can implement the proposed fare increases on June 25, 2017.

BACKGROUND:

The Board of Supervisors approved FCDOT's Title VI Plan on July 1, 2014. FCDOT's Title VI Plan prohibits discrimination on the basis of race, color, or national origin. Although not directly prohibited by Title VI, preventing discrimination on the basis of economic status is also a Title VI Plan requirement as per Presidential Executive Order 12898 signed on February 11, 1994. As part of FCDOT's efforts to develop a full Title VI Plan, the Board approved a Major Service Change, Disparate Impact, and Disproportionate Burden policy on May 2, 2017. The Major Service Change, Disparate Impact, and Disproportionate Burden policy requires additional Board approval of a Fare Equity Analysis for any proposed fare increase for Fairfax Connector services. Fairfax Connector fares are scheduled to increase on June 25, 2017, in concert with fare increases being implemented by the Washington Metropolitan Area Transit Authority. The Federal Transit Administration (FTA) Circular requires the fare analysis include the following elements:

- An analysis of the usage of each fare medium and fare level generated from ridership surveys indicating whether minority and/or low-income riders are

disproportionately more likely to use the mode of service, payment type, or fare media that would be subject to the fare increase or decrease;

- The number and percent of users of each fare media proposed for increase or decrease, including a profile of fare usage by group—minority, low-income, and overall ridership;
- For each fare medium and fare level, a table comparing the existing cost, the percent change, and the usage of minority groups as compared to overall usage and of low-income groups as compared to overall usage;
- Whether changes on a particular fare medium may lead to a disparate impact or disproportionate burden;
- Whether vendors that distribute/sell the fare media are located in areas that are convenient to impacted populations;
- If it is determined that a disparate impact exists, an analysis of modifying the proposal to mitigate impacts;
- If it is determined that a disparate impact exists and the agency will make the fare changes despite these impacts, an analysis that demonstrates a substantial legitimate justification for the proposed fare changes, including an analysis of alternatives to determine whether the proposed fare changes are the least discriminatory alternative; and,
- If a disparate impact or a disproportionate burden is identified, an exploration of alternatives and mitigation strategies, including the timing of implementing the fare increases, providing discounts on passes to social service agencies that serve the impacted populations, and other alternatives as appropriate.

FISCAL IMPACT:

The result of this fare equity analysis is that Fairfax County remains in compliance with Title VI, and continues to be eligible to receive future FTA grants and/or other United States Department of Transportation (USDOT) funding, including Transportation Infrastructure Finance and Innovation Act (TIFIA) funding for the Silver Line. The increase in fares, which are consistent with WMATA, will have a modest, but positive, effect on the Fairfax Connector FY 2018 budget.

ENCLOSED DOCUMENTS:

Attachment I: Fairfax Connector Title VI Fare Equity Analysis for June 2017 Fare Changes

STAFF:

Robert A. Stalzer, Deputy County Executive
Kenneth Saunders, Director, Office of Human Rights and Equity Programs
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Dwayne Pelfrey, Chief, Transit Services Division, FCDOT
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

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June 20, 2017

Brent Riddle, Coordination and Funding Division, FCDOT
Benjamin Atsem, Civil Rights Compliance, Coordination and Funding Division, FCDOT
Randy White, Transit Services Division, FCDOT
Hejun Kang, Transit Services Division, FCDOT
Stuart Boggs, Transit Services Division, FCDOT

Fairfax Connector Title VI Fare Equity Analysis For June 2017 Fare Changes May 16, 2017

Requirement for a Fare Equity Analysis

The analysis was conducted in accordance with FTA Circular 4702.1B, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. The Circular requires, under Title VI of the Civil Rights Act of 1964, that the Fairfax County Department of Transportation (FCDOT) undertake an evaluation of any proposed fare changes, either increase or decrease, to determine whether it has a discriminatory impact on Title VI protected minority populations or on low-income populations. The requirement applies to any and all fare media and fare level changes, whether increases or decreases, and applies to any transit operator with at least 50 vehicles in peak service.

The analysis is to be completed and approved by the operator's governing board during the planning stage, before the change is implemented, but is not submitted to FTA until the next Title VI Plan update submission is due. In summary, the FTA Circular states that the analysis should include:

- A statement of the agency's "disparate impact" and "disproportionate burden" policies and how the public was engaged in developing the policies.
- An analysis of the usage of each fare medium and fare level generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or fare media that would be subject to the fare increase or decrease.
- The number and percent of users of each fare media proposed for increase or decrease including a profile of fare usage by group - minority, low-income, and overall ridership - in table format.
- For each fare medium and fare level, a table comparing the existing cost, the percent change, and the usage of minority groups as compared to overall usage and of low-income groups as compared to overall usage.
- Whether focusing changes on a particular fare medium may lead to a disparate impact or disproportionate burden.
- Whether vendors that distribute/sell the fare media are located in areas that would be convenient to impacted populations.
- An analysis of modifying the proposal to remove the impacts, if it is determined that a disparate impact exists.
- An analysis that demonstrates that there is a substantial legitimate justification for the proposed fare changes, including an analysis of alternatives to determine whether the proposed fare changes are the least discriminatory alternative, if it is determined that a disparate impact exists and the agency will make the fare changes despite these impacts.
- A documented exploration of alternatives and mitigation, including the timing of implementing the fare increases, providing discounts on passes to social service

agencies that serve the impacted populations, and other alternatives as appropriate, if a disparate impact or a disproportionate burden is identified.

Relevant Fairfax County Title VI Program Elements

The FTA Circular requires that FCDOT establish policies for what constitutes a disparate impact and a disproportionate burden for use in service equity and fare equity analyses. The policies listed in this section are contained in the County's Title VI Program, as approved by the Board of Supervisors on May 2, 2017.

For Fare Equity Analysis,

*A **disparate impact** occurs when the difference between the percentage of minority riders and the percentage of overall riders affected by a proposed fare change is 10 percent or greater.*

*A **disproportionate burden** occurs when the difference between the percentage of low-income riders and the percentage of low-income overall riders affected by a proposed fare change is 10 percent or greater.*

To determine whether a fare change will cause a disparate impact, the percentage of the minority riders served by Fairfax Connector using a particular fare medium and fare level is to be compared to the percentage of the overall riders served by Fairfax Connector using that fare medium and fare level. If the percentage of minority riders using a particular fare medium and fare level exceeds the percentage of overall riders by at least ten percent, then the change in fares for that fare medium and fare level must be examined (see Figure 1). If a disparate impact is found, the transit provider may implement the fare change only if a substantial legitimate justification for the proposed fare change exists, and there are no alternatives that would have a less disparate impact on minority to meet the same legitimate program goals. Minority riders were defined as any person identifying themselves as Latino or indicating a race of anything other than white on the survey.

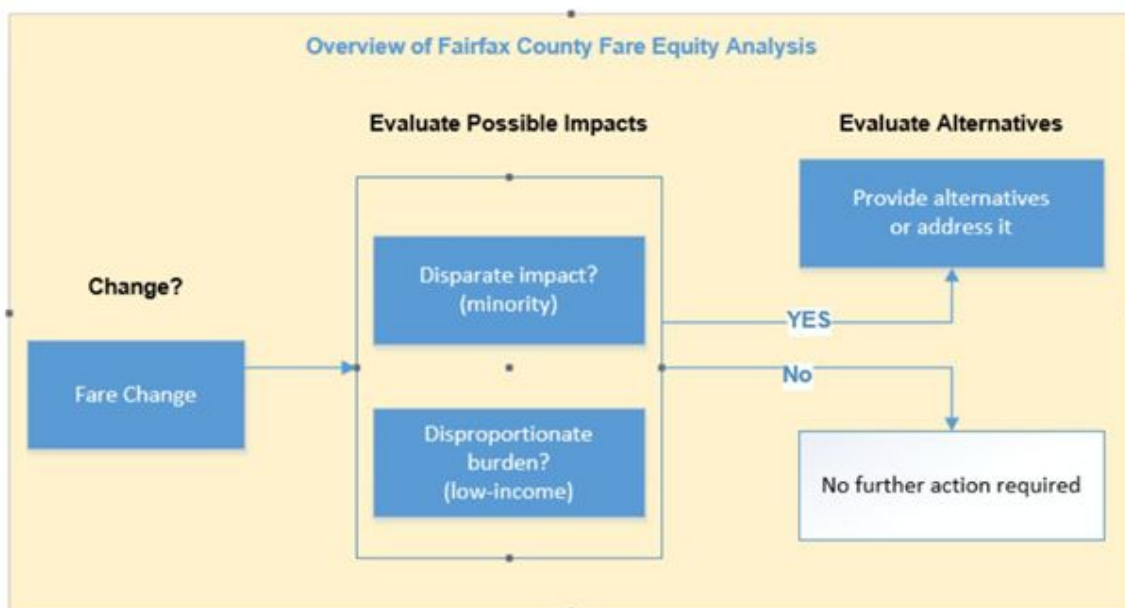


Figure 1. Overview of Fairfax County Title VI Fare Equity Analysis

To determine whether a fare change will cause a disproportionate burden, a similar process is used comparing the percentage of the low-income users served by Fairfax Connector using a particular fare medium and fare level to the percentage of the overall users served by Fairfax Connector using that fare medium and fare level. If a disproportionate burden is found, then it must take steps to avoid, minimize or mitigate impacts where practicable, and describe alternatives available to low-income populations affected by the fare changes. Low-income riders were defined as any person reporting a household income of \$50,000 or less (the survey used income categories in \$10,000 increments).

Rationale and Description for the Fare Change

The Washington Metropolitan Area Transit Authority (WMATA), recently issued a plan for a proposed fare change in FY 2018 to keep Metro safe, reliable and affordable. The Connector participates as a regional partner with WMATA in the use of the SmarTrip (pre-paid fare card). Board of Supervisors policy is to increase fares for the Fairfax Connector consistent with WMATA fare increases. Additionally, WMATA provides approximately 43 percent of the total bus service revenue hours in the County through Metrobus. Furthermore, a fare increase will help Fairfax Connector to defray the increasing cost of providing bus service to its riders.

For the reasons given above, the proposed Connector fare changes for local and express bus service match those proposed for similar WMATA Metrobus service. For regular customers, both local bus and express bus fares would increase 25 cents, which is 14.3% and 6.3% higher than the current prices respectively. For seniors/disabled, the local bus fare would increase 15 cents (17.6%), and the express bus fare would increase 10 cents (5%). For our express service on Route 599, the regular fare is \$7.50, and it would remain the same as WMATA's airport routes (5A/B30). The Senior/Disabled fare for this route was proposed to change to \$3.75, to mirror the one-half regular fare policy for Senior/Disabled. All fares for the Circulator services would be unchanged. These changes are summarized below in Table 1.

Table 1: Existing and Proposed Fare Changes for FY2018

Fare Category			Fares			
Service Type	Customer Type	Fare Medium	Current Fare	Proposed Fare	Fare Change	% Fare Change
Local Bus	Regular	SmarTrip	\$1.75	\$2.00	\$0.25	+14.3%
Local Bus	Regular	Cash	\$1.75	\$2.00	\$0.25	+14.3%
Local Bus	Senior/Disabled	SmarTrip	\$0.85	\$1.00	\$0.15	+17.6%
Local Bus	Senior/Disabled	Cash	\$0.85	\$1.00	\$0.15	+17.6%
Circulator (422/423/424)	Regular	SmarTrip	\$0.50	\$0.50	\$0.00	0.0%
Circulator (422/423/424)	Regular	Cash	\$0.50	\$0.50	\$0.00	0.0%
Circulator (422/423/424)	Senior/Disabled	SmarTrip	\$0.50	\$0.50	\$0.00	0.0%
Circulator (422/423/424)	Senior/Disabled	CASH	\$0.50	\$0.50	\$0.00	0.0%
Express Bus (393/394/395)	Regular	SmarTrip	\$4.00	\$4.25	\$0.25	+6.3%
Express Bus (393/394/395)	Regular	Cash	\$4.00	\$4.25	\$0.25	+6.3%

Express Bus (393/394/395)	Senior/Disabled	SmarTrip	\$2.00	\$2.10	\$0.10	+5.0%
Express Bus (393/394/395)	Senior/Disabled	Cash	\$2.00	\$2.10	\$0.10	+5.0%
Route 599 Express	Regular	SmarTrip	\$7.50	\$7.50	\$0.00	0.0%
Route 599 Express	Regular	Cash	\$7.50	\$7.50	\$0.00	0.0%
Route 599 Express	Senior/Disabled	SmarTrip	\$0.85	\$3.75	\$2.90	+341.2%
Route 599 Express	Senior/Disabled	Cash	\$0.85	\$3.75	\$2.90	+341.2%

Utilization of Survey Data for the Fare Equity Analysis

The FTA Circular requires that a transit operator use rider survey data that is no more than five years old to ascertain the percentage of users of each fare level and fare medium who are members of Title VI minority and low income protected classes. FCDOT collected an on-board customer survey from Fall 2013 to Fall 2014. The survey consisted of 23 questions on the fare paid, household income, race and Latino origin, English proficiency, as well as questions on trip origin/destination, frequency of use, availability of travel alternatives, opinions of service and other topics. Surveys were distributed to all passengers on the equivalent of one weekday, one Saturday and one Sunday of service on all routes surveyed.

To develop current system wide estimates of ridership by fare category for low-income, minority, and all riders, the 11,078 surveyed respondents were weighted to the observed average Weekday, Saturday and Sunday daily ridership in FY2015¹. The daily average ridership was then combined to produce a weekly usage, assuming five weekdays, a Saturday and a Sunday. Finally, the 3.1% of ridership using fare media issued by other agencies whose pricing is beyond the control of FCDOT was excluded from the analysis.

Table 1: Ridership by Fare Category for Low-Income, Minority and All Riders

Fare Category			Estimated Weekly Usage		
Service Type	Customer Type	Fare Media	Overall*	Low - Income	Minority
Local Bus	Regular	SmarTrip	170,816	77,106	108,090
Local Bus	Regular	Cash	11,791	7,492	8,714
Local Bus	Senior/Disabled	SmarTrip	5,498	2,539	2,113
Local Bus	Senior/Disabled	Cash	153	131	85
Circulator (422/423/424)	Regular	SmarTrip	4,449	1,872	3,150
Circulator (422/423/424)	Regular	Cash	237	113	210
Circulator (422/423/424)	Senior/Disabled	SmarTrip	126	39	36
Circulator (422/423/424)	Senior/Disabled	Cash	0	0	0
Express Bus (393/394/395)	Regular	SmarTrip	3,117	36	973

¹ FY 2015 observed ridership is used to weight the survey data because the new route 599 began service in July 2014.

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Express Bus (393/394/395)	Regular	Cash	0	0	0
Express Bus (393/394/395)	Senior/Disabled	SmarTrip	112	0	22
Express Bus (393/394/395)	Senior/Disabled	Cash	0	0	0
Route 599 Express	Regular	SmarTrip	1,065	28	1,037
Route 599 Express	Regular	Cash	0	0	0
Route 599 Express	Senior/Disabled	SmarTrip	91	0	91
Route 599 Express	Senior/Disabled	Cash	0	0	0
TOTAL			197,454	89,355	108,099

* FY2015 total ridership excludes the 3.1% of riders using fare types not issued by Fairfax County, including MARC/VRE Transit Link Card (TLC), 7-Day Regional Bus PASS (WMATA), DASH, MetroAccess, and others.

Profile of Fare Usage and Fare Changes by Group

Table 3 shows the percentage of low-income, minority and all riders using each fare category alongside the fare changes proposed.

The first step in the determination of whether disparate impacts or disproportionate burdens exist is to compare the percent utilization of each fare category by low-income and minority groups to the percent utilization of all riders. The final two columns in Table 3 show the difference between the percent utilization by Title VI protected groups and the percent utilization by all riders. If any of the categories had shown differences of 10% or more, the relative differences in the percent of the fare increase would have to be examined to note whether those categories with a difference of 10% or more would have larger fare increases.

The disparate impact analysis of the data in Table 3 shows that utilization of the various fare categories by minority riders ranges between 1.1% below and 1.1% above the utilization of the same fare category by all riders. The County's policy threshold establishing potential of a disparate impact when utilization of any fare category by minority riders exceeds utilization of that same fare category by all riders by at least 10%. Therefore, no disparate impacts exist for the proposed fare changes.

The disproportionate burden analysis of the data in Table 3 shows that utilization of the various fare media by low-income riders ranges between 1.5% below and 2.4% above the utilization of the same fare category by all riders. The County's policy threshold to establish the potential of a disproportionate burden when utilization of any fare category by low-income riders exceeds utilization of that same fare category by all riders by at least 10%. Therefore, no disproportionate burdens exist for the proposed fare changes.

Table 3: Percentage of Ridership by Fare Category for Low-Income, Minority and All Riders

Fare Category			Fares				Percentage of Estimated Weekly Usage			Difference	
Service Type	Customer Type	Fare Medium	Current	Propose	Change	% Change	Overall	Low-Income	Minority	Low-Income	Minority
Local Bus	Regular	SmarTrip	\$1.75	\$2.00	\$0.25	14.3%	86.5%	86.3%	87.4%	-0.2%	0.9%
Local Bus	Regular	Cash	\$1.75	\$2.00	\$0.25	14.3%	6.0%	8.4%	7.0%	2.4%	1.1%
Local Bus	Senior/Disabled	SmarTrip	\$0.85	\$1.00	\$0.15	17.6%	2.8%	2.8%	1.7%	0.1%	-1.1%
Local Bus	Senior/Disabled	Cash	\$0.85	\$1.00	\$0.15	17.6%	0.1%	0.1%	0.1%	0.1%	0.0%
Circulator (422/423/424)	Regular	SmarTrip	\$0.50	\$0.50	\$0.00	0.0%	2.3%	2.1%	2.5%	-0.2%	0.3%
Circulator (422/423/424)	Regular	Cash	\$0.50	\$0.50	\$0.00	0.0%	0.1%	0.1%	0.2%	0.0%	0.0%
Circulator (422/423/424)	Senior/Disabled	SmarTrip	\$0.50	\$0.50	\$0.00	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%
Circulator (422/423/424)	Senior/Disabled	Cash	\$0.50	\$0.50	\$0.00	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Express Bus (393/394/395)	Regular	SmarTrip	\$4.00	\$4.25	\$0.25	6.3%	1.6%	0.0%	0.8%	-1.5%	-0.8%
Express Bus (393/394/395)	Regular	Cash	\$4.00	\$4.25	\$0.25	6.3%	0.0%	0.0%	0.0%	0.0%	0.0%
Express Bus (393/394/395)	Senior/Disabled	SmarTrip	\$2.00	\$2.10	\$0.10	5.0%	0.1%	0.0%	0.0%	-0.1%	0.0%
Express Bus (393/394/395)	Senior/Disabled	Cash	\$2.00	\$2.10	\$0.10	5.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Route 599 Express	Regular	SmarTrip	\$7.50	\$7.50	\$0.00	0.0%	0.5%	0.0%	0.2%	-0.5%	-0.3%
Route 599 Express	Regular	Cash	\$7.50	\$7.50	\$0.00	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Route 599 Express	Senior/Disabled	SmarTrip	\$0.85	\$3.75	\$2.90	341.2%	0.0%	0.0%	0.0%	0.0%	0.0%
Route 599 Express	Senior/Disabled	Cash	\$0.85	\$3.75	\$2.90	341.2%	0.0%	0.0%	0.0%	0.0%	0.0%
TOTAL							100.0%	100.0%	100.0%		

Findings

For the proposed fare change by FCDOT, our analysis of the recent survey data shows that the utilization of the various fare media and fare levels among minority and low-income riders does not differ substantially from that of the overall ridership. **In summary, the finding of this analysis is that the proposed fare change would not result in disparate impacts on minority populations or disproportionate burdens on low income riders.** Given this finding, no further examination of alternatives is required by the FTA Title VI Circular.

ACTION - 9

Approval of a One Year Extension to the Washington Metropolitan Area Transit Authority's (WMATA) Capital Funding Agreement for FY 2018

ISSUE:

Board approval of a one year extension of the Washington Metropolitan Area Transit Authority (WMATA) Capital Funding Agreement (CFA) for FY 2018 and authorization of the County Executive to execute the amendment in substantially the form of Attachment III. The current CFA addresses system rehabilitation, the purchase of new rail cars and buses, and is designed to keep the system in a "state of good repair." The current agreement expires in FY 2017, and WMATA is requesting a one year extension of the current agreement.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors: (1) approve, in substantially the form of Attachment III, the amendment to the current CFA, which extends the agreement through FY 2018; and (2) authorize the County Executive to sign the Amendment to the CFA.

TIMING:

Board action is requested on June 20, 2017, because the current CFA expires on June 30, 2017.

BACKGROUND:

In FY 2005, WMATA began the Metro Matters program, which provided \$1.5 billion in urgent capital funding needed to maintain the Metro transit system and respond to the increasing ridership demands for transit services in the region through FY 2010. The \$1.5 billion plan included maintenance of the rolling stock and facilities, as well as 120 new railcars, 185 new buses, and the ancillary facilities associated with operating and maintaining these vehicles.

The current WMATA CFA began in FY 2011, and was originally in effect through June 30, 2016. A one year extension was approved in FY 2016 that extended the agreement to June 30, 2017. WMATA has requested that the regional partners approve an additional one year extension of the current CFA to allow WMATA another year to perform a detailed examination of the WMATA budget during FY 2018, and propose a new budget, CIP and multi-year CFA for FY 2019 through FY 2024. The proposed Amendment, among other things: (1) extends the term of the CFA to June 30, 2018; (2)

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sets the maximum of Long-Term Debt to be issued at \$575.2 million; (3) incorporates the FY 2018 Annual Work Plan; (4) and sets the County's FY2018 contribution at not more than \$117.9 million. Since the Amendment leaves the original CFA (Attachment I) largely unchanged, below is a discussion of the key provisions of the current CFA.

The CFA, as amended, includes WMATA's CIP, which consists of capital projects to be funded over a six year period, including useful life projections for each project. The first six year period of the original CIP in the current CFA was from FY 2011 to FY 2016, and was extended last year to include FY 2017. The CIP is updated for each successive six year period through the Annual Work Plan (AWP) and annual budget approval at WMATA. Signatories of the WMATA CFA agree to use all reasonable efforts to secure funding for the CIP.

Under the CFA, WMATA bills its capital program on an expenditure basis, instead of an obligation basis. This allows the jurisdictions to fund projects as they progress versus fully funding a project before it begins. It also means that projects started near the end of the CFA term may require funding after the end of the agreement to complete them. The CFA commits all jurisdictions to completing all projects that are started within the current CFA term. Payment obligations on any debt financing incurred during the agreement period also continue after the agreement expires. The current WMATA CFA includes the following major points:

- Supersedes the Metro Matters funding agreement and includes any capital expenditures carried over from the Metro Matters Agreement.
- Signatories of the WMATA CFA agree to use all reasonable efforts to secure funding for the CIP.
- The Board of Supervisors approved the original CFA on June 22, 2010, and a one year extension on May 17, 2016.
- If there is a shortfall in revenue for the capital program, WMATA will develop a recovery plan, to be approved by the WMATA Board of Directors, which could include: use of interim funding; project redesign; project rescheduling; project deferrals; and, subject to agreement of the jurisdictions, increased contributions.
- If federal or other revenue is greater than anticipated, WMATA will use the excess revenue to fund any unfunded portions of the CIP or apply the funds to any outstanding indebtedness, thereby reducing the allocated contribution of the jurisdictions. This provision also applies to funds received under the Metro Matters Funding Agreement.

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- WMATA will perform quarterly analysis and update the Annual Work Plan. The CIP will be reconciled annually and updated for the next six years.
- The jurisdictions have the ability to audit WMATA.
- Each jurisdiction's obligation is contingent on participation by all jurisdictions.

Lastly, the current CFA gives each jurisdiction the option of paying cash, issuing its own debt, or having WMATA issue debt on the jurisdiction's behalf to fund its share of the WMATA CIP. In the past, the County has both issued its own debt to fund the County's share of WMATA's CIP and allowed WMATA to issue debt on the County's behalf. These decisions are made at the time a long term debt issuance is needed. In FY 2018, WMATA is planning to issue \$575.2 million in long term debt for the entire system as part of their \$1.5 billion FY 2018 Capital Program. Due to size of the proposed debt issuance in FY 2018, the County will pay WMATA \$40 million, included in the County's FY 2018 Approved Budget, and have WMATA issue the remaining \$77.9 million in long term bonds for the remainder of the County's total share of \$117.9 million.

The County's fall 2016 bond referendum provides \$120 million to help fund the WMATA CFA requirements for several years. This gives the Board of Supervisors the ability to pay for a portion of the County's ongoing capital payments and opt-in to WMATA-issued long term debt for the remainder of the County's capital subsidy due to WMATA in FY 2018. Previously, the Board of Supervisors requested that WMATA continue to work with County staff and other stakeholders to identify funding sources for future years of the growing CIP needs. This extended agreement continues to address this request.

FISCAL IMPACT:

This one year extension of the WMATA CFA allows the County to fund its share of WMATA's capital budget in FY 2018 which is approximately \$117.9 million of a total FY 2018 WMATA Capital Budget of \$1.5 billion. The County intends to use the proceeds of the \$120 million transportation bond referendum (approved on November 8, 2016) and state aid to for a portion of the County's share of WMATA capital obligations over the next several years, and WMATA issued bonds for the remainder. Debt service costs associated with the transportation bonds issued by the County have been incorporated into the County's long term debt ratio projections, and are referenced in the FY 2018-FY 2022 Adopted Capital Improvement Program (With Future Fiscal Years to 2027) and in Fund 30000, Metro Operations and Construction. Debt service for WMATA issued bonds will also be included in Fund 30000 beginning in FY 2019.

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ENCLOSED DOCUMENTS:

Attachment I – Original WMATA Capital Funding Agreement
Attachment II – First Amendment to the WMATA Capital Funding Agreement
Amendment III – Second Amendment to the WMATA Capital Funding Agreement

STAFF:

Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Joe LaHait, County Debt Coordinator, Department of Management and Budget
Todd Wigglesworth, Chief, Coordination and Funding Section, FCDOT

ASSIGNED COUNCIL:

Patricia McCay, Assistant County Attorney

CAPITAL FUNDING AGREEMENT

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

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CAPITAL FUNDING AGREEMENT

THIS CAPITAL FUNDING AGREEMENT (Agreement) is made and entered into this 15th day of July, 2010, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions):**

RECITALS

1. The WMATA transit system has played a critical role in the growth and prosperity of the National Capital Region and environs, and WMATA's continued economic vitality is essential to the regional transportation system and the environmental quality, economic, educational and cultural life of the Washington region.
2. The WMATA system was built and is operated through the substantial investment of public funds by the Federal Government and by State and local governments in the region.
3. The lack of sufficient secure and reliable funding to rehabilitate and maintain the WMATA transit system and to replace rail cars, buses, and other key transit assets is creating a transportation crisis, threatening the continued health and vitality of the system and jeopardizing the public investment.
4. Previously, the Parties entered into an agreement covering specific capital projects for FY2005 through FY10 (Metro Matters Funding Agreement) along with associated financing arrangements to cover those capital projects. That agreement expires on July 1, 2010 and the

Parties wish to create a follow-on agreement for both funding FY2011-2016 on an expenditure basis and to provide an ongoing master agreement for future support of WMATA's capital needs.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

- (1) "Agreement" means this Capital Funding Agreement.
- (2) "Allocated Contribution" means the financial share of the cost of the Capital Improvement Program to be contributed by a Contributing Jurisdiction, in accordance with the terms of this Agreement but shall not include funds to be provided to match the Dedicated Funding (PRIIA) funds.
- (3) "Annual Work Plan" means the annual plan developed by WMATA on both obligation and expenditure bases and submitted to the Contributing Jurisdictions which identifies the Capital Improvement Program projects and activities to be undertaken in the Capital Budget for a specific fiscal year and the estimated annual cash requirement of those projects and activities and the sources of funds expected to be used on an expenditure basis to meet that cash requirement.
- (4) "Authorized Representative" means the individual designated by the chief executive officer (or comparable official) of a Contributing Jurisdiction or WMATA to take actions on behalf of that Party regarding issues that arise in carrying out this Agreement.
- (5) "Capital Budget" is synonymous with the term Annual Work Plan.

(6) “Capital Improvement Program” (“CIP”) means the list of project elements including the useful life computations for each project contained therein for the period of July 1, 2010 through June 30, 2016 approved by the WMATA Board of Directors for the period of July 1, 2011 – June 30, 2016 as may subsequently be updated for this or each successive six-year period (for planning purposes only) and specific fund sources for use in supporting the specific scope, schedule, and budget (expressed in both obligation and expenditure terms) of projects that advance the Authority’s strategic objectives. See Attachment 1 for the FY2011-2016 CIP. The CIP is not considered a payment schedule. The CIP shall be updated annually as described in this Agreement.

(7) “Contributing Jurisdictions” means the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia.

(8) “Days” means calendar days, unless otherwise specifically provided.

(9) “Debt” means any bond, security, debt issuance, certificate of participation, Grant Anticipation Debt, or other evidence of indebtedness issued by a public body, and includes commercial paper, lines of credit, and letters of credit to finance the program of projects to be completed under the terms of this Agreement. Debt shall be classified as either Short-Term Debt or Long-Term Debt.

(10) “Dedicated Funding” (PRIIA) means those federal funds provided to WMATA under the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110-432). The PRIIA matching funds will be made available to WMATA pursuant to the applicable laws of the District of Columbia, Maryland, and the Commonwealth of Virginia.

(11) “Discretionary Grant” means any award of discretionary Federal financial assistance for a new or existing fixed guideway system from the capital investment grant program authorized under Section 5309 of Title 49 of the U.S. Code, or from any other discretionary grant program from any federal agency under which funds are provided on other than a formula basis.

(12) “Federal grant” means an award of financial assistance, including formula grants, discretionary grants, and cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government through the Federal Transit Administration or any other federal agency to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

(13) “FTA” means the Federal Transit Administration.

(14) “Formula grant” means any award of Federal financial assistance from the urban formula program authorized under Section 5307 of Title 49 of the U.S. Code or the fixed guideway modernization program authorized under Section 5309 of Title 49 of the U.S. Code, or similar successor programs.

(15) “Funding Sources” shall be the various categories of funds to be used to pay for the projects covered in the CIP. These funds may be either from federal or non-federal sources. Where the Agreement requires a more detailed description of the funding source, then the following categories shall be used: Dedicated Funding, Dedicated Funding matching funds,

Formula Grants, Formula Grants matching funds, Other Federal Grants, Other Federal Grants matching funds, System Performance Funds, and Other funds.

(16) “Grant Anticipation Debt” means any debt issuance the principal and interest on which are to be paid with the proceeds of Federal grant funds.

(17) “Interim Funding Sources” means one or more letters of credit or lines of credit and related reimbursement agreements, standby bond purchase agreements, commercial paper, or similar agreements or obligations, or any combination of the foregoing, issued to or for WMATA or entered into with WMATA by a bank, insurance company, or other financial institution, or one or more resolutions, indentures, or other security agreements providing for bonds or other evidence of indebtedness of WMATA.

(18) “Long-Term Debt” means Debt with a maturity greater than 1 year.

(19) “Metro Matters Funding Agreement” means the capital funding agreement dated October 25, 2004 by and among the Washington Metropolitan Area Transit Authority; the State of Maryland acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia and covering projects in WMATA’s Fiscal Years 2005-2010.

(20) “Minimum Annual Allocated Contribution” means that annual amount of funds payable by a Contributing Jurisdiction sufficient to provide any required matching funds for (a) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan excluding the local match to be provided by the District of Columbia, Virginia and Maryland for the Dedicated Funding (PRIIA) funds, and (b)

the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding.

(21) “Non-Federal funds” means funds provided by State and local sources and debt sources.

(22) “Party” or “Parties” means WMATA and the Contributing Jurisdictions.

(23) “Preventive Maintenance” means upgrades to, repairs to, and maintenance of, capital assets that provides additional value to the capital asset. The FTA definition of “preventive maintenance” is separate from and not connected to Preventive Maintenance as defined herein.

(24) “Reprogramming” means a change to an Annual Work Plan or Capital Budget that occurs outside of the Annual Work Plan process.

(25) “Short-Term Debt” means Debt with a maturity of 1 year or less.

(26) “System Performance Funds” means jurisdictional funds over and above those funds required to match any Federal grant and to be used for Capital Improvement Plan projects contained in the applicable Annual Work Plan.

(27) “WMATA” or “Authority” means the Washington Metropolitan Area Transit Authority.

SEC. 2 CAPITAL IMPROVEMENT PROGRAM

(a) **Agreement of the Parties.** -- WMATA and the Contributing Jurisdictions hereby agree to and adopt the Capital Improvement Program attached as Attachment 1. The Parties further agree to comply with the terms and conditions of this Agreement and to fully and faithfully carry out their respective obligations under this Agreement. Any commitment or agreement of any Contributing Jurisdiction required by this Agreement shall be subject to the

annual appropriation of funds and other limitations on expenditures or obligations under the law of the Contributing Jurisdiction or under other applicable law as described in Section 4(b)(3)(B). This Agreement shall not constitute an indebtedness of the Contributing Jurisdictions until funds are duly appropriated and quarterly payments become due pursuant to Section 5(c)(3) of this Agreement, nor shall it constitute an obligation for which the Contributing Jurisdictions are obligated to levy or pledge any form of taxation or for which the Contributing Jurisdiction has levied or pledged any form of taxation. Nothing in this Agreement affects requirements placed on the District of Columbia, State of Maryland and Commonwealth of Virginia by the Passenger Rail Investment and Improvement Act of 2008.

(b) Elements of Capital Improvement Program.

(1) Program Elements. – The Capital Improvement Program proposed to be funded by this Agreement consists of those projects identified for funding along with the sources of that funding in the annually approved CIP as they are updated in accordance with this Agreement. The CIP may include any capital project or purchase eligible for capital funding and may include, for example, projects in any of the following categories:

- (A) Vehicles and Vehicle Parts, such as replacement or purchase of new rail cars, buses, paratransit vehicles and/or service vehicles, rehabilitation of rail cars and buses and replacement parts to maintain the rail fleet.
- (B) Rail System Infrastructure Rehabilitation, such as multiple systems and equipment within the rail stations and tunnels that enable safe, reliable Metrorail service.
- (C) Maintenance Facilities, such as rehabilitation, maintenance, replacement and/or new bus garages and rail yards to support repairs to vehicle fleet.
- (D) Systems and Technology, such as technology systems, software and equipment supporting transit operations and business functions.

- (E) Track and Structures, such as steel running rail that guides Metrorail trains, the cross ties and fasteners that hold the rail in place, the ballast bed that supports the cross ties and the third rail that provides power to the train. Structures include the retaining walls that protect the track bed and underground tunnels, the concrete pads that keep the track bed properly elevated and the bridges that span roads and bodies of water.
- (F) Passenger Facilities, such as facilities at Metrorail stations, including bus loops, bus stops, parking garages, surface lots, Kiss-and-Ride spaces, access roads and bus loops, bike racks and lockers.
- (G) Maintenance Equipment such as equipment to rehabilitate track and maintain the vehicle fleet (rail and bus).
- (H) Other Facilities, such as facilities that house administrative offices, training rooms, revenue processing activities, material storage, police work and a print shop.
- (I) Program Management and Support including Credit Facility and Other Financial Fees and Expenses and Program Contingencies.
- (J) Safety and Security Projects.
- (K) Preventive Maintenance as defined in this Agreement.

(2) **Description.** -- The specific projects and activities and the sources of funding to support those specific projects and activities will be set forth in the Annual Work Plan.

(c) **Cost.** -- The estimated program cost of the initial Capital Improvement Program is approximately \$5,000,000,000 in year of expenditure dollars and covering a six-year period. The initial CIP covering FY 2011-2016 is provided as Attachment 1.

(d) **Schedule.** -- The initial Capital Improvement Program will be implemented over the period beginning WMATA fiscal year 2011 and ending fiscal year 2016. There will be an

Annual Work Plan for each fiscal year, as more specifically described in Section 4 of this Agreement.

(e) **Agreement to Fund Capital Improvement Program.** -- WMATA and the Contributing Jurisdictions hereby concur in and agree to fund the Capital Improvement Program in accordance with 4(b)(1)(B) of this Agreement.

(f) **Authorized Representative.** -- Within 30 days after the Effective Date of this Agreement, WMATA and each of the Contributing Jurisdictions shall designate an Authorized Representative to act on that Party's behalf in implementing this Agreement.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM FINANCIAL PLAN

(a) **Funding Sources.**

The projects and activities in the Capital Improvement Program shall be funded in the most cost effective manner from one or more of the following sources: (A) Funding Sources; (B) the issuance of Debt by WMATA, with WMATA's debt service to be paid with funds received from the Contributing Jurisdictions unless a Contributing Jurisdiction has opted out of the Long-Term Debt issue in accordance with this Agreement; and (C) such other funding sources, cash management strategies or financing methods as the WMATA Board determines to be appropriate to accomplish the goals of the Capital Improvement Program. The specific amounts estimated from each Funding Source will be set forth in each Annual Work Plan.

(b) **Formula for Contributing Jurisdiction Funding.** -- The Allocated Contributions of the Contributing Jurisdictions for the Capital Improvement Program will be based on the Board-adopted FY 2010 Operations Allocation Formulas applied to each project as shown in the FY2011-2016 CIP applied to each element of the Capital Improvement Program as follows:

- (1) The Rail allocation formula will apply to Rail projects and debt issued for Rail projects.
- (2) The Bus allocation formula will apply to Bus projects and debt issued for Bus projects.
- (3) The Paratransit formula will apply to Paratransit projects and debt issued for Paratransit projects.
- (4) An average of the Rail and Bus allocation formulas will apply to General financing expenditures and for project expenditures that cannot be allocated to Rail, Bus, or Paratransit.
- (5) Dedicated Funding funded projects – Will be divided equally among the District of Columbia, State of Maryland, and Commonwealth of Virginia subject to the provisions of the various state laws establishing dedicated funding sources to match federal funds made available under the Passenger Rail Investment and Improvement Act of 2008.

The allocation formulas will be recalculated every three (3) years to reflect the then-current approved Operating Budget allocation and applied prospectively to the three subsequent Annual Work Plans.

(c) **Debt Service.** – Debt service on obligations agreed to by the Contributing Jurisdictions and issued under the Metro Matters Funding Agreement shall become obligations issued under this Agreement. The Contributing Jurisdictions shall continue to make any debt service payments as were required under the terms of the Metro Matters Funding Agreement. New debt service for obligations issued under the terms of this Agreement will be funded by the Contributing Jurisdictions as more fully set forth in Section 4(b)(2) of this Agreement.

(d) **FY 2010 Capital Projects.** -- WMATA and the Contributing Jurisdictions agree that all projects whose funding was obligated under the Metro Matters Funding Agreement but for which expenditures will occur during the scope of this Agreement will become projects under this Agreement and governed by the terms of this Agreement including the funding obligations

of the Contributing Jurisdictions thereto. It is the intent of the Parties to terminate the Metro Matters Funding Agreement and incorporate all its capital commitments into this Agreement.

SEC. 4 IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM

(a) Programmatic Aspects.

(1) Long Term Programming -- To assist in the prioritization of projects, each Contributing Jurisdiction will, at the execution of this Agreement, provide a schedule of funds expected to be made available to WMATA for the 2011-2016 period and successor periods (for planning purposes only) covered by this Agreement. The schedule for WMATA fiscal years 2012 - 2016 is subject to adjustment as the submitting Contributing Jurisdiction obtains more updated information. It is not binding on any Party and shall not be considered as a payment schedule. The Annual Work Plan will contain the actual funding requirements and sources of funds for the current year. The WMATA Board of Directors will approve a six-year capital program each year, with such program covering potential funding sources, a description of the project prioritization process, an explanation of how the CIP would further the strategic goals of WMATA, and an identification of the performance metrics by which the outcome of the CIP will be measured. The prioritization process shall rank and select projects based on the projects' support of WMATA's strategic goals and funding availability.

The annual documentation of the capital program will describe qualitatively and quantitatively the broad outlines of the proposed capital spending and sources for that spending for the forthcoming fiscal year and the outcomes expected to be achieved by the proposed program. The discussion of the proposed spending shall include at least the following: (i) the sources of funds for the proposed spending, (ii) expenditures by mode (e.g. bus, rail, paratransit), (iii) expenditures by project phase (e.g. planning, design, land acquisition, construction), (iv) the

indicators of the outcomes to be achieved by the proposed projects, and (v) projected spending compared to prior year actual spending rate.

(2) **Annual Work Plan.** -- WMATA shall, as a part of its annual budget process each year during this Agreement, develop and submit to the Contributing Jurisdictions a draft Annual Work Plan for the Capital Improvement Program which shall include the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement. The Annual Work Plan shall be based upon and be consistent with the updated Capital Improvement Program prepared pursuant to the reconciliation process under Section 5 of this Agreement. The Annual Work Plan along with the Capital Program will be approved by the WMATA Board of Directors prior to the start of the fiscal year covering the specific Annual Work Plan.

(3) **Contents of Plan.** -- The Annual Work Plan shall include --

(A) an identification of the projects and activities in the Capital Improvement Program for which funds will be obligated or expended during the next WMATA fiscal year;

(B) a budget for the Annual Work Plan that includes a cost estimate and source of funds for each project and activity in the Plan, by CIP category;

(C) a statement of each Contributing Jurisdiction's required Allocated Contribution for the Annual Work Plan, based on a schedule of projected quarterly cash needs including an identification of what portion of that contribution is a direct capital contribution, and what portion (if any) is to be used by WMATA to pay debt service on WMATA Long-Term Debt and WMATA Short-Term Debt (each to be stated separately in the Plan);

(D) a summary of the CIP projects and activities undertaken in the then-current WMATA fiscal year, together with the costs incurred to date and the estimated remaining costs for those projects and activities; and

(E) the preliminary results of the Budget Reconciliation process contained in section 5 of this Agreement and a revised proposed CIP.

(4) **Schedule for Approval of CIP and Annual Work Plan.** To ensure a coordinated program, the Parties agree that each annual program will be developed and approved under the following schedule:

(A) The updated 6-year CIP will be made available to the Contributing Jurisdictions no later than the 10th business day in October.

(B) A presentation will be offered to the Northern Virginia Transportation Commission at a scheduled meeting no later than the November meeting.

(C) A presentation will be offered to the Mayor and Council of the District of Columbia no later than the Wednesday immediately prior to Thanksgiving.

(D) Subject to consultation with the Maryland Department of Transportation, a public presentation will be offered in both Prince George's County and Montgomery County no later than the Wednesday immediately prior to Thanksgiving.

(E) WMATA will also present the capital program and the Annual Work Plan information to affected legislative bodies as requested.

(F) The draft Annual Work Plan shall be submitted to the Contributing Jurisdictions by December 15.

(G) Comments are due from the Contributing Jurisdictions no later than February 15th. WMATA may not be able to consider comments received after February 15th in the development of the proposed Annual Work Plan.

(H) The proposed Annual Work Plan shall be provided to the Contributing Jurisdictions immediately following the March WMATA Board meeting and shall be used by the staff of the Contributing Jurisdictions to consult with WMATA Board representatives. The amount included as the Minimum Allocated Contribution on this final Annual Work Plan will remain substantially the same for the upcoming fiscal year, subject to downward adjustment as provided in Section 4(b)(3)(B), or as otherwise requested by the WMATA Board and approved by the Contributing Jurisdictions. The final CIP and Annual Work Plan will be adopted by the WMATA Board no later than the June meeting.

(5) WMATA Implementation Responsibilities.

(A) General. -- WMATA will administer the Capital Improvement Program and carry out all necessary procurement actions and management oversight. All procurement actions will be undertaken in accordance with WMATA procurement policies and applicable law.

(B) Federal Grants. -- To the extent that Federal financial assistance is provided for any project or activity in the Capital Improvement Program, WMATA will develop the required Federal grant applications and/or other necessary documentation to meet FTA or other Federal program requirements, and will carry out the federally assisted project or activity in compliance with all applicable Federal requirements.

(6) Funding Methodology For Projects in the Annual Work Plan. New projects for the Annual Work Plan will be listed with their funding identified by both year and

Funding Source. A project may be funded by more than one type of funding. If a project is a multi-year project, then in the second and succeeding years, that project will have the first call on that funding source unless another funding source is identified. In every case, funds needed for debt service including Short Term Debt and Interim Financing and funds needed for annual “state of good repair” items shall have first claim on all funds that may legally be spent on such projects. Projects which are underway but which have remaining amounts budgeted for them in the CIP shall have the unexpended funds “rolled over” to the succeeding fiscal year. The unexpended funds shall be in addition to the succeeding year’s CIP funding requirements.

(b) Financial Aspects.

(1) Cash Sources.

(A) Federal Funds. -- WMATA commits to take all necessary and appropriate actions to secure Federal funding in the CIP (including Federal formula and discretionary grant funds under the Federal transit/highway program, the Passenger Rail Investment and Improvement Act of 2008, and such other Federal financial assistance as may be made available during the term of this Agreement) to assist in the funding of the Capital Improvement Program. WMATA will manage the Capital Improvement Program within the funding amounts agreed to by the Contributing Jurisdictions, except as otherwise provided in paragraph (C) of this subsection.

(B) Jurisdictional Commitments.

(i) To the extent applicable, each Contributing Jurisdiction agrees to make its Allocated Contribution to fund the Capital Budget component of the CIP and the CIP as a whole as adjusted annually in accordance with this Agreement; provided, however, that in no case will the Allocated Contribution be less than the Contributing Jurisdiction’s estimated

annual share of any required matching funds for (1) all federal formula and other federal grant funds awarded to WMATA and expected to be expended in the current Annual Work Plan, and (2) the System Performance Funds necessary to meet any maintenance of effort requirement for WMATA to receive Dedicated Funding (“Minimum Annual Allocated Contributions”). Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The source of funds for such capital contributions is in the discretion of each Contributing Jurisdiction; provided that such funds must qualify as local match under applicable FTA or other agency grant program requirements. WMATA agrees to provide each Contributing Jurisdiction with their estimated Allocated Contribution by the 10th business day in October each year.

(ii) If the expected amount of federal grant funds requiring a non-federal match increases by more than 20% over the previous year’s grant funds received by WMATA, then the Parties will confer within 30 days to determine if a change to the funding requirement contained in Section 4(b)(1)(B)(i) of this Agreement is appropriate.

(iii) Additionally, each Contributing Jurisdiction agrees to make its best efforts to provide necessary System Performance Funds to pursue the projects in the Annual Work Plan to be funded with System Performance Funds above those required to obtain Dedicated Funding. Each Contributing Jurisdiction shall inform WMATA of the amount of any such System Performance Funds to WMATA in sufficient time for WMATA staff to prepare the draft and final capital program and Annual Work Plan. The System Performance Funds will be programmed into the CIP and Annual Work Plan using the WMATA funding formulas described in Section 3(b) of this Agreement. Only those amounts which are balanced among the

Contributing Jurisdictions based on the aforementioned funding formulas will be programmed into the CIP and Annual Work Plan.

(C) Additional Limitations.

(i) As authorized in Section 4(b)(7) of this Agreement, WMATA and the District of Columbia have entered into a separate Local Capital Funding Agreement of even date herewith (“DCLCFA”) to address certain issues concerning the implementation of this Agreement that must be handled separately according to District of Columbia law. The implementation of District of Columbia obligations, representations, and warranties under this Agreement shall be controlled by the provisions of the DCLCFA set forth on Attachment 3 to the extent of any inconsistency between this Agreement and the provisions of the DCLCFA identified on Attachment 3. Section 4(b)(2)(D) of the DCLCFA provides that, if the District of Columbia exercises its prepayment rights for all long-term debt under 4(b)(2)(D) of this Agreement, then notwithstanding anything to the contrary herein, the Allocated Contribution of the District of Columbia, as shown on Table 1 of Attachment 1 of this Agreement, may not be increased above the aggregate amount of \$397,314,000 to be paid from District of Columbia capital funds, without written approval of the District of Columbia. Payments for Long Term Debt service on Metro Matters Funding Agreement debt and Long Term Debt service anticipated in this Agreement, are not included in the Allocated Contribution aggregate cap for the District of Columbia.. For informational purposes, only, the District of Columbia represents that payments for amounts such as Long Term Debt service under the Metro Matters Funding Agreement and funds associated with debt service for projects under this Agreement are funded through annual appropriations in its Operating Budget. For example, the District of Columbia has included in its proposed operating budget for FY 2011 the sum of

\$258,318,034 for payment to WMATA, which includes an amount sufficient to pay Long Term Debt service for FY 2011.

(ii) The District of Columbia agrees to review its Allocated Contributions annually to determine if any adjustments may be made. If the District of Columbia agrees to increase the District of Columbia Allocated Contributions cap by an amendment to the DCLCFA, then such increase will be incorporated into this Agreement pursuant to the Annual Work Plan process.

(iii) In the event that (i) WMATA proposes an increase that would cause the District of Columbia's Allocated Contribution to exceed an aggregate amount of \$397,314,000; and (ii) the District of Columbia denies or withholds approval of the increase in excess of that stated amount, all other Contributing Jurisdictions shall be relieved of any obligation to fund the increase proposed by WMATA in their Allocated Contributions.

(iv) In the event that the District of Columbia denies or withholds approval of such increase, all Parties shall cooperate to develop alternative solutions to any resulting revenue or program shortfalls.

(2) Debt Sources.

(A) General. -- In accordance with the Annual Work Plan, all or any portion of the Capital Improvement Program may be funded through short- or long-term debt financing as described in this subsection and in accordance with Section 21 and Articles IX and X of the WMATA Compact.

(B) WMATA Responsibility. -- WMATA may issue debt to assist in the financing of the Capital Improvement Program. The WMATA Board may authorize the issuance of such debt, in one or more issuances during the term of this Agreement, at such times

as it determines appropriate, in its discretion, taking into account factors such as the cash flow needs of the CIP, market conditions for financing, and WMATA's debt capacity. Any debt issued by WMATA under this subsection may be secured by a lien and pledge of WMATA's gross revenues, or (subject to any required FTA approval) of WMATA's capital assets. Any such debt secured by WMATA's gross revenues may be on parity with or subordinate to the 2003 Gross Revenue Transit Refunding Bonds, the Gross Revenue Transit Bonds Series 2009A, and the Gross Revenue Transit Bonds Series 2009B. For any such debt that is secured by WMATA's capital assets, WMATA will endeavor, consistent with the cash flow needs of the CIP and with market demands, to match the length of the debt financing to the useful life of the pledged assets, unless WMATA determines that market or other financial considerations make a different debt length more prudent. In addition to debt secured by gross revenues or capital assets as described in this paragraph, WMATA may issue debt in accordance with subsection (f) of this Section.

(C) Contributing Jurisdiction Responsibility. -- The Contributing Jurisdictions which have not elected to prepay pursuant to paragraph (D) of this subsection each commit, subject to annual appropriations, to make the annual contributions necessary in order that WMATA can make payments of debt service on debt issued by WMATA under paragraph (B) of this subsection. The amount of such contributions will be included in the respective Allocated Contribution amounts of the Contributing Jurisdictions set forth in the CIP. Such contributions shall be made in accordance with the requirements and procedures in subsection (3) of this Section. The obligation to make contributions to pay such debt service shall survive the term of this Agreement and shall remain in effect throughout the term of the WMATA debt issuance involved.

(D) Prepayment Alternative for Contributing Jurisdictions.

(1) Election. -- A Contributing Jurisdiction may elect to prepay its portion of the debt financing (other than commercial paper, letter of credit, or line of credit) needed to fund the Capital Improvement Program, as described in the CIP, in lieu of making annual contributions to pay WMATA debt service pursuant to paragraph (3) of this subsection. The elections and commitments of the Contributing Jurisdictions to make such prepayments, as of the Effective Date of this Agreement, are reflected in the CIP. If any update to the CIP during the term of this Agreement contemplates long-term debt issuances by WMATA, then the Contributing Jurisdictions shall have an opportunity to change their elections regarding prepayment, by notice to WMATA. Such notice shall be provided in writing no later than one hundred twenty (120) days after the date WMATA notifies the Contributing Jurisdictions of the need to make an election regarding such additional debt issuance.

(2) Responsibility for Repayment. -- If a Contributing Jurisdiction issues debt to make its prepayment under this paragraph, it shall pay the proceeds of such debt issuance directly to WMATA in accordance with its Allocated Contribution as set forth in the CIP and in accordance with the procedures set forth in Attachment 2. Such Contributing Jurisdiction shall be solely responsible for the repayment of the principal and interest of any debt it issues under this paragraph.

(3) Contributing Jurisdiction Commitment.

(A) General. -- The maximum amount of the Contributing Jurisdictions' Allocated Contribution of the costs of the CIP is subject to the provisions of Section 4(b)(1)(C) of this Agreement. Nothing in this Agreement shall be construed to obligate a Contributing Jurisdiction to have, as of the date that it enters into this Agreement, funding or an

appropriation in the full amount of its Allocated Contribution of the costs of the CIP. The Contributing Jurisdictions shall be solely responsible for their Allocated Contributions of the cost of the CIP. Each Contributing Jurisdiction commits, subject to its constitutional or legally equivalent provisions and throughout the term of this Agreement, to use all reasonable efforts including, but not limited to, a request by the responsible official to include the Minimum Annual Allocated Contribution as described in the draft Annual Work Plan in the Contributing Jurisdiction's annual proposed budget or other financial submission to its fiscal authority and to pursue all legally available means to secure the necessary and appropriate budget, legislative, and appropriations actions in order to obtain funding in the full amount of its Allocated Contribution of the costs of the Capital Improvement Program. Each Contributing Jurisdiction shall be solely responsible for providing its Allocated Contribution to the cost of the CIP, and in no circumstance shall one Contributing Jurisdiction be responsible for the Allocated Contribution or other obligations of any other Contributing Jurisdiction under this Agreement.

(B) Annual Commitment. -- Each Contributing Jurisdiction shall annually provide WMATA with written notice, concurrent with comments on WMATA's proposed budget, that funds have been, are intended to be, or will not be appropriated to cover its Allocated Contribution for WMATA's upcoming fiscal year, and committing to make payment of such Allocated Contribution to WMATA. No CIP or Annual Work Plan shall be approved without the certification of each Contributing Jurisdiction that the funding levels are reasonable and accurate reflections of funds to be made available. If a Contributing Jurisdiction's appropriations process is not completed by June 1, such Contributing Jurisdiction shall provide to WMATA: (i) a written explanation for the failure to make such submissions by June 1 and confirmation that amounts equal to its Allocated Contribution have been or will be included in

the next fiscal year budget to be considered by the Contributing Jurisdiction's fiscal authority; and (ii) written assurances that all reasonable efforts will be undertaken to secure the ultimate appropriation of funds in a prompt and timely fashion, or if funds will not be appropriated, then the Contributing Jurisdiction shall notify WMATA and all other Contributing Jurisdictions through their representatives listed in section 12 of this Agreement or as may be updated by each Contributing Jurisdiction in the future within five business days of the fiscal body's action. If there is a failure to appropriate the full annual Allocated Contribution, the Annual Work Plan shall be revised to conform to the available funds and submitted to the WMATA Board of Directors and the other Contributing Jurisdictions for approval.

(C) Quarterly Payments. -- Each Contributing Jurisdiction's Allocated Contribution shall be based on the approved Annual Work Plan and any subsequent adjustments derived from the Annual Budget Reconciliation Process for the quarter covered by the invoice, and paid to WMATA on a quarterly basis in advance, no later than the first day of each quarter, throughout the term of this Agreement. Any debt service included in the invoice for either Short-Term Debt or Long-term Debt shall be separately identified on the invoice. WMATA shall submit bills to the Contributing Jurisdictions for such quarterly payments forty-five (45) days prior to the date such payments are due. Thus, for example, for the July-September quarter WMATA will bill the amount in the Annual Work Plan as approved or adjusted for July-September and send each Contributing Jurisdiction an invoice for its Allocated Contribution no later than the immediately preceding May 15th. Contributing Jurisdiction payments must be received by WMATA no later than July 1. The sum of each Contributing Jurisdiction's quarterly invoices during a given fiscal year shall not exceed that Contributing Jurisdiction's Allocated Contribution in the approved Annual Work Plan.

(4) Transitional System for FY2011 Billings -- To transition to the billing system covered by this Agreement, WMATA shall:

(A) Bill the Contributing Jurisdictions $\frac{1}{4}$ of the Allocated Contribution amounts for each of the first two quarters in FY2011 instead of the expected cash flow needs.

(B) Issue the final Annual Work Plan for FY2011 on or before July 1, 2010.

(C) Apply the Annual Budget Reconciliation Process to FY2011.

(D) Start the Quarterly Reporting required under the Agreement for the 1st quarter which closes on September 30, 2010, with the content of the report being progressively refined to meet the requirements of section 4(b)(5) and coming into full compliance with the report covering the 3rd quarter of FY2011.

(5) Quarterly Reports. At the conclusion of every quarter, WMATA shall prepare a report on the result of the preceding quarter for submittal to the Contributing Jurisdictions no later than forty five (45) days following the close of the quarter. Such report shall contain a review of capital project scope, cost, and schedule changes; the status of contracts necessary for the implementation of capital projects; the status of year-to-date expenditures relative to budget and the Annual Work Plan; the status of all cash and debt sources relative to budget and the Annual Work Plan; updated project cash flow projections and program cash requirements; and a comparison of the billed amount to amounts actually paid out for the preceding quarter. Such report shall be provided in a quarterly financial report to the WMATA Board.

(6) Timeliness of Payment.

(A) Treatment of Payments. -- Interest shall accrue on all payments made by a Contributing Jurisdiction until the funds are expended. WMATA shall place such funds so contributed into an interest earning account, with interest to be compounded monthly at WMATA's then current earnings rate for its short-term investments. Interest earned on funds contributed by a Contributing Jurisdiction shall be applied as a credit against future payments for Allocated Contributions due from that jurisdiction under this Agreement, unless otherwise directed in writing by that jurisdiction.

(B) Non-Payment or Late Payments. -- If a Contributing Jurisdiction fails to make a quarterly payment in full to WMATA when such payment is due after certification by the Contributing Jurisdiction as required under section 4(b)(3)(B), WMATA shall notify the other Contributing Jurisdictions and may issue debt or otherwise advance funds as deemed necessary by the WMATA General Manager to replace the amount of payment not timely received. In the event that WMATA issues debt, WMATA shall charge such Contributing Jurisdiction an amount equal to the sum of (i) the financing and interest costs and expenses (or lost interest earnings) incurred by or on behalf of WMATA in connection with such debt issuance or advance of funds; (ii) any administrative costs incurred by WMATA in connection with obtaining such replacement funding; and (iii) any penalties or losses incurred by WMATA assessed by a third party as a result of such late or non-payment. The total amount of the charges assessed under this paragraph, together with the unpaid quarterly payment, shall be due and payable to WMATA no later than thirty (30) days after the date of assessment by WMATA plus interest compounded monthly at the WMATA short-term investment earnings rate until the date of full payment.

(7) **Local Capital Funding Agreements.** -- WMATA, with the approval of the WMATA Board, may enter into Local Capital Funding Agreements with some or all of the Contributing Jurisdictions, consistent with this Agreement and the Attachments hereto, to establish arrangements to implement the Contributing Jurisdiction's commitment to pay its Allocated Contribution of the cost of the Capital Improvement Program, in the event that the budgetary process of a Contributing Jurisdiction makes such an agreement necessary or appropriate.

(8) **Interim Funding Sources and Security Interests.**

(A) **Interim Funding Authority.** -- The WMATA Board of Directors is authorized to use Interim Funding Sources, including borrowing, on behalf of WMATA in such amounts and at such times as, in the Board's sole judgment, are necessary and appropriate for the purpose of implementing the projects and activities in the Capital Improvement Program and any Annual Work Plan funded through direct capital contributions.

(B) **Security Interests.** -- WMATA may create security interests in its rights and interests in amounts paid or received as direct capital contributions from the Contributing Jurisdictions under this Agreement, as such amounts shall become available and are paid to or for the account of WMATA under the terms of this Agreement. Such amounts may be pledged as security for the costs of Interim Funding Sources. Each Contributing Jurisdiction shall comply with any reasonable and legal request of WMATA to execute, acknowledge, and deliver appropriate instruments and assurances as may be necessary or desirable to confirm and effectuate any such security interest created by WMATA in connection with Interim Funding Sources. Nothing in this subsection shall be construed as requiring any Contributing Jurisdiction to make any payment under this Agreement to anyone other than WMATA. For purposes of this

subsection, the “cost of Interim Funding Sources” includes payments of principal and interest thereunder and all fees, expenses, and other amounts incurred or payable under any Interim Funding Sources.

(C) Limitation. -- The borrowing authority authorized by this subsection may not be used by any Contributing Jurisdiction to satisfy its funding obligations under this Agreement.

(9) WMATA Risk Mitigation. -- Section 22 of the WMATA Compact prohibits WMATA from making any commitment or incurring any obligations with respect to the construction or acquisition of any transit facilities “until funds are available therefor.” The Parties acknowledge that the commitments of the Contributing Jurisdictions under this Agreement are intended to satisfy the requirements of Section 22 under an expenditure-based budget. In order to address the risk of non-appropriation or late payment of funds by a Contributing Jurisdiction or insufficient funding by the Federal Government, and to assure compliance with Section 22 of the WMATA Compact, WMATA intends to continue to maintain a risk mitigation credit facility using one or more of the following: a line of credit, letter of credit, commercial paper program, or other credit facility determined by WMATA in its discretion to be appropriate and feasible. Such risk mitigation credit facility shall be in addition to any other credit facility which may be put in place as a working capital or other cash flow aid.

(10) Annual Changes to the CIP -- In addition to making the funding commitments described in this Section and subject to the provisions of the District of Columbia Local Capital Funding Agreement (attached as Attachment 3), the Parties agree to adjust the program of projects included in the scope of this Agreement, each year within the term of this agreement on a rolling basis, in order to provide the funding required to meet WMATA’s

ongoing and updated CIP needs and other capital needs, and for planning WMATA's ongoing and updated CIP needs and other capital needs on a rolling basis for years beyond the term of this agreement.

SEC. 5 ANNUAL BUDGET RECONCILIATION PROCESS

(a) **Reconciliation.** -- As part of its annual budget process in each year during the term of this Agreement, WMATA shall prepare a reconciliation of –

(1) the actual expenditures for projects and activities under the current Capital Improvement Program to date, and for that fiscal year, as compared to the planned expenditures for such projects and activities for the same fiscal year;

(2) the actual Allocated Contribution of each of the Contributing Jurisdictions to date, as compared to the scheduled Allocated Contribution of each Contributing Jurisdiction for the current CIP;

(3) the projected Allocated Contributions of each Contributing Jurisdiction for the current CIP;

(4) the actual amount of Federal grant funds received for the Capital Improvement Program, as compared to the budgeted or projected amount of Federal grant funds for the same fiscal year; and

(5) the current forecast of expenditures; and

(6) the estimated cost to complete the remaining projects and activities in the current Capital Improvement Program and expected sources of those funds.

(b) **Application of Reconciled Payment Amounts.** On or before October 15th, WMATA shall have performed the reconciliation described in the above section, including whether there is a surplus of funds paid in by the Contributing Jurisdictions. The results of this

reconciliation shall be used in the Annual Work Plan currently under development as well as to review the Annual Work Plan for the fiscal year then currently in effect at the time that the reconciliation is completed. If the results of the reconciliation indicate a need to adjust the then-current year's Annual Work Plan billing amounts, those adjustments shall become effective with the billing for the 3rd quarter, which begins on January 1. The surplus amount may be made available to the Contributing Jurisdictions only if there is no expectation that those funds will be needed within the next six succeeding quarters measured from WMATA's fiscal year 3rd quarter (beginning on January 1) and that the refund of the surplus will not result in WMATA receiving less funds (including the surplus funds) than is required to be needed to meet the expected costs of the program over the next six calendar quarters. If surplus funds are provided to the Contributing Jurisdictions, the funds will be made available prior to the 3rd or 4th quarter of the fiscal year in which the reconciliation was completed.

(c) **Revenue Shortfalls.** -- If the reconciliation process conducted under subsection (a) of this Section reveals that there are shortfalls in revenues for the Capital Improvement Program due to late or insufficient contributions by a Contributing Jurisdiction or to the receipt of less than the assumed level of Federal funds, or other funds that support the CIP, WMATA shall develop a recovery plan for addressing such shortfalls. Such recovery plan, as approved by the WMATA Board of Directors through its annual budget process, shall include one or more of the following alternatives: (1) utilization of Interim Funding Sources; (2) value engineering, project re-design, or other cost reduction measures for future projects or activities; (3) re-scheduling of projects or activities in the Capital Improvement Program; (4) subject to agreement of the Contributing Jurisdictions, increasing the levels of Allocated Contributions from the

Contributing Jurisdictions; and/or (5) the implementation of Project Deferrals under subsection (e) of this Section.

(d) **Revenue Increases.** If the reconciliation process conducted under subsection (a) of this Section reveals that Federal or other funds have been received which substantially exceed the assumed level of funding, such excess funds shall be applied to (1) to the unfunded priorities in the Capital Needs Inventory or to other needs identified by the WMATA Board; or (2) to any outstanding indebtedness, thereby reducing the Allocated Contributions of the Contributing Jurisdictions, as determined by the WMATA Board of Directors through its annual budget process.

(e) **Project Deferrals.** If WMATA is unable to satisfactorily address revenue shortfalls under subsection (c) of this Section, the WMATA Board may, through the next WMATA budget process, modify the Capital Improvement Program to defer certain projects or activities in order to assure that the Capital Improvement Program can be funded during the term of this Agreement within the amount of available financial resources.

(f) **Updated Capital Improvement Program.** The WMATA staff shall, as soon as practical after each annual reconciliation process conducted under this Section, develop an updated Capital Improvement Program. This updated document, if approved by the WMATA Board, will replace and supercede all previous versions of the Capital Improvement Program and.

(g) **Reprogramming of Funds and Projects During the Term of This Agreement.** The Parties recognize that the scope, pricing or desirability of some projects will change during the term of this Agreement. To address these possibilities, WMATA agrees to provide the

Contributing Jurisdictions with advance notice of any request to reprogram funds in an amount greater than \$1,000,000 per project.

(h) **Final Distribution.** In the event that this Agreement is terminated pursuant to section 8 of this Agreement, any amounts remaining at the expiration of this Agreement shall be first used to fund any remaining unfunded projects or activities in the Capital Improvement Program as indicated in the attached Capital Improvement Program, and then, if any funds remain, will be credited or refunded to the Contributing Jurisdictions, as directed by the Contributing Jurisdictions.

(i) **Financial Records.**

(1) **Maintenance of Records.** -- During the term of this Agreement, WMATA agrees to maintain separate and complete accounting records which are consistent with generally accepted governmental accounting procedures and which accurately reflect all income and expenditures of funds which may be provided under this Agreement. WMATA will retain all such CIP records for the same period that records are required to be kept for the FTA or other federal grants, unless there is an outstanding written Contributing Jurisdiction or FTA financial or audit question, which is not resolved by the Contributing Jurisdiction or FTA auditor. The records of WMATA must be in sufficient detail to determine the character and timing of fund items; and of contract obligation and expenditure transactions authorized by this Agreement.

(2) **Audits.**

(A) **Timing for Performance.** -- A Contributing Jurisdiction or its agent may perform an audit of WMATA's expenditures of funds and the sources of those funds provided by this Agreement for a period of up to three (3) fiscal years preceding a request for audit from the Contributing Jurisdiction provided that the request is received no later than one

hundred eighty (180) days after the release of the WMATA audit for the preceding year and transmittal of the audit to the Contributing Jurisdictions with a notice of their audit rights under this Agreement. Any such audit shall be commenced within sixty (60) days after the date of the request, and shall be completed (to the maximum extent practicable) within 180 days after the date it is commenced. The Contributing Jurisdiction will assume all financial responsibility for any costs associated with the performance of such audits. If more than one Contributing Jurisdiction initiates an audit on a timely basis under this paragraph, the audits shall be consolidated into a single audit for the applicable fiscal years and the Contributing Jurisdictions participating in the audit shall share in the cost of the audit. WMATA agrees to cooperate fully with a Contributing Jurisdiction or its authorized agent or designee in the conduct of any audit carried out in accordance with this paragraph. In addition to the foregoing, in the event that any Contributing Jurisdiction's bond, the proceeds of which were used to meet the funding obligation of the Agreement or any transaction pertaining to such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly allow the Contributing Jurisdiction access, at the Contributing Jurisdiction's expense, to any record it may have relating to WMATA's use of the proceeds of such Contributing Jurisdiction's bond so that the Contributing Jurisdiction may participate and respond to any aspect of such investigation, inquiry or suit. In the event WMATA is notified that any Contributing Jurisdiction's bond, the proceeds of which were used to meet funding obligations of this Agreement or any transaction pertaining to any such Contributing Jurisdiction's bond, is the subject of any tax, securities or similar federal or state law investigation, inquiry or suit, WMATA shall promptly notify the Contributing Jurisdiction and

allow the Contributing Jurisdiction to participate in all aspects of the conduct or any response WMATA may make in such regard.

(B) Audit Results. -- If it is determined as a result of such an audit under this paragraph that the Contributing Jurisdiction has made payments in excess of or less than the amount(s) provided for pursuant to the terms and conditions of this Agreement and the CIP, WMATA will make appropriate adjustments in the amount due to WMATA from such Contributing Jurisdiction in the next fiscal year. The audit rights provided under this paragraph shall survive the termination date of this Agreement.

SEC. 6 DISPUTES

(a) Informal Resolution -- The Parties agree to use all reasonable efforts to resolve any disputes, which arise under or otherwise relate to this Agreement. If the Parties, at staff level, cannot resolve such a dispute through initial discussions within thirty (30) days after the date it first arises, then the Party seeking a resolution shall, through its Authorized Representative, provide written notice of the nature of the dispute and the issues involved to the Authorized Representatives of each other Party involved. Such other Parties shall respond within thirty (30) days, stating their position on the issue presented and their proposal for resolution. The Authorized Representatives shall then meet within the next thirty (30) days in an attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days following the date of the last meeting, any Party to the dispute may refer the matter to the WMATA Board for resolution.

(b) Alternative Resolution. -- If a dispute arising under this Agreement is not resolved pursuant to subsection (a) of this Section, the Parties thereto may agree to pursue a mutually acceptable alternative dispute resolution procedure. If such a procedure is not utilized

or does not result in a final and binding resolution of the dispute, any Party thereto may pursue a civil action for appropriate relief in a court of competent jurisdiction.

SEC. 7 REPRESENTATIONS AND WARRANTIES

(a) **By WMATA.** -- WMATA makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) WMATA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;

(2) WMATA by proper WMATA Board action has duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by the Contributing Jurisdictions and by WMATA, this Agreement will constitute the legal, valid and binding obligation of WMATA enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally.

(4) No director, officer, or employee of WMATA who exercises or has exercised any functions or responsibilities over any procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect thereto during the term of this Agreement.

(b) **By Contributing Jurisdictions.** -- Each Contributing Jurisdiction makes the following representations as of the Effective Date of this Agreement as a basis for the undertakings pursuant to this Agreement.

(1) The Contributing Jurisdiction has all necessary power and authority to enter into the transactions contemplated by this Agreement and to carry out its individual obligations hereunder;

(2) Each Contributing Jurisdiction has individually duly authorized the execution and delivery of this Agreement;

(3) When executed and delivered by each Contributing Jurisdiction, this Agreement will constitute the legal, valid and binding obligation of the individual entity enforceable in accordance with its terms, except as such enforceability is limited by annual appropriations, bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally;

(4) No officer, or employee of any Contributing Jurisdiction who exercises or has exercised any functions or responsibilities over a procurement contract in connection with the Capital Improvement Program shall have or obtain a personal or financial interest or benefit from any activity in connection with the procurement contract or have an interest in any contract, subcontract, or agreement with respect therewith during the term of this Agreement.

SEC. 8 EFFECTIVE DATE AND TERM OF AGREEMENT

(a) Effective Date. The Parties acknowledge and agree that this Agreement is in consideration of and contingent upon the execution of the Local Funding Agreement for Capital Funding by and between WMATA and the District of Columbia to be executed concurrently with the execution of this Agreement. Accordingly, this Agreement shall take effect on the date of execution by the last signatory to either this Agreement or the District of Columbia Local Funding Agreement for Capital Funding.

(b) Term. The term of this Agreement shall begin on the Effective Date and shall terminate on June 30, 2016. Where there are projects which have been started during the term of the Agreement or where bonds or other financial instruments have been issued pursuant to the Metro Matters Funding Agreement (for those Contributing Jurisdictions who did not opt out of the Long Term Debt issuance) or pursuant to this Agreement, the Contributing Jurisdictions, subject to annual appropriations, agree to continue to make their Allocated Contributions for those projects or debt service until the conclusion of the projects or the final maturity of the bonds or other financial instruments.

(c) Future Negotiations. No later than June 30, 2015, WMATA and the Contributing Jurisdictions agree to commence discussions for a successor capital funding agreement. WMATA will ask each Contributing Jurisdiction for an affirmative response to whether it wishes to participate in a successor agreement. Each Contributing Jurisdictions shall give an affirmative notice in accordance with Section 12 of this Agreement no later than October 1, 2015, either that: (1) it intends to continue under the Agreement, subject to amendment only of the projects included in the CIP and the cost of a new 6 year CIP and the renegotiation of the Local Funding Agreement with the District of Columbia (2) it requests negotiation of additional terms of the agreement in addition to those specified in the preceding clause or (3) it wishes to terminate the agreement as of June 30, 2016. It is the Parties' desire to limit negotiations only to the items listed in clause (1) if at all possible. A failure to timely respond will be deemed an election to terminate the Agreement. If a Contributing Jurisdiction gives or is deemed to give the required notice that it is terminating its participation in this Agreement, then the Agreement shall terminate as of June 30, 2016, except as covered by subsection (b), above.

SEC. 9 RECITALS

The Recitals set forth in this Agreement are material parts of this Agreement and are binding on the Parties to the same extent as the other terms and conditions hereof.

SEC. 10 NO THIRD PARTY BENEFICIARIES

The Parties to this Agreement do not intend any non-signatory to this Agreement or any other third Party to be a third Party beneficiary to this Agreement, nor do the Parties intend for any such third Party to have any rights or benefits under this Agreement or to have standing to bring an action or claim in any court or other forum to enforce any provision of this Agreement.

SEC. 11 AMENDMENTS

This Agreement may be amended or modified only by written agreement duly executed by all the Parties.

SEC. 12 NOTICES

All notices under this Agreement shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or sent by the U.S. Postal Service or by a courier service or national overnight delivery service, to any Party as follows:

To the State of Maryland:
Department of Transportation:

Director, Washington Area Transit Programs
Maryland Department of Transportation
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

with a copy to:

Chairman, Washington Suburban Transit District
4351 Garden City Drive, Suite 305
Hyattsville, MD 20785

To the District of Columbia:

Director
District Department of Transportation
2000 14th Street, N.W.
Washington, D.C. 20009

With copies to:

Chief Financial Officer for the District of Columbia
John A. Wilson Building, Room 203
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Attorney General for the District of Columbia
John A. Wilson Building, Room 409
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

To Arlington County, Virginia:

Director
Department of Management and Finance
2100 Clarendon Boulevard, Suite 501
Arlington, VA 22201

with a copy to:

Director
Department of Environmental Services
2100 Clarendon Boulevard, Suite 900
Arlington, VA 22201

To Fairfax County, Virginia:

Director
Fairfax County Department of Transportation
12055 Government Center Parkway, 10th Floor
Fairfax, VA 22035-5511

To the City of Alexandria, Virginia:

City Manager
City of Alexandria
301 King Street
Alexandria, VA 22314

To the City of Fairfax, Virginia:

Mayor
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

with a copy to:

Transportation Director
City of Fairfax
10455 Armstrong Street
Fairfax, VA 22030

To the City of Falls Church, Virginia:

City Manager
City of Falls Church
300 Park Avenue
Falls Church, VA 22046

To the Washington Metropolitan Area Transit Authority:

General Manager
600 Fifth Street, N.W.,
Washington, D.C. 20001

with a copy to:

The General Counsel
Washington Metropolitan Area Transit Authority
600 Fifth Street, N.W., Second Floor
Washington, D.C. 20001

SEC. 13 SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the Contributing Jurisdictions and WMATA.

SEC. 14 NO DEBT GUARANTEES

No Contributing Jurisdiction guarantees the debt of WMATA or any other Contributing Jurisdiction, nor any obligation of WMATA or any other Contributing Jurisdiction.

SEC. 15 REQUIREMENT FOR ANNUAL APPROPRIATIONS

Notwithstanding any other provisions of this Agreement, all obligations of the Contributing Jurisdictions are subject to discretionary annual appropriation of funds by the governing bodies thereof or other appropriate legislative bodies thereof and shall be consistent with the anti-deficiency laws applicable to each Contributing Jurisdiction.

SEC. 16 COUNTERPARTS

This Agreement may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties listed on page one.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Agreement on this 15th day of July, 2010.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

Secretary

By:

Richard Sarles
Interim General Manager

[Seal]

Dated:

7/1/10

Approved as to Form and Legal Sufficiency:

By:

Office of General Counsel

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of
Transportation

MARYLAND DEPARTMENT OF
TRANSPORTATION

Attest:

Richard P. Long Jr.
Witness

By: Bruce H. Long [Seal]
Secretary

and

WASHINGTON SUBURBAN
TRANSIT DISTRICT

Attest:

Thomas G. Peter
Witness

By: Peter Benjamin [Seal]
Chairman

Approved as to Form and Legal Sufficiency:

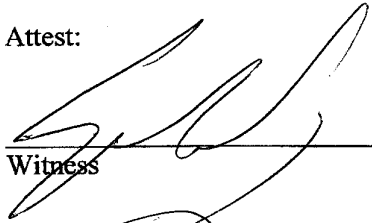
By: Thomas G. Peter
Assistant Attorney General

Date: June 16, 2010


[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

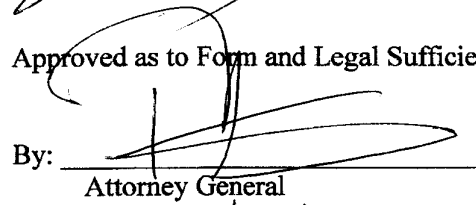


Witness

 [Seal]

By: Mayor

Approved as to Form and Legal Sufficiency:



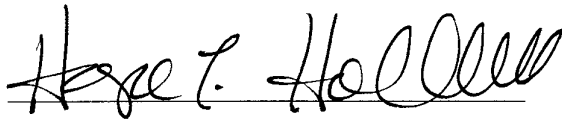
By: Attorney General

Dated: 6/30/10

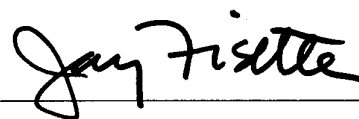
[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

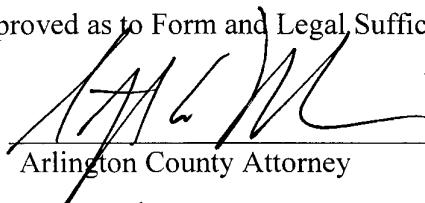


Clerk to the County Board

By:  [Seal]

Chair
County Board
Arlington County, Virginia

Approved as to Form and Legal Sufficiency:

By: 
Arlington County Attorney

Dated: 7/2/10

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

Nancy Vekris
Clerk to the Board of Supervisors

By: At Ginty [Seal]
County Executive
Fairfax County, Virginia

Approved as to Form and Legal Sufficiency:

By: David P. Bolger
County Attorney

Dated: 6/30/10

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

Jackie M. Henderson
City Clerk

By: [Signature] [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: [Signature]
Deputy City Attorney

APPROVED AS TO FORM:
[Signature]
DEPUTY CITY ATTORNEY

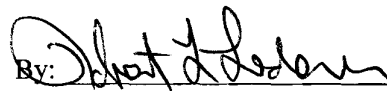
Dated: 7/22/10

[signatures continued on following page]


CITY OF FAIRFAX, VIRGINIA

Attest:


City Clerk

By:  [Seal]
Mayor

Approved as to Form and Legal Sufficiency:

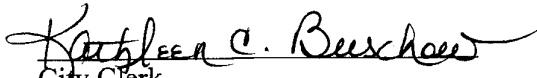
By: 
City Attorney

Dated: 7/14/2010

[signatures continued on following page]

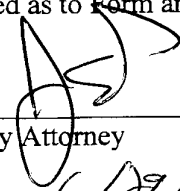
CITY OF FALLS CHURCH, VIRGINIA

Attest:


City Clerk

By:  [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: 
City Attorney

Dated: 6/29/10

**FIRST AMENDMENT TO THE
CAPITAL FUNDING AGREEMENT**

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

Effective Date: _____

325

**FIRST AMENDMENT TO THE
CAPITAL FUNDING AGREEMENT**

THIS FIRST AMENDMENT TO THE CAPITAL FUNDING AGREEMENT (Amendment) is made and entered into this ____ day of _____, 2016, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions):**

RECITALS

1. The Parties to this Amendment desire to extend the term of that Capital Funding Agreement entered into by the Parties as of July 1, 2010 (CFA).
2. The Parties to this Amendment desire to continue the funding and work of WMATA on the same terms and conditions currently in place under the CFA for an additional year (the Extension Term).
3. The Parties will continue to negotiate in good faith toward a longer-term capital funding agreement during the Extension Term.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

Unless defined otherwise in this Amendment all terms used in this Amendment shall have the same meaning as is found in the CFA.

SEC. 2 EXTENSION OF TERM AND AMENDMENT OF LONG TERM DEBT OBLIGATIONS

Pursuant to Section 11 of the CFA, the Parties agree to extend the term of the CFA for one additional year, from July 1, 2016 through June 30, 2017 (FY2017) on the same terms and conditions agreed to under the CFA. The maximum amount of Long-Term Debt authorized for issuance in FY2017 (before June 30, 2017) to be used in support of the Capital Improvement Program shall not exceed \$58,300,000. Each of the Parties acknowledge and agree that this debt issuance must be approved by the respective Jurisdictions pursuant to the opt-out provisions of the CFA, subject to appropriations and the limitations stated in § 4(b)(3) of the CFA and § 4(b)(3) of the DCLFA. In the event that WMATA desires to issue additional debt during FY2017, WMATA shall follow the processes established for such issuance in the CFA.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM

- A. As is contemplated by the CFA, it is anticipated that the WMATA Board of Directors will adopt a new Fiscal Year 2017 Capital Budget on or before June 30, 2016. It is the intent of the Parties that the CFA is amended to incorporate the FY2017 Annual Work Plan as adopted by the Board so long as the amounts to be billed to the Contributing Jurisdictions in FY2017 shall not exceed \$247,800,000, excluding Passenger Rail and Improvement Act (PRIIA) funding.
- B. Attachment A contains the proposed budget funding plan, including PRIIA funding.

C. The District of Columbia's Allocated Contribution to the FY2017 Annual Work Plan shall not exceed \$92,100,000, excluding PRIIA funding, and this amount shall be added to the amount contained in Section 4(b)(1)(C)(i) of the CFA to constitute the new limitation on required Allocated Contributions for the District of Columbia in the total maximum amount not to exceed \$489,414,000, excluding PRIIA funding, to be paid from the District of Columbia Capital Funds.

SEC. 4 CONTINUING EFFECT

This First Amendment amends certain terms and conditions of the CFA. All other terms and conditions of the CFA that are not modified by this First Amendment shall remain in full force and effect. Should there be any conflict between the terms and conditions in this First Amendment and the CFA the terms and conditions of this First Amendment, and in the case of the District of Columbia the First Amendment to the Local Capital Funding Agreement, shall control.

SEC. 5 COUNTERPARTS

This Amendment may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Amendment by their representatives' signatures below.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Secretary

_____[Seal]
Paul J. Wiedefeld
General Manager/Chief Executive Officer

Dated: _____

Approved as to Form and Legal Sufficiency:

By: _____
Office of General Counsel

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of
Transportation

MARYLAND DEPARTMENT OF
TRANSPORTATION

Attest:

Witness

By: _____ [Seal]
Secretary

and

WASHINGTON SUBURBAN
TRANSIT DISTRICT

Attest:

Witness

By: _____ [Seal]
Chairman

Approved as to Form and Legal Sufficiency:

By: _____
Assistant Attorney General

Date: _____

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____[[Seal]
Mayor

Approved as to Form and Legal Sufficiency:

By: _____
Attorney General

Dated: _____

[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

Clerk to the County Board

By: _____ [Seal]
Chair
County Board
Arlington County, Virginia

Approved as to Form and Legal Sufficiency:

By: _____
Arlington County Attorney


Dated: _____

[signatures continued on following page]


FAIRFAX COUNTY, VIRGINIA

Attest:


Clerk to the Board of Supervisors

By:  [Seal]
County Executive
Fairfax County, Virginia

Approved as to Form and Legal Sufficiency:

By: 
County Attorney

Dated: 5-19-16

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FAIRFAX, VIRGINIA

Attest:

City Clerk

By: _____[Seal]
Mayor

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FALLS CHURCH, VIRGINIA

Attest:

City Clerk

By: _____[Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____



Washington Metropolitan Area Transit Authority

Revised FY2017 Capital Improvement Program (CIP) Proposed Budget

ATTACHMENT A

Revised State/Local Contributions and Debt Opt-Out Allocation									
# in millions	Total	District of Columbia	State of Maryland	City of Alexandria	Arlington County	City of Fairfax	Fairfax County	City of Falls Church	Commonwealth of Virginia
Federal	469.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Non-Federal	33.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
State and Local	338.1	119.9	115.4	8.5	15.8	0.5	27.8	0.6	49.5
Debt (Opt-Out)	58.3	21.7	20.3	2.6	4.9	0.2	8.5	0.2	0.0
Total	\$898.9	\$141.6	\$135.7	\$11.1	\$20.7	\$0.7	\$36.3	\$0.8	\$49.5

**SECOND AMENDMENT TO THE
CAPITAL FUNDING AGREEMENT**

Among

The State of Maryland;

The District of Columbia;

Arlington County, Virginia;

Fairfax County, Virginia;

The City of Alexandria, Virginia;

The City of Fairfax, Virginia;

The City of Falls Church, Virginia;

And

The Washington Metropolitan Area Transit Authority

Effective Date: _____

SECOND AMENDMENT TO THE CAPITAL FUNDING AGREEMENT

THIS SECOND AMENDMENT TO THE CAPITAL FUNDING AGREEMENT (Second Amendment) is made and entered into this ____ day of _____, 2017, by and among **the Washington Metropolitan Area Transit Authority (WMATA)**, a body corporate and politic created by interstate compact between Maryland, Virginia, and the District of Columbia; **the State of Maryland, acting by and through the Washington Suburban Transit District and the Department of Transportation; the District of Columbia; Arlington County, Virginia; Fairfax County, Virginia; the City of Alexandria, Virginia; the City of Fairfax, Virginia; and the City of Falls Church, Virginia (Contributing Jurisdictions and, collectively with WMATA, the Parties):**

RECITALS

1. The Parties to this Second Amendment desire to extend the term of that Capital Funding Agreement entered into by the Parties as of July 1, 2010 and previously extended to include WMATA Fiscal Year 2017 (CFA).
2. The Parties to this Second Amendment desire to continue the funding and work of WMATA on the same terms and conditions currently in place under the CFA as amended by the First Amendment to the CFA for an additional year (the Extension Term).
3. The Parties will continue to negotiate in good faith toward a longer-term capital funding agreement during the Extension Term.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereby agree as follows:

SEC. 1 DEFINITIONS

Unless defined otherwise in this Second Amendment all terms used in this Second Amendment shall have the same meaning as is found in the CFA.

SEC. 2 EXTENSION OF TERM AND AMENDMENT OF LONG TERM DEBT OBLIGATIONS

Pursuant to Section 11 of the CFA, the Parties agree to extend the term of the CFA for one additional year, from July 1, 2017 through June 30, 2018 (FY2018) on the same terms and conditions agreed to under the CFA as amended by the First Amendment to the CFA. The maximum amount of long-term debt authorized for issuance in FY2018 in support of the FY2018 Capital Improvement Program shall not exceed \$575.2 million. The Parties acknowledge and agree that this debt issuance will be approved by the Jurisdictions pursuant to the opt-out provisions of the CFA. In the event that WMATA desires to issue additional debt during FY2018, WMATA shall follow the processes established for such issuance in the CFA. Additionally, WMATA may also choose to refinance the existing Gross Revenue Transit Bonds Series 2009A and 2009B provided that the jurisdictional debt service amounts will be no greater than the existing amounts covering these bonds. If a Contributing Jurisdiction elected to pre-pay its portion of the Gross Revenue Transit Bonds Series 2009A or 2009B pursuant to Section 4(b)(2)(C) of the CFA that Contributing Jurisdiction shall not be responsible for costs, debt service, or other amounts related to the refunded Gross Revenue Transit Bonds Series 2009A or 2009B.

SEC. 3 CAPITAL IMPROVEMENT PROGRAM

- A. As is contemplated by the CFA as amended by the First Amendment to the CFA, it is anticipated that the WMATA Board of Directors will adopt a new Fiscal Year 2018 Capital Budget on or before June 30, 2017. It is the intent of the Parties that the CFA be automatically amended to incorporate the FY2018 Capital Budget as adopted by the Board so long as the Allocated Contributions in the FY2018 Annual Work Plan do not exceed \$210.5 million exclusive of long-term debt and PRIIA matching funds in Attachment A.
- B. Attachment A contains the FY2018 Capital Budget, representing a summary of the FY2018 Annual Work Plan.
- C. The District of Columbia's Allocated Contribution to the FY2018 Capital Budget shall not exceed \$76.1 million and this amount shall be added to the amounts contained in Section 4(b)(1)(C)(i) of the CFA and the First Amendment to the CFA to constitute the new limitation on required Allocated Contributions for the District of Columbia in the total maximum amount not to exceed \$565,514,000 to be paid from the District of Columbia Capital Funds.
- D. It is the intent of the Parties that to the extent that WMATA undertakes multi-year projects in the FY2018 Annual Work Plan, adopted by this Second Amendment, such projects shall be continued in accordance with the provisions of Section 2(e) of the CFA.

SEC. 4 CONTINUING EFFECT

This Second Amendment amends certain terms and conditions of the CFA. All other terms and conditions of the CFA as amended by the First Amendment to the CFA that are not modified by this Second Amendment shall remain in full force and effect. Should there be any

conflict between the terms and conditions in this Second Amendment and the CFA as amended by the First Amendment the terms and conditions of this Second Amendment, and in the case of the District of Columbia the Second Amendment to the Local Capital Funding Agreement, shall control.

SEC. 5 COUNTERPARTS

This Amendment may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement. The counterpart with the most recent date shall determine the date of entry of this Agreement by the Parties.

IN WITNESS WHEREOF, WMATA and the Contributing Jurisdictions have executed this Amendment by their representatives' signatures below.

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

Attest:

By:

Secretary

_____[Seal]
Paul J. Wiedefeld
General Manager/Chief Executive Officer

Dated: _____

Approved as to Form and Legal Sufficiency:

By: _____
Office of General Counsel

[signatures continued on following page]

STATE OF MARYLAND

acting by and through the Washington Suburban Transit District and the Department of
Transportation

MARYLAND DEPARTMENT OF
TRANSPORTATION

Attest:

Witness

By: _____[Seal]
Secretary

and

WASHINGTON SUBURBAN
TRANSIT DISTRICT

Attest:

Witness

By: _____[Seal]
Chairman

Approved as to Form and Legal Sufficiency:

By: _____
Assistant Attorney General

Date: _____

[signatures continued on following page]

DISTRICT OF COLUMBIA

Attest:

Witness

By: _____[Seal]
Mayor

Approved as to Form and Legal Sufficiency:

By: _____
Attorney General

Dated: _____

[signatures continued on following page]

COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

Attest:

Witness

By: _____ [Seal]
County Manager
Arlington County, Virginia

Approved as to Form and Legal Sufficiency:

By: _____
Arlington County Attorney

Dated: _____

[signatures continued on following page]

FAIRFAX COUNTY, VIRGINIA

Attest:

Clerk to the Board of Supervisors

By: _____ [Seal]
County Executive
Fairfax County, Virginia

Approved as to Form and Legal Sufficiency:

By: _____
County Attorney

Dated: _____

[signatures continued on following page]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FAIRFAX, VIRGINIA

Attest:

City Clerk

By: _____[Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

[signatures continued on following page]

CITY OF FALLS CHURCH, VIRGINIA

Attest:

City Clerk

By: _____ [Seal]
City Manager

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Dated: _____

Attachment A

Washington Metropolitan Area Transit Authority

FY2018 Capital Improvement Program (CIP) Financial Plan

\$ in Millions	Total	District of Columbia	State of Maryland	City of Alexandria	Arlington County	City of Fairfax	Fairfax County	City of Falls Church	DRPT CMAQ Match	Commonwealth of Virginia
Allocated State and Local	210.5	76.1	73.1	9.8	18.6	0.6	31.8	0.6		
FY2011-2016 CFA Reconciliation Payback	75.9	28.8	27.6	1.7	6.2	0.2	11.0	0.3		
FY2017 Authorized Debt	58.3	21.7	20.3	2.6	4.9	0.2	8.5	0.2		
FY2017 LOC Payback	150.0	55.8	52.1	6.7	12.5	0.4	22.0	0.5		
FY2018 Debt	291.0	105.2	101.1	13.6	25.7	0.8	43.9	0.8		
Subtotal - Allocated Contributions Incl. Debt	785.7	287.5	274.2	34.4	67.9	2.1	117.3	2.3	0.0	0.0
Federal	460.5									
PRR/IA Match	148.5	49.5	49.5							49.5
Other State and Local	15.3	1.1	5.1	6.8	0.3	0.01	0.6	0.01	1.4	
MWAA	118.2									
Other	6.0									
Subtotal - Other CIP Funding	748.5	50.6	54.6	6.8	0.3	0.0	0.6	0.0	1.4	49.5
Total	1,534.2	338.1	328.9	41.2	68.2	2.1	117.9	2.3	1.4	49.5

Board Agenda Item
June 20, 2017

ACTION - 10

Endorsement of Design Plans for the Scotts Run Trail (Providence District)

ISSUE:

Board endorsement of the Fairfax County Department of Transportation (FCDOT) design plans for 2,676 linear feet of a new eight foot wide asphalt sidewalk connecting Magarity Road at Westgate Elementary School to Colshire Meadow Drive near the McLean Metrorail Station, known as the Scotts Run Trail. The trail will be lighted and include a 90 foot bridge over Scotts Run Stream and a 50 foot bridge over a tributary.

RECOMMENDATION:

The County Executive recommends that the Board endorse the design plans for the Scotts Run Trail including pedestrian scale lighting and two bridges, generally as presented at the November 15, 2016, public hearing, and authorize the director of Fairfax County Department of Transportation to transmit the Board's endorsement to VDOT.

TIMING:

The Board should take action on this matter on June 20th, 2017 or as soon as possible to allow the Fairfax County Department of Transportation to proceed with final design plans.

BACKGROUND:

In order to create a multimodal access management plan for the Metrorail Stations in Tysons, as well as to get the public to begin thinking about how they would reach the stations, the Board of Supervisors (BOS) approved funding for the Tysons Metrorail Station Access Management Study (TMSAMS) in June 2009. The ultimate objective of the study was to create a document that could be used as a tool for the Board to make funding decisions on multi-modal transportation improvement projects, specifically to access the Metrorail stations in Tysons, as funding becomes available. The study was carried out by an advisory group that consisted of county staff from the Board of Supervisor's district offices, the Fairfax County Department of Transportation (FCDOT), the Fairfax County Office of Public Affairs (OPA), and the Fairfax County Park Authority (FCPA), as well as bicycle advocates and representatives of the business and development community. The group conducted an extensive public outreach campaign that included stakeholder interviews, four public meetings, and an on-line survey.

Board Agenda Item
June 20, 2017

The study was approved by the Board in May 2012 and recommended several access improvement projects. One of the high priority projects that was recommended by the TMSAMS study was a trail connection from Magarity Road to Colshire Meadow Drive allowing pedestrians from the surrounding neighborhoods to access the McLean Metro Station, known as the Scotts Run Trail.

Public Hearing Comments

In coordination with the Fairfax County Park Authority (FCPA), a Design Public Hearing was held for the above mentioned project on Tuesday, November 15, 2016, between the hours of 6:30 pm and 8:30 pm at Westgate Elementary School, 7500 Magarity Road, Falls Church, Virginia 22043.

Twenty-one members of the public attended the public hearing. A total of 10 written, emailed, or oral comments were received. Comments were mostly positive and in support of the project. Many people were interested in how the project fit into the larger transportation plan for Tysons and brought up future possibilities for extending the trail further down the stream valley. Several people questioned the reasoning for the number of curves on the hillside but seemed satisfied with the explanation that the alignment was required in order to meet the Americans with Disabilities Act (ADA) guidelines for an accessible travel route. A copy of the public hearing brochure is attached (Attachment 2).

Project Schedule

The schedule displayed during the public hearing is as follows:

- Land Acquisition August 2017
- Design / Permitting May 2018
- Construction October 2019

FISCAL IMPACT:

The project cost is estimated at \$2,075,500 and is funded through the Federal Regional Surface Transportation Program (RSTP) and Congestion Mitigation and Air Quality Improvements Program (CMAQ) as shared during the public hearing.

ENCLOSED DOCUMENTS:

Attachment 1: Letter for Signature by Tom Biesiadny, Board Endorsement of Scotts Run Trail Design Plans

Attachment 2: November 15, 2016, Public Hearing Brochure

Board Agenda Item
June 20, 2017

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Karyn L. Moreland, Chief, Capital Projects Section, FCDOT

William Harrell, Capital Projects Section, FCDOT

Vanessa Aguayo Thomas, Capital Projects Section, FCDOT

Elizabeth Cronauer, Project Manager, Planning and Development Section, Fairfax County Park Authority (FCPA)



County of Fairfax, Virginia

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

Ms. Helen L. Cuervo, P.E.
District Administrator
Northern Virginia District
Virginia Department of Transportation
4975 Alliance Drive
Fairfax, Virginia 22030

Subject: Scotts Run Trail Project, UPC 110477

Dear Ms. Cuervo:

On June 20, 2017, the Fairfax County Board of Supervisors endorsed the design plans for the Scotts Run Trail, 2,676 linear feet of a new eight foot wide asphalt sidewalk connecting Magarity Road at Westgate Elementary School to Colshire Meadow Drive near the McLean Metrorail Station. The trail will be lighted and include a 90 foot bridge over Scotts Run Stream and a 50 foot bridge over a tributary, as presented at the November 15, 2016, public hearing.

Please call Vanessa Aguayo Thomas at (703) 877-5764 or me at (703) 877-5663, if you have any questions or need additional information. Thank you for your assistance with this important project.

Sincerely,

Tom Biesiadny
Director

cc: Andrew Beacher, Manager, Preliminary Engineering, VDOT
Eric M. Teitelman, Chief, Capital Projects and Operations Division
Karyn L. Moreland, Chief, Capital Projects Section, FCDOT
William Harrell, Capital Projects Section, FCDOT

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot





A JOINT PROJECT BY THE FAIRFAX COUNTY PARK AUTHORITY & FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION



Scotts Run Trail – Magarity Road to Colshire Meadow Drive

Project Scope: The project will provide 2,676 LF of new 8' wide pedestrian trail connecting Magarity Road at Westgate Elementary School to Colshire Meadow Drive near the McLean Metrorail Station. Its purpose is to facilitate pedestrian access to/from the metro station for local residents. The trail will be lighted and include a 90' bridge over Scotts Run Stream and a 50' bridge over a tributary (see attached maps). The project is funded with federal transportation dollars where all federal regulations, standards, and requirements including compliance with the guidelines set forth in the Americans with Disabilities Act, apply to design and construction of the trail.

Project Background: In order to create a multimodal access management plan for the Metrorail stations, in Tysons Corner, as well as to get the public to begin thinking about how they will reach the stations, the Board of Supervisors (BOS) approved funding for the Tysons Metrorail Station Access Management Study (TMSAMS) in June 2009. The ultimate objective of the study was to create a document that can be used as a tool for the BOS to make funding decisions on multi-modal transportation improvement projects, specifically to access the Metrorail stations in Tysons Corner, as funding becomes available. The study was carried out by an advisory group that consisted of county staff from the Board of Supervisor's district offices, the Fairfax County Department of Transportation (FCDOT), the Fairfax County Office of Public Affairs, and the Fairfax County Park Authority, as well as bicycle advocates and representatives of the business and development community. The group conducted an extensive public outreach campaign that included stakeholder interviews, four public meetings, and an on-line survey. The study was approved by the Board in May 2012 and recommended several access improvement projects. One of the high priority projects that was recommended by the TMSAMS study was a trail connection from Magarity Road to Colshire Meadow Drive allowing pedestrians from the surrounding neighborhoods to access the McLean Metro Station.

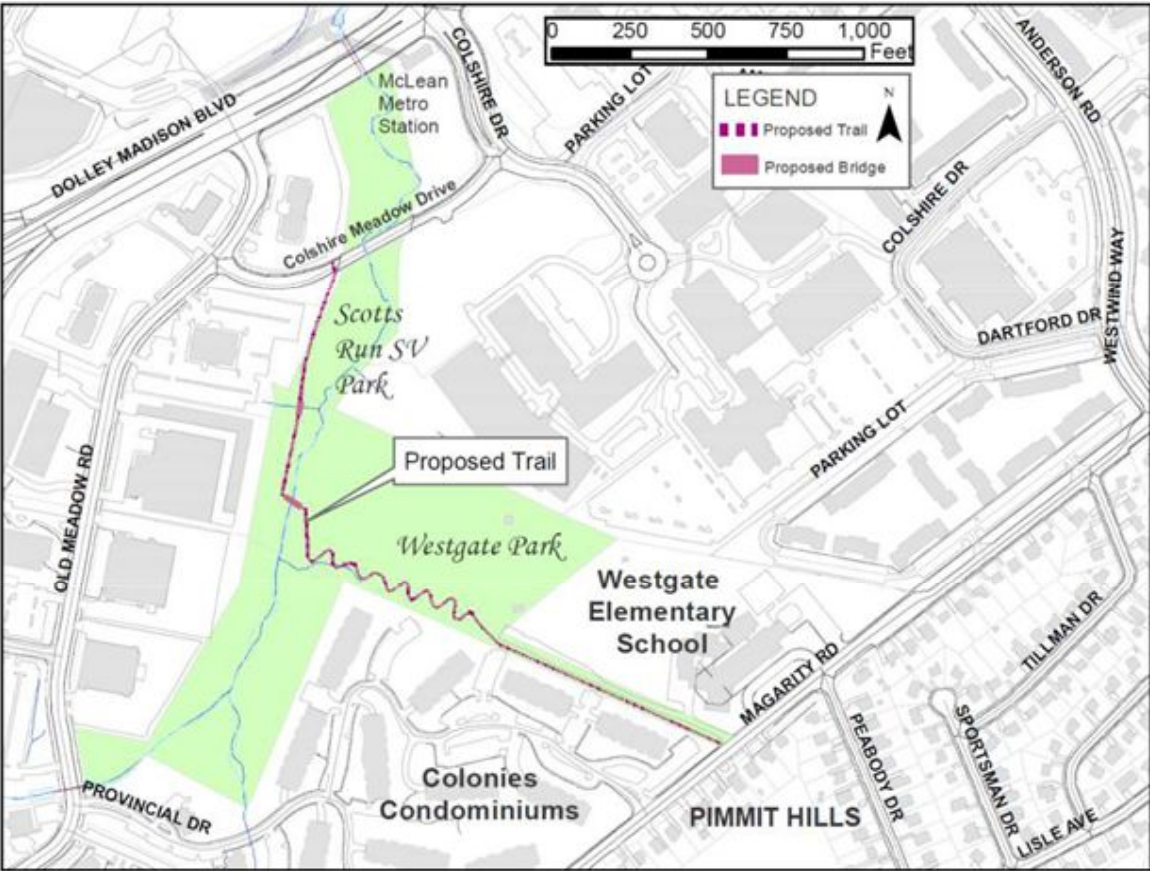
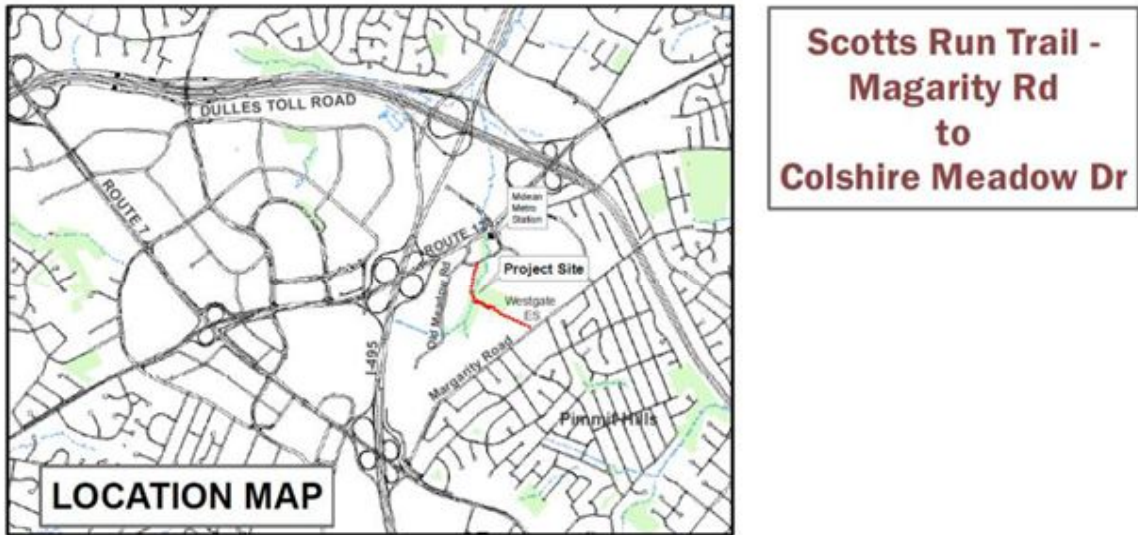
Project Funding: The project cost is an estimated \$2,075,500 and funded with Federal Regional Surface Transportation Program (RSTP) and the Congestion Mitigation and Air Quality Improvements Program (CMAQ).

Project Schedule:

<u>Phase</u>	<u>Planned Completion</u>
Land Acquisition	August 2017
Design / Permitting	May 2018
Construction	October 2019



If accommodations and/or alternative formats are needed, please call (703) 324-8563, at least 10 working days in advance of the registration deadline or event. TTY (703) 803-3354.



CONSIDERATION - 1

Revision to Bylaws of the Fairfax-Falls Church Community Policy and Management Team (CPMT)

ISSUE:

That the CPMT recommended revision of the bylaws to increase its parent representation to allow for greater family input in policy making and leadership by expanding the membership to a total of five parent representative positions, and that the process to select new parent representatives include at least one parent member on the nominating committee.

TIMING:

Board action is requested on June 20, 2017.

BACKGROUND:

The CPMT adopted the System of Care Blueprint for Behavioral Health which calls for a greater role for parents and caregivers in the development and governance of the behavioral health system of care. Goal 3 in the blueprint supports increasing family and youth involvement and Goal 13 contained a strategy to add one parent representative to the CPMT. The CPMT approved revising their bylaws to add an additional parent representative to the CPMT, bringing the total number to five parents.

FISCAL IMPACT:

Parent representatives receive a \$100 stipend for each meeting attended. The annual fiscal impact of adding an additional parent would be \$900 out of the existing CSA program support budget.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Revisions to CPMT Bylaws

STAFF:

Janet Bessmer, Children's Services Act (CSA) Program Manager
Patricia Harrison, Deputy County Executive
Nannette Bowler, DFS Director

**BYLAWS OF
THE FAIRFAX-FALLS CHURCH
COMMUNITY POLICY AND MANAGEMENT TEAM**

ARTICLE I: PURPOSE

It is the purpose of the Community Policy and Management Team to implement the Children's Services Act as specified in Sections 2.1-745 through 2.1-759 of the *Code of Virginia*.

ARTICLE II: MISSION

The mission of the Fairfax-Falls Church Community Policy and Management Team (CPMT) is to provide leadership in the development of new concepts and approaches in the provision of services to children, youth and families of Fairfax County and the cities of Fairfax and Falls Church. The primary focus of the CPMT is to lead the way to effective services to children already at risk of experiencing emotional/behavioral problems, especially those at risk or in need of out of home placements, and their families.

ARTICLE III: PARTICIPATING JURISDICTIONS AND NAME

The governing bodies of Fairfax County and the cities of Fairfax and Falls Church have agreed to work jointly in implementing the Children's Services Act. Therefore this body shall be known as the "Fairfax-Falls Church Community Policy and Management Team."

ARTICLE IV: RESPONSIBILITIES

As set forth in the *Code of Virginia*, the CPMT has the following duties and authority:

1. Develop interagency policies and procedures to govern the provision of services to children and families;
2. Develop interagency fiscal policies governing access to the State pool of funds by the eligible populations including immediate access to funds for emergency services and sheltered care;
3. Coordinate long range, community-wide planning which ensures the development of resources and services needed by children and families;
4. Establish policies governing referrals and reviews of children and families to the Family Assessment and Planning Teams and a process to review the teams' recommendations and requests for funding;
5. Establish Family Assessment and Planning Teams as needed;

6. Establish quality assurance and accountability procedures for program utilization and funds management;
7. Obtain bids and enter into contracts for the provision or operation of services in accordance with the Fairfax County Public Procurement Act;
8. Establish procedures for the management of funds in the interagency budget allocated to the community from the State pool of funds, the Trust fund, and any other source;
9. Authorize and monitor the expenditure of funds by each Family Assessment and Planning Team;
10. Submit grant proposals upon approval by the Fairfax County Board of Supervisors; and,
11. Serve as its community's liaison to the State Management Team, reporting on its programmatic and fiscal operations and on its recommendations for improving the service system, including consideration of realignment of geographical boundaries for providing human services.

ARTICLE V: MEMBERSHIP, APPOINTMENTS AND TERM OF OFFICE

Section 1. Memberships.

The CPMT shall have no more than twenty-one (21) members. Ten (10) members have legally mandated status under the Code of Virginia. Five (5) members are locally mandated by the Board of Supervisors. Seven (7) members may be appointed by the Board of Supervisors on an optional basis. Of the twenty-one CPMT members, eight (8) are filled on a limited term basis by the Board of Supervisors.

Section 2. State Mandated Members.

The following representatives are mandated under *Virginia Code* to serve as members of the CPMT:

- Director of Court Services for the Fairfax County Juvenile and Domestic Relations Court
- Director of the Department of Family Services
- Executive Director of the Fairfax-Falls Church Community Services Board
- Director of the Department of Health
- Director of Special Services, Fairfax County Public Schools
- One (1) representative of the Falls Church City Public Schools
- One (1) human services representative appointed by the Fairfax City Council
- One (1) human services representative appointed by the Falls Church City Council
- One (1) representative of private service providers*
- One (1) parent representative who is not an employee of any public or private provider of services to youth*

Section 3. Locally Mandated Members.

The following representatives are designated by the Fairfax County Board of Supervisors to serve as members of the CPMT:

- Deputy County Executive, Human Services
- Director of the Department of Administration for Human Services
- Director of the Department of Neighborhood and Community Services
- Director of Special Education Procedural Support, Fairfax County Public Schools
- Director of Intervention and Prevention Services, Fairfax County Public Schools

Section 4. Optional Members.

The Fairfax County Board of Supervisors may appoint the following positions as members of the CPMT:

- Two (2) representatives of private service providers*
- Up to four (4) parent representatives who are not employees of any public or private provider of services to youth*
- One (1) community representative*

Section 5. Appointments and Terms for Limited Term Members

The eight (8) members identified by an asterisk (*) in Sections 2, 3, and 4 above shall serve limited term appointments. The term shall be for two (2) years and re-appointments may be made for additional consecutive terms upon approval by the CPMT and Board of Supervisors. The terms of private service provider representatives shall expire in alternating years.

All jurisdictions shall be afforded the opportunity to nominate persons for limited term appointments. The Chair of the CPMT shall forward the CPMT's recommended nominee for membership to the Fairfax County Board of Supervisors or other appointing authority for approval. For the parent representatives, the Chair will appoint a Nominating Committee of three members with at least one parent representative to assist in obtaining nominations for these limited term members.

ARTICLE VI: OFFICERS AND THEIR DUTIES

Section 1. Officers.

The officers of the CPMT shall consist of a Chair and Vice Chair.

Section 2. Duties of the Chair.

The duties of the Chair shall be:

- a. To set the agenda for and preside at all meetings of the CPMT.
- b. To appoint committees as needed to support the work of the CPMT.
- c. To keep the State Management Team, the Fairfax County Board of Supervisors, and the Councils of the participating cities informed of the activities of the CPMT.
- d. To perform other duties as determined by the CPMT.

Section 3. Duties of the Vice Chair.

The Vice Chair shall, in the absence of the Chair, perform the duties of the Chair and other duties determined by the CPMT.

ARTICLE VII: ELECTION OF THE OFFICERS AND TERM OF OFFICE

Section 1. Elections.

Election of officers shall be conducted by the CPMT acting as a Nominating Committee of the Whole. The election shall be held at the last meeting of the County fiscal year or as needed.

Section 2. Term of Office.

The term shall be for the County fiscal year. There is no term limit on the number of terms which a person may serve.

ARTICLE VIII: MEETINGS

Section 1. Meetings.

The CPMT shall hold a sufficient number of meetings to properly conduct its business.

Section 2. Absences.

Absences shall be managed in accordance with Fairfax County Procedural Memorandum Number 99, which states that the names of the members who are absent for three consecutive

regularly scheduled meetings are to be transmitted to the Clerk to the Board of Supervisors or other appointing authority for appropriate action.

Section 3. Staff Support.

The Chair shall assign Fairfax County staff designated by the Deputy Executive for Human Services to maintain the minutes of all meetings, to prepare agendas, and to distribute meeting minutes.

ARTICLE IX: QUORUM

A majority of the members of the CPMT including the Chair or Vice-Chair, present in person, constitutes a quorum at all meetings of the CPMT for the transaction of business.

ARTICLE X: RULES OF ORDER

Section 1. Voting.

Both officially appointed members and their designees may participate in discussions. However, only the officially appointed member may vote.

Section 2. Decisions.

The CPMT shall generally work by consensus. Robert's Rules of Order, Newly Revised, shall be used as a guide in conducting Management Team business. All issues of parliamentary procedure shall be referred to the Chairman or presiding officer where decisions shall be final or binding.

ARTICLE XI: COMMITTEES

Committees may be established as needed. Membership is not limited to members of the CPMT.

ARTICLE XII: CONFIDENTIALITY

All information about specific youth and families obtained by CPMT members in discharge of their responsibilities shall be confidential under all applicable laws, mandates, and licensing requirements.

ARTICLE XIII: AMENDMENTS

These bylaws may be amended at any regular meeting of the CPMT by a two-thirds (2/3) vote of those present and voting; provided, however, that notice of the proposed changes have been submitted to the members of the CPMT thirty (30) days prior to the meeting. These bylaws may also be amended at any time without advance notice by unanimous vote of all members of the CPMT.

These bylaws were last amended at a regular meeting of the CPMT held on May 20, 2016.

INFORMATION - 1

Contract Award - Legislative Consultant Services

The Office of the County Executive, Government Relations requires the services of a lobbyist to represent the County with the Virginia General Assembly on a myriad of funding and policy issues relating to human services. The Department of Procurement and Material Management (DPMM) issued a formal request for proposal (RFP 2000002293) in April 2017 for this requirement.

The solicitation was publicly advertised in accordance with the County's Purchasing Resolution and a single proposal was received from SR Consulting Inc. (SRC). Despite the lack of competing proposals, the Selection Advisory Committee (SAC) decided to accept the single proposal because SRC demonstrated a clear understanding of the required services and processes unique, strong qualifications. The offeror's proposal demonstrated that they have nearly 13 years of experience as a health and human services contract lobbyist for Fairfax County, direct experience with Virginia's legislative and biennial budgeting process, existing relationships with the Fairfax County General Assembly delegation, Governor-appointed administration members, and state staff, and other local government legislative liaisons (both statewide and in Northern Virginia) and human services issue-oriented advocacy groups. The SRC proposal was evaluated in accordance with the criteria established in the RFP and the SAC conducted negotiations and recommended a contract award to SRC.

The services to be provided under this contract will include, but are not limited to, representing the Fairfax County Board of Supervisors' legislative positions at the Commonwealth of Virginia's General Assembly on assigned issues under the direction of the Legislative Director. The scope of the contract may include the assignment of issues in additional human services areas, as well as other legislative issues that may impact the County. In addition to representing the Board positions, services also may include consultation, research and analysis of assigned issues. Federal government relations services would be on an as-needed basis and, at most, are expected to be a very minor portion of this contract.

The Department of Tax Administration has verified that the selected offeror is not required to have a Fairfax County Professional and Occupational License (BPOL).

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award this contract to SR Consulting Inc. This term of this contract is from July 1, 2017 to June 30, 2019, with the option for four (4) one-year renewal periods. The total estimated amount of this contract over six years is \$108,000.

FISCAL IMPACT:

Services for this contract are estimated at \$18,000 annually, and can be accommodated within the Office of the County Executive's existing General Fund budget.

Board Agenda Item
June 20, 2017

ENCLOSED DOCUMENT:
Attachment 1 – List of Offerors

STAFF:
Joseph Mondoro, Chief Financial Officer
Cathy A. Muse, Department of Procurement and Material Management
Claudia Arko, Legislative Director, Office of County Executive

List of Offerors

Name	SWAM Status
SR Consulting, Inc.	Women-Owned Small

Board Agenda Item
June 20, 2017

11:10 a.m.

Matters Presented by Board Members

12:00 p.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 - 1. *Vincent Dennis Randazzo, Administrator of Estate of Michael Vincent Randazzo, Deceased v. Sandra Mauldin*, Case No. CL-2016-0009634 (Fx. Co. Cir. Ct.)
 - 2. *Leslie B. Johnson, Fairfax County Zoning Administrator v. David W. Pratt, II*, Case No. GV17-008395 (Fx. Co. Gen. Dist. Ct.) (Braddock District)
 - 3. *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)
 - 4. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Olga Selvaggi, Individually and as heir of Phillip S. Selvaggi and the Phillip S. Selvaggi Living Trust, and Nina Selvaggi, Individually and as heir of Phillip S. Selvaggi and the Phillip S. Selvaggi Living Trust*, Case No(s). GV17-006686 and GV17-006893 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
 - 5. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Arlington Motors, Inc. and Yasmin Khoshnevis*, Case No(s). GV17-010670 and GV17-010671 (Fx. Co. Gen. Dist. Ct.) (Mason District)
 - 6. *Leslie B. Johnson, Fairfax County Zoning Administrator and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Daniel Minchew*, Case No. CL-2017-0004962 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 - 7. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Tirumal Kumar Pappu and Venkata V. Oruganti Naga*, Case No(s). GV17-010667 and GV17-010668 (Fx. Co. Gen. Dist. Ct.) (Providence District)

8. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Heirs of Roy E. Rumsey, Roy Donald Rumsey and Juline Rumsey*, Case No. CL-2017-0007426 (Fx. Co. Cir. Ct.) (Springfield District)
9. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Amin Barek*, Case No. GV17-000487 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Steven C. Bryant*, Case No. CL-2009-0005546 (Fx. Co. Cir. Ct.) (Sully District)
11. *Board of Supervisors of Fairfax County v. Debbie Dogrul Associates, LLC*, Case No. CL2016-0016846 (Fx. Co. Cir. Ct.) (Braddock, Lee, Mason, Mount Vernon, Providence, and Springfield Districts)

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Board Agenda Item
June 20, 2017

3:00 p.m.

Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2018 through 2023 and FY 2018 Budget

ISSUE:

Public hearing and Board approval of the proposed Virginia Department of Transportation (VDOT) Six-Year Secondary System Construction Program (SSYP) for Fiscal Years (FY) 2018 through 2023.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached Secondary System Construction Program for FY 2018 through 2023 (Attachment 1), the FY 2018 Budget, and the resolution (Attachment 2) required by VDOT.

TIMING:

The Board is requested to act on this item on June 20, 2017, following the public hearing.

BACKGROUND:

The proposed SSYP has been prepared by VDOT, in coordination with County staff, pursuant to Section 33.2-331 of the *Code of Virginia*. This is an update of the previous Program which was the subject of a public hearing before the Board on June 21, 2016. Project schedule information is also included in the proposed program.

Due to changes in funding formulas implemented in Virginia over the past several years, the Commonwealth's roadway funding is largely allocated through the Smart Scale and State of Good Repair programs. As a result of these changes, no additional secondary road funds are expected in the future. The Commonwealth's Biennial Budget specifies that these changes will not affect the expenditure of the secondary funds that were allocated by July 1, 2017, provided that they are committed and expected to be expended as of January 1, 2018. Those secondary funds that remain unspent as of January 1, 2018 will be deallocated and transferred to the State of Good Repair Program unless such funds are allocated to a fully funded and active project. Therefore, the County can continue to utilize those secondary funds already allocated to projects. Although the program has limited funds, there are several changes to the program.

The projects in the previously approved SSYP have undergone the following changes:

- Funding available in FY22 for the Unpaved Road District Grant Program has been reduced by \$1,295.
- Additional funding in the amount of \$9,379 has been appropriated for FY23.
- Walney Road Bridge project (UPC 104103) has been completed.
- Walker Road Bridge project (UPC 84383) will be funded through other sources and has been removed from the SSYP.
- Beulah Road project (UPC 82213) has been completed.

Table A shows the annual VDOT Secondary System Construction Program for Fairfax County from FY 2008 through FY 2023.

Table A

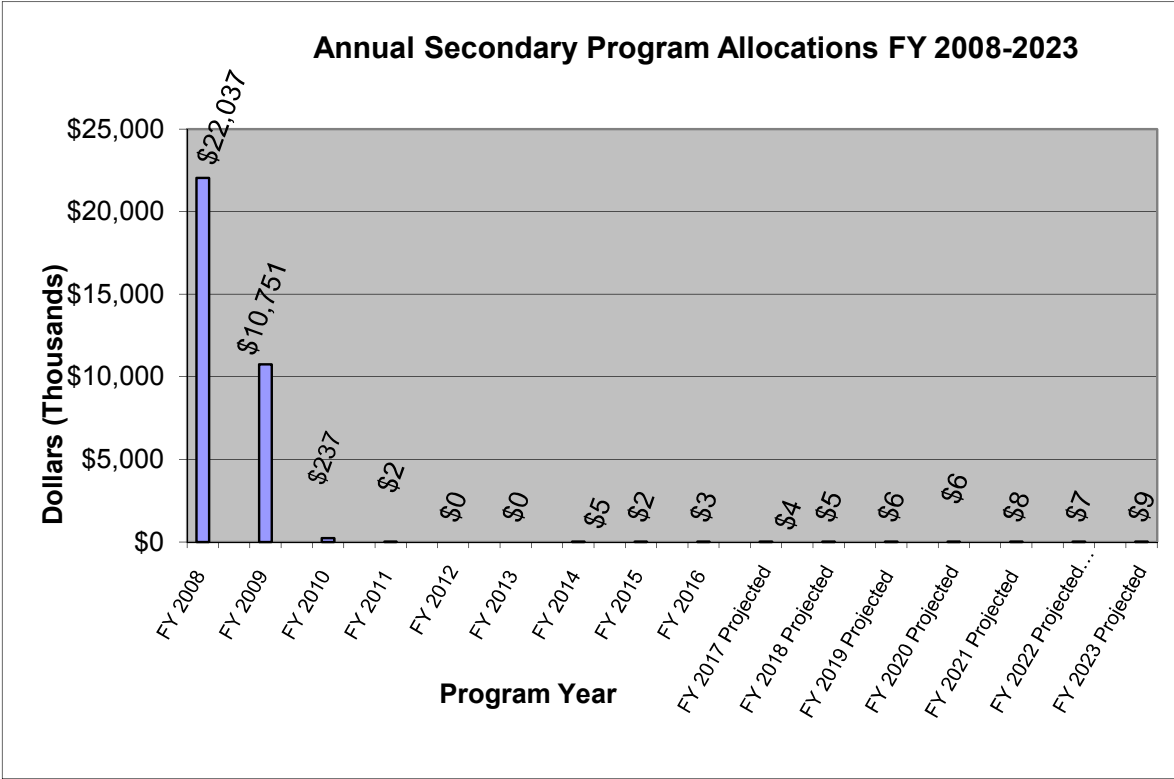


Table B shows the changes in the Six-Year Secondary Construction Program amounts from the FY 2003 – FY 2008 Program through the current Program.

Table B: Secondary Program Comparison

2003-2008	\$138,335,526
2004-2009	\$153,442,084
2005-2010	\$113,686,186
2006-2011	\$131,445,086
2007-2012	\$78,270,291
2008-2013	\$119,121,972
2009-2014	\$10,994,320
2010-2015	\$1,443,761
2011-2016	\$11,798
2012-2017 (revised)	\$19,591
2013-2018 (revised)	\$11,382
2014-2019 (revised)	\$25,680
2015-2020 (revised))	\$51,480
2016-2021 (revised)	\$33,275
2017-2022 (revised)	\$36,860
2018-2023 (projected)	\$41,750

FISCAL IMPACT:

There is no impact to the Fairfax County budget at this time. At such time as individual projects are constructed, the County may send VDOT any related funds that have been collected for a particular project by the County through proffers, construction escrows and/or other local funds.

ENCLOSED DOCUMENTS:

Attachment 1: Secondary System Construction Program for FY 2018 through FY 2023

Attachment 2: Resolution Approving Budget and Program.

Attachment 3: Secondary Priority Road Widening Status Update

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT

Brent Riddle, Coordination and Funding Division, FCDOT

Anna Fortune, Program Manager, Virginia Department of Transportation

Secondary System
Fairfax County
Construction Program
Estimated Allocations

Fund	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	Total
CTB Formula - Unpaved State	\$5,293	\$6,089	\$5,852	\$0	\$0	\$0	\$17,234
Secondary Unpaved Roads	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TeleFee	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Residue Parcels	\$0	\$0	\$0	\$0	\$0	\$0	\$0
STP Converted from IM	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP - Bond Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Formula STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
MG Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
BR Formula	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other State Match	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal STP	\$0	\$0	\$0	\$0	\$0	\$0	\$0
District Grant - Unpaved	\$0	\$0	\$0	\$8,216	\$6,921	\$9,379	\$24,516
Total	\$5,293	\$6,089	\$5,852	\$8,216	\$6,921	\$9,379	\$41,750

Board Approval Date:

Residency Administrator _____ Date _____

County Executive _____ Date _____

District: Northern Virginia

County: Fairfax County

SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)

Board Approval Date:

2018-19 through 2022-23

Route	Road Name	Estimated Cost	Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS						Balance to complete
					2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	
PPMS ID	Project #										
Accomplishment	Description										
Type of Funds	FROM		SSYP Funding								
Type of Project	TO		Other Funding								
Priority #	Length	Ad Date	Total								
Rt.4007		PE \$0									
100162	1204007	RW \$0	\$817,276		\$0	\$0	\$0	\$0	\$0	\$0	
NOT APPLICABLE	COUNTYWIDE TRAFFIC SERVICES	CON \$861,779	\$45,463		\$0	\$0	\$0	\$0	\$0	\$0	
S	VARIOUS LOCATIONS IN COUNTY	Total \$861,779	\$862,739	(\$960)	\$0	\$0	\$0	\$0	\$0	\$0	(\$960)
0000.03	VARIOUS LOCATIONS IN COUNTY	3/1/2011									
Rt.4008		PE \$0									
100373	1204008	RW \$0	\$29,200		\$0	\$0	\$0	\$0	\$0	\$0	
NOT APPLICABLE	COUNTYWIDE RIGHT OF WAY ENGR.	CON \$0	\$15,000		\$0	\$0	\$0	\$0	\$0	\$0	
S	VARIOUS LOCATIONS IN COUNTY	Total \$0	\$44,200	(\$44,200)	\$0	\$0	\$0	\$0	\$0	\$0	(\$44,200)
0000.04	VARIOUS LOCATIONS IN COUNTY	3/1/2011									
Rt.9999	Various	PE \$0									
99180	9999029S37	RW \$0	\$366,407		\$0	\$0	\$0	\$0	\$0	\$0	
NON VDOT	Countywide Traffic Calming	CON \$366,407	\$0		\$0	\$0	\$0	\$0	\$0	\$0	

Attachment 1

S	Countywide	Total	\$366,407	\$366,407	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
No Plan 0000.05	Subdivision Streets											
		7/1/2014										
Rt.0612	Colchester Road	PE	\$60,000									
76256	0612029P87	RW	\$50,000	\$81,198		\$0	\$0	\$0	\$0	(\$1,295)	\$9,379	
RAAP CONTRACT	COLCHESTER ROAD - RTE 612 -RECON & PAVE GRAVEL ROAD	CON	\$335,000	\$0		\$0	\$0	\$0	\$0	\$0	\$0	
STP	CHAPEL ROAD (ROUTE 641)	Total	\$445,000	\$81,198	\$363,802	\$0	\$0	\$0	\$0	(\$1,295)	\$9,379	\$355,718
SECONDARY - ONE HEARING DESIGN 0003.01	0.24 MILE NORTHWEST OF ROUTE 641 0.2											
		1/15/2020										
Rt.0611	TELEGRAPH ROAD	PE	\$1,207,594									
11012	0611029303	RW	\$1,098,441	\$3,493,578		\$0	\$0	\$0	\$0	\$0	\$0	
NON VDOT	TELEGRAPH RD -RTE 611 - WIDEN TO 4-LANES	CON	\$23,561,965	\$22,374,422		\$0	\$0	\$0	\$0	\$0	\$0	
STP	ROUTE 613 (BEULAH STREET)	Total	\$25,868,000	\$25,868,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
SECONDARY - ONE HEARING DESIGN 9999.00	LEAF ROAD 1.0											
		3/16/2011										
Rt.9999	VARIOUS LOCATIONS IN COUNTY	PE	\$100,000									
106327	9999029120	RW	\$0	\$100,000		\$0	\$0	\$0	\$0	\$0	\$0	
NON VDOT	COUNTYWIDE DRAINAGE IMPROVEMENTS	CON	\$0	\$0		\$0	\$0	\$0	\$0	\$0	\$0	
	VARIOUS LOCATIONS IN COUNTY	Total	\$100,000	\$100,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Minimum Plan 9999.99	VARIOUS LOCATIONS IN COUNTY											

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, June 20, 2017, at which meeting a quorum was present and voting, the following resolution was adopted.

PROGRAM ENDORSEMENT RESOLUTION

WHEREAS, Sections 33.2-331 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, Anna Fortune, Program Manager, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (FY2018 through FY2023) and the FY 2018 Budget for Fairfax County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Fairfax County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (FY2018 through FY2023) and FY 2018 Budget are hereby approved as presented at the public hearing;

Adopted this 20th day of June, 2017, Fairfax, Virginia

ATTEST

Catherine A. Chianese
Clerk to the Board of Supervisors

FY 2018 - 2023 Secondary Six Year Program Summary

COST ESTIMATES IN THOUSANDS

#	SSYP Project	FY 2017 COST Jun-15	FY 2018 COST Jun-16	CHANGE/ COST INCREASE	PERCENT COST INCREASE SINCE Jun-15	Bid/Advertisement Date	
						FY17	FY18
1	COLCHESTER ROAD RECONSTRUCTION AND PAVE GRAVEL ROAD	\$445	\$ 445	\$0	0.0%	January-20	January-20
2	WALNEY ROAD - BRIDGE REPLACEMENT AND WIDENING	\$14,840	\$ -	-\$14,840	-100.0%	Complete, Awaiting Closeout	
3	WALKER ROAD- REPLACE BRIDGE OVER PINEY RUN	\$ 4,652	\$ -	-\$4,652	-100.0%	Other Funding	
4	TOWLSTON ROAD - REPLACE BRIDGE OVER ROCKY RUN	\$593	\$ -	-\$593	-100.0%	Complete, Awaiting Closeout	
5	BEULAH ROAD - SCOUR COUNTER MEASURE	\$ 958	\$ -	-\$958	-100.0%	Complete, Awaiting Closeout	
6	TELEGRAPH ROAD - WIDENING BEULAH TO LEAF ROAD	\$25,868	\$ 25,868	\$0	0.0%	March-11	March-11
TOTALS		\$47,356	\$26,313	-\$21,043	-44.4%		

3:30 pm

Public Hearing on Proposed Modifications to the Comprehensive Plan Amendment Process

ISSUE:

Recommendations are proposed to modify the Comprehensive Plan Amendment Process, currently known as Fairfax Forward, to improve public participation in land use planning efforts. The major proposed modification would incorporate a new nomination-based review cycle, known as the Site-Specific Plan Amendment Process (SSPA) into the Comprehensive Plan Amendment Work Program. The SSPA would draw familiar elements from the prior Area Plans Review (APR) process. The modifications also propose to replace the “Fairfax Forward” title with “Comprehensive Plan Amendment Process” to provide a clearer understanding when communicating to the general public.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, May 18, 2017, the Planning Commission voted 11-0-1 (Commissioner Strandlie abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Adopt the staff recommendation for modifications to the Comprehensive Plan Amendment Process and direct staff to cease review of the 22 items submitted to the Comprehensive Plan Amendment Work Program in January 2016, as shown on Page 5 of the Staff Report dated April 5, 2017;
- Direct staff to evaluate the Site-Specific Plan Amendment Process after the (North County) cycle is completed to determine if any changes can be made to streamline the process, such as combining the North/South cycles into one, establishing strict criteria to allow limited submissions in North County during the South County cycle and vice versa, and reexamining the non-exempt areas of the county, if appropriate; and
- Direct staff to develop guidance that incorporates criteria for economic success that will aid Board members when considering authorizing changes to the Comprehensive Plan. Engage appropriate representatives from the development community in the development process of this guidance.

Board Agenda Item
June 20, 2017

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Planning Commission recommendation to modify the Comprehensive Plan amendment process.

TIMING:

Planning Commission public hearing – April 19, 2017

Planning Commission decision – May 18, 2017

Board of Supervisors public hearing – June 20, 2017

BACKGROUND:

The Comprehensive Plan Amendment Process (Fairfax Forward) centers on the Comprehensive Plan Amendment Work Program, which lists activity center studies, neighborhood planning studies, countywide and Policy Plan amendments, and Board-authorized amendments to be undertaken. In 2013, the Board of Supervisors directed staff to evaluate Fairfax Forward two years after its authorization to assess its efficiency, effectiveness, accessibility, and impact. The 2015-2016 Fairfax Forward Process Evaluation focused on whether the new process for amending the Comprehensive Plan, as a replacement to the APR process, resulted in a better approach to land use planning. The Planning Commission deferred decision on the Fairfax Forward Process Evaluation on May 25, 2016 and on the 2016 Plan Amendment Work Program on June 15, 2016.

Following the deferrals, efforts undertaken in coordination with the Planning Commission resulted in the proposed modifications to the planning process as presented in the staff report, dated April 5, 2017. Staff attended 23 meetings with members of the Board of Supervisors, community groups, the Environmental Quality Advisory Committee, industry groups, and a focus group of land use attorneys and agents. Staff used the feedback garnered from the community in the development of recommendations about the changes to the process and its implementation.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Planning Commission Verbatim Excerpt

The Staff Report for Modifications to the Comprehensive Plan Amendment Process is available at: www.fairfaxcounty.gov/dpz/fairfaxforward/sspa_staff_report.pdf

Board Agenda Item
June 20, 2017

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

**County of Fairfax, Virginia
Planning Commission Meeting
May 18, 2017
Verbatim Excerpt**

FAIRFAX FORWARD COMPREHENSIVE PLANNING PROCESS – PROPOSED MODIFICATIONS – *To consider proposed revisions to procedures regarding the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. The review of the Comprehensive Plan is organized through a Plan Amendment Work Program that schedules activity center, neighborhood, and countywide policy amendments, and any additional amendments that are authorized by the Board of Supervisors. The current work program was adopted in July 2013. The proposed changes to the planning process would add a regular cycle for proposing Plan amendments on specific properties, referred to as site-specific plan amendments. Nominations for site-specific plan amendments would be accepted once every four years and reviewed in coordination with a community task force. Updates to the current work program are also proposed.*

Decision Only During Commission Matters
(Public Hearing held on May 4, 2017)

Commissioner Migliaccio: And secondly, Mr. Chairman, I do have a decision only on the Fairfax Forward...the new Fairfax Forward Plan Amendment process. And I think we were handed out this evening staff's answers to some of the Mount Vernon Council questions and I just want to ask staff to go over two of the items one of the items is the tracking of potential new plan amendments and the second item is the training of citizens for this new process. And I'm not certain who wants to handle that.

Meghan Van Dam, Planning Division, Department of Planning and Zoning: Hi there. This is Meghan Van Dam from the Department of Planning and Zoning. As part of the response, we explained and – what we envision, in regards to the tracking. It is very similar to the Area Plans Review process tracking where we had all of the information on each individual nomination up online on individual web pages to ensure that...that anyone who is interested in a particular nomination can find it easily and can understand where it is in the process. And as well, in addition to that, we're looking at creating interactive maps where you can zoom in and out of...of the map to find out and click on an individual parcel, which would link you to that webpage. So if somebody had an interest in a particular area, they may not know the number of the particular nomination, but they could find out what's happening there. In terms of the training, we're looking at providing information online, as well as in paper documentation, and looking at, also, working with the task forces to provide information on the process itself...how one submits a nomination to what the review process will involve. Also, we're looking at expanding upon a Comprehensive Planning 101 video that's already published up on online. That provides fundamental information about the Comprehensive Plan, but we're looking at also providing information about the process itself and – as well, planning concepts.

Commissioner Migliaccio: Okay, thank you. And Mr. Chairman, I would just like to enter into the record the responses from staff to the Mount Vernon Council. It was just recently done so...

Chairman Murphy: Without objection?

Commissioner Migliaccio: And thank you, Mr. Chairman. On April 19th, the Planning Commission held a public hearing on proposed changes to the comprehensive plan amendment process,

formerly known as Fairfax Forward. Before I get to my motion, let me first thank Bernie Suchicital, Meghan Van Dam, Aaron Klibaner, Marianne Gardner, and all other Fairfax County planning staff who put many hours of work into this process. Let me also thank the speakers from the public hearing for their testimony. It was very helpful and I think we captured some of their ideas into what we're going to have this evening with the follow-on motions. We are here tonight because Fairfax Forward proved to be too much of a departure from the old APR system with new terminology and procedures that unfortunately left out much of the civic engagement that has made Fairfax County what it is today. After the two-year trial period for Fairfax Forward, staff evaluated the process and decided to change course. At the Board's direction, they conducted outreach to various stakeholders and determined that a new process was needed to address the perception that the amendment process was staff driven and lacking adequate community input. We have heard from many competing interests about how best to amend the Comprehensive Plan. Whatever path we choose to take, someone will be unhappy. It will either be too staff driven, too developer driven, or be too slow due to citizen involvement. The new site-specific amendment process before us tonight is meant to be part of the broader plan amendment process that includes the existing area and policy studies on the work program, which will be reviewed and adopted each year by the Planning Commission and any Board Authorized amendments. This site-specific amendment process divides the County into two cycles, north and south, like the old APR process and better demonstrates how the citizens will be involved. It provides for an orderly predictable process which all citizens and developers can trust. It also has the benefit of providing staff a set schedule to allocate limited staff resources. For this new process to effectively function, all involved must do their part. Citizens must continue to be engaged and keep an open mind to new ideas. Land use developers and their attorneys must work within the system where feasible and to not automatically seek Board authorized amendments. County staff and the Planning Commission need to evaluate and make recommendations in an expeditious manner. And the Board needs to be as judicious as possible when deciding to add plan amendments to the work program. Mr. Chairman, I believe that this new process will be inclusive of the citizens, respect the limited County staff resources we have, and allow an orderly predictable process that provides a well-thought-out plan for growth in the County and to allow time for that growth to be implemented. Therefore Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT THE STAFF RECOMMENDATION FOR MODIFICATIONS TO THE COMPREHENSIVE PLAN AMENDMENT PROCESS AND DIRECT STAFF TO CEASE REVIEW OF THE 22 ITEMS SUBMITTED TO THE COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM IN JANUARY 2016, AS SHOWN ON PAGE 5 OF THE STAFF REPORT DATED APRIL 5TH, 2017.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and the Chair. Is there a discussion of the motion?

Commissioners Flanagan and Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes, Mister...

Commissioner Flanagan: Yes, I'd like to, first of all, thank Commissioner Migliaccio for the leadership that he provided in resolving the public testimony issues that emanated, you know, from

the Mount Vernon Council in particular. And I was able to, through his interaction with the staff and with Marianne Gardner and with Meghan Van Dam – I mean, the several conversations I’ve had with them as well – I think that you...that Commissioner Migliaccio has done a good job of coming up with solutions to all of the recommendations that they made at the public hearing. So I’m delighted to support his motion.

Chairman Murphy: Okay, thank you very much. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I too would like to thank Mr. Migliaccio for leading the Commission through the consideration of staff’s proposal. I also echo his thanks for the thoroughness of their...staff’s outreach efforts and the responsiveness they’ve demonstrated in designing a revised methodology for the comp plan amendment process that reinforces a more substantive role for citizens in assessing the proposed amendments. A quality comp plan, at its heart, reflects the values, aspirations, and vision of the community. My belief is that the proposed change in the comp plan amendment process ensures that any changes proposed to the Board of Supervisors by the Planning Commission will capture community input. Further, we rightly take pride in Fairfax for our quality of life and all of the elements that contribute to it, such as our schools, parks, stream valleys protections, public services, and the land use planning. These things noted, I am concerned that while on one hand, we will be conducting the amendment process in a thoughtful and deliberate fashion, I am, on the other hand, concerned that the process may be overly cumbersome where agility and adaptability must be the bywords as we seek to diversify the economy in an increasingly competitive economic development climate. With the state consistently failing to return to the County an appropriate share of income tax revenue and our tax base overly constrained by state refusal to allow access to a more diverse set of taxing options, we can anticipate the property tax will continue to be our dominant source of operating revenue for the foreseeable future. In this context, our ability to sustain our quality of County and school services is more dependent than ever on productive land use. We have, for example, buildings in commercial centers that stand vacant and are likely to stay that way unless adapted to other purposes. While land use decisions are appropriately considered independent of their revenue-generating potential, we can generally agree that a viable use of property is better than one in disuse and decay. In closing, Mr. Chairman, I will be supporting this motion and hope that we will continue to learn from our experience and adapt the process, as needed, in the future. Further, Mr. Chairman, I believe that as we look to the policies that guide our planning processes, the County incorporates economic development and diversification more explicitly into our considerations.

Chairman Murphy: Further discussion of the motion? Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I’m going to support the motion as well. John Byers, who was the Mount Vernon Planning Commissioner for many years, reminded the Commission on many occasions that the Comprehensive Plan was the citizens’ plan. It was the citizens’ document. It was written by citizens and we were very proud of the citizen-involvement in the creation of that document as it evolved over time. We also, in Fairfax County, I think, outgrew the APR process to some extent. And the last couple times that we were trying to work through it, we had too many APRs and not quite enough staff and resources to do everything the way that we had done it in the past. Fairfax Forward was proposed as a big change to that system...that we were going to eliminate some of the issues that were causing frustration with staff

and difficulties with completing the workload in an orderly, timely fashion. And there were some good things about, but I think we lost – in going to Fairfax Forward, we lost some of that citizen involvement and turned things around from a citizen-driven process to, essentially, a staff-driven process with some limited citizen communication. We also had built in to the approval of Fairfax Forward a review period. I think, like some of my colleagues, I went along with the Fairfax Forward proposal at the time knowing that we were going to see how it work and come back to it. Well, we did come back to it and I think we heard not only our own frustrations with, maybe, the way things had worked out, but complaints from the citizens and complaints from others about the inability to make nominations...the difficulties with interacting with citizens or bringing them into the process. We had a proposal some months ago, which we evaluated, and I think we came to the conclusion that more work needed to be done. And I want to thank staff for going back to the drawing board and coming back with something that, I think, had responded to the criticism from the community and criticism from the Commission and come back with something that, I think, will incorporate once again some of the best features of the APRs, even if we can't go back to a full APR system. I think that gets us closer to the model and the ideal that Commissioner Byers was so proud of, where we had a citizen Comprehensive Plan, citizen-driven with citizen involvement. And I think this...this step will get us closer to that. I think, also, built into this – and I guess there's going to be follow-on motions – we're going to keep looking at this. And maybe it isn't – we had...maybe didn't get it quite right the second time too, but we will be as flexible and responsive as we can, see how it works, and make a suggestion to the Board appropriately when the time comes, if we need do that. But I'm very pleased with how this has turned out and I appreciate staff listening carefully and coming back with something we can support. Thank you.

Chairman Murphy: Further discussion? Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I support the remarks that have been made. I just want say I...as someone who served on the last...the most recent four APR task forces for Dranesville District and chaired the two most recent ones, I've had a lot of experience with the APR process. And I was very well-aware of the problems that started to occur with the APR process that led us to, in the first place, look for a different way of, perhaps, meeting our obligations under the State Code and doing the Comprehensive Plan review on a regular basis, as required. I think that the important aspect of the...this latest change to that process is that it will, once again, open it up to – I think it'll be a little bit more transparent and I think it will open it up for better citizen involvement and more opportunity for citizens who want to know what's happening to be able to come in and share their views about what's happening and to be involved in what's happening. And I think those are key elements for the citizens in order to have faith and confidence in the Comprehensive Plan and to feel that it does represent their views and their positions on a number of issues as they come forward in the zoning or the rezoning process or special exception process. So with that, I'm certainly going to support this and I think that we will see how it works out and I think that a lot of people in the Dranesville District will be happy to see this addition to our process.

Chairman Murphy: Further discussion? Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. I too am pleased with the process. And I wasn't on the Commission during the APR process, but it was clear that, from what we heard from

citizens during Fairfax Forward, we needed to make some changes and thanks to everyone who worked on it. I was absent the night of the hearing. I read the materials, but I didn't quite get through the entire video for the hearing. So for that reason only, I'm going to abstain. But otherwise, I appreciate everyone's work and I would support it. Thank you.

Chairman Murphy: Anyone else? Well, I just want to echo the sentiments of my fellow Commissioners. I feel the same way as they do except I am going to vote on it and I'm not going to abstain. All those in favor of the motion, as articulated by Mr. Migliaccio regarding the Fairfax Forward Comprehensive Plan Process, Proposed Modifications, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. I have one follow-on motion. I was going to have two, but I think your follow-on motion would cover what I was thinking about. I acknowledge that this new process will need tweaks after implementation to work out the kinks. After previous APR and Fairfax Forward cycles, the County has evaluated the process and made changes based on stakeholder input. I envision the same happening after the first North County cycle, which is a two-year cycle. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT STAFF TO EVALUATE THE SITE-SPECIFIC PLAN AMENDMENT PROCESS AFTER THE NORTH COUNTY CYCLE IS COMPLETED TO DETERMINE IF ANY CHANGES CAN BE MADE TO STREAMLINE THE PROCESS, SUCH AS COMBINING THE NORTH/SOUTH CYCLES INTO ONE, ESTABLISHING STRICT CRITERIA TO ALLOW LIMITED SUBMISSIONS IN NORTH COUNTY DURING THE SOUTH COUNTY CYCLE AND VICE VERSA, AND REEXAMINING THE NON-EXEMPT AREAS OF THE COUNTY, IF APPROPRIATE.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and the Chair. Is there a discussion of that motion? All those in favor of the motion, as articulated by Mr. Migliaccio, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. I do have a follow-on motion and I'll pass the gavel to Mr. de la Fe.

Commissioner Murphy: Mr. Chairman, at the Board's recent...recent Development Process Committee meeting, there was discussion among the Board members on how the Fairfax Forward process on modifications addresses economic opportunities. And it was agreed that the development community has the opportunity to bring forward proposals for economic development to Board members for authorization outside the site-specific plan process. However, the Comprehensive Plan does not specifically provide guidance with regard to considering Board-authorized proposals, as they relate to the County's economic success and the County's economic goals. Also, the Board has recently developed a Strategic Plan to Facilitate Economic Success that

includes objectives that, “Sustain and grow our economy where we vigorously pursue development and revitalization opportunities.” I also add that staff, in a memo to the Planning Commission dated September 12th, 2016, stated that the Comprehensive Plan guidance addressing the criteria to be used by Board members in authorizing plan changes does not include goals for achieving economic success and recommends that these goals, if developed, could be used to better-define when a Board authorization should be made. Therefore, Mr. Chairman I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DIRECT STAFF TO DEVELOP GUIDANCE THAT INCORPORATES CRITERIA FOR ECONOMIC SUCCESS THAT WILL AID BOARD MEMBERS WHEN CONSIDERING AUTHORIZING COMPREHENSIVE PLAN CHANGES. This will better align our Comprehensive Plan and the process by which we relate it to the Board’s Strategic Plan to Facilitate Economic Success. Further, I MOVE THAT APPROPRIATE REPRESENTATIVES FROM THE DEVELOPMENT COMMUNITY BE ENGAGED IN THIS DEVELOPMENT PROCESS AND ITS GUIDANCE. AND I SO MOVE.

Commissioners Hart and Migliaccio: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart and Mr. Migliaccio. Any discussion?

Commissioner Migliaccio: Mr. Chairman?

Vice Chairman de la Fe: Yes, Mr. Migliaccio.

Commissioner Migliaccio: I am supporting this follow-on motion. I think the economic vitality of the County is very important, but I don’t want us to lose sight that this is one policy plan that we have. We have many others and we have many other stakeholders that may want to be involved. That may be housing, environment, and everything else. So as we move forward, this is a worthy topic for the next level up to discuss to see how they want to get to six votes on a plan amendment, but...

Commissioner Murphy: You said it. I didn’t.

Commissioner Migliaccio: I hope that they also look at other items when they develop new guidance. Thank you.

Vice Chairman de la Fe: Thank you. Okay, any further 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.

Each motion carried by a vote of 11-0-1. Commissioner Strandlie abstained from the vote.

JLC

Board Agenda Item
June 20, 2017

3:30 p.m.

Public Hearing on RZ 2016-MA-026 (Stanley Martin Companies, LLC) to Rezone from R-3 to PDH-16 and HC to Permit Residential Development and Waiver of Minimum District Size with an Overall Density of 13.9 Dwelling Units per Acre and Approval of the Conceptual Development Plan, Located on Approximately 15,483 Square Feet of Land (Mason District) (Concurrent with PCA 2000-MA-055)

and

Public Hearing on PCA 2000-MA-055 (Stanley Martin Companies, LLC) to Amend the Proffers and Conceptual Development Plans for RZ 2000-MA-055 Previously Approved for Residential Single Family Attached Dwellings to Modify Site and Development Conditions and Associated Modifications to Proffers and Site Design at a Density of 11.6 Dwelling Units per Acre, Located on Approximately 4.19 Acres of Land Zoned PDH-12 and HC (Mason District) (Concurrent with RZ 2016-MA-026)

This property is located at on the East side of Powell Lane approximately 100 feet South. of its intersection with Columbia Pike. Tax Map 61-4 ((4)) B2.

This property is located in the South East quadrant of the intersection of Columbia Pike and Powell Lane. Tax Map 61-4 ((52)) 1-45, 46A-49A and A1.

PLANNING COMMISSION RECOMMENDATION:

On May 4, 2017, the Planning Commission voted 12-0 to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2000-MA-055, subject to the execution of proffers consistent with those dated May 4, 2017;
- Approval of RZ 2016-MA-026 and the associated Conceptual Development Plan, subject to the execution of proffers consistent with those dated May 4, 2017; and
- Approval of the waiver of the minimum district size for a PDH District.

In a related action, on May 4, 2017, the Planning Commission voted 12-0 to approve FDPA 2000-MA-055, subject to the proposed Development Conditions dated April 5, 2017, contingent on the Board of Supervisors' action on PCA 2000-MA-055.

Board Agenda Item
June 20, 2017

Also in a related action, on May 4, 2017, the Planning Commission voted 12-0 to approve FDP 2016-MA-026, subject to the proposed Development Conditions dated April 5, 2017, contingent on the Board of Supervisors' action on RZ 2016-MA-026.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Heath Eddy, Planner, DPZ

Board Agenda Item
June 20, 2017

4:00 p.m.

Public Hearing on Amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic

ISSUE:

Public Hearing on amendments to the Code of the County of Fairfax, Chapter 82, Motor Vehicles and Traffic.

RECOMMENDATION:

The County Executive recommends approval of the proposed amendments to Chapter 82.

TIMING:

On May 16, 2017, the Board authorized advertisement of a public hearing to consider this matter on June 20, 2017, at 4:00 p.m.

BACKGROUND:

A housekeeping measure to update Chapter 82, portions of Section 82-1-6 (Adoption of State Law) have been amended to reflect changes made to the *Code of Virginia* by the 2017 General Assembly. A summary of the changes as a result of the 2017 General Assembly amendments affecting Chapter 82 is provided in Attachment 2.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed Amendments to Chapter 82, Motor Vehicles and Traffic
Attachment 2 - Summary of 2017 General Assembly Amendments Affecting Chapter 82, Motor Vehicles and Traffic.

STAFF:

David M. Rohrer, Deputy County Executive
Colonel Edwin C. Roessler Jr., Chief of Police

ASSIGNED COUNSEL:

Kimberly P. Baucom, Senior Assistant County Attorney

Proposed Amendments to
Chapter 82, Motor Vehicles and Traffic

Article 1. – In General.

Section 82-1-6. Adoption of State Law

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2016~~ 2017, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2016~~ 2017.

18.2-266	<u>18.2-269</u>	46.2-203.1
18.2-266.1	18.2-270	46.2-218
18.2-267	18.2-270.01	46.2-300
18.2-268.1	18.2-270.1	46.2-301
18.2-268.2	18.2-271	<u>46.2-301.1</u>
<u>18.2-268.3</u>	18.2-271.1	46.2-302
<u>18.2-268.4</u>	<u>18.2-272</u>	46.2-329
18.2-268.5	46.2-100	46.2-334.001
18.2-268.6	46.2-102	46.2-341.20:5
<u>18.2-268.7</u>	46.2-104	<u>46.2-341.26:2</u>
18.2-268.8	46.2-108	<u>46.2-341.26:3</u>
<u>18.2-268.9</u>	46.2-109	<u>46.2-341.26:4</u>
18.2-268.10	46.2-110	<u>46.2-341.26:7</u>
18.2-268.11	46.2-111	<u>46.2-341.26:9</u>
18.2-268.12	46.2-112	<u>46.2-341.27</u>

<u>46.2-341.28</u>	46.2-716	46.2-822
46.2-346	46.2-724	46.2-823
46.2-349	46.2-730	46.2-824
46.2-357	46.2-800	46.2-825
46.2-371	46.2-801	46.2-826
46.2-373	<u>46.2-802</u>	46.2-827
46.2-376	46.2-803	46.2-828
46.2-379	<u>46.2-804</u>	46.2-828.2
46.2-380	46.2-805	46.2-829
46.2-391.01	46.2-806	46.2-830
<u>46.2-391.2</u>	46.2-807	46.2-831
46.2-391.3	46.2-808	46.2-832
<u>46.2-391.4</u>	46.2-808.1	46.2-833
46.2-392	46.2-810	46.2-833.1
46.2-393	46.2-811	46.2-834
46.2-398	46.2-812	46.2-835
46.2-602.3	46.2-814	46.2-836
46.2-613	46.2-816	46.2-837
46.2-616	46.2-817	46.2-838
46.2-617	46.2-818.1	46.2-839
46.2-618	46.2-819.4	46.2-841
46.2-704	46.2-820	46.2-842
46.2-715	46.2-821	46.2-842.1

46.2-844	46.2-868	46.2-889
46.2-845	46.2-868.1	46.2-890
46.2-846	46.2-869	46.2-891
46.2-848	46.2-870	46.2-892
46.2-849	46.2-871	46.2-893
46.2-850	46.2-872	46.2-894
46.2-851	46.2-873	46.2-895
46.2-852	46.2-874	46.2-896
46.2-853	46.2-876	46.2-897
46.2-854	46.2-877	46.2-898
46.2-855	46.2-878	46.2-899
46.2-856	46.2-878.1	46.2-900
46.2-857	<u>46.2-878.2</u>	46.2-902
46.2-858	46.2-878.3	46.2-903
46.2-859	46.2-879	46.2-905
46.2-860	46.2-880	46.2-906
46.2-861	46.2-882	46.2-908.1
46.2-862	46.2-883	46.2-909
46.2-863	46.2-884	46.2-910
46.2-864	46.2-885	46.2-911.1
46.2-865	46.2-886	46.2-912
46.2-865.1	46.2-887	46.2-914
46.2-866	46.2-888	46.2-915

46.2-915.2	46.2-1003	46.2-1033
46.2-918	46.2-1004	46.2-1034
46.2-919	46.2-1010	46.2-1035
<u>46.2-919.1</u>	46.2-1011	46.2-1036
46.2-920	46.2-1012	46.2-1037
46.2-921	46.2-1013	46.2-1038
46.2-921.1	46.2-1014	46.2-1039
46.2-922	46.2-1015	46.2-1040
46.2-923	46.2-1016	46.2-1041
46.2-924	46.2-1017	46.2-1043
46.2-926	46.2-1018	46.2-1043.1
46.2-927	46.2-1019	46.2-1044
46.2-928	46.2-1020	46.2-1047
46.2-929	46.2-1021	46.2-1049
46.2-930	46.2-1022	46.2-1050
46.2-932	46.2-1023	46.2-1052
46.2-936	46.2-1024	46.2-1053
46.2-937	46.2-1025	46.2-1054
46.2-940	46.2-1026	46.2-1055
46.2-942	46.2-1027	46.2-1056
46.2-1001.1	46.2-1030	46.2-1057
46.2-1001	46.2-1031	46.2-1058
46.2-1002	46.2-1032	46.2-1059

46.2-1060	46.2-1088.1	46.2-1155
46.2-1061	46.2-1088.2	46.2-1156
46.2-1063	46.2-1088.5	46.2-1157
46.2-1064	46.2-1088.6	46.2-1158
46.2-1065	46.2-1090	46.2-1158.01
46.2-1066	46.2-1091	46.2-1158.02
46.2-1067	46.2-1092	46.2-1158.1
46.2-1068	46.2-1093	46.2-1172
46.2-1070	46.2-1102	46.2-1173
46.2-1071	46.2-1105	46.2-1218
46.2-1072	46.2-1110	46.2-1219.2
46.2-1076	46.2-1111	46.2-1234
46.2-1077	46.2-1112	46.2-1240
46.2-1077.01	46.2-1115	<u>46.2-1242</u>
46.2-1078	46.2-1116	46.2-1250
46.2-1078.1	46.2-1118	46.2-1309
46.2-1079	46.2-1120	46.2-1508.2
46.2-1080	46.2-1121	46.2-1552
46.2-1081	46.2-1130	46.2-1561
46.2-1082	46.2-1137	46.2-2812
46.2-1083	46.2-1150	46.2-2910
46.2-1084	46.2-1151	
46.2-1088	46.2-1154	

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the County. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein; and it shall be unlawful for any person, within the county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18.2-272 of the *Code of Virginia* which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

ATTACHMENT 2

SUMMARY OF 2017 GENERAL ASSEMBLY AMENDMENTS AND REPEAL AFFECTING CHAPTER 82

The information presented below summarizes changes to Title 18.2 and Title 46.2 of the *Code of Virginia*, portions of which are adopted by reference into Chapter 82 of the *Code of the County of Fairfax*.

Be it enacted by the General Assembly of Virginia:

An Act to amend and reenact [18.2-268.3](#), [18.2-268.4](#), [18.2-268.7](#), [18.2-268.9](#), [18.2-269](#), [18.2-272](#), [46.2-341.26:2](#), [46.2-341.26:3](#), [46.2-341.26:4](#), [46.2-341.26:7](#), [46.2-341.26:9](#), [46.2-341.27](#), [46.2-391.2](#), and [46.2-391.4](#), of the Code of Virginia, relating to DUI; implied consent; refusal of blood or breath tests. Eliminates the criminal penalties for refusing to submit to a blood test to determine the alcohol or drug content of a defendant's blood upon arrest for a DUI-related offense under the law on implied consent. The law also increases to a Class 1 misdemeanor the criminal penalty for refusing to submit to a breath test under the law on implied consent for an offense committed within 10 years of a prior offense of refusal or of another DUI-related offense. The law also extends to blood tests performed by the Division of Forensic Science pursuant to a search warrant the rebuttable presumption that a person is intoxicated based on the person's blood alcohol level demonstrated by such tests. The law also provides that an application for a search warrant to perform a blood test on a person suspected of committing a DUI-related offense shall be given priority over other matters pending before the judge or magistrate. Finally, the law establishes a rebuttable presumption applicable in a civil case for punitive damages for injuries caused by an intoxicated driver that a person who has consumed alcohol knew or should have known that his ability to drive was or would be impaired by such consumption.

An Act to amend and reenact § [46.2-341.28](#) of the Code of Virginia, relating to driving commercial vehicle while intoxicated; penalties. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or (ii) was more than 0.20, he shall be confined for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of \$500.

An Act to amend and reenact §§ [46.2-802](#) and [46.2-804](#) of the Code of Virginia, relating to driving on the right side of highways and special regulations applicable on highways for traffic; penalties. Provides that a violation of a highway sign where a driver has parked or stopped his vehicle on the shoulder of the highway in order to sleep or rest is a pre-payable offense unless such vehicle is parked or stopped in such manner as to impede or render dangerous the shoulder or other portion of the highway.

An Act to amend and reenact § [46.2-919.1](#) of the Code of Virginia, relating to use of wireless telecommunications devices by persons driving school buses. Use of wireless telecommunications devices by persons driving school buses. Allows school bus drivers to use, in addition to two-way radio devices, wireless telecommunications devices that are used hands free to communicate with school or public safety officials.

Board Agenda Item
June 20, 2017

4:00 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Planned Development District Recreational Facilities

ISSUE:

The proposed amendment increases the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts from \$1,800 to \$1,900.

PLANNING COMMISSION RECOMMENDATION:

On May 25, 2017, the Planning Commission voted 10-0 (Chairman Murphy and Commissioner Sargeant were absent from the public hearing) to recommend to the Board of Supervisors adoption of the proposed Zoning Ordinance Amendment regarding Planned Development District Recreational Facilities, as advertised and set forth in the staff report, dated May 2, 2017. A verbatim copy of the Planning Commission's discussion on the proposed amendment is included as Attachment 2.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation.

TIMING:

Board's authorization to advertise – May 2, 2017; Planning Commission public hearing – May 25, 2017, at 8:15 p.m.; Board of Supervisors public hearing – June 20, 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 2007 request by the Board of Supervisors to reconsider the per unit recreational expenditure every two years. It has been more than two years since the Board last adjusted the planned district recreational expenditure on October 28, 2014, and therefore, this amendment is brought forward for the Board's consideration.

The Zoning Ordinance currently requires recreational facilities to be provided in planned development districts, with a minimum expenditure of \$1,800 per dwelling unit. The facilities are required to be provided on-site in substantial conformance with the

Board Agenda Item
June 20, 2017

approved final development plan, and/or the Board may approve the facilities to be located off-site, in accordance with Sect. 16-404 of the Zoning Ordinance. The minimum per dwelling unit expenditure does not apply to affordable dwelling units.

The minimum required expenditure has been previously adjusted based on the Construction Cost Index (CCI). The current \$1,800 per unit expenditure has been in effect since October 29, 2014. According to the Architects, Contractors, Engineers Guide to Construction Costs, 2017 Edition, Vol. XLVIII, construction costs have increased 3.4% since June 30, 2014, indicating that an adjustment of the expenditure to \$1,900 per dwelling unit would be appropriate. The amendment would be advertised for the Board of Supervisors to consider any expenditure between the current rate of \$1,800 and the proposed \$1,900 per dwelling unit.

A more detailed discussion is set forth in the Staff Report, enclosed as Attachment 1.

REGULATORY IMPACT:

The proposed amendment increases the minimum expenditure per dwelling unit for recreational facilities in the PDH, PDC, PRM and PTC District from \$1,800 to \$1,900, and has no further regulatory impact.

FISCAL IMPACT:

An increase of \$100 per unit will be required of the developer for the construction costs of recreational facilities. The amendment will not require any additional review by staff.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:
<http://www.fairfaxcounty.gov/dpz/staffreports/bos-packages/>

STAFF:

Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Carmen Bishop, Senior Assistant to the Zoning Administrator, DPZ
Ryan Stewart, Planner III, Park Planning Branch, FCPA



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

<p>Planned Development District Recreational Facilities</p>
--

PUBLIC HEARING DATES

Planning Commission May 25, 2017 at 8:15 p.m.

Board of Supervisors June 20, 2017 at 4:00 p.m.

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

May 2, 2017

CB



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 to consider increasing the minimum expenditure per dwelling unit for recreational facilities required in the PDH, PDC, PRM and PTC Districts is on the 2016 Priority 1 Zoning Ordinance Amendment Work Program, and is in response to a 2007 request by the Board of Supervisors (Board) to reconsider the per unit recreational expenditure every two years. It has been more than two years since the Board adjusted the planned development district recreational expenditure on October 28, 2014, and therefore, this amendment is brought forward for the Board's consideration.

Article 6 of the Zoning Ordinance requires recreational facilities to be provided in all planned development districts (except PRC), with a minimum expenditure of \$1,800 per dwelling unit. The facilities are required to be provided on-site in substantial conformance with the approved final development plan, and/or the Board may approve the facilities to be located off-site, in accordance with Sect. 16-404 of the Zoning Ordinance. It should be noted that the minimum per dwelling unit expenditure does not apply to affordable dwelling units.

A minimum per unit recreational expenditure was first adopted as part of the Zoning Ordinance in 1975. The original \$500 per dwelling unit expenditure remained in effect until April 7, 1997 when the Zoning Ordinance was amended to increase the expenditure to \$955 per dwelling unit. Subsequently, the Zoning Ordinance has been amended in 2007, 2009, 2012 and 2014 to increase the minimum expenditure based on the Construction Cost Index (CCI) provided in the Architects, Contractors, Engineers Guide to Construction Costs. When the current expenditure of \$1,800 per dwelling unit was adopted in 2014, the escalated amount of the recreational expenditure based on the CCI was \$1,855. Since then, construction costs have increased by 3.4%, which would bring the escalated expenditure to \$1,919 per dwelling unit. Rounding down to an even number, the proposed amendment increases the recreational facilities expenditure from \$1,800 to \$1,900 per dwelling unit in the PDH, PDC, PRM and PTC Districts. In order to provide flexibility, the Board could consider any amount between the current \$1,800 and the proposed \$1,900, and still be within the scope of advertising. In addition, the proposed amendment clarifies that the provision of recreational facilities is part of approval of the final development plan and related development conditions.

Because construction costs will likely continue to rise, it is recommended that the per unit recreational expenditure continue to be reviewed every two years. If an increase is again warranted based on the CCI, staff would recommend that the Board consider amending the Zoning Ordinance accordingly.

In conclusion, based on the increase in construction costs since the previous amendment in 2014, staff recommends approval of the proposed amendment to increase the per unit recreational expenditure in P-Districts to \$1,900 per dwelling unit, with an effective date of 12:01 a.m., July 1, 2017.

Because this amendment may impact certain applications and/or prior approvals, staff recommends the following:

- Rezoning applications to the PDH, PDC, PRM or PTC Districts proposing dwelling units, and proffered condition amendments which propose to add dwelling units that are accepted prior to the effective date of the amendment shall be grandfathered from this amendment.
- Proffered condition amendments which propose to add dwelling units and are accepted on or after the effective date of the amendment shall be subject to the requirements of this amendment for the additional density.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of May 2, 2017, and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 6, Planned Development District Regulations as follows:

- Amend Part 1, PDH Planned Development Housing District, Sect. 6-110, Open Space, by revising Par. 2 to read as follows:

2. As part of the open space to be provided in accordance with the provisions of Par. 1 above, there shall be a requirement to provide recreational facilities in all PDH Districts in conjunction with approval of a final development plan. The provision of such facilities shall be subject to the provisions of Sect. 16-404, and such requirements shall be based on a minimum expenditure of ~~\$1,800~~ \$1,900 *[Advertised range is \$1,800 to \$1,900]* per dwelling unit for such facilities and either:

- A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan, and/or

- B. The Board may approve the provision of the facilities on land which is not part of the subject PDH District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- Amend Part 2, PDC Planned Development Commercial District, Sect. 6-209, Open Space, by revising Par. 2 to read as follows:

2. In a PDC development where dwelling units are proposed as a secondary use, as part of the open space to be provided in accordance with the provisions of Par. 1 above, there shall be a requirement to provide recreational facilities for the enjoyment of the residents of the dwelling units in conjunction with approval of a final development plan. The provision of such facilities shall be subject to the provisions of Sect. 16-404, and such requirement shall be based on a minimum expenditure of ~~\$1,800~~ \$1,900 *[Advertised range is \$1,800 to \$1,900]* per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan. In the administration of this provision, credit shall be considered where there is a plan to provide common recreational facilities for the residents of the dwelling units and the occupants of the principal uses, and/or

B. The Board may approve the provision of the facilities located on property which is not part of the subject PDC District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- **Amend Part 4, PRM Planned Residential Mixed Use District, Sect. 6-409, Open Space, by revising Par. 2 to read as follows:**

2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities in conjunction with approval of a final development plan. The provision of such facilities shall be subject to the provisions of Sect. 16-404, however, recreational facilities, such as swimming pools, exercise rooms, or health clubs, which are located on rooftops, deck areas and/or areas within a building, may be used to fulfill this requirement. The requirement for providing recreational facilities shall be based on a minimum expenditure of ~~\$1,800~~ \$1,900 *[Advertised range is \$1,800 to \$1,900]* per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan, and/or

B. The Board may approve the provision of the facilities on land which is not part of the subject PRM District.

Notwithstanding the above, in affordable dwelling unit developments, the requirement for a per dwelling unit expenditure shall not apply to affordable dwelling units.

- **Amend Part 5, PTC Planned Tysons Corner Urban District, Sect. 6-508, Open Space, by revising Par. 2 to read as follows:**

2. In addition to Par. 1 above, there shall be a requirement to provide recreational facilities in conjunction with approval of a final development plan. The provision of such facilities shall be subject to the provisions of Sect. 16-404, however, recreational facilities, such as swimming pools, exercise rooms, or health clubs, which are located on rooftops, deck areas and/or areas within a building, may be used to fulfill this requirement. The requirement for providing recreational facilities shall be based on a minimum expenditure of ~~\$1,800~~ \$1,900 *[Advertised range is \$1,800 to \$1,900]* per dwelling unit for such facilities and either:

A. The facilities shall be provided on-site by the developer in substantial conformance with the approved final development plan; and/or

1 B. The Board may approve the provision of the facilities on land which is not part of the
2 subject PTC District.

3
4 Notwithstanding the above, in affordable dwelling unit developments, the requirement for a
5 per dwelling unit expenditure shall not apply to affordable dwelling units.
6
7
8

**County of Fairfax, Virginia
Planning Commission Meeting
May 25, 2017
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT (PLANNED DEVELOPMENT DISTRICT RECREATIONAL FACILITIES) – Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Increase the minimum per dwelling unit expenditure for recreational facilities from \$1,800 to \$1,900 in the PDH Planned Development Housing District (Par. 2 of Sect. 6-110), PDC Planned Development Commercial District (Par. 2 of Sect. 6-209), PRM Planned Residential Mixed Use District (Par. 2 of Sect. 6-409) and the PTC Planned Tysons Corner Urban District (Par. 2 of 6-508). [Note: advertised to allow the Board to consider and approve any expenditure within the range of \$1,800 to \$1,900.] (Countywide)

After close of the Public Hearing

Commissioner Hedetniemi: Mr. Chairman, I recommend – I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING PLANNED DEVELOPMENT DISTRICT RECREATIONAL FACILITIES, AS ADVERTISED AND SET FORTH IN THE STAFF REPORT, DATED MAY 2ND, 2017.

Commissioner Flanagan: Second.

Vice Chairman de la Fe: Seconded by Commissioner Flanagan. Is there any discussion? Hearing and seeing none, all in favor please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

The motion carried by a vote of 10-0 (Chairman Murphy and Commissioner Sargeant were absent from the public hearing).

SL

Board Agenda Item
June 20, 2017

4:00 p.m.

Public Hearing to Lease County-Owned Property at 4100 Chain Bridge Road to Southwestern Bell Mobile Services, LLC (Providence District)

ISSUE:

Public hearing to lease County-owned property to Southwestern Bell Mobile Services, LLC (AT&T) for the continuation of telecommunications services for public use on the roof of the Massey Building located at 4100 Chain Bridge Road.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to lease County-owned property at 4100 Chain Bridge Road to AT&T.

TIMING:

On May 16, 2017, the Board authorized a public hearing to lease County-owned property at 4100 Chain Bridge Road to AT&T.

BACKGROUND:

The Board of Supervisors is the owner of the Massey Building, located at 4100 Chain Bridge Road (Massey), on a County-owned parcel identified as Tax Map Number 0574 01 0014. The property is currently improved with a twelve-story, 170,000 square foot building is part of the Fairfax County Judicial Center (Courthouse) and primarily operates as a public safety facility. AT&T occupies a portion of the roof of the Massey Building with a compound containing nine (9) antennas and two (2) equipment cabinets pursuant to a lease dated February 28, 1997 (Lease).

In anticipation of the demolition of Massey and the relocation of staff to a new public safety center, the Facilities Management Department sent written notice to AT&T in 2015 that the County wanted to exercise its right to terminate the Lease as of December 31, 2016. However, since the process for the demolition is in its initial stages, the County has rescinded its request to AT&T to remove its equipment from the roof of Massey and has asked AT&T to continue to provide telecommunication services to the Courthouse.

The extension of the term requires the execution of a formal written agreement with AT&T that is approved by the Board. The extension revises the term of the Lease so that it ends on March 31, 2019; however, either party may terminate the agreement with thirty (30) days' notice. The payment of rent will continue as set forth in the Lease.

Staff recommends that the Board authorize the staff to lease County property at 4100 Chain Bridge Road to AT&T, which will ensure the stable provision of telecommunications services at the Courthouse.

Board Agenda Item
June 20, 2017

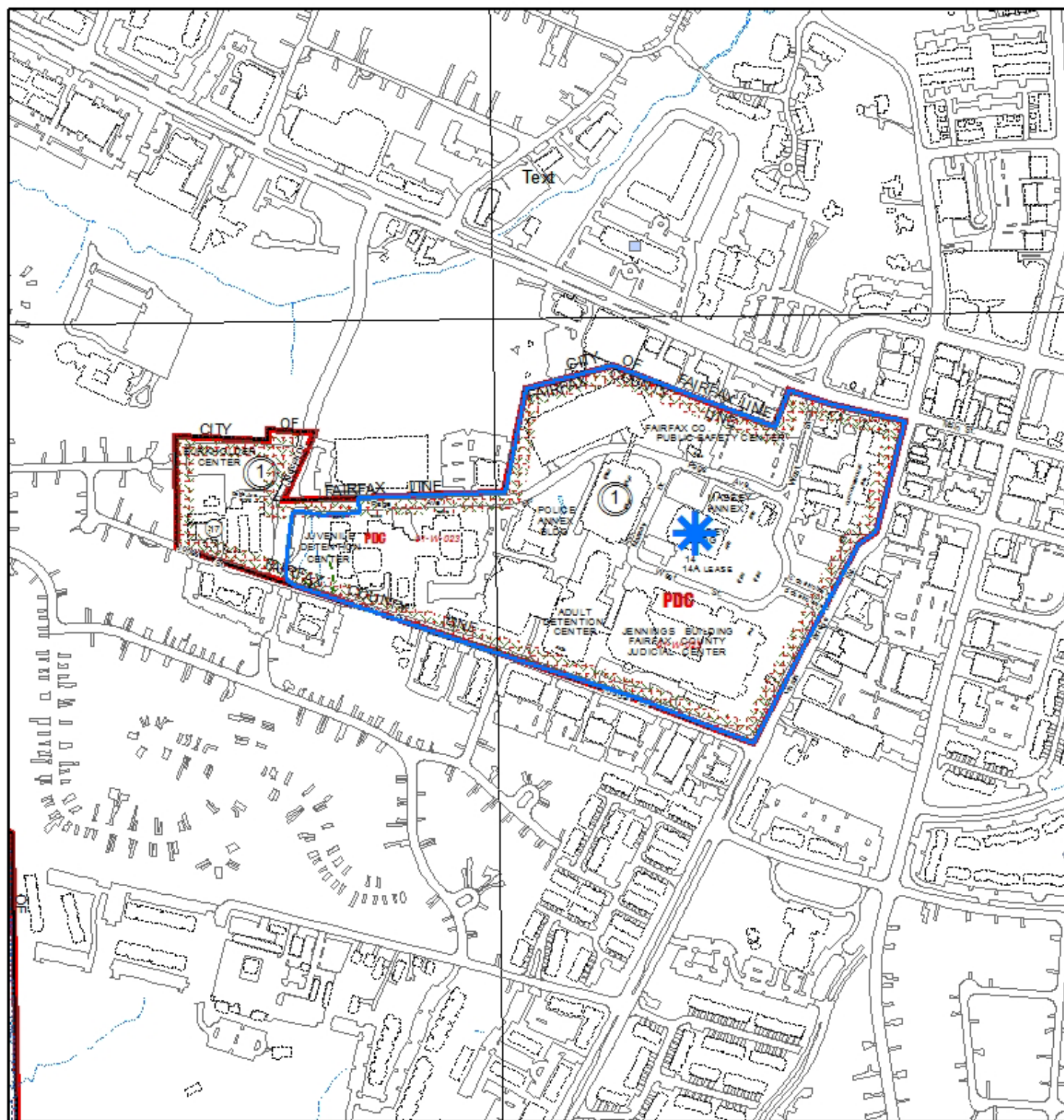
FISCAL IMPACT: The monopoly lease will generate approximately \$32,000 per year.
All revenue will be deposited in the general fund.

ENCLOSED DOCUMENTS:
Attachment 1 – Location Map 0574 01 0014
Attachment 2 – Draft Lease Agreement

STAFF:
David J. Molchany, Deputy County Executive
José A. Comayagua, Jr., Director, Facilities Management Department
Wanda M. Gibson, Director, Department of Information Technology



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EXTENSION OF LEASE AGREEMENT
MASSEY BUILDING

THIS EXTENSION OF LEASE AGREEMENT, dated as of February ____, 2017, by and between the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA (the "County") and WIRELESS PCS, INC. D/B/A AT&T WIRELESS SERVICES (the "Lessee") located at 15 East Midland Avenue, Paramus, New Jersey 07652.

RECITAL

Whereas, by Real Property Deed of Lease Agreement dated February 28, 1997 (the "Lease"), the County leased to Lessee space on the roof of the Massey Building located at 4100 Chain Bridge Road, Fairfax, Virginia (the "Building") and identified for reference purposes only as Tax Map No. 57-4 ((1)) 14 (the "Property"), for the installation of up to nine (9) panel antennas and ancillary telecommunications equipment;

Whereas, the County alerted Lessee via letters dated August 15, 2011 and February 13, 2012 that County intended to demolish the Building by December 31, 2015;

Whereas, the County subsequently postponed the date of demolition until summer 2019;

Whereas, the County has notified Lessee that the County would like AT&T to continue providing telecommunication services to the Property; and

Whereas, County and Lessee have agreed to extend the term of the Lease in the manner hereinafter set forth.

NOW, THEREFORE, for and in consideration of the covenants herein contained and other good and valuable considerations, the receipt and adequacy of which are confessed and acknowledged by each of the parties hereto, it is mutually agreed as follows:

1. Subject to the right to terminate set forth in Paragraph 10 (Default) of the Lease, the County and Lessee mutually agree to extend the term to March 31, 2019.
2. Except as expressly modified in this Extension of Lease Agreement, all the terms, covenants and conditions of the Lease, including Lessee's obligation to pay annual rent to County as set forth in Paragraph 3 (Term and Rent and Security Deposit) of the Lease, shall remain in full force and effect, shall be binding on the parties hereto, and are hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have set their hand and seal the day and year first above written and declare this Extension of Lease Agreement to be binding on them, their respective successors and permitted assigns.

COUNTY:

BOARD OF SUPERVISORS FOR FAIRFAX
COUNTY, VIRGINIA

By: _____
David J. Molchany
Deputy County Executive

WIRELESS PCS, INC. D/B/A AT&T
WIRELESS SERVICES

By: _____

4:00 p.m. -

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Public Facilities and Modifications to Existing Wireless Towers or Base Stations

ISSUE:

Fairfax County currently does not charge a fee for processing the review of public facilities under §15.2-2232 of the *Code of Virginia* (“2232 review”) and modifications to existing wireless towers and base stations under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). These reviews are chiefly for telecommunications facilities, monopoles, towers, and antennas that require a great deal of staff time and resources to process, although 2232 reviews also apply to non-telecommunication related public facilities. The FY 2018 budget includes the institution of fees in an effort to recoup some of the costs associated with these reviews. The fees proposed in this amendment are as follows:

2232 Review with other rezoning, special permit or special exception:	\$0
2232 Review with Public Hearing:	\$1,500
2232 Feature Shown Review without public hearing:	\$750
2232 Feature Shown Review for Distributed Antenna Systems (DAS):	\$750

Note: Feature Shown review fees for DAS: \$750 fee for the first node, \$100 fee for each node thereafter, with a maximum of 20 nodes per single application.

Reviews required to determine compliance with Section 6409 of the Spectrum Act: \$500

This amendment also adds a new Sect. 2-520 that clarifies when an eligible facilities request for modification of a wireless tower or base station is subject to review under Section 6409 of the Spectrum Act and when such modification request is instead subject to 2232 review. This section also defines “eligible facilities request” and “base station” as used in this context. Additionally, the amendment creates a new Section 2-521 to clarify what is considered a “public facility” under the Zoning Ordinance and in the context of Sect. 15.2-2232 review. Sections 2-520 and 2-521 provide that the reviews described therein are subject to fees as provided for in Sect. 18-106 of the Zoning Ordinance.

PLANNING COMMISSION RECOMMENDATION:

On June 15, 2017, the Planning Commission voted 10-0 (Commissioner Sargeant recused himself from the vote and Commissioner Keys-Gamarra was absent from the meeting) to recommend to the Board of Supervisors that the Public Facilities and Modifications to Existing Wireless Towers or Base Stations Zoning Ordinance Amendment be adopted as advertised and contained in the staff report dated May 16, 2017, with an effective date of July 1, 2017 at 12:01 a.m. The Planning Commission further moved to recommend that applications for public facilities under Section 15.2-2232 of the *Code of Virginia* and applications for modifications to existing wireless facilities submitted under Section 6409 of the Spectrum Act, which were filed prior to the effective date of this amendment and are in compliance with the applicable submission requirements, shall be grandfathered from this amendment.

RECOMMENDATION:

The County Executive concurs with the Planning Commission's recommendation.

TIMING:

Board authorization to advertise - May 16, 2017; Planning Commission public hearing - June 15, 2017, at 8:15 p.m.; Board public hearing - June 20, 2017, at 4:00 p.m.

BACKGROUND:

As part of the FY 2018 budget process, the County Executive asked all departments to look for ways to reduce costs and to enhance revenues where appropriate. The Department of Planning and Zoning currently does not charge a fee for processing 2232 and Sect. 6409 reviews. The institution of application fees is an appropriate strategy to recoup some of the costs associated with these reviews and to treat these actions similar to how other zoning reviews and zoning actions are handled by the county.

REGULATORY IMPACT:

The proposed Zoning Ordinance would require applicants for 2232 review under §15.2-2232 of the *Code of Virginia*, and 6409 reviews under the Spectrum Act, to pay an application fee to cover some of the costs associated with these reviews. Under provisions already in the ordinance, these new fees would not be required where the applicant is the County or any agency, authority, commission or other body specifically created by the County, such as the Fairfax County School Board or Park Authority.

FISCAL IMPACT:

The proposed 2232 fees will vary based on the type of application. Based on recent experience we estimate that there will be approximately 90 applications next year that will be subject to these new fees and that collectively these applications will generate revenue on the order of \$85,000 per year. This amendment proposes a set fee that will apply to Sect. 6409 reviews.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report

Attachment 2 – Planning Commission Verbatim Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Leslie B. Johnson, Zoning Administrator, DPZ

Chris Caperton, Assistant Director, Planning Division

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney



**FAIRFAX
COUNTY**

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

**PUBLIC FACILITIES AND
MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS**

PUBLIC HEARING DATES

Planning Commission **June 15, 2017 at 8:15 p.m.**

Board of Supervisors **June 20, 2017 at 4:00 p.m.**

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

May 16, 2017

FS/CC



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

As part of the FY 2018 budget process the County Executive requested all departments to look for ways to reduce costs and to enhance revenues where appropriate. The Department of Planning and Zoning (DPZ) historically has processed reviews required under § 15.2-2232 of the *Code of Virginia* (“2232 reviews”) without any type of application fee, whereas many other jurisdictions charge for this service. Therefore, DPZ identified the establishment of a 2232 review application fee as an appropriate strategy to recoup some of the costs associated with these reviews.

The proposed Zoning Ordinance amendment would add new sections to Part 5 of Article 2, General Regulations, addressing the review of public facilities under § 15.2-2232 of the *Code of Virginia* and modifications to existing wireless towers and base stations under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455). The amendment establishes an application fee requirement to cover the costs associated with these types of review. Under provisions already in the Zoning Ordinance, the new 2232 fee would not apply to County agencies seeking 2232 review for their projects.

In formulating this amendment to establish fees for 2232 applications, staff used the following as guiding principles:

- Establish different fees based on the types of 2232 review applications differentiating between those requiring a public hearing and those that are deemed to be a “Feature Shown” in the Comprehensive Plan where a public hearing is not required. There would also be an initial application fee and a lesser per node fee for Distributed Antenna Systems (DAS) where multiple antenna locations are reviewed under a single application. Lastly, there would be a separate fee for modifications to existing wireless facilities under Sect. 6409 of the Spectrum Act. This fee structure is based on the differing amounts of time and work involved, depending on the type of review.
- Represent a cost recovery rate of approximately one-half to two-thirds of the costs incurred in the processing of the various types of 2232 review applications.
- Be generally comparable to similar types of zoning application fees.
- Conform with Sect. 15.2-2286(A)(6) of the *Code of Virginia* which provides that the Zoning Ordinance may include reasonable provisions “[f]or the collection of fees to cover the costs of making inspections, issuing permits, advertising of notices, and other expenses incident to the administration of a zoning ordinance or to the filing and processing of an appeal or amendment thereto.

The proposed amendment will establish the following fees for 2232 review applications and applications submitted for review under Sect. 6409 of the Spectrum Act:

2232 applications with a public hearing:	\$1500
2232 Feature Shown without a public hearing:	\$750

2232 Review with other rezoning, special permit or special exception: \$0

2232 Feature Shown for DAS: \$750

Sect. 6409 of the Spectrum Act Review: \$500

Note: For purposes of computing fees for DAS, there will be a \$750 fee for the first node, a \$100 fee for each node thereafter, and a maximum of 20 nodes per single application.

These fees are being proposed based on the staff resources required to process a typical 2232 review or Spectrum Act request.

Staff recommends approval of the proposed amendment with an effective date of 12:01 A.M. on July 1, 2017.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of May 16, 2017 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 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, as
2 follows:

3
4 - Add a new Sect. 2-520 to read as follows:

5
6 **2-520 Modifications to Existing Wireless Towers or Base Stations**

7
8 Once wireless facilities are approved in accordance with this Ordinance, any
9 eligible facilities request for a modification of a wireless tower or base station that
10 does not substantially change the physical dimensions of such tower or base station
11 must be submitted to the Zoning Administrator for review and decision under Sect.
12 6409 of the Spectrum Act (47 U.S.C. § 1455). An eligible facilities request for a
13 modification that would substantially change the physical dimensions of a wireless
14 tower or base station is subject to Planning Commission review under
15 Sect. 15.2-2232 of the Code of Virginia. Any application for Sect. 6409 review or
16 15.2-2232 review is subject to the fee provided for in Sect. 18-106.

17
18 An eligible facilities request includes any request for modification of an existing
19 tower or base station that does not substantially change the physical dimensions of
20 such tower or base station, involving: (i) collocation of new transmission
21 equipment; (ii) removal of transmission equipment; or (iii) replacement of
22 transmission equipment.

23
24 A base station is a structure or equipment at a fixed location that enables Federal
25 Communications Commission-licensed or authorized wireless communications
26 between user equipment and a communications network. The term includes, but is
27 not limited to, equipment associated with wireless communications services such
28 as private, broadcast, and public safety services, as well as unlicensed wireless
29 services and fixed wireless services such as microwave backhaul, radio
30 transceivers, antennas, coaxial or fiber-optic cable, regular and backup power
31 supplies, and comparable equipment, regardless of technological configuration
32 (including Distributed Antenna Systems and small-cell networks).

- Add a new Sect. 2-521 to read as follows:

2-521 Public Facilities

A public facility is any use, facility, or other feature that is subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Any application for such review is subject to the fee provided for in Sect. 18-106.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by adding new Paragraphs 12 and 13 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

12. Reviews required to comply with Sect. 15.2-2232 of the Code of Virginia, as provided for in this Ordinance:

<u>2232 Review with public hearing:</u>	<u>\$1500</u>
<u>2232 Feature Shown without public hearing:</u>	<u>\$750</u>
<u>2232 Review with other rezoning, special permit or special exception:</u>	<u>\$0</u>
<u>2232 Feature Shown for Distributed Antenna Systems (DAS):</u>	<u>\$750</u>

Note: For purposes of computing fees for DAS, there shall be a \$750 fee for the first node, a \$100 fee for each node thereafter, and a maximum of 20 nodes per single application.

13. Reviews required to determine compliance with Sect. 6409 of the Spectrum Act \$500

**County of Fairfax, Virginia
Planning Commission Meeting
June 15, 2017
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Add a new Sect. 2-520, *Modifications to Existing Wireless Tower or Base Station*, that requires any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of such tower or base station to be submitted to the Zoning Administrator for review and decision under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455) and any eligible facilities request for a modification that would substantially change the physical dimensions would be subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Applications for review under Sect. 2-520 will be subject to the fee provided for in Sect. 18-106. Sect. 2-520 defines the terms eligible facilities request and base station as they are used in the context of Sect. 6409 review.

1. Add a new Sect. 2-521, *Public Facilities*, which states that a public facility is any use, facility, or other feature that is subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Sect. 2-521 further provides that any application for such review is subject to the fee provided for in Sect. 18-106;
2. Pursuant to authority granted by Section 15.2-2286(A)(6) of the Code of Virginia, add the following filing fees to Sect. 18-106:
 - (a) *Reviews required to comply with Sect. 15.2-2232 of the Code of Virginia:*
 - 2232 Review with public hearing: \$1,500
 - 2232 Feature Shown without public hearing: \$750
 - 2232 Review with other rezoning, special permit or special exception: \$0
 - 2232 Feature shown for Distributed Antenna Systems (DAS): \$750.*There will be a \$750 fee for the first DAS node, a \$100 fee for each node thereafter, and a maximum of 20 nodes per single application.*

Reviews required under Sect. 6409 of the Spectrum Act - \$500 (Countywide)

After Close of the Public Hearing

Commissioner Hart: Thank you Mr. Chairman. This amendment is...is relatively straightforward and, I assumed, would be easier than the first one. It has staff's favorable recommendation and I support that. I...I THEREFORE MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS AND THE BASE STATIONS ZONING ORDINANCE AMENDMENT BE ADOPTED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 16, 2017, WITH AN EFFECTIVE DATE OF JULY 1, 2017 AT 12:01 A.M.

Commissioners Hedetniemi and Ulfelder: Second.

ZONING ORDINANCE AMENDMENT
PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING
WIRELESS TOWERS OR BASE STATIONS

Page 2

Chairman Murphy: Seconded by Mr. Ulfelder and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Public Facilities and Modifications to Existing Wireless Towers and Base Stations Zoning Ordinance Amendment, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I FURTHER MOVE THAT APPLICATIONS FOR PUBLIC FACILITIES UNDER SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AND APPLICATIONS FOR MODIFICATIONS TO EXISTING WIRELESS FACILITIES SUBMITTED UNDER SECTION 6409 OF THE SPECTRUM ACT, WHICH WERE FILED PRIOR TO THE EFFECTIVE DATE OF THIS AMENDMENT AND ARE IN COMPLIANCE WITH THE APPLICABLE SUBMISSION REQUIREMENTS, SHALL BE GRANDFATHERED FROM THIS AMENDMENT.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Each motion carried by a vote of 10-0. Commissioner Sargeant recused himself from the vote. Commissioner Keys-Gamarra was absent from the meeting.

JLC

4:00 p.m. –

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Small Cell Facilities

ISSUE:

The proposed amendment is in response to Senate Bill 1282 which was adopted by the 2017 Virginia General Assembly with an effective date of July 1, 2017. This legislation allows localities to require Zoning Administrative approval of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure and to charge reasonable fees for the processing of such permits. The proposed amendment would implement Senate Bill 1282.

PLANNING COMMISSION RECOMMENDATION:

On June 15, 2017, the Planning Commission voted 9-0 (Commissioner Sargeant recused himself from the vote; Commissioner Strandlie was not present for the vote; and Commissioner Keys-Gamarra was absent from the meeting) to recommend to the Board of Supervisors that the Small Cell Facility Zoning Ordinance Amendment be adopted, as advertised and contained in the staff report dated May 16, 2017; and that Alternative 4, Option 2, as outlined in the May 16, 2017, staff report be approved for small cell facilities located in historic overlay districts. I further move that the amendment become effective at 12:01 a.m. on July 1, 2017.

RECOMMENDATION:

The County Executive concurs with the Planning Commission's recommendation.

TIMING:

Board authorization to advertise - May 16, 2017; Planning Commission public hearing - June 15, 2017 at 8:15 p.m.; Board public hearing - June 20, 2017 at 4:00 p.m.

BACKGROUND:

Senate Bill 1282 allows localities to require Zoning Administrative approval of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure and to charge reasonable fees for the processing of such permits. A copy of Senate Bill 1282 is

enclosed as Attachment A. The proposed amendment would implement Senate Bill 1282 by:

- Adding new small cell facility and wireless facility definitions to define those terms in accordance with Senate Bill 1282 and revising the mobile and land based telecommunications definition and the telecommunications definition to clarify that those facilities are distinct from small cell facilities.
- Adding a new Sect. 2-519 that creates a new zoning permit for the installation of small cell facilities on any existing structure on any lot in any zoning district subject to Zoning Administrator approval and compliance with size limitations identified in Sect. 2-519. Small cell facilities have antennas that are no more than six cubic feet and associated wireless equipment with a cumulative volume of no more than 28 feet, excluding certain types of equipment. A single application may be submitted for up to 35 permit requests for small cell facilities. For each proposed small cell facility, applicants must provide information about the size of antennas and equipment, the proposed location, identification of the existing structure, and a statement from the structure owner. Under Senate Bill 1282, there will be a \$100 fee for up to five small cell facilities on a permit application and a \$50 fee for each additional small cell facility on a permit application. The Zoning Administrator must comply with review and decision deadlines upon receipt of each permit application. The Zoning Administrator may deny a small cell facility permit request based on only four grounds pertaining to interference with other facilities, adverse impacts on public safety, the installation would be on public property and there are adverse aesthetic impacts or lack of required approvals, or conflicts with Article 7 of the Zoning Ordinance. Once installed, small cell facilities must be removed within 120 days after the existing structure is removed, the structure owner withdraws consent, or the facility is no longer in use. This provision does not apply to micro-wireless facilities.
- Amending Part 2 of Article 7 to outline the Architectural Review Board's (ARB) review process for small cell facility permit applications proposing installation on existing structures located in Historic Overlay Districts. Each alternative is described below. The Board of Supervisors could approve any of the four alternatives and still be within the scope of advertising.

Alternative 1 – Adding a new Par. 6 to Sect. 7-206 requiring review and recommended approval from the ARB before any small cell facility may be installed on any existing structure in a Historic Overlay District. The ARB may request schematic drawings or other materials to facilitate its review. The ARB will render its recommendation not later than 45 days after a zoning permit application is filed with the Department of Planning and Zoning, but if such recommendation is not timely

rendered, the Zoning Administrator will make a decision without an ARB recommendation;

Alternative 2 – Adding a new Par. 6 to Sect. 7-206 as provided under Alternative 1, except that the recommended approval from the ARB would only be required for small cell facility permit applications for installation on an existing structure located on or adjacent to a contributing or historic property;

Alternative 3 – Adding a new Par. 6 to 7-206 as provided under Alternative 1, except that the recommended approval from the ARB would be required before a small cell facility may be installed on any existing structure that is located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property; or

Alternative 4 - Amending Sect. 7-204 as follows:

- A. Amend Par. 1 to add small cell facility permits as a type of application referred to the ARB for review and recommendation as further provided below.
- B. Amend Par. 3 to add small cell facility permits as a type of permit requiring ARB recommendation of approval and add a new subparagraph (D) using one of two options:
 - OPTION D1 requires ARB recommended approval prior to issuance of a small cell facility permit for installation of such facility on any existing structure that is located on or adjacent to a contributing or historic property in a Historic Overlay District, and the ARB will render its recommendation within 45 days or the Zoning Administrator will decide on the application without the ARB recommendation; or
 - OPTION D2: Amend subparagraph (D) in the same manner as stated in Option D1, except that ARB recommended approval would only be required for installation of a small cell facility on an existing structure located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District.
- C. Amend Par. 5 and subparagraph (A) to provide that the ARB's review procedures apply to small cell facility permits and include small cell facilities in subparagraphs (C) (2) and (C) (3) to call for ARB consideration of design and architectural compatibility of these facilities, and amend subparagraph (F) to

require the ARB to make its recommendation to the Zoning Administrator, who then decides whether to issue the small cell facility permit.

- D. Amend Par. 6 to add a new subparagraph (K) that authorizes the ARB to request photographic simulations, drawings, or other materials to assist the ARB in small cell facility permit application review.
 - E. Amend Par. 7 to authorize the ARB to formulate guidelines to facilitate review of small cell facility permit applications.
 - F. Amend Par. 8 to provide that approval of a small cell facility remains valid unless subject to removal under Sect. 2-519 or as otherwise required by law.
- Revising the mobile and land based telecommunication provisions in Sect. 2-514 to:
 - A. Amend the introductory paragraph of Sect. 2-514 to provide that mobile and land based telecommunication facilities located in the right-of-way are subject to review under Section 15.2-2232 of the *Code of Virginia* and are also subject to the application fees provided for in Sect. 18-106. Distinguishes mobile and land based telecommunication facilities from small cell facilities. Provide clarity that when the cumulative volume of all antennas and associated equipment installed on an existing structure or on the ground adjacent to a structure exceeds the limitations contained in Sect. 2-519, or when such antennas and equipment are proposed to be installed on a structure that is not already existing or approved for installation, the facility is a mobile and land based telecommunication facility and subject to Sect. 2-514.
 - B. Par. 2 of Sect. 2-514 contains the provisions that allow antennas to be mounted on existing or replacement light or utility poles by right and without any special exception approval. Amends the size of a pole or standard mounted equipment cabinet or structure in Par.2(C) of Sect 2-514 by deleting the 5-foot height limitation and by increasing the maximum allowable volume of the cabinet from 20 cubic feet to 28 feet [advertised up to 40 cubic feet]. The increase in equipment size is proposed in response to Senate Bill 1282, which allows an equipment cabinet associated with small cell facilities to be more than 28 cubic feet in volume, and the size of the equipment cabinets allowed under Sect. 2-514 needs to be at least as large, if not larger, than the equipment cabinets allowed in conjunction with a small cell facility. In order to provide the Board flexibility to consider a range of maximum allowable equipment sizes, the proposed amendment is advertised to allow pole mounted equipment cabinets from 28 to 40 cubic feet. The Board can select any volume within the advertised range and still be within the scope of advertisement.

- Amending Par. 5 of Sect. 18-106 to provide that fees for small cell facilities shall be as specified in Article 2.

REGULATORY IMPACT:

The proposed Zoning Ordinance would require wireless services providers and wireless services infrastructure providers to obtain a permit from the Zoning Administrator for the installation of a small cell facility on an existing structure, including within rights-of-way. The Zoning Administrator must approve or deny the application within 60 days of receipt of a complete application and the 60-day review period may be extended an additional 30 days by the Zoning Administrator. The application is deemed approved if the Zoning Administrator fails to act within the initial 60 day period or an extended 30 day period. Small cell facilities would not be required to receive Planning Commission review under §15.2-2232 of the *Code of Virginia*.

FISCAL IMPACT:

The permit fee, as allowed by Senate Bill 1282, would be (1) \$100 each for up to five small cell facilities on a single application and (2) \$50 for each additional small cell facility on a single application. A single application may include up to 35 permit requests. Therefore, the application fee for 35 permit requests on a single application would be \$2,000. Small cell facilities are typically part of a network and it is anticipated that there will be multiple permit requests on a single application. It is estimated that there may be approximately 10 to 15 small cell applications containing multiple permit requests each year. However, it is likely that there will be applications with less than 35 permit requests and therefore, an application fee of less than \$2,000. Therefore, it is estimated that there may be \$15,000 to \$20,000 of revenue generated each year from the small cell facility permit fees. The new small cell facility permits can be processed using existing staff and resources.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report

Attachment 2 – Planning Commission Verbatim Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Leslie B. Johnson, Zoning Administrator, DPZ

Lorrie Kirst, Senior Deputy Zoning Administrator, DPZ

ASSIGNED COUNSEL:

Laura S. Gori, Senior Assistant County Attorney



FAIRFAX
COUNTY

Attachment 1

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

SMALL CELL FACILITIES

PUBLIC HEARING DATES

Planning Commission

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

Board of Supervisors

June 20, 2017 at 4:00 p.m.

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

May 16, 2017

LK



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

ISSUE

The proposed amendment is in response to Senate Bill 1282 which was adopted by the 2017 Virginia General Assembly with an effective date of July 1, 2017. This legislation allows localities to require Zoning Administrator approval of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure or a structure approved for installation and to charge reasonable fees for the processing of such permits. The proposed amendment would implement Senate Bill 1282.

BACKGROUND

Senate Bill 1282 allows localities to require Zoning Administrative approval of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure and to charge reasonable fees for the processing of such permits. A copy of Senate Bill 1282 is enclosed as Attachment A. The proposed amendment would implement Senate Bill 1282 by:

- Adding new small cell facility and wireless facility definitions to define those terms in accordance with Senate Bill 1282 and revising the mobile and land based telecommunications definition and the telecommunications definition to clarify that those facilities are distinct from small cell facilities.
- Adding a new Sect. 2-519 that creates a new zoning permit for the installation of small cell facilities on any existing structure on any lot in any zoning district subject to Zoning Administrator approval and compliance with size limitations identified in Sect. 2-519. Small cell facilities have antennas that are no more than six cubic feet and associated wireless equipment with a cumulative volume of no more than 28 feet, excluding certain types of equipment. A single application may be submitted for up to 35 permit requests for small cell facilities. For each proposed small cell facility, applicants must provide information about the size of antennas and equipment, the proposed location, identification of the existing structure, and a statement from the structure owner. Under Senate Bill 1282, there will be a \$100 fee for up to five small cell facilities on a permit application and a \$50 fee for each additional small cell facility on a permit application. The Zoning Administrator must comply with review and decision deadlines upon receipt of each permit application. The Zoning Administrator may deny a small cell facility permit request based on only four grounds pertaining to interference with other facilities, adverse impacts on public safety, the installation would be on public property and there are adverse aesthetic impacts or lack of required approvals, or conflicts with Article 7 of the Zoning Ordinance. Once installed, small cell facilities must be removed within 120 days after the existing structure is removed, the structure owner withdraws consent, or the facility is no longer in use. This provision does not apply to micro-wireless facilities.

- Amending Part 2 of Article 7 to outline the Architectural Review Board's (ARB) review process for small cell facility permit applications proposing installation on existing structures located in Historic Overlay Districts. Each alternative is described below. The Board of Supervisors could approve any of the four alternatives and still be within the scope of advertising.

Alternative 1 – Adding a new Par. 6 to Sect. 7-206 requiring review and recommended approval from the ARB before any small cell facility may be installed on any existing structure in a Historic Overlay District. The ARB may request schematic drawings or other materials to facilitate its review. The ARB will render its recommendation not later than 45 days after a zoning permit application is filed with the Department of Planning and Zoning, but if such recommendation is not timely rendered, the Zoning Administrator will make a decision without an ARB recommendation;

Alternative 2 – Adding a new Par. 6 to Sect. 7-206 as provided under Alternative 1, except that the recommended approval from the ARB would only be required for small cell facility permit applications for installation on an existing structure located on or adjacent to a contributing or historic property;

Alternative 3 – Adding a new Par. 6 to 7-206 as provided under Alternative 1, except that the recommended approval from the ARB would be required before a small cell facility may be installed on any existing structure that is located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property; or

Alternative 4 - Amending Sect. 7-204 as follows:

- A. Amend Par. 1 to add small cell facility permits as a type of application referred to the ARB for review and recommendation as further provided below.
- B. Amend Par. 3 to add small cell facility permits as a type of permit requiring ARB recommendation of approval and add a new subparagraph (D) using one of two options:
 - OPTION D1 requires ARB recommended approval prior to issuance of a small cell facility permit for installation of such facility on any existing structure that is located on or adjacent to a contributing or historic property in a Historic Overlay District, and the ARB will render its recommendation within 45 days or the Zoning Administrator will decide on the application without the ARB recommendation; or
 - OPTION D2: Amend subparagraph (D) in the same manner as stated in Option D1, except that ARB recommended approval would only be required for installation of a small cell facility on an existing structure located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District.

- C. Amend Par. 5 and subparagraph (A) to provide that the ARB's review procedures apply to small cell facility permits and include small cell facilities in subparagraphs (C)(2) and (C)(3) to call for ARB consideration of design and architectural compatibility of these facilities, and amend subparagraph (F) to require the ARB to make its recommendation to the Zoning Administrator, who then decides whether to issue the small cell facility permit.
 - D. Amend Par. 6 to add a new subparagraph (K) that authorizes the ARB to request photographic simulations, drawings, or other materials to assist the ARB in small cell facility permit application review.
 - E. Amend Par. 7 to authorize the ARB to formulate guidelines to facilitate review of small cell facility permit applications.
 - F. Amend Par. 8 to provide that approval of a small cell facility remains valid unless subject to removal under Sect. 2-519 or as otherwise required by law.
- Revising the mobile and land based telecommunication provisions in Sect. 2-514 to:
 - A. Amend the introductory paragraph of Sect. 2-514 to provide that mobile and land based telecommunication facilities located in the right-of-way are subject to review under Section 15.2-2232 of the *Code of Virginia* and are also subject to the application fees provided for in Sect. 18-106. Distinguishes mobile and land based telecommunication facilities from small cell facilities. Provide clarity that when the cumulative volume of all antennas and associated equipment installed on an existing structure or on the ground adjacent to a structure exceeds the limitations contained in Sect. 2-519, or when such antennas and equipment are proposed to be installed on a structure that is not already existing or approved for installation, the facility is a mobile and land based telecommunication facility and subject to Sect. 2-514.
 - B. Par. 2 of Sect. 2-514 contains the provisions that allow antennas to be mounted on existing or replacement light or utility poles by right and without any special exception approval. Amends the size of a pole or standard mounted equipment cabinet or structure in Par.2(C) of Sect 2-514 by deleting the 5-foot height limitation and by increasing the maximum allowable volume of the cabinet from 20 cubic feet to 28 feet [advertised up to 40 cubic feet]. The increase in equipment size is proposed in response to Senate Bill 1282, which allows an equipment cabinet associated with small cell facilities to be no more than 28 cubic feet in volume. The size of the equipment cabinets allowed under Sect. 2-514 should be at least as large, if not larger, than the equipment cabinets allowed in conjunction with a small cell facility. In order to provide the Board flexibility to consider a range of maximum allowable equipment sizes, the proposed amendment is advertised to allow pole mounted equipment cabinets from 28 to 40 cubic feet. The Board can select any volume within the advertised range and still be within the scope of advertisement.
 - Amend Par. 5 of Sect. 18-106 to provide that fees for small cell facilities shall be as specified

in Article 2.

REGULATORY IMPACT

The proposed Zoning Ordinance would require wireless services providers and wireless services infrastructure providers to obtain a permit from the Zoning Administrator for the installation of a small cell facility on an existing structure. The Zoning Administrator must approve or deny the application within 60 days of receipt of a complete application and the 60 day review period may be extended an additional 30 days by the Zoning Administrator. The application is deemed approved if the Zoning Administrator fails to act within the initial 60 day period or an extended 30 day period. Small cell facilities would not be required to receive Planning Commission review under § 15.2-2232 of the *Code of Virginia*.

FISCAL IMPACT

The permit fee, as allowed by Senate Bill 1282, would be (1) \$100 each for up to five small cell facilities on a single application and (2) \$50 for each additional small cell facility on a single application. A single application may include up to 35 permit requests. Therefore, the maximum application fee for 35 permit requests on a single application would be \$2,000. Small cell facilities are typically part of a network and it is anticipated that there will be multiple permit requests on a single application. It is estimated that there may be approximately 10 to 15 small cell applications each year. However, it is likely that there will be applications with less than 35 permit requests and therefore, an application fee of less than \$2,000. Therefore, it is estimated that there may be \$15,000 to \$20,000 of revenue generated each year from the small cell facility permit fees. The new small cell facility permits can be processed using existing staff and resources.

CONCLUSION

Given that Senate Bill 1282, which was adopted by the 2017 Virginia General Assembly, allows localities to require Zoning Administrative approval of a zoning permit for the installation of a small cell facility by a wireless services provider or wireless services infrastructure provider on an existing structure, including in the right-of-way, and to charge reasonable fees for the processing of such permits, and the proposed amendment implements Senate Bill 1282, Staff recommends approval of the proposed amendment with an effective date of 12:01 A.M. on July 1, 2017.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of May 16, 2017 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,**
 2 **by revising the MOBILE AND LAND BASED TELECOMMUNICATION FACILITY and**
 3 **TELECOMMUNICATION FACILITY definitions, and by adding new SMALL CELL**
 4 **FACILITY and WIRELESS FACILITY definitions to read as follows:**

5
 6 **MOBILE AND LAND BASED TELECOMMUNICATION FACILITY:** Omnidirectional and
 7 directional antennas such as whip antennas, panel antennas, cylinder antennas, microwave dishes,
 8 and receive-only satellite dishes and related equipment for wireless transmission with low wattage
 9 transmitters not to exceed 500 watts, from a sender to one or more receivers, such as for mobile
 10 cellular telephones and mobile radio system facilities. Such antennas and equipment, due to
 11 cumulative volume on a single structure or in a single location, exceed the limits set forth in Sect.
 12 2-519. For the purposes of this Ordinance, a mobile and land based telecommunication facility
 13 shall include those facilities subject to the provisions of Sect. 2-514 of this Ordinance and/or Sect.
 14 15.2-2232 of the *Code of Virginia*, including monopoles and telecommunication towers. A mobile
 15 and land based telecommunication facility does not include a SMALL CELL FACILITY.

16
 17 **SMALL CELL FACILITY:** A type of WIRELESS FACILITY, as defined in Sect. 15.2-2316.3
 18 of the Code of Virginia, that includes antennas and associated equipment installed on an existing
 19 structure. The antennas and equipment associated with a small cell facility may be of the same
 20 type as a Mobile and Land Based Telecommunication Facility under this Ordinance, but must meet
 21 all cumulative volume and other requirements of Sect. 2-519. Any wireless facility that does not
 22 meet all of the provisions contained in Sect. 2-519 will not be deemed a small cell facility, but will
 23 be deemed a MOBILE AND LAND BASED TELECOMMUNICATION FACILITY and subject
 24 to Sect. 2-514.

25
 26 **TELECOMMUNICATION FACILITY:** Facilities that process information through the use of
 27 TELECOMMUNICATION, including telephone or telegraph central offices and repeat stations.
 28 For the purposes of this Ordinance, a telecommunication facility will not be deemed a MOBILE
 29 AND LAND BASED TELECOMMUNICATION FACILITY, a SMALL CELL FACILITY, a
 30 radio and television broadcasting tower facility, microwave facility, or a SATELLITE EARTH
 31 STATION.

32
 33 **WIRELESS FACILITY:** Equipment at a fixed location that enables wireless communications
 34 between user equipment and a communications network, including:

1. Equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

Amend Article 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, as follows:

- **Add a new Sect. 2-519 to read as follows:**

2-519 Small Cell Facilities

The installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure may be permitted on any lot in any zoning district subject to approval by the Zoning Administrator of a small cell facility zoning permit and compliance with the provisions below.

For the purposes of this provision, an existing structure will be deemed any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider (provider) provides notice to the County or the Virginia Department of Transportation of an agreement with the owner of the structure to co-locate equipment on that structure. It includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, freestanding signs, and water towers. It also includes, without limitation, any structure located within the right-of-way.

A wireless infrastructure provider means any person that builds or installs transmission equipment, wireless facilities, or structures designed to support or capable of supporting wireless facilities, but that is not a wireless services provider.

1. The provider must demonstrate that each small cell facility complies with the following:
 - A. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and
 - B. All other wireless equipment associated with the facility has a cumulative volume of no more than twenty-eight (28) cubic feet or such higher limit as is established by the Federal Communication Commission.

The following types of associated equipment are not included in the equipment volume calculation: electric meter, concealment, telecommunications demarcation boxes, backup power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

2. Before installing any small cell facility, the provider must obtain an approved zoning permit for each facility. The applicant must complete an application for each zoning permit request on forms provided by the County and must file completed forms with the Zoning Administrator. A single application may include up to thirty-five (35) permit requests. The application form may require certification by the applicant that the small cell facility will not materially interfere with or degrade the County's existing public safety communications system.
3. Each permit request must include the specific location of each proposed small cell facility including specific identification of the existing structure on which the facility will be installed, specifications showing the size of the antennas and associated equipment of each small cell facility, and a statement from the owner of the existing structure consenting to co-location of the small cell facility on the structure.
4. The Zoning Administrator must approve or deny the application within sixty (60) days of receipt of a complete application. Within ten (10) days after receipt of an application and a valid electronic mail address for the applicant, the Zoning Administrator will notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application will be deemed complete. The sixty (60) day review period may be extended by the Zoning Administrator in writing for a period not to exceed an additional thirty (30) days. The application will be deemed approved if the Zoning Administrator fails to act within the initial sixty (60) days or an extended thirty (30) day period.
5. The application for a small cell facility must be accompanied by the following filing fees made payable to the County of Fairfax:
 - A. \$100 each for up to five (5) small cell facilities on a single application; and
 - B. \$50 for each additional small cell facility on a single application.
6. The Zoning Administrator may deny a proposed location or installation of a small cell facility only for the reasons listed below. Any denial of the application must be in writing and accompanied by an explanation for the denial.

A. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

B. The installation adversely impacts public safety or other critical public service needs;

C. The installation is on publicly owned or publicly controlled property and the installation would have an adverse aesthetic impact or due to the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

D. When located in a Historic Overlay District and such location conflicts with Part 2 of Article 7.

7. A small cell facility must be removed by the wireless services provider or wireless infrastructure provider that installed the facility or is otherwise responsible for the facility within 120 days after the owner of the existing structure withdraws or revokes its consent for co-location of such facility; the owner of the existing structure removes the existing structure; or such facility is no longer in use, in which case it will be deemed abandoned and must be removed by such provider on that basis.

8. Notwithstanding the above, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes will not be subject to this provision. For the purposes of this provision, a micro-wireless facility is a small cell facility that is no greater than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height, and that has an exterior antenna, if any, no more than eleven (11) inches in length.

Amend Sect. 2-514, Limitations on Mobile and Land Based Telecommunication Facilities, by revising the introductory paragraph and Par. 2C to read as follows:

Mobile and land based telecommunication facilities shall be permitted on any lot in the following zoning districts when such use is in accordance with the following limitations and when such use is not specifically precluded or regulated by any applicable proffered condition, development condition, special permit or special exception condition which limits the number, type and location of antenna and/or related equipment structure. Further provided, however, such use shall be in substantial conformance with any proffered condition, development condition, special permit or special exception condition. In addition, such uses, including those located within the right-of-way, shall be subject to the requirements of Sect. 15.2-2232 of the Code of Virginia and to the application fee as provided for in Sect. 18-106. When the cumulative volume of all antennas and associated

equipment installed on an existing structure or on the ground adjacent to an existing structure exceeds the limitations contained in Sect. 2-519 below, or when such antennas and equipment are proposed to be installed on a structure that is not already existing or approved for installation, the facility will be deemed a mobile and land based telecommunication facility and subject to this section.

2. Antennas mounted on existing or replacement utility distribution and transmission poles (poles) and light/camera standards (standards), with related unmanned equipment cabinets and/or structures, shall be permitted in accordance with the following and may exceed the maximum building height limitations, subject to the following paragraphs:

C. The antennas listed in Par. 2B above shall be permitted as follows:

- (1) In districts that are zoned for single family detached or attached dwellings and are residentially developed, vacant or common open space, antennas shall be limited to poles or standards located in the right-of-way of a major thoroughfare or located no more than ten (10) feet from the lot line abutting the major thoroughfare, and the following:

- (a) When the related equipment cabinet or structure is located on the ground in a front yard or street right-of-way, each provider shall be limited to a cabinet or structure which shall not exceed five (5) feet in height or a total of seventy (70) cubic feet in volume and the cabinet or structure shall be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted equipment cabinets or structures shall be screened by a solid fence, wall or berm five (5) feet in height, an evergreen hedge with an ultimate height of five (5) feet and a planted height of forty-eight (48) inches, or a five (5) foot tall fence, wall, berm and/or landscaping combination.

When located on a pole or standard in the front yard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume.

When the related equipment cabinet or structure is located on the ground in a side or rear yard, each provider shall be limited to a cabinet or structure which shall not exceed 12 feet in height or a total of 200 square feet in gross floor area and the cabinet or structure shall be located a minimum of 10 feet from all lot lines. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination.

If a new equipment cabinet or structure is added to an existing fenced or screened enclosure that contains ground-mounted telecommunications

equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard in a side or rear yard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five (5) feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume.

Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.

- (b) The height of a replacement pole or standard, including antennas, shall not exceed eighty (80) feet. The diameter of a replacement pole or standard shall not exceed thirty (30) inches.

- (2) In districts that are zoned for multiple family dwellings and are residentially developed with buildings that are thirty-five (35) feet or less in height, vacant or common open space, to include street right-of-ways, the following shall apply:

- (a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area. In addition, ground-mounted equipment cabinets shall be located a minimum of ten (10) feet from all lot lines when located outside of a street right-of-way. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five (5) feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume

Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.

- (b) The height of a replacement pole or standard, including antennas, shall not exceed 100 feet, provided however, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.

(3) In commercial or industrial districts; in commercial areas of PDH, PDC, PRC PRM, and PTC Districts; in districts zoned for multiple family dwellings and residentially developed with buildings that are greater than thirty-five (35) feet in height; in any zoning district on lots containing: Group 3 special permit uses, except home child care facilities and group housekeeping units, Group 4, 5 or 6 special permit uses, Category 1, 2, 3 or 4 special exception uses, or Category 5 special exception uses of country clubs, golf clubs, commercial golf courses, golf driving ranges, miniature golf ancillary to golf driving ranges, baseball hitting and archery ranges, or kennels and veterinary hospitals ancillary to kennels; or in any zoning district on property owned or controlled by a public use or Fairfax County governmental unit, to include street right-of-ways, the following shall apply:

- (a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened from view of all residentially zoned and developed or residentially zoned and vacant property which abuts or is directly across the street from the structure or cabinet. Such screening shall consist of a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. In addition to the above, screening for ground-mounted equipment cabinets located on property used for athletic fields and owned or controlled by a public use or a Fairfax County governmental unit may consist of an eight (8) foot tall chain link fence when such cabinets are located entirely or partially under bleachers. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five (5) feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume.

Equipment located within an existing principal or accessory structure shall not be subject to the provisions of this paragraph.

- (b) Except for replacement light/camera standards identified in the following paragraph, the height of a replacement pole or standard, including antennas, shall not exceed 100 feet, provided however, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard,

including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed sixty (60) inches.

The height of a new or replacement light/camera standard on the property used for athletic fields and owned or controlled by a public use or Fairfax County governmental unit, including antennas, shall not exceed 125 feet. The diameter of the light/camera standard shall not exceed sixty (60) inches.

- (4) In the rights-of-way for interstates highways, the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road, the following shall apply:

- (a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area and shall be located a minimum of 20 feet from the street right-of-way line. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five (5) feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume.

- (b) The height of a replacement pole or standard, including antennas, shall not exceed 100 feet. However, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.

- (5) In any zoning district, in a utility transmission easement, the following shall apply:

- (a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area and shall be located a minimum of 20 feet from the utility transmission easement line. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted equipment cabinets or structures shall be screened by a solid fence, wall or berm eight

(8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for a new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed ~~five (5) feet in height or twenty (20)~~ thirty-two (32) cubic feet *[advertised range is 28 to 40 cubic feet]* in volume.

- (b) The height of a replacement pole or standard, including antennas, shall not exceed eighty (80) feet in zoning districts that are zoned for single family detached or attached dwellings and are residentially developed, vacant or common open space. However if the height of the existing pole or standard exceeds eighty (80) feet, the replacement pole or standard, including antennas shall be no more than fifteen (15) feet higher. The diameter of a replacement pole or standard shall not exceed thirty (30) inches.

In all other instances, the height of a replacement pole or standard, including antennas, shall not exceed 100 feet. However, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.

ALTERNATIVE 1: Architectural Review Board (ARB) review of all small cell facilities in Historic Overlay Districts (Alternative 1 language is in bold.)

Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 2, Historic Overlay Districts, Sect. 7-206, Use Limitations, by adding a new Par. 6 to read as follows:

In addition to the use limitations presented for the zoning districts in which a Historic Overlay District is located, the following use limitations shall apply:

6. No small cell facility may be installed on any existing structure in a Historic Overlay District unless a permit application for such facility has been reviewed and recommended for approval by the ARB. Par.5(C) of Sect. 7-204 shall apply to the review of small cell facility permit applications, and the ARB may request submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material, and scale of the proposed facility relative to the existing structure; or other similar materials that will assist the ARB in timely review of such permit applications. The ARB will review any such small cell facility permit application in accordance with all applicable provisions

of this Article and render its recommendation no later than forty-five (45) days after the permit application is filed with the Department of Planning and Zoning. If such recommendation is not rendered within forty-five (45) days, the Zoning Administrator will make the decision without a recommendation from the ARB.

ALTERNATIVE 2: Limited ARB review in Historic Overlay Districts (Alternative 2 language is in bold.)

Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 2, Historic Overlay Districts, Sect. 7-206, Use Limitations, by adding a new Par. 6 to read as follows:

In addition to the use limitations presented for the zoning districts in which a Historic Overlay District is located, the following use limitations shall apply:

6. No small cell facility may be installed on any existing structure **that is located on or adjacent to a contributing or historic property** in a Historic Overlay District unless a permit application for such facility has been reviewed and recommended for approval by the ARB. Par. 5(C) of Sect. 7-204 shall be deemed to apply to the review of small cell facility permit applications, and the ARB may request submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material, and scale of the proposed facility relative to the existing structure; or other similar materials that will assist the ARB in timely reviewing such permit applications. The ARB will review any such small cell facility permit application in accordance with all applicable provisions of this Article and render its recommendation no later than forty-five (45) days after the permit application is filed with the Department of Planning and Zoning. If such recommendation is not rendered within forty-five (45) days, the Zoning Administrator will make the decision without a recommendation from the ARB.

ALTERNATIVE 3: Broader, but not complete, ARB review of small cell facility applications in Historic Overlay Districts (Alternative 3 language is in bold.)

Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 2, Historic Overlay Districts, Sect. 7-206, Use Limitations, by adding a new Par. 6 to read as follows:

In addition to the use limitations presented for the zoning districts in which a Historic Overlay District is located, the following use limitations shall apply:

6. No small cell facility may be installed on any existing structure that is located on, adjacent to, **or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register,** or a contributing or historic property unless a permit application for such facility has been reviewed and recommended for approval by the ARB. Par. 5(C) of Sect. 7-204 shall be deemed to apply to the review of small cell facility permit applications, and the ARB may request

submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material, and scale of the proposed facility relative to the existing structure; or other similar materials that will assist the ARB in timely reviewing such permit applications. The ARB will review any such small cell facility permit application in accordance with all applicable provisions of this Article and render its recommendation no later than forty-five (45) days after the permit application is filed with the Department of Planning and Zoning. If such recommendation is not rendered within forty-five (45) days, the Zoning Administrator will make the decision without a recommendation from the ARB.

ALTERNATIVE 4: Extensive Amendment to Part 2 of Article 7 with revisions to Sect. 7-204 instead of Sect. 7-206

Amend Article 7, Overlay and Commercial Revitalization District Regulations, Part 2, Historic Overlay Districts, Sect. 7-204, Administration of Historic Overlay Districts, by revising Paragraphs 1, 3, 5-8 to read as follows:

Once established, Historic Overlay Districts shall be subject to administrative procedures for the enforcement of such regulations as provided in this Section.

1. All applications for rezoning, special exception, special permit, variance, sign permits, building permits, as qualified below, and all site plans, subdivision plats, grading plans, and small cell facility permits, as qualified below, shall be referred to the ARB for its review and recommendation or decision in accordance with the provisions of this Part.
3. ARB approval shall be required prior to the issuance of Building Permits by the Director and approval of sign or small cell facility permits by the Zoning Administrator for the following:
 - A. Building Permits for the erection, construction, reconstruction, or exterior rehabilitation, remodeling, alteration or restoration of any building or structure in a Historic Overlay District, except as qualified in Par. 4 below;
 - B. Building Permits for the demolition, razing, relocation, or moving of any building or structure in a Historic Overlay District; and
 - C. Sign Permits for the erection, alteration, refacing or relocation of any sign in a Historic Overlay District.

PARAGRAPH D OPTION 1

- D. Small Cell Facility Permits for the installation of any small cell facility, as defined in Sect. 2-519, on any existing structure located on or adjacent to a contributing or historic property in a Historic Overlay District. The ARB will approve or deny any such small cell facility permit application no later than forty-five (45) days after it

1 is filed with the Department of Planning and Zoning. If such recommendation is
 2 not rendered within forty-five (45) days, the Zoning Administrator will make the
 3 decision without a recommendation from the ARB.

4
 5 **PARAGRAPH D OPTION 2 - Optional language is in bold.**

6
 7 D. Small Cell Facility Permits for the installation of any small cell facility, as defined
 8 in Sect. 2-519, on an existing structure located on, adjacent to, **or visible from a**
 9 **major thoroughfare, historic byway, road listed or determined to be eligible**
 10 **for listing in the National Register, or a contributing or historic property in a**
 11 Historic Overlay District. The ARB will recommend approval or denial of any such
 12 small cell facility permit application no later than forty-five (45) days after it is filed
 13 with the Department of Planning and Zoning. If such recommendation is not
 14 rendered within forty-five (45) days, the Zoning Administrator will make the
 15 decision without a recommendation from the ARB.

16
 17 5. ARB procedures for the review of Building Permits, sign permits, and small cell facility
 18 permits, as required by Par. 3 above, shall be in accordance with the following:

19
 20 A. The applicant shall forward to the ARB copies of the Building Permit, sign or small
 21 cell facility permit application, including any accompanying materials filed with
 22 such application;

23
 24 B. The ARB may request any or all of the information set forth in Par. 6 below to assist
 25 in its review of an application;

26
 27 C. In reviewing applications, the ARB shall not make any requirements except for the
 28 purpose of preventing developments architecturally incompatible with the historic
 29 aspects of the Historic Overlay District. The ARB shall consider the following in
 30 determining the appropriateness of architectural features:

31
 32 (1) The exterior architectural features, including all signs, which are visible from
 33 a public right-of-way or contributing or historic property;

34
 35 (2) The general design, size, arrangement, texture, material, color and fenestration
 36 of the proposed building, structure, or small cell facility and the relation of
 37 such factors to similar features of historic or contributing buildings or
 38 structures within the Historic Overlay District;

39
 40 (3) The extent to which the building, structure, small cell facility, or sign would
 41 be harmonious with or architecturally incompatible with historic or
 42 contributing buildings or structures within the district;

43
 44 (4) The extent to which the building or structure will preserve or protect historic
 45 places and areas of historic significance in the County;
 46

1 (5) The extent to which the building or structure will promote the general welfare
2 of the County and all citizens by the preservation and protection of historic
3 places and areas of historic interest in the County.
4

5 D. In reviewing an application for a Building Permit to raze or demolish a building
6 or structure, the ARB shall review the circumstances and the condition of the
7 structure or part proposed for demolition and make its determination based on
8 consideration of any or all of the following criteria:
9

10 (1) Is the building of such architectural or historical interest that its removal
11 would be to the detriment of the public interest?
12

13 (2) Is the building of such old and unusual or uncommon design, texture and
14 material that it could not be reproduced or be reproduced only with great
15 difficulty?
16

17 (3) Would retention of the building help preserve and protect a historic place or
18 area of historic interest in the County?
19

20 (4) Does the building or structure contribute to the significance of the district?
21

22 E. In reviewing an application for a Building Permit to move or relocate a building
23 or structure, the ARB shall consider the following criteria:
24

25 (1) Would the proposed relocation have a detrimental effect on the structural
26 soundness of the building or structure?
27

28 (2) Would the proposed relocation have a detrimental effect on the historical
29 aspects of other historic or contributing properties in the Historic Overlay
30 District?
31

32 (3) Would relocation provide new surroundings that would be harmonious with
33 or incongruous to the historical and architectural aspects of the structure or
34 building?
35

36 (4) Would relocation of the building help preserve and protect a historic place or
37 area of historic interest in the County?
38

39 (5) Does the building or structure contribute to the significance of the district?
40

41 F. The ARB, on the basis of the information received from the applicant and from its
42 general background and knowledge, and upon application of the appropriate
43 criteria set forth in this Par. 5 and Par. 7 below shall approve, approve with
44 modifications, or disapprove the application. If the ARB approves or approves
45 with modification the application, it shall authorize the Director to issue the
46 Building Permit or the Zoning Administrator to approve the sign permit. If the

ARB disapproves the application, it shall so notify the applicant and the Director or the Zoning Administrator. With respect to small cell facility permit applications, the ARB will make its recommendation of approval or disapproval to the Zoning Administrator, who will then decide whether to issue the permit based on the application as a whole and including the ARB's recommendation.

6. For all applications and plans subject to ARB review, the ARB may require the submission of any or all of the following information and any other materials as may be deemed necessary for its review.
 - A. Statement of proposed use, name of proposed user;
 - B. Statement of estimated time of construction;
 - C. Maps relating proposed use to surrounding property, zoning, and the historic district;
 - D. A plan showing building configuration, topography, grading and paving;
 - E. Architectural schematic drawings showing floor plans, all exterior elevations (principal one in color);
 - F. Color photographs of the property to be changed, adjacent properties, and similar properties within or near the district that clearly show the visual character of the surrounding area;
 - G. A plan and section drawings of the site showing the relationship between new construction and existing structures indicating building heights, ground elevations, and the general location of existing and proposed plant materials;
 - H. A landscaping plan showing the location and identification of existing and proposed plantings, landscape features such as fences, gates, retaining walls, and paving, a listing indicating the name and size of proposed plantings, and the limits of clearing;
 - I. A plan showing exterior signs, graphics, and lighting to establish location, size, color, and type of materials; and
 - J. Samples, descriptive literature, or photographs showing the type and color of fixtures to be installed and primary building materials including foundation, cladding, trim, and roofing.
 - K. With respect to small cell facility permit applications, the ARB may request submission of photographic simulations of the proposed facility as it would appear on the existing structure; schematic drawings showing the color, proposed material,

1 and scale of the proposed facility relative to the existing structure; or other similar
 2 materials that will assist the ARB in timely reviewing such permit applications.
 3

- 4 7. To facilitate the review of applications, the ARB shall formulate and adopt guidelines
 5 for the installation of small cell facilities on existing structures or the new construction
 6 and the exterior alteration of existing buildings, structures, and sites located within
 7 Historic Overlay Districts based on the following standards:
 8

- 9 A. A property should be used for its historic purpose or be adapted for a new use that
 10 requires minimal change to the defining characteristics of the building, its site, and
 11 its environs.
 12
 13 B. The historic character of a property should be retained and preserved; the removal
 14 of historic materials or alteration of features and spaces that characterize a property
 15 should be avoided.
 16
 17 C. Changes that create a false sense of historical development should not be
 18 undertaken.
 19
 20 D. Most properties change over time and those changes that have acquired historic
 21 significance in their own right should be retained and preserved.
 22
 23 E. Distinctive features, finishes, and construction techniques or examples of
 24 craftsmanship that characterize a historic property should be preserved.
 25
 26 F.. Deteriorated historic features should be repaired rather than replaced unless the
 27 severity of deterioration requires replacement of a distinctive feature; the new
 28 feature should match the old in design, color, texture, and other visual qualities,
 29 and, where possible, materials; replacement of missing features should be
 30 substantiated by documentary, physical, or pictorial evidence.
 31
 32 G. Harsh chemical or abrasive treatments that cause damage to historic materials
 33 should not be used; the surface cleaning of structures, if appropriate, should be
 34 undertaken using the gentlest means possible.
 35
 36 H. Significant archaeological resources affected by a project should be protected and
 37 preserved; if such resources must be disturbed, mitigation measures should be
 38 undertaken.
 39
 40 I. New additions, exterior alterations, or related new construction should not destroy
 41 historic materials that characterize the property; new work should be differentiated
 42 from the old and should be compatible with the massing, size, scale, and
 43 architectural features to protect the historic integrity of the property and its
 44 environs.
 45

J. New additions or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environs would be unimpaired.

K. Site design, including the placement of structures, shaping of landforms, and use of plant materials should be undertaken in such a manner that the visual characteristics and physical integrity of a historic property and its environs is preserved and enhanced.

L. New construction associated with new development should be undertaken in a manner that is compatible and complimentary to the existing character of the historic district.

8. Approval authorizing issuance of a Building Permit or a sign permit by the ARB, or Board of Supervisors on appeal as provided for below, shall be valid for two (2) years or for such longer period as may be deemed appropriate by the approving body from the date of approval or from December 6, 1994 whichever occurs later, and shall continue for the life of the Building Permit or sign permit. Approval of a small cell facility shall remain valid unless it is subject to removal under Sect. 2-519 or is otherwise required to be removed by state or federal law.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by revising Par. 5 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

5. Fees for food trucks, small cell facilities, home occupations, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, respectively.

VIRGINIA ACTS OF ASSEMBLY -- 2017 RECONVENED SESSION

CHAPTER 835

An Act to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, relating to wireless communications infrastructure.

[S 1282]

Approved April 26, 2017

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, as follows:

Article 7.2.

*Zoning for Wireless Communications Infrastructure.***§ 15.2-2316.3. Definitions.**

As used in this article, unless the context requires a different meaning:

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i);

(ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4. Zoning; small cell facilities.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

- a. \$100 each for up to five small cell facilities on a permit application; and
- b. \$50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

b. The public safety or other critical public service needs;

c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

§ 15.2-2316.5. Moratorium prohibited.

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

CHAPTER 15.1.

WIRELESS COMMUNICATIONS INFRASTRUCTURE.

§ 56-484.26. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on,

under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Districtwide permit" means a permit granted by the Department to a wireless services provider or wireless infrastructure provider that allows the permittee to use the rights-of-way under the Department's jurisdiction to install or maintain small cell facilities on existing structures in one of the Commonwealth's nine construction districts. A districtwide permit allows the permittee to perform multiple occurrences of activities necessary to install or maintain small cell facilities on non-limited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. The Department may authorize districtwide permits covering multiple districts.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 56-484.27. Access to the public rights-of-way by wireless services providers and wireless infrastructure providers; generally.

A. No locality or the Department shall impose on wireless services providers or wireless infrastructure providers any restrictions or requirements concerning the use of the public rights-of-way, including the permitting process, the zoning process, notice, time and location of excavations and repair work, enforcement of the statewide building code, and inspections, that are unfair, unreasonable, or discriminatory.

B. No locality or the Department shall require a wireless services provider or wireless infrastructure provider to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements. This shall not limit the ability of localities, their authorities or commissions

that provide utility services, or the Department to enter into voluntary pole attachment, tower occupancy, conduit occupancy, or conduit construction agreements with wireless services providers or wireless infrastructure providers.

C. No locality or the Department shall adopt a moratorium on considering requests for access to the public rights-of-way from wireless services providers or wireless infrastructure providers.

§ 56-484.28. Access to public rights-of-way operated and maintained by the Department for the installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, the Department shall issue a districtwide permit, consistent with applicable regulations that do not conflict with this chapter, granting access to public rights-of-way that it operates and maintains to install and maintain small cell facilities on existing structures in the rights-of-way. The application shall include a copy of the agreement under which the applicant has permission from the owner of the structure to the co-location of equipment on that structure. If the application is received on or after September 1, 2017, (i) the Department shall issue the districtwide permit within 30 days after receipt of the application and (ii) the districtwide permit shall be deemed granted if not issued within 30 days after receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Department shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. A districtwide permit issued for the original installation shall allow the permittee to repair, replace, or perform routine maintenance operations to small cell facilities once installed.

B. The Department may require a separate single use permit to allow a wireless services provider or wireless infrastructure provider to install and maintain small cell facilities on an existing structure when such activity requires (i) working within the highway travel lane or requiring closure of a highway travel lane; (ii) disturbing the pavement, shoulder, roadway, or ditch line; (iii) placement on limited access rights-of-way; or (iv) any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof. Upon application by a wireless services provider or wireless infrastructure provider, the Department may issue a single use permit granting access to install and maintain small cell facilities in such circumstances. If the application is received on or after September 1, 2017, (a) the Department shall approve or disapprove the application within 60 days after receipt of the application, which 60-day period may be extended by the Department in writing for a period not to exceed an additional 30 days and (b) the application shall be deemed approved if the Department fails to approve or disapprove the application within the initial 60 days and any extension thereof. Any disapproval of an application for a single use permit shall be in writing and accompanied by an explanation of the reasons for the disapproval.

C. The Department shall not impose any fee for the use of the right-of-way on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, the Department may prescribe and charge a reasonable fee not to exceed \$750 for processing an application for a districtwide permit or \$150 for processing an application for a single use permit.

D. The Department shall not impose any fee or require a permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the Department may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.29. Access to locality rights-of-way for installation and maintenance of small cell facilities on existing structures.

A. Upon application by a wireless services provider or wireless infrastructure provider, a locality may issue a permit granting access to the public rights-of-way it operates and maintains to install and maintain small cell facilities on existing structures. Such a permit shall grant access to all rights-of-way in the locality for the purpose of installing small cell facilities on existing structures, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) provides notice of the agreement and co-location to the locality. The locality shall approve or disapprove any such requested permit within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The permit request shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period. No such permit shall be required for providers

of telecommunications services and nonpublic providers of cable television, electric, natural gas, water, and sanitary sewer services that, as of July 1, 2017, already have facilities lawfully occupying the public rights-of-way under the locality's jurisdiction.

B. Localities shall not impose any fee for the use of the rights-of-way, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, a locality may prescribe and charge a reasonable fee not to exceed \$250 for processing a permit application under subsection A.

C. Localities shall not impose any fee or require any application or permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the locality may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

§ 56-484.30. Agreements for use of public right-of-way to construct new wireless support structures; relocation of wireless support structures.

Subject to any applicable requirements of Article VII, Section 9 of the Constitution of Virginia, public right-of-way permits or agreements for the construction of wireless support structures issued on or after July 1, 2017, shall be for an initial term of at least 10 years, with at least three options for renewal for terms of five years, subject to terms providing for earlier termination for cause or by mutual agreement. Nothing herein is intended to prohibit the Department or localities from requiring permittees to relocate wireless support structures when relocation is necessary due to a transportation project, the need to remove a hazard from the right-of-way when the Commissioner of Highways determines such removal is necessary to ensure the safety of the traveling public, or material change to the right-of-way, so long as other users of the right-of-way that are in similar conflict with the use of the right-of-way are required to relocate. Such relocation shall be completed as soon as reasonably possible within the time set forth in any written request by the Department or a locality for such relocation, as long as the Department or a locality provides the permittee with a minimum of 180 days' advance written notice to comply with such relocation, unless circumstances beyond the control of the Department or the locality require a shorter period of advance notice. The permittee shall bear only the proportional cost of the relocation that is caused by the transportation project and shall not bear any cost related to private benefit or where the permittee was on private right-of-way. If the locality or the Department bears any of the cost of the relocation, the permittee shall not be obligated to commence the relocation until it receives the funds for such relocation. The permittee shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation, and the Department or a locality shall have no obligation to collect such funds. If relocation is deemed necessary, the Department or locality shall work cooperatively with the permittee to minimize any negative impact to the wireless signal caused by the relocation. There may be emergencies when relocation is required to commence in an expedited manner, and in such situations the permittee and the locality or Department shall work diligently to accomplish such emergency relocation.

§ 56-484.31. Attachment of small cell facilities on government-owned structures.

A. If the Commonwealth or a locality agrees to permit a wireless services provider or a wireless infrastructure provider to attach small cell facilities to government-owned structures, both the government entity and the wireless services or wireless infrastructure provider shall negotiate in good faith to arrive at a mutually agreeable contract terms and conditions.

B. The rates, terms, and conditions for such agreement shall be just and reasonable, cost-based, nondiscriminatory, and competitively neutral, and shall comply with all applicable state and federal laws. However, rates for attachments to government-owned buildings may be based on fair market value.

C. For utility poles owned by a locality or the Commonwealth that support aerial cables used for video, communications, or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. § 224 and implementing regulations. The good faith estimate of the government entity owning or controlling the utility pole for any make-ready work necessary to enable the utility pole to support the requested co-location shall include pole replacement if necessary.

D. For utility poles owned by a locality or the Commonwealth that do not support aerial cables used for video, communications, or electric service, the government entity owning or controlling the utility pole shall provide a good faith estimate for any make-ready work necessary to enable the utility pole to support the requested co-location, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or a wireless

infrastructure provider.

E. The government entity owning or controlling the utility pole shall not require more make-ready work than required to meet applicable codes or industry standards. Charges for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other wireless services providers, providers of telecommunications services, and nonpublic providers of cable television and electric services for similar work and shall not include consultants' fees or expenses.

F. The annual recurring rate to co-locate a small cell facility on a government-owned utility pole shall not exceed the actual, direct, and reasonable costs related to the wireless services provider's or wireless infrastructure provider's use of space on the utility pole. In any controversy concerning the appropriateness of the rate, the government entity owning or controlling the utility pole shall have the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the utility pole for such period.

G. This section shall not apply to utility poles, structures, or property of an electric utility owned or operated by a municipality or other political subdivision.

**County of Fairfax, Virginia
Planning Commission Meeting
June 15, 2017
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – SMALL CELL FACILITIES ZONING ORDINANCE –
To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Amend Sect. 20-300 to add new small cell facility and wireless facility definitions to define those terms in accordance with Senate Bill 1282 adopted by the 2017 Virginia General Assembly and revise the telecommunications facility and mobile and land based telecommunication facility definitions to clarify that those facilities are distinct from small cell facilities.

1. *Add a new Sect. 2-519 that creates a new zoning permit for the installation of small cell facilities on any existing structure on any lot in any zoning district subject to Zoning Administrator approval and compliance with size limitations identified in Sect. 2-519. Small cell facilities have antennas that are no more than six cubic feet and associated wireless equipment with a cumulative volume of no more than 28 feet, excluding certain types of equipment. A single application may be submitted for up to 35 permit requests for small cell facilities. For each proposed small cell facility, applicants must provide information about the size of antennas and equipment, the proposed location, identification of the existing structure, and a consent statement from the structure owner. Under Senate Bill 1282, there will be a \$100 fee for up to five small cell facilities on a permit application and a \$50 fee for each additional small cell facility on a permit application. The Zoning Administrator must comply with review and decision deadlines upon receipt of each permit application. The Zoning Administrator may deny a small cell facility permit request based on only four grounds pertaining to interference with other facilities, adverse impacts on public safety, the installation would be on public property and there are adverse aesthetic impacts or lack of required approvals, or conflicts with Article 7 of the Zoning Ordinance. Once installed, small cell facilities must be removed within 120 days after the existing structure is removed, the structure owner withdraws consent, or the facility is no longer in use. This provision does not apply to micro-wireless facilities;*
2. *Amend Article 7 in one of the following four ways for small cell facility permit applications proposing installation on existing structures located in Historic Overlay Districts: (1) OPTION 1: Amend Sect. 7-206 to add a new Par. 6 that requires review and recommended approval from the Architectural Review Board (ARB) before any small cell facility may be installed on any existing structure in a Historic Overlay District. The ARB may request drawings or other materials to facilitate its review. The ARB will render its recommendation not later than 45 days after the zoning permit application is filed or the Zoning Administrator will make a decision without ARB recommendation; (2) OPTION 2: Amend Sect. 7-206 as provided under Option 1, except that the ARB's recommended approval would only be required for small cell facility permit applications for installation on an existing structure located on or adjacent to a contributing or historic property; (3) OPTION 3: Amend Sect. 7-206 as provided under Option 1, except that the ARB's recommended approval would be required before a small cell facility may be installed on any existing structure that is located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property; or (4) OPTION 4: Amend Sect. 7-204 as follows: (a) Amend Par. 1 to add small cell facility permits as a type of application referred to the ARB for review and recommendation as further provided below; (b) Amend Par. 3 to add small*

cell facility permits as a type of permit requiring an ARB recommendation of approval and add a new subparagraph (D) that either (i) OPTION D1: requires ARB recommended approval prior to issuance of a small cell facility permit for installation of such facility on any existing structure located on or adjacent to a contributing or historic property in a Historic Overlay District, and the ARB will render its recommendation within 45 days or the Zoning Administrator will decide on the application without the ARB recommendation; or (ii) OPTION D2: Amend subparagraph (D) in the same manner as stated in Option D1, except that ARB recommended approval would only be required for installation of a small cell facility on an existing structure located on , adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District; (c) Amend Par. 5, first sentence, to include small cell facility permits in the ARB's review procedures and include small cell facility permit applications in subparagraph (A) as a type of application the applicant shall forward to the ARB, include small cell facilities in subparagraphs (C)(2) and (C)(3) to call for ARB consideration of design and architectural compatibility, and amend subparagraph (F) to require the ARB to make its recommendation to the Zoning Administrator, who then decides whether to issue the small cell facility permit application; (d) Amend Par. 6 to add a new subparagraph (K) that authorizes the ARB to request photographic simulations, drawings, or other materials to assist the ARB in small cell facility permit review; (e) Amend Par. (7) to authorize the ARB to formulate guidelines to facilitate review of small cell facility permit applications; and (f) Amend Par. (8) to provide that approval of a small cell facility permit remains valid unless subject to removal under Sect. 2-519 or as otherwise required by law;

3. *Amend the introductory paragraph of Sect. 2-514 to provide that mobile and land based telecommunication facilities located in the right-of-way are subject to review under Section 15.2-2232 of the Virginia Code and to provide that mobile and land based telecommunication facilities are subject to the application fees provided for in Sect. 18-106. Distinguishes mobile and land based telecommunication facilities from small cell facilities. Amends the size of a pole or standard mounted equipment cabinet or structure in Par.2(C) of Sect 2-514 by deleting the 5-foot height limitation and by increasing the maximum allowable volume of the cabinet from 20 cubic feet to [advertised range: 28 cubic feet up to 40 cubic feet];*

Amend Par. 5 of Sect. 18-106 to provide that fees for small cell facilities shall be as specified in Article 2. (Countywide)

After Close of the Public Hearing

Commissioner Hart: Thank you Mr. Chairman. First, I want to thank Mr. Donohue for coming out tonight and, also, the citizens and industry representatives who submitted written comments on this amendment. Secondly, I again want to thank staff, particularly Lorrie Kirst, Chris Caperton, and Laura Gori in the County Attorney's office for their excellent analysis on this amendment under very difficult time constraints. As the Commission is aware, our authority to review and regulate telecommunications facilities depends on legislative authority. As the Commission also is aware, telecommunications has been a hot topic, both in the legislator and in the courts. The General Assembly and Governor McAuliffe only finalized the new amendment to the statute very recently, although it goes into effect July 1. Fairfax County, also, does not have

much flexibility to make changes, due to the wording of the legislation. In order to meet the July 1 deadline, the Board of Supervisors has to vote next week, meaning that we have to vote on our recommendation tonight. I recognize, however, that the County may not be finished with this topic and that we may have additional items to review, as the legislation and regulation continue to evolve. I don't have a specific follow-on motion this evening, but we will continue to monitor the legislative developments and I think there will be committee meetings or other updates, as...as progresses. I support staff's recommendation on the amendment, as advertised. We have a number of options regarding small cell facilities within the limitations given by the General Assembly, but based upon staff's recommendation, I believe the Commission should recommend Alternative 4 – which, I think is the greatest level of review – and Option 2 – which, I think, addresses the concern that both Commissioner Flanagan and Commissioner Ulfelder have raised tonight about the view and the view shed. Within the limitations of our authority, I think that would push the needle as far as we can in that direction, within limited statutory authority. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE SMALL CELL FACILITY ZONING ORDINANCE AMENDMENT BE ADOPTED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 16, 2017, AND THAT ALTERNATIVE 4, OPTION 2, AS OUTLINED IN THE MAY 16, 2017 STAFF REPORT, BE APPROVED FOR SMALL CELL FACILITIES LOCATED IN HISTORIC OVERLAY DISTRICTS. I FURTHER MOVE THAT THE COMMISSION RECOMMEND THAT THE AMENDMENT BECOME EFFECTIVE AT 12:01 A.M. ON JULY 1, 2017.

Commissioners Migliaccio and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and Mr. Ulfelder. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Zoning Ordinance Amendment regarding Small Cell Facilities zoning, as articulated by Mr. Hart this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you everyone.

The motion carried by a vote of 9-0. Commissioner Sargeant recused himself from the vote. Commissioner Strandlie was not present for the vote. Commissioner Keys-Gamarra was absent from the meeting.

JLC

Board Agenda Item
June 20, 2017

4:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern